

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-04-13

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 30th day of October, 2013:

Present:	Vote:
James H. Burrell	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Evelyn, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE ADOPTING
ARTICLE II, DIVISION 5 OF CHAPTER 66, TAXATION
OF THE NEW KENT COUNTY CODE
TO ADD AGRICULTURAL AND FORESTAL DISTRICTS.**

WHEREAS, land lying within an AFD may qualify for agricultural or forestal use value assessment by the Commissioner of the Revenue in accordance with Virginia tax law; and

WHEREAS, the Commissioner of Revenue follows Virginia State Code in the assessment of such properties; and

WHEREAS, the Commissioner of the Revenue requests that the New Kent County Board of Supervisors adopt the proposed addition to the County Code along with minor amendments which outline the guidelines followed by the Commissioner; and

WHEREAS, the Board of Supervisors finds that the assessment of agricultural or forestal land should be assessed based upon the Virginia State Code and this assessment is a function of the Commissioner of the Revenue and grants her request; and

NOW THEREFORE BE IT ORDAINED by the New Kent County Board of Supervisors that the New Kent County Code be and is hereby amended by the adoption of Article II, Division 5, of Chapter 66 as set forth below:

Sec. 66-125. - Imposed.

The Board of Supervisors finds that the preservation of real estate devoted to agricultural, horticultural, and forest uses within its boundaries is in the public interest and, having heretofore adopted a land use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, § 58.1-3230 et seq., and of this article.

Sec. 66-126. - Application.

(a) The owner of any real estate devoted to agricultural, horticultural, and forest uses meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233 may 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, under the procedures set forth in Code of Virginia, § 58.1-3234. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue and shall include schedules, photographs and drawings as may be required by the commissioner of the revenue. An individual who is the 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 and cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes. Also, at the time of any general reassessment by the county, the property owner must revalidate with the commissioner of the revenue any applications previously approved.

(b) A separate application shall be filed for each parcel on the land book.

(c) No application shall be accepted or approved, if at the time the application is filed, the tax on the land is delinquent.

Sec. 66-127. - Determination by commissioner of the revenue; appeals.

(a) Promptly upon receipt of any application, the commissioner of the revenue shall determine whether the subject property meets the criteria for taxation under this article. If the commissioner of the revenue determines that the subject property does meet such criteria and that there are no delinquent real estate taxes on the subject property, the Commissioner shall determine the value of such property for its qualifying use, as well as its fair market value.

(b) In determining whether the real estate meets the criteria set forth in New Kent County Code Chapter 62, Code of Virginia, § 58.1-3230 and the standards prescribed thereunder

to qualify for one of the classifications set forth therein, the commissioner of the revenue may request an opinion from the director of the department of conservation and recreation, the state forester, or the commissioner of agriculture and consumer services. Upon the failure of any of such persons to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by any such person, 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 section.

Sec. 66-128. - Recordation of land value; computation of tax from use value.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer, and the tax shall be extended from the use value.

Sec. 66-129. - Roll-back tax—When imposed.

There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Code of Virginia, § 58.1-3237 upon any property the use of which changes to a nonqualifying use.

Sec. 66-130. - Same—Determination and assessment; penalty.

The owner of any real estate rezoned as provided in Code of Virginia, § 58.1-3237(D), or liable for roll-back taxes, shall, within 60 days following a change in use or zoning, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner 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 shall be paid to the treasurer within 30 days of the assessment. On failure to report within 60 days following such change in use and/or failure to pay within 30 days of assessment, such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll-back tax, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax and penalty for each month or fraction thereof during which the failure continues.

Sec. 66-131. - Same—Misstatement in application.

Any person making a material misstatement of fact in any application filed pursuant to [Section 66-126](#) 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 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 100 percent of such unpaid taxes.

Sec. 66-132. - Applicability of certain statutes.

The provisions of the Code of Virginia, tit. 58.1, applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this article 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.

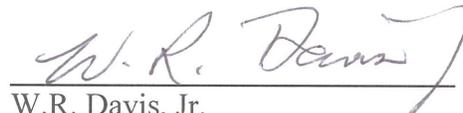
Sec. 66-133. - Removal of parcel from land use program for delinquent taxes.

If, on June 1 of any year, the taxes for preceding years on any parcel of real property which has a special assessment as provided for in this article are delinquent, the county treasurer 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 November 1, the treasurer shall notify the appropriate commissioner of the revenue, who shall remove such parcel from the land use program.

This ordinance shall be effective upon its adoption.



Rodney A. Hathaway
County Administrator



W.R. Davis, Jr.
Chairman