

ALBEMARLE COUNTY CODE

CHAPTER 15

TAXATION

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ARTICLE I. IN GENERAL

Sec. 15-100 Payment of taxes; penalty; interest.

A. Taxes due and owing to the county for real estate shall be due and payable in two (2) installments. The first installment shall be due and payable on or before the fifth day of June of the year such taxes are assessed and the second installment shall be due and payable on or before the fifth day of December of the year such taxes are assessed.

B. Taxes due and owing to the county for tangible personal property, machinery and tools, mobile homes and public service corporations shall be due and payable in two (2) installments. The first installment shall be due and payable on or before the fifth day of June of the year such taxes are assessed and the second installment shall be due and payable on or before the fifth day of December of the year such taxes are assessed.

C. Supplemental tax assessments for real estate, tangible personal property, machinery and tools, mobile homes and public service corporations shall be due and payable within thirty (30) days of the billing date.

D. A penalty equal to ten percent (10%) of the amount past due or ten dollars (\$10.00), whichever is greater, shall apply on all taxes remaining unpaid after the due date.

E. Interest at the rate of ten percent (10%) per annum shall apply on all taxes and penalties commencing the first day of the month following the month in which such taxes are due and continuing until paid.

F. The provisions herein shall not alter or supersede any other provisions of state law or any county ordinance, the subject of which is not specifically addressed herein.

G. Nothing in the provisions of this section shall be construed to prohibit the payment of the whole of the taxes levied by any taxpayer in one (1) sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment shall be paid therewith.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16)

State law reference--Similar provisions, Va. Code, § 58.1-3916.

Sec. 15-101 Payment of administrative costs and collection of fees.

A. Delinquent taxpayers shall pay a fee, as required by this section, to cover the administrative costs associated with the collection of delinquent taxes. This fee shall be in addition to all penalties and interest, and shall be in the amount of thirty dollars (\$30.00) for taxes or other charges collected subsequent to thirty (30) or more days after notice of delinquent taxes or charges pursuant to Virginia Code § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges, and in the amount of thirty-five dollars (\$35.00) for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be one hundred fifty dollars (\$150.00) or twenty-five percent (25%) of the cost, whichever is less; however, in no event shall the fee be less than twenty-five dollars (\$25.00).

B. In addition, delinquent taxpayers shall pay reasonable attorney's or collection agency's fees actually contracted for associated with the collection of delinquent taxes; provided, however, the amount paid by the delinquent taxpayer shall not exceed twenty percent (20%) of the taxes and other charges collected.

C. No tax assessment or tax bill shall be deemed delinquent and subject to the provisions of this section during the pendency of any administrative appeal under Virginia Code § 58.1-3980, provided

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the appeal is filed within ninety (90) days of the date of the assessment, and for thirty (30) days after the date of the final determination of the appeals.

(Ord. of 11-2-94; Code 1988, § 8-1.5; Ord. 98-A(1), 8-5-98; Ord. 03-15(1), 11-5-03)

State law reference--Authority for above fee, Va. Code §§ 58.1-3916, 58.1-3958.

Sec. 15-102 Erroneous assessments.

A. The director of finance, after diligent investigation and upon being satisfied that he has erroneously assessed a taxpayer with any local levies shall, if the levies have not been paid, exonerate the taxpayer from payment of so much thereof as is erroneous, and if such levies have been paid, shall refund to the taxpayer the amount erroneously paid together with any penalties and interest paid thereon.

B. When the director of finance who made the erroneous assessment has been succeeded by another person, such person shall have the same authority as the director making the original erroneous assessment; provided, that he makes diligent investigation to determine that the original assessment was erroneously made and certifies the determination to the board of supervisors.

C. Any application by an aggrieved taxpayer for correction of a tax assessment must be made within three (3) years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later.

D. Reports itemizing such refunds shall be made to the board of supervisors on a quarterly basis.

(11-3-76; 4-13-88; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 94-8(4), 11-2-94; Code 1988, § 8-1.1; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code §§ 58.1-3980 to 58.1-3993.

Sec. 15-103 Penalty for returned checks.

A. If any check tendered for any tax due under this chapter is not paid by the bank on which it is drawn, the taxpayer for whom such check was tendered shall remain liable for the payment of the tax the same as if such check had not been tendered.

B. If such person fails to pay the amount shown on the face of the check within five (5) days after notice of such nonpayment has been mailed by certified or registered mail to the taxpayer by the director of finance, a penalty of twenty-five dollars (\$25.00) shall be added to the tax due. Such penalty shall be in addition to any and all other penalties provided by law.

(11-3-76; 4-13-88; Ord. of 2-5-92; Code 1988, § 8-1.2; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-12.

Sec. 15-104 Use of credit card in payment of taxes.

The director of finance is authorized to accept payments of local taxes by use of a credit card. In addition to any penalties and interest, the director of finance shall add to such payment a sum not to exceed four percentum (4%) of the amount of the tax, penalty and interest paid, as a service charge for the acceptance of such card. Such service charge shall not exceed the percentage charged to the county by the credit card company. Only credit cards which allow for the addition of the service charge shall be accepted.

(10-2-85; Ord. of 2-5-92; Code 1988, § 8-1.4; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3013.

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ARTICLE II. RETAIL SALES TAX

Sec. 15-200 Imposed; amount.

Pursuant to Virginia Code § 58.1-605, a local general retail sales tax at the rate of one percent (1%), to provide revenue for the general fund for the county, is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by Chapter 6, Title 58.1 of the Code of Virginia. It shall be subject to all provisions of Chapter 6 of Title 58.1 of the Code of Virginia, all the amendments thereto, and the rules and regulations published with respect thereto.

(Code 1967, § 9-2; Code 1988, § 8-2; Ord. 98-A(1), 8-5-98)

State law reference--Retail sales and use tax generally, Va. Code §§ 58.1-600 to 58.1-639; authority of county to impose local retail sales tax, Va. Code § 58.1-605.

Sec. 15-201 Administration and collection.

Pursuant to Virginia Code § 58.1-605, the local general retail sales tax levied pursuant to this article shall be administered and collected by the state tax commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by Virginia Code § 58.1-628.

(Code 1967, § 9-3; Code 1988, § 8-3.; Ord. 98-A(1), 8-5-98)

ARTICLE III. RECORDATION TAX

Sec. 15-300 Imposed; amount.

There is hereby imposed a county recordation tax in an amount equal to one-third (1/3) of the amount of the state recordation tax collectable for the state upon the first recordation of each taxable instrument; provided that no tax shall be imposed under this section upon any instrument in which the state recordation tax is fifty cents (\$0.50); provided further that where a deed or other instrument conveys, covers or relates to property located partly in this county and partly in another county or city, or in other counties or cities, the tax imposed under the authority of this section shall be computed only with respect to the property located in this county.

(Code 1967, § 9-4.; Code 1988, § 8-4; Ord. 98-A(1), 8-5-98)

State law reference--Authority for county to impose recordation tax, Va. Code §§ 58.1-814, 58.1-3800 to 58.1-3804.

Sec. 15-301 Collection and disposition; compensation for collection.

A. The clerk of the circuit court of the county collecting the tax imposed under this article shall pay the same to the director of finance.

B. The clerk of the circuit court collecting the tax imposed by this article shall be entitled to compensation for such service in an amount equal to five percent (5%) of the amount so collected and paid over to the director of finance.

(Code 1967, § 9-5; Code 1988, § 8-5; Ord. 98-A(1), 8-5-98)

State law reference--Authority for this section, Va. Code § 58.1-3803.

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ARTICLE IV. BANK FRANCHISE TAX

Sec. 15-400 Definitions.

For the purposes of this article, the following words shall have the meanings respectively ascribed to them by this section:

(1) *Bank*. The term “bank” means bank as defined in Virginia Code § 58.1-1201.

(2) *Net capital*. The term “net capital” means a bank's net capital computed pursuant to Virginia Code § 58.1-1205.

(5-14-80; Code 1988, § 8-7; Ord. 98-A(1), 8-5-98)

Sec. 15-401 Imposition of county bank franchise tax.

A. Pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located outside any incorporated town but otherwise within the boundaries of this county a tax on net capital equaling eighty percent (80%) of the state rate of franchise tax set forth in Virginia Code § 58.1-1204.

B. In the event that any bank located within the boundaries of this county but outside any incorporated town located herein and is not the principal office but is a branch extension or affiliate of the principal office, the tax upon such branch shall be apportioned as provided by Virginia Code § 58.1-1211.

(5-14-80; Code 1988, § 8-8; Ord. 98-A(1), 8-5-98)

State law reference--Authority of county to tax bank net capital, Va. Code §§ 58.1-1210 et seq.

Sec. 15-402 Filing of return and payment of tax.

A. On or after the first day of January of each year, but not later than March 1 of any such year, each bank whose principal office is located within this county but outside any incorporated town herein shall prepare and file with the director of finance a return as provided by Virginia Code § 58.1-1207, in duplicate, which shall set forth the tax on net capital computed pursuant to Chapter 12 of Title 58.1 of the Code of Virginia. The director of finance shall certify a copy of such filing of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

B. In the event that the principal office of a bank is located outside the boundaries of this county or within any incorporated town located herein, and such bank has one or more branch offices located within this county, in addition to the filing requirements set forth in paragraph (A) hereof, any bank conducting such branch business shall file with the director of finance of this county a copy of the real estate deduction schedule, apportionment and other items which are required by Virginia Code §§ 58.1-1207, 58.1-1211 and 58.1-1212. This latter filing shall be submitted with the return required by Virginia Code § 58.1-1207.

C. Each bank, on or before the first day of June of each year, shall pay into the director of finance's office of this county all taxes imposed pursuant to this article.

(5-14-80; Code 1988, § 8-9; Ord. 98-A(1), 8-5-98)

State law reference--Similar provision, Va. Code § 58.1-1207.

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Sec. 15-403 Penalty upon bank for failure to comply.

Any bank which fails to file a return or pay the tax required by this article or fails to comply with any other provision of this chapter shall be subject to a penalty of five percent (5%) of the tax due.

(5-14-80; Code 1988, § 8-9.2; Ord. 98-A(1), 8-5-98)

State law reference--Similar provision, Va. Code § 58.1-1216.

ARTICLE V. TAX ON PROBATE OF WILLS OR GRANTS OF ADMINISTRATION

Sec. 15-500 Imposed; amount.

There is hereby imposed and levied by the county a tax equal to one-third (1/3) of the amount of the state tax collectable for the state on the probate of a will or the grant of administration.

(Code 1967, § 9-9; Code 1988, § 8-10; Ord. 98-A(1), 8-5-98)

State law reference--Authority of county to impose probate tax, Va. Code § 58.1-1718.

Sec. 15-501 Collection, payment to director of finance.

The clerk of the circuit court of the county shall collect the tax imposed by this article and pay the same to the director of finance.

(Code 1967, § 9-10; Code 1988, § 8-11; Ord. 98-A(1), 8-5-98)

ARTICLE VI. UTILITY TAX

Sec. 15-600 Definitions.

(1) *CCF*. The term “CCF” means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

(2) *Commercial*. The term “commercial” means for use not defined as residential or industrial.

(3) *Industrial*. The term “industrial” means for use in mining, manufacturing, or processing of raw materials. For purposes of classifying electrical services, the demand load must be greater than 50kw based on the connected load for a new purchaser and a history of purchasers exceeding 50kw for 3 months out of a twelve-month period for an existing purchaser.

(4) *Kilowatt hours (kWh) delivered*. The term “kilowatt hours (kWh) delivered” means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual purchaser, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

(5) *Purchaser*. The term “purchaser” means every person who purchases a utility service.

(6) *Residential*. The term “residential” means for use by persons primarily for domestic purposes in buildings having single or multiple meters for electricity or natural gas and used as a single dwelling unit or in normal farming operations.

(7) *Seller*. The term “seller” means every person, whether a public service corporation or a municipality or private corporation who sells or furnishes a utility service in the county.

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(8) *Utility service.* The term “utility service” means electric service and natural gas service furnished within the county.

(6-22-67, § 1; 6-20-68, § 1; Ord. No. 94-8(2), 11-2-94; Code 1988, § 8-12; Ord. 98-A(1), 8-5-98; Ord. 00-15(3), 10-4-00; Ord. 11-15(3), 7-6-11)

Sec. 15-601 Imposed; amount.

There is hereby imposed and levied by the county upon each and every purchaser of utility services as set forth herein a tax for general purposes in the following amounts:

A. *Electrical Services - Residential.* On purchasers of electric service for residential purposes, the tax shall be in the amount of \$0.031283 per kWh for the first 128 kWh and \$0.000000 per kWh exceeding 128 kWh delivered monthly by a seller not to exceed four dollars (\$4.00) per month.

B. *Electrical Services - Commercial.* On purchasers of electric service for commercial purposes, the tax shall be in the amount of \$0.006161 per kWh for the first 48,693 kWh and \$0.001636 per kWh exceeding 48,693 kWh delivered monthly by a seller.

C. *Electrical Services - Industrial.* On purchasers of electric service for industrial purposes, the tax shall be in the amount of \$0.005265 per kWh for the first 56,980 kWh and \$0.000934 per kW exceeding 56,980 kWh delivered monthly by a seller.

D. *Gas Service - Residential.* On purchasers of natural gas service for residential purposes, the tax shall be \$1.25 per CCF for the first 1.6 CCF and \$0.00 per CCF exceeding 1.6 CCF delivered monthly by a seller.

E. *Gas Service - Commercial or Industrial.* On purchasers of natural gas service for commercial or industrial purposes, the tax shall be \$0.0638 per CCF for the first 4,500 CCF and \$0.0110 per CCF exceeding 4,500 CCF for non-interruptible service, and \$0.0588 per CCF for the first 4,770 CCF and \$0.0110 per CCF exceeding 4,770 CCF for interruptible service.

(6-22-67, § 2; 6-20-68, § 2; 11-2-68, § 1; 4-21-76; Ord. No. 94-8(2) of 11-2-94; Code 1988, § 8-13; Ord. 98-A(1), 8-5-98; Ord. 00-15(3), 10-4-00; Ord. 11-15(3), 7-6-11)

State law reference--Va. Code §§ 58.1-3812, 58.1-3814.

Sec. 15-602 Utility bills.

Bills shall be considered monthly bills if rendered twelve (12) times annually with each bill covering a period of approximately one (1) month or a portion thereof. If bills for utility services are submitted less frequently than monthly, covering periods longer than one (1) month, the maximum amounts of such bills which shall be subject to the tax levied by this article shall be increased by multiplying the appropriate maximum fixed by § 15-601 for the utility service involved by the number of months of service covered by such bills.

(6-22-67, § 3; 6-20-68, § 3; 11-2-68, § 2; Code 1988, § 8-14; Ord. 98-A(1), 8-5-98)

Sec. 15-603 RESERVED (Repealed 7-6-11)

Sec. 15-604 Duties of seller generally.

A. It shall be the duty of every seller in acting as the tax collection medium or agency for the county to collect from the purchaser for use of the county, the tax imposed and levied by this article at the time of collecting the purchase price charged therefor. The seller shall remit monthly to the county the amount of tax billed during the preceding month to the purchaser.

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B. In all cases where the seller collects the price for utility service in stated periods, the tax imposed and levied by this article shall be computed on the amount of purchase during the month or period according to each bill rendered; provided, the amount of tax to be collected shall be the nearest whole cent to the amount computed.

C. The tax shall, when billed, be stated as a distinct item separate and apart from the monthly gross charge. Until the purchaser pays the tax to the seller, the tax shall constitute a debt of the purchaser to the county. If any purchaser refuses to pay the tax, the seller shall notify the county. After the purchaser pays the tax to the seller, the taxes collected shall be deemed to be held in trust by the seller until remitted to the county.

(6-22-67, § 7; 6-20-68, § 7; Ord. No. 94-8(2), 11-2-94; Code 1988, § 8-16; Ord. 98-A(1), 8-5-98; Ord. 11-15(3), 7-6-11)

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Sec. 15-605. Records to be kept by seller.

Each seller shall keep complete records showing all purchasers in the county, the price charged against each purchaser with respect to each purchase, the date of each purchase, the date of payment for each purchase and the amount of tax imposed hereunder. Such records shall be kept open for inspection by the duly authorized agents of the county during regular business hours on business days. The duly authorized agents of the county shall have the right, power and authority to make such copies or transcripts thereof during such times as they may desire.

(6-22-67, § 8; 6-20-68, § 8; Code 1988, § 8-17; Ord. 98-A(1), 8-5-98)

Sec. 15-606 Extension of time for filing return.

The director of finance may extend, for good cause shown the time for filing any return required to be filed by the provisions of this article; provided, however, no such extensions shall exceed a period of ninety (90) days.

(6-22-67, § 9; 6-20-68, § 9; Code 1988, § 8-18; Ord. 98-A(1), 8-5-98)

Sec. 15-607 Exemptions from article.

The United States of America, diplomatic personnel exempted by the laws of the United States, the state and political subdivisions, boards, commissions, the authorities and agencies thereof, volunteer fire companies and volunteer rescue squads are hereby exempt from the payment of the tax imposed and levied by this article with respect to the purchase of utility services used by such governmental agencies.

(5-14-80; Code 1988, § 8-19; Ord. 98-A(1), 8-5-98)

Sec. 15-608 Collection of tax.

The director of finance shall be charged with the power and duty of collecting the taxes imposed and levied under this article.

(6-22-67, § 5; 6-20-68, § 5; Code 1988, § 8-20; Ord. 98-A(1), 8-5-98)

Sec. 15-609 Forms for reports, etc.

The director of finance may prescribe forms for filing of any report or the payment of any funds set forth in this article.

(6-22-67, § 6; 6-20-68, § 6; Code 1988, § 8-21; Ord. 98-A(1), 8-5-98)

Sec. 15-610 Penalty; continuing violations; conviction not to excuse payment of tax.

Any purchaser failing, refusing or neglecting to pay the tax imposed or levied by this article and any seller violating the provisions of this article and any officer, agent or employee of any seller violating the provisions of this article shall be guilty of a class 1 misdemeanor. Such conviction shall not relieve any person from the payment, collection and remittance of such tax as provided by this article.

(6-22-67, § 11; 6-20-68, § 11; Code 1988, § 8-22; Ord. 98-A(1), 8-5-98)

**ARTICLE VII. REAL ESTATE TAX EXEMPTION FOR
CERTAIN ELDERLY AND DISABLED PERSONS**

Sec. 15-700 Purpose.

The purpose of this article is to provide relief to certain elderly or disabled persons who are subject to a real estate tax burden that is extraordinary in relation to their income and financial worth.

(Ord. 98-A(1), 8-5-98)

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Sec. 15-701 Administration.

This article shall be administered by the director of finance, who is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this article, including the right to require answers under oath, as may be reasonably necessary to determine eligibility for the exemption. The director of finance is authorized to require the production of certified tax returns and appraisal reports to establish eligible owners' total combined income and net combined financial worth.

(2-15-73; 11-9-77; Ord. of 12-19-90; Code 1988, § 8-24; Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14)

State law reference--Va. Code §§ 58.1-3210, 58.1-3213.

Sec. 15-702 Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

(1) *Dwelling*. The term "dwelling" means a building occupied as a residence.

(2) *Income*. The term "income" means the total gross income from all sources comprising the amount of money received on a regular basis which is available to meet expenses, regardless of whether a tax return is actually filed, or whether the money is taxable or deductible from an eligible owner's income tax return.

(a) Income shall include: (i) retirement payments, including the portion that represents the contribution of the retiree; (ii) nontaxable social security retirement benefits; (iii) disability payments; and (iv) rental income.

(b) Income shall not include: (i) life insurance benefits; (ii) receipts from borrowing or other debt; and (iii) social security taxes taken out of the pay of a retiree.

(c) The income of a self-employed person received from the business shall be the gross income of the business, less the expenses of the business.

(3) *Manufactured home*. The term "manufactured home" means a structure subject to federal regulation which is transportable in one or more sections; is eight (8) body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(4) *Net combined financial worth*. The term "net combined financial worth" means the net present value of all assets, including equitable interests, and liabilities, both as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner of the dwelling. The term "net combined financial worth" shall not include: (i) the value of the subject dwelling and the land, not exceeding ten acres, upon which it is situated; (ii) the value of furniture, household appliances and other items typically used in a home; and (iii) the outstanding balance of any mortgage on the subject property, except to the extent that the subject property is counted as an asset.

(5) *Owning title or partial title*. The term "owning title or partial title" means owning the usufruct, control or occupation of the real estate, whether the interest therein is in absolute fee or is in an estate less than a fee, such as the holding of a life estate, but not the holding of a subsequent remainder interest.

(6) *Permanently and totally disabled person*. The term "permanently and totally disabled person" means a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death, or can be expected to last for the duration of such person's life, as certified pursuant to section 15-706 herein.

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(7) *Real estate.* The term “real estate” includes manufactured homes.

(8) *Relative.* The term “relative” means any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the owner.

(9) *Taxable year.* The term “taxable year” means the calendar year for which the exemption is claimed.

(10) *Total combined income.* The term “total combined income” means the income received from all sources during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) the owners of the dwelling who use it as their principal residence, (ii) the owners’ relatives who live in the dwelling except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, whether compensated or not. The following amounts shall be excluded from the calculation of total combined income:

(a) The first sixty-five hundred dollars (\$6,500.00) of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision 9 c hereof.

(b) The first seventy-five hundred dollars (\$7,500.00) of income for an owner who is permanently disabled.

(c) If real property otherwise qualifies for the exemption and if the eligible owner(s) can prove by clear and convincing evidence that the physical or mental health of the eligible owner(s) has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the eligible owner(s), and if a relative does move in for that purpose, then none of the income of the relative or of the relative’s spouse shall be counted towards the income limit, provided that the owner of the dwelling has not transferred assets in excess of five thousand dollars (\$5,000.00) without adequate considerations within a three (3) year period prior to or after the relative moves into the dwelling.

(2-15-73; 3-20-75; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-23; Ord. 98-A(1), 8-5-98; Ord. 03-15(2), 11-5-03; Ord. 05-15(4), 12-7-05, effective 1-1-06; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 11-15(1), 5-11-11; Ord. 14-15(3), 9-3-14; Ord. 16-15(1), 7-6-16)

State law reference--Va. Code §§ 36-85.3, 58.1-3210, 58.1-3212, 58.1-3217.

Sec. 15-703 Exemption.

Real property owned by, and occupied as the sole dwelling of, eligible owner(s) owning title or partial title who is/are at least sixty-five years of age or who is/are permanently and totally disabled shall be exempt from the real estate tax as provided in section 15-705, provided that the real property is eligible for the exemption as provided in section 15-704 and satisfies all other requirements of this article and state law. For purposes of this Article, real property owned and occupied as the sole dwelling of eligible owner(s) includes real property (i) held by an eligible owner alone or in conjunction with his spouse as tenant or tenants for life or joint lives; (ii) held in a revocable inter vivos trust over which an eligible owner or an eligible owner and his spouse hold the power of revocation; or (iii) held in an irrevocable trust under which an eligible owner alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term “eligible owner(s)” does not include any interest held under a leasehold or term of years.

(2-15-73; 11-9-77; Ord. of 12-19-90; Code 1988, § 8-25; Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14)

State law reference--Va. Code § 58.1-3210.

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Sec. 15-704 Real property eligible for exemption.

Real property that satisfies all of the following requirements is eligible for the exemption established in section 15-703:

- A. The eligible owner(s) shall have either:
 - 1. Reached the age of sixty-five (65) years prior to the taxable year for which the exemption is claimed; and/or
 - 2. Become permanently and totally disabled prior to the taxable year for which the exemption is claimed.
- B. The eligible owner(s) shall own title or partial title in the dwelling.
 - 1. The eligible owner(s) shall own title or partial title to the real estate for which the exemption is claimed on January 1 of the taxable year.
 - 2. A dwelling jointly owned by a husband and wife may qualify if either spouse is sixty-five (65) years of age or older or is permanently and totally disabled.
 - 3. Except as provided in paragraph (B.2), the exemption shall not apply to a dwelling jointly owned by a person who is sixty-five (65) years of age or older or who is permanently and totally disabled (an "exempt person"), and a person who is not an exempt person.
- C. The eligible owner(s) shall occupy the dwelling as that owner's sole dwelling.
 - 1. The dwelling shall not be used for commercial purposes.
 - 2. The fact that real property that otherwise qualifies for exemption established by this article is owned by eligible owner(s) who reside(s) in a hospital, nursing home, convalescent home or other facility for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which the exemption is sought does not continue to be the sole dwelling of the eligible owner(s) during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.
- D. A manufactured home is real estate eligible for the exemption established by this article if the eligible owner(s) demonstrate(s) to the satisfaction of the director of finance that the manufactured home is permanently affixed. Either of the following shall be evidence that the manufactured home is permanently affixed:
 - 1. The eligible owner(s) own(s) title or partial title to the manufactured home and the land on which the manufactured home is located, and the manufactured home is connected to permanent water and sewage lines or facilities; or
 - 2. Whether or not the manufactured home is located on land on which the eligible owner(s) own(s) title or partial title, the manufactured home rests on a permanent foundation and consists of two (2) or more units which are connected in such a manner that they cannot be towed together on a highway, or consists of a unit and other connected rooms or additions which must be removed before the manufactured home can be towed on a highway.
- E. The total combined income shall not exceed sixty-nine thousand four hundred fifty-two dollars (\$69,452.00) for the calendar year immediately preceding the taxable year.
- F. The net combined financial worth shall not exceed two hundred thousand dollars (\$200,000.00) as of December thirty-first of the calendar year immediately preceding the taxable year.

(2-15-73; 3-20-75; 11-9-77; 8-13-80; 6-12-85; 5-13-87; Ord of 12-19-90; Ord. of 4-7-93; Ord. 96-8(2), 12-11-96; Code 1988, § 8-26; 9-9-81; Ord. 12-19-90; Code 1988, § 8-26.1; Ord. 98-A(1), 8-5-98; Ord. 00-

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15(2), 9-20-00; Ord. 03-15(2), 11-5-03; Ord. 04-15(2), 12-1-04, effective 1-1-05; Ord. 06-15(3), 11-1-06, effective 1-1-07; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 14-15(3), 9-3-14)

State law reference--Va. Code §§ 58.1-3210, 58.1-3211, 58.1-3212, 58.1-3214, 58.1-3215.

Sec. 15-705 Amount of exemption.

The exemption established by this article shall apply only to the real property taxes for the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated. The amount of the exemption for any taxable year shall be as follows:

Percentage of Real Estate Tax Exempted

		Net Combined Financial Worth		
		\$0 to \$100,000	Over \$100,000 to \$150,000	Over \$150,000 to \$200,000
Total Combined Income	\$0 to \$30,000	100.0%	90.0%	80.0%
	Over \$30,000 to \$50,000	70.0%	60.0%	50.0%
	Over \$50,000 to \$69,452	40.0%	30.0%	20.0%

(2-15-73; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-27; Ord. 98-A(1), 8-5-98; Ord. 00-15(2), 9-20-00; Ord. 04-15(2), 12-1-04; Ord. 06-15(3), 11-1-06, effective 1-1-07; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 11-15(1), 5-11-11)

State law reference--Va. Code § 58.1-3212.

Sec. 15-706 Procedure for claiming for exemption.

Owner(s) claiming the exemption from the real estate tax established by this article shall apply for the exemption as provided herein:

A. *Annual filing of affidavit; time to file.* Except as provided in paragraphs (A.1) and (A.2), the eligible owner(s) shall file the affidavit required by this section with the director of finance between January first and April first of each taxable year for which the exemption is claimed. In lieu of the filing of an annual affidavit, once a taxpayer is determined to be eligible, an affidavit may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit filed has changed to violate the limitations and conditions provided in this article. Such annual certification must be filed not later than April first of the taxable year.

1. *First-time claimant.* Owners claiming the exemption for the first time may file the affidavit required by this section after April first, but before November first, of the taxable year.

2. *Hardship claimant.* Owners claiming the exemption as hardship claimant(s) may file the affidavit required by this section after April first, but before November first, of the taxable year. The term "hardship claimant" means only those cases in which the owner(s) claiming the exemption was/were hospitalized or in a nursing home between January first and April first of the taxable year, or a similar situation which, in the judgment of the director of finance, constitutes a hardship case justifying the extension of the filing period set forth in paragraph A beyond April first of the taxable year.

B. *Form and content of affidavit.* The affidavit shall be on a form prescribed and provided by the director of finance. The affidavit shall set forth the names of the eligible owner(s) and all other relatives of the eligible owner(s) occupying the real estate for which the exemption is claimed, their total combined income and their net combined financial worth. If the eligible owner(s) is/are under sixty-five (65) years of age, the form shall have attached either:

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1. A certification by the Social Security Administration, the Department of Veteran Affairs or the Railroad Retirement Board to the effect that the eligible owner(s) is/are permanently and totally disabled; or, if the eligible owner(s) is/are not eligible for certification by any of these agencies;

2. A sworn affidavit by two (2) medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled. A certification pursuant to 42 U.S.C. 423(d) by the Social Security Administration, so long as the person remains eligible for such social security benefits, shall be deemed to establish that the person is permanently and totally disabled. The affidavit of one of the doctors may be based upon a physical examination of the person by the doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining whether the person is permanently and totally disabled.

C. *Determination of eligibility.* If, after audit and investigation, the director of finance determines the subject real property to be eligible for exemption, he shall grant the exemption and shall exonerate the amount of the exemption from the real estate tax liability of those properties entitled to the exemption.

D. *Duration of exemption.* An exemption granted shall be effective only for the current taxable year and shall not be retroactive in effect.

(2-15-73; 11-9-77; 8-13-80; 5-13-87; Ord. of 12-19-90; Ord. of 4-7-93; Ord. No. 96-8(2), 12-11-96; Code 1988, § 8-28; Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14; Ord. 16-15(1), 7-6-16)

*State law reference--*Va. Code § 58.1-3213.

Sec. 15-707 Change in status nullifying exemption; exception.

Any change in total combined income, net combined financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided herein, shall nullify any exemption for the remainder of the current taxable year and the taxable year immediately following; except, that a change in status due to the death of a qualified spouse will result in a prorated exemption for the eligible year.

(2-15-73; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-29; Ord. 98-A(1), 8-5-98)

*State law reference--*Va. Code § 58.1-3215.

Sec. 15-708 Violation and penalty.

Any person falsely claiming an exemption hereunder shall be guilty of a misdemeanor punishable as provided in Virginia Code § 1-115.

(2-15-83; 11-9-77; Ord. of 12-19-90; Code 1988, § 8-30; Ord. 98-A(1), 8-5-98)

*State law reference--*Va. Code § 58.1-3210.

ARTICLE VIII. SPECIAL ASSESSMENTS FOR AGRICULTURAL, HORTICULTURAL, FOREST OR OPEN SPACE REAL ESTATE

Sec. 15-800 Definitions.

For the purposes of this article, the following special classifications of real estate are established and defined:

(1) *Real estate devoted to agricultural use.* The term “real estate devoted to agricultural use” means real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance

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with the Administrative Process Act (Virginia Code §§ 9-6.14:1 et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

(2) *Real estate devoted to horticultural use.* The term “real estate devoted to horticultural use” means real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (Virginia Code §§ 9-6.14:1 et seq.); or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

(3) *Real estate devoted to forest use.* The term “real estate devoted to forest use” means land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in Virginia Code § 58.1-3240 and in accordance with the Administrative Process Act (Virginia Code §§ 9-6.14:1 et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in Virginia Code §58.1-3240.

(4) *Real estate devoted to open-space use.* The term “real estate devoted to open-space use” means real estate used, provided or preserved for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, or assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in Virginia Code § 58.1-3240, and in accordance with the Administrative Process Act (Virginia Code §§ 9-6.14:1 et seq.) and the local ordinance.

(8-23-73; 4-13-88; Code 1988, § 8-31; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3230.

Sec. 15-801 Certain provisions of state law applicable.

The provisions of Title 58.1 of the Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens, boards of equalization, and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

(8-23-73; Code 1988, § 8-32; Ord. 98-A(1), 8-5-98)

State law reference--For state law as to real property tax generally, see Va. Code, §§ 58.1-3200 to 58.1-3389.

Sec. 15-802 Applications for assessment--By property owner.

A. The owner of any real estate meeting the criteria set forth in sections 15-800 and 15-804 herein and the standards adopted by the Commissioner of Agriculture and Consumer Services, the Department of Forestry or the Department of Conservation and Historic Resources, and this article, must submit an application for taxation on the basis of a use assessment to the local assessing officer at least

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sixty days preceding the tax year for which such taxation is sought or within thirty (30) days of the mailing of notices of a general reassessment, whichever is later. An individual who is an owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located.

B. Applications may be filed no later than sixty days after the filing deadline specified herein, upon the payment of a late filing fee of one hundred twenty-five dollars (\$125.00). An application shall be submitted whenever the use or acreage of such land previously approved changes. No application fee will be required when the change in acreage occurs solely as a result of a conveyance necessitated by government action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. Failure to submit an application by the specified deadline shall disqualify the entire parcel for taxation under this article. Applications shall be submitted on forms prepared by the state tax commissioner and supplied to the county for use of the applicants. A separate application shall be filed for each parcel listed on the land book.

(8-23-73; 8-13-75; 4-21-76; 4-13-88; Ord. of 8-11-93; Code 1988, § 8-33; Ord. 98-A(1), 8-5-98; Ord. 02-15(3), 5-15-02; Ord. 16-15(1), 7-6-16)

State law reference--Va. Code § 58.1-3234.

Sec. 15-803 Same--Processing; continuation of assessment, etc.; fees.

A. The application fee due under this article shall be figured at fifteen cents (\$0.15) per acre on total acreage with the minimum charge of fifteen dollars (\$15.00) per individual application and shall be paid to the director of finance of the county. However, where a landowner is required to file a new application under this article because the use or acreage of such land previously approved has changed, the application fee for each reapplication shall be fifteen dollars (\$15.00).

B. The tax for the next succeeding tax year for property qualifying under this article shall be based on the use value recorded in the Land Use Tax Assessment Book.

C. Continuation of valuation, assessment and taxation under this article shall depend on the continuance of the real estate in the use for which classification is granted, continued payment of taxes as referred to in Virginia Code § 58.1-3235, continued revalidation every second tax year as provided in subsection (D) below, and compliance with the other requirements of this article and Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia, and not upon continuance of the same owner of title to the land.

D. A parcel's eligibility for use value assessment shall be revalidated every two years during the second tax year of each two-year revalidation cycle. A revalidation form shall be filed with the local assessing officer on or before September 1 of the year preceding the two-year period for which the revalidation is sought, on forms prepared by the county. A separate revalidation form shall be filed for each parcel receiving a use value assessment. Late filing of a revalidation form may be made on or before December 5 of the year preceding the two-year period for which the revalidation is sought, upon payment of a late filing fee of one hundred twenty-five dollars (\$125.00).

(8-23-73; 12-20-73; 7-17-75; 7-2-86; 4-13-88; Code 1988, § 8-34; Ord. 98-A(1), 8-5-98; Ord. 08-15(2), adopted 10-1-08, effective 1-2-09)

State law reference--Va. Code § 58.1-3234.

Sec. 15-804 Determinations to be made by local officers before assessment.

Promptly upon receipt of any application and prior to the assessment of any parcel of real estate under this article, the county assessor or the director of finance shall:

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1. Determine that the real estate meets the criteria set forth in § 15-800 above and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Historic Resources, the State Forester or the Commissioner of Agriculture and Consumer Services;

2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five (5) acres, (ii) forest use consists of a minimum of twenty (20) acres, and (iii) open space use consists of a minimum of twenty (20) acres; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§§ 15.2-4300 et seq.) of Title 15.2 of the Code of Virginia, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in Virginia Code § 58.1-3230, or (iii) subject to a recorded commitment entered into by the landowners with the board of supervisors, or its

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authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than ten years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in Virginia Code § 58.1-3240. Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in Virginia Code § 15.2-4314 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

4. Determine further that the real estate is not in a planned development, or an industrial or commercial zoning district established prior to January 1, 1981, as referred to in Virginia Code §§ 58.1-3237.1.

(8-23-73; 4-13-88; Ord. of 11-28-90; Ord of 8-11-93; Code 1988, § 8-35; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3233.

Sec. 15-805 Valuation of real estate.

A. In valuing real estate for purposes of taxation, the director of finance or the county assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes shall be extended upon the value so determined. In addition to use of his personal knowledge, judgement and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Committee.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use, there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farm house or home or any other structure not related to such special use shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farm house and home or any other structure not related to such special use and the real estate on which the farm house or home or such other structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the county.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the county, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

(8-23-73; 4-13-88; Code 1988, § 8-36; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3236.

Sec. 15-806 Changes in use of assessed real estate; roll-back taxes.

A. When real estate qualifies for assessment and taxation on the basis of use under this article, and the use by which it qualified changes to a nonqualifying use, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the director of finance only if the amount of tax due exceeds ten dollars.

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B. The roll-back tax shall be equal to the sum of the deferred tax for each of the five most recent complete tax years including simple interest on such roll-back taxes at the rate of ten per centum. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year. In addition, the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value.

C. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article. The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in paragraph D, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such change in use or zoning, report such change to the director of finance or county assessor on such forms as may be prescribed. The county assessor shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid pursuant to section 15-810.

D. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be levied and collected from the owner of the real estate in accordance with paragraph C. Real property zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1, 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax, plus interest calculated in accordance with paragraph B, shall be levied and collected at the time such property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or interest, except as provided in paragraph B, shall be assessed, provided the said roll back tax is paid on or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article, provided that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation, or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

However, the owner of any real property that qualified for assessment and taxation on the basis of use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural, horticultural open-space or forest use. The real property shall be eligible for assessment and taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real property is subsequently rezoned to a more intensive use at the owner's request, within five years from the date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject to a penalty equal to fifty percent (50%) of the roll-back taxes due as determined under paragraph B of this section.

E. If real estate annexed by the City of Charlottesville and granted use value assessment and taxation becomes subject to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by the county prior to annexation, the City shall collect roll-back taxes and interest for the maximum period allowed under this section and shall return to the county a share of such taxes and interest proportionate to the amount of such period, if any, for which the real estate was situated in the county.

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(8-23-73; 4-13-88; Ord of 8-11-93; Code 1988, § 8-37; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3237.

Sec. 15-807 Separation of part of assessed real estate; contiguous real estate located in more than one locality.

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article and Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article and Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia.

B. No subdivision of property which results in parcels which meet the minimum acreage requirements of this article, and Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia, and which the owner attests is for one or more of the purposes set forth in section 15-800, shall be subject to the provisions of this paragraph.

C. Where contiguous real estate in agricultural, horticultural, forest or open space use in one ownership is located in more than one taxing locality, compliance with the minimum acreage or gross sales requirements shall be determined on the basis of the total area of such real estate and not the area which is located in the particular taxing locality.

(8-23-73; 4-13-88; Code 1988, § 8-38; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3241.

Sec. 15-808 Real estate taken by of eminent domain.

The taking of real estate which is being valued, assessed and taxed under this article by right of eminent domain shall not subject the real estate so taken to the roll-back taxes herein imposed.

(8-23-73; Code 1988, § 8-39; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3242.

Sec. 15-809 Removal of parcels from program if taxes delinquent.

If on April 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this article are delinquent, the director of finance shall forthwith send notice of that fact and the general provisions of this section to the property owner by first-class mail. If, after the notice has been sent, such delinquent taxes remain unpaid on June 1, the director of finance shall remove such parcel from the land use program. Such removal shall become effective for the current tax year.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3235.

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Sec. 15-810 Payment of roll-back tax; violations; penalties.

A. Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amount and at such times as if he had complied herewith and assessments had been properly made, and such owner shall be liable for a penalty equal to ten (10) per centum of the amount of the roll-back tax, which penalty shall be collected as a part of the tax.

B. Payment of the roll-back tax plus interest and any penalty thereon shall be due within thirty (30) days of the date of assessment. An additional penalty equal to ten per centum of the amount of the roll-back tax due shall be assessed for failure to pay within such thirty (30) day period, plus simple interest at the rate of ten per centum (10%) per annum until the date of payment.

C. Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the county, he shall be further assessed with an additional penalty of one hundred percent (100%) of such unpaid taxes.

D. For purposes of this section and § 15-802, incorrect information on the following subjects will be considered material misstatements of fact:

1. The number and identities of the known owners of the property at the time of application;
2. The actual use of the property.

E. The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misstatement of fact for the purposes of this section and section 15-802.

(8-23-73; 10-12-77; 10-9-85; 4-13-88; Ord. of 8-11-93; Code 1988, § 8-40; Ord. 98-A(1), 8-5-98)

State law reference--Authority of county to adopt this section, Va. Code §§ 58.1-3237, 58.1-3238.

ARTICLE IX. TRANSIENT OCCUPANCY TAX

Sec. 15-900 Definitions.

The following definitions shall apply to this article:

(1) *Lodging provider.* The term “lodging provider” means any person who operates a hotel, motel, boarding house, or travel campground in the county.

(2) *Purchaser.* The term “purchaser” means any person who rents a room or space in a hotel, motel, boarding house, or travel campground for fewer than thirty (30) consecutive days of continuous occupancy.

(Code 1988, § 8-41; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

State law reference--Authority to adopt this article Va. Code § 58.1-3819.

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Sec. 15-901 Imposed; amount of tax.

A. There is hereby imposed a tax on the occupancy of all rooms or spaces in hotels, motels, boarding houses and travel campgrounds within the county. Such tax shall be assessed at the rate of five percent (5%) of the amount charged for such occupancy; provided, however, that nothing herein shall be construed as imposing any tax upon rooms or spaces rented for continuous occupancy to the same person or group of persons for thirty (30) or more days in hotels, motels, boarding houses, or travel campgrounds.

B. The revenues collected from that portion of the tax over two percent (2%) shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, attract travelers to the county and generate tourism revenues in the county.

(11-28-73; 8-15-74; 4-13-88; 3-19-97; § 8-41; Code 1988, § 8-42, Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98; Ord. 08-15(1), 10-1-08)

State law reference--Va. Code § 58.1-3819.

Sec. 15-902 Payment and collection of tax.

All lodging providers liable for collection of taxes imposed by this article, shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such lodging becomes due and payable, whether payment is made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the room or space by the lodging provider who shall pay the taxes collected to the county as provided in this article. Taxes collected by the lodging provider shall be held in trust by the lodging provider until remitted to the county.

(8-15-74, 4-13-88; § 8-42; Code 1988, § 8-43, Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3819.

Sec. 15-903 Deduction for lodging provider.

For the purpose of compensating lodging providers for the collection of the tax imposed by this article, every lodging provider shall be allowed three percent (3%) of the amount of tax due and accounted for in the form of a deduction on his monthly return not to exceed one hundred dollars (\$100) per monthly return; provided, the full amount shall be due if any part of the payment is delinquent at the time of payment.

(Code 1988, § 8-44; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3819(D).

Sec. 15-904 Reports and remittances generally.

Every lodging provider liable for collection of taxes under this article shall make out a report, upon such forms and setting forth such information as the director of finance may prescribe and require, showing the amount of gross receipts collected and the tax required to be collected, and shall sign and deliver such report to the director of finance with a remittance of such tax. Such reports and remittance shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month.

(Code 1988, § 8-45; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

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Sec. 15-905 Preservation of records.

It shall be the duty of any lodging provider liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of three (3) years records showing gross receipts, the amount charged the purchaser for each stay, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The director of finance shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the lodging provider for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts thereof.

(Code 1988, § 8-46; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

Sec. 15-906 Duty of lodging provider when going out of business.

Whenever any lodging provider required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

(Code 1988, § 8-47; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

Sec. 15-907 Enforcement; duty of director of finance.

The director of finance shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the director of finance to ascertain the name of every lodging provider liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The director of finance shall have all the enforcement powers as authorized by Article 1, Chapter 31 of Title 58.1 of the Code of Virginia for purposes of this article.

(Code 1988, § 8-48; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

Sec. 15-908 Procedure upon failure to collect, report, etc.

If any lodging provider whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances mentioned in this article, the director of finance shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the director of finance shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any lodging provider who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such lodging provider the tax and penalties provided for by this article and shall notify such lodging provider, by registered mail sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten (10) days from the date such notice is sent.

(Code 1988, § 8-49; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

Sec. 15-909 Collection.

The director of finance shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county.

(Code 1988, § 8-50; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98)

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Sec. 15-910 Penalty for late remittance or false return.

A. If any lodging provider whose duty it is to do so shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax a penalty in the amount of ten percent (10%) of the total amount of tax owed if the failure is not for more than one month, with an additional penalty of five percent (5%) of the total amount of tax owed for each additional month or fraction thereof during which the failure continues, such penalty not to exceed twenty-five percent (25%) of the taxes collected but not remitted, provided, however, the minimum penalty shall be ten dollars (\$10.00), or the amount of the tax assessable, whichever is less.

B. If any lodging provider whose duty it is to do so shall fail or refuse to file any return required by this article within the time specified in this article, there shall be added to such tax a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

C. It shall be unlawful for any person to willfully fail or refuse to file any return required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

(§ 8-43; Code 1988, § 8-51, Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08; Ord. 16-15(1), 7-6-16)

State law reference – Va. Code §§ 58.1 – 3916, 58.1-3916.1

Sec. 15-911 Violations of article.

Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for and pay over a tax under this article, who willfully fails to collect or truthfully account for and pay over such tax, and any such person who willfully evades or attempts to evade any such tax or payment thereof, shall be guilty of a class 1 misdemeanor. Conviction under this section shall not relieve any person from the payment, collection or remittance of the taxes or penalties provided for in this article. Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes and penalties agreed to be paid by such person is received by the director of finance. Each failure or violation, and each day's continuance thereof, shall constitute a separate offense.

(Code 1988, § 8-52; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 58.1-3906, 58.1-3907; as to punishment for class 1 misdemeanor, see § 18.2-11.

ARTICLE X. REAL ESTATE - IN GENERAL

Sec. 15-1000 Annual assessment of real estate.

A. All real estate in the county shall be assessed annually for purposes of taxation by the director of finance of the county as of January 1 of each year.

B. The office of real estate assessments of the county shall annually conduct a new reassessment of all real property to be applicable for the tax year beginning January 1, 2007, and every tax year thereafter.

C. All assessments of real estate in the county shall be made at one hundred percent (100%) of fair market value.

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(§ 8-1.1, 11-3-76; Ord. of 2-5-92; Code 1988, § 8-64; Ord. 98-A(1), 8-5-98; Ord. 05-15(3), adopted 11-9-05, effective 1-1-07)

State law reference--Authority to impose tax generally, Constitution of Virginia, Article X, Section 4; Va. Code §§ 58.1-3200 et seq.; Biennial reassessment methods, Va. Code § 58.1-3253; amount of assessment, Constitution of Virginia, Article X, Section 2, Va. Code § 58.1-3201.

Sec. 15-1001 Assessment of new buildings substantially completed.

Every new building substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the director of finance shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the director of finance and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment under this section after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.

(§ 8-1.6, 9-9-87; Ord. of 2-5-92; Code 1988, § 8-65; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3292.

Sec. 15-1002 Time limits for appeals of real estate assessments.

A. Pursuant to the provisions of Virginia Code § 58.1-3330, all applications for appeals from any annual assessment of real estate must be made by the property owner or lessee to the county assessor by the last business day of February of the year in which the assessment takes effect. A property owner or lessee may also appeal any annual assessment by making an application directly to the board of equalization by March 15 of the year in which the assessment takes effect, or if an appeal has been made to the county assessor within thirty (30) days from the date of the decision of the county assessor, denying an appeal for such assessment, whichever date is later.

B. Applications for appeals from any supplemental assessment or pro rata assessment for new construction assessed between January 1 and October 31 must be made by the property owner or lessee to the county assessor within fifteen (15) days of the date of the notice of the supplemental or pro rata assessment. A property owner or lessee may also appeal any supplemental or pro rata assessment by making an application directly to the board of equalization within thirty (30) days of the date of the notice of the supplemental or pro rata assessment, or if an appeal has been made to the county assessor within thirty (30) days from the date of the decision of the county assessor denying an appeal for such supplemental or pro rata assessment, whichever date is later.

C. The board of equalization shall finally dispose of all annual assessment appeals by September 1 of the year in which the assessment takes effect and of all supplemental or pro rata assessment appeals for new construction by December 31 of the year in which the supplemental or pro rata assessment takes effect.

(§ 8-1.7, 7-12-89; Ord. of 2-5-92; § 8-66, 3-4-98; Ord. 98-A(1), 8-5-98; Ord. 05-15(3), adopted 11-9-05, effective 1-1-07)

State law reference--Va. Code §§ 58.1-3330, 58.1-3378.

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Sec. 15-1003 Abatement of levies on buildings razed, destroyed or damaged by fortuitous happenings.

Levies may be abated on buildings which are (i) razed, or (ii) destroyed or damaged by a fortuitous happening beyond the control of the owner. No such abatement, however, shall be allowed if the destruction or damage to such building shall decrease the value thereof by less than \$500. Also, no such abatement shall be allowed unless the destruction or damage renders the building unfit for use and occupancy for thirty days or more during the calendar year. The tax on such razed, destroyed or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire year. Application for such abatement shall be made by or on behalf of the owner of the building within six months of the date on which the building was razed, destroyed or damaged.

(Ord. 02-15(1), 5-15-02)

State law reference – Va. Code § 58.1-3222.

ARTICLE XI. PERSONAL PROPERTY--IN GENERAL

Sec. 15-1100 Personal property tax imposed.

A. Tangible personal property, except as provided under §§ 15-1101 and 15-1102, shall be taxed as of January first of each year. The status of all persons, firms, corporations and other taxpayers liable to taxation on any such property shall be fixed as of such date in each year and the value of such property shall be taken as of such date.

B. The director of finance shall not make an assessment under the provisions of this section if the assessment would result in the issuance of a tax bill in an amount less than five dollars (\$5.00).

(§ 8-1.8, Ord. of 2-14-90; Ord. of 2-5-92. Ord. No. 94-8(10), 8-3-94; Code 1988, § 8-68; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code, §§ 58.1-3515, 58.1-3912.

Sec. 15-1101 Exemption of certain personal property from taxation.

The following household and personal effects are hereby exempted from taxation:

- A. Bicycles.
- B. Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.
- C. Pianos, organs, phonographs and record players and records to be used therewith and all other musical instruments of whatever kind and all radio and television instruments and equipment.
- D. Oil paintings, pictures, statuary, curios, articles of virtue and works of art.
- E. Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.
- F. Sporting and photographic equipment.
- G. Clothing and objects of apparel.
- H. Antique motor vehicles as defined in Va. Code § 46.2-100 that are not used for general transportation purposes.
- I. All other tangible personal property used by an individual or a family or household incident to maintaining an abode.

The classification set forth above shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

(Code 1967, § 9-1; Code 1988, § 8-1; Ord. of 2-5-92; Code 1988, § 8-67; Ord. 98-A(1), 8-5-98; Ord. 99-15(1), 11-3-99)

State law reference--Provisions authorizing county to exempt certain personal property from taxation, Va. Code § 58.1-3504.

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Sec. 15-1101.1 Exemption of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment from taxation.

The following farm animals, grains and other feeds used for the nurture of farm animals, agricultural products, farm machinery and farm implements are hereby exempted from taxation:

- A. Horses, mules and other kindred animals.
- B. Cattle.
- C. Sheep and goats.
- D. Hogs.
- E. Poultry.
- F. Grains and other feeds used for the nurture of farm animals.
- G. Grain; tobacco; wine produced by farm wineries as defined in *Virginia Code* § 4.1-100 and other agricultural products in the hands of a producer.
- H. Farm machinery other than the farm machinery described in subsection J of this section, and farm implements, which shall include equipment and machinery used by farm wineries as defined in *Virginia Code* § 4.1-100 in the production of wine.
- I. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.
- J. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.
- K. Privately owned trailers as defined in *Virginia Code* § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subsections A through G of this section.

(Ord. 11-15(3), 7-6-11)

State law reference--Provisions authorizing county to exempt farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment from taxation, Va. Code § 58.1-3505.

Sec. 15-1101.2 Separate classification of certain tangible personal property employed in a trade or business.

Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to *Virginia Code* § 58.1-3507 et seq., merchants' capital pursuant to *Virginia Code* § 58.1-3509 et seq., or short-term rental property pursuant to *Virginia Code* § 58.1-3510.4 et seq., and that has an original cost of less than \$250, is declared to be a separate class of property and shall constitute a classification for taxation separate from other classifications of tangible personal property provided in this chapter. A taxpayer may provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subsection, in lieu of a specific, itemized list.

(Ord. 15-15(2), 8-5-15)

State law reference – Va. Code § 58.1-3506

Sec. 15-1102 Proration of tangible personal property.

A. The tangible personal property tax shall be levied upon motor vehicles, trailers and boats which acquire a situs within the county after January first of any tax year for the remaining portion of the tax year. Such tax shall be prorated on a monthly basis.

B. When any motor vehicle, trailer, semitrailer or boat loses its situs in the county or changes ownership after January first of the tax year, any tax assessed on such motor vehicle, trailer,

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semitrailer or boat shall be relieved, or refunded if paid. Such relief or refund shall be prorated on a monthly basis. No refund shall be made if the motor vehicle, trailer, semitrailer or boat acquires a situs within the Commonwealth in a nonprorating locality. No refund of less than five dollars (\$5.00) shall be issued to a taxpayer, unless specifically requested by the taxpayer.

C. Whenever a motor vehicle, trailer, semitrailer or boat with a situs in the county is transferred to a new owner within the county, the new owner shall be subject to taxation on a prorated basis for the remaining portion of the tax year. The previous owner shall be eligible for relief or refund as provided by paragraph (B) of this section.

D. For the purposes of this section a period of more than one-half (½) of a month shall be counted as a full month and a period of less than one-half (½) of a month shall not be counted.

E. The director of finance may apply any refunds under this section to any delinquent accounts owed by the taxpayer. In addition, this refund may be applied as a credit toward the tax due on any motor vehicle, trailer, semitrailer or boat owned by the taxpayer during the same tax year.

F. Each taxpayer owning tangible personal property with a situs within the county shall file a return on forms prescribed by the director of finance on or before January 31 of each year or within thirty (30) days of the date of purchase or the establishment of a situs within the county. Any taxpayer who fails to file a return required by Virginia Code § 58.1-3518 and/or this article shall be subject to a penalty of 10 percent of the tax assessable on such return or \$10, whichever is greater; provided, however, that such penalty shall in no case exceed the amount of the tax assessable. Such penalty shall be assessed on the day after such return is due, and when so assessed, shall become a part of the tax.

G. Tangible personal property, which was legally assessed by another jurisdiction in the Commonwealth and on which the tax has been paid, is exempt from taxation under this section for the portion of the year such property was legally assessable by another jurisdiction in the Commonwealth.

(§ 8-1.9, Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 94-8(10), 8-3-94; Code 1988, § 8-69; Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16)

State law reference--Similar provisions, Va. Code, §§ 58.1-3516, 58.1-3916.

Sec. 15-1103 Personal property tax relief.

A. Purpose; definitions; relation to other sections.

1. The purpose of this section is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998, Virginia Code §§ 58.1-3523 *et seq.* ("PPTRA") effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

2. Terms used in this section that have defined meanings set forth in the PPTRA shall have the same meanings as set forth in Virginia Code § 58.1-3523.

3. To the extent that the provisions of this section conflict with any other provision of the county code, this section shall control.

B. Method of computing and reflecting tax relief.

1. For tax years commencing in 2006, the county adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the PPTRA and the reporting of such specific dollar relief on the tax bill.

2. Any amount of the PPTRA relief not used within the county's fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.

3. Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

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C. Allocation of relief among taxpayers.

1. Allocation of the PPTRA relief shall be provided in accordance with the general provisions of this section.

2. Relief shall be allocated in such a manner as to eliminate personal property taxation of (a) each qualifying vehicle with an assessed value of \$1,000 or less and (b) the first \$20,000 in value on each qualifying vehicle leased by an active duty member of the United States military, his spouse, or both, pursuant to a contract requiring him, his spouse, or both to pay the tangible personal property tax on such vehicle. The provisions of this subdivision (b) apply only to a vehicle that would not be taxed in Virginia if the vehicle were owned by such military member, his spouse, or both.

3. Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each such qualifying vehicle, that is calculated fully to use all available state PPTRA relief.

D. Transitional provisions.

1. Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the county director of finance is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

2. Penalty with respect to bills issued pursuant to subsection (D)(1) of this section shall be computed on the entire amount of tax owed. Interest with respect to bills issued pursuant to subsection (D)(1) of this section shall be computed at the percentage provided in section 15-100 (E) from the due date of the supplemental personal property tax bill provided for in subsection (D)(1) herein.

(Ord. 06-15(1), 1-4-06, effective 1-1-06; Ord. 15-15(1), 7-1-15)

State law reference – Va. Code § 58.1-3524(C); Item 503, Chapter 951, 2005 Acts of Assembly

ARTICLE XII. FOOD AND BEVERAGE TAX

Sec. 15-1200 Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

(1) *Beverage*: The term “beverage” means any alcoholic beverages as defined in Virginia Code § 4.1-100 and nonalcoholic beverages, any of which are served as part of a meal, excluding alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption.

(2) *Caterer*: The term “caterer” means a person who furnishes food on the premises of another for compensation.

(3) *Director of Finance*: The term “director of finance” means the director of finance of the county and any of his duly authorized deputies, assistants, employees or agents.

(4) *Food*: The term “food” means any and all edible refreshments or nourishment, liquid or otherwise, including beverages as herein defined, purchased in or from a restaurant or from a caterer, except snack foods.

(5) *Meal*: The term “meal” means any food as herein defined, other than a beverage, sold for consumption on the premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

(6) *Person*: The term “person” means any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

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(7) *Purchaser*: The term “purchaser” means any person who purchases food in or from a restaurant or from a caterer.

(8) *Restaurant*: The term “restaurant” means:

(a) Any place where food is prepared for service to the public whether on or off the premises, including a delicatessen counter at a grocery store or convenience store selling prepared foods ready for human consumption; or

(b) Any place where food is served to the public.

Examples of a restaurant include, but are not limited to, a dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, lunchroom, short-order place, tavern, delicatessen, confectionery, bakery, eating house, eatery, drugstore, catering service, lunch wagon or truck, pushcart or other mobile facility that sells food, and a dining facility in a public or private school or college.

(9) *Seller*: The term “seller” means any person who sells food in or from a restaurant or as a caterer.

(10) *Snack food*: The term “snack food” means chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips and other items of essentially the same nature and consumed for essentially the same purpose.

(§ 8-75, 12-10-97; Code 1988, § 8-75; Ord. 98-A(1), 8-5-98; Ord. 00-15(1), 6-7-00)

Sec. 15-1201 Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered for human consumption in the county in or from a restaurant, whether prepared in such restaurant or not, or prepared by a caterer. The rate of this tax shall be four percent (4%) of the amount paid for such food. In the computation of this tax, any fraction of one-half cent (\$0.005) or more shall be treated as one cent (\$0.01).

(§ 8-76, 12-10-97; Code 1988, § 8-76; Ord. 98-A(1), 8-5-98)

Sec. 15-1202 Exemptions.

A. Such tax shall not be levied on food and beverages sold through vending machines or by:

(i) boardinghouses that do not accommodate transients;

(ii) cafeterias operated by industrial plants for employees only;

(iii) restaurants to their employees as part of their compensation when no charge is made to the employee;

(iv) volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes;

(v) churches that serve meals for their members as a regular part of their religious observances;

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(vi) public or private elementary or secondary schools, colleges, and universities to their students or employees;

(vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;

(viii) day care centers;

(ix) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or

(x) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

Also, the tax shall not be levied on food and beverages:

(a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States;

(b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or

(c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

B. Notwithstanding any other provisions of this section, no locality shall levy any tax under this section upon:

(i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price;

(ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price; or

(iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

(§ 8-77, 12-10-97; Code 1988, § 8-77; Ord. 98-A(1), 8-5-98; Ord. 00-15(1), 6-7-00; Ord. 14-15(2), 7-2-14)

State law reference-Va. Code § 58.1-3833.

Sec. 15-1203 Tips and service charges.

No tax shall be imposed under this article on (i) that portion of the amount paid by purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a

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mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price.

(§ 8-78, 12-10-97; Code 1988, § 8-78; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08)

State law reference—Va. Code § 58.1-3833(E)

Sec. 15-1204 Payment and collection of tax.

Every seller of food with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller who shall pay the taxes collected to the county as provided in this article. Taxes collected by the seller shall be held in trust by the seller until remitted to the county.

(§ 8-79, 12-10-97; Code 1988, § 8-79; Ord. 98-A(1), 8-5-98)

Sec. 15-1205 Deduction for seller.

For the purpose of compensating sellers for the collection of the tax imposed by this article, every seller shall be allowed three percent (3%) of the amount of the tax due and accounted for in the form of a deduction on his monthly return not to exceed one hundred dollars (\$100.00) per monthly return; provided, the full amount shall be due if any part of the payment is delinquent at the time of payment.

(§ 8-80, 12-10-97; Code 1988, § 8-80; Ord. 98-A(1), 8-5-98)

Sec. 15-1206 Reports and remittances generally.

Every seller of food with respect to which a tax is levied under this article shall make out a report, upon such forms and setting forth such information as the director of finance may prescribe and require,

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showing the amount of food charges collected and the tax required to be collected, and shall sign and deliver such report to the director of finance with a remittance of such tax. It shall be presumed that all food served, sold or delivered in the county in or from a restaurant is taxable under this article and the burden shall be upon the seller of food to establish by records what food is not taxable. Such reports and remittance shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month.

(§ 8-81, 12-10-97, Code 1988, § 8-81; Ord. 98-A(1), 8-5-98)

Sec. 15-1207 Preservation of records.

It shall be the duty of any seller of food liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of three (3) years records showing gross sales of all food and beverages, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The director of finance shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts thereof.

(§ 8-82, 12-10-97; Code 1988, § 8-82; Ord. 98-A(1), 8-5-98)

Sec. 15-1208 Duty of seller when going out of business.

Whenever any seller required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

(§ 8-83, 12-10-97; Code 1988, § 8-83; Ord. 98-A(1), 8-5-98)

Sec. 15-1209 Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this article will be paid or absorbed by the seller or anyone else, or that the seller or anyone else will relieve the purchaser of the payment of all or any part of the tax.

(§ 8-84, 12-10-97; Code 1988, § 8-84; Ord. 98-A(1), 8-5-98)

Sec. 15-1210 Enforcement; duty of director of finance.

The director of finance shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the director of finance to ascertain the name of every seller liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The director of finance shall have all of the enforcement powers as authorized by Article 1, Chapter 31 of Title 58.1 of the Code of Virginia for purposes of this article.

(§ 8-85, 12-10-97; Code 1988, § 8-85, Ord. 98-A(1), 8-5-98)

Sec. 15-1211 Procedure upon failure to collect, report, etc.

If any seller whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances mentioned in this article, the director of finance shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the director of finance shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any seller who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such seller the tax and penalties provided for by this article and shall notify such seller, by registered mail sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten (10) days from the date such notice is sent.

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(§ 8-86, 12-10-97; Code 1988, § 8-86, Ord. 98-A(1), 8-5-98)

Sec. 15-1212 Collection.

The director of finance shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county.

(§ 8-87, 12-10-97; Code 1988, § 8-87, Ord. 98-A(1), 8-5-98)

Sec. 15-1213 Penalty for late remittance or false return.

A. If any seller whose duty it is to do so shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax a penalty in the amount of ten percent (10%) of the total amount of the tax owed if the failure is not for more than one month, with an additional penalty of five percent (5%) of the total amount of the tax owed for each additional month or fraction thereof during which the failure continues, such penalty not to exceed twenty-five percent (25%) of the taxes collected but not remitted, provided, however, the minimum penalty shall be ten dollars (\$10.00), or the amount of the tax assessable, whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

B. If any seller whose duty it is to do so shall fail or refuse to file any return required by this article within the time specified in this article, there shall be added to such tax a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

C. It shall be unlawful for any person to willfully fail or refuse to file any return required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

(§ 8-88, 12-10-97; Code 1988, § 8-88; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08; Ord. 16-15(1), 7-6-16)

State law reference—Va. Code §§ 58.1-3916, 58.1-3916.1

Sec. 15-1214 Violations of article.

Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for and pay over tax under this article, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully evades or attempts to evade any such tax or payment thereof, shall be guilty of a class 1 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes or penalties provided for in this article. Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes and penalties agreed to be paid by such person is received by the director of finance. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

(§ 8-89, 12-10-97; Code 1988, § 8-89; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08)

Sec. 15-1215 Severability.

If any provision of this article, or any application of such provision to any person or under any circumstances, shall be invalid, the remainder of this article, or the application of such provisions to

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persons or under circumstances other than those to which it shall have been held invalid, shall not be affected thereby.

(§ 8-90, 12-10-97; Code 1988, § 8-90; Ord. 98-A(1), 8-5-98)

ARTICLE XIII. SERVICE CHARGE ON TAX-EXEMPT PROPERTY

Sec. 15-1300 Charge imposed on certain property; exceptions.

There is hereby imposed, on and after January 1, 1980, for tax year 1980 and each year thereafter, pursuant to the authority of Virginia Code § 58.1-3400, a service charge upon the owners of all property, of record as of January 1, 1980, and January 1 of each succeeding year, exempted from such taxation except those classes of such property exempted from such service charge by Virginia Code § 58.1-3400; provided, that until further action of the board of supervisors, there are hereby exempted from such service charge all other classes of nontaxable property except property standing in the name of the commonwealth and of departments, boards, agencies and institutions thereof; provided further, however, that such service charge shall not be applicable to public roadways or property held for future construction of such roadway.

(5-7-80; Code 1988, § 8-56; Ord. 98-A(1), 8-5-98)

Sec. 15-1301 Assessment and collection.

The director of finance shall annually calculate the service charge applicable to each such property based upon the assessed value thereof, the real estate tax rate established by the board of supervisors for taxable property for such tax year and the county's expenditure for allowable services for the preceding fiscal year, in the manner and subject to the maximum limitations set forth in Virginia Code §§ 58.1-3400 to 58.1-3402, or other applicable state law, on or before October 30 of each year. The director of finance shall bill the owners of such property for and shall collect such service charge on the same due dates and in the same manner and subject to the same penalties and interest as are applicable to real estate taxes, as set forth in this chapter.

(5-7-80; 4-13-88; Code 1988, § 8-57; Ord. 98-A(1), 8-5-98)

Sec. 15-1302 Reserved.

**ARTICLE XIV. RESERVED
(Repealed 7-6-11)**

ARTICLE XV. SHORT-TERM RENTAL TAX

Sec. 15-1500 Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings, except where the context clearly indicates a different meaning:

(1) *Affiliated.* The term "affiliated" means any common ownership interest in excess of five percent (5%) of any officers or partners in common with the lessor and lessee. For purposes of this test, (i) any rental to a person affiliated with the lessor shall be treated as rental receipts but shall not qualify for purposes of the eighty percent (80%) requirement, and (ii) any rental of personal property that also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. For purposes of this section, the delivery and installation of tangible personal property shall not mean operation.

(2) *Daily rental property.* The term "daily rental property" means all tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers, as defined in Virginia Code § 46.2-100 and other tangible personal property required to be licensed or registered with

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the Department of Motor Vehicles, the Department of Game and Inland Fisheries, or the Department of Aviation.

(3) *Gross proceeds.* The term “gross proceeds” means the total amount charged to each person for the rental of daily rental property, excluding any state and local sales tax paid pursuant to the Virginia Retail Sales and Use Tax Act.

(4) *Short-term rental business.* The term “short-term rental business” means a business in which a person is engaged if not less than eighty percent (80%) of the gross rental receipts of such business in any year are from transactions involving rental periods of ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor.

Sec. 15-1501 Levied; amount.

Pursuant to Virginia Code § 58.1-3510.1, there is hereby assessed and imposed on every person engaged in the short-term rental business a tax of one percent (1%) on the gross proceeds of such business. Such tax shall be in addition to the tax levied pursuant to Virginia Code § 58.1-605.

Sec. 15-1502 Taxation of rental property that is not daily rental property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to Virginia Code § 58.1-3503.

Sec. 15-1503 Collection, return and remittance of tax.

Every person engaged in the short-term rental business shall collect the rental tax from the lessee of the daily rental property at the time of the rental. The lessor of the daily rental property shall transmit a quarterly return to the finance director, indicating the gross proceeds derived from the short-term rental business and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of tax shall be filed with the finance director on or before the 20th day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The return shall be upon such forms and setting forth such information as the finance director may require, showing the amount of gross receipts and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

Sec. 15-1504 Procedure upon failure to collect, report or remit taxes.

If any person, whose duty it is so to do, shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the returns and remittances required in this article, the finance director shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the finance director shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax and to make such return and remittance, he shall proceed to determine and assess against such person the tax, penalty and interest provided for by this article and shall notify such person, by registered mail, sent to his last known place of address, of the total amount of such tax, penalty and interest and the total amount thereof shall be payable within ten (10) days from the date of such notice. In the event such tax is not paid within ten (10) days from the date of the notice, the Finance Director shall proceed to collect same in accordance with Chapter 39 of Title 58.1 of the Code of Virginia.

Sec. 15-1505 Penalty and interest.

If any person, whose duty it is so to do, shall fail or refuse to remit to the finance director the tax required to be collected and paid under this article within the time specified in the article, there shall be

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added to such tax a penalty in the amount of ten percent (10%) of the tax past due or the sum of ten (10) dollars, whichever is the greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any return or remittance as required in this article. Additionally, interest on late payments of all taxes due shall be added at the rate of ten percent (10%) per year. Penalty and interest for failure to pay the tax assessed pursuant to this article shall be assessed on the first day following the day such quarterly installment payment is due.

Sec. 15-1506 Exclusions and exemptions.

No tax shall be collected or assessed on (i) rentals by the Commonwealth, any political subdivision of the Commonwealth or the United States or (ii) any rental of durable medical equipment as defined in subdivision 2 of Virginia Code § 58.1-609.7. Additionally, all exemptions applicable in Chapter 6 of Title 58.1 of the Code of Virginia (§ 58.1-600 et. seq.) shall apply mutatis mutandis to the daily rental property tax.

Sec. 15-1507 Renter's certificate of registration.

Every person engaging in the business of short-term rental of tangible personal property shall file an application for a certificate of registration with the finance director. The application shall be on a form prescribed by the finance director and shall set forth the name under which the applicant intends to operate the rental business, the location and such other information as the finance director may require.

Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership or corporation to sign.

Upon approval of the application by the finance director, a certificate of registration shall be issued. The certificate shall be conspicuously displayed at all times at the place of business for which it is assessed.

The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

Sec. 15-1508 Criminal penalties for violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor. Provided however, if the amount of tax due and unpaid for any quarterly installment exceeds \$1,000, any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor.

(Ord. 00-15(4), 10-11-00)

ARTICLE XVI. PROPERTY EXEMPTED FROM TAXATION

Sec. 15-1601 Property exempt from taxation by classification.

A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

1. Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.

2. Real property and personal property owned by churches or religious bodies, including (i) an incorporated church or religious body and (ii) a corporation mentioned in Virginia Code § 57-16.1, and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such property. Real property exclusively used for religious worship shall also include the following:

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(a) property used for outdoor worship activities; (b) property used for ancillary and accessory purposes as allowed under Chapter 18 herein, the dominant purpose of which is to support or augment the principal religious worship use; and (c) property used as required by federal, state, or local law.

3. Nonprofit private or public burying grounds or cemeteries.

4. Property owned by public libraries, law libraries of local bar associations when the same are used or available for use by a state court or courts or the judge or judges thereof, medical libraries of local medical associations when the same are used or available for use by state health officials, incorporated colleges or other institutions of learning not conducted for profit. This paragraph shall apply only to property primarily used for literary, scientific or educational purposes or purposes incidental thereto and shall not apply to industrial schools which sell their products to other than their own employees or students.

5. Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories and nunneries, conducted not for profit but exclusively as charities.

6. Parks or playgrounds held by trustees for the perpetual use of the general public.

7. Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes.

8. Property of any nonprofit corporation organized to establish and maintain a museum.

9. Property owned by hospitals conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment), provided such property is either occupied or used (i) as a general licensed inpatient hospital or (ii) as a licensed outpatient hospital immediately adjacent to a general licensed inpatient hospital that has qualified for tax exemption pursuant to this section. Any portion of the property owned by such hospital that is either leased to a third-party or not used for hospital purposes shall not be exempt from taxation under this subsection.

B. The real and personal property of an organization classified in *Virginia Code* §§ 58.1-3610 through 58.1-3622 and used by such organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purpose as set forth in Article X, Section 6 (a) (6) of the Constitution of Virginia, the particular purpose for which such organization is classified being specifically set forth within each section, shall be exempt from taxation, so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.

C. Property which was exempt from taxation on December 31, 2002, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property at the time such property became entitled to exemption.

D. Exemptions of property from taxation granted under this section on or after January 1, 2003 shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

State law reference--Property exempt from taxation by classification or designation by ordinance adopted by local governing body on or after January 1, 2003, Va. Code § 58.1-3651; Va. Code § 58.1-3606. Pursuant to Enactment Clause 2 of Chapter 557 of the 2004 Acts of Assembly, this ordinance shall be effective as of January 1, 2003.

(Ord. 04-15(1), 9-1-04, effective retroactive to January 1, 2003; Ord. 06-15(2), adopted 11-1-06, effective 1-1-07; Ord. 14-15(1), 6-4-14, effective 7-1-14)

Sec. 15-1602 Property exempt from taxation by designation.

Property not granted tax-exempt status prior to January 1, 2003 can be granted tax-exempt status by designation only by the adoption of an ordinance by the board of supervisors granting the exemption. The adoption of such an ordinance shall be pursuant to the provisions of Article 4.1, Chapter 36 of Title 58.1 of the Code of Virginia applicable to the exemption of property from taxation by designation.

State law reference--Property exempt from taxation by classification or designation by ordinance adopted by local governing body on or after January 1, 2003, Va. Code § 58.1-3651; Va. Code § 58.1-3606. Pursuant to Enactment Clause 2 of Chapter 557 of the 2004 Acts of Assembly, this ordinance shall be effective as of January 1, 2003.

(Ord. 04-15(1), 9-1-04, effective retroactive to January 1, 2003)

Sec. 15-1603 Exemption from taxes on property for disabled veterans; Application for exemption.

A. Pursuant to Article X, Section 6-A of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the following real property, including such joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as the veteran's principal place of residence, shall be exempt from taxation:

- (i) the qualifying dwelling, and
- (ii) the land, not exceeding ten acres, upon which said dwelling is situated.

If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no interest shall be due on any refund due to the veteran for taxes paid prior to the veteran's filing of the required affidavit or written statement. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid.

B. The surviving spouse of a veteran eligible for the exemption set forth in this section shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as the spouse's principal place of residence.

C. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (i) held by the veteran's spouse as tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

D. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection C and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

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In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection C, then the exemption shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

E. The veteran or surviving spouse claiming the exemption under this section shall file with the director of finance or his designee, on forms to be supplied by the county, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by a husband and wife, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

F. The fact that veterans or their spouses who are otherwise qualified for an exemption under this section are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which the exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(Ord. 11-15(2), 5-11-11; Ord. 16-15(1), 7-6-16)

State law reference -- §§ 58.1-3219.5, 58.1-3219.6

**ARTICLE XVII. CERTIFIED SOLAR ENERGY EQUIPMENT, FACILITIES OR DEVICES
AND CERTIFIED RECYCLING EQUIPMENT, FACILITIES OR DEVICES**

Sec 15-1700 Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

(1) *Certified recycling equipment, facilities, or devices.* The term "Certified recycling equipment, facilities, or devices" means machinery and equipment which is certified by the Virginia Department of Waste Management as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth.

(2) *Certified solar energy equipment, facilities or devices.* The term "Certified solar energy equipment, facilities or devices" means any property, including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas, or electricity.

(3) *Local certifying authority.* The term "Local certifying authority" means the county's building official.

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(4) *Local building department.* The term “Local building department” means the inspections division of the county’s Department of Community Development.

(Ord. 05-15(2), 10-5-05)

State law reference-- Va. Code, § 58.1-3661(B).

Sec 15-1701 Tax Exemption of certified solar energy equipment and certified recycling equipment.

Certified solar energy equipment facilities or devices and certified recycling equipment, facilities, or devices, as defined in this article, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property. Such property is exempt from local taxation, as provided in this article.

(Ord. 05-15(2), 10-5-05)

State law reference-- Va. Code, § 58.1-3661(A)

Sec 15-1702 Application generally.

A. Any person residing in the county may proceed to have solar energy equipment, facilities or devices, or recycling equipment, facilities, or devices certified as exempt, wholly or partially, from taxation by applying to the local building department.

B. The person claiming an exemption under this article for solar energy equipment, facilities or devices, or recycling equipment, facilities, or devices must file an application with the local building department on forms provided for that purpose.

C. The application must be accompanied by a complete set of plans and specifications of the solar energy equipment, facilities or devices, or recycling equipment, facilities, or devices for which exemption is claimed. The application must also be accompanied by sworn statements of contractors or suppliers attesting to the cost of the purchase and installation of the solar energy equipment, facilities or devices, or recycling equipment, facilities, or devices for which exemption is sought.

(Ord. 05-15(2), 10-5-05)

Sec. 15-1703 Certification of solar energy equipment or recycling equipment.

If, after examination of such equipment, facility or device, the building official determines that the unit primarily performs any of the functions set forth in § 15-1700 and conforms to the requirements set by regulations of the Virginia Board of Housing and Community Development, such department shall approve and certify such application. The local building department shall forthwith transmit to the county assessor those applications properly approved and certified by the local building department as meeting all requirements qualifying such equipment, facility or device for exemption from taxation. Any person aggrieved by a decision of the local building department may appeal such decision to the local building code board of appeals, which may affirm or reverse such decision.

(Ord. 05-15(2), 10-5-05)

State law reference-- Va. Code, § 58.1-3661(C)

Sec 15-1704 Determination of Exemption.

Upon receipt of the certificate from the local building department, the county assessor shall proceed to determine the value of such qualifying solar energy equipment, facilities or devices or certified recycling equipment, facilities, or devices. The exemption provided by this article shall be determined by applying the local tax rate to the value of such equipment, facilities or devices and subtracting such amount, wholly or partially, either (i) from the total real property tax due on the real property to which such

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equipment, facilities, or devices are attached or (ii) if such equipment, facilities, or devices are taxable as machinery and tools under *Virginia Code* § 58.1-3507, from the total machinery and tools tax due on such equipment, facilities, or devices, at the election of the taxpayer. This exemption shall be effective beginning in the next succeeding tax year after the date of approval by the county assessor, and shall remain in effect for the four (4) following tax years. In the event the qualifying equipment, facilities, or devices is part of a new building subject to assessment pursuant to § 15-1001, the exemption shall be first effective when such real estate is first assessed, but not prior to the date of such application for exemption.

(Ord. 05-15(2), 10-5-05)

State law reference-- Va. Code, § 58.1-3661(D)

Sec 15-1705 Presumption of Value.

It shall be presumed for purposes of the administration of this article, and for no other purposes, that the value of such qualifying solar energy equipment, facilities and devices is not less than the normal cost of purchasing and installing such equipment, facilities and devices.

(Ord. 05-15(2), 10-5-05)

State law reference-- Va. Code, § 58.1-3661(E)