



# Ordinances to enact or amend to comply with new laws passed by the General Assembly

## Does your locality need to enact or amend ordinances to comply with new laws passed by the General Assembly?

The General Assembly has acted on the myriad issues in the 2012 session that affect local governments. That means various local ordinances and regulations should be updated to bring them into compliance with new laws. It also means that new ordinances may be desirable in order to take advantage of new state laws born in the session.

This article is written to catalogue the various ordinances and regulations that may need updating and to identify new ordinances or regulations localities may need to enact following the 2012 session. Your local staff and locality attorney will offer specific guidance on local laws that may need to be adjusted. This article does not attempt to describe every bill or ordinance in detail. Instead, it attempts to set out the list of areas that may need review. This article does not discuss any actions localities should take based on the budget passed by the General Assembly. If you have questions about any of the bills in this report, please contact Mark Flynn at [mflynn@vml.org](mailto:mflynn@vml.org).

## Cemeteries

[HB 316](#) provides that any buildings and certain other features shown on “a legislative approval” such as a conditional use permit (CUP), special use permit (SUP) or rezoning may not be subjected to a later “legislative approval” (see excerpt, below). That means that if one of the designated categories of building or area is shown on a CUP, SUP, etc., then your locality could not require a later SUP, etc. for the building. The zoning ordinance may need amendments to provide that buildings, structures and areas identified in the excerpt below must be shown in the same level of detail and approval process required for any CUP, SUP, special exception or other legislative approval normally required for buildings. The alternative is to prohibit buildings and maintenance and storage areas to be shown on a rezoning application or other legislative approval so that the provision is not triggered. Note that

this provision takes effect Jan. 1 2013, so some additional time is allowed to come into compliance.

*D. Mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas that are shown in a legislative approval for the specific cemetery obtained at the request of the owner shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original local legislative approval. This subsection shall not supersede any permission required by an ordinance adopted pursuant to § [15.2-2306](#) relative to historic districts.*

## Historic districts

Two bills dealing with historic districts may require ordinance amendments.

If your locality has is or considering a historic district, consider adding wording in the ordinance to require a permit for demolitions of historic structures. [HB 327](#) authorizes an ordinance to require historic district approval for any demolition, unless the building is an immediate hazard.

A more significant impact on historic district regulation is [HB 1137](#), which requires new findings in order to establish or expand a district. The bill requires the locality to inventory the buildings and areas in a proposed district, or in the area proposed for expansion of an existing district to demonstrate why the district is appropriate. The bill provides that when adopting the ordinance, certain steps must be taken. Your historic district regulations and ordinance should be reviewed to ensure compliance before expanding or creating a historic district.

## Helicopter landings and departures

[HB 526](#) provides that no locality may have a blanket prohibition on landing helicopters for personal use. The bill allows a locality to require a conditional use permit or special use permit for helicopter landings. Landings may be precluded from certain zoning districts. Your locality may want to ensure that the zoning ordinance has rules in conformity with this new law. The bill does not apply

to commercial helicopter operations. As a side note, the Federal Aviation rules on landing helicopters provide little or no protection, because those rules allow landings almost anywhere.

## Collecting unpaid water and sewer bills

[HB 567](#) creates new rules for cities, towns and counties and water and sewer authorities for collecting unpaid water and sewer bills. The most significant changes are for the collection of water and sewer bills from tenants. Your locality will need to enact ordinance provisions and procedural rules to comply with the new law. VML will work with other groups to develop a model set of rules. We will distribute the model in early summer.

## Extension of zoning and subdivision approvals to 2017

[HB 571](#) extends the life of various zoning and administrative approvals from 2014 to 2017 to give the housing construction industry a handout while the housing market continues to suffer. The bill extends the life of special use or conditional use permits, rezonings and other actions. Your zoning and subdivision ordinances may need to be amended to comply with the new law.

## Conditional zoning 1 – using proffered money for alternative projects

If your locality accepts proffers through the conditional zoning process, you may want to evaluate the ordinance to take advantage of the authority provided by [HB 910](#). The bill allows funds paid by a developer for one project to be used for a different project, if the “the functional purpose for which the cash payment was made no longer exists”.

## Conditional zoning 2 - who signs an application to amend proffer conditions?

[HB 326](#) provides that if a property owner subject to proffered conditions seeks to amend the conditions on his property, he is the only person who signs the application. Owners of other properties subject to the original conditions do not need to sign the application. They are entitled to official notice of the proposed changes.

If your locality’s zoning ordinance contains a statement describing who must sign an application to seek amendments of proffer conditions, we recommend reviewing the ordinance to ensure the provisions of [HB 326](#) are followed. The new process helps localities.

## Transfer of development rights

If your locality has a transfer of development rights ordinance, you should consider amending the ordinance to comply with [HB 732](#) to allow sending properties, subsequent to severance of development rights, to be used for parks and campgrounds. The bill contains exceptions to what is included in the terms parks and campgrounds.

## Ordinances regulating production agriculture

[HB 1076](#) gives local governments the ability to prohibit storage of “nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act” even though the property is being used for production agriculture. If your locality’s zoning ordinance regulates production agriculture, you should consider amending the ordinance to comply with the changes in the law.

## Cleaning up meth labs

[SB 148](#) and [HB 848](#) allow localities to make anyone convicted of manufacturing methamphetamine liable for the costs of clean-up by enacting an ordinance on the subject.

## Discount for on-time payment of real estate taxes

[SB 551](#) gives localities the authority to give taxpayers a discount for paying their real estate taxes on time. If your locality wishes to take advantage of this provision, the local code will need to be amended.

## Local licensing of building contractors – penalty for fraudulent representation by contractor

[HB 1277](#) allows localities to impose a civil penalty against any contractor that falsely represents that it has the required local and state contractor's licenses. This penalty would be put into place by ordinance.

## Coal, gas and oil severance taxes

[SB 658](#) and HB 1233 require localities that impose coal, gas and oil severance taxes to make certain changes in the ordinances to comply with the new law.

## Disabled parking ordinances

An existing code provision allows four hours free parking for vehicles showing disabled plates or a placard. Current law allows the locality to eliminate free parking locality-wide. [SB 454](#) and HB 289 allow localities by ordinance to exclude designated portions of the locality from the law, so long as the areas are also designated with signs.

## Insurance requirements in local procurement

[SB 47](#) penalizes insurance agents and others who provide a certificate of insurance that is inconsistent with the insurance policy the certificate relates to. It also penalizes any person who asks for a certificate of insurance that is inconsistent with the policy. For localities, the main effect is in procurement. Regularly, procurement for construction, excavation and other building projects requires a certificate of insurance stating that the contractor has insurance to cover the contract amount or that requires the locality be added as an additional, named insured. If the certificate of insurance is issued purporting to do that, but the policy doesn't provide it, the locality could be penalized.

If your locality has an ordinance or regulations setting out rules for procurement, they should be checked to ensure that they comply with this new law. Also, in future procurement, localities will need to have the contractor provide a copy of the insurance policy or the insurance company's binding commitment to the provisions.

## Taxicab regulations

[HB 865](#) puts new limits on what a taxi ordinance may restrict, as set out below. If your locality's ordinance reduces the number of permitted taxis, the ordinance will need attention - *"nor shall such ordinances and regulations authorize the governing body to reduce the number of taxicabs permitted to be operated by a taxicab operator or a holder of a certificate issued under such ordinance, other than for non-use of such taxicabs or for cause as defined by such ordinance, including instances where there is a decrease in the demand for taxicab service."*

## Firearm buy-back programs

If your locality has a program to buy back firearms from citizens, you must offer for sale any legal guns your locality receives. Only if no one buys the weapon may the weapon be destroyed. See [HB 22](#).

## Speed limits on dirt and gravel roads

[HB 800](#) allows any county to adopt an ordinance to set a 35mph speed limit on all dirt and gravel roads.

## Towing company regulations – Planning District 8 localities only

[HB 860](#) creates new regulations on towing companies that the localities in Planning District 8 may enact, by ordinance. The provisions are:

*D. Any such ordinance adopted by a locality within Planning District 8 may require towing companies that tow vehicles from the county, city, or town adopting the ordinance to other localities, provided that the stored or released location is within the Commonwealth of Virginia and within 10 miles of the point of origin of the actual towing, (i) to obtain from the locality from which such vehicles are towed a permit to do so and (ii) to submit to an inspection of such towing company's facilities to ensure that the company meets all the locality's requirements, regardless of whether such facilities are located within the locality or elsewhere. The locality may impose and collect reasonable fees for the issuance and administration of permits as provided for in this subsection. Such ordinance may also provide grounds for revocation, suspension, or modification of any permit issued under this subsection, subject to notice to the permittee of the revocation, suspension, or modification and an opportunity for the permittee to have a hearing before the governing body of the locality or its designated agent to challenge the revocation, suspension, or modification. Nothing in this subsection shall be applicable to public safety towing*