

**REPORT ON
PLANNING, FUNDING AND SITING OF PUBLIC FACILITIES
BY THE
COUNTIES, CITIES AND TOWNS COMMITTEE
OF THE
HOUSE OF DELEGATES
AND THE
SENATE LOCAL GOVERNMENT COMMITTEE
TO THE
GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 35

**COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1976**

COMMONWEALTH OF VIRGINIA



To the member addressed of the
General Assembly:

We are happy to transmit herewith a copy of the report of the Subcommittee which was appointed from the membership of the Local Government Committee and the Counties, Cities and Towns Committee to study the Planning, Funding and Siting for Public Facilities.

The Subcommittee's report has been accepted by the Committees for purposes of publication and distribution to members of the General Assembly.

Respectfully,

A handwritten signature in cursive script, reading "Orby L. Cantrell".

Orby L. Cantrell, Chairman
House of Delegates Counties,
Cities and Towns Committee

A handwritten signature in cursive script, reading "Peter K. Babalas".

Peter K. Babalas, Chairman
Senate Local Government
Committee

MEMBERS OF SUBCOMMITTEE

ROBERT E. WASHINGTON

STANLEY G. BRYAN

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RAYMOND E. VICKERY, JR.

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WILLIAM A. TRUBAN

CHARLES L. WADDELL

STAFF

JOHN A. BANKS, JR., Director

C. M. CONNER, JR., Staff Attorney

CHERYL C. BOOKER, Legislative Research Associate

**REPORT BY THE SUBCOMMITTEE STUDYING THE
PLANNING, FUNDING AND SITING OF PUBLIC FACILITIES
TO THE
COUNTIES, CITIES AND TOWNS COMMITTEE
OF THE
HOUSE OF DELEGATES
AND THE
SENATE LOCAL GOVERNMENT COMMITTEE**

Richmond, Virginia

December 30, 1975

TO: The General Assembly of Virginia

PART I

INTRODUCTION

During the 1974 Session of the General Assembly, the House of Delegates adopted House Resolution No. 14, directing the Counties, Cities and Towns Committee to study the planning, funding and siting for public facilities and questions related to furnishing such public facilities to accommodate growth in Virginia's counties and municipalities. At the conclusion of its study, the Committee recommended legislation requiring every local government in the Commonwealth to adopt a planning commission by July 1, 1976; to adopt a subdivision ordinance by July 1, 1977; and to adopt a comprehensive plan for all territory within its jurisdiction by July 1, 1980. The proposed recommendations were approved and enacted by the General Assembly as Chapter 641 of the 1975 Acts of Assembly.

The Committee, having made recommendations for improving the process of planning and reserving sites for public facilities, requested that the study be continued for the purpose of considering the question of funding for public facilities. Pursuant to the Committee's request, the General Assembly adopted the following resolution:

HOUSE JOINT RESOLUTION NO. 188

Directing the House Committee on Counties, Cities and Towns and the Senate Committee on Local Government to continue the study of planning, funding, and siting of public facilities.

WHEREAS, House Resolution No. 14, adopted by the House of Delegates during the 1974 Session of the General Assembly, directed its Committee on Counties, Cities and Towns to study questions pertaining to furnishing public facilities; and

WHEREAS, a subcommittee was appointed by the Committee on Counties, Cities and Towns to conduct such study; and

WHEREAS, the subcommittee has made a timely report containing recommendations for improving the process of planning and reserving sites for public facilities in Virginia counties and municipalities; and

WHEREAS, due to the complexity of the problems of planning and funding and the importance of the answers to the counties and municipalities of Virginia, the subcommittee has further recommended that the study be continued and enlarged to include members from the Senate Committee on Local Government; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the study commenced under House Resolution No. 14, adopted by the House of Delegates during the 1974 Session of the General Assembly, be continued and the membership of such study be enlarged to include five members of the Senate from its Committee on Local Government, appointed by the Chairman of such Committee. Such Senate members, together with five members from the House of Delegates' Committee on Counties, Cities and Towns appointed by its Chairman, shall compose a joint committee. The members from the House of Delegates shall be the same persons, insofar as it may be practicable, as were appointed to such study in 1974.

Members of the joint committee shall receive the compensation provided by law for members of legislative committees and be reimbursed for their actual expenses by their respective houses.

The joint committee shall complete its study and report its findings and recommendations to the members of the General Assembly not later than December one, nineteen hundred seventy-five. All agencies of the State shall assist the joint committee in its study upon request.

Pursuant to the directive of the General Assembly, the 1974 study was conducted by a Subcommittee of five members of the Counties, Cities and Towns Committee, appointed by the Chairman thereof. The members of the Subcommittee were Delegate Robert E. Washington of Norfolk, Chairman; Delegate Raymond E. Vickery, Jr. of Vienna, Vice-Chairman; Delegate Stanley G. Bryan of Chesapeake; Delegate I. Clinton Miller of Woodstock; and Delegate Franklin M. Slayton of South Boston. The membership was enlarged pursuant to HJR 188 to include five members of the Senate to assist in the 1975 study: Senator Peter K. Babalas of Norfolk; Senator Madison E. Marye of Shawsville; Senator William F. Parkerson of Richmond; Senator William A. Truban; and Senator Charles L. Waddell of Sterling.

The Committee wishes to express its appreciation to staff members of the Local and Regional Planning Section of the Division of State Planning and Community Affairs, who provided invaluable assistance during the committee's deliberations.

C. M. Conner, Jr. and Cheryl C. Booker of the Division of Legislative Services served as staff for the Committee.

PART II
CONCLUSIONS

The statutory provisions for local planning, subdivision of land, and zoning require continuous review for the changes needed to enable local governments to plan and to implement land use controls more effectively. The subcommittee has identified a number of needed technical amendments to the Code which would clarify the General Assembly's intent and would assist local governments in their planning and in their application of land use controls. The subcommittee has also identified several substantive issues raised by the local planning legislation and current development practices which require thorough analysis before any legislative proposals are made.

The subcommittee has reviewed local planning accomplishments in the Commonwealth. The status of local government organization of planning commissions and adoption of comprehensive plans, zoning ordinances, and subdivision regulations in June, 1974 and November, 1975 follows.

	June 1974 (95) <u>Counties</u>	(38) <u>Cities</u>	(192) <u>Towns</u>	(325) <u>Total</u>
Planning Commission	94	38	107	239
Comprehensive Plan	34	31	40	105
Zoning Ordinance*	53	38	96	187
Subdivision Ordinance	78	38	64	180

	November 1975			
	(95)	(41)	(189)	(325)
	<u>Counties</u>	<u>Cities</u>	<u>Towns</u>	<u>Total</u>
Planning Commission	94	41	117	252
Comprehensive Plan	47	34	43	124
Zoning Ordinance*	55	40	101	196
Subdivision Ordinance	80	40	64	184

*Not required under State statute.

PART III RECOMMENDATIONS

1. Amend § 15.1-430 by adding: *Variance shall mean, in the application of the zoning ordinance, a reasonable deviation from those provisions regulating the size, area, bulk, and/or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the public interest, is not contrary to the support of the ordinance, and would result in substantial justice being done.*

Comment : The term “variance” is not defined in the Code, except by reference in the enumerated powers of the Board of Zoning Appeals (§ 15.1-495). There are differing opinions over whether or not a “variance” can be granted for buildings and structures on individual parcels, for the actual use of land, or both. The term “variance” means a change or departure from a standard and, when used in the context of zoning in Virginia, has traditionally applied only to a modest change from the prescribed height, size, bulk, etc. of buildings and structures for practical reasons. It does not mean a change in the standard itself, as in a change from one allowable use of land to another.

2. AMEND paragraph 2 of § 15.1-432 as follows: The local commission shall not recommend nor the governing body adopt any plan, ordinance, or amendment until notice of intention to do so has been published once a week for two successive weeks *at an interval of seven days* in some newspaper...

Comment: The intent of § 15.1-431 with respect to the interval for successive publications of public hearing notices is clear. Both notices should be published one week apart to allow the public sufficient time to arrange to attend the hearing. However, the Code may now be construed to allow publication of notices on Friday of

one week and on Monday of the next week. The amendment would require a seven-day interval between notices.

3. AMEND § 15.1-448 as follows: ~~Prior to the recommendation of a comprehensive plan or any part thereof, The local commission shall given notice and hold a public hearing on the plan as required by § 15.1-431. After such public hearing has been held, the commission may by resolution recommend the plan to the governing body approve, amend and approve, or disapprove the plan. Upon approval of the plan, the commission shall by resolution recommend the plan to the governing body.~~

Comment: A planning commission is not specifically authorized to make changes to a plan after a public hearing (before recommending it to the governing body), nor is it specifically precluded from making changes, without holding another hearing. Whether or not a change is significant enough to require another public hearing is a matter for the local planning commission to decide.

4. AMEND § 15.1-450 as follows: ~~After certification of the plan or part thereof the governing body after a public hearing with notice as required by § 15.1-431 shall proceed to a consideration of the plan or part thereof and shall approve and adopt, amend and adopt, or disapprove the same within sixty days after such public hearing.~~ *six months after such certification.*

Comment: It is important that a governing body make its decision on a plan within a reasonable time after certification by the planning commission so that changing circumstances do not render the plan out of date before governing body action.

5. AMEND § 15.1-489 as follows: ~~(8) to carry out and implement the intents and determinations stated in the officially adopted comprehensive plan.~~

Comment: The Code does not specifically state the important relationship between a zoning ordinance and a plan. This amendment clearly denotes zoning as a mechanism to be used in implementing the comprehensive plan.

6. AMEND paragraph 1 of § 15.1-494 as follows: ...members of the board shall hold no other public office in the county or municipality except that one may be a member of the local planning ~~or zoning~~ commission...

Comment: Zoning commissions are no longer provided for in State statute.

PART IV

SUBSTANTIVE LEGISLATIVE ISSUES

In its deliberations about the local planning legislation, the

Subcommittee considered a number of substantive issues related to a locality's ability to guide development. The Subcommittee reviewed the problems associated with each issue, as well as possible Code revisions, but took no action on any of them. The Subcommittee commends these issues to the Committee as matters requiring thoughtful consideration and detailed study.

1. The Code allows each locality to establish its own definition of subdivision. The result is that localities can allow development which is not subject to minimum design criteria, nor served by public facilities built to minimum standards. Proliferation of proximate, small developments not subject to subdivision design criteria can eventually constitute real and hidden costs to the locality and the property owner alike in terms of street maintenance, installation of water or sewer facilities, property improvements, traffic safety, and orderly development. The problem of not providing a stricter definition of "subdivision" should be examined.

2. Localities are responsible for orderly land development and for providing necessary public services to their residents. A proposed subdivision may be premature inasmuch as neither the locality nor the subdivider or developer can provide the needed public facilities, or because the number of new residents may place demands on the locality for additional public services beyond its ability to finance. Yet the Code does not provide the locality with the power to deny the subdivision or development. This power should be extended to localities so that they will be better equipped to control the orderly development of land.

3. A zoning ordinance should be based on an adopted plan. The plan serves as a guide to the local government for making decisions about the future use of land. The Code should be studied to see how this principle could be incorporated into the law.

4. The Code does not authorize amortization of nonconforming structures or uses. This means that local government is severely hamstrung in its attempts to correct past errors of land use decisions. For example, junk yards cannot be removed from residential neighborhoods nor can signs be removed from the roadside. This issue needs to be thoroughly analyzed for proposals which would allow localities to provide for amortization of nonconforming uses. This is a first step in facing and eventually resolving the problem of the nonconforming structure and use. Amortization would provide localities with another option for bringing the actual use of land into conformity with the permitted use in a given zone.

5. Although some Virginia local governments include mandatory dedication provisions in their subdivision ordinances, and some courts have upheld their application, the Code does not specifically authorize local governments to require a developer to dedicate sites for public uses. Local governments are faced with increasing demands for public services as subdivisions and developments spread. A locality may not be able to afford the cost of acquiring sites for the public facilities to serve the new residents. This issue

needs thorough study by all affected parties, public and private, with the goal of a fair and equitable statutory provision in mind.

6. There are growing legal questions about how a locality deals with "phased development." This question surfaces when developers propose to "leapfrog" their development away from developed areas, and into undeveloped areas. Residents of these new developments then demand that local government provide them with needed services such as fire protection, police protection, libraries, better transportation, and public water and sewers. Often, local government is unable to finance the public services. There is a definite need to find a way to let local government phase the development of their land so that the disadvantages of leapfrogging can be handled. At the same time, local governments must not be allowed to restrict development in a manner that would prohibit housing opportunities from all income levels. A sound proposal to meet this need should be developed.

7. While no legislative recommendations were agreed on by the committee to respond to the problems of funding public facilities or guiding phased development, one bill is attached for additional consideration and another could be considered for passage at the present time. The first provides for "new community districts" as an approach to financing capital improvements for the public facilities necessitated by large scale new development. This bill, while not in form to recommend for passage, does present a concept having merit and should be studied further. The second strengthens the status of a capital improvements program to permit development in keeping with the availability of public facilities. Both draft bills were forwarded to the full Committee for consideration without recommendation by the subcommittee.

Respectfully submitted,

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Robert E. Washington, Chairman

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Raymond E. Vickery, Jr., Vice-Chairman

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Stanley G. Bryan

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Clinton Miller

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Frank M. Slayton

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Peter K. Babalas

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Madison E. Marye

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William F. Parkerson, Jr.

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William A. Truban

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Charles L. Waddell

A BILL to amend and reenact §§ 15.1-446.1, 15.1-454, 15.1-464, 15.1-489, 15.1-190, 15.1-491 and 15.1-493 as severally amended, of the Code of Virginia, relating to the capital improvement program as an element of coordinated development of land.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-446.1, 15.1-454, 15.1-464, 15.1-489, 15.1-490, 15.1-491 and 15.1-493, as severally amended, of the Code of Virginia are amended and reenacted as follows:

§ 15.1-446.1. Comprehensive plan to be prepared and adopted; scope and purpose.—The local commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction.

Every governing body in this State shall adopt a comprehensive plan for the territory under its jurisdiction by July one, nineteen hundred eighty.

In the preparation of a comprehensive plan the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the commission's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, business, industrial, agricultural, conservation, recreation, public service, flood plain and drainage, and other areas;

2. The designation of a system of transportation facilities such as streets, roads, highways, parkways, railways, bridges, viaducts, waterways, airports, ports, terminals, and other like facilities;

3. The designation of a system of community service facilities such as parks, forests, schools, playgrounds, public buildings and institutions, hospitals, community centers, waterworks, sewage disposal or waste disposal areas, and the like; and

4. The designation of historical areas and areas for urban renewal or other treatment.

It shall include the capital improvement program when so specified by the governing body in accordance with § 15.1-464.

§ 15.1-454. Plan to be reviewed at least once every five years or at the end of the period of a capital improvement program.—At least once every five years *or at the end of the period of a capital improvement program adopted in accordance with § 15.1-450* the comprehensive plan shall be reviewed by the local commission to determine whether it is advisable to amend the plan.

§ 15.1-464. Local commissions to prepare and submit annually capital improvement programs to governing body or official charged with preparation of budget.—A local commission may, and at the direction of the governing body shall, prepare and revise annually a capital improvement program based on *and when so specified by the governing body as part of the comprehensive plan of the county or municipality for a period not to exceed the ensuing five years.* The commission shall submit the same annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the municipality or county, at such time as it or he shall direct. Such capital improvement program shall include the commission's recommendations, *including those on the number, capacity, time of use and location of public facilities within the program period,* and estimates of cost of such ~~projects—facilities~~ and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the county or municipality. In the preparation of its capital budget recommendations, the commission shall consult with the chief administrative officer or other executive head of the government of the county or municipality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary *unless otherwise required.*

§ 15.1-489. Purpose of zoning ordinances.—Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.1-427. To these ends, such ordinances shall be designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the *existence or adequacy at time of use of community facilities existing or available—*as determined where *applicable by the adopted capital improvement program*, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers; and (7) to encourage economic development activities that provide

desirable employment and enlarge the tax base.

§ 15.1-490. Matters to be considered in drawing zoning ordinances and districts.—Zoning ordinances and districts shall be drawn with reasonable consideration for the existing use and character of property, the existing land use plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for housing, schools, parks, playgrounds, recreation areas, and other public services; for the conservation of natural resources; and preservation of flood planes (plains) and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the county or municipality. *Where the comprehensive plan includes an adopted capital improvement program these matters shall be considered with due regard for the timing and period of said program.*

§ 15.1-491. Permitted provisions in ordinances; amendments. A zoning ordinance may include, among other things, reasonable regulations and provisions as to any or all of the following matters:

(a) For variations in or exceptions to the general regulations in any district in cases of unusual situations or to ease the transition from one district to another or for buildings, structures or uses having special requirements, and for the adoption, in counties, or towns therein which have planning commissions, wherein the urban county executive form of government is in effect as a part of an amendment to the zoning map of reasonable conditions, in addition to the regulations provided for the zoning district by the ordinance, when such conditions shall have been proffered in writing, in advance of the public hearing required by § 15.1-493 by the owner of the property which is the subject of the proposed zoning map amendment.

(b) For the temporary application of the ordinance to any property coming into the territorial jurisdiction of the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and pending the orderly amendment of the ordinance.

(c) For the granting of special exceptions under suitable regulations and safeguards; and notwithstanding any other provisions of this article, the governing body of any city, county or town may reserve unto itself the right to issue such special exception or use permit.

(d) For the administration and enforcement of the ordinance including the appointment or designation of a zoning administrator who may also hold another office in the county or municipality. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of the ordinance, and the bringing of legal action to insure compliance with the ordinance, including injunction,

abatement, or other appropriate action or proceeding.

(e) For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such violation shall be a misdemeanor punishable by a fine of not less than ten dollars nor more than one thousand dollars.

(f) For the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto.

(g) For the amendment of the regulations or district maps from time to time, or for their repeal. Whenever the public necessity, convenience, general welfare, or good zoning practice require, the governing body may by ordinance, amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the governing body, or by motion of the local commission, or by petition of any property owner addressed to the governing body; provided, that the ordinance may provide for the consideration of proposed amendments only at specified intervals of time, and may further provide that substantially the same petition will not be reconsidered within a specific period, not exceeding one year.

In any county having adopted such zoning ordinance all motions, resolutions or petitions for amendment to the zoning ordinance, and/or map, pending on July one, nineteen hundred seventy-four, shall be acted upon and a decision made on or before December thirty-one, nineteen hundred seventy-five; all of such motions, resolutions or petitions accepted for filing after July one, nineteen hundred seventy-four but prior to July one, nineteen hundred seventy-five shall be acted upon and a decision made on or before June thirtieth, nineteen hundred seventy-six; all such motions, resolutions or petitions accepted for filing after July one, nineteen hundred seventy-five, shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed twelve months, unless accepted for filing prior to December thirty-one, nineteen hundred seventy-five, in which case they shall be acted upon and a decision made on or before December thirty-one, nineteen hundred seventy-six.

(h) For the submission and approval of a plan of development prior to the issuance of building permits to assure compliance with regulations contained in such zoning ordinance.

The ordinance may also provide that petitions brought by property owners or their agents shall be sworn to under oath before a notary public or other official before whom oaths may be taken, stating whether or not any member of the local commission or governing body has any interest in such property, either individually, by ownership of stock in a corporation owning such land, or partnership, or whether a member of the immediate household of any member of the commission or governing body has any such interest.

(i) For protection against undue density of population in relation to the existence or adequacy at time of use of community facilities and if deemed advisable, for such regulations and provisions to be consonant with the period and timing of the adopted capital improvement program, if any.

§ 15.1-493. Preparation and adoption of zoning ordinance and map and amendments thereto.—The planning commission of each county or municipality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on such proposed ordinance or any amendment of an ordinance, after notice as required by § 15.1-431, and may make appropriate changes in the proposed ordinance or amendment as a result of such hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials, *including where an adopted capital improvement program is in effect, those related to said program.*

No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local commission for its recommendations. Failure of the commission to report ninety days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval.

Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.1-431, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by § 15.1-431. Such ordinances shall be enacted in the same manner as all other ordinances.

The governing body of any county which has adopted an urban county form of government provided for under chapter 15 (§ 15.1-722 et seq.) of this title may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

The adoption or amendment prior to March first, nineteen hundred sixty-eight, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment.

The adoption of a zoning ordinance prior to July one, nineteen

hundred sixty-eight, by the board of supervisors of a county having the county executive form of organization and government shall not be declared invalid by reason of a failure by said board to call for and hold an election in said county for approval of said ordinance, provided that the provisions of this section for advertisement and public hearings were complied with. Nothing herein contained shall be construed so as to affect any litigation pending on March twenty, nineteen hundred seventy.

#

A BILL to amend the Code of Virginia by adding in Title 15.1 a chapter numbered 28.1 consisting of sections numbered 15.1-1270.1 through 15.1-1270.13, relating to development of new communities.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 15.1 a chapter numbered 28.1, consisting of sections numbered 15.1-1270.1 through 15.1-1270.13, as follows:

Chapter 28.1.

New Communities Act.

§ 15.1-1270.1. Short title.—This chapter shall be known and may be cited as the “New Communities Act.”

§ 15.1-1270.1:1. Purpose.—A. The General Assembly finds that the expansion of growth areas in the Commonwealth into presently vacant land is proceeding rapidly and haphazardly, often contrary to the best use of the land, and causing sprawl and degradation of vital natural resources; that the conservation of critical and sensitive environmental zones is of the highest priority, and must be incorporated in a State growth program; and that most municipal and county governments in this Commonwealth, without the assistance and mechanisms as provided in this chapter, are not able to implement, administer, and manage the processes required to promote and provide service to new community and large-scale development as outlined herein.

B. It is the intent of the General Assembly to provide local government with the first opportunity to provide governmental services and to promote private initiative and voluntary participation in planned urbanization by authorizing new community districts in those areas of the Commonwealth and for those services where local government has determined it presently cannot directly respond. These districts may be created when certain criteria of size and accountability are met with maximum consideration given to local desires and capability and to Commonwealth regional goals, policies, and growth plans.

C. In order to accomplish the purposes of this chapter, it is necessary for the Commonwealth to develop, implement, coordinate, and enforce a new communities policy, and one essential element shall be a positive incentive for quality development through the mechanism of granting to private developers certain limited status as a temporary, special improvement district in order to operate and finance the cost, delivery, and maintenance of necessary pre-development capital improvements of water, sewer, road, and drainage systems consistent with existing local systems and Commonwealth growth policies.

§ 15.1-1270.2. Preemption; sole authority.—This chapter shall constitute the sole authorization for the future establishment of independent special districts having the power to provide the capital improvements for sewer, road water management and supply, solid waste and erosion control systems and community facilities for development of lands, except for independent special districts or authorities established pursuant to acts of the General Assembly. All other independent special districts created by local ordinance or by a court or State agency order for these purposes shall, in the future, be established pursuant to this chapter.

§ 15.1-1270.3. *Definitions.*—The following words and terms shall have the meaning indicated unless the context clearly indicates a different meaning:

A. “Ad valorem bonds” means bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property and are generally referred to under general obligation bonds.

B. “Assessable improvements” includes, without limitation, any and all sewer systems, storm sewers and drains, water systems, streets, roads of the new community district, or that portion or portions thereof, local in nature and of special benefit to the premises or lands served thereby, and any and all modifications, improvements, and enlargements thereof.

C. “Board” means the governing board of the new community district, as herein defined, or if such board be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this chapter shall be given by law.

D. “Bond” includes “certificate”, and provisions applicable to bonds shall be equally applicable to certificates. “Bond” includes general obligation bonds, assessment bonds, refunding bonds, revenue bonds, and other such obligations in the nature of bonds as are provided for in this chapter, as the case may be.

E. “Commission” means the Director of the Division of State Planning and Community Affairs and his assistants.

F. “Costs”, when used with reference to any project, includes, but is not limited to, the expenses of determining the feasibility and practicability of acquisition, construction, or reconstruction; the cost of surveys, estimates, plans, and specifications; the cost of all labor, material, machinery, and equipment; cost of all lands, properties, rights, easements, and franchises acquired; financing charges; the creation of initial reserve and debt service funds; working capital; interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine; the cost of issuance of bonds pursuant to this chapter including advertisements and printing, the cost of any election held pursuant to this chapter, and all other expenses of issuance of bonds; discount, if any, on the sale or exchange of bonds; administrative expenses; such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project or to the financing thereof, or the development of any lands within the new community district; and reimbursement of any public or private body, person, or firm or corporation for any monies advanced in connection with any of the foregoing items of cost. Any obligation or expense incurred prior to the issuance of bonds in connection with the acquisition, construction, or reconstruction of any project or improvement thereof, or in connection with any other development of land that the board of the new community district shall determine to be necessary or desirable in carrying out the purposes of this chapter, may be treated as a part of such cost.

G. “Division” means the Division of State Planning and Community Affairs.

H. “Elector” means a voter or qualified elector under State law who resides within the new community district.

I. “General obligation bonds” means bonds which are secured by, or provide for their payment by, the pledge, in addition to those special taxes levied for their discharge and such other sources as may be provided for their payment or pledged as security under the resolution authorizing their issuance, of the full faith and credit and taxing power of the

new community district and for payment of which recourse may be had against the general fund of the new community district.

J. "Improvement bonds" means special obligations of the new community district which are payable solely from proceeds of the special assessments levied for an assessable project.

K. "Landowner" means the owner of the freehold estate, as appears by the deed record, including trustees (excluding trustees of a deed of trust), private corporations, and owners of condominium units; it does not include reversioners, remaindermen, trustees of a deed of trust, or mortgagees, who shall not be counted and need not be notified of proceedings under this chapter.

L. "New community district" means a local or regional unit of special purpose government created pursuant to this chapter and limited to the purpose of performing those specialized functions specifically prescribed in this chapter whose governing body is an independent body created, organized, constituted, and authorized to function specifically as prescribed in this chapter, and whose location, formation, powers, operation, duration, accountability, requirements for disclosure, and termination are specifically set forth in this chapter.

M. "Order" means the ordinance or ruling that establishes the district.

N. "Petitioner" means landowner and/or private developer who is proposing the new community district.

O. "Project" means any development, improvement, property, utility, facility, works, enterprise, or service, now existing or hereafter undertaken or established, under the provisions of this chapter.

P. "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the Constitution of the Commonwealth.

Q. "Revenue bonds" means obligations of the new community district which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the new community district.

R. "Sewer system" means any plan, system, facility, or property, and additions, extensions, and improvements thereto at any future time, constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including without limitation industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resources; and, without limiting the generality of the foregoing, shall include treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains and all necessary appurtenances and equipment, all sewer mains, laterals and other devices for the reception and collection of sewer mains, laterals and other devices for the reception and collection of sewage from premises connected therewith, and all real and personal property, and any interest therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for operation thereof.

S. "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works,

structures, or facilities for the conservation, control, development, utilization and disposal of water, and any purposes appurtenant, necessary, or incidental thereto, and includes all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such water management and control facilities or necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance thereof.

T. "Water system" means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time, constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water and, without limiting the generality of the foregoing, includes dams, reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

§ 15.1-1270.4. Establishment of district; petition.—A. A petition requesting establishment of a new community district shall be filed by the petitioner with the governing body of the local government having jurisdiction over the area in which the district is to be located, or, when State action is requested, with the department, who shall assume the responsibilities assigned local government hereunder. The petition shall contain:

1. A description, by metes and bounds, of the property to be included in the district and a listing, with the last known address, of all owners of real property within the general external boundaries of the district, including a listing of owners of such land which are to be excluded from the district;

2. A request for the specific governmental powers which the district will be authorized to assume pursuant to this chapter in addition to the general powers authorized pursuant to § 15.1-1270.7 of this chapter, including a statement describing the capacity of existing local facilities, the future thereof, and the role of the new community district in providing for compatibility of facilities with local and/or regional services;

3. A statement showing creation of the district as being the best alternative available for delivering the specific services sought to be delivered and that the area is amenable to separate special district government;

4. Specific statements showing compliance with the following standard:

a. The new community district shall consist of land which is substantially contiguous and developable as one functional interrelated community and the total acreage of which shall not be less than five hundred acres unless the land is wholly contained within one or more municipalities in which case the total acreage shall not be less than ten acres, unless such lesser area be permitted by the local governing body.

b. The petitioner shall have control, by deed, trust agreement, contract, or option, of seventy-five percent of the land to be included in the new community district;

c. The new community district shall be shown to have the capability to build infrastructures which will be compatible with the overall general purpose government facilities in the land area involved;

d. The petitioner shall commit to apply for, and accept, housing subsidy and assistance programs for low and moderate income individuals in an amount not less than

fifteen percent nor more than twenty-five percent, as provided in the order, of the total residential units to be developed, or lots to be sold individual owners, over the succeeding calendar year or some other period, not more than five years, agreed upon and stated in the order creating such new community district;

e. Commitment to comply with all ecological, environmental, economic, and other governmental, procedural, and policy requirements of State and local governments;

5. The proposed plan for termination.

B. Upon receipt of the petition, the local government shall request written comments and recommendations from adjacent local governments, the regional planning agency, and the Division who shall notify all appropriate State agencies the Division determines to have an interest in the proposed new community.

C. 1. Within ninety days after the petition is filed, a hearing shall be held by the local government. If the area proposed to be included in the district is under the jurisdiction of more than one unit of local government, the local government with whom the petition is filed shall convene and conduct a joint hearing of all units of local government having jurisdiction over any of the area proposed to be included. Notice of the hearing shall be sent to all agencies receiving notices of the petition, all persons owning property within the proposed district, and any other person who has filed with the local government or the Division a request for such notice. Notice shall be further provided by publication in a newspaper of general circulation in the area affected no less than seven nor more than fourteen days in advance of such hearing. Transfer of control of the land to petitioner or written approval or consent by a landowner or agency, filed with the petition, shall constitute a waiver of the specific notice requirement contained in this paragraph.

2. All relevant information, studies, data, comments, and recommendations received by the local government shall be presented at the hearing. Interested persons shall be heard concerning establishment of the district.

D. Either prior to the hearing or within fourteen days after the hearing is concluded, each person or agency affected shall submit in writing its specific recommendations and detailed reasons therefor concerning establishment of the proposed new community district to the convenor. Such written recommendations shall be made available to the petitioner and to all affected local governments.

E. 1. Within forty-five days after the hearing, and after consideration of all the comments and recommendations received from various agencies and persons, and after determining that the proposed new community district and development conforms to the requirements of this section, the local government shall make, by non-emergency ordinance or, if more than one local government is involved, by joint ordinance, a final order granting or denying establishment of the district and specifying the powers authorized the district in addition to the general powers granted by § 15.1-1270.7 of this chapter. Failure to enact an ordinance within the specified time may be considered a denial for the purposes of any appeal authorized under the provisions of this section. The order shall be filed with the board of the local governing body or bodies affected, and the Division.

2. Such order shall not be effective within the boundaries of any municipality if such municipality, within forty-five days, specifically excludes the area by ordinance. In such case the district boundaries shall be deemed amended to exclude any such area.

F. The order creating the district may be amended upon petition of the district board pursuant to the same procedures as the initial establishment.

G. 1. Within thirty days after the ordinance is enacted or fails to be timely enacted, either the petitioner, an adjacent unit of local government or the Division may appeal the ordinance or failure to pass the ordinance to the Commission by filing a notice of appeal with the commission. The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government which enacted or failed to enact the ordinance. The filing of the notice of appeal shall stay the effectiveness of the ordinance, and shall stay any judicial proceedings in relation to the ordinance, until after the completion of the appeal process. Upon motion and good cause shown the Commission may permit materially affected parties to intervene in the appeal.

2. Prior to issuing its order, the Commission shall hold a hearing pursuant to the provisions of The Administrative Process Act (§ 9-6.14:1 et seq.). The Commission shall encourage the submission of appeals on the record made below in cases in which the ordinance was enacted or failed to be enacted after a full and complete hearing before the local government or an agency thereof.

3. The Commission shall have the power to designate a hearing officer to conduct hearings, who shall have the power to issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony as may be necessary or in conformity with this part. Such hearing shall certify and file with the Commission recommendations, findings of fact, and a proposed order.

4. Within one hundred twenty days, the Commission shall issue a decision granting or denying the new community special district and specifying the special powers it may exercise pursuant to this part. Decisions of the Commission shall contain a statement of the reasons therefor pursuant to the standards of this part. Decisions of the Commission are subject to judicial review under the Administrative Process Act.

H. Any order creating the new community district shall be issued expressly and only for the purposes of and consistent with the provisions of this chapter and shall not, under any circumstances or in any manner, be cited or raised by the petitioner or any other person as evidence of support by or approval of the local government, the Division, or any other State agency of the proposed development for any other purposes. The burden of proof under other proceedings remains unaltered by this chapter. Nothing in this chapter can relieve a developer from the application of any appropriate environmental and other regulatory statutes; however, the proposed new community district shall also be subject to such statutes and proceedings under those statutes, may at the option of the developer be conducted independently of, but simultaneously with, proceedings under this chapter.

§ 15.1-1270.5. Termination, contraction or expansion of district.—A. The district may contract or expand its boundaries by petition of either the governing body or owner of lands to be included or excluded. The petition shall be made in the same manner and shall have the same effect as a petition under § 15.1-1270.4.

B. The district may merge with other districts pursuant to appropriate enabling legislation.

C. The district shall remain in existence unless one of the following methods of termination is exercised at any time following the first replacement of a member appointed by the petitioner pursuant to § 15.1-1270.6 A. or such shorter time provided in the order, in addition to the preferred method set forth in the order creating it:

1. Upon assumption of the district's debt, a county or municipality may assume complete jurisdiction over all the land included in the district by ordinance; or

2. Upon providing any one or all of those services offered by the district at a similar level and upon assumption of the district's debt related to the services assumed, a local government may assume complete jurisdiction over all the land included in the district into its system for delivering such services; or

3. Upon meeting the requirements of § 15.1-966 et seq., the governing body of the district shall petition for a charter incorporating the area as a municipality.

4. In the event the district has not sold bonds or entered into a firm underwriting agreement for the sale of its bonds within three years of the issuance of the order creating it, the district shall be automatically dissolved and a statement to that effect shall be filed with the same bodies receiving the order creating the district.

§ 15.1-1270.6. Governing body; members and meetings.—A. 1. The initial governing body of the proposed district shall be composed of two members appointed by the local government with jurisdiction over the area included within the district or, if more than one, by a joint agreement as specified in the order creating the district, to represent the interest of the local citizenry and three members appointed by the petitioner to serve as his representatives to insure completion of the project.

2. Members shall serve four year overlapping terms with one each of the initial government and petitioner members appointed to serve initial two year terms.

3. Members appointed by the petitioner shall be replaced by public members who reside in the district and are appointed by the local government with jurisdiction over the area included within the district at a population level specified in the ordinance or according to a schedule calculated to achieve one such replacement each time the new community gains a proportion equal to one-third its projected total population or has one-third of its platted residential lots sold, whichever occurs first.

B. Members of the district board, to be known as Directors, entering into office shall take and subscribe to the oath of office as prescribed by law and shall hold office for the terms for which they are elected or appointed and until their successors are chosen and qualified. In case of a vacancy in office, the vacancy shall be filled in the same manner as the original office for the remainder of the term.

C. A majority of the members of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless law, the local ordinance creating the district, or rule of the district requires a large number.

D. As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chairman and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

E. The board shall keep a permanent record book entitled "record of proceedings of [name] new community district," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which book shall at reasonable times be opened to inspection in the same manner as State, county and municipal records are opened to inspection, as well as such other persons as the board may determine to have proper interest in the proceeding of the board. Such record book shall be kept at any office or other regular place of business maintained by the board in the area of the local government in which the new community district is located.

F. All meetings shall be governed by the provisions of State law applicable to

meetings of public bodies.

G. Each Director shall be entitled to receive for his services an amount not to exceed one hundred dollars per month. In addition, each Director shall receive travel and per diem expenses as provided for by State law.

§ 15.1-1270.7. General powers.—A new community district established pursuant to this chapter shall have, in addition to any special powers as may hereinafter be authorized by the order creating such district or subsequently amended, all the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including the following general powers:

A. To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire by purchase, gift, devise, or otherwise, real and personal property, or any estate therein; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers;

B. To employ and fix the compensation of a district manager who shall have charge and supervision of the works of the district and who may hire or otherwise employ and terminate such other persons, including without limitation, professional, supervisory, and clerical, as may be necessary and authorized by the board. The compensation and other conditions of employment of such officers and employees shall be as provided by the board and shall not be governed by any rule applicable to State employees in the classified service unless the board so provides;

C. To apply for coverage of its employees under the State retirement system in the same manner as if such employees were State employees, subject to necessary action by the district to pay employer contributions into the State retirement fund;

D. To authorize compensation for members of the district board for per diem, travel, and other reasonable expenses for meetings, hearings, and other official business consistent with State law;

E. To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to the requirement of State law relating to public bidding;

F. To borrow money, accept gifts, apply for and use grants or loans of money or other property from the United States, the Commonwealth, a local unit of government or any person, for any district purposes, and enter into agreements required in connection therewith, and hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

G. To adopt by-laws, rules, resolutions, and orders as authorized by law prescribing the powers, duties, and functions of the officers of the district, the conduct of the business of the district, the maintenance of records, and the form of certificates evidencing tax liens and other documents and records of the district. The board may adopt administrative rules and regulations with respect to any of the projects of the district, and define the area to be included thereon on such notice as required for elections and public hearings;

H. To maintain offices at such place or places as it may designate within the district;

I. To make use of any public easements, dedications to public use, platted reservations for public purposes, or any reservations for specific public purposes within the boundaries of the district for those purposes authorized within the district;

J. To borrow money and issue bonds, certificates, warrants, notes, or other evidences of indebtedness as hereinafter provided; to levy such tax and special assessments as may be authorized; to charge, collect, and enforce fees and other user charges; and to establish a budget and fiscal year in conformance with State law;

K. To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of district activities and services and enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law;

L. To exercise the right and power of eminent domain pursuant to the provisions of Titles 15.1 and 25 of the Code of Virginia, for the uses and purposes of the district relating solely to water, sewer, roads, and drainage, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person and through the land of another;

M. To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes of the district as stated in this chapter and by local ordinance;

N. To exercise such special powers as may be authorized by the order creating such district pursuant to §§ 15.1-1270.8 through 15.1-1270.10 of this chapter.

§ 15.1-1270.8. Special powers; public improvements and community facilities.—The district shall have, concurrent within the boundaries of the district with other public bodies and agencies and subject to the regulatory jurisdiction and approval of any regulatory bodies and agencies, and the board may exercise, any or all of the following special powers relating to public improvements and community facilities as may be specifically authorized by the order creating such district or as it may be amended from time to time:

A. To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for:

1. Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges as, in the judgment of the board, is deemed advisable to provide access;

2. Water supply, sewer, and waste water management, or any combination thereof, and to construct and operate connecting, intercepting, or outlet sewers and sewer mains and pipes and water mains, conduits or pipelines in, along, and under any streets, alleys, highways, or other public places or ways within the district when deemed necessary or desirable by the board;

3. Waste collection and disposal system, and to sell or otherwise dispose of any effluent, residue, or other by-products of such system or sewer system;

4. Bridges or culverts that may be needed in the district, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill or cut in the district;

5. Highways, streets, roads, alleys, sidewalks, storm drains, bridges, and public thoroughfares of all kinds and descriptions (hereinafter collectively and severally referred to as "public roads"), and connections to any extensions of any and all existing public roads within the district, deemed necessary or convenient by the board to provide access

to and efficient development of the territory within the district and as may, from time to time, be deemed appropriate by the board adequate to service the district and its residential, park, recreational, commercial, and industrial areas with such public roads to equal or exceed the specifications or requirements of the county in which such public roads are located;

6. Indoor and outdoor recreational, cultural, and educational uses;

7. Fire prevention and control, including fire stations, water mains and plugs, fire trucks and other vehicles, and equipment;

8. Police buildings and related structures for use in the law enforcement system when authorized by proper governmental agencies;

9. Common, private, or contract carriers, buses, vehicles, railroads, monorails, airplanes, helicopters, boats, and any others, including transportation facilities and devices, whether now or hereafter invented or developed;

10. Community redevelopment and to exercise any power and duty authorized for a community redevelopment agency pursuant to State law; and

11. Industrial development and to exercise any power and duty authorized an industrial development authority pursuant to State law.

B. To regulate, prohibit, and restrict by appropriate resolution and, in connection with the provision of one or more services through its systems and facilities:

1. All structures, materials, things, whether solids, liquid, or gas, whether permanent or temporary in nature, which come upon, come into, connect to, or be a part of any facility owned or operated by the district, limited to water, sewer, or surface water management;

2. The supply and level of water within the district, including the division of waters from the area, lake, pond, river or stream, basin, and water control facility to another, the control and restrictions of the development and use of natural or artificial streams or bodies of water, lakes or ponds, and the taking of all measures determined by the board to be necessary or desirable to prevent or alleviate land erosion; and

3. The use of sewers and the supply of water within the district and the use and maintenance of outhouses, privies, septic tanks, or other sanitary structures or appliances within the district, including the prescription of methods in pretreatment of wastes not amenable to treatment with domestic sewage before accepting such wastes for treatment and to refuse to accept such wastes when not sufficiently pretreated as may be prescribed.

§ 15.1-1270.9. Special powers; special assessments and maintenance taxes.—The district shall have, and the board may exercise, any or all of the following special powers relating to special assessments and maintenance taxes as may be specifically authorized by the order creating such district, or as it may be amended from time to time and, if required, by referendum of the electors of such district:

A. To assess, impose, and foreclose special assessment liens upon lands in the district for the costs of projects benefiting such lands in proportion to the benefits received by such land;

B. To assess, levy, and collect annual maintenance taxes based upon a footage or other equitable basis for the maintenance costs of those services requiring such

maintenance;

C. To levy and collect ad valorem taxes as may be required for general obligation or ad valorem debt service and for other purposes as may be authorized by vote of the electors.

Such special assessments and taxes shall be collected in the same manner and subject to the same conditions as are special assessments and taxes of local government or, in the case of special assessments, may be collected as may be specifically authorized under state law, and consistent with the authority granted by the order establishing the district, as amended.

§ 15.1-1270.10. Special powers; borrowing.—A. The district board may borrow money, contract loans, and issue bonds as defined in § 15.1-1270.1:1 of this chapter, from time to time, to finance the undertaking of any capital or other project for the purposes permitted by the order creating the district and by the Constitution of the Commonwealth, and may pledge the funds, credit, property, and taxing power of the district for the payment of such debts and bonds as hereinafter provided.

B. Bonds issued under this section shall be authorized by resolution of the district. Such bonds may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, registered or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

2. The district board shall determine the terms and manner of sale and distribution or other disposition of any and all bonds it may issue and shall have any and all powers necessary or convenient to such disposition.

3. Any general obligation or ad valorem bond shall, in addition to being authorized by resolution, be further specifically approved by the local governing authority, individually or if more than one jointly, having jurisdiction over the area included in the district.

4. The district board may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase, or redemption of any outstanding bonded indebtedness of the district.

5. The district board may levy ad valorem taxes upon real and tangible personal property within the district as it deems necessary to make payment, including principal and interest, upon the general obligation and ad valorem bonded indebtedness of the district or into any sinking funds created under paragraph B. 4. of this section.

§ 15.1-1270.11. Reports and reviews.—A. The district shall provide financial reports, in such form and in such manner, as prescribed pursuant to ordinance of the governing body or bodies.

B. The district shall prepare an annual report on its activities and shall furnish such to the Governor and presiding officers of the legislature, the department, and the presiding officer of the governing bodies of the units of local government and, upon, payment of a fee if such be established by the district, to any interested person. Such report shall include:

1. A financial statement in the form provided for financial reporting to the State;
2. The budget for the year in which the report is filed, including an outline of its programs and activities for such period; and
3. Any other information deemed necessary by the district or which the department may require.

C. Prior to September one of each year, the district manager shall prepare and submit to the district, to all units of local government, and any other agency having jurisdiction over lands in the district a proposed annual budget for the next fiscal year. Not later than October one, the district shall adopt its annual budget for the ensuing fiscal year.

D. The district shall make provision for an annual independent post-audit of its financial records. The Auditor of Public Accounts is hereby authorized to make such audit as he deems necessary. The district may, with the approval of the Auditor of Public Accounts make provision for an annual post-audit of all or any of its accounts with an independent auditor authorized to do business in the State.

E. 1. The district board shall submit to the local governing authorities having jurisdiction over the area included in the district, at least sixty days prior to adoption, the proposed annual budget for the ensuing fiscal year and any long-term financial plan or program, and shall further submit any other plans or programs of the district for future operations.

2. The local governing authorities shall review the proposed annual budget and any long-term financial plan or program and make comments and recommendations thereon. Any other plans or programs of the district for future operations shall be reviewed pursuant to the same procedure and to the same extent as future plans or programs of the local government pursuant to its policies.

3. Prior to authorizing any general obligation or ad valorem bond by resolution and, if required, by referendum, the district shall submit its proposed issuance and the project to be financed thereunder to the local governing authority having jurisdiction over the area included in the district for review and approval, individually or, if more than one, jointly. Until approved by a non-emergency ordinance of the local governing authority, the district shall have no power to authorize the issuance of such debt.

§ 15.1-1270.12. Disclosure of public financing.—A. The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property pursuant to this chapter. Such information shall be provided by platted residential units and in such other formats as may be necessary.

B. The petitioner and any subsequent purchaser, for the sole purpose of resale, shall provide for adequate financial disclosure of the method of public financing in order to allow comparative shopping by prospective purchasers.

C. The Division shall assure that any disclosures made pursuant to State land sales statutes meet the requirements of this section.

D. The Division shall keep a current list of districts and their disclosures pursuant to this chapter and shall make such studies and reports and take such actions including filing with the Attorney General, as it deems necessary.

E. The district shall not finance any improvement which is committed to be provided by the developer, by contract or otherwise, without a specific finding of the extent of such commitment and payment to the district by the developer to such extent.

§ 15.1-1270.13. Severability.—If any clause, sentence, paragraph, section or part of this chapter, shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or validate the remainder of this chapter, but shall be confined in its operations to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

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