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## POLICY SPOTLIGHT

# Streamline Housing Permitting in Virginia

How reforming four problem areas will unlock housing in the Old Dominion

SALIM FURTH, LYLE SOLLA-YATES, AND CHARLES GARDNER | JULY 2025

To identify improvements to Virginia’s land entitlement system, which is how property owners secure legal permission to develop their property, we interviewed several Virginia land use experts.<sup>1</sup>

Our most obvious finding is that Virginia’s land entitlement process varies sharply, even between neighboring jurisdictions. Statutory changes that streamline procedures in one county may complicate them in another.

In our research, we identified four problem areas in the Virginia planning and permitting processes, along with potential solutions, outlined below:

**1. Capacity constraints.** Because of limited resources, small and rural jurisdictions are slower to adapt to new statutory requirements and are more fearful of being sued, more likely to have outdated zoning codes, and more likely to use pen-and-paper permitting procedures, all of which add to delay and cost.

Solutions:

- The General Assembly should offer a competitive grant program to help jurisdictions transition from pen-and-paper to digital permitting systems, reducing administrative time and delays.
- State agencies should develop model zoning codes that any jurisdiction can implement on its zoning map.

**2. Proffers.** Local governments rely on proffers—developer contributions in return for rezoning—that distort and delay growth.

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<sup>1</sup> See Salim Furth, Lyle Solla-Yates, and Charles Gardner, “How to Streamline Housing Permitting in Virginia,” (Mercatus Policy Brief, Mercatus Center at George Mason University, January 16, 2024). Scan the QR code below for the full analysis, including sources.



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*The ideas presented in this document do not represent official positions of the Mercatus Center or George Mason University.*

Solution:

- The General Assembly should pass a statute or constitutional amendment allowing limited exactions as an optional replacement for the proffer system.

**3. Design and environmental review.** Design and environmental review are often cumbersome and costly. These types of review often include public hearings that stray from technical subject matter.

Solutions:

- The General Assembly should limit design and environmental review to local government staff members and opinions solicited from qualified technical experts.
- Design and environmental review should only be conducted for development projects that have received zoning approval.

**4. Zombie deed restrictions.** While private, voluntary deed restrictions that limit a property's use can serve valuable purposes, over time the voluntary nature of deed restrictions becomes strained. As a result, some deeds persist that made sense under now-defunct market conditions or were a part of an openly racist and exclusionary legal regime. Similarly, proffered conditions while important to reach agreement around a specific land development, should not become permanent and unchangeable.

Solutions:

- The General Assembly should declare void all deed restrictions contained in covenants that included racial restrictions and provide a simple process for property owners to selectively continue permissible restrictions if desired. It should also require that any new or existing deed restriction within a homeowners' association be reaffirmed by over half the lot owners every 30 years. A deed restriction that falls short of majority support would be voided.
- The General Assembly should void all new and existing proffered conditions after a comparable passage of decades.

**5. Protecting local governments from lawsuits.** Even where Virginia's local governments successfully enact pro-housing zoning reforms with broad popular support, a single lawsuit filed by a disgruntled resident—often relying on distant, generalized or speculative harms—has the potential to upend the entire effort and delay implementation by years.

Solutions:

- Follow states such as Wisconsin and Massachusetts by allowing non-applicants to challenge local land use decisions only where they have sustained actual damages or will imminently sustain personalized damages. Vague and generalized concerns about issues such as traffic or parking will not suffice to establish standing.
- Clarify that evidence on appeal is limited to the record before the local government, and that the issues are not to be re-litigated before the court.
- Increase the allowable bond that courts may establish in challenges to local land use decisions.

To improve Virginia's permitting processes, legislators should (1) recognize the role of red tape in compounding the difficulties local governments face and in raising the cost of housing and (2) pursue reforms that can reduce uncertainty, shorten delays, and provide all parties with predictability regarding future development.