

SENATE BILL NO. 388

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Local Government

on \_\_\_\_\_)

(Patron Prior to Substitute—Senator McPike)

*A BILL to amend and reenact §§ 15.2-2201 and 15.2-2286 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2288.9, relating to affordable housing; religious organizations and other nonprofit tax-exempt properties.*

```
<script language="JavaScript"> <!-- function msoCommentShow(anchor_id, com_id) {
```

```
10 if(msoBrowserCheck()) { c = document.all(com_id); a = document.all(anchor_id); if (null != c && null ==
11 c.length && null != a && null == a.length) { var cw = c.offsetWidth; var ch = c.offsetHeight; var aw =
12 a.offsetWidth; var ah = a.offsetHeight; var x = a.offsetLeft; var y = a.offsetTop; var el = a; while (el.tagName
13 != "BODY") { el = el.offsetParent; x = x + el.offsetLeft; y = y + el.offsetTop; } var bw =
14 document.body.clientWidth; var bh = document.body.clientHeight; var bsl = document.body.scrollLeft; var
15 bst = document.body.scrollTop; if (x + cw + ah / 2 > bw + bsl && x + aw - ah / 2 - cw >= bsl ) { c.style.left =
16 x + aw - ah / 2 - cw; } else { c.style.left = x + ah / 2; } if (y + ch + ah / 2 > bh + bst && y + ah / 2 - ch >= bst
17 ) { c.style.top = y + ah / 2 - ch; } else { c.style.top = y + ah / 2; } c.style.visibility = "visible"; } } }
18 function msocommentHide(com_id) { if(msoBrowserCheck()) { c = document.all(com_id); if (null != c &&
19 null == c.length) { c.style.visibility = "hidden"; c.style.left = -1000; c.style.top = -1000; } } function
20 msobrowserCheck() { ms = navigator.appVersion.indexOf("MSIE"); vers =
21 navigator.appVersion.substring(ms + 5, ms + 6); ie4 = (ms > 0) && (parseInt(vers) >= 4); return ie4; } if
22 (msobrowserCheck()) { document.styleSheets.dynCom.addRule(".msocomanchor","background:
23 infobackground"); document.styleSheets.dynCom.addRule(".msocomoff","display: none");
24 document.styleSheets.dynCom.addRule(".msocomtxt","visibility: hidden");
25 document.styleSheets.dynCom.addRule(".msocomtxt","position: absolute");
26 document.styleSheets.dynCom.addRule(".msocomtxt","top: -1000");
27 document.styleSheets.dynCom.addRule(".msocomtxt","left: -1000");
28 document.styleSheets.dynCom.addRule(".msocomtxt","width:33%");
29 document.styleSheets.dynCom.addRule(".msocomtxt","background: infobackground");
30 document.styleSheets.dynCom.addRule(".msocomtxt","color: infotext");}
```

31       document.styleSheets.dynCom.addRule(".msocomtxt","border-top: 1pt solid threedlightshadow");  
32       document.styleSheets.dynCom.addRule(".msocomtxt","border-right: 2pt solid threedshadow");  
33       document.styleSheets.dynCom.addRule(".msocomtxt","border-bottom: 2pt solid threedshadow");  
34       document.styleSheets.dynCom.addRule(".msocomtxt","border-left: 1pt solid threedlightshadow");  
35            document.styleSheets.dynCom.addRule(".msocomtxt","padding: 3pt 3pt 3pt 3pt");  
36            document.styleSheets.dynCom.addRule(".msocomtxt","z-index: 100"); } // --> </script>

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

38       **1. That §§ 15.2-2201 and 15.2-2286 of the Code of Virginia are amended and reenacted and that the**  
39       **Code of Virginia is amended by adding a section numbered 15.2-2288.9 as follows:**

40       **§ 15.2-2201. Definitions.**

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

42       *"501(c)(3) property tax-exempt nonprofit organization"* means any organization exempt from taxation  
43       pursuant to § 501(c)(3) of the Internal Revenue Code of 1954 and whose real property taxes are exempt  
44       pursuant to § 58.1-3609.

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

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

55       "Designated agent" means any agent employed or authorized by a locality and designated by the  
56       governing body to review and act on subdivision plats, site plans, and plans of development. "Designated  
57       agent" does not include the local planning commission. However, the local planning commission may serve  
58       as the designated agent of any locality with a population of 5,000 or less.

59       "Development" means a tract of land developed or to be developed as a unit under single ownership or

60 unified control which is to be used for any business or industrial purpose or is to contain three or more  
61 residential dwelling units. The term "development" shall not be construed to include any tract of land which  
62 will be principally devoted to agricultural production.

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

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

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

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

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

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

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

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

88 "Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and

89 information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and  
90 15.2-2264, and other applicable statutes.

91 "Preliminary subdivision plat" means the proposed schematic representation of development or  
92 subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes  
93 will be achieved.

94 "*Religious organization*" means the same as that term is described in § 58.1-3617.

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

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

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

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

105 "Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the  
106 division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of  
107 transfer of ownership or building development, or, if a new street is involved in such division, any division of  
108 a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the  
109 process of subdividing or to the land subdivided and solely for the purpose of recordation of any single  
110 division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance  
111 with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall  
112 preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line  
113 agreement with one another so long as such agreement is only used to resolve a bona fide property line  
114 dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted  
115 line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and such  
116 agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater  
117 street frontage, or interfere with a recorded easement, and such agreement shall not result in any  
118 nonconformity with local ordinances and health department regulations. Notice shall be provided to the  
119 zoning administrator of the locality in which the parcels are located for review. For any property affected by

120 this definition, any division of land subject to a partition suit by virtue of order or decree by a court of  
121 competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the  
122 minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel  
123 resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by  
124 more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality  
125 in which the property is located.

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

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

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

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

144 **§ 15.2-2286. Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent  
145 taxes; penalties.**

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

148 1. For variances or special exceptions, as defined in § 15.2-2201, to the general regulations in any district.

149        2. For the temporary application of the ordinance to any property coming into the territorial jurisdiction of  
150      the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and  
151      pending the orderly amendment of the ordinance.

152        3. For the granting of special exceptions under suitable regulations and safeguards; notwithstanding any  
153      other provisions of this article, the governing body of any locality may reserve unto itself the right to issue  
154      such special exceptions. Conditions imposed in connection with residential special use permits, wherein the  
155      applicant proposes affordable housing, shall be consistent with the objective of providing affordable housing.  
156      When imposing conditions on residential projects specifying materials and methods of construction or  
157      specific design features, the approving body shall consider the impact of the conditions upon the affordability  
158      of housing. Conditions may include the period of validity for a special exception or special use permit;  
159      however, in the case of a special exception or special use permit for residential projects, the period of validity  
160      shall be no less than three years.

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

166        The governing body of the City of Richmond may impose a condition upon any special use permit issued  
167      after July 1, 2000, relating to retail alcoholic beverage licensees which provides that such special use permit  
168      shall be subject to an automatic review by the governing body upon a change in possession, a change in the  
169      owner of the business, or a transfer of majority control of the business entity. Upon review by the governing  
170      body, it may either amend or revoke the special use permit after notice and a public hearing as required by  
171      § 15.2-2206.

172        4. For the administration and enforcement of the ordinance including the appointment or designation of a  
173      zoning administrator who may also hold another office in the locality. The zoning administrator shall have all  
174      necessary authority on behalf of the governing body to administer and enforce the zoning ordinance. His  
175      authority shall include (i) ordering in writing the remedying of any condition found in violation of the  
176      ordinance; (ii) insuring compliance with the ordinance, bringing legal action, including injunction, abatement,  
177      or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311; and (iii) in specific cases,  
178      making findings of fact and, with concurrence of the attorney for the governing body, conclusions of law

179 regarding determinations of rights accruing under § 15.2-2307 or subsection C of § 15.2-2311.

180 Whenever the zoning administrator has reasonable cause to believe that any person has engaged in or is  
181 engaging in any violation of a zoning ordinance that limits occupancy in a residential dwelling unit, which is  
182 subject to a civil penalty that may be imposed in accordance with the provisions of § 15.2-2209, and the  
183 zoning administrator, after a good faith effort to obtain the data or information necessary to determine  
184 whether a violation has occurred, has been unable to obtain such information, he may request that the  
185 attorney for the locality petition the judge of the general district court for his jurisdiction for a subpoena  
186 duces tecum against any such person refusing to produce such data or information. The judge of the court,  
187 upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such  
188 subpoena shall be subject to punishment for contempt by the court issuing the subpoena. Any person so  
189 subpoenaed may apply to the judge who issued the subpoena to quash it.

190 Notwithstanding the provisions of § 15.2-2311, a zoning ordinance may prescribe an appeal period of less  
191 than 30 days, but not less than 10 days, for a notice of violation involving (a) the storage or disposal of  
192 nonagricultural excavation material, waste, and debris or (b) temporary or seasonal commercial uses, parking  
193 of commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling  
194 unit, or similar short-term, recurring violations.

195 Where provided by ordinance, the zoning administrator may be authorized to grant a modification from  
196 any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of  
197 land, including but not limited to size, height, location or features of or related to any building, structure, or  
198 improvements, if the administrator finds in writing that: (1) the strict application of the ordinance would  
199 produce undue hardship; (2) such hardship is not shared generally by other properties in the same zoning  
200 district and the same vicinity; and (3) the authorization of the modification will not be of substantial  
201 detriment to adjacent property and the character of the zoning district will not be changed by the granting of  
202 the modification. Prior to the granting of a modification, the zoning administrator shall give, or require the  
203 applicant to give, all adjoining property owners written notice of the request for modification, and an  
204 opportunity to respond to the request within 21 days of the date of the notice. The zoning administrator shall  
205 make a decision on the application for modification and issue a written decision with a copy provided to the  
206 applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph.  
207 The decision of the zoning administrator shall constitute a decision within the purview of § 15.2-2311, and  
208 may be appealed to the board of zoning appeals as provided by that section. Decisions of the board of zoning  
209 appeals may be appealed to the circuit court as provided by § 15.2-2314.

210 The zoning administrator shall respond within 90 days of a request for a decision or determination on  
211 zoning matters within the scope of his authority unless the requester has agreed to a longer period. If the  
212 decision or determination by the zoning administrator could impair the ability of an adjacent property owner  
213 to satisfy the minimum storage capacity and yield requirements for a residential drinking well pursuant to  
214 § 32.1-176.4 or any regulation adopted thereunder, the zoning administrator shall provide a copy of such  
215 decision or determination to such adjacent property owner so affected.

216 5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such  
217 violation shall be a misdemeanor punishable by a fine of not more than \$1,000. If the violation is uncorrected  
218 at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance  
219 with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning  
220 violation within the specified time period shall constitute a separate misdemeanor offense punishable by a  
221 fine of not more than \$1,000; any such failure during a succeeding 10-day period shall constitute a separate  
222 misdemeanor offense punishable by a fine of not more than \$1,500; and any such failure during any  
223 succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable  
224 by a fine of not more than \$2,000.

225 However, any conviction resulting from a violation of provisions regulating the storage or disposal of  
226 nonagricultural excavation material, waste, and debris shall be punishable by a fine of \$2,000. Failure to  
227 abate the violation within the specified time period shall be punishable by a fine of \$5,000, and any such  
228 failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day  
229 period punishable by a fine of \$7,500.

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

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

243        7. For the amendment of the regulations or district maps from time to time, or for their repeal. Whenever  
244        the public necessity, convenience, general welfare, or good zoning practice requires, the governing body may  
245        by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property.  
246        Any such amendment may be initiated (i) by resolution of the governing body; (ii) by motion of the local  
247        planning commission; or (iii) by petition of the owner, contract purchaser with the owner's written consent, or  
248        the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment,  
249        addressed to the governing body or the local planning commission, who shall forward such petition to the  
250        governing body; however, the ordinance may provide for the consideration of proposed amendments only at  
251        specified intervals of time, and may further provide that substantially the same petition will not be  
252        reconsidered within a specific period, not exceeding one year. Any such resolution or motion by such  
253        governing body or commission proposing the rezoning shall state the above public purposes therefor.

254        In any county having adopted such zoning ordinance, all motions, resolutions or petitions for amendment  
255        to the zoning ordinance, and/or map shall be acted upon and a decision made within such reasonable time as  
256        may be necessary which shall not exceed 12 months unless the applicant requests or consents to action  
257        beyond such period or unless the applicant withdraws his motion, resolution or petition for amendment to the  
258        zoning ordinance or map, or both. In the event of and upon such withdrawal, processing of the motion,  
259        resolution or petition shall cease without further action as otherwise would be required by this subdivision.

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

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

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

265        11. For provisions allowing the locality to enter into a voluntary agreement with a landowner that would  
266        result in the downzoning of the landowner's undeveloped or underdeveloped property in exchange for a tax  
267        credit equal to the amount of excess real estate taxes that the landowner has paid due to the higher zoning  
268        classification. The locality may establish reasonable guidelines for determining the amount of excess real

269 estate tax collected and the method and duration for applying the tax credit. For purposes of this section,  
270 "downzoning" means a zoning action by a locality that results in a reduction in a formerly permitted land use  
271 intensity or density.

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

282 13. Provisions to incorporate generally accepted national environmental protection and product safety  
283 standards for the use of solar panels and battery technologies for solar photovoltaic (electric energy) projects,  
284 such as those developed for existing product certifications and standards including the National Sanitation  
285 Foundation/American National Standards Institute No. 457, International Electrotechnical Commission No.  
286 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No.  
287 61730-2.

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

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

293 16. For the issuance of inspection warrants by a magistrate or court of competent jurisdiction. The zoning  
294 administrator or his agent may make an affidavit under oath before a magistrate or court of competent  
295 jurisdiction and, if such affidavit establishes probable cause that a zoning ordinance violation has occurred,  
296 request that the magistrate or court grant the zoning administrator or his agent an inspection warrant to enable  
297 the zoning administrator or his agent to enter the subject dwelling for the purpose of determining whether  
298 violations of the zoning ordinance exist. After issuing a warrant under this section, the magistrate or judge

299 shall file the affidavit in the manner prescribed by § 19.2-54. After executing the warrant, the zoning  
300 administrator or his agents shall return the warrant to the clerk of the circuit court of the city or county  
301 wherein the inspection was made. The zoning administrator or his agent shall make a reasonable effort to  
302 obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection  
303 warrant under this section.

304 *17. For the administrative approval of development and construction of housing on land owned by  
305 501(c)(3) property tax-exempt nonprofit organizations pursuant to § 15.2-2288.9.*

306 B. Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any  
307 entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special  
308 use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and  
309 sediment control permits, or prior to the issuance of final approval, the authorizing body may require the  
310 applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater  
311 management utility fees, and any other charges that constitute a lien on the subject property, that are owed to  
312 the locality and have been properly assessed against the subject property, have been paid, unless otherwise  
313 authorized by the treasurer.

314 **§ 15.2-2288.9. Affordable housing; religious organizations and other tax-exempt properties.**

315 A. *Notwithstanding any contrary provision of law, general or special, any locality that has adopted a  
316 zoning ordinance pursuant to this article shall allow by right, and not require a rezoning or other legislative  
317 approval as a precondition to the review or approval of a site plan or subdivision plat, the development or  
318 construction of a mixed-use or residential project by a property tax-exempt religious organization or a  
319 501(c)(3) property tax-exempt nonprofit organization.*

320 B. *Such mixed-use or residential project shall be permitted by right, notwithstanding the use, height, or  
321 density otherwise permitted under the local zoning ordinance. No locality shall require, as a condition of  
322 approval of a subdivision plat, site plan, or plan of development, that a special exception, special use permit,  
323 conditional use permit, or any other discretionary approval be obtained for such mixed-use or residential  
324 project. The review of such mixed-use or residential projects shall be conducted in accordance with the  
325 provisions of §§ 15.2-2258 through 15.2-2261.*

326 C. *Mixed-use or residential projects shall be permitted by right as described in subsection B, provided the  
327 proposed mixed use or residential project meets all of the following conditions:*

328 1. *The property has been owned continuously by the property tax-exempt religious organization or  
329 501(c)(3) property tax-exempt nonprofit organization for five years prior to the housing development*

330 application.

331 2. At least 60 percent of the mixed use or residential project's total housing units are for affordable  
332 housing at 80 percent or less of the area median income, as defined by the U.S. Department of Housing and  
333 Urban Development income limits and rent schedules, for rental units and up to 120 percent of the area  
334 median income for for-sale units, and such affordability is recorded and preserved for a minimum of 30 years  
335 by deed restrictions or other legally binding requirements.

336 3. All housing built is subject to local real property taxation following completion, unless explicitly  
337 exempted by the locality.

338 4. The housing is open to the general public and follows nondiscrimination rules as provided by the  
339 Virginia Fair Housing Law (§ 36-96.1 et seq.).

340 5. The mixed-use or residential project complies with all applicable local, state, and federal  
341 environmental laws and regulations, including local environmental standards contained in zoning and land  
342 use codes for similar projects; Department of Environmental Quality laws and regulations related to wetland  
343 protection, stormwater management, and erosion and sediment control; Department of Transportation laws  
344 governing highway access and secondary streets; and Department of Health laws governing water and  
345 wastewater.

346 D. If a mixed-use or residential project meets the requirements of subsection C, local zoning ordinances  
347 shall be deemed to allow, at a minimum (i) a building height of 40 feet, or the height of the tallest existing  
348 building within 500 feet, except that for properties located within a designated historic district the maximum  
349 permitted building height shall be 60 feet if an existing building of 60 feet or taller is within 500 feet of the  
350 property line, whichever is greater; however, a locality may by ordinance establish higher minimum  
351 residential densities or properties within a revitalization area; (ii) a density of 20 units per acre, or the most  
352 intensive existing residential unit density within 500 feet of the property line of the proposed project,  
353 whichever is greater; (iii) setbacks the length of half the building height or the smallest setback allowed for  
354 any property within 500 feet, whichever is less; (iv) construction of mixed-use and residential developments  
355 with a variety of housing types, including detached, attached, and multifamily housing units; and (v)  
356 residential use of at least 70 percent of the gross floor area, and the remaining uses, not to exceed 30 percent  
357 of the gross floor area, may include public accessible ground-floor nonresidential facilities. Permitted  
358 nonresidential uses shall include religious worship space, child day centers as defined in § 22.1-289.02,  
359 health clinics, coffee shops, or other uses that are ancillary to the operation or mission of the property tax-  
360 exempt religious organization or 501(c)(3) property tax-exempt nonprofit organization. No additional

361 *requirements shall be imposed regarding floor-area ratio, minimum unit size, or minimum lot size.*

362 *Residential parking requirements shall be limited to no more than one space per residential unit, or the least*

363 *restrictive residential parking standard under the local zoning ordinance, whichever is less.*

364 *E. The provisions of this section shall not apply to property adjacent to land zoned for industrial use*

365 *provided there has been an active and operational industrial use as defined by the locality on the property*

366 *within the previous five years.*

367 *F. Nothing in this section shall apply to any existing permits for a housing development on real property*

368 *owned by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit*

369 *organization approved by the locality prior to September 1, 2026.*

370 *G. Nothing in this section shall be construed to restrict a locality's passage prior to September 1, 2026, of*

371 *an ordinance for the development of housing on real property owned by a property tax-exempt religious*

372 *organization or a 501(c)(3) property tax-exempt nonprofit organization, or a subsequent amendment thereof,*

373 *that substantially complies with the requirements of this section.*

374 **2. That the provisions of this act shall become effective on September 1, 2026.**