

**Review of Actions Taken on Recommendations  
Regulatory Barriers to Housing Affordability (HJR 192, 1994)**

<b>HJR 192 Recommendation</b>	<b>Action / Status</b>
<b>I. General</b>	
<p><b>1)</b> The Virginia Housing Development Authority (VHDA) and the Department of Housing and Community Development (DHCD) should adopt a uniform definition of "affordable housing" to provide policy guidance for their individual housing programs.</p> <p><b>2)</b> An implementation team will be appointed to monitor and report on progress in implementing the recommendations of this report and to identify and recommend additional steps to reduce regulatory barriers to the creation of affordable housing.</p>	<p><b>1)</b> Definition of "affordable housing" added to § 15.2-2201. This section consists of definitions that are used throughout Chapter 22 (Planning, Subdivision of Land and Zoning) of Title 15.2 of the Code of Virginia.</p> <p><b>2)</b> No documentation that an implementation team was ever established.</p>

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<b>II. Planning and Land Use</b>	
<p><b>3)</b> Change the definition of “special exception” to (i) require that any conditions imposed in connection with a residential special use permit be reasonably related to the use proposed and (ii) assure that when localities impose conditions on residential projects specifying the materials and methods of construction or specific design features, the locality must consider the impact of the conditions on the affordability of housing.</p> <p><b>4)</b> Proffered conditions affecting the affordability of housing should be reasonably related to the scope and purpose of the comprehensive plan and zoning ordinance.</p> <p><b>5)</b> Section 36-55.39 of the Code of Virginia should be amended to limited the disapproval by local governing bodies of VHDA-funded multi-family projects to cases where the project failed to meet one or more specific criteria. DHCD should consider changes in the scoring process for the low-income housing tax credit to give greater weight to local government and community comments.</p>	<p><b>3)</b> No documentation of any specific action taken on this recommendation. <b>Note:</b> § 36-98 was amended in 2001 and 2002 to clarify that the Uniform Statewide Building Code (USBC) supersedes provisions of local ordinances that regulated certain design features of single-family dwellings except for proffered conditions accepted as part of a rezoning, special exception, use permit or cluster development.</p> <p><b>4)</b> No documentation of any action taken on this recommendation. <b>Note:</b> Local governments were required through § 15.2-2303.2 to disclose cash proffers and expenditures through an annual survey and report prepared by the Commission on Local Government.</p> <p><b>5)</b> § 36-55.39 was amended to clarify that the project should be in compliance with local zoning and other land use regulations. Subsection B provides for the locality to provide a written staff determination that the proposed development is consistent with current zoning and other land use regulations in effect at the time of such request. Failure to respond within 30 days is presumptive local indication of consistency.</p>

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<p><b>III. Land Development and Site Planning</b></p>	
<p>6) Consideration should be given to the future role of regional planning district commissions in the area of assisting localities to identify regional needs for affordable housing and in helping to broker local agreements to meet those needs.</p> <p>7) Where local reviewing authorities or state agencies fail to act on subdivision plats or site plans within statutorily the prescribed time period, the plat or plan should be considered approved subject to current public notice provisions. Review may be extended with the consent of the subdivider or site developer.</p> <p>8) Local and state agencies should develop policies and procedures to facilitate the established development review process and, where necessary, undertake innovations or reallocate resources to accomplish essential tasks on a timely basis</p> <p>9) Public hearings in connection with the review of subdivision plats and site plans should be limited to the applicable code and regulatory standards</p>	<p>6) Proposed statement of policy.</p> <p>7) Some legislative efforts have been attempted. Most recently, HB 996 was introduced in 2002 but left in the House Committee on Counties, Cities and Towns. <b>Note:</b> Planning commissions required to make a good faith effort to identify all deficiencies in a plat and expedited hearings were pursuant to HB 2509 passed in 2003.</p> <p>8) Proposed statement of policy; no specific action taken.</p> <p>9) No documentation of any action taken on this recommendation.</p>
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<p><b>10)</b> A guide identifying the steps that local governments could take to foster the provision of more affordable housing within the bounds of existing statutes could be prepared by DHCD</p> <p><b>11)</b> In conducting the revision of the subdivision street standards called for in the Virginia Connections Strategic Plan for Transportation, the Department of Transportation should consider a number of critical design factors and should assure substantive participation by all components of the development community in its advisory committees.</p> <p><b>12)</b> Regional management approaches that focus on source controls, erosion controls, and upstream pollutants should be used to respond to urban storm water problems. However, localities should not be required to implement storm water management authorities with taxing powers.</p> <p><b>13)</b> Establishment of liaison with the SJR 44 joint subcommittee to assure the relationship between storm water management and affordable housing.</p>	<p><b>10)</b> DHCD has not created such a guide; however, HUD and other organizations such as the Urban Land Institute have developed publications addressing local actions to promote affordable housing.</p> <p><b>11)</b> The 1995 review of subdivision street standards did provide for more input from the development community and resulted in some minor changes in tertiary street standards and provided for some additional flexibility that promised more cost-effective designs.</p> <p><b>12)</b> No specific action in terms of regional approach. However, HB 1177 (2004) consolidates the state's stormwater management programs within the Department of Conservation and Recreation (DCR). Regarding taxing authority, currently localities may impose a storm water utility tax or fee, but they are not required to do so.</p> <p><b>13)</b> No documentation indicating the establishment of a liaison. It does not appear that SJR 44 study included <i>specific</i> review of the relationship between affordable housing and storm water management. No final report filed for the joint subcommittee.</p>
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<p><b>14)</b> The Chesapeake Bay Local Assistance Board should continue its review of the Bay Act regulations to identify areas where they may be modified or eliminated, reducing their impact on affordable housing, without harming the Bay and its tributaries.</p> <p><b>15)</b> Virginia Department of Health (VHD) should assure that, where appropriate, its regulations facilitate the use of alternative systems for sewage handling to the maximum extent possible consistent with public health.</p>	<p><b>14)</b> No specific, coordinated action taken relative to affordable housing. <b>Note:</b> Regulations have been revised to clarify that the 100-foot buffer is required for <u>perennial</u> streams. Under former regulation, the buffer requirement was unclear to many localities.</p> <p><b>15)</b> Effective July 2000, the Sewage Handling and Disposal Regulations were revised to include "provisional approval" status for <i>non-experimental systems</i> that have not been sufficiently proven to gain general approval. Also, VDH is in the final stages for creating a new class of provisional approval that will allow several dozen-treatment devices to be used.</p>
<b>IV. Infrastructure Financing and Impact Fees</b>	
<p><b>16)</b> The state should explore various funding mechanisms, including greater use of private participation, to help assure that essential infrastructure be provided to developments meeting predetermined affordability criteria.</p> <p><b>17)</b> Secretary should coordinate its activities with the HJR 280 study considering abuse of the proffer zoning system to assure housing affordability issues are considered.</p>	<p><b>16)</b> No specific mechanism set aside for affordable residential developments</p> <p><b>17)</b> No information obtained regarding coordination of activities with the HJR 280 joint subcommittee. <b>Note:</b> Proffers and related issues continue under active consideration by the legislative Commission on Growth and Economic Development.</p>
<b>HJR 192 Recommendation</b>	<b>Action / Status</b>

## Review of Actions Taken on Recommendations Regulatory Barriers to Housing Affordability (HJR 192, 1994)

V. Building Codes and Standards	
<p><b>18)</b> The Board for HCD should give special attention to the problems associated with the renovation of older, existing structures in communities requiring revitalization and develop an Urban Revitalization Code to overcome problems resulting from the application of new construction standards in these areas.</p> <p><b>19)</b> The General Assembly should continue to provide instruction and guidance to the Board of HCD on building code issues through the passage of relevant resolutions. The Board should continue to rely on open administrative processes to maintain the currency of the USBC.</p> <p><b>20)</b> Virginia should increase its participation in the code development activities of the Council of American Building Officials (CABO), which guide construction of a majority of the one- and two-family dwellings in the state.</p> <p><b>21)</b> At such time as the BOCA model code provides accessibility standards equivalent to the Americans with Disabilities Act A(ADA), the Board of HCD should rescind the Virginia ADA amendments to the USBC and adopt the BOCA model code's provisions.</p>	<p><b>18)</b> Part II, Article 2 of the USBC incorporates procedures to allow local building officials to grant modifications for older structures. DHCD has initiated the regulatory process for adopting a freestanding revitalization code to better address the effective reuse of residential and other properties.</p> <p><b>19)</b> Proposed statement of policy; no specific action taken.</p> <p><b>20)</b> CABO has been replaced by the International Code Commission's International Building Code (IBC). Virginia, through DHCD has been and continues to be an active participant in the development process for the IBC.</p> <p><b>21)</b> Virginia's current USBC includes provisions of the IBC that are deemed to provide a safe harbor for compliance with the HUD Fair Housing Act Accessibility Guidelines. <b>Note:</b> Regarding single-family dwellings, efforts are continuing to increase compliance with visitability requirements.</p>
HJR 192 Recommendation	Action / Status

## Review of Actions Taken on Recommendations Regulatory Barriers to Housing Affordability (HJR 192, 1994)

<p><b>22)</b> Training and certification of code enforcement personnel should emphasize the impact of uniformity and code interpretation up housing affordability, and the Building Code Academy should place greater emphasis on resolving the special problems associated with the renovation of older structures.</p>	<p><b>22)</b> The current curriculum includes an emphasis on the responsibility of local building officials to approve modifications to accommodate the reuse of existing structures. When the rehabilitation code, which is currently in the early stages of the administrative process, is promulgated, the Building Code Academy plans to include special training sessions as part of its curriculum.</p>
<p><b>VI. Administration and Processing</b></p>	
<p><b>23)</b> Land-use enabling legislation should be amended to require local administering authorities to conduct pre-application conferences at the request of any individual proposing to submit site plans or subdivision plats for review or requesting a rezoning (including special use permits).</p> <p><b>24)</b> The onsite transferable development rights should be enabled by statute to encourage cluster development techniques that preserve opportunities for more affordable units without harming environmentally sensitive or unique features. The General Assembly should strongly encourage local governments to consider allowing cluster, single-family detached housing by right and consistent with the local zoning district density requirements.</p>	<p><b>23)</b> No documentation of any action taken on this recommendation.</p> <p><b>24)</b> Section 15.2-2286 amended in 2002 to address part of this proposal by providing for cluster development without loss of overall development density on a parcel.</p>

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<p><b>25)</b> In certain competitive selection processes for housing and community development programs, the state could offer incentives to local governments that take specific actions to reduce local regulatory barriers or that adopt affordable dwelling unit density bonus programs.</p> <p><b>26)</b> Non-profit housing organizations should be invited to identify regulatory barriers impeding their activities, suggest remedial measures, and work with state and local agencies and other private sector entities to enhance opportunities for the creation and preservation of more affordable housing.</p> <p><b>27)</b> Efforts to foster the use of joint federal-state permitting procedures should be continued and expanded wherever they offer an opportunity to cut processing times and eliminate unanticipated delays and where their use is consistent with Virginia's environmental policies.</p>	<p><b>25)</b> The competitive selection process used for programs such as Community Development Block Grants considers issues such as local regulatory barriers to the affordability of the housing proposal under consideration and the elimination of local regulatory barriers to the proposal.</p> <p><b>26)</b> No documentation of any specific action taken on this recommendation; remains an ongoing issue.</p> <p><b>27)</b> The Department of Environmental Quality (DEQ) has adopted a general permitting process that streamlines the state permitting process. The general permit is accepted by the US Army Corps of Engineers as meeting federal permitting requirements. Using 2003 data, 75% of projects were fully covered by the state permit without needing a separate federal permit. DEQ is also working with the Corps of Engineers to further reduce duplication through an overall review of the permitting process including recommendations made by the home building industry and the Chesapeake Bay Foundation. <b>Note:</b> Separate permits are still required for storm water management (state) and erosion and sediment control plan approval (locality). Efforts are underway to stream line this process and alleviate duplication.</p>

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