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## SENATE BILL NO. 355

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Local Government  
on December 10, 1998)

(Patron Prior to Substitute—Senator Chichester)

*A BILL to amend and reenact § 15.2-2286 of the Code of Virginia, relating to adequate public facilities.*

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

**1. That § 15.2-2286 of the Code of Virginia is amended and reenacted as follows:**

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

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.

The governing body or the board of zoning appeals of any city with a population between 260,000 and 264,000 according to the 1990 United States Census may impose a condition upon any special exception relating to alcoholic beverage control licensees which provides that such special exception 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 upon the passage of a specific period of time.

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.

Where provided by ordinance, the zoning administrator may be authorized to grant a variance from any building setback requirement contained in the zoning ordinance if the administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the variance 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 variance. Prior to the granting of a variance, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within twenty-one days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision.

The zoning administrator shall respond within ninety 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.

5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1,000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding thirty-day period shall constitute a separate misdemeanor offense for

60 each thirty-day period punishable by a fine of not less than \$10 nor more than \$1,000.

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

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

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

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

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

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

88 *11. In any high-growth locality, as described in § 15.2-2298 A, for specific provisions allowing the*  
89 *locality to determine whether public facilities are adequate to support the services which will be*  
90 *required under the new zoning classification. Prior to adopting such provisions, a locality shall clearly*  
91 *identify in its comprehensive plan the (i) public facilities whose adequacy will be used in making such*  
92 *determination, (ii) areas of potential growth where such provisions are applicable and (iii) existing*  
93 *public facilities and public facility needs in those potential growth areas.*

94 B. Prior to the initiation of an application for a special exception, special use permit, variance,  
95 rezoning or other land use permit, or prior to the issuance of final approval, the authorizing body may  
96 require the applicant to produce satisfactory evidence that any delinquent real estate taxes owed to the  
97 locality which have been properly assessed against the subject property have been paid.