INCREASING USE OF THE THA TOOLKIT

Final Report to the Virginia Board for People with Disabilities | April 2012

State Plan Objective # 5-1: Improve the planning and coordination of transportation at the state, regional and local levels for full inclusion of people with disabilities.

State Plan Objective # 2-1: Increase community living options for people with disabilities by encouraging state and local entities to provide builder incentives to build low income housing options with access to transportation.

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Introduction

The Transportation and Housing Alliance (THA) Toolkit was designed to enable local planners to carry out an inclusive process and create plans that lead to livable communities for all citizens. The second edition of the Toolkit was completed and distributed throughout the Commonwealth of Virginia in 2009, and it continues to be used by localities in their long-range planning and routine administrative operations.

The Thomas Jefferson Planning District Commission (TJPDC) has carried out the *Increasing Use of the THA Toolkit* project, between October 2010 and March 2012, to expand upon the success of the THA Toolkit by encouraging its use statewide and supplementing the Toolkit with additional resources. This report summarizes the project process, outlines new tools that were developed, and discusses a number of findings and outcomes generated as a result.

The project includes the creation of two new resources that add to the effectiveness of the THA Toolkit. An *Assessment Tool* helps localities assess the existing condition of their plans, ordinances, and practices as it relates to creating an inclusive community. *Model Ordinance Language* collects best regulatory practices from localities throughout the state and organizes the information into model ordinances, in order to provide a clear path for implementing ordinance revisions at the local level. The assessment tool can be used to identify barriers in local regulatory instruments, and the model ordinance language can be considered for adoption to address those barriers.

The assessment tool and ordinance language was applied to the six localities of the Planning District, as case studies for the suitability and application of the new tools. The six localities are the City of Charlottesville and the Counties of Albemarle, Greene, Louisa, Fluvanna, and Nelson. They range from urban to rural, which helps reveal the variations in use that may be expected in similar communities throughout the Commonwealth. TJPDC staff has worked with staff in each of these localities to conduct an assessment and develop actions to mitigate any barriers that were identified.

Local planners are the gatekeepers of development, and making a change in their knowledge and understanding of planning tools for inclusive communities will anchor these principles into the day-to-day operations of planning departments. The main message of training and education is that planning that considers the needs of special populations results in livable communities for all. This expansion of the THA Toolkit can equip planners to become effect agents for positive change in their respective localities.

THA Assessment Tool

The THA Assessment Tool helps localities evaluate how well their regulations, plans and development procedures address the needs of people with disabilities and the elderly. All of the information about current policies and procedures is provided by local planners who are knowledgeable about both the

adopted legal code as well as the day-to-day operations of enforcing ordinances and implementing government programs. The information provided in the survey is used to identify existing practices that may have an adverse impact on vulnerable populations, as well as to reveal successes achieved by the locality that could be replicable across the Commonwealth of Virginia.

The final version of the Assessment Tool addresses several different topics, which are represented in six separate sections. With 40 questions in this form, the Assessment Tool provides thorough feedback on these various topics. It begins with Profile questions, which gauge the general character of the community. The next set of questions evaluate the Zoning Ordinance and any existing barriers those regulations may have on accessibility. The remaining sections address the local Subdivision Ordinance, Local Plans, Capital Projects, the Development Review Process and Local Programs.

Creating the Assessment Tool

The assessment tool was drafted by staff from the Thomas Jefferson Planning District Commission and was administered by planners in each of the jurisdictions in the Planning District in testing mode using Google Forms and later the SurveyMonkey website. The answers to these questions were stored in a spreadsheet and later entered into a report, which TJPDC staff submitted back to the locality within a week's time. That report provided a basic evaluation of each community, with tips on how to better meet the needs of people with disabilities and the elderly.

The original form also included a series of questions about how the tool could be improved. Based on their experience filling out the survey, local staff provided helpful comments both on the content of the survey and its presentation in online form. The answers and resulting conversations also helped THA staff develop model ordinance language and identify common barriers to adopting changes that would help meet special needs groups.

During the testing process, it was discovered that Albemarle County was too large and diverse to be adequately assessed by a single survey. The County has taken very different approaches to planning in the designated development areas and the rural areas, and many of the questions would be answered quite differently depending on which area type the respondent had in mind. The decision was made to perform two separate assessments, one for the development areas and one for the rural areas. The results were merged together to provide an overall assessment of Albemarle County as a whole.

A final assessment tool was created that integrates findings from the project and model ordinances into an interactive tool. Several questions were consolidated or removed to increase the efficiency of taking the assessment, reducing the size of the survey from ninety-seven questions to forty. This makes is more convenient to take, which should increase the likelihood it will be used by planning departments. Responses are generated to each question as it is answered, providing guidance and linking the assessor to additional resources in the Toolkit, model ordinances, or other sources based on the response.

An electronic version of the Assessment Tool is in development, which will provide custom feedback that changes based on the user's responses. The automated feedback directs the user to the THA

Toolkit and other resources that will aid in the locality's efforts to increase accessibility. A hardcopy version that provides all of the automated responses found within the Assessment Tool is included in this report as Attachment A. The electronic version will be hosted at www.tjpdc.org.

Using the Assessment Tool

The THA Assessment Tool is available in hard copy form, with guidance text included for each of the possible responses. An online version of the same is forthcoming. This product will allow localities to enter the data and have immediate access to the results without having to contact the TJPDC as an intermediary. Responses link the planner taking the survey to other resources available through THA, including the Toolkit and the model ordinance language created for this project.

The tool should take about one hour to complete, although some questions may require a small amount of research to answer thoroughly. Local staff who filled out the survey reported that they preferred to not complete it in one sitting, but rather to step away from the survey while they sought answers to some of the more detailed questions.

The Assessment Tool asks the same questions of all localities, which enables comparisons between local governments across the Commonwealth of Virginia. This may inspire healthy competition for becoming a more livable community, help inform people with special needs about the relative livability they can expect in different places, and spread ideas between localities for improving their status. If the Assessment Tool is used multiple times over the course of several years, a locality will be able to measure progress toward meeting goals of their Comprehensive Plan. In this way, it could function as an objective benchmarking tool that reminds localities of objectives they have already set.

Processing Information from the Assessment Tool

The raw data generated from the survey requires a certain degree of interpretation to generate meaningful recommendations for localities. Several of the questions lend themselves to simple responses, ones that can even be automated through a database macro to suggest corresponding gaps and solutions. However, many questions are qualitative in nature and an understanding of the full context is necessary to determine the true nature of the issue. For example, a zoning code may allow uses such as group homes and mental health clinics in certain areas, but the locations of these areas are important to consider. Are these uses allowed in places that are accessible to workplaces, shopping, and homes? Are they transit-accessible? Do they afford the same recreational opportunities? Are there environmental justice factors, such as nearby sources of pollution or noise, to account for? Issues with a high degree of complexity must be evaluated by staff after the survey is submitted, taking into account the complete results and a broader knowledge of the community.

Questions about policy often need extra interpretation as well. For example, a locality may allow Accessory Dwelling Units by-right in all residential zones, and related questions would be answered affirmatively. However, there may be terms and conditions attached to the ADU ordinance that render the option prohibitive for many households. The survey is not the appropriate vehicle for spelling out

policies in detail, but staff may want to consider the actual outcomes that have resulted (e.g. the number of registered ADUs) from a policy in order to determine how effective it has been.

While the THA Assessment Tool itself functions as an objective metric of a locality, it is also a means for opening up a wider conversation that furthers the objectives of the THA. This balance between quantitative and qualitative meaning will most effectively reveal existing barriers to a more inclusive community for the elderly and people with disabilities.

Common Barriers

A number of barriers exist that inhibit accessibility for people with disabilities. Applying the assessment tool to the six localities in the Thomas Jefferson Planning District, THA was able to determine these barriers with some degree of precision. Although more barriers were found in some localities than others, certain patterns clearly emerged from the case studies revealing common barriers faced throughout the region. In addition to the case studies, barriers were also discussed at the training sessions, where a number of planners from other localities were present and shared information about their own ordinances and processes.

Based on the work plan for the THA grant, identified barriers have been sorted into one of two categories:

1) The knowledge and awareness of planning staff at the local level, and
2) Regulations and procedures in place that fail to encourage accessibility and inclusion.

These categories represent the influence of both the informal habits of planners and local government staff, as well as the legal codes, formal resolutions, and policies that govern local operations. Although the latter type of barrier is much easier to objectively determine through the assessment tool or other means, THA staff found that day-to-day decisions made by staff were just as important.

Staff Knowledge and Awareness

Comprehensive Plan Requirements

As of 2008, all Comprehensive Plans have been required to include discussion on housing available to people with disabilities. All localities included a mention of the housing and transportation needs of people with disabilities and the elderly, but these sections tended to be minimal. The indication was that planners are not aware of a systematic methodology to analyze current needs or project future needs. The Transportation and Housing Alliance Toolkit has been published and distributed statewide to help planners complete the technical tasks of gathering and processing data, but gaps still exist in the use of this material and other similar resources.

Knowledge of ADA and Fair Housing Requirements

Although ADA requirements and Fair Housing requirements are now built into the statewide uniform building code, mistakes in construction and enforcement are still liable to happen. Any projects that trigger such requirements should be reviewed by transit providers, Centers for Independent Living, or others who have a good functional knowledge of accessibility.

Data Availability

There are also limits in the data available on disabilities, at least temporarily. The U.S. Census Bureau updated their definition of disability on the American Community Survey (ACS) in 2008, and data will not be available at the local level until a consistent question is asked for a few more years. Local data on people with disabilities is also available through the Behavioral Risk Factor Surveillance System (BRFSS), but only for the four largest metropolitan regions in the state.

Awareness of Other Staff within Locality

Barriers may be inadvertently created by staff due to a lack of awareness. For example, public works staff may place construction signs on sidewalks, creating access barriers for people using wheelchairs or other assistive devices. Snow removal may block handicapped parking spaces, ramps or paths from parking to buildings. Changes in the locations of bus stops can result in curbs and other obstructions to block access.

Coordination with Outside Parties

Locality actions can be inadvertently undermined by other parties, who may place physical barriers unbeknownst to planning departments. The placement of utility poles is an apt example. The City of Charlottesville requires all new sidewalks to be sufficiently wide and free of obstructions, but power companies may place new poles or replace existing poles in the sidewalk without informing planners. City staff have expressed that they have not been able to control this from happening, and they have requested any assistance in doing so.

Regulations and Procedures

Dillon Rule

Virginia courts have concluded that local governments in the Commonwealth only possess powers that are specifically conferred to them by the General Assembly, a position known as the “Dillon Rule.“ For example, enabling legislation does not currently exist to allow localities to require visitability features in new home construction. In the previous year, the City of Charlottesville drafted proposed legislation and presented it to local legislators. A delegate and senator in the region agreed to carry this forward, but the City did not proceed due to opposition by the Home Builders Association. A few localities have the authority to require a number or percentage of affordable housing units, but in most localities this must be a voluntary program.

Highly restrictive Accessory Dwelling Unit Ordinances

Accessory Dwelling Units are allowed in most jurisdictions in the region. Nelson County and Fluvanna County do not allow for ADUs in their zoning code, but often the same results can be achieved with the subdivision of a lot in these rural counties. Louisa County and the City of Charlottesville have the most permissive allowances for ADUs, although Charlottesville has increased the height and setback restrictions in recent years. Albemarle County and Greene County are the most restrictive. Albemarle County only allows internal units, and Greene County restricts occupancy to family members only. Because ADUs are typically created by individual homeowners, complex and burdensome requirements may be an especially powerful deterrent.

Relying on Discretion rather than Written Requirements

All planners in the region express that they routinely grant wheelchair ramps an exemption from zoning code requirements. Most localities in the region do not have a statutory provision for this exemption, but planners, at their discretion, grant administrative waivers. A written by-right exemption is preferred, because it reduces the amount of uncertainty and the time necessary for an approval. This is especially important, due to the need for accessibility improvements in an emergency situation.

Parking Requirements

ADA sets minimum accessibility requirements for all public-use parking lots, but localities may institute additional parking requirements. However, no localities made provisions for additional handicap parking spaces or specifically addressed parking lot features geared toward greater accessibility.

Retrofitting Accessibility

Especially in older neighborhoods and urban areas, much of the infrastructure and buildings were constructed before codes were in place to enforce inclusiveness for people with disabilities. Multifamily housing built before 1991 does not need to accommodate people with disabilities, and many older sidewalks and pathways are insufficient in width and contain many obstacles. No local programs for retrofitting accessibility into existing buildings or infrastructure were found in the case studies. Virginia Livable Home Tax Credit and assistance through VHDA are available for this purpose, but local staff generally were not aware of these opportunities.

Sidewalk Connectivity

A connected sidewalk network is an important safety and accessibility feature for residential and commercial areas, allowing uninterrupted travel for people on foot or wheelchair within a neighborhood or business district. Although VDOT has adopted Secondary Street Acceptance Requirements that include connectivity of new streets and sidewalks, the standards were substantially reduced in a 2011 revision. Localities that wish to encourage efficient and safe travel for pedestrians and bicyclists should consider including additional standards within their subdivision ordinance. Many local planners throughout Virginia consider this a statewide responsibility that has already been covered by VDOT, and have not given much consideration to a supportive local ordinance.

Other Barriers Raised at Training Sessions

Homeowners' Associations

Local governments have broad discretion over zoning and other land use regulations, but residential subdivisions with deed-restricted lots impose their own land use controls on top of local ordinances. Homeowners Associations are still required by federal law to comply with the Fair Housing Act, but enforcement is generally very limited and legal exclusionary practices against people with disabilities are not uncommon in private communities throughout the Commonwealth.

Historic district or building designation

In some cases, there have been conflicts between the needs of people with disabilities and the design requirements dictated by an historic district ordinance. These issues have usually arisen when a modification is requested of the more visible parts of a home, especially the installation of a wheelchair ramp or lift to provide access through the front door. Federal Fair Housing Laws requires localities to make a "reasonable accommodation" for people with disabilities in any land use regulation, and courts have fine-tuned the definition of "reasonable" over the last two decades. Uninhibited access to a home is an essential accommodation that cannot be denied. However, localities are allowed to provide guidance on the placement, materials, and design of a ramp or lift in an historic area, as long as meeting these requirements does not place an undue burden on the person with a disability (see Model Ordinance section for guidance).

Public opposition

Public opposition is common for projects geared toward serving people with disabilities and low-income populations. Residents fear that such projects may negatively impact their property values and increase crime. There are also concerns expressed about how the scale of a particular project matches that of the neighborhood. Even when projects move forward, public opposition may impact their size and location.

Overreliance on technology for public input

Input and representation from elderly and disabled populations can be stunted by the use of the internet or mobile devices for public participation. According to the Pew Internet and American Life Project, 41% of Americans aged 65 and over used the internet in August of 2011, compared to 78% of all adults. Although it is still relatively rare for public participation to be conducted entirely online, often meeting times and relevant documents are disseminated through websites and emails. Overly relying on this method of communications may exclude people with special needs, and thus their experiences are less likely to be taken into account in public decisions.

Funding

During the course this project, local government budgets have been exceedingly tight. A diminished tax base brought about by a housing downturn, coupled with reductions in state and federal funding, has led to a minimal amount of funding available for many programs across the boards. Any actions to

improve inclusiveness that require local funding face a very competitive budgetary review process, at least until the financial outlook in the region improves.

Actions Taken by Case Study Localities

During the course the *Increasing Use of the THA Toolkit*, several changes were initiated among the case study localities that are expected to improve the inclusiveness of the community. A goal of the project was to see nine distinct ordinance changes throughout the region that further the intent of the THA Toolkit. Few actual ordinances have been adopted during the project timeframe, but several actions have been initiated and are expected to be completed in the near future. The following is a list of actions undertaking by each locality in the region, as well as the Planning District, that will help to create more inclusive communities.

City of Charlottesville Actions

- **Voluntary Visitability Program**. The Neighborhood Development Services department has proposed a new program called *Design for Life Cville*. The program will add a question to the standard development permitting process about visitability and livability of the home. Upon certification of meeting these standards, permit fees will be refunded on a sliding scale. The program has been introduced to the Housing Advisory Committee and has the support of both the business community and advocates.

- **Comprehensive Plan Update to Substantively Include Needs of People with Disabilities**. The City of Charlottesville Comprehensive Plan is in the process of being updated, and staff have received a number of public comments in favor of improving accessibility for people with disabilities. Planners in Charlottesville have assured THA that the transportation needs of those with limited mobility will be a discussion point during the current plan review.

Albemarle County Actions

- **Comprehensive Plan Update to Substantively Include Needs of People with Disabilities**. The Albemarle County Comprehensive Plan is in the process of being updated, and staff have received a number of public comments in favor of improving accessibility for people with disabilities. Staff anticipates that the needs of people with disabilities will be prominently featured in the final plan.

Greene County Actions

- **Revision of Accessory Dwelling Unit Ordinance**. A draft revision to the current Accessory Dwelling Unit ordinance has been included on the Planning Commission work plan. The revision would eliminate the requirement that an ADU must be occupied by a family member and reduce parking requirements. Greene County planners believe the change can be passed relatively easily.

- **Revision of Zoning Code to Exempt Wheelchair Ramps from Setback Requirements**. A draft revision to the current setback restrictions has been included on the Planning Commission work plan. The revision would exempt wheelchair ramps from set-back requirements in residential zones. Greene County planners believe the change can be passed relatively easily.

Louisa County Actions

- **Revision to Site Plan Regulations Requiring the Provision of Sidewalks and Crosswalks**. The Louisa County Board of Supervisors adopted revised language for site plan review in January, 2012 that will improve accessibility and safety for all pedestrians, including those with disabilities. Site Plans are required to allow pedestrian movement between all buildings on site and to buildings of complementary uses on adjacent sites. According to the language, "these facilities shall be accessible to people with mobility impairments, including curb ramps that comply with VDOT's road standards."

Fluvanna County Actions

- **Revision to Parking Lot Standards to Improve Pedestrian Safety**. Within parking lots, sidewalks built to current VDOT standards must be provided to accommodate safe pedestrian movement. Sidewalks must provide direct connections between parking lots and entrances and must be protected from vehicular areas by curbing or another protective devices. These sidewalks must connect to existing sidewalks on or adjacent to the site, if topography allows. The ordinance revision is under review by the Fluvanna County Planning Commission, and a public hearing with the Board of Supervisors is scheduled for May 2012.

Nelson County Actions

- **Staff Commitment to Interpret Ordinances to the Benefit of Special Needs Population**. The Nelson County Planning Director has expressed that "he conscientiously looks for ways to interpret all of the ordinances in ways that are beneficial and deferential to Nelson County's elderly population and to individuals with disabilities."

Thomas Jefferson Planning District Actions

- **Inclusion of Special Needs Populations in Hazard Mitigation**. A draft of the Regional Natural Hazard Mitigation Plan, currently under review with the Virginia Department of Emergency Management, includes a new goal specifically related to meeting the needs of vulnerable populations in the region before and during emergency situations.

- **Promotion of Accessibility in Housing**. A white paper promoting accessibility in new home construction and home modifications was written as part of a marketing campaign to promote housing opportunities in the region.

- **Coordinated Human Services Council or Coordinated Transit Council.** The Planning District has initiated a new committee of various agencies, both transit-focused and non-transit-focused, that handle low-income, elderly, or people with a disability. This committee offers the opportunity for the various agencies to hear about one another's efforts on coordinate on how each agency can work together to improve mobility for these target populations.

- **Title VI/Environmental Justice Compliance for Unified Planning and Work Program:** The MPO has been working to develop a more robust environmental justice program that actively engages low-income and minority populations within the community. This reevaluation has been spearheaded by the Federal Transit Administration (FTA) and has resulted in a more precise, targeting of these populations.

Model Ordinance Language Summaries

Local governments in the Commonwealth of Virginia have several policy options available to help build communities in which people with disabilities are fully included. This section presents descriptions of a number of local ordinances relating to housing, land use, and transportation that currently exist in Virginia. A summary of each policy and a short list of potential benefits and potential costs can help local officials determine whether it is appropriate for their own community.

Following the description is specific ordinance language drawn from exemplary ordinances throughout the state. A summary of the ordinance is followed by some potential benefits and costs associated with adopting the policy. The full text of each model ordinance is included in Appendix B.

Affordable Dwelling Unit Ordinance

Summary: An Affordable Dwelling Unit Ordinance allows a developer to receive an exemption from certain zoning requirements, typically density of housing units, in exchange for deed-restricting a certain number of units to be affordable to low or moderate income households. The ordinance may only take effect during a site plan review process, for example a rezoning. It does not impact what is allowable by-right in the zoning ordinance.

An Affordable Dwelling Unit Ordinance typically includes, at a minimum, the following parameters:

1. A definition of affordability (i.e. affordable to households at 60% area median income)
2. A description of the incentive (i.e. density bonus of up to 20%)
3. The terms of an allowable exchange (i.e. the number of units per bonus received)
4. Description of on-site, off-site, or cash contribution alternatives
5. Qualifications of characteristics of allowable units (i.e. same building type as market-rate units)
6. Criteria for deed-restriction (i.e. resale price controlled for a minimum 15-year period)

Many communities have used such local ordinances to promote the creation of supported affordable housing through private development. In areas where the elderly, disabled, and generally low-income households have financial difficulty securing adequate housing to meet their needs, an Affordable Dwelling Unit Ordinance is one tool for overcoming this obstacle.

An Affordable Dwelling Unit Ordinance differs from a proffer policy on affordable housing in several ways, and individual localities will want to carefully weigh both options. Enabled by Virginia Code § 15.2-2297 and § 15.2-2298, a proffer policy presents a set of voluntary measures that may be taken by developers, in the event of a rezoning application, to mitigate impacts of the development on the surrounding area and wider community. Unlike an ordinance, a proffer policy is not a legal document, and greater discretion is given to the Planning Commission, as long as a 'rational nexus' between the impact and proffer is shown.

With the exception of Fairfax County, Affordable Dwelling Unit Ordinances in Virginia have been adopted within the last 5-10 years. In many cases there have been few rezonings that have taken

advantage of the program, partially due to an overall downturn in the housing market during this period. A thorough evaluation of the success of various programs can be determined more soundly once a greater sample size of developments has been produced.

Potential Benefits:

- Creates new supported affordable housing units without requiring public funds.
- Supported units tend to be well integrated with new market-rate units, counteracting concentration of poverty into specific neighborhoods (This benefit only applies to on-site creation of supported units).
- An ordinance can specify the ranges of affordability (i.e. 60% - 80% AMI) to better match the local needs.
- If a 'density bonus' is offered to the developer as an incentive, the more compact form contributes to walkability, energy-efficiency, and reduced per-unit impact on infrastructure.

Potential Costs:

- Deed restricted owned homes do not offer the same equity-building potential for the occupants as unrestricted homeownership does.
- If the ordinance is passed in lieu of an upzoning of density requirements, developers will bear the relative cost differential and potentially pass some of the costs along to homebuyers. The degree to which costs are passed along is debatable, and likely depends on the elasticity of demand in the regional housing market.
- Monitoring and enforcement may be required to ensure maintenance of long-term affordability.
- There may be cases in which an affordable housing ordinance results in fewer supported units being created than use of a proffer policy.

Accessory Dwelling Unit Ordinance

Summary: Accessory Dwelling Units (ADUs) are independent housing units created within single-family homes or on their lots. Before zoning laws were enacted in the mid-20th century to prevent this housing type in residential areas, ADUs were commonplace in neighborhoods throughout the country, either as a residence for household workers or an adaptation to expand the living quarters of a home. Typically an accessory unit is rented to another household, but it is also commonly used to provide an independent, yet connected, living arrangement for extended family members.

Over the last two decades, ADUs have received renewed interest, and many communities have begun to legalize them again under certain conditions. Regions that face shortages in affordable housing have viewed ADUs as a means for naturally increasing the stock of affordable rental units with minimal impact to the character of single-family home neighborhoods. Furthermore, ADUs are commonly formed without a permit anyway, and an Accessory Dwelling Unit ordinance will encourage compliance with health and safety standards for their existing dwellings.

Demographic changes may also raise the stature of ADUs. American families are growing in number but shrinking in size. Home construction, until recently, has not reflected this new demand for smaller units, and many households find themselves with more space than they need. Especially, as baby boomers begin to retire, ADUs are expected to become an important option for many older homeowners, allowing them to age in place and remain connected to their community. A survey conducted by the AARP of homeowners over 50 revealed that over one-third of the respondents would consider modifying their home to include an ADU.

Many jurisdictions in Virginia, from rural counties to urban areas, have amended their zoning ordinance to allow for ADUs. The simplest way to amend the ordinance is to add a definition of "Accessory Apartment" to the definitions section of the code, and then add the term to the list of allowable uses, either by-right or with a permit, in the zones deemed to be appropriate. Internal and external ADUs can be defined individually to allow the locality to further specify requirements for each.

There are a range of conditions that localities in Virginia have placed on ADUs. After the model ordinance language in this section, a chart is provided to give some examples of criteria that are being used in Virginia. Virtually all ordinances limit the number of ADUs to one per property, and it is very common to require the owner to occupy one of the units. The more restrictive an ordinance is the less effect it will have encouraging this housing type, so the localities should carefully weigh their desire for a diversified housing stock with any political opposition that may arise.

A few questions should be asked when determining any conditions to be placed on ADUs:

1. *Do the conditions comply with the Virginia Fair Housing Act*? Localities should seek legal counsel for this and other statutory requirements.
2. *Are the conditions enforceable*? If one of the goals of an ADU ordinance is to bring existing illegal units into compliance, the ordinance should be written to encourage homeowners to apply for a permit.
3. *Can the conditions be met by ADU owners in the long-term*? For example, if the occupancy of an ADU is limited to a family member, this may require the unit to be eliminated in event of a death or move to a nursing home?
4. *Do the conditions adequately address any public opposition to ADUs*?
5. *Do the conditions encourage investment in ADUs by homeowners*? Many homeowners will want assurance that the addition of an ADU will increase the value of their home.
6. *Will the conditions result in unintended consequences*? For example, requiring excessive parking spaces for ADUs may encourage more automobile ownership and increase neighborhood traffic.

Beyond the language of the ordinance, there are administrative and programmatic actions that can be taken to encourage permitted ADUs in a community. For example, permit fees can be reduced, a review process can be expedited, and information or design guidelines can be provided to help homeowners decide whether or how to pursue an ADU remodeling project. Unlike larger-scale developments, most ADUs are initiated by individual homeowners who have much less experience navigating the permitting

process. Step-by-step guidance could increase the confidence of homeowners and prevent costly mistakes in the interpretation of regulations.

Listed below are a series of benefits and costs of adopting an Accessory Dwelling Unit Ordinance:

Potential Benefits

- Increases affordable rental opportunities without public subsidy. Accessory units typically rent for less than stand-alone units.
- Increases affordable homeownership opportunities without public subsidy. Homeowners can defray housing costs by renting a portion of their property, which can be particularly helpful to older adults on fixed incomes.
- Facilitates income integration by allowing owners and renters to share a single property.
- Allows opportunities to enhance extended family ties, including providing independent living options for aging parents.
- Uses existing resources and infrastructure more efficiently and encourages upkeep of homes.
- Increases density without obvious changes to the character of a neighborhood.
- Homeowners have the ability to accept payment for a unit in household services from the tenant, which can benefit older homeowners who need assistance with household maintenance.

Potential Costs

- Increases traffic and strain on parking in neighborhoods where automobile ownership is common.
- Some homeowners may perceive the presence of renters as detrimental to neighborhood quality and property values.

Temporary Family Health Care Structure Ordinance

Summary: The Virginia General Assembly passed HB1307 in their 2010 session that allows “temporary family health care structures” (TFHCSs) anywhere that single-family homes are allowed, superseding local zoning ordinances. No requirements or permits beyond those imposed on other accessory structures may be imposed on these dwelling units. This ordinance has been inspired by the new production of “Medcottages” from a manufacturer in the Roanoke area. These temporary structures are equipped with medical instruments, in order to give families an option besides an assisted living facility for disabled or aging family members.

It is important to maintain a distinction between Temporary Family Health Care Structures and Accessory Dwelling Units (ADUs) more generally. TFHCSs are a very narrowly defined subset of the broader class of ADUs, and ordinance amendments concerning TFHCSs should not be seen as a substitute for provisions governing ADUs more generally.

Listed below are a series of benefits and costs of adopting a Temporary Family Health Care Structure Ordinance:

Potential Benefits

- Provides more living options for families with a member who has special needs, and allows the aged or people with disabilities to live in close proximity to their family.
- May allow a more affordable option for long-term medical care than is currently available.
- May spur market innovation in providing different types of temporary health care structures that meet the needs of families.

Potential Costs

- The design of the temporary structure may not suit the character of a neighborhood.
- The extra costs to families in utility connections and transport of the unit may be harder to justify for a temporary unit.
- Might increase traffic in neighborhoods slightly, although occupants are not likely to drive.

Wheelchair Ramp Zoning Exemption

Summary: Virginia Fair Housing Law requires that all local ordinances allow "reasonable accommodation" for any home modifications needed because of a disability. One of the most common and important modifications made to a residential dwelling is a wheelchair ramp, which allows basic access to a home. In certain emergency situations, a temporary wheelchair ramp may be needed at short notice, in order to be in place before a person returns home from the hospital.

Many localities have setback regulations that restrict yard sizes and the distance improvements may be placed from the public right of way. Unless the zoning ordinance specifies otherwise, wheelchair ramps may be considered encroachments into the required setback and thus a non-compliant structure. Many localities will allow wheelchair ramps with an administrative waiver or zoning variance, the latter of which requires approval by the Board of Zoning Appeals. However, explicitly allowing wheelchair ramps by-right in the zoning code reduces homeowner confusion and bypasses the need to file paperwork before an emergency home modification is made.

A wheelchair ramp may also not comply with lot coverage zoning restrictions. If a structure is originally built to the maximum allowable lot coverage, the addition of a ramp will exceed the allowable coverage. Accessibility improvements could be exempted from this requirement as well, in the same way they would be exempted from setback requirements.

Although wheelchair ramps may be exempted from zoning restrictions, the property owner is still required to submit a building permit and meet the standards of the Virginia Uniform Statewide Building Code.

Listed below are a series of benefits and costs of adopting a Wheelchair Ramp Zoning Exemption:

Potential Benefits:

- Expedite process for the installation of emergency home modification.
- Be in full compliance with Virginia Fair Housing law.

Potential Costs:

- There is a small possibility the exemption could be abused by property owners in situations that do not involve a disability, although the code can be worded to minimize this possibility.

Design Guidelines for Accessibility Modifications in Historic Districts

Summary: Areas designated as historic districts in Virginia may be governed by a special set of design guidelines, in order to preserve the historic integrity of the area and encourage appropriate restoration of contributing structures. Typically, an Architectural Review Board is established as an advisory body to enforce compliance with the ordinance and recommend revisions to any guidelines.

Preservation of historic districts must be balanced with complying with federal Fair Housing Law, which requires communities to make reasonable accommodations for people with disabilities. Communities in Virginia have established guidelines to help Boards of Architectural Review determine the appropriateness of accessibility modifications while remaining within the boundaries of Fair Housing Law. Many of these guidelines are expressed in terms of preferences between alternatives, with the understanding that exceptions can be made when no reasonable alternatives exist.

Listed below are a series of benefits and costs of adopting Design Guidelines for Accessibility Modifications in Historic Districts:

Potential Benefits:

- Allow reasonable accommodations to people with disabilities while meeting the intent of historic district ordinances.
- Help the Board of Architectural Review avoid legal complications involving Fair Housing.

Potential Costs:

- Guidelines can still impose an undue burden on a person with disabilities in certain circumstances, highlighting the continuing need for flexibility in interpretation.

Complete Streets Policies

Summary: In the words of the Complete Streets Policy adopted by the City of Roanoke in 2008, "Complete Streets are streets that safely accommodate street users of all ages and abilities such as pedestrians, bicyclists, transit riders, and motorists." The term is a broad description for a number of transportation and design improvements such as sidewalks, street trees, bike lanes, safe pedestrian crossings, traffic calming measures, and accommodations for transit, in addition to traditional roadway

infrastructure for motorists. Complete Street design is also sensitive to the immediate context of the transportation project, recognizing that streets also function as vital public space that makes communities more attractive to residents and visitors.

The variety of options inherent in Complete Streets enables transportation users with many different levels of ability. The AARP Public Policy Institute actively promotes the use of multimodal transportation to enhance safety and functionality for older Americans, who may have reduced response times or limits on personal mobility. Additionally, a subset of the population with disabilities is not able to operate a vehicle. Designing places where an individual can safely navigate without a vehicle provides independence and access to opportunity.

As legal documents, Complete Streets Policies take many forms. Nationwide, roughly a quarter of the policies are ordinances, and another quarter are resolutions by an elected body in support of complete streets. Some localities adopt design guidelines for all future transportation improvements that embody complete street principles, and other localities include their policies substantively in plans or internal procedures.

The Commonwealth Transportation Board adopted a statewide policy in 2004 to routinely accommodate pedestrians and bicyclists in all road construction or reconstruction projects. This is an internal policy that has guided the engineering of roadway projects throughout the state for the last several years. Independent cities in Virginia have some discretion over their transportation spending and designs, and a few cities have passed their own versions of a Complete Street policy to signal their commitment to these principles. Most counties do not have the same level of control over roadway and transit construction, but many counties in Virginia have also adopted plans that explicitly accounted for the needs of transportation users of all abilities.

Listed below are a series of benefits and costs of adopting Design Guidelines for Complete Streets Policies:

Potential Benefits:

- Enhance safety for all transportation users.
- Minimize negative impacts to surrounding properties and add value through streetscape design.
- Provide independence to individuals who lack the ability to drive and fully include them in the life of a community.

Potential Costs:

- Existing constraints in Rights-of-way can make finding space for multiple modes of travel difficult.
- Retrofitting infrastructure designed for single-use travel can be disruptive to current travel patterns.

Voluntary Accessible Housing Program

Summary: The purpose of an accessible housing program is to increase the available stock of housing options in a region for people with special needs. This allows more living options, may reduce prices of such homes, and opens up the ability for people with disabilities to visit others in their homes. Certain features of home construction, such as an entrance without any steps, door frames at an appropriate width, and an accessible bathroom on the first floor are considered essential for use by any mobility impaired person. Generally a two-tiered standard is used for measuring accessibility: a visitable home meets minimum standards, and a livable home is fully accessible to people with special needs.

There is currently no enabling legislation in Virginia that allows localities to require visitability or livability in new home construction or renovations, but a locality may create a voluntary program to encourage accessible design. No localities in Virginia currently have such a program, but the City of Charlottesville is considering the adoption of Design for Life Cville. The guidelines are based on a program that has been underway in Montgomery County, Maryland since 2009. An additional question will be added to the standard development permitting process about visitability and livability of a home under review. Upon certification of meeting these standards, permit fees will be refunded according to the standard met.

Listed below are a series of benefits and costs of adopting Voluntary Accessible Housing Program:

Potential Benefits

- Encourages home designs that are accessible to people with disabilities without increasing costs of housing.
- Creates a database of certified homes that makes it easier for homebuyers to find a home to meet their needs.

Potential Costs

- Increased cost to localities in staff time and refunded fees, if applicable, although costs are minimized by inserting program into the existing development review process.

Training and Events

A number of events and training sessions were offered throughout the Commonwealth of Virginia to further the objectives of the THA Toolkit:

- TJPDC staff made a presentation at the 2011 Virginia Transition Forum on Building Inclusive Communities through Housing and Transportation on Monday, March 14, 2011. The presentation focused on the planning process, introduced the THA Toolkit, and encouraged attendees to advocate for its use in their regions. 24 people participated in the session, which covered both housing and transportation.

- TJPDC presented the THA Toolkit work, including the assessment tool and case studies, at the Virginia Chapter of the American Planning Association (APA) annual conference July 20 -22, 2011 at Wintergreen.

- TJPDC presented at The Virginia Statewide Neighborhood Conference on September 23, 2011 in Williamsburg.

- Will Cockrell served as a panelist at the National Association of Development Organizations (NADO) conference in Washington, DC by invitation. The event was held in August of 2011. He discussed the national trends on aging and how the THA is focused on meeting future challenges associated with those trends.

- TJPDC made two presentations at the Governor's Housing Conference: a pre-conference session on November 16, 2011 from 9:00 a.m. to 3:00 p.m. and a concurrent session on November 17, 2011. The events were partially successful, with good participation for a conference event (24), but not enough to serve as the regional training event for that portion of the state. There were 26 participants for the concurrent session, which also included presentations on Virginia's Blueprint for Livable Communities and results of the Older Dominion Partnership's Age Ready Indicators Survey.

- Regional Training sessions were held in central locations for four regions of Virginia. The training sessions covered the use of the Toolkit and the new assessment tool, as well as common barriers to achieving progress and a sample of model ordinances. AICP CM credits were offered to planners, and AICP members earning credits completed evaluations on-line. The average rating was 4 out of a possible 5 score, with the first session in Charlottesville evaluated lower than the subsequent three sessions.

    - A regional training session has held in Charlottesville on January 31, 2012. A total of 13 participants were in attendance.

    - A regional training session has held in Wytheville on March 9, 2012. A total of 21 participants were in attendance.

    - A regional training session has held in Williamsburg on March 21, 2012. A total of 45 participants were in attendance.

    - A regional training session has held in Warrenton on March 21, 2012. A total of 38 participants were in attendance.