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HOUSE BILL NO. 2293  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Counties, Cities and Towns  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Coyner)

*A BILL to amend and reenact §§ 15.2-2201, 15.2-2241, 15.2-2245, 15.2-2254, 15.2-2258 through 15.2-2261, 15.2-2269, 15.2-2270, 15.2-2271, and 15.2-2307 of the Code of Virginia, relating to subdivision ordinance; plan review by designated agent.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-2201, 15.2-2241, 15.2-2245, 15.2-2254, 15.2-2258 through 15.2-2261, 15.2-2269, 15.2-2270, 15.2-2271, and 15.2-2307 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-2201. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

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

*"Designated agent" means any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. "Designated agent" does not include the local planning commission.*

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

31 "Historic area" means an area containing one or more buildings or places in which historic events  
32 occurred or having special public value because of notable architectural, archaeological or other features  
33 relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation  
34 and preservation.

35 "Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a  
36 developer in return for the developer providing certain features, design elements, uses, services, or amenities  
37 desired by the locality, including but not limited to, site design incorporating principles of new urbanism and  
38 traditional neighborhood development, environmentally sustainable and energy-efficient building design,  
39 affordable housing creation and preservation, and historical preservation, as part of the development.

40 "Local planning commission" means a municipal planning commission or a county planning commission.

41 "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or  
42 other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land  
43 or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the  
44 Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily  
45 for civil works, rivers and harbors projects, or flood control projects.

46 "Mixed use development" means property that incorporates two or more different uses, and may include a  
47 variety of housing types, within a single development.

48 "Official map" means a map of legally established and proposed public streets, waterways, and public  
49 areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

50 "Planned unit development" means a form of development characterized by unified site design for a  
51 variety of housing types and densities, clustering of buildings, common open space, and a mix of building  
52 types and land uses in which project planning and density calculation are performed for the entire  
53 development rather than on an individual lot basis.

54 "Planning district commission" means a regional planning agency chartered under the provisions of  
55 Chapter 42 (§ 15.2-4200 et seq.) of this title.

56 "Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and  
57 information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and  
58 15.2-2264, and other applicable statutes.

59 "Preliminary subdivision plat" means the proposed schematic representation of development or

60 subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes  
61 will be achieved.

62 "Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage,  
63 preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306  
64 and other applicable statutes.

65 "Site plan" means the proposal for a development or a subdivision including all covenants, grants or  
66 easements and other conditions relating to use, location and bulk of buildings, density of development,  
67 common open space, public facilities and such other information as required by the subdivision ordinance to  
68 which the proposed development or subdivision is subject.

69 "Special exception" means a special use that is a use not permitted in a particular district except by a  
70 special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

71 "Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

72 "Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the  
73 division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of  
74 transfer of ownership or building development, or, if a new street is involved in such division, any division of  
75 a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the  
76 process of subdividing or to the land subdivided and solely for the purpose of recordation of any single  
77 division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance  
78 with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall  
79 preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line  
80 agreement with one another so long as such agreement is only used to resolve a bona fide property line  
81 dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted  
82 line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and such  
83 agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater  
84 street frontage, or interfere with a recorded easement, and such agreement shall not result in any  
85 nonconformity with local ordinances and health department regulations. Notice shall be provided to the  
86 zoning administrator of the locality in which the parcels are located for review. For any property affected by  
87 this definition, any division of land subject to a partition suit by virtue of order or decree by a court of  
88 competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the

89 minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel  
90 resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by  
91 more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality  
92 in which the property is located.

93 "Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions  
94 regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a  
95 building or structure when the strict application of the ordinance would unreasonably restrict the utilization of  
96 the property, and such need for a variance would not be shared generally by other properties, and provided  
97 such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which  
98 change shall be accomplished by a rezoning or by a conditional zoning.

99 "Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides  
100 access to the water and is used for water-dependent commercial, industrial, or governmental activities,  
101 including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and  
102 services; seafood processing and sales; transportation; shipping; marine construction; and military activities.

103 "Working waterfront development area" means an area containing one or more working waterfronts  
104 having economic, cultural, or historic public value of such significance as to warrant development and  
105 reparation.

106 "Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such  
107 areas and districts being generally referred to as "zones," by legislative action and the prescribing and  
108 application in each area and district of regulations concerning building and structure designs, building and  
109 structure placement and uses to which land, buildings and structures within such designated areas and  
110 districts may be put.

111 **§ 15.2-2241. Mandatory provisions of a subdivision ordinance.**

112 A. A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

113 1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia  
114 Public Records Act (§ 42.1-76 et seq.);

115 2. For the coordination of streets within and contiguous to the subdivision with other existing or planned  
116 streets within the general area as to location, widths, grades and drainage, including, for ordinances and  
117 amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or

118 planned streets in existing or future adjacent or contiguous to adjacent subdivisions;

119 3. For adequate provisions for drainage and flood control, for adequate provisions related to the failure of  
120 impounding structures and impacts within dam break inundation zones, and other public purposes, and for  
121 light and air, and for identifying soil characteristics;

122 4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise  
123 improved and water and storm and sanitary sewer and other public utilities or other community facilities are  
124 to be installed;

125 5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or  
126 section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof,  
127 any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public  
128 system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or  
129 other public agency, and for the provision of other site-related improvements required by local ordinances for  
130 vehicular ingress and egress, including traffic signalization and control, for public access streets, for  
131 structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed  
132 or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the  
133 governing body that the construction costs have been paid to the person constructing such facilities or, at the  
134 option of the local governing body, presents evidence satisfactory to the governing body that the time for  
135 recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due  
136 and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient  
137 by the ~~governing body or its designated administrative agency agent~~; (ii) furnishes to the governing body a  
138 certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or  
139 property bond, with surety satisfactory to the ~~governing body or its designated administrative agency agent~~,  
140 in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the  
141 construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned;  
142 or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated  
143 funds satisfactory to the ~~governing body or its designated administrative agency agent~~ as to the bank or  
144 savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter  
145 of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or  
146 private sector construction in the locality and a reasonable allowance for estimated administrative costs,

147 inflation, and potential damage to existing roads or utilities, which shall not exceed 10 percent of the  
148 estimated construction costs. If the owner or developer defaults on construction of such facilities, and such  
149 facilities are constructed by the surety or with funding from the aforesaid check, cash escrow, bond or letter  
150 of credit, the locality shall be entitled to retain or collect the allowance for administrative costs to the extent  
151 the costs of such construction do not exceed the total of the originally estimated costs of construction and the  
152 allowance for administrative costs. "Such facilities," as used in this section, means those facilities specifically  
153 provided for in this section.

154 If a developer records a final plat which may be a section of a subdivision as shown on an approved  
155 preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or  
156 letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said  
157 section for public use and maintained by the locality, the Commonwealth, or other public agency, the  
158 developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for  
159 a period of five years from the recordation date of any section, or for such longer period as the local  
160 commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size  
161 and phasing of the proposed development, subject to the terms and conditions of this subsection and subject  
162 to engineering and construction standards and zoning requirements in effect at the time that each remaining  
163 section is recorded. In the event a governing body of a county, wherein the highway system is maintained by  
164 the Department of Transportation, has accepted the dedication of a road for public use and such road due to  
165 factors other than its quality of construction is not acceptable into the secondary system of state highways,  
166 then such governing body may, if so provided by its subdivision ordinance, require the subdivider or  
167 developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the  
168 ~~governing body or its designated administrative agency agent~~, in an amount sufficient for and conditioned  
169 upon the maintenance of such road until such time as it is accepted into the secondary system of state  
170 highways. In lieu of such bond, the ~~governing body or its designated administrative agency agent~~ may accept  
171 a bank or savings institution's letter of credit on certain designated funds satisfactory to the ~~governing body or~~  
172 ~~its designated administrative agency agent~~ as to the bank or savings institution, the amount and the form, or  
173 accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such  
174 road until such time as it is accepted into the secondary system of state highways and assume the subdivider's  
175 or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section,

176 means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements,  
177 including the correction of defects or damages and the removal of snow, water or debris, so as to keep such  
178 road reasonably open for public usage-

179 ~~As used in this section, "designated administrative agency" means the planning commission of the locality~~  
180 ~~or an agent designated by the governing body of the locality for such purpose as set forth in §§ 15.2-2258~~  
181 ~~through 15.2-2261;~~

182 6. For conveyance of common or shared easements to franchised cable television operators furnishing  
183 cable television and public service corporations furnishing cable television, gas, telephone and electric  
184 service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or  
185 telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by  
186 a cable television operator or telephone service provider, grant an easement to that cable television operator  
187 or telephone service provider for the purpose of providing cable television and communications services to  
188 that subdivision, which easement shall be geographically coextensive with the electric service easement, or if  
189 only a telephone or cable service easement has been granted, then geographically coextensive with that  
190 telephone or cable service easement; however, the developer and franchised cable television operator or  
191 telephone service provider may mutually agree on an alternate location for an easement. If the final  
192 subdivision plat is recorded and does not include conveyance of a common or shared easement as provided  
193 herein, ~~the local planning commission or agent designated by the governing body to review and act on~~  
194 ~~submitted subdivision plats~~ *designated agent* shall not be responsible to enforce the requirements of this  
195 subdivision;

196 7. For monuments of specific types to be installed establishing street and property lines;

197 8. That unless a plat is filed for recordation within six months after final approval thereof or such longer  
198 period as may be approved by the governing body, such approval shall be withdrawn and the plat marked  
199 void and returned to the approving official; however, in any case where construction of facilities to be  
200 dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the  
201 ~~governing body or its designated administrative agency~~ *agent*, or where the developer has furnished surety to  
202 the ~~governing body or its designated administrative agency~~ *agent* by certified check, cash escrow, bond, or  
203 letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat  
204 recordation shall be extended to one year after final approval or to the time limit specified in the surety

205 agreement approved by the governing body or its designated administrative agency, whichever is greater  
206 agent;

207 9. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in  
208 this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and  
209 plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges  
210 shall in no instance exceed an amount commensurate with the services rendered taking into consideration the  
211 time, skill and administrator's expense involved. All such charges heretofore made are hereby validated;

212 10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift  
213 to a member of the immediate family of the property owner in accordance with the provisions of § 15.2-2244;  
214 and

215 11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other  
216 performance guarantee required by the governing body under this section in accordance with the provisions  
217 of § 15.2-2245;

218 12. For the review of plats, site plans, and plans of development solely involving parcels of commercial or  
219 residential real estate as set forth in §§ 15.2-2259 and 15.2-2260; and

220 13. For the identification of deficiencies, corrections, or modifications of proposed and resubmitted plats  
221 and plans as set forth in §§ 15.2-2259 and 15.2-2260.

222 B. No locality shall require that any certified check, cash escrow, bond, letter of credit or other  
223 performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or  
224 improvement unless such facility or improvement is shown or described on the approved plat or plan of the  
225 project for which such guarantee is being furnished. Furthermore, the terms, conditions, and specifications  
226 contained in any agreement, contract, performance agreement, or similar document, however described or  
227 delineated, between a locality or its governing body and an owner or developer of property entered into  
228 pursuant to this chapter in conjunction with any performance guarantee, as described in this subsection, shall  
229 be limited to those items depicted or provided for in the approved plan, plat, permit application, or similar  
230 document for which such performance guarantee is applicable.

231 **§ 15.2-2245. Provisions for periodic partial and final release of certain performance guarantees.**

232 A. A subdivision ordinance shall provide for the periodic partial and final complete release of any bond,  
233 escrow, letter of credit, or other performance guarantee required by the governing body under this article



234 within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of  
235 any public facilities required to be constructed hereunder unless the ~~governing body or its~~ designated  
236 ~~administrative agency agent~~ notifies the subdivider or developer in writing of nonreceipt of approval by an  
237 applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective  
238 measures prior to the expiration of the thirty-day period. Any inspection of such public facilities shall be  
239 based solely upon conformance with the terms and conditions of the performance agreement and the  
240 approved design plan and specifications for the facilities for which the performance guarantee is applicable,  
241 and shall not include the approval of any person other than an employee of the governing body, its  
242 administrative agency, the Virginia Department of Transportation or other political subdivision or a person  
243 who has contracted with the governing body, its administrative agency, the Virginia Department of  
244 Transportation or other political subdivision.

245 B. If no such action is taken by the ~~governing body or administrative agency~~ *designated agent* within the  
246 time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or  
247 developer. No final release shall be granted until after expiration of such thirty-day period and there is an  
248 additional request in writing sent by certified mail return receipt to the chief administrative officer of such  
249 governing body. The ~~governing body or its~~ designated ~~administrative agency agent~~ shall act within ten  
250 working days of receipt of the request; then if no action is taken the request shall be deemed approved and  
251 final release granted to the subdivider or developer.

252 C. After receipt of the written notices required above, if the governing body or administrative agency  
253 takes no action within the times specified above and the subdivider or developer files suit in the local circuit  
254 court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as  
255 the case may be, the circuit court, upon finding the governing body or its administrative agency was without  
256 good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

257 D. No ~~governing body or administrative agency~~ *designated agent* shall refuse to make a periodic partial or  
258 final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly  
259 related to the specified defects or deficiencies in construction of the public facilities covered by said bond,  
260 escrow, letter of credit or other performance guarantee.

261 E. Upon written request by the subdivider or developer, the ~~governing body or its~~ designated  
262 ~~administrative agency agent~~ shall be required to make periodic partial releases of such bond, escrow, letter of

263 credit, or other performance guarantee in a cumulative amount equal to no less than ninety percent of the  
264 original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and  
265 may make partial releases to such lower amounts as may be authorized by the ~~governing body or its~~  
266 designated ~~administrative agency agent~~ based upon the percentage of public facilities completed and  
267 approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic  
268 partial releases may not occur before the completion of at least thirty percent of the public facilities covered  
269 by any bond, escrow, letter of credit, or other performance guarantee. The ~~governing body or administrative~~  
270 ~~agency designated agent~~ shall not be required to execute more than three periodic partial releases in any  
271 twelve-month period. Upon final completion and acceptance of the public facilities, the ~~governing body or~~  
272 ~~administrative agency designated agent~~ shall release any remaining bond, escrow, letter of credit, or other  
273 performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance"  
274 means: when the public facility is accepted by and taken over for operation and maintenance by the state  
275 agency, local government department or agency, or other public authority which is responsible for  
276 maintaining and operating such public facility upon acceptance.

277 F. For the purposes of this section, a certificate of partial or final completion of such public facilities from  
278 either a duly licensed professional engineer or land surveyor, as defined in and limited to § 54.1-400, or from  
279 a department or agency designated by the locality may be accepted without requiring further inspection of  
280 such public facilities.

281 **§ 15.2-2254. Statutory provisions effective after ordinance adopted.**

282 After the adoption of a subdivision ordinance in accordance with this chapter, the following provisions  
283 shall be effective in the territory to which the ordinance applies:

284 1. No person shall subdivide land without making and recording a plat of the subdivision and without  
285 fully complying with the provisions of this article and of the subdivision ordinance.

286 2. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by  
287 the ~~local planning commission or by the governing body or its duly authorized~~ *designated agent*, of the  
288 locality wherein the land to be subdivided is located; or by the ~~commissions, governing bodies or~~ *designated*  
289 *agents*, as the case may be, of each locality having a subdivision ordinance, in which any part of the land lies.

290 3. No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and  
291 recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of a

292 subdivision ordinance applicable thereto. However, nothing herein contained shall be construed as preventing  
293 the recordation of the instrument by which such land is transferred or the passage of title as between the  
294 parties to the instrument.

295 4. Any person violating the foregoing provisions of this section shall be subject to a fine of not more than  
296 \$500 for each lot or parcel of land so subdivided, transferred or sold and shall be required to comply with all  
297 provisions of this article and the subdivision ordinance. The description of the lot or parcel by metes and  
298 bounds in the instrument of transfer or other document used in the process of selling or transferring shall not  
299 exempt the transaction from the penalties or remedies herein provided.

300 5. No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded  
301 until the plat has been approved as required herein. The penalties provided by § 17.1-223 shall apply to any  
302 failure to comply with the provisions of this subsection.

303 **§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.**

304 Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision  
305 ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the  
306 ~~planning commission of the locality, or an agent designated by the governing body~~ *designated agent* thereof  
307 for such purpose. When any part of the land proposed for subdivision lies in a drainage district such fact shall  
308 be set forth on the plat of the proposed subdivision. When any part of the land proposed for subdivision lies  
309 in a mapped dam break inundation zone such fact shall be set forth on the plat of the proposed subdivision.  
310 When any grave, object or structure marking a place of burial is located on the land proposed for subdivision,  
311 such grave, object or structure shall be identified on any plans or site plans required by this article. When the  
312 land involved lies wholly or partly within an area subject to the joint control of more than one locality, the  
313 plat shall be submitted to the ~~planning commission or other~~ designated agent of the locality in which the tract  
314 of land is located. Site plans or plans of development required by subdivision A 8 of § 15.2-2286 shall also be  
315 subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

316 **§ 15.2-2259. Designated agent to act on proposed final plat.**

317 A. 1. Except as otherwise provided in subdivisions 2 and 3, the ~~local planning commission or other~~  
318 *designated agent* shall act on any proposed plat within 60 days after it has been officially submitted for  
319 approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons  
320 therefor. The ~~Commission or~~ *designated agent* shall thoroughly review the plat and shall make a good faith

321 effort to identify all deficiencies, if any, with the initial submission. However, if approval of a feature or  
322 features of the plat by a state agency or public authority authorized by state law is necessary, the ~~commission~~  
323 ~~or designated~~ agent shall forward the plat to the appropriate state agency or ~~agencies authority~~ for review  
324 within ~~10~~ *five* business days of receipt of such plat. The state agency shall respond in accord with the  
325 requirements set forth in § 15.2-2222.1, which shall extend the time for action by the ~~local planning~~  
326 ~~commission or other designated~~ agent, as set forth in subsection B. Specific reasons for disapproval shall be  
327 contained either in a separate document or on the plat itself. The reasons for disapproval shall identify  
328 deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances,  
329 regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The  
330 ~~local planning commission or other designated~~ agent shall act on any proposed plat that it has previously  
331 disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

332 2. The approval of plats, site plans, and plans of development solely involving parcels of commercial or  
333 residential real estate by a ~~local planning commission or other designated~~ agent shall be governed by  
334 subdivision 3 and subsections B, C, and D. For the purposes of this section, the term "commercial" means all  
335 real property used for commercial or industrial uses, and the term "residential" means all real property used  
336 for single-family or multifamily use.

337 3. The ~~local planning commission or other designated~~ agent shall act on any proposed plat, site plan or  
338 plan of development within 60 days after it has been officially submitted for approval by either approving or  
339 disapproving the plat in writing, and giving with the latter specific reasons therefor. The ~~local planning~~  
340 ~~commission or other designated~~ agent shall not delay the official submission of any proposed plat, site plan,  
341 or plan of development by requiring presubmission conferences, meetings, or reviews. The ~~Commission or~~  
342 ~~designated~~ agent shall thoroughly review the plat or plan and shall in good faith identify, to the greatest  
343 extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or  
344 features of the plat or plan by a state agency or public authority authorized by state law is necessary, the  
345 ~~commission or designated~~ agent shall forward the plat or plan to the appropriate state agency or agencies for  
346 review within ~~10 business~~ *five* days of receipt of such plat or plan. The state agency shall respond in accord  
347 with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the ~~local planning~~  
348 ~~commission or other designated~~ agent, as set forth in subsection B. Specific reasons for disapproval shall be  
349 contained either in a separate document or on the plat or plan itself. The reasons for disapproval shall identify

350 deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances,  
351 regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that  
352 will permit approval of the plat or plan.

353 In the review of a resubmitted proposed plat, site plan or plan of development that has been previously  
354 disapproved, the ~~local planning commission or other~~ *designated* agent shall consider only deficiencies it had  
355 identified in its review of the initial submission of the plat or plan that have not been corrected in such  
356 resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies  
357 identified in the initial submission. In the review of the resubmission of a plat or plan, the ~~local planning~~  
358 ~~commission or other~~ *designated* agent shall identify all deficiencies with the proposed plat or plan that caused  
359 the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify  
360 modifications or corrections that will permit approval of the plat or plan. Upon the second resubmission of  
361 such disapproved plat or plan, the ~~local planning commission or other~~ *designated* agent's review shall be  
362 limited solely to the previously identified deficiencies that caused its disapproval.

363 The ~~local planning commission or other~~ *designated* agent shall act on any proposed plat, site plan or plan  
364 of development that it has previously disapproved within 45 days after the plat or plan has been modified,  
365 corrected and resubmitted for approval. The failure of a ~~local planning commission or other~~ *designated* agent  
366 to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall  
367 cause the plat or plan to be deemed approved.

368 Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of development,  
369 any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law,  
370 regulations, mandatory Department of Transportation engineering and safety requirements, and other  
371 mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been  
372 approved by the ~~local planning commission or other~~ *designated* agent. Should any resubmission include a  
373 material revision of infrastructure or physical improvements from the earlier submission or if a material  
374 revision in the resubmission creates a new required review by the Virginia Department of Transportation or  
375 by a state agency or public authority authorized by state law, then the ~~local planning commission or other~~  
376 *designated* agent's review shall not be limited to only the previously identified deficiencies identified in the  
377 prior submittals and may consider deficiencies initially appearing in the resubmission because of such  
378 material revision.

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

391 C. If the ~~commission or other~~ *designated* agent fails to approve or disapprove the plat within 60 days after  
392 it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a  
393 previous disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the  
394 subdivider, after 10-days' written notice to the ~~commission, or~~ *designated* agent, may petition the circuit court  
395 for the locality in which the land involved, or the major part thereof, is located, to decide whether the plat  
396 should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter  
397 expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of  
398 Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing  
399 approval of the plat.

400 D. If a ~~commission or other~~ *the designated* agent disapproves a plat and the ~~subdivider~~ *applicant* contends  
401 that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or  
402 capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and  
403 determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of  
404 the written disapproval by the ~~commission or other~~ *designated* agent.

405 **§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.**

406 A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its  
407 ordinance for the mandatory submission of preliminary subdivision plats for tentative approval for plats

408 involving more than 50 lots, provided that any such ordinance provides for the submission of a preliminary  
409 subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots. The  
410 ~~local planning commission, or an~~ *designated agent designated by the commission or by the governing body to*  
411 ~~review preliminary subdivision plats~~ shall complete action on the preliminary subdivision plats within 60  
412 days of submission. However, if approval of a feature or features of the preliminary subdivision plat by a  
413 state agency or public authority authorized by state law is necessary, the ~~commission or~~ *designated agent*  
414 shall forward the preliminary subdivision plat to the appropriate state agency or ~~agencies~~ *authority* for review  
415 within ~~40~~ *five* business days of receipt of such preliminary subdivision plat.

416 B. Any state agency or public authority authorized by state law making a review of a preliminary  
417 subdivision plat forwarded to it under this section, including, without limitation, the Virginia Department of  
418 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review  
419 within 45 days of receipt of the preliminary subdivision plat upon first submission and within 45 days for any  
420 proposed plat that has previously been disapproved, provided, however, that the time period set forth in §  
421 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of  
422 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public  
423 rights-of-way for public street purposes for placement of utilities by permit when practical and shall not  
424 unreasonably deny plat approval. If a state agency or public authority authorized by state law does not  
425 approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in  
426 subsection A of § 15.2-2259 with the exception of the time period therein specified. Upon receipt of the  
427 approvals from all state agencies, the ~~local~~ *designated agent* shall act upon a preliminary subdivision plat  
428 within 35 days.

429 C. If a ~~commission has the responsibility of review of preliminary subdivision plats and conducts a public~~  
430 ~~hearing, it~~ *The designated agent* shall act on the plat within 45 days after receiving approval from all state  
431 agencies. If the ~~local designated agent or commission~~ does not approve the preliminary subdivision plat, the  
432 ~~local designated agent or commission~~ shall set forth in writing the reasons for such denial and shall state what  
433 corrections or modifications will permit approval by ~~such~~ *the designated agent or commission*. With regard to  
434 plats involving commercial or residential property, as those terms are defined in subdivision A 2 of §  
435 15.2-2259, the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of §  
436 15.2-2259. However, no ~~commission or~~ *designated agent* shall be required to approve a preliminary

437 subdivision plat in less than 60 days from the date of its original submission to the ~~commission~~ or *designated*  
438 agent, and all actions on preliminary subdivision plats shall be completed by the *designated agent* or  
439 ~~commission~~ and, if necessary, state agencies, within a total of 90 days of submission to the ~~local~~ *designated*  
440 agent or ~~commission~~.

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

446 E. If a ~~commission~~ or ~~other~~ *designated* agent disapproves a preliminary subdivision plat and the  
447 subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was  
448 arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall  
449 hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within  
450 60 days of the written disapproval by the ~~commission~~ or ~~other~~ *designated* agent.

451 F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the  
452 subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such  
453 approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues  
454 approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred  
455 extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications  
456 thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon  
457 90 days' written notice by certified mail to the subdivider, the ~~commission~~ or ~~other~~ *designated* agent may  
458 revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval  
459 of the final subdivision plat.

460 G. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to §  
461 15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the  
462 latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date  
463 of the last recorded plat.

464 **§ 15.2-2261. Recorded plats or final site plans to be valid for not less than five years.**

465 A. An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter



466 referred to as "recorded plat or final site plan," shall be valid for a period of not less than five years from the  
467 date of approval thereof or for such longer period as the ~~local planning commission or other~~ *designated* agent  
468 may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the  
469 proposed development. A site plan shall be deemed final once it has been reviewed and approved by the  
470 locality if the only requirements remaining to be satisfied in order to obtain a building permit are the posting  
471 of any bonds and escrows or the submission of any other administrative documents, agreements, deposits, or  
472 fees required by the locality in order to obtain the permit. However, any fees that are customarily due and  
473 owing at the time of the agency review of the site plan shall be paid in a timely manner.

474 B. 1. Upon application of the subdivider or developer filed prior to expiration of a recorded plat or final  
475 site plan, the ~~local planning commission or other~~ *designated* agent may grant one or more extensions of such  
476 approval for additional periods as the ~~commission or other~~ *designated* agent may, at the time the extension is  
477 granted, determine to be reasonable, taking into consideration the size and phasing of the proposed  
478 development, the laws, ordinances and regulations in effect at the time of the request for an extension.

479 2. If the ~~commission or other~~ *designated* agent denies an extension requested as provided herein and the  
480 subdivider or developer contends that such denial was not properly based on the ordinance applicable thereto,  
481 the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the  
482 circuit court having jurisdiction of land subject to the recorded plat or final site plan, provided that such  
483 appeal is filed with the circuit court within sixty days of the written denial by the commission or other  
484 agency.

485 C. For so long as the final site plan remains valid in accordance with the provisions of this section, or in  
486 the case of a recorded plat for five years after approval, no change or amendment to any local ordinance, map,  
487 resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or  
488 final site plan shall adversely affect the right of the subdivider or developer or his successor in interest to  
489 commence and complete an approved development in accordance with the lawful terms of the recorded plat  
490 or site plan unless the change or amendment is required to comply with state law or there has been a mistake,  
491 fraud or a change in circumstances substantially affecting the public health, safety or welfare.

492 D. Application for minor modifications to recorded plats or final site plans made during the periods of  
493 validity of such plats or plans established in accordance with this section shall not constitute a waiver of the  
494 provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or

495 plans.

496 E. The provisions of this section shall be applicable to all recorded plats and final site plans valid on or  
497 after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation  
498 concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited and  
499 thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of any  
500 special use permit, conditional use permit or special exception; (iii) the application to individual lots on  
501 recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the provisions of  
502 any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.); or  
503 (iv) the application to individual lots on recorded plats or parcels of land subject to final site plans of the  
504 provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act,  
505 Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental  
506 Protection Agency.

507 F. An approved final subdivision plat that has been recorded, from which any part of the property  
508 subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), or a recorded  
509 plat dedicating real property to the local jurisdiction or public body that has been accepted by such grantee,  
510 shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a  
511 vacation action as set forth in §§ 15.2-2270 through 15.2-2278.

512 **§ 15.2-2269. Plans and specifications for utility fixtures and systems to be submitted for approval.**

513 A. If the owners of any such subdivision desire to construct in, on, under, or adjacent to any streets or  
514 alleys located in such subdivision any gas, water, sewer or electric light or power works, pipes, wires, fixtures  
515 or systems, they shall present plans or specifications therefor to the ~~governing body of the locality in which~~  
516 ~~the subdivision is located or its authorized~~ *designated* agent, for approval. If the subdivision is located  
517 beyond the corporate limits of a municipality but within the limits set forth in § 15.2-2248, such plans and  
518 specifications shall be presented for approval to the ~~governing body of such municipality, or its authorized~~  
519 *designated* agent, if the county has not adopted a subdivision ordinance. The ~~governing body, or designated~~  
520 agent, shall have 45 days in which to approve or disapprove the same. In event of the failure of any ~~governing~~  
521 ~~body, or its designated~~ agent, to act within such period, such plans and specifications may be submitted, after  
522 ten days' notice to the locality, to the circuit court for such locality for its approval or disapproval, and its  
523 approval thereof shall, for all purposes of this article be treated and considered as approval by the ~~locality or~~

524 ~~its authorized~~ *designated* agent.

525 B. Any state agency or public authority authorized by state law making a review of any plat forwarded to  
526 it under this article, including, without limitation, the Virginia Department of Transportation and authorities  
527 authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the  
528 plans, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the  
529 applicability of said section. The Virginia Department of Transportation and authorities authorized by  
530 Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes  
531 for placement of utilities by permit when practical and shall not unreasonably deny plan approval. If a state  
532 agency or public authority by state law does not approve the plan, it shall comply with the requirements, and  
533 be subject to the restrictions, set forth in subsection A of § 15.2-2259, with respect to the exception of the  
534 time period therein specified. Upon receipt of the approvals from all state agencies, the ~~local~~ *designated* agent  
535 shall act upon a preliminary subdivision plat within 35 days.

536 **§ 15.2-2270. Vacation of interests granted to a locality as a condition of site plan approval.**

537 Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and  
538 easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated  
539 according to either of the following methods:

540 1. By a duly executed and acknowledged written instrument of the owner of the land which has been or is  
541 to be developed in accordance with the site plan, declaring the interest or interests to be vacated, provided the  
542 ~~governing body or authorized~~ *designated* agent of the locality where the land lies consents to the vacation.  
543 The instrument shall be recorded in the same clerk's office wherein is recorded the written instrument  
544 describing the interest in real property to be vacated. The execution and recordation of the instrument shall  
545 operate to divest all public rights in, and to reinvest the owner with the title to the interests which formerly  
546 were held by the governing body; or

547 2. By ordinance of the governing body in the locality in which the property which is the subject of an  
548 approved site plan lies, provided that no interest shall be vacated in an area in which facilities, for which  
549 bonding is required pursuant to §§ 15.2-2241 through 15.2-2245, have been constructed.

550 The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. Any  
551 person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal  
552 from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the

553 circuit court having jurisdiction of the land over which the governing body's interest is located. Upon appeal,  
554 the court may nullify the ordinance if it finds that the owner of the property, which has been developed or is  
555 to be developed in accordance with the approved site plan, will be irreparably damaged. If no appeal from the  
556 adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a  
557 certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the  
558 instrument creating the governing body's interest is recorded.

559 The execution and recordation of an ordinance of vacation shall operate to destroy the effect of the  
560 instrument which created the governing body's interest so vacated and to divest all public rights in and to the  
561 property and vest title in the streets, alleys, easements for public rights of passage, easements for drainage,  
562 and easements for a public utility as may be described in, and in accordance with, the ordinance of vacation.

563 **§ 15.2-2271. Vacation of plat before sale of lot therein; ordinance of vacation.**

564 Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the  
565 following methods:

566 1. With the consent of the ~~governing body, or its authorized~~ *designated* agent, of the locality where the  
567 land lies, by the owners, proprietors and trustees, if any, who signed the statement required by § 15.2-2264 at  
568 any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly  
569 executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is  
570 recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the  
571 recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and  
572 trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out  
573 or described in the plat; or

574 2. By ordinance of the governing body of the locality in which the property shown on the plat or part  
575 thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to §§ 15.2-2241  
576 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any  
577 related section of the property located in the subdivision within five years of the date on which the plat was  
578 first recorded.

579 The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. Any  
580 person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal  
581 from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the

582 circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the  
583 court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably  
584 damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the  
585 ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's  
586 office of any court in which the plat is recorded.

587 The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of  
588 the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the  
589 property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and  
590 easements for public passage and other public areas laid out or described in the plat.

591 **§ 15.2-2307. Vested rights not impaired; nonconforming uses.**

592 A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without  
593 limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use  
594 and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner  
595 (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing  
596 development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and  
597 (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance  
598 on the significant affirmative governmental act.

599 B. For purposes of this section and without limitation, the following are deemed to be significant  
600 affirmative governmental acts allowing development of a specific project: (i) the governing body has  
601 accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing  
602 body has approved an application for a rezoning for a specific use or density; (iii) the governing body or  
603 board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of  
604 zoning appeals has approved a variance; (v) the ~~governing body or its~~ designated agent has approved a  
605 preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant  
606 diligently pursues approval of the final plat or plan within a reasonable period of time under the  
607 circumstances; (vi) the ~~governing body or its~~ designated agent has approved a final subdivision plat, site plan  
608 or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative  
609 officer has issued a written order, requirement, decision or determination regarding the permissibility of a  
610 specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to

611 change, modification or reversal under subsection C of § 15.2-2311.

612 C. A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not  
613 conform to the zoning prescribed for the district in which they are situated may be continued only so long as  
614 the then existing or a more restricted use continues and such use is not discontinued for more than two years,  
615 and so long as the buildings or structures are maintained in their then structural condition; and that the uses of  
616 such buildings or structures shall conform to such regulations whenever, with respect to the building or  
617 structure, the square footage of a building or structure is enlarged, or the building or structure is structurally  
618 altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to  
619 the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by  
620 the locality for such use and (ii) the holder of such business license has operated continuously in the same  
621 location for at least 15 years and has paid all local taxes related to such use, the locality shall permit the  
622 holder of such business license to apply for a rezoning or a special use permit without charge by the locality  
623 or any agency affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may  
624 provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be  
625 moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

626 D. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building  
627 permit, the building or structure was thereafter constructed in accordance with the building permit, and upon  
628 completion of construction, the local government issued a certificate of occupancy or a use permit therefor,  
629 (ii) a property owner, relying in good faith on the issuance of a building permit, incurs extensive obligations  
630 or substantial expenses in diligent pursuit of a building project that is in conformance with the building  
631 permit and the Uniform Statewide Building Code (§ 36-97 et seq.), or (iii) the owner of the building or  
632 structure has paid taxes to the locality for such building or structure for a period of more than the previous 15  
633 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal  
634 solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance  
635 may provide that such building or structure be brought in compliance with the Uniform Statewide Building  
636 Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the  
637 local government has issued a permit, other than a building permit, that authorized construction of an  
638 improvement to real property and the improvement was thereafter constructed in accordance with such  
639 permit, the ordinance may provide that the improvements are nonconforming, but not illegal. If the structure

640 is one that requires no permit, and an authorized local government official informs the property owner that  
641 the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a  
642 zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is  
643 illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized  
644 government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral  
645 statement of such official shall not be sufficient evidence to prove that the authorized government official  
646 made such statement.

647 E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or  
648 destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or  
649 reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in  
650 § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced  
651 except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner  
652 shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in  
653 compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done  
654 to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain  
655 regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such  
656 building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God,  
657 such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning  
658 ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster  
659 declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to  
660 the declaration, then the zoning ordinance shall provide for an additional two years for the building to be  
661 repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of  
662 God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high  
663 water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this  
664 section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if  
665 it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit  
666 an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

667 F. Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to  
668 replace an existing on-site sewage system for any existing building in the same general location on the

669 property even if a new on-site sewage system would not otherwise be permitted in that location, unless access  
670 to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then  
671 the connection to such system shall be required. Any new on-site system shall be installed in compliance with  
672 applicable regulations of the Department of Health in effect at the time of the installation.

673 G. Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to  
674 notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For  
675 purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected  
676 has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that  
677 following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the  
678 owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-  
679 year period, the locality has made a reasonable attempt to notify the property owner, the locality through its  
680 own agents or employees may enter the property upon which the sign is located and remove any such sign  
681 whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the  
682 property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an  
683 order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or  
684 other appropriate remedy.

685 H. Nothing in this section shall be construed to prevent the land owner or home owner from removing a  
686 valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home  
687 with another comparable manufactured home that meets the current HUD manufactured housing code. In  
688 such mobile or manufactured home park, a single-section home may replace a single-section home and a  
689 multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or  
690 manufactured home not located in a mobile or manufactured home park may replace that home with a newer  
691 manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.  
692 Any such replacement home shall retain the valid nonconforming status of the prior home.