

# 2012 SESSION

## SENATE SUBSTITUTE

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### HOUSE BILL NO. 326

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Local Government  
on February 21, 2012)

(Patron Prior to Substitute—Delegate Massie)

A BILL to amend and reenact § 15.2-2302 of the Code of Virginia, relating to amendments to proffered conditions.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2302 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2302. Same; amendments and variations of conditions.

A. Subject to any applicable public notice or hearing requirement of subsection B but notwithstanding any other provision of law, any landowner subject to conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 may apply to the governing body for amendments to or variations of such proffered conditions provided only that written notice of such application be provided in the manner prescribed by subsection H of § 15.2-2204 to any landowner subject to such existing proffered conditions. Further, the approval of such an amendment or variation by the governing body shall not in itself cause the use of any other property to be determined a nonconforming use.

B. There shall be no such amendment or variation of any conditions created pursuant to the provisions of § 15.2-2297 proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 until after a public hearing before the governing body advertised pursuant to the provisions of § 15.2-2204. However, where an amendment to such proffered conditions is requested by the profferor pursuant to subsection A, and where such amendment does not affect conditions of use or density, a local governing body may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions created pursuant to § 15.2-2298 or 15.2-2303.

C. Once so amended pursuant to this section, the proffered conditions shall continue to be an amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this Chapter (§ 15.2-2200 et seq.) chapter.

D. Notwithstanding any other provision of law, no claim of any right derived from any condition proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 shall impair the right of any landowner subject to such a proffered condition to secure amendments to or variations of such proffered conditions.

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