

## Land Use Assessment Information

Land use taxation, or “Special Assessment for Land Preservation” as it is known in the state tax code (58.1-3229), was enacted by the Virginia General Assembly in 1971 as enabling legislation for counties and cities. Clarke County enacted a land use ordinance in 1975.

The purposes of land use taxation, as announced by the State Land Evaluation Advisory Council (SLEAC), include (briefly): encouraging land preservation to assure a readily available source of food and forest products and open space, conservation of natural resources, promotion of planning and orderly development, promotion of a balanced economy and the relief of developmental pressures forcing the conversion of real estate to more intensive uses.

Standards of qualification for land use have been established by the Virginia Departments of Agriculture, Forestry and Conservation and Natural Resources. Local Commissioners of the Revenue have the responsibility for program oversight.

To qualify for agricultural or horticultural use, a parcel must have at least five acres devoted to types of products for sale (or to support other products for sale) for five full years before it is eligible for the program. Forest use requires twenty acres of appropriately sized trees. Owners must file a forest management plan developed by a professional forester. Open space requires a minimum of five acres, can be a golf course, or privately owned land adjacent to a geographical feature officially declared as “scenic” by the State. A contract with the County is required.

If the parcel has a dwelling, the dwelling and the land devoted to its service (the “house site”) DOES NOT qualify for use value assessment and are assessed at fair market value. Other land that does not meet the qualifications for use value assessment is also assessed at fair market value.

Agricultural and horticultural lands are required to generate revenue for the owner. The Virginia Department of Agriculture suggests \$1,000 annually. On many farms, this is not a difficult amount to achieve, but for others, it may be. The size of the parcel, the crop grown and the weather may influence the revenue stream.

The tax values assigned to qualifying acreage are determined by a study of local agricultural (and forestall) information from local sales of cattle, hay and various other crop products specific to our county. This information is provided by the National Agricultural Statistical Service, the Virginia Department of Agriculture and Consumer Services and the Department of Forestry. Values are changed in reassessment-effective years. Clarke County is currently in a reassessment year now. The tax rate applied to use-value land is the same as applied to all other real estate.

What are the savings in taxes with land in use value? Savings are significant, and the low assessment received levies a responsibility on the part of the landowner to insure that the agricultural, forestall, and horticultural requirements are met.

Property changed by the owner to more intensive zoning, to a non-qualifying activity, or subdividing a parcel so that some acreage is too small to qualify is subject to “rollback” taxes. The “rollback” tax equals the deferred tax plus interest for the year in which the change is made plus the five most recent years the property was in land use. In effect, the deferred tax becomes an encumbrance on the property if changes are made that disqualify the property from participation in the land use program.

Land use applicants pay a one-time fee (**currently \$100 per parcel**) to enter the program and a recertification fee (currently \$25 per parcel) each sixth year (for all participants, simultaneously - next due in 2028 with the prior application for 2022). Applications must be made every year. They are mailed to participants in late September and must be returned by November 1<sup>st</sup> to avoid a \$100 late fee. The latest an application will be accepted (by county ordinance) is December 31<sup>st</sup>. The application requires a statement of what qualifying activities have occurred the previous year. A copy of federal income tax forms C, E, or F, or an attestation to the amount of revenue generated on the property must accompany agricultural or horticultural applications. Old and new applicants are subject to having their property inspected at any time.

State law makes no distinction as to the occupation of the landowners that qualify for land use. As long as the basic qualifications are met, one can be employed in any occupation, and does not have to be a full-time farmer. It is permissible to lease or rent the property to another to raise crops or cattle. If this is done, separate certification of the work performed by the lessee must accompany the landowner’s annual application.

The rental or lease of land should produce a reasonable stream of income for the owner. Mowing fields is (of itself) NOT a qualifying activity. A crop must be produced and sold or used for feeding cattle, sheep, swine or poultry. A sufficient amount of qualifying animals relative to the acreage must be present for most of the year. Land use assessment is not a grant. Failed owner/renter relationships do occur and may leave the owner’s continued eligibility for use-value assessment in jeopardy.

Questions inevitably arise about the use of horses. The Virginia Department of Agriculture has determined that breeding, boarding and/or training of horses and riders is a qualifying activity, as long as it produces a sufficient amount of revenue. The use of horses for the pleasure of the landowner is NOT a qualifying activity.

Thistles and Johnson grass in pastures and crop fields are considered to be a public nuisance and control measures (spraying or cutting) must be taken by landowners to minimize the effects of these noxious weeds. Failure to do so could jeopardize participation in the program.

As in any multi-faceted operation, it is recognized that there are fuzzy areas. When applications are received each year, many questions arise. Landowners are called or visited in order to resolve these questions and to reinforce to seriousness of the land-use program. The tax value deferred amounted to over **2 million** dollars. This is obviously a large amount of money and it is necessary that everyone involved do his best to insure that qualifying standards are met.