

ORDINANCE

**REPEALING AND RE-ENACTING SECTIONS 7-1; 7-3; 7-8.1(a); 7-9; 7-10;
7-13; 7-16; 7-17; 7-19; 7-22; 7-36; 7-37; 7-39; 7-41; 7-42; 7-43; 7-45.1; 7-46;
7-47; 7-57; 7-60; 7-64; 7-68; 7-76; AND 7-79 AND
REPEALING AND RESERVING SECTION 7-15.1
OF THE CODE OF ORDINANCES
OF
ROCKINGHAM COUNTY, VIRGINIA**

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM
COUNTY, VIRGINIA:

That Section 7-1 Assessment of new buildings substantially completed, etc. be and
hereby is repealed and re-enacted as follows:

Section 7-1 Assessment of new buildings substantially completed, etc.

(a) The commissioner of the revenue shall place an assessment on all new buildings in the county when such buildings are substantially completed or fit for use, occupancy and enjoyment; provided, that such completion or fitness for use, occupancy and enjoyment is prior to November first of the year of completion.

(b) 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 new 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. Any assessment made under this section after September first of any year shall not be subject to the five (5) percent penalty for nonpayment until February fifth of the succeeding year.

That Section 7-3 Administration and collection be and hereby is repealed and re-enacted as follows:

Section 7-3 Administration and collection.

Pursuant to Section 58.1-605 of the Code of Virginia, the local general retail sales tax levied pursuant to this article shall be administered and collected by the tax commissioner in the same manner, and subject to the same penalties as provided for the state sales tax, with the adjustments required by 58.1-628.2 of the Code of Virginia

That Sub-section 7-8.1(a) Filing of return and payment of tax be and hereby is repealed and re-enacted as follows:

Sub-section 7-8.1(a) Filing of return and payment of tax.

(a) On or after the first day of January of each year, but not later than March first of any such year, all banks whose principal offices are located within this county but outside any incorporated town herein shall prepare and file with the commissioner of the revenue a return as provided by section 58.1-1207 of the Code of Virginia 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 commissioner of the revenue 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. Additionally, a copy of the real estate deduction schedules and the apportionment under § 58.1-1211 of the Code of Virginia shall be filed with the appropriate assessing officer of each political subdivision imposing a tax on the filing bank. Such return shall set forth the tax on net capital owing to each such political subdivision as computed under this chapter and shall include the listing of the real estate, as assessed for the prior year, as well as a description of the total of the obligations of the United States and the average percentage thereof on the four dates prescribed in subdivision 3 of § 58.1-1206.

Sub-section 7-8.1(b) remains as before.

That Section 7-9 Definitions be and is hereby amended as follows:

Section 7-9 Definitions.

Local telephone service is deleted.

The definition of *utility services* is repealed and re-enacted as follows:

Utility services: Includes electricity service and natural gas service furnished in the county.

All other definitions remain as before.

That section 7-10 Imposed; amount be and is hereby repealed and re-enacted as follows:

Section 7-10 Imposed; amount.

(a) Except as hereinafter provided, there is hereby imposed and levied by the county upon each purchaser of a utility service a tax, further described below, not to exceed twenty (20) percent of the charge exclusive of any federal tax thereon, made by the seller against the purchaser with respect to each utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser to the seller for the use of the county at the time the purchase price or payment for such charge shall become due and payable under the agreement between the purchaser and the seller; provided that in case any monthly bill of a residential user shall exceed ten dollars (\$10.00) no tax shall be computed on such excess, and in case any monthly bill of a commercial user shall exceed one hundred dollars (\$100.00) no tax shall be computed on such excess. In case bills are submitted by any seller for two (2) months' service, no tax shall be computed on so much of such bill as shall exceed twenty dollars (\$20.00) for residential user or two hundred dollars (\$200.00) for a commercial user.

(b) Effective with the first bill for electric energy rendered for meter readings on or after January 1, 2001, the rate of tax on the electric energy delivered to the user shall be as follows:

(1) *Residential user*: \$0.1500 per kilowatt hour (kWh) with a minimum tax of \$1.40 per month and a maximum tax of \$2.00 per month.

(2) *Commercial or industrial user*: \$0.014674 per kilowatt hour (kWh) with a minimum tax of \$2.29 per month and a maximum tax of \$20.00 per month.

(c) Effective with the first bill for natural gas energy rendered for meter readings on or after January 1, 2001, the rate of tax on the natural gas energy delivered to the user shall be as follows:

(1) *Residential user*: \$2.00 per month

(2) *Commercial or industrial user*: \$4.65 per month plus \$0.0520 per hundred cubic feet (CCF) with a maximum tax of \$20.00 per month.

That Section 7-13 Exceptions for local messages by coin-operated telephones be and hereby is repealed, re-enacted and renamed:

Section 7-13 Electricity Sold for Resale.

The tax imposed and levied by this article shall not apply to sales of electricity service for resale.

That Section 7-15.1 Local tax for E911 is hereby repealed.

That Sub-section 7-16(a) Definitions.

Dwelling be and is hereby repealed and re-enacted as follows:

Section 7-16 Definitions.

(a) *Dwelling*. The word "dwelling" as used herein shall be defined as a home constructed upon real estate owned by the qualified property owner or a manufactured home, as defined in section 36-85.3 of the Code of Virginia, 1950, as amended, whether or not such real estate on which such mobile home is located is owned by the qualified property owner.

All other paragraphs in Section 7-16 remain as before.

That Section 7-17 Exemption authorized be and hereby is repealed and re-enacted as follows:

Section 7-17 Exemption authorized.

Real estate tax and manufactured home exemption is provided for qualified property owners who are not less than sixty-five (65) years of age or determined to be permanently and totally disabled as provided in section 7-19 of this article and who are eligible according to the terms of this article. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

That Sub-Section 7-19(c) Requirements for exemption be and hereby is repealed and re-enacted as follows:

Sub-section 7-19(c) Requirements for exemption.

(c) The dwelling on the property for which exemption is claimed must be occupied as the sole dwelling of the person claiming exemption. Sole Dwelling includes real property (i) held by the eligible person alone or in conjunction with his spouse as tenant or tenants for lives or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person 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 person” does not include any interest held under a leasehold or term of years.

All other sub-sections of Section 7-19 remain as before.

That Section 7-22 Penalty for falsely claiming exemption be and hereby is repealed and re-enacted as follows:

Section 7-22 Penalty for falsely claiming exemption.

Any person who falsely claims the exemption provided for in this article shall pay to the treasurer one hundred ten (110) percent of such exemption. In addition, any person who falsely claims exemption provided for in this article may be prosecuted and convicted of a class 2 misdemeanor.

That Sub-section 7-36(b) Determination of use value by the commissioner of the revenue be and hereby is repealed and re-enacted as follows:

Sub-section 7-36(b) Determination of use value by the commissioner of the revenue.

(b) 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; in determining whether the subject property meets the criteria for "forest use" he may request an opinion from the State Forester; and in determining whether the subject property meets the criteria for "open space use" he may request an opinion from the Director of Department of Conservation and Recreation. Upon the refusal of the Commissioner of Agriculture and Consumer Services, the State Forester or the Director of the Department of Conservation and Recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with the standards set forth by the respective director, the party aggrieved may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

Sub-section 17-36(a) remains as before.

That Sub-section 7-37(a)(3) Method of valuation be and hereby is repealed and re-enacted as follows:

Sub-section 7-37 Method of valuation.

(a) In valuing qualifying real estate for purposes of taxation the commissioner of the revenue shall consider:

- (3) The recommendations of value of such real estate as made by the state land evaluation advisory council.

All other sub-sections, including Sub-sections 7-37(a)(1) and (2), remain as before.

That Sub-section 7-39(a) Roll-back taxes be and hereby is repealed and re-enacted as follows

Section 7-39 Roll-back taxes.

(a) There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under the Code of Virginia, section 58.1-3237, upon any property as to which the use changes to a nonqualifying use. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

All other sub-sections of Section 7-39 remain as before.

That Section 7-41 Separation of part of real estate assessed under article be and hereby is repealed and re-enacted as follows:

Section 7-41 Separation of part of real estate assessed under article.

(a) The separation or split-off of a part of 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 be reported to the commissioner of the revenue within sixty (60) days, and shall subject the remaining real estate or the portion thereof so separated to liability for the roll-back taxes applicable thereto. Notwithstanding the foregoing and in all events, such separation or split-off of parcels shall not subject any such real estate to roll back taxes and shall not impair the right of either the remaining real estate or each of the parcels so split-off to continue to qualify for such valuation, assessment and taxation

under this article, provided it meets the minimum acreage requirements and other applicable conditions of this article and such qualification is timely reported to the commissioner of the revenue.

(b) No subdivision, separation, or split-off property which results in parcels that meet the minimum acreage requirements of this article, and that are used for one or more of the purposes set forth in section 58.1-3239 of the Code of Virginia, shall be subject to the provisions of subsection (a).

That Section 7-42 Contiguous real estate located in more than one locality be and hereby is repealed and re-enacted as follows:

Section 7-42 Contiguous real estate located in more than one locality.

Where contiguous real estate in agricultural, horticultural, forest or open space use in one (1) ownership is located in more than one (1) taxing locality, compliance with the minimum acreage requirements shall be determined on the basis of the total area of such real estate and not the area which is located in this county.

That Section 7-43 Removal of parcels from program if taxes delinquent be and hereby is repealed and re-enacted as follows:

Section 7-43 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 land use assessment are delinquent, the treasurer shall send notice of that fact and the general provisions of this section to the property owner by first class mail. If after sending such notice, such delinquent taxes remain unpaid on the immediately following June 1, the treasurer shall notify the commissioner of the revenue who shall remove such parcels from the land use program.

That Section 7-45.1 Imposition of tax be and hereby is repealed and re-enacted as follows:

Section 7-45.1 Imposition of tax.

A license tax for gas severance, authorized by Section 58.1-3712 of the Code of Virginia, and a license tax for coal severance, authorized by section 58.1-3741 of the Code of Virginia, is hereby levied upon all producers severing or extracting coal or gases from lands lying situate within Rockingham County, Virginia, as hereinafter provided.

That Section 7-46 Definitions be and hereby is amended by enacting the definition of *small mine* as follows, which shall be included in Section 7-46 alphabetically:

Section 7-46 Definitions.

Small mine. A mine that sells less than 10,000 tons of coal per month

All other definitions set forth in Section 7-46 remain as before.

That Section 7-47 Rate of taxation be and hereby is repealed and re-enacted as follows:

Section 7-47 Rate of taxation.

The license tax herein adopted shall be at the rate of one percent of the gross receipts from the sale or sales of gases severed or extracted from Rockingham County, Virginia. The license tax herein adopted shall be at the rate of one percent of the gross receipts from the sale or sales of coal severed or extracted from Rockingham County, Virginia. The license tax herein adopted shall only be at the rate of three-fourths of one percent from the sale or sales of coal severed or extracted from a small mine from Rockingham County, Virginia.

That Section 7-57 When tax due and payable be and hereby is repealed and re-enacted as follows:

Section 7-57 When tax due and payable.

The tax assessed hereunder shall be due and payable to the treasurer of Rockingham County on or before the first day of March in the year in which it is assessed.

That Section 7-60 Tangible personal property tax be and hereby is repealed and re-enacted as follows:

Section 7-60 Tangible personal property tax.

The following classifications are hereby exempted from the imposition of the tangible personal property tax of the county:

- (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 Section 4.1-100 of the Code of Virginia, and other agricultural products in the hands of a producer.

Section 7-64 Penalty for failure to pay taxes by June 5 or December 5 be and hereby is repealed and re-enacted as follows:

Section 7-64 Penalty for failure to pay taxes by June 5 or December 5.

Any person failing to pay the county levies on or before June 5 or December 5, as required, shall incur a penalty thereon of ten (10) percent, which shall be added to the amount of taxes or levies due from such taxpayer. The penalty shall in no case exceed the amount of the tax due.

Interest shall commence on the first day following the day such taxes are due at the rate of ten (10) percent per year, and for the second and subsequent years of delinquency.

Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the

taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period. (58.1-3916) The treasurer shall make determinations of fault relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of fault relating exclusively to failure to file a return.

The commissioner of the revenue may grant an extension of time for the filing of local tax returns for a period not to exceed ninety (90) days whenever good cause exists. The commissioner of the revenue shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

That Sub-section 7-68(a)(2) Personal property tax relief act of 1998 –

Implementation of changes be and hereby is repealed and re-enacted as follows:

Sub-section 7-68(a)(2) Personal property tax relief act of 1998 – Implementation of changes.

(a) Purpose; definitions; relation to other sections.

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

All other sub-sections of Section 7-68 remain as before.

That Section 7-76 Property exempt from taxation by designation be and hereby is repealed and re-enacted as follows:

Section 7-76 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. The real and personal property of an organization designated by a section within this article and used by such organization exclusively for a religious, charitable, patriotic, benevolent, cultural or public park and playground purpose as set forth in article X(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. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

That Sub-sections 7-79(e), (f), (g) and (i) of Exemptions be and hereby are repealed; that Sub-sections 7-79(e) and (i) be and hereby are re-enacted as set forth below; and that those sub-sections then following Sub-section (e) be relabeled consecutively.

Section 7-79 (e), (f), (g) and (i) Exemptions.

The food and beverage tax imposed under this article shall not be levied on food and beverages:

(e) Sold by volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches and other religious bodies; 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.

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

This ordinance shall be effective from the 26th day of August, 2015.

Adopted the 26th day of August, 2015.