



# Land Use

## Virginia Legislative Alert

### 2010 General Assembly Land Use Update

A few bills passed the 2010 General Assembly Session which focus on using land use legislation to assist development in a challenging economic climate. The General Assembly also took up legislation impacting planning for future development related to urban development areas, as well as green building initiatives.

#### Cash Proffer Payments

House Bill 374 (Cosgrove) and Senate Bill 632 (Obenshain) temporarily delay cash proffer payments, mitigating some of the up-front costs of residential development. The bills set the timing for a locality's acceptance of a cash proffer payment for residential construction to be after the completion of final inspection but prior to the issuance of any certificate of occupancy. Both bills await the Governor's signature, and if enacted, have a sunset of July 1, 2014.



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#### Vested Rights

House Bill 1250 (Knight) amends Section 15.2-2307 regarding a property owner's vested rights to include written determinations by a zoning administrator or other administrative officer in the list of significant governmental acts. A zoning administrator's or administrative officer's determination regarding the per-

missibility of a specific use or the allowed density of particular property may vest the property owner's rights in land use stated in such determination, provided the additional criteria are met, after the appeal period has passed pursuant to 15.2-2311.

#### Urban Development Areas

Senate Bill 420 (Vogel) and House Bill 1071 (Athey, Jr.) amends and reenacts Section 15.2-2223.1 regarding Urban Development Areas. Every locality with (i) a population of at least 20,000 and a population growth of at least 5 percent or (ii) a population growth of 15 percent or more shall, and any locality may, amend its comprehensive plan to incorporate one or more urban development areas.

The comprehensive plan for localities with a population of less than 130,000 people shall designate urban development areas appropriate for development at a density on the developable acreage (land not included in existing parks, rights-of-way or other existing public land and facilities) of at least four single-family residences, six townhouse or 12 apartments, condominium units, or cooperative units per acre and an authorized floor area ration of at least 0.4 per acre for commercial development or any proportional combination thereof. The comprehensive plan for localities with a population of 130,000 or more people shall designate urban development areas appropriate for development at a density on the developable

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acreage of at least eight single-family residences, 12 townhouses, 24 apartments, condominium units, or cooperative units per acre and an authorized floor area ration of at least 0.8 per acre for commercial development or any proportional combination thereof.

The bill also requires, to the extent possible, certain federal, state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. The Commission on Local Government shall report annually on localities' compliance with the statute requiring the designation of urban development areas.

### Green Building and Incentives

Senate Bill 109 (Peterson) creates a Green Public Buildings Act. This Act requires public buildings (executive branch agencies and institutions) entering the design phase for construction of a new building greater than 5,000 gross square feet in size, or renovating such a building where the cost of renovation exceeds 50 percent of the value of the building, to meet standards at least as stringent as the LEED or Green Globes standards. Exemptions from the requirement may be granted by the Director of the Department of General Services upon a finding of special circumstances that make construction or renovation to the standards impracticable. This bill was left in House Committee on Appropriations.

Senate Bill 290 (Peterson and Deeds) amends Section 36-98 requiring the Board for Housing and Community Development to promulgate a Green Building Code as a part of the Uniform Statewide Building Code. The Green Building Code will integrate energy conservation, reduced water demand, healthier indoor-air quality, minimal environmental impact, safety security, durability, accessibility, cost-benefit, productivity, sustainability, functionality, and operational considerations. Localities would have the option to adopt the Green Building Code. This bill was continued to 2011 in General Laws and Technology.

Senate Joint Resolution 25 (Peterson) sets forth a constitutional amendment authorizing the General Assembly to enact laws to permit localities to exempt from property taxes, any property, including real or personal property, equipment, facilities, or devices, constructed or designed to conserve energy and natural resources in a manner that meets or exceeds performance standards established for such purposes. The amendment also deletes the authorization for the General Assembly by general law to directly exempt from property taxes such property and property designed to abate pollution or transfer or store solar energy. This bill was continued until 2011 in Privileges and Elections.

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