

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	July 17, 2017
Action Required:	seeking Council direction
Presenter:	Alex Ikefuna, NDS Director
Staff Contacts:	City Attorney's Office: Lisa Robertson, Andrew Gore NDS: Alex Ikefuna, Stacy Pethia City Manager's Office: Brenda Kelley
Title:	Council's Request for Information on Community Development Corporations

Background:

One or more City Council members have requested information on Community Development Corporations, specifically: whether or not Council could form such a corporation in order to itself undertake redevelopment activities for construction of affordable housing. For the reasons discussed below, we are of the opinion that City Council itself is not authorized to form a development corporation to undertake redevelopment activities, but that other alternatives may be available to Council.

Discussion:

By law in Virginia, under what's referred to as Dillon's Rule of statutory construction: a municipal corporation such as the City of Charlottesville has only those powers that are expressly granted by the General Assembly ("enabling legislation"), or powers that may necessarily or fairly be implied from expressly-granted powers. Within Virginia Code §36-19, the General Assembly has expressly granted to every *Redevelopment and Housing Authority* the following powers (among others):

(2) Within its area of operation ¹ to prepare, carry out, acquire, lease and operate housing projects and residential buildings, and **to provide for the construction, reconstruction, improvement, alteration or repair of any housing project ², residential building, or any part thereof,**

¹ The CRHA's "area of operation" consists of the entire City, see Va. Code §36-3.

² In Va. Code §36-3, the term "housing project" is defined to mean any work or undertaking: (i) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or (ii) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (iii) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures or improvements, the

and to construct, remodel or renovate any public building or other facility used for public purposes provided the authority is requested to do so by the governing body of the political subdivision wherein the public building or facility is located....and

(12) With the approval of the local governing body or its designee, to form corporations, partnerships, joint ventures, trusts, or any other legal entity or combination thereof, on its own behalf or with any person or public or private entity....

We have found no enabling legislation that expressly confers these same powers on a city or municipality; therefore, we must conclude that the City Council cannot, independently of CRHA, form a development corporation for the purpose of providing for the construction or reconstruction of any development within the definition of “housing project” set forth within Virginia Code §36-3.

Alternatives:

There are a number of alternative options that City Council may consider.

(1) **Incentives for Private Development involving repair or production of affordable housing:** Enabling legislation for this type of incentive program is set forth within Va. Code §15.2-958. This statute authorizes the City to offer public funding to owners of residential rental property that is occupied, or that will be occupied, following rehabilitation or after construction (if new), by persons of low and moderate income, for the purpose of rehabilitating or producing such property. Any property owner who accepts public funding offered pursuant to this incentive program must demonstrate that, upon completion of rehabilitation or construction, **at least 20 percent of the dwelling units rehabilitated or constructed will be occupied by low and moderate income persons, for a minimum of 10 years. The recipient does not need to be a non-profit entity.** In connection with this type of program, the enabling legislation would also allow City Council to provide in-kind services (e.g., construction of streets, utilities, parks, parking facilities, and other site improvements essential to the planned rehabilitation or development). City Council could, if it chooses, adopt an ordinance authorizing this incentive program and authorizing Charlottesville Affordable Housing Fund (CAHF) money to be used for this purpose.

(2) **Land Bank Corporation:** in 2016 the General Assembly adopted legislation authorizing a locality, by ordinance, to create a land bank entity as a corporation, for the purpose of assisting the locality to address vacant, abandoned and tax delinquent properties. A Land Bank entity must have at least five (5) members, and may enter into an agreement with a locality for staffing services; the members don't need to be from any particular groups or professions, but may not have any direct or indirect interest in the transactions or holdings of the entity. The new legislation does not limit the activities of a Land Bank, or its property acquisitions, to any particular geographic area within the locality. A Land Bank can sue and be sued in its own name (including actions to clear title to property); can borrow money from private lenders as well as the locality; can enter into contracts; can manage rental property; can sell property; can “design, develop, **construct**, demolish, reconstruct,

construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

rehabilitate, renovate, relocate, **and otherwise improve real property** or rights or interests in real property”; can enter into collaborative relationships with municipalities, and other public and private entities for the ownership, management, development and disposition of real property; and **may acquire or accept transfers of real estate from any source**, including a locality. **See Va. Code §15.2-7506.** Within an ordinance creating a Land Bank, a locality may establish a ranking of priorities for the use of real property conveyed by a Land Bank to third parties, including: affordable housing; public spaces; retail, commercial, industrial activities; or preservation of historic properties. Significantly, a locality may remit to the Land Bank up to 50% of real estate taxes collected on real property acquired by a person *from* the Land Bank, for a period of up to 10 years after the conveyance.

- (3) **Housing Rehabilitation Zones:** pursuant to Virginia Code §36-55.64, City Council may, by ordinance, establish “**housing rehabilitation zones**” (HRZ) to provide incentives and regulatory flexibility for certain housing development activities. Special zoning can be established for an HRZ; tax liens on property can be waived to facilitate a sale of a delinquent property to a new owner who will renovate, rehabilitate or replace an existing housing unit; the City may establish a service district within an HRZ, to provide additional or more complete public services within the HRZ (e.g., water; sewerage; economic development services; promotion of business and retail development; public parking; etc.). An HRZ, once established, is deemed to meet the state’s requirements for designation of “**housing revitalization**”—a designation which renders a housing development project eligible for state financing as an economically mixed project. A real estate tax exemption program could be established by Council, for new structures constructed in a rehabilitation zone, and for improvements to existing structures. *See* §58.1-3219.4. (The City Assessor’s Office would need to actively participate in developing a tax incentive program; that office would largely be responsible for implementing/administering the program).
- (4) **Establish A More Robust Zoning Incentive Program:** currently, the City’s Zoning ADU Program applies only in relation to landowners seeking a rezoning or special use permit for a particular development; the existing program is the result of special legislation obtained by the City from the General Assembly. Separate legislation, set forth within Virginia Code §15.2-2305, authorizes all localities to establish density bonuses, or other incentives, applicable to “by-right” development. Among the options authorized for such an incentive program are (i) an **Exclusive Right for the City or its designee to purchase** up to one-third (1/3) of for-sale ADUs, within 90 days of their being completed and ready for purchase (with the remaining 2/3 required to be offered for sale exclusively to income qualified purchasers, for a period of 90 days); and (ii) an **exclusive right for the City or its designee to lease up to a specified percentage of the rental ADUs** within a controlled period of time, with the remaining percentage of ADUS to be offered to income-qualified persons for a specified period of time. These provisions would facilitate partnerships between the City and third-parties such as a Land Bank, private developers/ contractors, local nonprofit entities, or other “designees” of City Council, to provide for long-term availability (15-50 years) of a supply of affordable housing units.
- (5) **Community-Based Development Organizations (CDBO):** federal law allows localities to provide Community Development Block Grant (CDBG) funds, as grants or loans, to a CDBO, to carry out neighborhood revitalization or community

economic development projects. A CDBO's activities must take place within a defined geographic area, which can't be the entire area of the City. A CDBO itself must carry out an eligible project. (This means that the CDBO would either need to undertake CDBG-funded activities itself, or through a contractor *other than* the City, or the CDBO could provide financial assistance for activities in which it retains a direct and controlling involvement and responsibilities. Federal regulations require the governing board of a CDBO to consist of at least 51 percent (i) low- and moderate-income residents of its geographic area of operation, (ii) officers or owners of private establishments or institutions in that geographic area, and/or (iii) representatives of low- and moderate-income neighborhood associates located in the geographic area. All members of the governing board must be nominated and approved by the general membership of the organization, or by its permanent governing body.

Alignment with Council Vision Areas and Strategic Plan:

N/A at this time

Community Engagement:

N/A at this time

Budgetary Impact:

N/A at this time

Recommendation: we recommend that Council provide direction to staff, the HAC and the Planning Commission as to which of the above-referenced alternatives Council might wish to develop as an action-item, and in what time period.

Attachments: copies of statutes referenced within Alternatives (1)-(4).

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 75. Land Bank Entities Act

§ 15.2-7506. Powers of land bank entity.

A. The land bank entity shall have the power to:

1. Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name and plead and be interpleaded in all civil actions, including actions to clear title to property of the land bank entity;
3. Adopt a seal and alter the same at its pleasure;
4. Borrow money from private lenders, localities, or the state or from federal government funds, as may be necessary, for the operation and work of the land bank entity;
5. Procure insurance or guarantees from the Commonwealth or federal government of the payments of any debts or parts thereof incurred by the land bank entity and pay premiums in connection therewith;
6. Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers;
7. Enter into contracts and other instruments necessary, incidental, or convenient to the performance of functions by the land bank entity on behalf of localities or agencies or departments of localities or to the performance by localities or agencies or departments of localities of functions on behalf of the land bank entity;
8. Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land bank entity;
9. Procure insurance against losses in connection with the real property, assets, or activities of the land bank entity;
10. Invest funds of the land bank entity, at the discretion of the board, in instruments, obligations, securities, or real property determined proper by the board and name and use depositories for its funds;
11. Enter into contracts for the management of, the collection of rent from, or the sale of real property of the land bank entity;
12. Design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property;
13. Fix, charge, and collect rents, fees, and charges for the use of real property of the land bank entity and for services provided by the land bank entity;

14. Grant or acquire a license, easement, lease, or option with respect to real property of the land bank entity;

15. Enter into partnerships, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development, and disposition of real property;

16. Accept grants and donations from any source, as may be necessary, for the operations of the land bank entity;

17. Accept real estate from any source, subject to the limitations and restrictions set out in § 15.2-7507;

18. Make loans or provide grants to carry out activities consistent with the purposes of the land bank entity; and

19. Do all other things necessary or convenient to achieve the objectives and purposes of the land bank entity or other laws that relate to the purposes and responsibility of the land bank entity.

B. The land bank entity shall neither possess nor exercise the power of eminent domain.

2016, cc. 159, 383.

§ 36-55.64. Creation of local housing rehabilitation zones

A. Any city, county, or town may establish, by ordinance, one or more housing rehabilitation zones for the purpose of providing incentives and regulatory flexibility in such zone.

B. The incentives provided in a housing rehabilitation zone may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) waiver of tax liens to facilitate the sale of property that will be substantially renovated, rehabilitated or replaced.

C. Incentives established pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the housing rehabilitation zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in a housing rehabilitation zone may include, but not be limited to (i) special zoning for the district, (ii) the use of a special permit process, (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.), and (iv) any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. The governing body may establish a service district for the provision of additional public services pursuant to Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2.

F. Each locality establishing a housing rehabilitation zone pursuant to this section may also apply for the designation of a housing revitalization zone pursuant to Chapter 11 (§ 36-157 et seq.). Nothing in this chapter shall preclude such dual designation.

G. Any housing rehabilitation zone established pursuant to this chapter shall be deemed to meet the requirements for designation of housing revitalization eligible to be financed as an economically mixed project pursuant to § 36-55.30:2.

H. This section shall not authorize any local government powers that are not expressly granted herein.

2006, c. 711;2013, cc. 756, 793;2016, c. 331.

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

Code of Virginia
Title 58.1. Taxation
Chapter 32. Real Property Tax

§ 58.1-3219.4. Partial exemption for structures in redevelopment or conservation areas or rehabilitation districts.

For purposes of this section, unless the context requires otherwise:

"Redevelopment or conservation area or rehabilitation district" means a redevelopment or conservation area or a rehabilitation district established in accordance with law.

A. The governing body of any county, city, or town may, by ordinance, provide for the partial exemption from taxation of (i) new structures located in a redevelopment or conservation area or rehabilitation district or (ii) other improvements to real estate located in a redevelopment or conservation area or rehabilitation district. The governing body of a county, city, or town may (a) establish criteria for determining whether real estate qualifies for the partial exemption authorized by this section, (b) establish requirements for the square footage of new structures that would qualify for the partial exemption, and (c) place such other restrictions and conditions on such new structures or improvements as may be prescribed by ordinance.

B. The partial exemption provided by the local governing body shall be provided in the local ordinance and shall be either (i) an amount equal to the increase in assessed value or a percentage of such increase resulting from the construction of the new structure or other improvement to the real estate as determined by the commissioner of the revenue or other local assessing officer, or (ii) an amount up to 50 percent of the cost of such construction or improvement, as determined by ordinance. The exemption may commence upon completion of the new construction or improvement or on January 1 of the year following completion of the new construction or improvement and shall run with the real estate for a period of no longer than 15 years. The governing body of a county, city, or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. The local governing body or its designee shall provide written notification to the property owner of the amount of the assessment of the property that will be exempt from real property taxation and the period of such exemption. Such exempt amount shall be a covenant that runs with the land for the period of the exemption and shall not be reduced by the local governing body or its designee during the period of the exemption, unless the local governing body or its designee by written notice has advised the property owner at the initial time of approval of the exemption that the exempt amount may be decreased during the period of such exemption. In no event, however, shall such partial exemption result in totally exempting the value of the structure.

D. Nothing in this section shall be construed so as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

E. The governing body of any county, city, or town may assess a fee not to exceed \$125 for residential properties, or \$250 for commercial, industrial, and/or apartment properties of six

units or more, for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the new structures or other improvements have been completed.

F. Where the construction of a new structure is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

2006, c. 572; 2011, cc. 423, 460.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 9. General Powers of Local Governments

§ 15.2-958. Local funding for repair or production of low and moderate income rental property or repair of residential property; other housing experiments.

It is hereby declared that the preservation of existing housing in safe and sanitary condition and the production of new housing for persons of low and moderate income are public purposes and uses for which public money may be spent, and that such preservation and production are governmental functions of concern to the Commonwealth. Therefore, the governing body of any locality may provide by ordinance that such locality may make grants or loans to owners of residential rental property occupied, or to be occupied, following rehabilitation or after construction if new, by persons of low and moderate income, for the purpose of rehabilitating or producing such property. Owners assisted in this manner must provide a minimum of 20 percent of the units for low and moderate income persons as defined by the locality for a minimum of 10 years. Participation by an owner under this section is voluntary.

Any locality in the ordinance herein authorized may:

1. Provide for the installation, construction, or reconstruction of streets, utilities, parks, parking facilities, playgrounds, and other site improvements essential to the development, preservation or rehabilitation planned;
2. Provide encouragement or financial assistance to the owners or occupants for developing or preserving and upgrading apartment buildings and for improving health and safety, conserving energy, preventing erosion, enhancing the neighborhood, and reducing the displacement of low and moderate income residents of the property;
3. Require that the owner agree to maintain a portion of the property in residential rental use for a period longer than ten years and that a portion of the dwelling units in the property be offered at rents affordable to persons or families of low and moderate income;
4. Provide that the value of assistance given by the locality under subdivisions 1 and 2 above be proportionate to the value of considerations rendered by the owner in maintaining a portion of the dwelling units at reduced rents for persons or families of low and moderate income; and
5. Make loans or grants of local funds to individuals for the purpose of rehabilitating owner-occupied residences or assisting in the purchase of an owner-occupied residence in designated conservation or rehabilitation districts. The locality shall publish annually a report listing the property purchased or rehabilitated pursuant to this provision and the amounts of any grants or loans made for such purpose. Such ordinance shall require that any such loans or grants be applied using the income guidelines issued by the Virginia Housing Development Authority for use in its single family mortgage loan program financed with bonds on which the interest is exempt from federal income taxation. The locality shall offer financial institutions as defined in §

6.2-604 the opportunity to participate in local loan programs established pursuant to this subsection.

1988, c. 862, § 15.1-37.3:9; 1993, c. 791; 1995, c. 393; 1997, c. 587; 2008, c. 580.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2305. Affordable dwelling unit ordinances.

A. In furtherance of the purpose of providing affordable shelter for all residents of the Commonwealth, the governing body of any locality, other than localities to which § 15.2-2304 applies, may by amendment to the zoning ordinances of such locality provide for an affordable housing dwelling unit program. Such program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing affordable to low and moderate income citizens, determined in accordance with the locality's definition of affordable housing, by providing for increases in density to the applicant in exchange for the applicant providing such affordable housing. Any local ordinance providing optional increases in density for provision of low and moderate income housing adopted before December 31, 1988, shall continue in full force and effect. Any local ordinance may authorize the governing body to (i) establish qualifying jurisdiction-wide affordable dwelling unit sales prices based on local market conditions, (ii) establish jurisdiction-wide affordable dwelling unit qualifying income guidelines, and (iii) offer incentives other than density increases, such as reductions or waiver of permit, development, and infrastructure fees, as the governing body deems appropriate to encourage the provision of affordable housing. Counties to which § 15.2-2304 applies shall be governed by the provisions of § 15.2-2304 for purposes of the adoption of an affordable dwelling unit ordinance.

B. Any zoning ordinance establishing an affordable housing dwelling unit program may include, among other things, reasonable regulations and provisions as to any or all of the following:

1. A definition of affordable housing and affordable dwelling units.
2. For application of the requirements of an affordable housing dwelling unit program to any site, as defined by the locality, or a portion thereof at one location which is the subject of an application for rezoning or special exception or, at the discretion of the local governing body, site plan or subdivision plat which yields, as submitted by the applicant, at an equivalent density greater than one unit per acre and which is located within an approved sewer area.
3. For an increase of up to 30 percent in the developable density of each site subject to the ordinance and for a provision requiring up to 17 percent of the total units approved, including the optional density increase, to be affordable dwelling units, as defined in the ordinance. In the event a 30 percent increase is not achieved, the percentage of affordable dwelling units required shall maintain the same ratio of 30 percent to 17 percent.
4. For increases by up to 30 percent of the density or of the lower and upper end of the density range set forth in the comprehensive plan of such locality applicable to rezoning and special exception applications that request approval of single family detached dwelling units or single family attached dwelling units, when such applications are approved after the effective date of a local affordable housing zoning ordinance amendment.

5. For a requirement that not less than 17 percent of the total number of dwelling units approved pursuant to a zoning ordinance amendment enacted pursuant to subdivision B 4 of this section shall be affordable dwelling units, as defined by the local zoning ordinance unless reduced by the 30 to 17 percent ratio pursuant to subdivision B 3 of this section.

6. For establishment of a local housing fund as part of its affordable housing dwelling unit program to assist in achieving the affordable housing goals of the locality pursuant to this section. The local housing fund may be a dedicated fund within the other funds of the locality, but any funds received pursuant to this section shall be used for achieving the affordable housing goals of the locality.

7. For reasonable regulations requiring the affordable dwelling units to be built and offered for sale or rental concurrently with the construction and certificate of occupancy of a reasonable proportion of the market rate units.

8. For standards of compliance with the provisions of an affordable housing dwelling unit program and for the authority of the local governing body or its designee to enforce compliance with such standards and impose reasonable penalties for noncompliance, provided that a local zoning ordinance provide for an appeal process for any party aggrieved by a decision of the local governing body.

C. For any building which is four stories or above and has an elevator, the applicant may request, and the locality shall consider, the unique ancillary costs associated with living in such a building in determining whether such housing will be affordable under the definition established by the locality in its ordinance adopted pursuant to this section. However, for localities under this section in Planning District Eight, nothing in this section shall apply to any elevator structure four stories or above.

D. Any ordinance adopted hereunder shall provide that the local governing body shall have no more than 280 days in which to process site or subdivision plans proposing the development or construction of affordable housing or affordable dwelling units under such ordinance. The calculation of such period of review shall include only the time that plans are in review by the local governing body and shall not include such time as may be required for revision or modification in order to comply with lawful requirements set forth in applicable ordinances and regulations.

E. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § 15.2-1427, reasonable regulations and provisions as to any or all of the following:

1. For administration and regulation by a local housing authority or by the local governing body or its designee of the sale and rental of affordable units.

2. For a local housing authority or local governing body or its designee to have an exclusive right to purchase up to one-third of the for-sale affordable housing dwelling units within a development within ninety days of a dwelling unit being completed and ready for purchase, provided that the remaining two-thirds of such units be offered for sale exclusively for a ninety-

day period to persons who meet the income criteria established by the local housing authority or local governing body or the latter's designee.

3. For a local housing authority or local governing body or its designee to have an exclusive right to lease up to a specified percentage of the rental affordable dwelling units within a development within a controlled period determined by the housing authority or local governing body or its designee, provided that the remaining for-rental affordable dwelling units within a development be offered to persons who meet the income criteria established by the local housing authority or local governing body or its designee.

4. For the establishment of jurisdiction-wide affordable dwelling unit sales prices by the local housing authority or local governing body or the latter's designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct the affordable dwelling unit prototype dwellings by private industry after considering written comment by the public, local housing authority or advisory body to the local governing body, and other information such as the area's current general market and economic conditions, provided that sales prices not include the cost of land, on-site sales commissions and marketing expenses, but may include, among other costs, builder-paid permanent mortgage placement costs and buy-down fees and closing costs except prepaid expenses required at settlement.

5. For the establishment of jurisdiction-wide affordable dwelling unit rental prices by a local housing authority or local governing body or its designee, initially and adjusted semiannually, based on a determination of all ordinary, necessary and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area, after considering written comment by the public, local housing authority, or advisory body to the local governing body, and other information such as the area's current general market and economic conditions.

6. For a requirement that the prices for resales and rerentals be controlled by the local housing authority or local governing body or designee for a period of not less than 15 years nor more than 50 years after the initial sale or rental transaction for each affordable dwelling unit, provided that the ordinance further provide for reasonable rules and regulations to implement a price control provision.

7. For establishment of an affordable dwelling unit advisory board which shall, among other things, advise the jurisdiction on sales and rental prices of affordable dwelling units; advise the housing authority or local governing body or its designees on requests for modifications of the requirements of an affordable dwelling unit program; adopt regulations concerning its recommendations of sales and rental prices of affordable dwelling units; and adopt procedures concerning requests for modifications of an affordable housing dwelling unit program. Members of the board, to be ten in number and to be appointed by the governing body, shall be qualified as follows: two members shall be either civil engineers or architects, each of whom shall be registered or certified with the relevant agency of the Commonwealth, or planners, all of whom shall have extensive experience in practice in the locality; one member shall be a real estate salesperson or broker, licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; one member shall be a representative of a lending institution which finances residential development in the locality; four members shall consist of a representative from a local housing

authority or local governing body or its designee, a residential builder with extensive experience in producing single-family detached and attached dwelling units, a residential builder with extensive experience in producing multiple-family dwelling units, and a representative from either the public works or planning department of the locality; one member may be a representative of a nonprofit housing organization which provides services in the locality; and one citizen of the locality. At least four members of the advisory board shall be employed in the locality.

F. A locality establishing an affordable housing dwelling unit program in any ordinance shall establish in its general ordinances, adopted in accordance with the requirements of subsection B of § 15.2-1427, reasonable regulations and provisions as to the following:

The sales and rental price for affordable dwelling units within a development shall be established such that the owner/applicant shall not suffer economic loss as a result of providing the required affordable dwelling units. "Economic loss" for sales units means that result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee of the governing body for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by the ordinance, upon the sale of an affordable dwelling unit.

1990, c. 834, § 15.1-491.9; 1991, c. 599; 1992, c. 244; 1993, c. 437; 1994, cc. 88, 679; 1996, cc. 233, 426; 1997, cc. 587, 607; 2007, cc. 695, 713; 2008, c. 790.

This page intentionally left blank.