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1 **HOUSE BILL NO. 771**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact §§ 15.2-2241 and 15.2-2245 of the Code of Virginia, relating to land*
5 *subdivision and development; mandatory provisions of a subdivision ordinance; periodic partial and final*
6 *release of certain performance guarantees.*

7 Patron—Zehr

8 Committee Referral Pending

9 **Be it enacted by the General Assembly of Virginia:**10 **1. That §§ 15.2-2241 and 15.2-2245 of the Code of Virginia are amended and reenacted as follows:**11 **§ 15.2-2241. Mandatory provisions of a subdivision ordinance.**

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

13 1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia
14 Public Records Act (§ 42.1-76 et seq.);15 2. For the coordination of streets within and contiguous to the subdivision with other existing or planned
16 streets within the general area as to location, widths, grades and drainage, including, for ordinances and
17 amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or
18 planned streets in existing or future adjacent or contiguous to adjacent subdivisions;19 3. For adequate provisions for drainage and flood control, for adequate provisions related to the failure of
20 impounding structures and impacts within dam break inundation zones, and other public purposes, and for
21 light and air, and for identifying soil characteristics;22 4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise
23 improved and water and storm and sanitary sewer and other public utilities or other community facilities are
24 to be installed;25 5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or
26 section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof,
27 any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public
28 system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or
29 other public agency, and for the provision of other site-related improvements required by local ordinances for
30 vehicular ingress and egress, including traffic signalization and control, for public access streets, for
31 structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed
32 or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the
33 governing body that the construction costs have been paid to the person constructing such facilities or, at the
34 option of the local governing body, presents evidence satisfactory to the governing body that the time for
35 recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due
36 and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient
37 by the designated agent; (ii) furnishes to the governing body a certified check or cash escrow in the amount of
38 the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the
39 designated agent, in an amount sufficient for and conditioned upon the construction of such facilities, or a
40 contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and
41 so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on
42 certain designated funds satisfactory to the designated agent as to the bank or savings institution, the amount
43 and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the
44 total of the estimated cost of construction based on unit prices for new public or private sector construction in
45 the locality as determined by a duly licensed professional engineer or land surveyor, as such terms are
46 defined in § 54.1-400, and a reasonable allowance for estimated administrative costs, inflation, and potential
47 damage to existing roads or utilities, which shall not exceed ~~40~~ five percent of the estimated construction
48 costs. If the owner or developer defaults on construction of such facilities, and such facilities are constructed
49 by the surety or with funding from the aforesaid check, cash escrow, bond or letter of credit, the locality shall
50 be entitled to retain or collect the allowance for administrative costs to the extent the costs of such
51 construction do not exceed the total of the originally estimated costs of construction and the allowance for
52 administrative costs. "Such facilities," as used in this section, means those facilities specifically provided for
53 in this section.54 If a developer records a final plat which may be a section of a subdivision as shown on an approved
55 preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or
56 letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said

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59 section for public use and maintained by the locality, the Commonwealth, or other public agency, the
60 developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for
61 a period of five years from the recordation date of any section, or for such longer period as the local
62 commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size
63 and phasing of the proposed development, subject to the terms and conditions of this subsection and subject
64 to engineering and construction standards and zoning requirements in effect at the time that each remaining
65 section is recorded. In the event a governing body of a county, wherein the highway system is maintained by
66 the Department of Transportation, has accepted the dedication of a road for public use and such road due to
67 factors other than its quality of construction is not acceptable into the secondary system of state highways,
68 then such governing body may, if so provided by its subdivision ordinance, require the subdivider or
69 developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the
70 designated agent, in an amount sufficient for and conditioned upon the maintenance of such road until such
71 time as it is accepted into the secondary system of state highways. In lieu of such bond, the designated agent
72 may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the
73 designated agent as to the bank or savings institution, the amount and the form, or accept payment of a
74 negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as
75 it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability
76 for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the
77 streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of
78 defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for
79 public usage;

80 6. For conveyance of common or shared easements to franchised cable television operators furnishing
81 cable television and public service corporations furnishing cable television, gas, telephone and electric
82 service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or
83 telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by
84 a cable television operator or telephone service provider, grant an easement to that cable television operator
85 or telephone service provider for the purpose of providing cable television and communications services to
86 that subdivision, which easement shall be geographically coextensive with the electric service easement, or if
87 only a telephone or cable service easement has been granted, then geographically coextensive with that
88 telephone or cable service easement; however, the developer and franchised cable television operator or
89 telephone service provider may mutually agree on an alternate location for an easement. If the final
90 subdivision plat is recorded and does not include conveyance of a common or shared easement as provided
91 herein, the designated agent shall not be responsible to enforce the requirements of this subdivision;

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

93 8. That unless a plat is filed for recordation within six months after final approval thereof or such longer
94 period as may be approved by the governing body, such approval shall be withdrawn and the plat marked
95 void and returned to the approving official; however, in any case where construction of facilities to be
96 dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the
97 designated agent, or where the developer has furnished surety to the designated agent by certified check, cash
98 escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time
99 for plat recordation shall be extended to one year after final approval or to the time limit specified in the
100 surety agreement approved by the designated agent;

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

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

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

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

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

115 B. No locality shall require that any certified check, cash escrow, bond, letter of credit or other
116 performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or
117 improvement unless such facility or improvement is shown or described on the approved plat or plan of the
118 project for which such guarantee is being furnished. Furthermore, the terms, conditions, and specifications
119 contained in any agreement, contract, performance agreement, or similar document, however described or
120 delineated, between a locality or its governing body and an owner or developer of property entered into

121 pursuant to this chapter in conjunction with any performance guarantee, as described in this subsection, shall
 122 be limited to those items depicted or provided for in the approved plan, plat, permit application, or similar
 123 document for which such performance guarantee is applicable.

124 § 15.2-2245. Provisions for periodic partial and final release of certain performance guarantees.

125 A. A subdivision ordinance shall provide for the periodic partial and final complete release of any bond,
 126 escrow, letter of credit, or other performance guarantee required by the governing body under this article
 127 within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of
 128 any public facilities required to be constructed hereunder unless the designated agent notifies the subdivider
 129 or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or
 130 deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period.
 131 Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions
 132 of the performance agreement and the approved design plan and specifications for the facilities for which the
 133 performance guarantee is applicable, and shall not include the approval of any person other than an employee
 134 of the governing body, its administrative agency, the Virginia Department of Transportation or other political
 135 subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia
 136 Department of Transportation or other political subdivision.

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

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

149 D. No designated agent shall refuse to make a periodic partial or final release of a bond, escrow, letter of
 150 credit, or other performance guarantee for any reason not directly related to the specified defects or
 151 deficiencies in construction of the public facilities covered by said bond, escrow, letter of credit or other
 152 performance guarantee.

153 E. Upon written request by the subdivider or developer, the designated agent shall be required to make
 154 periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative
 155 amount equal to no less than ninety percent of the original amount for which the bond, escrow, letter of
 156 credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as
 157 may be authorized by the designated agent based upon the percentage of public facilities completed and
 158 approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic
 159 partial releases may not occur before the completion of at least ~~thirty~~ 15 percent of the public facilities
 160 covered by any bond, escrow, letter of credit, or other performance guarantee. The designated agent shall not
 161 be required to execute more than three periodic partial releases in any twelve-month period. Upon final
 162 completion and acceptance of the public facilities, the designated agent shall release any remaining bond,
 163 escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of
 164 final release, the term "acceptance" means: when the public facility is accepted by and taken over for
 165 operation and maintenance by the state agency, local government department or agency, or other public
 166 authority which is responsible for maintaining and operating such public facility upon acceptance.

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