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## HOUSE BILL NO. 1177

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Counties, Cities and Towns  
on February 1, 2008)

(Patron Prior to Substitute—Delegate Lingamfelter)

*A BILL to amend and reenact §§ 15.2-2260 and 15.2-2261 of the Code of Virginia, relating to plats.***Be it enacted by the General Assembly of Virginia:****1. That §§ 15.2-2260 and 15.2-2261 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.

A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its ordinance for the submission of preliminary subdivision plats for tentative approval. The local planning commission, or an agent designated by the commission or by the governing body to review preliminary subdivision plats shall complete action on the preliminary plats within 60 days of submission. However, if approval of a feature or features of the preliminary plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the preliminary plat to the appropriate state agency or agencies for review within 10 business days of receipt of such preliminary plat.

B. Any state agency or public authority authorized by state law making a review of a preliminary plat forwarded to it under this section, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the preliminary plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time period set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in § 15.2-2259 A with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the local agent shall act upon a preliminary plat within 35 days.

C. If a commission has the responsibility of review of preliminary plats and conducts a public hearing, it shall act on the plat within forty-five days after receiving approval from all state agencies. If the local agent or commission does not approve the preliminary plat, the local agent or commission shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by such agent or commission. However, no commission or agent shall be required to approve a preliminary subdivision plat in less than sixty days from the date of its original submission to the commission or agent, and all actions on preliminary subdivision plats shall be completed by the agent or commission and, if necessary, state agencies, within a total of ninety days of submission to the local agent or commission.

D. If the commission or other agent fails to approve or disapprove the preliminary plat within ninety days after it has been officially submitted for approval, the subdivider after ten days' written notice to the commission, or agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

E. If a commission or other agent disapproves a preliminary plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within sixty days of the written disapproval by the commission or other agent.

F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon ninety days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

G. Once an approved final subdivision plat for all or a portion of the property of a multiple phase development is recorded pursuant to § 15.2-2261, the underlying preliminary plat shall remain valid for

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60 *a period of five years from the date of the latest recorded plat of subdivision for the property.*

61 § 15.2-2261. Recorded plats or final site plans to be valid for not less than five years.

62 A. An approved final subdivision plat which has been recorded or an approved final site plan,  
63 hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not less than  
64 five years from the date of approval thereof or for such longer period as the local planning commission  
65 or other agent may, at the time of approval, determine to be reasonable, taking into consideration the  
66 size and phasing of the proposed development. A site plan shall be deemed final once it has been  
67 reviewed and approved by the locality if the only requirement remaining to be satisfied in order to  
68 obtain a building permit is the posting of any bonds and escrows.

69 B. 1. Upon application of the subdivider or developer filed prior to expiration of a recorded plat or  
70 final site plan, the local planning commission or other agent may grant one or more extensions of such  
71 approval for additional periods as the commission or other agent may, at the time the extension is  
72 granted, determine to be reasonable, taking into consideration the size and phasing of the proposed  
73 development, the laws, ordinances and regulations in effect at the time of the request for an extension.

74 2. If the commission or other agent denies an extension requested as provided herein and the  
75 subdivider or developer contends that such denial was not properly based on the ordinance applicable  
76 thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may  
77 appeal to the circuit court having jurisdiction of land subject to the recorded plat or final site plan,  
78 provided that such appeal is filed with the circuit court within sixty days of the written denial by the  
79 commission or other agency.

80 C. For so long as the final site plan remains valid in accordance with the provisions of this section,  
81 or in the case of a recorded plat for five years after approval, no change or amendment to any local  
82 ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of  
83 the recorded plat or final site plan shall adversely affect the right of the subdivider or developer or his  
84 successor in interest to commence and complete an approved development in accordance with the lawful  
85 terms of the recorded plat or site plan unless the change or amendment is required to comply with state  
86 law or there has been a mistake, fraud or a change in circumstances substantially affecting the public  
87 health, safety or welfare.

88 D. Application for minor modifications to recorded plats or final site plans made during the periods  
89 of validity of such plats or plans established in accordance with this section shall not constitute a waiver  
90 of the provisions hereof nor shall the approval of minor modifications extend the period of validity of  
91 such plats or plans.

92 E. The provisions of this section shall be applicable to all recorded plats and final site plans valid on  
93 or after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation  
94 concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited  
95 and thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of  
96 any special use permit, conditional use permit or special exception; (iii) the application to individual lots  
97 on recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the  
98 provisions of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 10.1-2100  
99 et seq.); or (iv) the application to individual lots on recorded plats or parcels of land subject to final site  
100 plans of the provisions of any local ordinance adopted to comply with the requirements of the federal  
101 Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder  
102 by the Environmental Protection Agency.

103 F. *An approved final subdivision plat that has been recorded, from which any part of the property*  
104 *subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), shall*  
105 *remain valid for an indefinite period of time unless and until any portion of the property is subject to a*  
106 *vacation action as set forth in §§ 15.2-2270 through 15.2-2278.*