

Proposed 2020 Legislative Priorities and Carried-Over Initiatives

Proposed 2020 Legislative Priorities

1. Impact Fees

Priority: Initiate or support legislation that would repeal current Virginia Code §15.2-2328, which limits impact fees to only those localities that had established an urban transportation service district and adopted an impact fee ordinance on or before December 1, 2008, and enable impact fees to be available to all localities. Support legislation that would grant localities the authority to develop impact fee programs to meet the capital needs attributable to new development as specified in Virginia Code §15.2-2329. Staff anticipates that impact fees would be in lieu of any cash proffers.

Rationale: Under the current State law, the financial burden of addressing the impacts on public facilities resulting from new residential development falls on those projects that go through the rezoning process for which cash proffers are accepted, or by current residents and businesses, through taxes. A proper impact fee program would replace the cash proffer program. An impact fee could have at least four positive effects: (i) it would be more fair by spreading the cost of addressing the impacts to all new development, including by-right development; (ii) the per unit cost to address impacts should be reduced because the impact fee draws from a base that is much larger than those residential development for which proffers are accepted; (iii) it would eliminate the disincentive to rezone land in the development area because of cash proffers; and (iv) developers may be incentivized to rezone their land for residential development in a way that is consistent with the Comprehensive Plan.

2. Carrying Specified Loaded Weapons in Public Areas

Priority: Initiate or support legislation to amend Virginia Code § 18.2-287.4 to add Albemarle County to the list of localities in which carrying specified loaded weapons in public areas is prohibited.

Rationale: The current law makes it unlawful for any person to carry specified semi-automatic weapons and shotguns on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public. The law applies in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William. The specified weapons that are prohibited are semi-automatic center-fire rifles or pistols that are equipped at the time of the offense with a magazine that will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock, and shotguns with magazines that will hold more than seven rounds. The authority, if granted, would improve public safety in public areas where many people may be present.

3. Equal Taxing Authority

Priority: Initiate or support legislation granting urban counties taxing powers equal to those granted to cities, without decreasing, limiting, or changing city taxing authority.

Rationale: Cities and counties have different authority to levy excise taxes on cigarettes, admissions, transient room rentals, and meals. Through their general taxing authority or by charter, cities have broad authority to levy these taxes, without caps and without the need to hold a referendum. Counties, to the contrary, cannot levy cigarette and admissions taxes. Counties may levy transient occupancy taxes subject to a restrictive cap and the requirement that the revenue generated be spent only for designated purposes. Many counties, including Albemarle County, are subject to a five percent cap and are required to spend all taxes in excess of two percent on tourism-related purposes. Lastly, counties may impose a food and beverage tax which is subject to a cap and, for all but a very limited number of counties, the tax may be established only if it is approved by the voters in a referendum. The distinction in taxing authority between cities and counties exists due to historical differences in the levels of services provided by cities (urban level) and counties (rural level). Urbanizing counties such as Albemarle County are facing

increasing obligations and demands for services traditionally provided by cities. In addition, the State requires counties as well as cities to provide, deliver, and fund services in the areas of education, the environment, human services, and public safety, among others. The counties' ongoing dependency on the real property tax to fund these services and facilities is likely to grow in a way that is commensurate with the needs of the respective counties. A dependency on the real property tax adversely affects those counties with tax-exempt property and those who have real property tax programs, such as land use valuation, that promote other policies of the State. Therefore, new local taxing authority for urbanized or urbanizing counties is necessary.

4. **In-kind Resources to Volunteer Firefighting and Emergency Service Providers**

Priority: Initiate or support legislation to amend Virginia Code § 15.2-953(B) to enable localities to provide in-kind resources to volunteer firefighting and emergency service providers.

Rationale: Virginia Code § 15.2-953 is the enabling authority for localities to make charitable contributions or donations for not-for-profit and other qualifying entities that provide various services to the public. Localities are enabled under that section to contribute real property, personal property, and money to volunteer firefighting and emergency service providers, but are not enabled to provide in-kind resources to qualifying entities except when the donation is for an "event" sponsored by the donee. The value of a locality's monetary contribution could be enhanced if the locality was also enabled to provide in-kind resources such as, for example, project and contract management services for capital projects.

5. **Civil Penalties for Open Burning Violations**

Priority: Initiate or support legislation to enable localities to seek civil penalties for open burning violations.

Rationale: County Code § 6-408 provides that a violation of any County open burning regulation is a Class 1 misdemeanor. The maximum penalty upon conviction of a Class 1 misdemeanor is confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both. County Code § 6-408 also mirrors that model ordinance promulgated by the Virginia Department of Environmental Quality in 9VAC5-130-100. The proposed legislation would provide localities with the authority to seek civil penalties as an alternative remedy when the locality's open burning laws are violated.

6. **Expanding the Powers of Land Bank Entities**

Priority: Initiate or support legislation to amend the Land Bank Entities Act (Virginia Code § 15.2-7500 *et seq.*) to enable localities to purchase any land within the locality for developing affordable housing.

Rationale: The Land Bank Entities Act enables localities to create land bank entities "for the purpose of assisting the locality to address vacant, abandoned, and tax delinquent properties." Land banks and land trusts are recognized tools to preserve affordable dwellings as such. Staff has recommended pursuing an amendment to the Land Bank Entities Act to expressly enable localities to purchase land for that purpose.

Carried-Over Initiatives

With very minor edits, the explanations below are from the Board of Supervisors' work on its 2019 legislative priorities.

1. **Homestay Platform Reporting**

Initiate or support legislation to require homestay platforms to report all homestay businesses operating in each locality each year.

Virginia Code § 15.2-983 enables the County to, "by ordinance, establish a short-term rental registry and require operators within the locality to register annually." The registration may require the operator to provide the complete name of the operator and the address of each property in the locality offered for

short-term rental by the operator. Staff anticipates that members of the General Assembly would expect a detailed statement explaining the problem, why Virginia Code § 15.2-983 is inadequate, and how legislation would resolve the problem. Because the County has not yet adopted a registry ordinance, and because there are other tools available to identify homestay operators (through agreements with homestay platforms and technology services), staff believes this issue requires further work before requesting additional enabling authority.

2. **Antique Motor Vehicles**

Members of the Albemarle County Police Department and representatives of the Department of Motor Vehicles suggested to a Board member that the County initiate legislation to amend the definition of “antique motor vehicle” to increase the minimum age of antique vehicles from 25 years to 30 years. At the October 10 work session on legislative priorities, Board members discussed the broad implications of this proposed change, the need for stakeholders such as car clubs and other car organizations to be included in any proposed change, and that 25 years was a national standard minimum age for antique vehicles. Staff recommends that this legislation not be pursued this year.

3. **Public Safety Volunteers**

A Board member suggested initiating legislation creating tax deduction incentives for public safety volunteers similar to those available for volunteers with other entities. Staff has additional work to do on this issue and recommends that this legislation not be pursued this year.