

# **Guide to Cash Proffers**

## **In the Commonwealth of Virginia**



### **Disclaimer**

This document contains an overview of cash proffer programs and laws in the Commonwealth of Virginia. The staff of the Roanoke Valley-Alleghany Regional Commission has made its best efforts to review and summarize available information on cash proffers; however, this document is not comprehensive and may not contain all relevant state laws. Furthermore, the information provided is only intended to be general summary information and is should not be construed as legal guidance.

**January 25, 2008**

# Overview of Cash Proffers

## Definition and Use of Cash Proffers

The term “cash proffers” refers to the ability of high-growth localities in the State of Virginia to accept cash payments as a “reasonable condition” of a rezoning or amendment to a zoning map. As defined in Section [15.2-2298](#) of Virginia Code, reasonable conditions may include the payment of cash for any off-site *road improvement* or any off-site *transportation improvement* that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program. The term *road improvement* includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. The term *transportation improvement* means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title.

As defined in Section [15.2-2303.2](#), a locality may utilize any cash payments proffered for capital improvements for alternative improvements of the same category within the locality in the vicinity of the improvements for which the cash payments were originally made. The governing body of the locality prior to the use of such cash payments for alternative improvements shall, following such public hearing, find: (i) the improvements for which the cash payments were proffered cannot occur in a timely manner; (ii) the alternative improvements are within the vicinity of the proposed improvements for which the cash payments were proffered; and (iii) the alternative improvements are in the public interest.

## Eligibility

As defined in § [15.2-2298](#) of Virginia Code, any locality is eligible for cash proffering that has had population growth of 5% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county.

\*Botetourt County is eligible based on its decennial population growth.

## Cash Proffer Process

No proffer shall be accepted by a locality unless it has adopted a capital improvement program pursuant to § [15.2-2239](#) or local charter. In the event proffered conditions include the dedication of real property or payment of cash, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash is tendered are included in the capital improvement program (§ [15.2-2298](#)).



As defined in Section [15.2-2303.2](#), the governing body of any locality accepting cash payments voluntarily proffered on or after July 1, 2005, pursuant to § [15.2-2298](#), [15.2-2303](#) or [15.2-2303.1](#) shall, within seven years of receiving full payment of all cash proffered pursuant to an approved rezoning application, begin, or cause to begin (i) construction, (ii) site work, (iii) engineering, (iv) right-of-way acquisition, (v) surveying, or (vi) utility relocation on the improvements for which the cash payments were proffered. For each fiscal year beginning with the fiscal year 2007, they shall also (i) include in its capital improvement program created pursuant to § [15.2-2239](#), the amount of all proffered cash payments received during the most recent fiscal year for which a report has been filed pursuant to subsection D, and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.

The governing body of any locality with a population in excess of 3,500 persons accepting a cash payment voluntarily proffered pursuant to shall within three months of the close of each fiscal year, report to the Commission on Local Government the following information for the preceding fiscal year:

1. The aggregate dollar amount of proffered cash payments collected by the locality;
2. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the locality and which pledges are not conditioned on any event other than time; and
3. The total dollar amount of proffered cash payments expended by the locality, and the aggregate dollar amount expended in each of the following categories:
  - Schools
  - Road and other Transportation Improvements
  - Fire and Rescue/Public Safety
  - Libraries
  - Parks, Recreation, and Open Space
  - Water and Sewer Service Extension
  - Community Centers
  - Stormwater Management
  - Special Needs Housing
  - Affordable Housing
  - Miscellaneous

## Virginia Laws Relevant to Cash Proffers

§ [15.2-2201](#). Definitions.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

§ [15.2-2296](#). Conditional zoning; declaration of legislative policy and findings; purpose.

It is the general policy of the Commonwealth in accordance with the provisions of § [15.2-2283](#) to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and the same time to recognize effects of change. It is the purpose of §§ 15.2-2296 through [15.2-2300](#) to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The exercise of authority granted pursuant to §§ 15.2-2296 through [15.2-2302](#) shall not be construed to limit or restrict powers otherwise granted to any locality, nor to affect the validity of any ordinance adopted by any such locality which would be valid without regard to this section. The provisions of this section and the following six sections shall not be used for the purpose of discrimination in housing.

§ [15.2-2297](#). Same; conditions as part of a rezoning or amendment to zoning map.

A. A zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map; provided that (i) the rezoning itself must give rise for the need for the conditions; (ii) the conditions shall have a reasonable relation to the rezoning; (iii) the conditions shall not include a cash contribution to the locality; (iv) the conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in § [15.2-2241](#); (v) the conditions shall not include a requirement that the applicant create a property owners' association under Chapter 26 (§ [55-508](#) et seq.) of Title 55 which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in § [15.2-2241](#); however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation; (vi)

the conditions shall not include payment for or construction of off-site improvements except those provided for in § [15.2-2241](#); (vii) no condition shall be proffered that is not related to the physical development or physical operation of the property; and (viii) all such conditions shall be in conformity with the comprehensive plan as defined in § [15.2-2223](#). The governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions. However, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendments to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. The notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement the proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property.

Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subsection shall acquire no rights pursuant to this section.

D. The provisions of subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.



Nothing in this section shall be construed to affect or impair the authority of a governing body to:

1. Accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or
2. Accept or impose valid conditions pursuant to provision 3 of § [15.2-2286](#) or other provision of law.

(1978, c. 320, § 15.1-491.2; 1982, c. 293; 1990, c. 868; 1997, c. 587; 2001, c. 703; 2006, c. 450.)

§ [15.2-2298](#). Same; additional conditions as a part of rezoning or zoning map amendment in certain high-growth localities.

A. Except for those localities to which § [15.2-2303](#) is applicable, this section shall apply to (i) any locality which has had population growth of 5% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county. However, any such locality may by ordinance choose to utilize the conditional zoning authority granted under § [15.2-2303](#) rather than this section.

In any such locality, notwithstanding any contrary provisions of § [15.2-2297](#), a zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map, provided that (i) the rezoning itself gives rise to the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all conditions are in conformity with the comprehensive plan as defined in § [15.2-2223](#).

Reasonable conditions may include the payment of cash for any off-site road improvement or any off-site transportation improvement that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.



Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ [55-508](#) et seq.) of Title 55 which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § [15.2-2241](#); however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation. The governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions; however, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

No proffer shall be accepted by a locality unless it has adopted a capital improvement program pursuant to § [15.2-2239](#) or local charter. In the event proffered conditions include the dedication of real property or payment of cash, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of the property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to the property, shall be effective with respect to the property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. The notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement the proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property. Any landowner who complies with the



requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B above, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subsection shall acquire no rights pursuant to this section.

D. The provisions of subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

Nothing in this section shall be construed to affect or impair the authority of a governing body to:

1. Accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or
2. Accept or impose valid conditions pursuant to provision 3 of § [15.2-2286](#) or other provision of law.

(1989, c. 697, § 15.1-492.2:1; 1990, c. 868; 1991, c. 233; 1997, c. 587; 2001, c. 703; 2006, cc. 450, 882; 2007, c. 324.)

#### § [15.2-2303](#). Conditional zoning in certain localities.

A. A zoning ordinance may include reasonable regulations and provisions for conditional zoning as defined in § [15.2-2201](#) and for the adoption, in counties, or towns therein which have planning commissions, wherein the urban county executive form of government is in effect, or in a city adjacent to or completely surrounded by such a county, or in a county contiguous to any such county, or in a city adjacent to or completely surrounded by such a contiguous county, or in any town within such contiguous county, and in the counties east of the Chesapeake Bay as a part of an amendment to the zoning map of reasonable conditions, in addition to the regulations provided for the zoning district by the ordinance, when such conditions shall have been proffered in writing, in advance of the public hearing before the governing body required by § [15.2-2285](#) by the owner of the property which is the subject of the proposed zoning map amendment. Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ [55-508](#) et seq.) of Title 55 which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § [15.2-2241](#); however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation. The



governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. Such notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement such proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property. Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subdivision shall acquire no rights pursuant to this section.

D. Subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

E. Nothing in this section shall be construed to affect or impair the authority of a governing body to (i) accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or (ii) accept or impose valid conditions pursuant to provision 3 of § [15.2-2286](#), provision 5 of § [15.2-2242](#), or other provision of law.



F. In addition to the powers granted by the preceding subsections, a zoning ordinance may include reasonable regulations to implement, in whole or in part, the provisions of §§ [15.2-2296](#) through [15.2-2302](#).

(Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587; 2001, c. 703; 2006, c. 450.)

§ [15.2-2303.2](#). Proffered cash payments and expenditures.

A. The governing body of any locality accepting cash payments voluntarily proffered on or after July 1, 2005, pursuant to § [15.2-2298](#), [15.2-2303](#) or [15.2-2303.1](#) shall, within seven years of receiving full payment of all cash proffered pursuant to an approved rezoning application, begin, or cause to begin (i) construction, (ii) site work, (iii) engineering, (iv) right-of-way acquisition, (v) surveying, or (vi) utility relocation on the improvements for which the cash payments were proffered. A locality that does not comply with the above requirement, or does not begin alternative improvements as provided for in subsection C, shall forward the amount of the proffered cash payments to the Commonwealth Transportation Board no later than December 31 following the fiscal year in which such forfeiture occurred for direct allocation to the secondary system construction program or the urban system construction program for the locality in which the proffered cash payments were collected. The funds to which any locality may be entitled under the provisions of Title 33.1 for construction, improvement, or maintenance of primary, secondary, or urban roads shall not be diminished by reason of any funds remitted pursuant to this subsection by such locality, regardless of whether such contributions are matched by state or federal funds.

B. The governing body of any locality eligible to accept any proffered cash payments pursuant to § [15.2-2298](#), [15.2-2303](#) or [15.2-2303.1](#) shall, for each fiscal year beginning with the fiscal year 2007, (i) include in its capital improvement program created pursuant to § [15.2-2239](#), or as an appendix thereto, the amount of all proffered cash payments received during the most recent fiscal year for which a report has been filed pursuant to subsection D, and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.

C. Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted by the governing body of a locality pursuant to § [15.2-2298](#), [15.2-2303](#), or [15.2-2303.1](#), a locality may utilize any cash payments proffered for any road improvement or any transportation improvement that is incorporated into the capital improvements program as its matching contribution under § [33.1-23.05](#). For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system



or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted by the governing body of a locality pursuant to § [15.2-2298](#), [15.2-2303](#), or [15.2-2303.1](#), a locality may utilize any cash payments proffered for capital improvements for alternative improvements of the same category within the locality in the vicinity of the improvements for which the cash payments were originally made. Prior to utilization of such cash payments for the alternative improvements, the governing body of the locality shall give at least 30 days' written notice of the proposed alternative improvements to the entity who paid such cash payment mailed to the last known address of such entity, or if proffer payment records no longer exist, then to the original zoning applicant, and conduct a public hearing on such proposal advertised as provided in subsection F of § [15.2-1427](#). The governing body of the locality prior to the use of such cash payments for alternative improvements shall, following such public hearing, find: (i) the improvements for which the cash payments were proffered cannot occur in a timely manner; (ii) the alternative improvements are within the vicinity of the proposed improvements for which the cash payments were proffered; and (iii) the alternative improvements are in the public interest. Notwithstanding the provisions of the Virginia Public Procurement Act, the governing body may negotiate and award a contract without competition to an entity that is constructing road improvements pursuant to a proffered zoning condition or special exception condition in order to expand the scope of the road improvements by utilizing cash proffers of others or other available locally generated funds. The local governing body shall adopt a resolution stating the basis for awarding the construction contract to extend the scope of the road improvements. All road improvements to be included in the state primary or secondary system of highways must conform to the adopted standards of the Virginia Department of Transportation.

D. The governing body of any locality with a population in excess of 3,500 persons accepting a cash payment voluntarily proffered pursuant to § [15.2-2298](#), [15.2-2303](#) or [15.2-2303.1](#) shall within three months of the close of each fiscal year, beginning in fiscal year 2002 and for each fiscal year thereafter, report to the Commission on Local Government the following information for the preceding fiscal year:

1. The aggregate dollar amount of proffered cash payments collected by the locality;
2. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the locality and which pledges are not conditioned on any event other than time; and
3. The total dollar amount of proffered cash payments expended by the locality, and the aggregate dollar amount expended in each of the following categories:

Schools	\$ _____
Road and other Transportation Improvements	\$ _____
Fire and Rescue/Public Safety	\$ _____
Libraries	\$ _____
Parks, Recreation, and Open Space	\$ _____
Water and Sewer Service Extension	\$ _____
Community Centers	\$ _____
Stormwater Management	\$ _____
Special Needs Housing	\$ _____
Affordable Housing	\$ _____
Miscellaneous	\$ _____
Total dollar amount expended	\$ _____

E. The governing body of any locality with a population in excess of 3,500 persons eligible to accept any proffered cash payments pursuant to § [15.2-2298](#), [15.2-2303](#) or [15.2-2303.1](#) but that did not accept any proffered cash payments during the preceding fiscal year shall within three months of the close of each fiscal year, beginning in 2001 and for each fiscal year thereafter, so notify the Commission on Local Government.

F. The Commission on Local Government shall by November 30, 2001, and by November 30 of each fiscal year thereafter, prepare and make available to the public and the chairmen of the Senate Local Government Committee and the House Counties, Cities and Towns Committee an annual report containing the information made available to it pursuant to subsections D and E.

(2001, c. 282; 2003, c. 522; 2005, c. 855; 2006, cc. 583, 872, 882; 2007, c. 321.)

§ [15.2-2303.3](#). Cash proffers requested or accepted by a locality.

A. No locality may require payment of a cash proffer prior to payment of any fees for the issuance of a building permit for construction on property that is the subject of a rezoning. However, a landowner petitioning for a zoning change may voluntarily agree to an earlier payment, pursuant to §§ [15.2-2298](#) and [15.2-2303](#). If the petitioner voluntarily agrees to an earlier payment, the proffered condition may be enforced as to the petitioner and any successor in interest according to its terms as part of an approved rezoning.

B. No locality shall either request or accept a cash proffer whose amount is scheduled to increase annually, from the time of proffer until tender of payment, by a percentage greater



than the annual rate of inflation, as calculated by referring to the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics or the Marshall and Swift Building Cost Index.

(2005, c. 552.)

§ [15.2-975](#). Use of cash proffers.

Localities which are authorized to accept voluntary cash proffers may also issue bonds under the provisions of the Public Finance Act and other applicable law including local charters, to finance improvements contained in the construction improvement program, to the extent that the costs of such improvements have been pledged by landowners as voluntary cash proffers. Authorized localities may pledge the proceeds of such proffers as a specific undertaking from which revenue is derived pursuant to Article VII, Section 10 (a) (3) of the Constitution of Virginia. The use of pledged cash proffers to finance improvements shall be limited to the improvements or class of improvements for which the proffer was originally pledged, and all or any part of the total amount pledged through the conditional zoning process may be further pledged by the locality to support repayment of any such debt.

§ [15.2-2329](#). Imposition of impact fees.

A. Any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses may impose and collect impact fees in amounts consistent with the methodologies used in its comprehensive plan to defray the capital costs of public facilities related to the residential development.

B. Impact fees imposed and collected pursuant to this section shall only be used for public facilities that are impacted by residential development.

C. A locality imposing impact fees as provided in this section shall allow credit against the impact fees for cash proffers collected for the purpose of defraying the capital costs of public facilities related to the residential development. A locality imposing impact fees as provided in this section shall also include within its comprehensive plan a methodology for calculating credit for the value of proffered land donations to accommodate public facilities, and for the construction cost of any public facilities or public improvements the construction of which is required by proffer.

D. A locality imposing impact fees under this section may require that such impact fees be paid prior to and as a condition of the issuance of any necessary building permits for residential uses.

E. For the purposes of this section, "public facilities" shall be deemed to include: (i) roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways; (ii) stormwater collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements; (iii) parks, open space, and recreation areas and related facilities;



(iv) public safety facilities, including police, fire, emergency medical, and rescue facilities; (v) primary and secondary schools and related facilities; and (vi) libraries and related facilities; however, the definition "public facilities" for counties within the Richmond MSA shall be deemed to include: roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways.

(2007, c. 896.)