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SENATE BILL NO. 388**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Local Government
on February 2, 2026)

(Patrons Prior to Substitute—Senators McPike and Carroll Foy [SB 367])

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.

Be it enacted by the General Assembly of Virginia:

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

§ 15.2-2201. Definitions.

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

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

"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. However, the local planning commission may serve as the designated agent of any locality with a population of 5,000 or less.

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

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

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

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

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

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

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

1. For variances or special exceptions, as defined in § 15.2-2201, to the general regulations in any district.
2. For the temporary application of the ordinance to any property coming into the territorial jurisdiction of

the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and pending the orderly amendment of the ordinance.

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

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

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

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

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

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

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

The zoning administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period. If the

184 decision or determination by the zoning administrator could impair the ability of an adjacent property owner
185 to satisfy the minimum storage capacity and yield requirements for a residential drinking well pursuant to
186 § 32.1-176.4 or any regulation adopted thereunder, the zoning administrator shall provide a copy of such
187 decision or determination to such adjacent property owner so affected.

188 5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such
189 violation shall be a misdemeanor punishable by a fine of not more than \$1,000. If the violation is uncorrected
190 at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance
191 with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning
192 violation within the specified time period shall constitute a separate misdemeanor offense punishable by a
193 fine of not more than \$1,000; any such failure during a succeeding 10-day period shall constitute a separate
194 misdemeanor offense punishable by a fine of not more than \$1,500; and any such failure during any
195 succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable
196 by a fine of not more than \$2,000.

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

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

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

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

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

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

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

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

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

244 12. Provisions for requiring and considering Phase I environmental site assessments based on the
245 anticipated use of the property proposed for the subdivision or development that meet generally accepted

national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

318 D. If a mixed-use or residential project meets the requirements of subsection C, local zoning ordinances
319 shall be deemed to allow, at a minimum (i) a building height of 40 feet, or the height of the tallest existing
320 building within 500 feet, except that for properties located within a designated historic district the maximum
321 permitted building height shall be 60 feet if an existing building of 60 feet or taller is within 500 feet of the
322 property line, whichever is greater; however, a locality may by ordinance establish higher minimum
323 residential densities or properties within a revitalization area; (ii) a density of 20 units per acre, or the most
324 intensive existing residential unit density within 500 feet of the property line of the proposed project,
325 whichever is greater; (iii) setbacks the length of half the building height or the smallest setback allowed for
326 any property within 500 feet, whichever is less; (iv) construction of mixed-use and residential developments
327 with a variety of housing types, including detached, attached, and multifamily housing units; and (v)
328 residential use of at least 70 percent of the gross floor area, and the remaining uses, not to exceed 30 percent
329 of the gross floor area, may include public accessible ground-floor nonresidential facilities. Permitted
330 nonresidential uses shall include religious worship space, child day centers as defined in § 22.1-289.02,
331 health clinics, coffee shops, or other uses that are ancillary to the operation or mission of the property tax-
332 exempt religious organization or 501(c)(3) property tax-exempt nonprofit organization. No additional
333 requirements shall be imposed regarding floor-area ratio, minimum unit size, or minimum lot size.
334 Residential parking requirements shall be limited to no more than one space per residential unit, or the least
335 restrictive residential parking standard under the local zoning ordinance, whichever is less.

336 E. The provisions of this section shall not apply to property adjacent to land zoned for industrial use
337 provided there has been an active and operational industrial use as defined by the locality on the property
338 within the previous five years.

339 F. Nothing in this section shall apply to any existing permits for a housing development on real property
340 owned by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit
341 organization approved by the locality prior to September 1, 2026.

342 G. Nothing in this section shall be construed to restrict a locality's passage prior to September 1, 2026, of
343 an ordinance for the development of housing on real property owned by a property tax-exempt religious
344 organization or a 501(c)(3) property tax-exempt nonprofit organization, or a subsequent amendment thereof,
345 that substantially complies with the requirements of this section.

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