

Section 5

Land Use Value Assessments for Agricultural, Horticultural, Forestal, and Open Space Real Estate, 2001

The *Code of Virginia*, §§58.1-3230 through 58.1-3244, allows any locality that has adopted a comprehensive land use plan to enact a local ordinance providing for special assessments of agricultural, horticultural, forestal, and open space real estate. (Also see Article 10, Section 2, of the *Constitution of Virginia*.) For such an ordinance to be effective, the locality's land use plan must have been adopted by June 30 of the year preceding the one in which taxes are first assessed and levied under the special assessment provision. (For localities that have adopted a fiscal year assessment date of July 1, the plan must have been adopted by December 31 of the preceding year.) However, land used in agricultural and forestal production within an agricultural district, a forestal district, or an agricultural and forestal district is eligible for special assessments for land use whether or not a local land use plan or special assessments ordinance has been adopted. Such assessments are intended, as the *Code* states, to "encourage the preservation and proper use of such real estate in order to assure a readily available source of

agricultural, horticultural, and forest products and of open spaces within reach of concentrations of population," and to "pro-mote a balanced economy and ameliorate pressures which force the conversion of such real estate to more intensive uses and which are attributable in part to the assessment of such real estate at values incompatible with its use."

Since 1957 every state has enacted legislation allowing some type of preferential treatment of farm land and in some states, like Virginia, open space land has also been included. There is an ongoing debate among tax specialists about how effectively preferential assessment slows conversion of land to more intensive users.

If the difference in returns from farming and development is high enough, development will occur even if farmland is taxed at a zero rate. Of course, this would be an extreme case.

A 1998 study showed that preferential assessment of farmland "... produced a gradual but

significant difference in the loss of farmland that after a 20-year period amounted to about 10 percent more of land in a county being retained in farming than would have otherwise been the case.”¹ This was a general result and the effectiveness of the policy would depend on local circumstances with greater success associated with modest development pressure.

Agricultural, Horticultural, Forestal, and Open Space Real Estate

The authorizing statute sets forth certain definitions for qualifying property. Real estate devoted to agricultural use includes either land devoted to the bona fide production for sale of plants and animals useful to man or land that meets the requirements for payments or other compensation pursuant to a soil conservation program. Real estate devoted to horticultural use is either land devoted to the bona fide production for sale of fruits, vegetables, and nursery and floral products, or land that meets the requirements for payments from a soil conservation program. Real estate devoted to forestal use is land devoted to tree growth in such quantity and so spaced as to constitute a forest area. And finally, real estate devoted to open space is

real property used to preserve park and recreational areas, conserve land or other natural resources, or preserve floodways and land of historic or scenic value. Agricultural and horticultural land must consist of a minimum of five acres, while forestal land must consist of a minimum of twenty acres. Open space land must consist of a minimum of five acres. Exceptions include land adjacent to a scenic river, a scenic highway, a Virginia Byway, or public property in the Virginia Outdoors Plan as well as property in any city, county, or town having population density greater than 5,000 per square mile; in those localities the governing body may adopt a two-acre minimum.

Local Authority in Land Use Assessments

A locality may elect to include any or all of the four classifications of property in the local ordinance. While many localities provide for special assessments on all four types of property, fifteen cities, thirty-two counties, and twenty towns report excluding one or more types of property. Upon the adoption of a land use assessment ordinance, the locality is authorized to direct a general reassessment in the following year.

In order to have their land assessed on the basis of use, property owners must apply to the local assessing officer at least sixty days preceding the tax year for which the special assessment is

¹ Adele C. Morris, “Property Tax Treatment of Farmland: Does Tax Relief Delay Land Development,” Helen F. Ladd, editor. *Local Government Tax and Land Use Policies in the United States*. (Northampton, MA: Edward Elgar, 1998), p. 156.

sought.² Localities may also require the owner to submit an application fee.

Localities may also have a minimum prior use requirement. An amendment to §58.1-3132 effective July 2001, permits prior use requirements to be waived for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting.

The Use of Special Assessments

The use of special assessments in Virginia localities has been increasing. In 1973, the first year in which local ordinances could take effect, only four localities—Fauquier, Loudoun, Prince William, and Virginia Beach—had adopted special assessment ordinances. Currently 115 localities report land use assessment ordinances in effect (20 cities, 67 counties, and 28 towns). The breakdown of types of assessment is as follows:

<u>Assessment Type</u>	<u>Cities</u>	<u>Counties</u>	<u>Towns</u>
Agricultural	14	61	18
Forestal	13	56	22
Horticultural	13	63	19
Open Space	8	38	9

Application Fees

Application fees vary widely by locality. Most cities charge a flat fee. Fees range from nothing (for example, Alexandria, Radford) to \$300 for a first time applicant (Staunton). Of the thirteen cities reporting fees, ten use a flat fee. The remaining cities charge a base fee and an additional allotment per each acre assessed. The counties are split on their method for determining fees. Of the 67 counties reporting fees, 28 report using some variant of a flat rate, while 38 charge a base fee plus an additional allotment per acre. Many towns use the same method for determining application fees as is used by the county in which the town is located. Among the towns reporting, 10 do not impose a fee, 6 charge a base fee plus an additional amount per acre, and 8 charge a flat rate.

To determine approximately what application fees cost the property owner, a model was developed that assumes an hundred acre parcel. Using the 79 cities and counties that charge application fees, it was determined that the fees range from a minimum of \$10 to a maximum of \$300. The unweighted average charge is \$35, while the median fee is \$20.

An amendment effective July 2001 authorizes localities to grant an additional extension of the filing deadline for applications. The property owner must pay an additional extension fee, and once this is done, the owner will be able

² In the case of a general reassessment, the property owner may submit the application up until thirty days after the notice of an increase in assessment.

to file the application up to thirty days after notices of assessment are mailed.

Valuing Real Estate for Land Use Assessment

The responsibility for determining which real estate meets the criteria for land use assessment, as set forth by the state, falls to the local assessing officer. This officer may request an opinion, depending on the type of property, from the Director of the Department of Conservation and Recreation, the State Forester, or the Commissioner of Agriculture and Consumer Services. These agency heads are also authorized to provide, either to the commissioner of revenue or to the assessing officer of each locality that has adopted a land use assessment ordinance, a statement of uniform statewide standards to be used in determining the qualifications for each type of property. Further, the State Land Evaluation Advisory Council is required to provide each locality using special assessments with a recommended range of suggested values for each type of property, based on the productive earning power of that particular type of land.

Only those indices of value that relate to agricultural, horticultural, forestal, or open space use may be considered in determining the assessment. Any structure not related to such special use and the real estate upon which

the structure is located shall not be included in the special assessment, but must be taxed on the basis used for assessing other real property in the locality.

Changes in Use

Land use assessment may remain in effect only as long as the property is used for the purpose for which the special assessment is granted. A change in assessment is based only upon a change in the use of the land. A change in ownership does not bring about a change in assessment unless the new owner changes the use of the land from qualifying to non-qualifying.

If the qualifying land reverts to a non-qualifying use, the property is subject to rollback taxes. These taxes are equal to the amount by which the tax on the property, had it been assessed on the same basis as other non-qualifying property in the locality, exceeds the tax that was paid on the property under special assessment. This provision is applicable to the five most recent complete tax years prior to the change. Property owners are also held responsible for simple interest at the same rate applicable to delinquent taxes in each locality, pursuant to §58.1-3915 or §58.1-3916 of the *Code of Virginia*. Any change in use must be reported to the commissioner of revenue or other assessing officer within sixty days. Failure to comply subjects the owner to the amount of tax due plus

interest and penalties, to be determined by the local ordinance.

There is also a penalty for any misstatement made in the application for special assessment. In such a case, the owner is liable for all taxes which would have been incurred, had the real estate not been subject to special assessment,

together with penalties due on such sum.

Table 5.1 presents the information for the 115 localities reporting a land use assessment ordinance in effect for the 2001 tax year. The table includes the effective date of the ordinance, the types of real estate included, and the cost of the application fee.



Table 5.1
Land Use Value Assessments for Agricultural, Horticultural, Forestal, and
Open Space Real Estate, 2001

Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Cities	Note: All cities responded to the survey. Those that answered "not applicable" for all items in this table are excluded.		
Alexandria (1982)	OS	None	N/A
Buena Vista (1984)	A, H, F	\$10	\$10
Chesapeake (6/24/1975)	A, H, F, OS	\$10	\$10
Danville (7/1/1987)	A, F	\$10, plus \$0.10 per acre	\$20
Franklin (1988)	A, H, F	\$25	\$25
Fredericksburg (1976)	A, H, F, OS	\$25	\$25
Hampton (1978)	A, H	\$25 for 1st-time applicant	\$25
Harrisonburg (1983)	A, H, F, OS	\$25	\$25
Lynchburg N/A	A, H, F, OS	N/A	N/A
Manassas (1976)	H, F	N/A	N/A
Newport News (1977)	A	\$10	\$10
Petersburg (1974)	H, F	N/A	N/A
Portsmouth (1977)	OS	N/A	N/A
Radford (1978)	H, F	None	N/A
Roanoke (1977)	A	\$10, plus \$0.10 per acre	\$20

* Unless otherwise specified, the local ordinance went into effect on January 1 of the year indicated.

N/A Not applicable.

† Key to abbreviations:

A - Agricultural land F - Forestal land H - Horticultural land OS - Open space
land

Table 5.1 (continued)

Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Cities (continued)			
Staunton (1977)	A	\$300 for 1st-time applicant	\$300
Suffolk (1975)	A, H, F, OS	\$50; revalidation fee of \$25	\$50
Virginia Beach (1973)	A, H, F, OS	None, \$10 late filing fee	N/A
Waynesboro (1986)	A, F	\$25	\$25
Winchester (1990)	H	\$30 or \$0.30 per acre, whichever is greater	\$30
Counties	Note: All counties responded to the survey. Those that answered “not applicable” for all items in this table are excluded.		
Accomack (1984)	A, H, F	\$25	\$25
Albemarle (1974)	A, H, F, OS	\$0.15 per acre; min. of \$15; re-app fee= \$15/parcel; new app \$15/parcel for first 100 acres, \$.15/acre over 100 acres	\$15
Alleghany (1980)	A, H, F, OS	\$10 for 1st 100 acres; \$0.10 for each additional acre	\$10
Amelia (1976)	A, H, OS	\$10	\$10
Amherst (1984)	H, F	\$10 for 1st 100 acres; \$0.10 for each additional acre	\$10

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Table 5.1 (continued)

Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Counties (continued)			
Augusta (1977)	A, H, F, OS	\$12 plus \$0.12 an acre	\$24
Bedford (1978)	A, H, F, OS	\$0.15 per acre, min. of \$15 per individual owner the 1st year; revalidation every 6th year	\$15
Bland (7/1/1978)	A, H, F	\$20 for 1st parcel of land with \$0.50 fee for each additional tract	\$20
Botetourt (1978)	A, H, F, OS	\$10, plus \$0.10 per acre	\$20
Campbell (1982)	A, H, F, OS	\$10 for 1st 100 acres; \$0.10 for each additional acre	\$10
Caroline (3/23/1978)	A, H, F, OS	\$10	\$10
Chesterfield (1975)	H, F	\$10	\$10
Clarke (1975)	A, H, F, OS	\$100	\$100
Culpeper (1974)	A, H, F	\$25	\$25
Cumberland (begins 2000)	A, H, F, OS	\$10	\$10
Dinwiddie (1981)	A, H, F, OS	\$10	\$10
Fairfax (1983)	A, F	\$100 for 1st 25 acres, \$1 for each additional acre	\$175
Fauquier (1973)	A, H, F, OS	\$60, plus \$0.60 per acre	\$120
Floyd (1989)	A, H	\$25 for 1st parcel of land & \$5 for remaining parcels, max. of \$50, late fee of \$5.00/parcel after 11/1	\$25
Fluvanna (1978)	A, H, F, OS	\$10, plus \$0.10 per acre	\$20

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Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Counties (continued)			
Franklin (1978)	A, H, F, OS	\$30 for 1st land parcel; \$5 for remaining parcels, max. of \$50, plus \$0.10 per acre	\$40
Frederick (1975)	A, H, F, OS	\$100	\$100
Giles (1979)	H, F	\$10	\$10
Gloucester (1978)	A, H, F	\$20	\$20
Goochland (1979-A&H/1990-F)	A, H, F	\$25	\$25
Greene (5/27/1976)	A, H, F, OS	\$15 or \$0.15 per acre, whichever is greater	\$15
Hanover (1974)	A, H, F, OS	\$10	\$10
Henrico (1977)	H, F	\$20, plus \$0.10 per acre	\$30
Henry (1981)	A, H	\$10	\$10
Isle of Wight (1976)	A, H, F	None	N/A
James City (1975)	A, H	\$10, plus \$0.10 per acre	\$20
King George (1978)	A, H, F	\$10, plus \$0.10 per acre	\$20
King William (1981)	F	\$25, plus \$0.10 per acre	\$35
Lancaster (1995)	A	\$25 per parcel	\$25
Loudoun (1973)	A, H, F, OS	\$60 or \$0.60 per acre, whichever is greater	\$60

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Table 5.1 (continued)

Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Counties (continued)			
Louisa (1977)	A, H, F, OS	\$10	\$10
Madison (1978)	A, H, F, OS	\$50	\$50
Middlesex (2000)	A, H, F, OS	\$10	\$10
Montgomery (1979)	A, H, F	\$5, plus \$0.25 per acre	\$30
Nelson (1977)	A, H, F, OS	\$50, plus \$0.25 per acre	\$75
New Kent (1978)	A, H, F, OS	\$300	\$300
Northumberland (1988)	A, H, F, OS	\$20	\$20
Nottoway (5/15/1979)	A, H, OS	\$10	\$10
Orange (1978)	A, H	\$15 or \$0.15 per acre, whichever is greater	\$15
Page (1979)	A, H, F, OS	\$10, plus \$0.10 per acre	\$20
Pittsylvania (1982)	A, H, F, OS	\$10, plus \$0.10 per acre	\$20
Powhatan (1976)	A, H, F, OS	\$10	\$10
Prince Edward (7/1/1978)	A, H	\$30 for 1st parcel; plus \$5 fee for each additional parcel not to exceed max. of \$50. Also, service fee of \$0.10 per acre.	\$40
Prince George (1976)	A, H, F, OS	\$10 1st 100 acres; \$0.02 for each additional acre.	\$10
Prince William (1973)	A, H, F, OS	\$10	\$10

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Table 5.1 (continued)

Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Counties (continued)			
Pulaski (1980)	A	\$15 plus \$0.10 per acre	\$25
Rappahannock (1982, 1988, 1992, 1998)	A, H, F	\$50, plus \$0.25 per acre. Also \$6 revalidation fee per year	\$75
Richmond (1997)	A, H, F, OS	\$25	\$25
Roanoke (1976)	A, H, F, OS	\$30, plus \$0.30 per acre	\$60
Rockbridge (7/1/1979)	A, H, F	\$10	\$10
Rockingham (1978)	A, H, F, OS	\$50 for initial application, plus \$25 each additional contiguous parcel.	\$50
Russell (1981)	A, H, F	\$10	\$10
Shenandoah (1979)	A, H, F, OS	\$0.20 per acre over 50 acres; min. fee of \$10.	\$20
Smyth (1980)	A, H, F, OS	\$10, plus \$0.10 per acre	\$20
Spotsylvania (1978)	A, H, F, OS	\$15 1st 100 acres; \$0.10 for each additional acre	\$15
Stafford (1979)	A, H, F	\$0.05 per acre; min. fee of \$10	\$10
Tazewell (1979)	A, H, F, OS	\$10 for each land parcel with \$0.50 fee for each additional tract or parcel	\$10
Warren (1977)	H, F	\$10	\$10
Washington (1981)	A, H, F, OS	\$20, plus \$0.10 per acre	\$30
Westmoreland (1983)	A, H, F, OS	\$25	\$25

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Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Counties (continued)			
Wythe (1977)	A, H	\$25, plus \$.25 per acre	\$50
York (1980)	A, H	\$50 1st 100 acres; \$0.20 for each additional acre	\$50
Towns	Note: Towns that answered "not applicable" for all items in this table are excluded. For a listing of respondents and non-respondents, see Appendix B.		
Abingdon (1981)	A, F	\$25	\$25
Altavista (1982)	H, F	\$10	\$10
Amherst (1984)	A, H, F, OS	\$10 1st 100 acres, \$0.10 each additional acre	\$10
Ashland (3/1/1982)	H, F	\$10 assessed by Hanover County	\$10
Blacksburg (6/11/91)	A, F	\$0	
Bowling Green (1998)	A, H, F, OS	\$10 assessed by Caroline County	\$10
Chatham (...)	A	N/A	N/A
Chilhowie (7/1/1989)	A	\$10, plus \$0.10 per acre	\$20
Christiansburg (1980)	H, F	\$5, plus \$0.25 per acre	\$30
Colonial Beach (1983)	F	\$25	\$25

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Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Towns (continued)			
Dayton (12/4/00)	A, H, F, OS	Assessed by Rockingham County; Applications for use-value assessment are made to Rockingham County for both county and town taxes	
Front Royal (10/8/1979)	A, H, F, OS	\$10 assessed by Warren County	\$10
Lebanon (1981)	A, H, F	N/A	N/A
Leesburg (1984)	H, F	N/A	N/A
Luray (11/28/1984)	H, F	\$10, plus \$0.10 per acre	\$20
Madison (1978)	A, H, F, OS	\$50	\$50
Middleburg (1973)	A	N/A	N/A
Montross (1983)	A	N/A	N/A
New Market (1985)	H	Assessed by Shenandoah County	\$20
Painter (1950)	A, F	N/A	N/A
Pamplin (1978)	A, H	N/A	N/A
Pearisburg (1979)	A, H, F, OS	N/A	N/A
Pulaski (1980)	F	Assessed by Pulaski County	\$25
Purcellville (1973)	A, F, H, OS	Assessed by Loudoun County	\$60
Remington (7/1/1997)	A, H, F, OS	Assessed by Fauquier County	\$60

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Locality (Effective Date of Ordinance*)	Types of Real Estate Subject to Special Assessment†	Application Fee	Fee for 100 acres
Towns (continued)			
Stephens City (1975)	H, F	\$100	\$100
Windsor (3/13/1990)	A, H, F, OS	N/A	N/A
Wytheville (1990)	H, F	\$10, plus \$0.10 per acre	\$20
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