NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD
FAIRFAX, VIRGINIA 22030

NRA

July 22, 2020

The Honorable Libby Garvey
2100 Clarendon Blvd #300
Arlington, Virginia 22201

Dear Chair Garvey:

On behalf of our members in Arlington, I would like to communicate our opposition to item #63 on the Board of Supervisors Carryover Meeting agenda.

Please review the enclosed regarding our opposition.

Sincerely,

D.J. Spiker
Virginia State Director
NRA-ILA

Enclosure: NRA-ILA Comments of Opposition on Agenda Item #63

CC: The Honorable Matt de Ferranti
The Honorable Katie Cristol
The Honorable Christian Dorsey
The Honorable Takis P. Karantonis

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COMMENTS OF THE NATIONAL RIFLE ASSOCIATION ON PROPOSED FIREARM RESTRICTIONS

July 20, 2020

Overview:
On April 22, Gov. Ralph Northam signed HB421/SB35 into law as part of a wide-ranging effort to restrict gun rights in the Commonwealth. The legislation altered the state firearms preemption statute, VA Code Ann. § 15.2-915, to permit localities to prohibit firearms in an array of locations at their discretion.

Specifically, those locations are:

> *(i) in any building, or part thereof, owned or used by such locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes;*
> *(ii) in any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality;*
> *(iii) in any recreation or community center facility operated by the locality, or by any authority or local governmental entity created or controlled by the locality; or*
> *(iv) in any public street, road, alley, or 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.*

Legislation proposed by the Arlington County Board would amend Arlington County Code Chapter 13 to create gun-free zones at each of the locations enumerated in the amended VA Code Ann. § 15.2-915. The legislation would also prohibit "the possession, carrying, storage or transportation of firearms by County employees, agents or volunteers in workplaces owned, operated, leased or managed by the County is prohibited."

The proposed ordinance does not exempt concealed handgun permit holders from this prohibition. A violation of the proposed ordinance would be punishable as a Class 1 Misdemeanor, which carries a penalty of up to 12 months in jail and up to a $2,500 fine.

The proposed ordinance is confusing, unpredictable, and would imperil otherwise law-abiding gun owners
The locations that would be subject to a firearms prohibition under the proposed legislation are ill-defined and unpredictable, which will lead law-abiding residents to forego their Right-to-Carry for self-defense for fear of fine or incarceration.

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Consider the language which bars the "in any building, or part thereof, owned or used, by the County, or by any authority or County-created or controlled entity, for governmental purposes."

It would be difficult enough for the average resident to determine each and every building under the direct control of the locality and comport their behavior accordingly. However, the proposed legislation would bar firearms in any building "used" by the city.

More concerning is the prohibition on firearms,

> *in any public street, road, alley, or 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 County-permitted event or an event that would otherwise require a County permit, is prohibited.*

This language creates an incomprehensible patchwork of ever-shifting gun-free zones.

Law-abiding individuals intent on exercising their Right-to-Carry would be forced to keep track of any number of permitted events each day throughout the city and to avoid their location and even the public rights of way adjacent to their location. A driver with a firearm in their personal vehicle who unwittingly passed by a location where a permitted event was being held could be found in violation of the proposed ordinance. Those who live in an area where a permitted event is taking place could be restricted from entering or leaving their property with a firearm.

Worse, this prohibition pertains to "an event that would otherwise require a County permit." A gun owner could theoretically, however exceedingly difficult a task, obtain the public permit information required to comport with the permitted events restriction. It is impossible to predict where unpermitted events that should be permitted are to take place. An individual need only consider the recent impromptu, unpredictable, and often unpermitted demonstrations seen throughout the country to understand the unworkable nature of this prohibition. Under the ordinance, law-abiding gun owners would be tasked becoming a combination of an employee of the Office of Special Events and a psychic.

The state and proposed local requirement to post notice of the firearms prohibition at local gun-free zones provides little safety for the gun owner. Neither the amended VA Code Ann. § 15.2-915 nor the proposed changes to the Arlington code provide for a manner in which a prohibition shall be posted that adequately ensures a gun owner is placed on notice that they are nearing a gun-free zone.

New gun-free zones are unnecessary
Virginia already prohibits the possession of firearms at sensitive public buildings and locations by state law.

VA Code Ann. § 18.2-308.1 prohibits firearms at "any public, private or religious elementary, middle or high school." The many community centers and other public-use buildings located at schools are already covered by the existing prohibition.

State law, VA Code Ann. § 18.2-283.1, also prohibits firearms at any courthouse in the Commonwealth.

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Even prior to the enactment of HB421/SB35, localities retained the authority under the state preemption statute to prohibit firearms as "any local or regional jail [or] juvenile detention facility."

It should be noted that the document accompanying the proposed ordinance did not cite any problems resulting from the lawful carry of firearms in the locations that the ordinance would cover.

The proposed ordinance would undermine Virginia's tradition of firearms law uniformity and respect for the Right-to-Carry

Prior to the enactment of HB421/SB35, Virginia statute ensured that those living and travelling throughout Virginia were subject to the same predictable firearm law wherever they were in the Commonwealth. With this regimen, law-abiding gun owners could move about the state without fear of being ensnared by a confusing patchwork of disparate local ordinances.

Since adopting a shall-issue concealed handgun permitting statute in 1995, Virginia has embraced law-abiding citizens' Right-to-Carry for defense of themselves and others. There are currently 400,000 Virginia concealed handgun permit holders.[1] In 2016, Democratic Governor Terry McAuliffe signed legislation that ensured the Commonwealth would recognize Right-to-Carry permits from all other states.[2]

Until 2020, Virginia statute provided for discrete and predictable areas where gun possession was prohibited even for concealed handgun permit holders.[3] These locations could not be augmented by local governments.

Arlington's proposed ordinance would work to undo this respect for the Right-to-Carry by creating a convoluted and unpredictable local firearms prohibition scheme. Unable to predict or comprehend the contours of the various ordinances in Arlington and Virginia's other 94 counties and 38 independent cities, concealed handgun permit holders would be forced to forego their Right-to-Carry for fear of running afoul of an obscure or complicated local law.

In recent years, gun control activists have drawn attention to the open carry of firearms in Northern Virginia in their broader effort to undermine the rights of all Virginia gun owners.[4]

If this observable exercise of Second Amendment rights is the primary concern of Arlington politicians, rather than the discrete carry of firearms for self-defense, the County Board should consider altering the

[1] Victoria Sanchez, *Virginia has a months-long backlog in its concealed handgun permits database*, WJLA, August 28, 2018.
[2] Jenna Portnoy, *McAuliffe signs gun control compromise into law*, Washington Post, February 26, 2016.
[3] E.G. VA Code Ann. §§ 18.2-283.1, 18.2-308.1.
[4] David Pratt, Old Town, *Alexandria Incident Highlights Why "Open Carry" Laws in Virginia Must Be Repealed, Blue Virginia*, September 9, 2019, https://bluevirginia.us/2019/09/old-town-alexandria-incident-highlights-why-open-carry-laws-in-virginia-must-be-repealed.

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proposed legislation to exempt concealed carry by concealed handgun permit holders. Such an exemption is reasonable, as an examination of carry permit holder revocation data in large states, such as Florida and Texas, has long made it clear that permit holders are among the most law-abiding demographics in society.

Available research does not support an increase in gun-free zones

Gun-free zones disarm law-abiding gun owners, leaving them susceptible to criminal violence. An individual intent carrying out a violent criminal attack will not be deterred from acting based on a concern for violating a lesser criminal statute.

An analysis mass public shootings conducted by Economist John R. Lott found that the vast majority of such incidents occur in locations that prohibit ordinary citizens from carrying a firearm for protection.[5] The analysis used a definition of mass public shooting that included shootings resulting in four or more victims slain that occurred in public places (such as commercial areas and government property).[6] As with Department of Justice Research on the topic, gang or drug-related shootings were not included in the definition.[7] The definition of gun-free zone included locations where firearms possession is prohibited by law, locations with posted firearms prohibitions, and jurisdictions where Right-to-Carry is not recognized or severely restricted.[8]

A survey of the available research on gun-free zones by the RAND Corporation explained that such restrictions "are intended to reduce violent crime, suicides, unintentional firearm injuries and deaths, and mass shootings in specific locations."[9] However, RAND concluded that "We found no qualifying studies showing that gun-free zones decreased any of the eight outcomes we investigated."[10] The outcomes studied included mass shootings, suicide, unintentional injuries and deaths, and violent crime.[11]

A restriction on the possession of firearms in a public building did not prevent the Virginia Beach tragedy

[5] John R. Lott, *UPDATED: Mass Public Shootings keep occurring in Gun-Free Zones: 94% of attacks since 1950, Crime Prevention Research Center*, (June 15, 2018), https://crimeresearch.org/2018/06/more-misleading-information-from-bloombergs-everytown-for-gun-safety-on-guns-analysis-of-recent-mass-shootings/.
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] The Effects of Gun-Free Zones, RAND Corporation, March 2, 2018, https://www.rand.org/research/gun-policy/analysis/gun-free-zones.html.
[10] *Id.*
[11] *Id.*

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According to news reports, Virginia Beach employees inside the Virginia Beach Municipal Center were prohibited from possessing firearms at their workplace.[12] This policy did not stop the municipal employee that perpetrated the tragedy from bringing a firearm to his workplace. Moreover, the perpetrator had badge access to employee only parts of the building and used this access during his attack.[13]

Prior to the shooting, one of the victims expressed concerns about the safety of her workplace.[14] This employee was encouraged by her husband to carry a concealed firearm in order to defend her self from potential threats at work.[15] In order to remain in compliance with Virginia Beach policy, the victim did not exercise her Right-to-Carry at her workplace.[16]

[12] Katherine Hafner, *Husband of Virginia Beach shooting victim speaks out about wife's concerns, city's response*, The Virginian-Pilot, June 11, 2019.
[13] Michael E. Miller, Peter Jamison and Rachel Weiner, *Virginia Beach gunman resigned hours before mass shooting, officials say*, The Washington Post, June 2, 2019.
[14] Katherine Hafner, *Husband of Virginia Beach shooting victim speaks out about wife's concerns, city's response*, The Virginian-Pilot, June 11, 2019
[15] *Id.*
[16] *Id.*