

24103107D

SENATE BILL NO. 721

Offered January 19, 2024

A BILL to amend and reenact §§ 15.2-2232, 15.2-2258, 15.2-2259, 15.2-2260, and 15.2-2286 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-2259.1 and 15.2-2260.1, relating to comprehensive plans, local planning commissions, subdivision plats and site plans, and zoning ordinances; approval process.

Patron—Mulchi

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2232, 15.2-2258, 15.2-2259, 15.2-2260, and 15.2-2286 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-2259.1 and 15.2-2260.1 as follows:

§ 15.2-2232. Legal status of plan.

A. Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the local planning commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination, the local planning commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204. Following the adoption of the Statewide Transportation Plan by the Commonwealth Transportation Board pursuant to § 33.2-353 and written notification to the affected local governments, each local government through which one or more of the designated corridors of statewide significance traverses, shall, at a minimum, note such corridor or corridors on the transportation plan map included in its comprehensive plan for information purposes at the next regular update of the transportation plan map. Prior to the next regular update of the transportation plan map, the local government shall acknowledge the existence of corridors of statewide significance within its boundaries.

B. The local planning commission shall communicate its findings to the governing body, indicating its approval or disapproval with written reasons therefor. The governing body may overrule the action of the local planning commission by a vote of a majority of its membership. Failure of the local planning commission to act within 60 days of a submission, unless the time is extended by the governing body, shall be deemed approval. The owner or owners or their agents may appeal the decision of the local planning commission to the governing body within 10 days after the decision of the local planning commission. The appeal shall be by written petition to the governing body setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing. A majority vote of the governing body shall overrule the local planning commission.

C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless such work involves a change in location or extent of a street or public area.

D. Any public area, facility, park or use as set forth in subsection A which is identified within, but not the entire subject of, a submission under either § 15.2-2258 for subdivision or subdivision A 8 of § 15.2-2286 for development or both may be deemed a feature already shown on the adopted master plan, and, therefore, excepted from the requirement for submittal to and approval by the local planning commission or the governing body, provided that the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility, park or use or has approved it through acceptance of a proffer made pursuant to § 15.2-2303.

E. Approval and funding of a public telecommunications facility on or before July 1, 2012, by the Virginia Public Broadcasting Board pursuant to Article 12 (§ 2.2-2426 et seq.) of Chapter 24 of Title 2.2 or after July 1, 2012, by the Board of Education pursuant to § 22.1-20.1 shall be deemed to satisfy the requirements of this section and local zoning ordinances with respect to such facility with the exception of

59 television and radio towers and structures not necessary to house electronic apparatus. The exemption  
 60 provided for in this subsection shall not apply to facilities existing or approved by the Virginia Public  
 61 Telecommunications Board prior to July 1, 1990. The Board of Education shall notify the governing body of the  
 62 locality in advance of any meeting where approval of any such facility shall be acted upon.

63 F. On any application for a telecommunications facility, the *local planning* commission's decision shall  
 64 comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the *local planning*  
 65 commission to act on any such application for a telecommunications facility under subsection A submitted on  
 66 or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the  
 67 *local planning* commission unless the governing body has authorized an extension of time for consideration  
 68 or the applicant has agreed to an extension of time. The governing body may extend the time required for  
 69 action by the *local planning* commission by no more than 60 additional days. If the *local planning*  
 70 commission has not acted on the application by the end of the extension, or by the end of such longer period  
 71 as may be agreed to by the applicant, the application is deemed approved by the *local planning* commission.

72 G. A proposed telecommunications tower or a facility constructed by an entity organized pursuant to  
 73 Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 shall be deemed to be substantially in accord with the  
 74 comprehensive plan and *local planning* commission approval shall not be required if the proposed  
 75 telecommunications tower or facility is located in a zoning district that allows such telecommunications  
 76 towers or facilities by right.

77 H. A solar facility subject to subsection A shall be deemed to be substantially in accord with the  
 78 comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar  
 79 facilities by right; (ii) such proposed solar facility is designed to serve the electricity or thermal needs of the  
 80 property upon which such facility is located, or will be owned or operated by an eligible customer-generator  
 81 or eligible agricultural customer-generator under § 56-594 or 56-594.01 or by a small agricultural generator  
 82 under § 56-594.2; or (iii) the locality waives the requirement that solar facilities be reviewed for substantial  
 83 accord with the comprehensive plan. All other solar facilities shall be reviewed for substantial accord with the  
 84 comprehensive plan in accordance with this section. However, a locality may allow for a substantial accord  
 85 review for such solar facilities to be advertised and approved concurrently in a public hearing process with a  
 86 rezoning, special exception, or other approval process.

87 *I. A locality's comprehensive plan shall not constitute the basis, in whole or in part, for the disapproval of*  
 88 *a site plan that is otherwise in conformity with duly adopted standards, ordinances, and statutes. Further, the*  
 89 *terms of any locality's subdivision ordinances, development ordinances, and public facilities manuals,*  
 90 *howsoever denominated, and documents that incorporate or purport to incorporate, expressly or implied, any*  
 91 *or all of the terms and provisions of that locality's comprehensive plan shall be deemed null and void and of*  
 92 *no binding legal effect.*

93 **§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.**

94 Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision  
 95 ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the *local*  
 96 *planning commission of the locality*, or an agent designated by the governing body thereof for such purpose.  
 97 When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on  
 98 the plat of the proposed subdivision. When any part of the land proposed for subdivision lies in a mapped  
 99 dam break inundation zone, such fact shall be set forth on the plat of the proposed subdivision. When any  
 100 grave, object or structure marking a place of burial is located on the land proposed for subdivision, such  
 101 grave, object or structure shall be identified on any plans or site plans required by this article. When the land  
 102 involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat  
 103 shall be submitted to the *local planning* commission or other designated agent of the locality in which the  
 104 tract of land is located. Site plans or plans of development required by subdivision A 8 of § 15.2-2286 shall  
 105 also be subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

106 **§ 15.2-2259. Local planning commission to act on proposed plat.**

107 A. 1. Except as otherwise provided in subdivisions 2 and 3, the local planning commission or other agent  
 108 shall act on any proposed plat within 60 days after it has been officially submitted for approval by either  
 109 approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The  
 110 ~~Commission~~ *local planning commission* or agent shall thoroughly review the plat and shall make a good faith  
 111 effort to identify all deficiencies, if any, with the initial submission. However, if approval of a feature or  
 112 features of the plat by a state agency or public authority authorized by state law is necessary, the *local*  
 113 *planning* commission or agent shall forward the plat to the appropriate state agency or agencies for review  
 114 within 10 business days of receipt of such plat. The state agency shall respond in accord with the  
 115 requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning  
 116 commission or other agent, as set forth in subsection B. Specific reasons for disapproval shall be contained  
 117 either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in  
 118 the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies  
 119 and shall identify modifications or corrections as will permit approval of the plat. The local planning

120 commission or other agent shall act on any proposed plat that it has previously disapproved within 45 days  
121 after the plat has been modified, corrected and resubmitted for approval.

122 2. The approval of plats, site plans, and plans of development solely involving parcels of commercial real  
123 estate by a local planning commission or other agent shall be governed by subdivision 3 and subsections B,  
124 C, and D. For the purposes of this section, the term "commercial" means all real property used for  
125 commercial or industrial uses.

126 3. The local planning commission or other agent shall act on any proposed plat, site plan or plan of  
127 development within 60 days after it has been officially submitted for approval by either approving or  
128 disapproving the plat in writing, and giving with the latter specific reasons therefor. The local planning  
129 commission or other agent shall not delay the official submission of any proposed plat, site plan, or plan of  
130 development by requiring presubmission conferences, meetings, or reviews. The ~~Commission~~ *local planning*  
131 *commission* or agent shall thoroughly review the plat or plan and shall in good faith identify, to the greatest  
132 extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or  
133 features of the plat or plan by a state agency or public authority authorized by state law is necessary, the *local*  
134 *planning* commission or agent shall forward the plat or plan to the appropriate state agency or agencies for  
135 review within 10 business days of receipt of such plat or plan. The state agency shall respond in accord with  
136 the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning  
137 commission or other agent, as set forth in subsection B. Specific reasons for disapproval shall be contained  
138 either in a separate document or on the plat or plan itself. The reasons for disapproval shall identify  
139 deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances,  
140 regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that  
141 will permit approval of the plat or plan.

142 In the review of a resubmitted proposed plat, site plan or plan of development that has been previously  
143 disapproved, the local planning commission or other agent shall consider only deficiencies it had identified in  
144 its review of the initial submission of the plat or plan that have not been corrected in such resubmission and  
145 any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial  
146 submission. In the review of the resubmission of a plat or plan, the local planning commission or other agent  
147 shall identify all deficiencies with the proposed plat or plan that caused the disapproval by reference to  
148 specific duly adopted ordinances, regulations or policies and shall identify modifications or corrections that  
149 will permit approval of the plat or plan. Upon the second resubmission of such disapproved plat or plan, the  
150 local planning commission or other agent's review shall be limited solely to the previously identified  
151 deficiencies that caused its disapproval.

152 The local planning commission or other agent shall act on any proposed plat, site plan or plan of  
153 development that it has previously disapproved within 45 days after the plat or plan has been modified,  
154 corrected and resubmitted for approval. The failure of a local planning commission or other agent to approve  
155 or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or  
156 plan to be deemed approved.

157 Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of development,  
158 any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law,  
159 regulations, mandatory Department of Transportation engineering and safety requirements, and other  
160 mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been  
161 approved by the local planning commission or other agent. Should any resubmission include a material  
162 revision of infrastructure or physical improvements from the earlier submission or if a material revision in the  
163 resubmission creates a new required review by the Virginia Department of Transportation or by a state  
164 agency or public authority authorized by state law, then the local planning commission or other agent's  
165 review shall not be limited to only the previously identified deficiencies identified in the prior submittals and  
166 may consider deficiencies initially appearing in the resubmission because of such material revision.

167 B. Any state agency or public authority authorized by state law making a review of a plat forwarded to it  
168 under this article, including, without limitation, the Virginia Department of Transportation and authorities  
169 authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plat  
170 upon first submission and within 45 days for any proposed plat that has previously been disapproved,  
171 provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the  
172 applicability of said section. The Virginia Department of Transportation and authorities authorized by  
173 Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes  
174 for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state  
175 agency or public authority authorized by state law does not approve the plat, it shall comply with the  
176 requirements, and be subject to the restrictions, set forth in subsection A, with the exception of the time  
177 period therein specified. Upon receipt of the approvals from all state agencies and other agencies, the local  
178 agent shall act upon a plat within 35 days.

179 C. ~~If the commission or other agent fails to approve or disapprove the plat within 60 days after it has been~~  
180 ~~officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous~~

181 disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the subdivider,  
 182 after 10 days' written notice to the commission, or agent, may petition the circuit court for the locality in  
 183 which the land involved, or the major part thereof, is located, to decide whether the plat should or should not  
 184 be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in  
 185 accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and  
 186 make and enter an order with respect thereto as it deems proper, which may include directing approval of the  
 187 plat.

188 D. If a *local planning* commission or other agent disapproves a plat and the subdivider contends that the  
 189 disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he  
 190 may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the  
 191 case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written  
 192 disapproval by the *local planning* commission or other agent.

193 **§ 15.2-2259.1. Failure to approve or disapprove a plat within established timeframes.**

194 *If a local planning commission or other agent fails to approve or disapprove a plat within 60 days after it*  
 195 *has been officially submitted for approval, within 45 days after it has been officially resubmitted after a*  
 196 *previous disapproval, or within 35 days of receipt of any agency response pursuant to subsection B of § 15.2-*  
 197 *2259, and where the locality has published a list of clear, objective minimum submittal requirements for*  
 198 *review of a proposed plat, the plat shall be deemed to have been approved by the local planning commission*  
 199 *or other agent.*

200 **§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.**

201 A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its  
 202 ordinance for the mandatory submission of preliminary subdivision plats for tentative approval for plats  
 203 involving more than 50 lots, provided that any such ordinance provides for the submission of a preliminary  
 204 subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots. The  
 205 local planning commission, or an agent designated by the *local planning* commission or by the governing  
 206 body to review preliminary subdivision plats shall complete action on the preliminary subdivision plats  
 207 within 60 days of submission. However, if approval of a feature or features of the preliminary subdivision  
 208 plat by a state agency or public authority authorized by state law is necessary, the *local planning* commission  
 209 or agent shall forward the preliminary subdivision plat to the appropriate state agency or agencies for review  
 210 within 10 business days of receipt of such preliminary subdivision plat.

211 B. Any state agency or public authority authorized by state law making a review of a preliminary  
 212 subdivision plat forwarded to it under this section, including, without limitation, the Virginia Department of  
 213 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review  
 214 within 45 days of receipt of the preliminary subdivision plat upon first submission and within 45 days for any  
 215 proposed plat that has previously been disapproved, provided, however, that the time period set forth in §  
 216 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of  
 217 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-  
 218 of-way for public street purposes for placement of utilities by permit when practical and shall not  
 219 unreasonably deny plat approval. If a state agency or public authority authorized by state law does not  
 220 approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in  
 221 subsection A of § 15.2-2259 with the exception of the time period therein specified. Upon receipt of the  
 222 approvals from all state agencies, the local agent shall act upon a preliminary subdivision plat within 35 days.

223 C. If a *local planning* commission has the responsibility of review of preliminary subdivision plats and  
 224 conducts a public hearing, it shall act on the plat within 45 days after receiving approval from all state  
 225 agencies. If the ~~local~~ agent or *local planning* commission does not approve the preliminary subdivision plat,  
 226 the ~~local~~ agent or *local planning* commission shall set forth in writing the reasons for such denial and shall  
 227 state what corrections or modifications will permit approval by such agent or *local planning* commission.  
 228 With regard to plats involving commercial property, as that term is defined in subdivision A 2 of § 15.2-2259,  
 229 the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of § 15.2-2259.  
 230 However, no *local planning* commission or agent shall be required to approve a preliminary subdivision plat  
 231 in less than 60 days from the date of its original submission to the *local planning* commission or agent, and  
 232 all actions on preliminary subdivision plats shall be completed by the agent or *local planning* commission  
 233 and, if necessary, state agencies, within a total of 90 days of submission to the ~~local~~ agent or *local planning*  
 234 commission.

235 D. ~~If the commission or other agent fails to approve or disapprove the preliminary subdivision plat within~~  
 236 ~~90 days after it has been officially submitted for approval, the subdivider after 10 days' written notice to the~~  
 237 ~~commission, or agent, may petition the circuit court for the locality in which the land involved, or the major~~  
 238 ~~part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing~~  
 239 ~~approval of the plat.~~

240 E. ~~If a commission or other agent disapproves a preliminary subdivision plat and the subdivider contends~~  
 241 ~~that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or~~

242 capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and  
243 determine the ease as soon as may be, provided that his appeal is filed with the circuit court within 60 days of  
244 the written disapproval by the commission or other agent.

245 F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the  
246 subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such  
247 approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues  
248 approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred  
249 extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications  
250 thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon  
251 90 days' written notice by certified mail to the subdivider, the *local planning* commission or other agent may  
252 revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval  
253 of the final subdivision plat.

254 G. E. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to §  
255 15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the  
256 latest recorded plat of subdivision for the property. The ~~five year~~ *five-year* period of validity shall extend  
257 from the date of the last recorded plat.

258 **§ 15.2-2260.1. Failure to approve or disapprove a preliminary subdivision plat within established**  
259 **timeframes.**

260 *If a local planning commission or other agent fails to approve or disapprove a preliminary subdivision*  
261 *plat within 90 days after it has been officially submitted for approval, and where the locality has published a*  
262 *list of clear, objective minimum submittal requirements for review of a proposed preliminary subdivision*  
263 *plat, the preliminary subdivision plat shall be deemed to have been approved by the local planning*  
264 *commission or other agent.*

265 **§ 15.2-2286. Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent**  
266 **taxes; penalties.**

267 A. A zoning ordinance may include, among other things, reasonable regulations and provisions as to any  
268 or all of the following matters:

- 269 1. For variances or special exceptions, as defined in § 15.2-2201, to the general regulations in any district.
- 270 2. For the temporary application of the ordinance to any property coming into the territorial jurisdiction of
- 271 the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and
- 272 pending the orderly amendment of the ordinance.
- 273 3. For the granting of special exceptions under suitable regulations and safeguards; notwithstanding any
- 274 other provisions of this article, the governing body of any locality may reserve unto itself the right to issue
- 275 such special exceptions. Conditions imposed in connection with residential special use permits, wherein the
- 276 applicant proposes affordable housing, shall be consistent with the objective of providing affordable housing.
- 277 When imposing conditions on residential projects specifying materials and methods of construction or
- 278 specific design features, the approving body shall consider the impact of the conditions upon the affordability
- 279 of housing.

280 The governing body or the board of zoning appeals of the Cities of Hampton and Norfolk may impose a  
281 condition upon any special exception or use permit relating to retail alcoholic beverage control licensees  
282 which provides that such special exception or use permit will automatically expire upon a change of  
283 ownership of the property, a change in possession, a change in the operation or management of a facility, or  
284 the passage of a specific period of time.

285 The governing body of the City of Richmond may impose a condition upon any special use permit issued  
286 after July 1, 2000, relating to retail alcoholic beverage licensees which provides that such special use permit  
287 shall be subject to an automatic review by the governing body upon a change in possession, a change in the  
288 owner of the business, or a transfer of majority control of the business entity. Upon review by the governing  
289 body, it may either amend or revoke the special use permit after notice and a public hearing as required by §  
290 15.2-2206.

291 4. For the administration and enforcement of the ordinance including the appointment or designation of a  
292 zoning administrator who may also hold another office in the locality. The zoning administrator shall have all  
293 necessary authority on behalf of the governing body to administer and enforce the zoning ordinance. His  
294 authority shall include (i) ordering in writing the remedying of any condition found in violation of the  
295 ordinance; (ii) insuring compliance with the ordinance, bringing legal action, including injunction, abatement,  
296 or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311; and (iii) in specific cases,  
297 making findings of fact and, with concurrence of the attorney for the governing body, conclusions of law  
298 regarding determinations of rights accruing under § 15.2-2307 or subsection C of § 15.2-2311.

299 Whenever the zoning administrator has reasonable cause to believe that any person has engaged in or is  
300 engaging in any violation of a zoning ordinance that limits occupancy in a residential dwelling unit, which is  
301 subject to a civil penalty that may be imposed in accordance with the provisions of § 15.2-2209, and the  
302 zoning administrator, after a good faith effort to obtain the data or information necessary to determine

303 whether a violation has occurred, has been unable to obtain such information, he may request that the  
304 attorney for the locality petition the judge of the general district court for his jurisdiction for a subpoena  
305 duces tecum against any such person refusing to produce such data or information. The judge of the court,  
306 upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such  
307 subpoena shall be subject to punishment for contempt by the court issuing the subpoena. Any person so  
308 subpoenaed may apply to the judge who issued the subpoena to quash it.

309 Notwithstanding the provisions of § 15.2-2311, a zoning ordinance may prescribe an appeal period of less  
310 than 30 days, but not less than 10 days, for a notice of violation involving temporary or seasonal commercial  
311 uses, parking of commercial trucks in residential zoning districts, maximum occupancy limitations of a  
312 residential dwelling unit, or similar short-term, recurring violations.

313 Where provided by ordinance, the zoning administrator may be authorized to grant a modification from  
314 any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of  
315 land, including but not limited to size, height, location or features of or related to any building, structure, or  
316 improvements, if the administrator finds in writing that: (i) the strict application of the ordinance would  
317 produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning  
318 district and the same vicinity; and (iii) the authorization of the modification will not be of substantial  
319 detriment to adjacent property and the character of the zoning district will not be changed by the granting of  
320 the modification. Prior to the granting of a modification, the zoning administrator shall give, or require the  
321 applicant to give, all adjoining property owners written notice of the request for modification, and an  
322 opportunity to respond to the request within 21 days of the date of the notice. The zoning administrator shall  
323 make a decision on the application for modification and issue a written decision with a copy provided to the  
324 applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph.  
325 The decision of the zoning administrator shall constitute a decision within the purview of § 15.2-2311, and  
326 may be appealed to the board of zoning appeals as provided by that section. Decisions of the board of zoning  
327 appeals may be appealed to the circuit court as provided by § 15.2-2314.

328 The zoning administrator shall respond within 90 days of a request for a decision or determination on  
329 zoning matters within the scope of his authority unless the requester has agreed to a longer period. If the  
330 decision or determination by the zoning administrator could impair the ability of an adjacent property owner  
331 to satisfy the minimum storage capacity and yield requirements for a residential drinking well pursuant to §  
332 32.1-176.4 or any regulation adopted thereunder, the zoning administrator shall provide a copy of such  
333 decision or determination to such adjacent property owner so affected.

334 5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such  
335 violation shall be a misdemeanor punishable by a fine of not more than \$1,000. If the violation is uncorrected  
336 at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance  
337 with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning  
338 violation within the specified time period shall constitute a separate misdemeanor offense punishable by a  
339 fine of not more than \$1,000; any such failure during a succeeding 10-day period shall constitute a separate  
340 misdemeanor offense punishable by a fine of not more than \$1,500; and any such failure during any  
341 succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable  
342 by a fine of not more than \$2,000.

343 However, any conviction resulting from a violation of provisions regulating the number of unrelated  
344 persons in single-family residential dwellings shall be punishable by a fine of up to \$2,000. Failure to abate  
345 the violation within the specified time period shall be punishable by a fine of up to \$5,000, and any such  
346 failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day  
347 period punishable by a fine of up to \$7,500. However, no such fine shall accrue against an owner or  
348 managing agent of a single-family residential dwelling unit during the pendency of any legal action  
349 commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an  
350 overcrowding condition in accordance with the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et  
351 seq.). A conviction resulting from a violation of provisions regulating the number of unrelated persons in  
352 single-family residential dwellings shall not be punishable by a jail term.

353 6. For the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices  
354 and other expenses incident to the administration of a zoning ordinance or to the filing or processing of any  
355 appeal or amendment thereto.

356 7. For the amendment of the regulations or district maps from time to time, or for their repeal. Whenever  
357 the public necessity, convenience, general welfare, or good zoning practice requires, the governing body may  
358 by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property.  
359 Any such amendment may be initiated (i) by resolution of the governing body; (ii) by motion of the local  
360 planning commission; or (iii) by petition of the owner, contract purchaser with the owner's written consent, or  
361 the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment,  
362 addressed to the governing body or the local planning commission, who shall forward such petition to the  
363 governing body; however, the ordinance may provide for the consideration of proposed amendments only at

364 specified intervals of time, and may further provide that substantially the same petition will not be  
 365 reconsidered within a specific period, not exceeding one year. Any such resolution or motion by such  
 366 governing body or *local planning* commission proposing the rezoning shall state the above public purposes  
 367 therefor.

368 In any ~~county~~ *locality* having adopted such zoning ordinance, all motions, resolutions or petitions for  
 369 amendment to the zoning ordinance, and/or map shall be acted upon and a decision made within such  
 370 reasonable time as may be necessary which shall not exceed ~~12~~ *four* months ~~unless the applicant requests or~~  
 371 ~~consents to action beyond such period or~~ unless the applicant withdraws his motion, resolution or petition for  
 372 amendment to the zoning ordinance or map, or both. In the event of and upon such withdrawal, processing of  
 373 the motion, resolution or petition shall cease without further action as otherwise would be required by this  
 374 subdivision. *A locality shall act on all motions, resolutions, or petitions for amendment to the zoning*  
 375 *ordinance or map that it has previously disapproved within 45 days after the amended motion, resolution, or*  
 376 *petition has been resubmitted for approval. The four-month timeframe described in this subdivision for first-*  
 377 *time submissions' motions, resolutions, or petitions shall not apply to amended motions, resolutions, or*  
 378 *petitions.*

379 8. For the submission and approval of a plan of development prior to the issuance of building permits to  
 380 assure compliance with regulations contained in such zoning ordinance.

381 9. For areas and districts designated for mixed use developments or planned unit developments as defined  
 382 in § 15.2-2201.

383 10. For the administration of incentive zoning as defined in § 15.2-2201.

384 11. For provisions allowing the locality to enter into a voluntary agreement with a landowner that would  
 385 result in the downzoning of the landowner's undeveloped or underdeveloped property in exchange for a tax  
 386 credit equal to the amount of excess real estate taxes that the landowner has paid due to the higher zoning  
 387 classification. The locality may establish reasonable guidelines for determining the amount of excess real  
 388 estate tax collected and the method and duration for applying the tax credit. For purposes of this section,  
 389 "downzoning" means a zoning action by a locality that results in a reduction in a formerly permitted land use  
 390 intensity or density.

391 12. Provisions for requiring and considering Phase I environmental site assessments based on the  
 392 anticipated use of the property proposed for the subdivision or development that meet generally accepted  
 393 national standards for such assessments, such as those developed by the American Society for Testing and  
 394 Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as,  
 395 but not limited to, those developed by the American Society for Testing and Materials, if the locality deems  
 396 such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with  
 397 regulations of the United States Environmental Protection Agency and the American Society for Testing and  
 398 Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees  
 399 shall not exceed an amount commensurate with the services rendered, taking into consideration the time,  
 400 skill, and administrative expense involved in such review.

401 13. Provisions to incorporate generally accepted national environmental protection and product safety  
 402 standards for the use of solar panels and battery technologies for solar photovoltaic (electric energy) projects,  
 403 such as those developed for existing product certifications and standards including the National Sanitation  
 404 Foundation/American National Standards Institute No. 457, International Electrotechnical Commission No.  
 405 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No.  
 406 61730-2.

407 14. Provisions for requiring disclosure and remediation of contamination and other adverse environmental  
 408 conditions of the property prior to approval of subdivision and development plans.

409 15. For the enforcement of provisions of the zoning ordinance that regulate the number of persons  
 410 permitted to occupy a single-family residential dwelling unit, provided such enforcement is in compliance  
 411 with applicable local, state and federal fair housing laws.

412 16. For the issuance of inspection warrants by a magistrate or court of competent jurisdiction. The zoning  
 413 administrator or his agent may make an affidavit under oath before a magistrate or court of competent  
 414 jurisdiction and, if such affidavit establishes probable cause that a zoning ordinance violation has occurred,  
 415 request that the magistrate or court grant the zoning administrator or his agent an inspection warrant to enable  
 416 the zoning administrator or his agent to enter the subject dwelling for the purpose of determining whether  
 417 violations of the zoning ordinance exist. After issuing a warrant under this section, the magistrate or judge  
 418 shall file the affidavit in the manner prescribed by § 19.2-54. After executing the warrant, the zoning  
 419 administrator or his agents shall return the warrant to the clerk of the circuit court of the city or county  
 420 wherein the inspection was made. The zoning administrator or his agent shall make a reasonable effort to  
 421 obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection  
 422 warrant under this section.

423 B. Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any  
 424 entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special

425 use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and  
426 sediment control permits, or prior to the issuance of final approval, the authorizing body may require the  
427 applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater  
428 management utility fees, and any other charges that constitute a lien on the subject property, that are owed to  
429 the locality and have been properly assessed against the subject property, have been paid, unless otherwise  
430 authorized by the treasurer.