

## HOUSE BILL NO. 1112

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns

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

(Patron Prior to Substitute—Delegate Singh)

*A BILL to amend and reenact §§ 15.2-2201 and 15.2-2283 of the Code of Virginia, relating to zoning; high-energy users.*

**Be it enacted by the General Assembly of Virginia:****1. That §§ 15.2-2201 and 15.2-2283 of the Code of Virginia are amended and reenacted as follows:****§ 15.2-2201. Definitions.**

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

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

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

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

*"High-energy user" means any owner, contract purchaser with the owner's written consent, or the owner's*

31 *agent therefor, of property whose expected annual electric energy consumption for a respective project is*  
32 *estimated to exceed 25 megawatts. "High-energy user" does not include any residential development.*

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

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

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

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

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

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

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

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

58 "Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and  
59 information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and  
60 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.

"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

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

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

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

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

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

113 **§ 15.2-2283. Purpose of zoning ordinances.**

114 Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of  
115 the public and of further accomplishing the objectives of § 15.2-2200. To these ends, such ordinances shall be  
116 designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide  
117 for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime  
118 and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a  
119 convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire  
120 protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools,  
121 parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect

122 against destruction of or encroachment upon historic areas and working waterfront development areas; (vi) to  
123 protect against one or more of the following: overcrowding of land, undue density of population in relation to  
124 the community facilities existing or available, *adverse impacts on the electric grid caused by high-energy*  
125 *users*, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or  
126 property from fire, flood, impounding structure failure, panic or other dangers; (vii) to encourage economic  
127 development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the  
128 preservation of agricultural and forestal lands and other lands of significance for the protection of the natural  
129 environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United  
130 States government and military air facilities; (x) to promote the creation and preservation of affordable  
131 housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of  
132 the current and future needs of the planning district within which the locality is situated; (xi) to provide  
133 reasonable protection against encroachment upon military bases, military installations, and military airports  
134 and their adjacent safety areas, excluding armories operated by the Virginia National Guard; and (xii) to  
135 provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C.  
136 § 12131 et seq.) or state and federal fair housing laws, as applicable. Such ordinance may also include  
137 reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water  
138 and ground water as defined in § 62.1-255.