



## County of Albemarle

# 2023 Legislative Priorities

### LEGISLATIVE PRIORITIES

- *Enable civil penalties in lieu of criminal punishment for violations of local ordinances*
- *Expand the authority to use photo speed monitoring devices*
- *Require agricultural buildings used by the public to be subject to minimum safety standards*
- *Grant the County taxing authority for school division capital projects*
- *Change eligibility requirements for the Virginia Business Ready Sites Program*
- *Allow public bodies to hold all-virtual public meetings*
- *Special exceptions for short-term rentals to expire under certain circumstances*

#### ***Enable civil penalties in lieu of criminal punishment for violations of local ordinances***

##### PROPOSED

Amend [Virginia Code § 15.2-1429](#) to enable localities to adopt an ordinance to establish a schedule of civil penalties in lieu of criminal punishment for violations of certain local ordinances.

##### ELEMENTS

The enabling authority would authorize a schedule of civil penalties of up to \$500 for the initial summons with increasing amounts, up to a total of \$5,000 in the aggregate under the same set of operative facts. The civil summons would be issued by designated County officers rather than police officers and would allow the violator the opportunity to prepay the civil penalty in lieu of trial. Unpaid civil penalties would be a lien against the property, if applicable, and could be collected as taxes are collected. The enabling authority would exclude those acts expressly punishable as misdemeanors by state law that allow a local option to adopt, traffic infractions, and those violations for which civil penalties are already authorized by state law.

##### RATIONALE

This initiative would enable localities to decriminalize numerous activities regulated by local ordinances by allowing the use of civil penalties instead of criminal penalties for violations. Limited exceptions to enforcing violations of local ordinances as crimes already exist, for example, in [Virginia Code §§ 15.2-980](#) (noise) and [15.2-2209](#) (zoning), which allow localities to adopt a schedule of civil penalties instead. In instances where enforcement of an ordinance is by law enforcement officers, a move to civil penalties provides the added benefit of enabling officers to do other critical police work.

##### PRIOR HISTORY

This priority was addressed during the 2022 General Assembly Session in HB627 (Hudson), which failed in committee.

#### ***Expand the authority to use photo speed monitoring devices***

##### PROPOSED

Amend [Virginia Code §§ 46.2-882](#) and [46.2-882.1](#) to enable the use of photo speed monitoring devices on segments of secondary roads where speeding has been identified as a problem.

##### ELEMENTS

The enabling authority would be implemented by ordinance and would apply only to segments of secondary roads having

posted speeds of 35 miles per hour or higher which are selected based on speeding, crash, and fatality data supporting the need for additional enforcement against speeding. In addition, the selected road segments would be required to have signs posted informing drivers that such devices are being used to monitor speed.

#### RATIONALE

This initiative would give localities the option to use photo speed monitoring devices as an enforcement tool on designated segments of secondary roads where speeding is prevalent. Using such devices would promote public safety by providing broader enforcement of speed limits and safety of law enforcement officers, who might otherwise be required to make traffic stops on potentially dangerous road segments (e.g., segments without shoulders or with limited sight distance). Additionally, the use of technology where human intervention is unnecessary would allow law enforcement officers to do other critical police work.

#### PRIOR HISTORY

This priority was addressed during the 2022 General Assembly session in HB630 (Hudson) and HB747 (Bell), both of which failed in committee.

### ***Require agricultural buildings used by the public to be subject to minimum safety standards***

#### PROPOSED

Amend [Virginia Code § 36-97](#) and other sections of the Virginia Uniform Statewide Building Code to require agricultural buildings used by the public to be subject to minimum safety standards.

#### ELEMENTS

The legislation would revise the definition of “farm building or structure” to remove its “public use” elements (e.g., display, sale, sampling) and add a definition of “public use agricultural buildings,” a use that would be subject to requirements such as having an automatic fire alarm system, emergency lights at exits, panic hardware on all required exit doors, portable fire extinguishers, and a maximum occupancy of 200 persons, with occupancy over 200 being classified in a different use group.

#### RATIONALE

The stated purpose of the Virginia Uniform Statewide Building Code is to “protect the health, safety and welfare of the residents of the Commonwealth . . . .” [Virginia Code § 36-99](#) exempts “farm buildings or structures” from the provisions of the Building Code, except for those portions of a building that are operated as a restaurant and licensed by the State Board of Health as such. Historically, these types of buildings and structures were not regularly hosting hundreds of people as they are now at farm wineries, limited breweries, limited distilleries, and other agricultural operations. To protect public safety in the event of a fire or another emergency, agricultural buildings that are open to the public should be subject to minimum safety standards.

#### PRIOR HISTORY

This priority was addressed during the 2022 General Assembly session, by the legislature’s enactment of [SB400](#) (Hanger). The bill, approved by the Governor, requires reenactment by the General Assembly in its 2023 session before its requirements become effective.

### ***Grant the County taxing authority for school division capital projects***

#### PROPOSED

Amend [Title 58.1, Subtitle I, Chapter 6 of the Code of Virginia](#) to make Albemarle County eligible to levy an additional 1% retail sales tax for the purpose of funding school division capital projects.

#### ELEMENTS

Either amend [Virginia Code § 58.1-602](#) to designate Albemarle County, in addition to other previously designated cities and counties, as a “qualifying locality” with such authority, or amend [Virginia Code § 58.1-605.1](#) to provide such authority to all cities and counties. In either case, the imposition of such a tax would require approval in a local referendum and would be subject to expiration no more than 20 years after the board’s initiation of the referendum.

## RATIONALE

The County lacks a dedicated funding mechanism for school construction and renovation projects. Such projects are largely funded presently by existing tax revenues and proceeds of bond issues. Additional taxing authority would generate revenues dedicated solely to school division capital projects, providing further fiscal capacity and flexibility to the County.

### ***Change eligibility requirements for the Virginia Business Ready Sites Program***

#### PROPOSED

Amend [Virginia Code § 2.2-2240.2:1](#) to allow sites of 50 contiguous acres or more be eligible for funding.

#### ELEMENTS

The legislation would reduce from 100 acres to 50 acres the minimum acreage of sites eligible for site development grants under the Virginia Business Ready Sites Program. The change could be implemented on a statewide basis by amending clause (i) of subsection (A) or, alternatively, by adding GO Virginia Region 9, in which the County is located, to Regions 1 and 2, as regions in which the lower threshold applies.

## RATIONALE

The Virginia Business Ready Sites Program is a discretionary program to promote development and characterization of sites to enhance the Commonwealth of Virginia's infrastructure and promote its competitive business environment. The program's goal is to identify and assess the readiness of potential industrial sites of at least 100 contiguous acres. Albemarle County has identified sites that would otherwise fulfill the requirements for site development grants but for their acreage. The proposed amendment to the state code to decrease the required size of industrial sites from 100 to 50 contiguous acres would allow the County to seek such grants.

### ***Allow local public bodies to hold all-virtual public meetings***

#### PROPOSED

Amend the Virginia Freedom of Information Act to allow all local public bodies to hold all meetings virtually.

#### ELEMENTS

The legislation would amend [subsection \(C\) of Virginia Code § 2.2-3708.3](#) by striking from its introductory clause the words "local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and" and limiting the application of paragraph (9) of subsection (C) to state public bodies.

## RATIONALE

As enacted, 2021 amendments to the Virginia Freedom of Information Act prohibit certain local public bodies from holding any all-virtual public meetings. The amendments further restrict other local public bodies from holding all-virtual public meetings more than two times per calendar year or 25% of the meetings held per calendar year, whichever is greater, and from holding consecutive all-virtual public meetings. These restrictions on all-virtual meetings inhibit prospective applicants from seeking appointment to the county's boards, commissions, and committees. The proposed amendments would promote both service on local public bodies and broader public participation in their meetings. All other existing requirements would remain unchanged, ensuring the continuation of open and transparent all-virtual public meetings.

### ***Special exceptions for short-term rentals to expire under certain circumstances***

#### PROPOSED

Amend [Virginia Code § 15.2-2286\(A\)\(3\)](#) to allow Albemarle County to regulate short-term rentals by authorizing the county to provide for the expiration of a special exception for a short-term rental upon a change in ownership of the property and in other circumstances.

## ELEMENTS

The legislation would amend the state code by adding the following paragraph at the end of paragraph (3) of subsection A:

The governing body of the County of Albemarle may impose a condition upon any special exception or special use permit relating to short-term rentals that provides that such special exception or special use permit will automatically expire upon a change of ownership of the property, a change in the owner of the business or a transfer of majority control of a business entity, a change in possession, a change in the operation or management of a facility, or the passage of a specific period of time.

## RATIONALE

The operation of a short-term rental in Albemarle County requires the approval of a special exception by the Board of Supervisors. Currently, special exceptions “run with the land,” meaning that once a special exception is approved by the board, a property can be operated as a short-term rental in perpetuity, even after a change in ownership. Albemarle County is concerned that short-term rentals negatively impact the county’s housing supply and is especially concerned that the continued acquisition of properties by business entities and their operation as short-term rentals, all for investment purposes, exacerbate this problem. The proposed legislation would allow the county to restrict special exceptions so that approval of a new special exception could be required in certain circumstances, including upon a change in ownership of a property.

## SIGNIFICANT LEGISLATIVE POSITIONS AND POLICY STATEMENTS

The Board of Supervisors 2023 Legislative Positions and Policy Statements include the following:

### ***Impact fees***

Support legislation to enable localities to impose impact fees on residential development and eliminate cash proffers.

### ***Erosion and sediment control standards for agriculture and forestry operations***

Support legislation to establish minimum erosion and sediment control standards for agriculture and forestry operations.