



Hampton Branch NAACP

Hampton City Council
22 Lincoln Street
8th Floor
City Hall
Hampton, Virginia 23669

October 13,2020

Re: Voter Safety

Dear Mayor Tuck and Councilmembers,

While Federal and Virginia law generally prohibits voter intimidation, we are very concern that our citizens are left vulnerable to voter intimidation on Election Day without action by Hampton City Council.

Attorney General Mark Herring’s September 24, 2020 Opinion highlights criminal offenses protecting voters from intimidation and violent threats, and offenses that prohibit private individuals from acting in a manner analogous to that of actual law enforcement or acting to brandish or otherwise handle firearms in a threatening manner.¹ Further, it states that “Virginia law also prohibits carrying or possessing firearms or weapons at specific locations that may be used as polling places, such as schools and courthouses.”² To be clear, these prohibitions reference the possession of firearms and weaponry in “courthouses”³ and on “property of any . . . public, private, or religious school, elementary, middle, or high school, including buildings and grounds.”⁴

These laws do *not* extend firearm and weaponry prohibition to *all* designated polling places. In Hampton, we use various non-governmental buildings as designated polling locations that fall outside of the scope of the state-wide firearm and weaponry prohibitions (e.g. libraries and community centers). Though, Virginia law does allow localities to adopt ordinances prohibiting the possession and carrying of firearms in any location used by the locality.⁵ The Attorney General’s Opinion does example how “a number of localities, including

¹ Protections Against Voter Intimidation, Op. Att’y Gen (Sept. 24, 2020), <https://www.oag.state.va.us/files/Opinions/2020/Simon-20-046-issued.pdf>.

² *Id.*

³ Va. Code Ann. § 18.2-283.1.

⁴ Va. Code Ann. § 18.2-308.1.

⁵ “A locality may adopt an ordinance that prohibits the possession, carrying, or transportation of any firearm, ammunition, or components or combination thereof (i) in any building, or part thereof . . . used by such locality, or by any authority or local governmental entity. . . controlled by the locality for governmental purposes . . . (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 entity; or (iv) in any . . . 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. In buildings that are not owned by a locality, or by any authority or local governmental entity created or controlled by the locality, such ordinance shall apply only to the part of the building that is being used for a governmental purpose and when such building, or part thereof, is being used for a governmental purpose.” Va. Code § 15.2-915(E).

Arlington County and Richmond County, have enacted ordinances that restrict individuals from carrying firearms around certain public areas that may also serve as polling locations.”⁶

Pursuant to § 15.2-915, Code of Virginia, we urge Hampton City Council to adopt an ordinance similar to those adopted in, e.g. Arlington County⁷ and Richmond County,⁸ and extend the prohibition of carrying and possession of firearms and weaponry to *all* locations that may be used by the City of Hampton, to include polling locations that are otherwise outside of the scope of protection under Virginia law.

Thank you for your immediate attention to this matter.

Sincerely,

Gaylene Kanoyton
President, Hampton Branch NAACP

⁶ Op. Att’y Gen, *supra* note 1.

⁷ County of Arlington, Va., Code ch. 13, art. II, § 13-14 (2020), <https://arlingtonva.s3.amazonaws.com/wp-content/uploads/sites/22/2020/09/Chapter-13-Missiles.pdf>.

⁸ City of Richmond, Va., Ordinance No. 2020-184 (Sept. 8, 2020), https://library.municode.com/va/richmond/ordinances/code_of_ordinances?nodeId=1039780.