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HOUSE BILL NO. 771

Offered January 14, 2026

Prefiled January 13, 2026

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

 Patron—Zehr

Committee Referral Pending

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

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

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

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

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

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

5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities or, at the option of the local governing body, presents evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the designated agent; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the designated agent, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the designated agent as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction ~~based on unit prices for new public or private sector construction in the locality~~ as determined by a duly licensed professional engineer or land surveyor, as such terms are defined in § 54.1-400, and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed ~~10~~ five percent of the estimated construction costs. If the owner or developer defaults on construction of such facilities, and such facilities are constructed by the surety or with funding from the aforesaid check, cash escrow, bond or letter of credit, the locality shall be entitled to retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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