Code of Virginia
Title 15.2. Counties, Cities and Towns
Subtitle II. Powers of Local Government
Chapter 22. Planning, Subdivision of Land and Zoning
Article 7. Zoning

§ 15.2-2288.9. (Effective January 1, 2027, until January 1, 2031) Affordable housing; religious organizations and other tax-exempt properties

A. Notwithstanding any contrary provision of law, general or special, any locality that has adopted a zoning ordinance pursuant to this article shall allow by right, and not require a rezoning or other legislative approval as a precondition to the review or approval of a site plan or subdivision plat, the development or construction of a mixed-use or residential project by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit organization.

B. Such mixed-use or residential project shall be permitted by right, notwithstanding the use, height, or density otherwise permitted under the local zoning ordinance. No locality shall require, as a condition of approval of a subdivision plat, site plan, or plan of development, that a special exception, special use permit, conditional use permit, or any other discretionary approval be obtained for such mixed-use or residential project. The review of such mixed-use or residential projects shall be conducted in accordance with the provisions of §§ 15.2-2258 through 15.2-2261.

C. Mixed-use or residential projects shall be permitted by right as described in subsection B, provided the proposed mixed use or residential project meets all of the following conditions:

1. The property has been owned continuously by the property tax-exempt religious organization or 501(c)(3) property tax-exempt nonprofit organization for five years prior to the development application.

2. At least 60 percent of the mixed use or residential project's total housing units are for affordable housing at 80 percent or less of the area median income, as defined by the U.S. Department of Housing and Urban Development income limits and rent schedules, for rental units and up to 120 percent of the area median income for for-sale units, and such affordability is recorded and preserved for a minimum of 30 years by deed restrictions or other legally binding requirements.

3. All housing built is subject to local real property taxation following completion.

4. The housing is open to the general public and follows nondiscrimination rules as provided by the Virginia Fair Housing Law (§ 36-96.1 et seq.).

5. The property is served by or within an area planned for public water and sewer and the mixed-use or residential project complies with all environmental, historic, siting, and archeological local, state, and federal laws and regulations applicable to similar projects, including local environmental, historic, and archaeological standards and siting provisions contained in zoning and land use codes; Department of Environmental Quality laws and regulations related to wetland protection, stormwater management, and erosion and sediment control; Department of

Transportation laws governing highway access and secondary streets; and Department of Health laws governing water and wastewater.

D. If a mixed-use or residential project meets the requirements of subsection C, local zoning ordinances shall be deemed to allow, at a minimum (i) a building height of 45 feet, or the height of the tallest existing building within 500 feet, whichever is greater, excluding any building granted any additional height above what is permitted by right in the zoning district in which that building is located via a special exception approval; however, for a property located within a designated historic district established as of January 1, 2026, the maximum permitted building height shall be controlled by the regulations governing the historic district; (ii) a density of 20 units per acre, or the most intensive existing residential unit density within 500 feet of the property line of the proposed project, whichever is greater; however, a locality may by ordinance establish higher minimum residential densities for properties within a revitalization area, transit area, or area located within a small area plan or sector plan; (iii) setbacks of 10 feet or the smallest setback allowed for any existing property within 500 feet, whichever is less; (iv) construction of mixed-use and residential developments with a variety of housing types, including detached, attached, and multifamily housing units; and (v) residential use of at least 70 percent of the gross floor area, and the remaining uses, not to exceed 30 percent of the gross floor area, may include public accessible ground-floor nonresidential facilities. Otherwise, the maximum permitted height shall be 45 feet. Permitted nonresidential uses shall include religious worship space, child day centers as defined in § 22.1-289.02, health clinics, coffee shops, or other uses that are ancillary to the operation or mission of the property tax-exempt religious organization or 501(c)(3) property tax-exempt nonprofit organization. No additional requirements shall be imposed regarding floor-area ratio, minimum unit size, or minimum lot size. Residential parking requirements shall be limited to no more than one space per residential unit, or the fewest parking spaces required for the by-right residential parking standard under the local zoning ordinance, whichever is less. Parking requirements for all other permitted nonresidential uses shall be limited to no more than one space per 300 square feet, or the fewest parking spaces required for that use type under the local zoning ordinance, whichever is less.

E. The provisions of this section shall not apply to property zoned for or adjacent to land zoned for industrial use.

F. Nothing in this section shall apply to any existing permits for a housing development on real property owned by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit organization approved by the locality prior to January 1, 2027.

G. Nothing in this section shall be construed to restrict a locality's passage prior to January 1, 2027, of an ordinance for the development of housing on real property owned by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit organization, or a subsequent amendment thereof, that substantially complies with the requirements of this section.

H. Notwithstanding the provisions of subsection A, this section shall not apply to any parcel located within the Air Installation Compatible Use Zones footprint in any locality in which a United States military air installation or an auxiliary landing field used in connection with flight operations arising from a master jet base is located. Additionally, nothing in this subsection shall be construed as limiting the authority of localities to adopt ordinances pursuant to §§ 10.1-2206.1 and 15.2-2306 designed to protect existing or future areas of historic or archaeological significance, historic sites, historic landmarks, and historic buildings and structures, or to

establish local historic districts.

I. Nothing in this section shall apply to an application for a rezoning, special exception, or special use permit that is submitted prior to July 1, 2026.

J. Any residential or mixed-use project built pursuant to this section shall be deemed to be substantially in accord with the comprehensive plan of the host locality.

2026, cc. 1009, 1096.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.