

## Section 4

### Land Use Value Assessments for Agricultural, Horticultural, Forestal, and Open Space Real Estate, 2007

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*.) Before implementing such an ordinance, 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 "... promote 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 uses. If the difference in returns from farming and development is high enough, development will occur even if farmland is taxed at a zero rate. 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."<sup>1</sup> 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. Under this definition, golf courses can be considered open space property.

Agricultural and horticultural land must consist of a minimum of five acres, unless the acreage is used for aquaculture or raising specialty crops, in which case it may be less than five acres. Forestal land must consist of a minimum of 20 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, 13 cities, 29 counties, and 17 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

<sup>1</sup> 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.

least 60 days preceding the tax year for which the special assessment is sought.<sup>2</sup> 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

In 1973, the first year in which local ordinances could take effect, only four localities—the counties of Fauquier, Loudoun, Prince William, and Virginia Beach City—had adopted special assessment ordinances. Currently, 120 localities report land use assessment ordinances in effect (19 cities, 72 counties, and 29 towns) for at least one type of property. Localities reporting agricultural assessment ordinances number 109, while localities with forestal assessment ordinances number 96, and those with horticultural special assessments number 100. Open space special assessments are less common; only 69 localities report them. The breakdown of types of special assessment is as follows in the table below:

#### Types of Special Assessments

Assessment Type	Cities	Counties	Towns	Total
Agricultural	14	72	23	109
Forestal	14	60	22	96
Horticultural	13	67	20	100
Open space	9	46	14	69

### APPLICATION FEES FOR AGRICULTURAL LAND

More localities charge special assessment application fees for agricultural land than for any other type. Application fees for agricultural land vary widely by locality. Most cities charge a flat fee. Fees range from nothing in six cities and 12 towns to \$500 (New Kent County). Of the 13 cities reporting fees, 10 use a flat fee. The remaining cities charge a base fee and an additional amount per acre assessed. The counties are split on their method for determining fees. All but one (Isle of Wight) of the participating counties charge fees; 34 report using some variant of a flat rate, while 37 charge a base fee plus an additional amount per acre. Eleven of the towns use the same method for determining application fees as is used by the county in which the town is located. Among the remaining towns reporting for agricultural land, 11 do not impose a fee, four charge a base fee plus an additional amount per acre, and five charge a flat rate.

To demonstrate the application fee cost per property owner, an example is shown in **Table 4.1** for a 100 acre parcel. Using the cities and counties that charge application

<sup>2</sup> 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.

fees, it was determined that the fees range from a minimum of \$10 to a maximum of \$500 for a 100 acre parcel. The unweighted average charge is \$41, while the median fee is \$20.

### VALUING REAL ESTATE FOR LAND USE ASSESSMENT

The local assessing officer has responsibility for determining which real estate meets the state-imposed criteria for land use assessment. 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 (SLEAC) 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 cannot be included in the special assessment, but must be taxed on the basis used for assessing other real property in the locality.

For information on use values and other aspects of the program, see the home page for Virginia's use value assessment program at <http://usevalue.agecon.vt.edu/> (9/5/2007).

### CHANGES IN USE

Land use assessment can 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. Any change in use must be reported to the commissioner of revenue or other assessing officer within 60 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 that would have been incurred had the real estate not been subject to special assessment, together with penalties due on such sum. If the misstatement was made with the intent to defraud the locality, the owner is assessed an additional penalty of 100 percent of the unpaid taxes.

Table 4.1 presents the information for the 120 localities reporting a land use assessment ordinance in effect for the 2007 tax year. The table includes the effective date of the ordinance, the types of real estate included, and the cost of the application fee. Section 5 provides details on the related program of agricultural and forestal districts.



**Table 4.1  
Land Use Value Assessments for Agricultural, Horticultural, Forestal,  
and Open Space Real Estate, 2007**

Locality	Effective Date of Ordinance <sup>a</sup>	Types of Real Estate Subject to Special Assessment	Application Fee	Example: Fee for 100 Acres
<b>Cities</b> (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, F, H	\$20	\$20
Chesapeake	6/24/1975	A, F, H, OS	\$10	\$10
Danville	7/1/1987	A, F	\$10, plus \$0.10 per acre	\$20
Franklin	1988	A, F, H	\$25	\$25
Fredericksburg	1976	A, F, H, OS	\$25	\$25
Hampton	1978	A, H	\$25 for first time applicant	\$25
Harrisonburg	1983	A, F, H, OS	\$25	\$25
Lynchburg	1978	A, F, H, OS	\$40	\$40
Manassas	1976	F, H, OS	None	N/A
Petersburg	1974	F, H	None	N/A
Portsmouth	1977	OS	None	N/A
Radford	1978	F, H	None	N/A
Roanoke	1977	A	\$10, plus \$0.10 per acre	\$20
Staunton	1977	A, F	\$300 for first time applicant	\$300
Suffolk	1975	A, F, H, OS	\$50; revalidation and new application	\$50
Virginia Beach	1973	A, F, H, OS	None, \$10 late filing fee	N/A
Waynesboro	1986	A, F	\$25	\$25
Winchester	1990	A, H	\$30 or \$0.30 per acre, whichever is greater	\$30
<b>Counties</b> (Note: All counties responded to the survey. Those that answered "not applicable" for all items in this table are excluded.)				
Accomack	1984	A, F, H	\$25	\$25
Albemarle	1974	A, F, H, OS	\$15 per parcel for first 100 acres, \$0.15 per acre thereafter; \$125 late filing fee	\$15
Alleghany	1980	A, F, H, OS	\$10 for first 100 acres; \$0.10 for each additional acre	\$10
Amelia	1976	A, H, OS	\$10	\$10
Amherst	1984	A, F, H, OS	\$10 for first 100 acres; \$0.10 for each additional acre	\$10
Augusta	1977	A, F, H, OS	\$12 plus \$0.12 an acre	\$24
Bath	2004	A, OS	\$10	\$10
Bedford	1978	A, F, H	\$0.15 per acre, min. \$15 per individual owner the first year; revalidation every 6th year	\$15
Bland	7/1/1978	A, F, H	\$20 for first parcel of land with \$0.50 fee for each additional tract	\$20
Botetourt	1978	A, F, H, OS	\$10, plus \$0.10 per acre	\$20
Campbell	1982	A, F, H, OS	\$10 for first 100 acres; \$0.10 for each additional acre	\$10
Caroline	3/23/1978	A, F, H, OS	\$10	\$10
Carroll	2004	A, F, H	\$25, plus \$0.25 per acre in land use	\$25
Chesterfield	1975	A, F, H, OS	\$10	\$10
Clarke	1975	A, F, H, OS	\$100	\$100
Culpeper	1974	A, F, H	\$25	\$25
Cumberland	2000	A, F, H, OS	\$10	\$10
Dinwiddie	1981	A, F, H, OS	\$10	\$10
Fairfax	1983	A, F	\$100 for first 25 acres, \$1 for each additional acre	\$175
Fauquier	10/12/1972	A, F, H, OS	\$60, plus \$0.60 per acre	\$120
Floyd	1989	A, H	\$25 for first parcel of land and \$5 for remaining parcels, max. \$50; late fee of \$5.00 per parcel after 11/1	\$25
Fluvanna	1978	A, F, H, OS	\$10, plus \$0.10 per acre	\$20
Franklin	1978	A, F, H, OS	\$30 for the first parcel and \$5 per additional parcels; \$50 max. plus \$0.10 per acre	\$40
Frederick	1975	A, F, H, OS	\$100	\$100
Giles	1979	A, F, H	\$10	\$10

N/A Not applicable.

See last page of Table 4.1 for key to abbreviations.

<sup>a</sup> Unless otherwise specified, the local ordinance went into effect on January 1 of the year indicated.

**Table 4.1** Land Use Value Assessments for Agricultural, Horticultural, Forestal, and Open Space Real Estate, 2007 (continued)

Locality	Effective Date of Ordinance <sup>a</sup>	Types of Real Estate Subject to Special Assessment	Application Fee	Example: Fee for 100 Acres
<b>Counties (continued)</b>				
Gloucester	1978	A, F, H	\$20	\$20
Goochland	1979-A, H; 1990-F	A, F, H	\$25	\$25
Greene	5/27/1976	A, F, H, OS	Greater of \$15 or \$0.15 per acre	\$15
Hanover	1974	A, F, H, OS	\$10	\$10
Henrico	1977	A, F, H, OS	\$20 plus \$0.10 per acre	\$30
Henry	1981	A, H	\$10	\$10
Isle of Wight	1976	A, F, H	None	N/A
James City	1975	A, H	\$10 plus \$0.10 per acre	\$20
King George	1978	A, F, H, OS	\$10 plus \$0.10 per acre	\$20
King William	1981	A, F, OS	\$25 plus \$0.10 per acre	\$35
Lancaster	1995	A	\$25 per parcel	\$25
Loudoun	1973	A, F, H, OS	Greater of \$60 or \$0.60 per acre	\$60
Louisa	1977	A, F, H, OS	\$10	\$10
Madison	1978	A, F, H, OS	\$50	\$50
Middlesex	1978	A, F, H, OS	\$20	\$20
Montgomery	1979	A, F, H	\$5 plus \$0.25 per acre	\$30
Nelson	1977	A, F, H, OS	\$50 plus \$0.25 per acre	\$75
New Kent	1989	A, F, H	\$500	\$500
Northampton	2005	A, F, H	\$300 plus 0.25 per acre	\$325
Northumberland	1988	A, F, H, OS	\$20	\$20
Nottoway	5/15/1979	A, H, OS	\$10	\$10
Orange	1978	A, F, H	Greater of \$15 or \$0.15 per acre	\$15
Page	1979	A, F, H, OS	\$20 plus \$0.20 per acre	\$40
Pittsylvania	1982	A, F, H, OS	\$10 plus \$0.10 per acre	\$20
Powhatan	1976	A, F, H, OS	\$10	\$10
Prince Edward	7/1/1978	A, H	\$30 for the first parcel; \$5 for each additional parcel; \$50 max. plus \$0.10 per acre	\$40
Prince George	1976	A, F, H, OS	\$10 for first 100 acres, \$0.02 each additional acre	\$10
Prince William	1973	A, F, H, OS	\$10	\$10
Pulaski	1980	A	\$15 plus \$0.10 per acre	\$25
Rappahannock	1998	A, F, H	\$60 plus \$0.25 per acre Also \$7 revalidation fee per year	\$92
Richmond	1997	A, F, H, OS	\$25	\$25
Roanoke	1976	A, F, H, OS	\$30, plus \$0.30 per acre	\$60
Rockbridge	7/1/1979	A, F, H, OS	\$10	\$10
Rockingham	1978	A, F, H, OS	\$60 for initial application, plus \$60 each additional contiguous parcel	\$60
Russell	1981	A, F, H	\$10	\$10
Shenandoah	1979	A, F, H, OS	\$0.20 per acre over 50 acres; min. fee of \$10	\$20
Smyth	1980	A, F, H, OS	\$10 plus \$0.10 per acre	\$20
Southampton	2006	A, F, H, OS	\$20	\$20
Spotsylvania	1978	A, F, H, OS	\$15 first 100 acres; \$0.10 for each additional acre	\$15
Stafford	1979	A, F, H	\$0.05 per acre; min. \$10	\$10
Tazewell	1979	A, F, H, OS	\$10 for each land parcel with \$0.50 fee for each additional parcel	\$10
Warren	1977	A, F, H, OS	\$10	\$10
Washington	1981	A, F, H, OS	\$20 plus \$0.10 per acre	\$30
Westmoreland	1983	A, F, H, OS	\$25	\$25
Wise	5/8/2003	A, H	\$25 plus \$0.25 per acre	\$50
Wythe	1977	A, H	\$25 plus \$0.20 per acre	\$45
York	1980	A, H	\$50 first 100 acres; \$0.20 for each additional acre	\$50

N/A Not applicable.

See last page of Table 4.1 for key to abbreviations.

<sup>a</sup> Unless otherwise specified, the local ordinance went into effect on January 1 of the year indicated.

**Table 4.1** Land Use Value Assessments for Agricultural, Horticultural, Forestal, and Open Space Real Estate, 2007 (continued)

Locality	Effective Date of Ordinance <sup>a</sup>	Types of Real Estate Subject to Special Assessment	Application Fee	Example: Fee for 100 Acres
<b>Towns</b> (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	F, H	\$10	\$10
Amherst	1984	A, F, H, OS	\$10 first 100 acres, \$0.10 each additional acre	\$10
Ashland	3/1/1982	A, F, H, OS	\$10 assessed by Hanover County	\$10
Blacksburg	6/11/1991	A, F	\$150	\$150
Bowling Green	2002	A, F, H, OS	\$10 assessed by Caroline County	\$10
Bridgewater	1986	A, F, H, OS	None	N/A
Chatham	...	A	None	N/A
Cheriton	2005	A, F, H, OS	None	N/A
Chilhowie	7/1/1989	A	\$10, plus \$0.10 per acre	\$20
Christiansburg	1980	A, F, H	Assessed by Montgomery County	\$30
Colonial Beach	1983	F	\$25	\$25
Dayton	12/4/2000	A, F, H, OS	Assessed by Rockingham County; Applications for use-value assessment are made to Rockingham County	\$60
Front Royal	10/8/1979	A, F, H, OS	\$10 assessed by Warren County	\$10
Haysi	1980	OS	None	N/A
Honaker	1981	F, H	\$10	\$10
Jonesville	1996	A, OS	None	N/A
Lebanon	1981	A, F, H	None	N/A
Leesburg	1984	A, F, H	None	N/A
Lovettsville	1973	A, F, H, OS	Assessed by Loudoun County	\$60
Luray	11/28/1984	F, H	\$10, plus \$0.10 per acre	\$20
Montross	1983	A	None	N/A
Pamplin	1978	A, H	None	N/A
Pearisburg	1979	A, F, H, OS	None	N/A
Pulaski	1980	F	Assessed by Pulaski County	\$25
Purcellville	1973	A, F, H, OS	Assessed by Loudoun County	N/A
Remington	7/1/1997	A, F, H, OS	Assessed by Fauquier County	\$125
Windsor	3/13/1990	A, F, H, OS	None	N/A
Wytheville	1990	A, F, H	\$10, plus \$0.10 per acre	\$20

N/A Not applicable.

... Did not reply.

Key to abbreviations:

A: Agricultural land; F: Forestal land; H: Horticultural land; OS: Open space land

<sup>a</sup> Unless otherwise specified, the local ordinance went into effect on January 1 of the year indicated.