



# Albemarle County's 2021 Legislative Priorities

Virginia General Assembly 2021

## INTRO

Each year the Albemarle County Board of Supervisors considers and approves its legislative priorities and submits them to the Thomas Jefferson Planning District Commission (TJPDC), the Virginia Association of Counties, and the Virginia Municipal League.

## MISSION

To enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds.

## VISION STATEMENT

- Abundant natural, historic, and scenic resources
- Healthy ecosystems
- Active and vibrant development areas
- A physical environment that supports healthy lifestyles
- A thriving economy
- Exceptional educational opportunity for present and future generations

## CORE VALUES

Community

Integrity

Innovation

Stewardship

Learning

- Civil penalties in lieu of criminal punishment for violations of local ordinances
- Increased civil penalties for repeated violations of zoning regulations
- Carry over appropriated funds from year to year on multi-year capital projects and grants
- Amend the Definition of “Farm Buildings or Structures” in the Virginia Uniform Statewide Building Code
- Virtual public meetings when a state or local emergency is declared and certain conditions exist
- Prohibit firearms at jointly-owned facilities and public facilities located outside of the locality's boundaries

### New legislative positions and policy statements

Stop extending the sunset clauses in Virginia Code § 15.2-2209.1

First adopted during the Great Recession to extend the validity of certain land use approvals even though rights had not vested

Expand the authority to use photo speed monitoring devices

HB 1442 authorizes State and local law enforcement agencies to use photo speed monitoring devices in school crossing zones and highway work zones, with maximum penalty of \$100

Like other new laws, the General Assembly will want to see how the new law is functioning for awhile before it will consider expanding its scope

### Enable an Increase in the Schedule of Civil Penalties for Zoning Violations

Proposed: Increase the maximum civil penalties in the schedule to not exceed \$500 (1st), \$1,000 (2nd), \$1,500 (3rd), and \$2,000 (4th) per violation, which more closely mirrors the fines that may be imposed for criminal violations of zoning regulations in Virginia Code § 15.2-2286.

Rationale: As explained in Section 1, Virginia Code § 15.2-2209 enables localities to elect to enforce violations of their zoning regulations as civil penalties by adopting a schedule of penalties, with a maximum of \$200 for the first violation and \$500 for each violation thereafter, with a maximum aggregate of \$5,000. Once the \$5,000 maximum aggregate is reached, the locality then may pursue criminal enforcement. These limits were last revised in 2006. As an alternative to seeking civil penalties or criminal enforcement, a locality may seek injunctive relief. Staff believes that some violators may see the \$500 civil penalty as a cost of doing business, which can cause violations to continue for a long time. In addition, while the court may order a violator to abate the violation within a specified period of time, the violator has the option to prepay the civil penalty, avoid a trial, and avoid an abatement order.

## **Enable Localities to Carry Over Appropriated Funds for Multi-year Capital Projects and to Carry Over Outstanding Grants from Year to Year**

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Proposed: Amend Virginia Code § 15.2-520 to allow funds appropriated for multi-year capital projects and outstanding grants to be carried over from year-to-year without being re-appropriated, and make corresponding amendments to Virginia Code § 15.2-2506.

Rationale: This initiative is requested by the Department of Finance and Budget. When the County's Office of Management and Budget conducted a comprehensive review of general appropriation practices in 2018, it found that Arlington, Chesterfield, and Hanover counties used a best practices approach to multi-year capital budgeting by using a more efficient appropriation and carry over approach. For example, in Hanover County as part of its normal annual budget resolution, its board of supervisors adopts a resolution to carry forward capital project balances within its capital improvement program fund, as well as encumbrances within all funds. Because the board approves this resolution, staff in those localities are able to carry forward the capital project funds without having to go back to the board for a separate approval. This resolution also gives them the latitude to make budgetary adjustments as staff closes out the previous fiscal year to ensure the proper project balances are brought forward into the new fiscal year. The approach applied by Albemarle County, which requires a re-appropriation each year, is inefficient and imposes a significant administrative burden affecting calculations, and requires closing purchase orders, and re-opening purchase orders, among other things.

The Department of Finance has also requested that similar enabling authority be sought for outstanding grants. Under current Virginia Code §§ 15.2-520 and 15.2-2506, in counties operating under the county executive form of government (the counties of Albemarle and Prince William, funds appropriated for outstanding grants may be carried over for one year without being re-appropriated.

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## **Enable Public Bodies to Meet by Electronic Communication Means When a State or Local Emergency is Declared and Certain Conditions Exist**

Proposed: Amend Virginia Code § 2.2-3708.2 to allow governing bodies to consider and adopt an ordinance to provide for the continuity of their government pursuant to § 15.2-1413.

Rationale: The Board's continuity of government ordinance was adopted pursuant to the authority in Virginia Code § 15.2-1413, which allows the Board to adopt such an ordinance "in the event of enemy attack or other disaster." The COVID-19 pandemic was declared by the Governor in Executive Order 51 to be a "communicable disease of public health threat" and a "disaster." Nonetheless, the Board was required to physically assemble in order to adopt the emergency ordinance to continue its government. This initiative would require amending the Virginia Freedom of Information to allow local governing bodies to assemble by electronic communication means to adopt a continuity of government ordinance where it is determined that it would impose a substantial risk to the health or safety for the governing body and the public to physically assemble. Staff also recommends that this legislation extend to other local public bodies.

## **Amend the Definition of “Farm Buildings or Structures” in the Virginia Uniform Statewide Building Code or Establish Minimum Standards**

**Proposed:** Amend the definition of “farm buildings or structures” in Virginia Code § 36-97 to state that these buildings and structures are not intended for public use and eliminate product display, sampling, and sales as allowed activities; add a definition of “public use agricultural building” to mean “A building or structure not used for residential purposes, located on property where farming operations take place, that allows the public to experience activities and purchase items normally associated with farming operations and attend events sponsored on the farm.” Lastly, direct that standards for “public use agricultural building” be developed.

**Rationale:** Although the stated purpose of the State laws requiring minimum construction standards is to protect the public health, safety, and welfare of the residents of the Commonwealth, farm buildings and structures are, for the most part, exempt from the Virginia Uniform Statewide Building Code (“Building Code”) (Virginia Code § 36-99). An exception to the exemption applies to those buildings or portions of buildings located on a farm that are operated as a restaurant as defined by State law and licensed as a restaurant by the State Board of Health. This means that large gatherings of people may occur in buildings and structures that are not constructed to the minimum standards of the Building Code. One solution would be to amend the definition of “farm buildings or structures” in Virginia Code § 36-97.

## **Enable Civil Penalties In Lieu of Criminal Punishment for Violations of Local Ordinances**

**Proposed:** Amend Virginia Code § 15.2-1429 to allow localities the option to adopt an ordinance to pursue civil penalties in lieu of criminal punishment, subject to the same limits on civil penalties as exist for corresponding misdemeanors, with authority to issue civil summons and the violator to prepay.

**Rationale:** This initiative would enable localities to decriminalize numerous activities regulated by local ordinances, rather than have violations prosecuted as crimes. The general law in Virginia regarding the punishment for violating local ordinances is Virginia Code § 15.2-1429, which provides that violations of local ordinances “be enforced by proceedings as if such violations were misdemeanors” and provides that the fine or term of confinement may not exceed that for a Class 1 misdemeanor (up to a \$2,500 fine, up to one year imprisonment). State law has exceptions to enforcing violations of local ordinances as crimes. For example, Virginia Code § 15.2-2209 enables localities to elect to enforce violations of their zoning regulations as civil penalties by adopting a schedule of penalties, with a maximum of \$200 for the first violation and \$500 for each violation thereafter, with a maximum aggregate of \$5,000. A review of how other states enable their localities to enforce violations of local ordinances has not yet revealed a consistent approach.



## **Amend Virginia Code § 15.2-915 to Clarify that it may Apply to Jointly-owned Public Facilities and Public Facilities Outside of a Locality's Boundaries**

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Proposed: Amend Virginia Code § 15.2-915 to include jointly-owned public facilities and authorize localities to prohibit firearms at their public facilities located outside of their boundaries.

Rationale: Virginia Code § 15.2-915 was amended in 2020 to authorize localities to adopt ordinances to prohibit the possession or carrying of firearms, ammunition, or components, or any combination thereof, in: (1) any building, or part thereof, owned or used by the locality for governmental purposes; (2) any public park owned or operated by the locality; (3) any recreation or community center facility; or (4) any public street, road, alley, sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit (collectively, "public facilities"). Virginia Code § 15.2-915 requires that the public facilities must be owned or used by the locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes. The new law is unclear whether it applies to public facilities jointly owned by the County and the City, such as Darden Towe Park, or to the buildings of a "local governmental entity" jointly created by multiple localities, such as a regional library system. In addition, Albemarle County has public facilities located outside the boundaries of the County – in particular, its County Office Building.

