

Town of Vienna 2024 Legislative Agenda

Following a public hearing conducted on November 13, 2023, on December 4, 2023, the Citizens of the Town of Vienna, through its duly elected Town Council, adopted the following Legislative Agenda and respectfully proposes to the General Assembly of the Commonwealth of Virginia the following:

2024 Legislative Agenda Items:

LEGISLATIVE REQUESTS – LISTED BY PRIORITY

LEGISLATIVE PRIORITIES

1. The Town of Vienna requests an amendment to Va. Code Section 15.2-961.1 “Conservation of trees during land development process in localities in Planning District 8”; and Va. Code Section 15.2-961 “Replacement of trees during development process in certain localities”. Specifically, the Town requests local zoning authority to provide tree canopy credits for development that preserves medium and large trees on lots under development and/or the authority to require developers to ensure 20% tree canopy coverage in **10 years** rather than 20 years and improve storm water management efforts and water quality. Currently only the City of Williamsburg and jurisdictions with grandfathered provisions adopted prior to 1990 (such as Fairfax County, which surrounds the Town of Vienna).

In addition, local municipalities should have the option to put in place laws to protect trees that are notable for their species, age, size, beauty, or other special significance as part of a tree canopy ordinance. Given the vital role that trees play in the protecting our urban environments, and their contributions to the local look and feel of neighborhoods, decisions over tree policies should be determined at the local level, reflecting the wishes of the local residents. Trees canopy requirements or incentives should also be included in acceptable best management practices for storm water management.

2. The Town of Vienna opposes any action to establish, or facilitate the establishment of, any gambling casino in Fairfax County. The Town particularly opposes any such action that would lead to the establishment of a gambling facility in the Tysons area. Any such facility likely would have substantial deleterious effects on the quality of life in Vienna, including increased traffic, additional costs to locally owned independent businesses, and erosion of public morals.
3. The Town of Vienna opposes any bill that reduces or eliminates local land use authority.

4. Request to Amend State Code §15.2-1400(E) to permit localities to have May local elections:

§ 15.2-1400. Governing bodies. —

- A. The qualified voters of every locality shall elect a governing body for such locality. The date, place, number, term, and other details of the election shall be as specified by law, general or special. Qualification for office is provided in Article 4 (§ 15.2-1522 et seq.) of Chapter 15.
- B. The governing body of every locality shall be composed of not fewer than three nor more than 11 members.
- C. Chairmen, mayors, supervisors, and councilmen are subject to the prohibitions set forth in §§ 15.2-1534 and 15.2-1535.
- D. A governing body may punish or fine a member of the governing body for disorderly behavior.
- E. Notwithstanding the provisions of §§ 24.2-222 and 24.2-222.1, any city or town charter, or any other provision of law, general or special, beginning with any election held after January 1, 2022, elections for mayor, members of a local governing body, or members of an elected school board shall be held at the time of the November general election for terms to commence January 1.
- F. Notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the governing body, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large. (1971, Ex. Sess., c. 199, §15.1-37.4; 1982, c. 297; 1983, c. 595; 1995, c. 249; 1997, c. 587; 2021, Sp. Sess. I, cc. 103, 225.)

5. **The Town of Vienna strongly opposes ending qualified immunity or making changes to sovereign immunity.**

Under current law, immunity is not guaranteed or absolute, it must be earned. The Town has concerns regarding the chilling affect this would have on retaining current officers and recruiting future officers. Officers are asked to make split second decision and this immunity is necessary for their protection. Recently, the Town investigated completely false allegations that were made against officers in two separate incidents. Although the Town ascertained these allegations to be intentionally falsely made, lawsuits could have still be filed.

LEGISLATIVE POSITIONS

- 6. Dillon Rule**
The Town of Vienna respectfully requests the General Assembly to consider changes to the application of the Dillon Rule to local government public bodies to enable more local input and decision making in traditionally local government matters.
- 7.** The Town of Vienna supports a change to the VDOT local road maintenance funding formula from lane mileage to lane volume: or, in the alternative, request changes that provide additional funding to localities that maintain their roads and have roads that exceed the statewide average traffic volumes for such types of roads by more than 20%. In addition, the Town of Vienna supports a change to the composition to the Commonwealth Transportation Board to have greater representation to the urban/dense suburban areas of the Commonwealth.
- 8.** The Town of Vienna requests the General Assembly to adopt a requirement for electrical and telecommunication above ground utilities to be undergrounded in urban/suburban areas within a defined timeframe. The cost of such undergrounding would be required to be part of the utilities statewide rate structure.
- 9.** Virginia Code §2.2-4304 (cooperative procurement) should be amended to permit localities to use cooperative procurement for competitively bid construction contracts for certain projects *not exceeding \$200,000*.

The Town of Vienna has been impacted financially by the amendment to Virginia Code §2.2-4304. In the past, the Town has seen demonstrable savings from using cooperative procurement for small construction projects. The estimated additional cost to the Town in the first year following Code amendments is estimated to be \$73,884.50. In 2018, the Town of Vienna paid almost \$500,000 for construction contracts under \$200,000. Based on a survey of another local jurisdiction's costs for similar projects in 2018, the Town paid an average of 30% (approximately \$150,000) more than it would have if it could have used cooperative procurement.
- 10.** The Town of Vienna requests language added to the state code to specifically include "new sidewalk projects" as eligible for HB 2313 funding. An expanded sidewalk network provides transportation options and reduces motorized vehicle use and congestion. Revised transportation funding ranking criteria language under HB 2313, HB 2, HB 599 regarding "congestion mitigation" and "additional capacity" should specifically include sidewalk funding in dense urban areas where providing alternative means of transportation reduces single-occupancy auto use.
- 11.** The Town of Vienna supports revenue sharing mechanisms between localities and the state.

12. The Town of Vienna opposes legislation that reduces the current local government authority to review and approve applications for the use of the public right-of-way, including such use by wireless telecommunication providers, but does not oppose legislation consistent with the Virginia Constitution's requirement for transparency and local legislative approval.

Virginia Constitution - Section 9. Sale of property and granting of franchises by cities and towns. — No rights of a city or town in and to its waterfront, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges, or other public places, or its gas, water, or electric works shall be sold except by an ordinance or resolution passed by a recorded affirmative vote of three fourths of all members elected to the governing body.

No franchise, lease, or right of any kind to use any such public property or any other public property or easement of any description in a manner not permitted to the general public shall be granted for a longer period than forty years, except for air rights together with easements for columns of support, which may be granted for a period not exceeding sixty years. Before granting any such franchise or privilege for a term in excess of five years, except for a trunk railway, the city or town shall, after due advertisement, publicly receive bids therefor. Such grant, and any contract in pursuance thereof, may provide that upon the termination of the grant, the plant as well as the property, if any, of the grantee in the streets, avenues, and other public places shall thereupon, without compensation to the grantee, or upon the payment of a fair valuation therefor, become the property of the said city or town; but the grantee shall be entitled to no payment by reason of the value of the franchise. Any such plant or property acquired by a city or town may be sold or leased or, unless prohibited by general law, maintained, controlled, and operated by such city or town. Every such grant shall specify the mode of determining any valuation therein provided for and shall make adequate provisions by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates and the maintenance of the property in good order throughout the term of the grant.
(Virginia Constitution Article 7 § 9 (1971))

13. The Town has had a very successful working relationship Northern Virginia Regional Transportation Authority (NVTA) and continues to coordinate with the NVTA on funding for eligible transportation projects that benefit the Town of Vienna and the region. However, given the unique nature of towns that build and maintain their roadway systems, the Town of Vienna believes the Northern Virginia Towns should have one vote as a standing member of the Northern Virginia Regional Transportation Authority. Virginia Code Sections 33.2-2501 *et seq.* should be amended accordingly.

14. Proposed amendments to FOIA open meeting provisions to accommodate virtual/remote participation at public hearings and participation by members of the public body in times other than declared emergencies, including the use of virtual/remote participation of members of the public body for conference and work sessions where no formal vote is taken, as well as the use of virtual/remote participation for members of a public body who are health care professionals and following their exposure to a communicable disease of public health threat or a communicable disease as defined by Virginia Code § 32.1-116.3.
15. The Town of Vienna requests the General Assembly to adopt legislation that allows localities to adopt an “Extended Producer Responsibility Program” to help achieve a goal of 100% recycling of packaging materials. The proposed legislation would shift the cost of managing packaging waste from municipalities and citizens to producers of the products we buy. It places a fee on producers based on their packaging choices. Payments by producers will be based on the net amount of packaging sold into the state and will take into account toxicity and whether the packaging is readily recyclable. This will provide incentives for producers to choose more readily recyclable packaging and use less packaging.
16. The Town of Vienna supports an amendment to Virginia State Code Section 15.2-107.1 relating to newspaper legal advertisement requirements. Current requirements add expense and are considered not generally viewed by the public.

Proposed amendment as follows:

15.2-107.1 Advertisement of legal notices on web sites

In addition to any requirements that a locality advertise legal notices in a newspaper having a general circulation in the locality, such notices may also be published on the locality's website.

17. The Town of Vienna supports restoration and maintenance of full 599 funding to localities.
18. Add taxing vaping products to the legislative agenda. I would most likely passed through authorities like the NVCTB (tobacco sales), It is currently untaxed and growing source of revenue.
19. Clarify that Counties are required to pass on a share of their plastic bag tax to Towns in their jurisdictions using the sales tax pass through rules. The County says it can pass it along, but it does not have to, so it is currently not remitted to the Town.

Approved this 4th day of December, 2023.

Linda J. Colbert
Linda J. Colbert, Mayor

ATTEST:

Melanie J. Clark
Town Clerk

C:SDB/LegislativeAgenda Approved 12 04 2023