

**ORDINANCE NO. 2001-1
SPECIAL ASSESSMENTS FOR AGRICULTURAL
OR HORTICULTURAL REAL ESTATE**

A public hearing was held on Tuesday, December 12, 2000, at 7:15 p.m. in the Board Room of the Wythe County Office Building, 275 South Fourth Street, Wytheville, Virginia, to consider amending and re-enacting Ordinance No. 76-3, to be known as Ordinance No. 2001-1, "Special Assessments for Agricultural or Horticultural Real Estate Ordinance of Wythe County, Virginia", as follows:

ARTICLE I - Title, Authority, Jurisdiction and Purpose

- Section 1.1 Title. This ordinance shall hereinafter be known as and may be cited as the "Special Assessments for Agricultural or Horticultural Real Estate Ordinance of Wythe County, Virginia", Ordinance No. 2001-1.
- Section 1.2 Authority. It is adopted pursuant to the provisions of Virginia Code Section 58.1-3230 and 58.1-3231 of the Code of Virginia, as amended.
- Section 1.3 Jurisdiction. The provisions of this ordinance shall apply to Wythe County, Virginia.
- Section 1.4 Purpose. The purpose of this ordinance is to promote the public interest by preserving real estate devoted to agricultural and horticultural uses in accord with the previously adopted land use plan, pursuant to the authority granted by the statutes cited above. In addition, any incorporated town within Wythe County, having heretofore adopted a land use plan, may by appropriate action, indicate its intention to have the real estate within its boundaries covered by the terms and provisions of this ordinance. Upon favorable action by the governing body of any incorporated town with Wythe County, the terms and conditions of this ordinance shall apply to all real estate within such town's boundaries.

ARTICLE II - Land Use Assessment

- Section 2.1 Assessment of Property. Landowners whose real property shall meet the criteria set forth in Sections 58.13230 and 58.1-3233 of the Code of Virginia may, on or before the first day of November of each year for which such assessment is sought, apply to the Commissioner of the Revenue for the classification, assessment and taxation of their properties for the next succeeding tax year on the basis of its use, under the procedures set forth in Code Section 58.1-3233.

- Section 2.2 Forms and Schedules. The application shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of the Revenue, and shall include such additional schedules, photographs and drawings as may be required by the Commissioner of the Revenue.
- Section 2.3 Joint Owners. An individual who is the owner of an undivided interest in a parcel of land may apply upon behalf of himself and the other owner or owners of such parcel upon submission of an affidavit that such other owner(s) are minors or cannot be located.
- Section 2.4 Reapplication Required. An application must be submitted whenever the use or acreage of land previously approved shall have changed. All properties must be revalidated with the Commissioner of the Revenue after each reassessment in Wythe County.
- Section 2.5 Applications, Fee, Revalidation. Separate applications shall be filed for each tax parcel in the land book for which qualification is sought.
- (a) An application fee of twenty-five dollars (\$25.00) shall accompany the application plus twenty cents (\$.20) per acre is hereby established.
 - (b) Revalidation shall occur with each reassessment on a County-wide basis or to coincide with reassessment as established by the Board of Supervisors. Revalidation shall begin in 2001 for the tax year 2002 and shall occur as each reassessment is completed thereafter. A revalidation fee of twenty cents (\$.20) per acre is hereby established.
 - (c) Late Revalidation
 - (1) Any landowner who fails to revalidate on or before November 1 on the year he is required to do so, shall have until December 5 of that year to revalidate.
 - (2) The fee for late revalidation shall be ten cents (\$0.10) per acre, in addition to the twenty cents (\$0.20) per acre fee for timely revalidation.
- Section 2.6 Qualifying Use Value. Promptly upon receipt of any application the Commissioner of the Revenue shall determine whether the subject property meets the criteria for taxation hereunder. If the Commissioner shall determine that the property does meet such criteria, he or she shall determine the value of such property for its qualifying use, as well as its fair market value.

- Section 2.7 Agricultural or Horticultural Use Determination. In determining whether the subject property meets the criteria for agricultural use or horticultural use the Commissioner of the Revenue may request an opinion from the Commissioner of Agriculture and Consumer Services.
- Section 2.8 Adverse Determination. In the event that the opinion of the Commissioner of Agriculture and Consumer Services, the State Forester or the Director of the Department of Conservation and Recreation is refused or unfavorable to the landowner, the landowner may seek relief from the Circuit Court of Wythe County. If the Court finds in his favor, it may issue an opinion which shall serve in lieu of an opinion from the respective agency head.
- Section 2.9 Delinquent Tax. No application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the other provisions of this ordinance.
- Section 2.10 Inclusion in Land Book. The fair market value and the use value of any qualifying property shall be placed in the land book before delivery to the Treasurer, and the tax for the next succeeding tax year shall be based upon the use value.

ARTICLE III - Roll-Back Tax

- Section 3.1 There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Virginia Code Section 58.1-3237, upon any property as to which the use shall have changed to a non-qualifying use.
- Section 3.2 Reporting by Owner. The owner of any real estate liable for roll-back tax shall, within sixty (60) days following its change in use, report such change in use to the Commissioner of Revenue or other assessing officer on such forms as may be prescribed. The Commissioner of the Revenue shall forthwith determine and assess the roll-back tax, which shall be paid to the Treasurer within thirty (30) days of assessment.
- Section 3.3 Failure to Report. The failure of a landowner to report a change in use as required, or his failure to pay the tax assessed, such owner shall be liable for an additional penalty equal to ten percentum (10%) of the amount of the roll-back tax, plus interest, which penalty and interest shall be collected as part of the tax. In addition to the 10% penalty, there is hereby imposed interest of one-half percentum (0.5%) of the amount of the roll-back tax, penalty and

interest, for each month or fraction thereof during which such failure continues.

Section 3.4 False or Fraudulent Reporting. Any person who shall make a material misstatement of fact in any application filed pursuant to this ordinance shall be liable for all 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 County, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

Section 3.5 What Constitutes Material Misstatement. For purposes of this ordinance, incorrect information on the following subjects will be considered material misstatements of fact:

- (a) The number and identities of the known owners of the property at the time of application.
- (b) The actual use of the property;
- (c) 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.

ARTICLE IV - Construction

Section 4.1 All of 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 assessment and taxation hereunder *mutatis mutandis*, including without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes roll-back taxes shall be considered to have been deferred real estate taxes.

ARTICLE V - Legal Status Provisions

Section 5.1 Certified Copies of Ordinance. Certified copies of this ordinance and all amendments thereto shall be filed in the offices of the County Administrator, the Clerk's Office of the Wythe Circuit Court and the Clerk's Office of the Combined District Courts of Wythe County, Virginia.

Section 5.2 Validity. Should any article, section, subsection or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or

unconstitutional, such decision shall not affect the validity or constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Section 5.3 Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.

Section 5.4 Effective Date. This ordinance shall be effective on and after 12:01 a.m. on January 10, 2001, and was adopted by the Board of Supervisors by a vote at their regular meeting on January 9, 2001 as follows:

<u>NAME</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSENT</u>
Charles S. Dix	X		
Danny C. McDaniel	X		
Wythe B. Sharitz		X	
Howard W. Manley	X		
Susan R. Crigger		X	
R. Daniel Porter	X		
Anne B. Crockett-Stark	X		

I certify that this is a true and correct copy taken from the January 9, 2001 minutes of the Wythe County Board of Supervisors meeting.

R. Cellell Dalton, Clerk