

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 18-1, GENERAL RETAIL SALES TAX LEVIED; SECTION 18-2, USE TAX IMPOSED; SECTION 18-2.1, LOCAL EXEMPTION OF CERTAIN ENERGY SOURCES; SECTION 18-3, RECORDATION TAX IMPOSED; SECTION 18-4, ASSESSMENT OF NEW BUILDINGS AND COMPUTATION OF TAX THEREON; WHEN PENALTY ACCRUES FOR NONPAYMENT; SECTION 18-5, TAX ON BANK NET CAPITAL; SECTION 18-7.1, LAND USE ASSESSMENT; SECTION 18-7.2, REFUND OF LEVIES ERRONEOUSLY PAID; SECTION 18-7.3, PENALTIES FOR LATE APPLICATION OR FILING; SECTION 18-7.4, PENALTIES AND INTEREST FOR LATE PAYMENT OF TAXES; AND ARTICLE II, EXEMPTION OF CERTAIN PERSONS FROM REAL ESTATE TAXES; SECTION 18-12, APPLICATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18, Taxation, is hereby amended and reordained effective January 1, 1986, by amending Section 18-1, General retail sales tax levied; Section 18-2, Use tax imposed; Section 18-2.1, Local exemption of certain energy sources; Section 18-3, Recordation tax imposed; Section 18-4, Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment; Section 18-5, Tax on bank net capital; Section 18-7.1, Land use assessment; Section 18-7.2, Refund of levies erroneously paid; Section 18-7.3, Penalties for late application or filing; Section 18-7.4, Penalties and interest for late payment of taxes; and Section 18-12, Application.

Chapter 18. Taxation

Article I. In General

Section 18-1. General retail sales tax levied.

Pursuant to Section 58.1-605 of the Code of Virginia, a county general retail sales tax at the rate of one per cent 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. Therefore, the purpose of this section is to impose the general retail sales tax authorized by Section 58.1-605 of the Code of Virginia.

Pursuant to the provisions of Section 58.1-605(D) of the Code of Virginia, the county general retail sales tax levied pursuant to this section shall be administered and collected by the state tax commissioner of the Commonwealth of Virginia in the same manner, and subject to the same penalties, as provided for the state sales tax, with the adjustments required by Section 58.1-628 of the Code of Virginia. (5-31-66).

Editor's note--The ordinance here codified was adopted in conformity with Code of Virginia, Section 58.1-605, and a certified copy thereof was transmitted to the state tax commissioner so as to have been received within five days after its adoption.

State law reference--Virginia Sales and Use Tax Law, Code of Virginia, Section 58.1-600 et seq.

Section 18-2. Use tax imposed.

Pursuant to Section 58.1-606 of the Code of Virginia, the board of supervisors hereby resolves to impose, and there is hereby imposed, in the county a local county use tax at the rate of one per cent to provide revenue for the general fund of the county. Such county use tax shall be added to the rate of the state use tax imposed by Chapter 6, Title 58.1, of the Code of Virginia, and shall be subject to all the provisions of that chapter, and all amendments thereof, and the rules and regulations published with respect thereto. Therefore, the purpose of this section is to impose the local use tax authorized by Section 58.1-606 of the Code of Virginia. (3-29-68, Section 1)

Editor's note--The resolution here codified was adopted in conformity with subsection (b)(1) of Section 58.1-606 of the Code of Virginia, and a certified copy thereof was transmitted to the state tax commissioner so as to have been received within five days after its adoption.

State law reference--Virginia Sales and Use Tax Law, Code of Virginia, Section 58.1-600 et seq.

Section 18-2.1. Local exemption of certain energy sources.

Notwithstanding the provisions of Section 18-1, "General retail sales tax," and notwithstanding the provisions of Section 18-2, "Use tax," and pursuant to Section 58.1-608(9) of the Code of Virginia, effective January 1, 1982, the board of supervisors hereby exempts from both the general retail sales tax and the use tax, the following: Artificial or propane gas, firewood, coal, or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. (Ord. No. 136A-1, 11-16-81)

Section 18-3. Recordation tax imposed.

Pursuant to the authority of Sections 58.1-814 and 58.1-3800 et seq. of the Code of Virginia, there is hereby imposed a recordation tax on each taxable instrument recorded in the county, in the amount of one-third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument in the county, excepting such instruments as are exempted by Section 58.1-811 of the Code of Virginia. (This tax will be collected by the clerk of the circuit court for the City of Williamsburg and County of James City, Virginia, and paid monthly to the treasurer of the county, pursuant to law.) (8-31-64)

State law reference--Recordation taxes generally, Code of Virginia, Section 58.1-800 et seq.

Section 18-4. Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment.

The board of supervisors hereby resolves that all new buildings 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 commissioner of the revenue of the county 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 official authorized to collect taxes on real property 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 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. With respect to any assessment made 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. (1-5-59; Ord. No. 41A-1, 12-11-78)

State law reference—Code of Virginia, Section 58.1-3292.

Section 18-5. Tax on bank net capital.

(a) Definitions. For the purposes of this section the following words shall have the meanings ascribed to them by this subsection:

- (1) "Bank" shall be as defined in Section 58.1-1201 of the Code of Virginia.
- (2) "Net capital" shall mean a bank's net capital computed pursuant to Section 58.1-1205 of the Code of Virginia.

(b) Imposition of county bank franchise tax.

- (1) Pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this county, a tax on net capital equalling eighty (80) per cent of the state rate of franchise tax set forth in Section 58.1-1204 of the Code of Virginia.
- (2) In the event that any bank located within the boundaries of this county also has offices that are located outside the boundaries of the county, the tax shall be apportioned as provided by Section 58.1-1211 of the Code of Virginia.

(c) Filing of return and payment of tax.

- (1) On or after the first day of January of each year, but not later than March 1st of any such year, all banks whose principal offices are located within this county 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 Section 58.1-1205 of the Code of Virginia. The commissioner of the revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the state department of taxation.
- (2) In the event that the principal office of a bank is located outside the boundaries of this county and such bank has branch offices located within this county, in addition to filing requirements set forth in (c)(1) above, any bank conducting such branch business shall file with the commissioner of the revenue a copy of the real estate deduction schedule apportionment and other items which are required by Sections 58.1-1207, 58.1-1212 and 58.1-1213 of the Code of Virginia.

- (3) Each bank, on or before the first day of June of each year, shall pay all taxes imposed pursuant to this section.

(d) Effective date of section. The provisions of this section shall be effective for the year beginning January 1, 1980.

(e) Penalty upon bank for failure to comply with section. Any bank which fails to file a return or pay the state tax required by this chapter or fails to comply with any other provision of this chapter shall be subject to a penalty of five percent of the tax due. If the Commissioner is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with Section 58.1-15 of the Code of Virginia. (Ord. No. 136, 4-14-80)

Editor's note—Ord. No. 136 repealed former Sections 18-5--18-7, pertaining to bank stock tax, derived from Ord. of July 10, 1961, Sections 1--3, and enacted in lieu thereof a new Section 18-5 as herein set out.

Sec. 18-7.1 Land use assessment.

The County of James City declares that the preservation of real estate devoted to agricultural, horticultural or forestry uses within its boundaries is in the public interest; and therefore, such qualifying real estate shall be taxed in accordance with the provisions of Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia, 1950, as amended, (hereinafter referred to as the Code) and pursuant to the terms of this section.

- (1) Application by property owner of any real estate.

- (a) The owner as defined in Section 58.1-3234 of the Code, meeting the criteria set forth in Sections 58.1-3230 and 58.1-3233 of the Code, may on or before November 1st, of each year, 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 Section 58.1-3236 of the Code. Such 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.
- (b) Each application shall be accompanied by a fee of ten dollars (\$10.00) per parcel plus ten cents (\$0.10) per acre or portion thereof contained in such parcel. For purposes of this paragraph contiguous parcels owned by the same applicant or applicants shall be treated as a single application.
- (c) A separate application shall be filed for each parcel listed in the land book.

- (d) No fee shall be levied for those reapplications by the same owner made in subsequent years for property previously processed under this section.
- (2) Valuation of real estate. Upon receipt of any application, the commissioner of the revenue shall determine whether the subject property meets the criteria for taxation of agricultural, horticultural or forestry land under Section 58.1-3236 of the Code. If the commissioner of the revenue determines that the subject property does not meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value, such qualifying use to be determined as follows:
- (a) In addition to use of his personal knowledge, judgment and experience as to the value of agricultural, horticultural or forestry real estate, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural or forestry capability and the recommendation of value of such real estate as made by the state land evaluation advisory committee.
 - (b) In determining whether the subject property meets the criteria for "agricultural use", "horticultural use" or "forestry use" the commissioner of the revenue may request an opinion from the commissioner of agriculture and commerce for the first two (2) categories and the director of the conservation and economic development for the last category. Upon the refusal of the commissioner to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the 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 section.
 - (c) The use and fair market 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 extended from the use value.
- (3) Change in use of real estate assessed; roll-back taxes.
- (a) There is hereby imposed a roll-back tax, with interest thereon, in such amounts as may be determined under Section 58.1-3237 of the Code upon any property as to which the use changes from a qualifying to a nonqualifying use.
 - (b) 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 nonqualifying use and shall pay the roll-back tax then due.

- (4) Failure to report change in use; misstatements in applications.
- (a) On failure to report and pay within sixty (60) days following such change in use, such owner shall be liable for an additional penalty equal to twenty-five (25) per centum of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half per centum of the amount of the roll-back tax, interest and penalty, for each month or fraction thereof during which the failure to comply continues.
 - (b) 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 estate in the taxing jurisdiction, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of one hundred (100) per centum of such unpaid taxes.
- (5) The provisions of Title 58.1 of the Code applicable to local levies and real estate assessments and taxation with the necessary changes, including, without limitation; provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.
(8-12-74; 9-8-75; Ord. No. 80A-2, 7-10-78; Ord. No. 80A-3, 12-11-78)

State law reference - Code of Virginia, Section 58.1-3229 et seq.

Sec. 18-7.2. Refund of levies erroneously paid.

Pursuant to Section 58.1-3990 of the Code of Virginia, 1950, as amended, the board of supervisors hereby provides for the refund of any local levies erroneously assessed on tangible personal property, machinery and tools, or merchant's capital, or a local license tax or real estate.

If upon application, the commissioner of the revenue is satisfied that he or his predecessor in office has erroneously assessed such applicant with any local levies as provided herein, he shall certify to the tax-collecting officer the amount erroneously assessed. If the levies have not been paid, the applicant shall be exonerated from so much thereof as is erroneous, and if such levies have been paid, the tax collecting officer or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

No refund shall be made in any case when application therefor was made more than three (3) years after the last day of the tax year for which such taxes were assessed; provided, that if any tax is declared to be unconstitutional by a court of competent jurisdiction, the board of

supervisors shall grant a refund of such tax hereunder to all taxpayers for those years to which the court proceeding was applicable. (9-13-76; Ord. No. 96A-1, 11-16-83)

Section 18-7.3. Penalties for late application or filing.

Pursuant to Section 58.1-3916 of the Code of Virginia, 1950, as amended, the board of supervisors hereby imposes the following penalties for failure to file applications for local license taxes and returns for personal property taxes. Each person failing to file an application or return for county levies on or before the first day of May shall incur a penalty thereon of ten (10) per cent or ten dollars (\$10.00), whichever shall be the greater. Said penalty shall be added to the amount due from such taxpayer on the day after such return or application is due and said penalty shall be accounted for in the settlement when the tax is collected by the treasurer; provided, however, that no penalty shall be incurred for failure to file a return for personal property taxes if such failure was not in any way the fault of the taxpayer.

The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make an application for a local license as required by section 9-4 of this Code. (Ord. No. 125, 12-11-78)

Section 18-7.4. Penalties and interest for late payment of taxes.

Pursuant to Section 58.1-3915, 58.1-3916 of the Code of Virginia, 1950, as amended, the board of supervisors hereby imposes the following penalties and interest for the late payment of county levies. Each person failing to remit county levies on or before the fifth day of December shall incur a penalty thereon of ten (10) per cent or ten dollars (\$10.00), whichever is greater, which shall be added to the amount due from such person, which, when collected by the treasurer, shall be accounted for in said person's settlements; in addition thereto interest in the amount of eight (8) per cent per annum shall commence the first day of the month following the month in which such taxes are due. (Ord. No. 126, 12-11-78)

Article II. Exemption of Certain Persons from Real Estate Taxes

Section 18-12. Application.

Any person or persons claiming such exemption shall file annually with the commissioner of revenue of the county, on forms to be supplied by the county, an affidavit setting forth the names of the related persons occupying such real estate; provided, that the total combined net worth, including equitable interests and the combined income from all sources, of the person or persons as specified in section 18-10 does not exceed the limits prescribed in this article.

If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the social security administration, veterans administration or railroad retirement board, or if such person is not

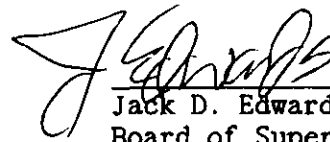
eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the commonwealth, to the effect that such person is permanently and totally disabled, as defined in section 18-9, and that at least one of the medical doctors has physically examined the applicant.

Such affidavit shall be filed on or after the first day of January, but not later than the first day of April of each year in which an exemption is sought except that the commissioner of revenue is authorized to accept affidavits until the first day of June for first-time applicants or in the case of hardships.

The commissioner of revenue shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, as may be reasonably necessary to determine qualifications therefor as specified in this article. In addition, certified tax returns shall be produced by the applicant to establish income or financial worth.

Changes in respect to income, 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 then current taxable year and the taxable year immediately following. A qualified applicant shall not be deemed to have violated any limitation or condition if said applicant is confined to a nursing home or hospital and the property is not used by or leased to others for consideration. (3-12-73, Sections 4-1-4-4; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82)

State law reference—Code of Virginia, Section 58.1-3213.



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia,
this 2nd day of December, 1985.

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<u>SUPERVISOR</u>	<u>VOTE</u>
BROWN	AYE
DEPUE	AYE
MAHONE	AYE
EDWARDS	AYE
TAYLOR	AYE