

ORDINANCE NO. 1798

**ORDINANCE TO ADOPT ARTICLE XIII UNDER CHAPTER 74 – ASSESSMENT OF LAND
DEVOTED TO AGRICULTURAL USE TO THE CITY OF POQUOSON CODE OF
ORDINANCES**

WHEREAS, it is the desire of City Council of the City of Poquoson to recognize land preserved for agricultural use; and

WHEREAS, the Commissioner of Revenue with discussions with the City Manager and City Assessor recommends adopting language in the City of Poquoson Code of Ordinances to provide special assessment for land devoted to agricultural use, and

WHEREAS, the value of the land devoted to agricultural use will be assessed based on the recommended value estimates provided by the Virginia State Land Evaluation Advisory Council, and

WHEREAS, careful and thorough consideration was given the proposed addition:

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Poquoson, Virginia:

Section 1: That the proposal to create Article XIII. Assessment of Land Devoted to Agricultural Use of the City Code of Poquoson, VA is to read as follows:

Chapter 74 - Taxation

Article XIII. Assessment of Land Devoted to Agricultural Use

Sec. 74-490. **Reserved**

Sec. 74-491. **Purpose**

The City Council of Poquoson finds that preservation of real estate devoted to Agricultural use is in the public interest and, having adopted an agricultural land use plan, such real estate shall be taxed in accordance with provisions of article 4 of chapter 31 of title 58.1 of the Code of Virginia

Sec. 74-492. **Initial application, revalidation, qualification and valuation generally; fees**

- (a) The owner of any real estate meeting the criteria set forth in the Code of Virginia in Sections §58.1-3230 and §58.1-3233 may, at least ninety (90) days preceding the tax year for which taxation is sought, apply to the commissioner of the revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use. In any year in which a general reassessment is being made, such application may be submitted until thirty (30) days have elapsed after his notice of increase of assessment in mailed in accordance with the Code of Virginia §58.1-3330 or sixty (60) days preceding the tax year for which taxation is sought, whichever is later.
- (b) The application provided for in this section shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue of this city and shall include evidence required by the commissioner of the revenue to satisfy that the land use criteria for qualification has been met. Evidence of agricultural use may include schedules, drawings, photographs and other documentation as deemed necessary.
- (c) In determining whether the subject property meets the criteria set forth in this division and in the Code of Virginia §58.1-3230 to qualify for agricultural use, the commissioner of the revenue may request an opinion from the state commissioner of agriculture and consumer services.
- (d) Whenever the use or acreage of the land previously approved changes, an application shall be submitted under this section except when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment.
- (e) A separate application shall be filed for each parcel of land for which qualification is sought together with a non-refundable application fee of \$150. Contiguous parcels under the same

ownership shall pay the application fee plus an additional \$25 for each contiguous parcel for which qualification is sought.

- (f) Property owners must revalidate every six (6) years with the commissioner of the revenue any applications previously approved. An application for revalidation must be submitted sixty (60) days preceding the year for which taxation is sought. A non-refundable revalidation fee not to exceed the original application fee shall be imposed each time a revalidation is required.

Sec. 74-493. Application not accepted or approved – Reference Code of Virginia §58-769.8

No application for assessment based on use under this division shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this division.

Sec. 74-494. Qualification requirements

- (a) A minimum of 5 acres must be devoted to use.
- (b) The real estate must have been devoted for at least 5 consecutive years previous to the production for sale of plants or animals, or to the production for sale of plant or animal products useful to man, or devoted to another qualifying use. If a tract of real estate is converted from nonproduction to agricultural production, the property may qualify without a five-year history of use only if the change expands or replaces production enterprises existing on other tracts of real estate owned by the applicant.

Sec. 74-495. Determination

- a) Promptly upon receipt of any application under this division, the commissioner of the revenue shall determine whether the subject property meets the criteria for taxation hereunder. If the commissioner of the revenue determines that the subject property meets the criteria, he shall determine the value of such property for its qualifying use, as well as fair market value.
- b) In determining whether the subject property meets the criteria for “agricultural use” the commissioner of the revenue may request an opinion from the state commissioner of agriculture and consumer services.

Sec. 74-496. Prerequisites to continuation of status

Continuation of valuation, assessment and taxation under this division shall depend on continuance of the real estate in a qualifying use, timely payment of taxes due as set forth in this division, and compliance with the requirements of this division and applicable statutes.

Sec. 74.497. Removal of parcel 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 use value assessment are delinquent, the treasurer shall immediately send notice of that fact along with a copy of this section to the property owner by first class mail. If, after sending such notice, such delinquent taxes remain unpaid on June 1st, the treasurer shall notify the commissioner of the revenue, who shall remove such parcel from the agricultural use program. Such removal shall become effective for the current tax year.

Sec. 74.498. Roll-back tax imposed

There is hereby imposed a roll-back tax, in any such amount as may be determined under the Code of Virginia §58.1-3237, upon any property as to which the use changes to a non-qualifying use or the zoning thereof is changed to a more intensive use at the request of the owner or his agent. Simple interest for each of the tax years as the same rate applicable to delinquent taxes in the city shall be included as part of such a roll-back tax.

Sec. 74.499. Owner to report change in use, pay roll-back; penalties for failure to do so

The owner of any real estate liable for roll-back taxes shall report to the commissioner of the revenue, on forms to be prescribed, any change in the use of such property to a non-qualifying use, or any applicable change in zoning to a more intensive use, and shall pay the roll-back then due. On failure to so report within 60 days following such change in use, such owner shall be liable for an additional penalty equal to 10 percent of the amount of the roll-back tax, which penalty shall be collected as part of the tax. Upon receiving notice from the owner or by other means of a change

in use or zoning that results in liability for a roll-back tax, the commissioner of the revenue and the city assessor shall forthwith determine and assess the roll-back tax.

Sec. 74.500. **Penalty for material misstatements**

Any person making a material misstatement of fact in any application filed pursuant hereto 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 state in the city, together with interest and penalties thereon. He shall be further assessed with an additional penalty of 100 percent of such unpaid taxes as provided by the law if the misstatement was made with the intent to defraud the city.

Sec 74-501. **Use value and entry in land book**

The use value and the fair market value of any qualifying property under this division shall be placed on the land book before delivery to the treasurer and the tax for the next succeeding tax year shall be extended from the use value.

Sec. 74-502-510. **Reserved**

Section 2: That the second reading of this ordinance is hereby dispensed with and the provisions contained herein shall become effective immediately upon adoption.

ATTESTE:

ADOPTED: December 9, 2024

Christina Snapp, Deputy City Clerk

Gordon C. Helsel, Jr., Mayor

The foregoing ordinance was adopted by the affirmative roll call vote of a majority of the members in attendance, the ayes and nays recorded in the minutes of the meeting as shown below:

Councilman Hux
Councilman Southall
Councilwoman Emmett

Councilwoman Bunting
Councilman Feigh
Vice Mayor Freeman

Mayor Helsel