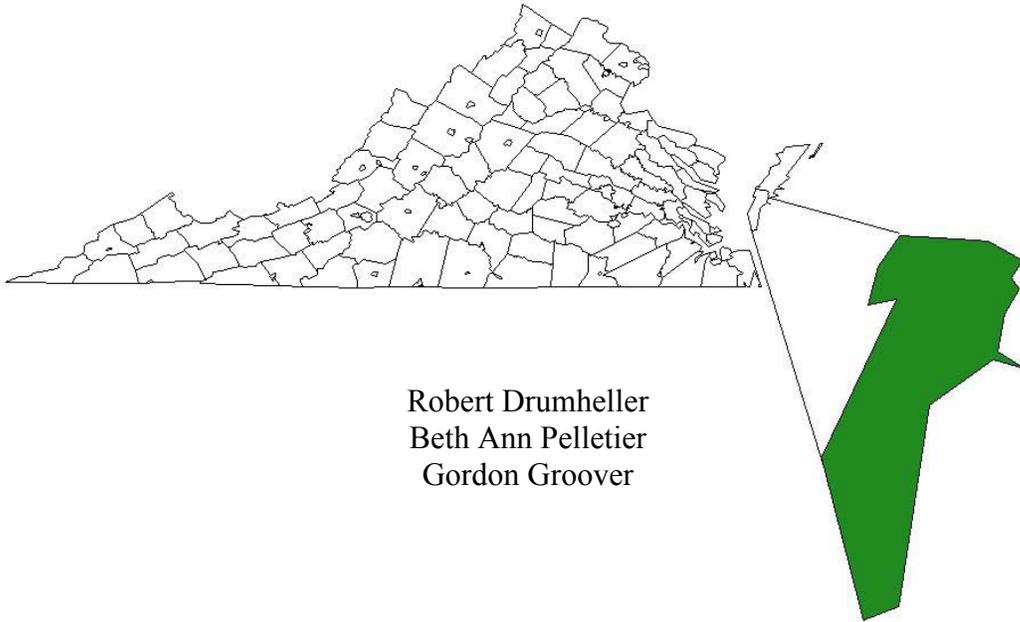


**Measuring the Impact of Use-Value Taxation for  
Northampton County, Virginia**



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**Prepared for the Citizens for a Better Eastern Shore**

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## Executive Summary

Pressures for development in Northampton County are increasingly evident. A use-value taxation program can potentially preserve the rural and open space characteristics of the county so valued by its residents. Adoption of a use-value taxation ordinance, however, will have an effect on Northampton's fiscal situation. The result of the use-value taxation program is often to shift the tax burden from agricultural producers to other sectors. The use-value program is designed to delay the effects and costs of suburban sprawl and, therefore, help to make agriculture more viable and to maintain a rural community.

**Agricultural Background.** Northampton's agricultural economy relies heavily on crop production and ranks 16<sup>th</sup> in Virginia in terms of total farm income. The 1997 Virginia Census of Agriculture contains the most recent comprehensive data available on Northampton County farms. In 1997, Northampton County had 152 farms with a total farm acreage of 56,000 and an average farm size of 371 acres. According to the 1997 Census of Agriculture, in 1997 Northampton agricultural producers sold \$38,597,000 in agricultural products. Each farm sold on average \$254,000 worth of products before expenses. The primary crops are corn, soybeans, wheat, and cotton. In addition, 44 vegetable farms were operating in Northampton County in 1997 producing large acreages of cucumbers, squash, stringbeans, tomatoes and other vegetables. Several nurseries producing ornamental plants were also found in the county.

**Local Government Revenues.** Northampton County's total local government revenue for 2002 was nearly \$30 million. Of this local government revenue, \$4.2 million was from federal sources, \$14.5 million was from state sources, and \$11.3 million was from local sources. Real estate property taxes accounted for approximately 59% of the total revenue received from local sources.

Northampton County recently conducted a reassessment of real property in the county. VA State Code § 58.1-3321 states that "When any annual assessment, biennial assessment or general reassessment of real property tax by a county, city or town would result in an increase of 1 percent or more in the total real property tax levied, such county, city, or town shall reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies..."

The estimated total tax levy for real property in 2004 is \$5,932,547 generated with a tax rate of 52 cents of every \$100 of assessed land value. This estimate is based on an adjustment of the tax rate to allow for no more than 101 percent of the previous year's real property tax levies in a reassessment year. Based on this estimation, parcels of land eligible to participate in a county-wide use value program account for about \$2 million (35%) of the total estimated 2004 tax levy.

**Use Value Impacts of Local Government Revenue.** If Northampton County implements use-value taxation it can expect to see a 10% to 25% participation rate of all eligible parcels and can expect to increase its 2004 estimated real property tax rate from 3% to 8% in order to maintain its current revenue from local sources.

- Based on a 10% participation rate, the county’s tax levy on real estate is estimated to decrease by \$125,410 to \$5,807,137. The new tax rate necessary to maintain the current level of revenue is 53 cents per \$100 of assessed value or a 3% increase over the estimated 2004 real property rate.
- A 25% participation rate will yield a tax levy of \$5,517,947 or a decrease of \$414,600 from the current levy. The new tax rate required to maintain the present revenue would be 56 cents per \$100 of assessed value, which is an 8% increase over the estimated 2004 real property tax rate.

Therefore, Northampton County residents must decide if preserving farmland will benefit the county in the long run and not bring unnecessary costs to the community.

**Summary**  
**Impact of Use-Value Taxation on Northampton County**

Parcel Participation Rate of ...	10%	25%
Estimated 2004 Tax Rate on Real Estate	\$0.52	\$0.52
Estimated 2004 Revenue from Real Estate	\$5,932,547	\$5,932,547
<b>Reduction in Revenue with Use-Value Taxation</b>	<b>\$ 125,410</b>	<b>\$ 414,600</b>
% Rate Increase Necessary to Restore Revenue	3%	8%
<b>New Tax Rate Necessary to Restore Revenue</b>	<b>\$0.53</b>	<b>\$0.56</b>

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## Introduction

Northampton County is bordered by the Chesapeake Bay on its western side and the Atlantic Ocean to the east. To the north lies Accomack County and to the south lies the major metropolitan area of Hampton Roads, accessible by the Chesapeake Bay Bridge Tunnel. Pressures for development are increasingly evident as the bridge provides easy transportation to the peninsula (Howell, 2003). The toll currently required to access the Chesapeake Bay Bridge Tunnel has been lowered for commuters. Lower tolls may lead to development pressure and increased usage by commuters.

The county has recently seen a significant increase in assessed values of all real estate including agricultural land. Net profits from agriculture, however, have not kept pace with the increases in assessed values. This widening gap between agricultural profits and increased property values is the driving force behind an exploration of methods to minimize the detrimental impacts of urban development. Use-value taxation can potentially preserve the rural and open space characteristics of the county. Adoption of a use-value taxation ordinance, however, will have an impact on Northampton's fiscal situation.

## Use Value Taxation Program

Virginia adopted enabling legislation for a use-value taxation program in 1972. The intent of the use-value program is to conserve natural resources, scenic beauty, and open spaces while promoting proper land-use planning and development (Starr, 2003). Virginia law allows for the eligible land to be taxed based on its value in use instead of the fair market value.

The SLEAC<sup>1</sup> is made up of representatives of the Virginia Departments of Agriculture, Taxation, Forestry, and other interested parties under the chairmanship of the Virginia Tax Commissioner, Kenneth Thorson. Each member is given the right to vote on policy issues concerning land-use assessment brought before SLEAC (Starr, 2003). Each year SLEAC suggests values for land in the use-value taxation program. Local assessment officers in jurisdictions with use value or Agricultural or Forestal Districts<sup>2</sup> use these suggested values along with their knowledge of local conditions to determine the official value used in the assessment process (SLEAC Manual, 2001).

To qualify for use-value taxation, all participating land parcels must meet requirements set forth by SLEAC and the Code of Virginia. The requirements state that the land must be a *bona fide* agricultural or horticultural operation or land set aside for forest growth or open space. The land also must be part of a jurisdiction that allows for use-value taxation or in an Agricultural or Forestal District. Also, a minimum of 5 acres must be used solely

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<sup>1</sup> For additional information on the SLEAC see the SLEAC Manual, Appendix A.

<sup>2</sup> Landowners in Virginia can form Agricultural and Forestal Districts on qualified land (State Code § 15.2-4305), which guarantees them use-value taxation even in localities without a use-value ordinance, protection from urban pressures, and upholds the common interest of farmers in that area.

for agriculture, horticulture, or open space, and a minimum of 20 acres must be used as forestland to qualify for use-value taxation (Code of Virginia § 58.1-3233).

Pelletier (2002) found that 70 counties and 18 cities in Virginia, as well as several other local agricultural districts throughout the state, have adopted use-value ordinances. All 50 states have land-use programs of some kind to provide property tax relief for agricultural land (Edelman, Roe, and Patton, 1999). These programs vary from purchase or transfer of development rights to a use-value taxation program. The purpose of these programs is to reduce the assessment value of land to its value in use for agricultural, open space, or forest. The reduced assessment of the land provides the landowners with the benefit of decreased property taxes owed on the qualified land. Virginia agricultural, horticultural, forest, and open space landowners have received substantial tax savings in those jurisdictions that have adopted use-value taxation programs. In fact, Virginia's total taxable value of land was reduced \$11.7 billion (\$453.4 billion - \$441.7 billion) for tax year 2001 (VA Dep't of Taxation, 2002).

The central focus of Virginia's land-use taxation program is to allow local jurisdictions to assess agricultural land at its value in a particular use, or "use value" (Code of Virginia § 58.1-3231). Specially, use value is the expected market value for a property in agricultural use and is estimated by capitalizing the stream of net income generated by the land. Use value differs from fair market value in that fair market value is the value of a parcel of land when it is at its "highest and best" use. Restricting land to its use in agricultural production can be considered a reduction in the highest and best use and thus restricting the potential value of the land. The local political process places rules and conventions on land by the use of zoning ordinances and local comprehensive plans but does not restrict land to just one use. Therefore, fair market value is defined as the potential sale value if no other restrictions are in place.

Use value, on the other hand, is the expected value of selling the parcel of land if it were restricted to a certain use, such as agriculture. Thus, land must be maintained solely for that purpose to remain qualified for assessment under use value. Because the options for using the land are restricted, the use value of the parcel is typically lower than the fair market value. If the restricted use of the land is the same as its highest and best use, then the land use value is essentially the same as the fair market value.

Localities in Virginia are allowed to penalize participants in use value that remove land parcels from the program. If an owner changes the use of a parcel after the land has been taxed on its specified use (agricultural, forestal, or open space), roll-back taxes must be paid (Code of Virginia § 58.1-3237). Roll-back taxes are the difference between the tax of the fair market value and the tax of the use value. For example, the owner of a parcel of qualified land changes the land to a nonqualified use (converts land to a subdivision). This action triggers a tax liability of all deferred taxes on the parcel for the last five years and simple interest is charged at 5 percent on the liability (Code of Virginia § 58.1-3915).

## **The Costs and Benefits of Use Value Taxation**

The adoption of use-value taxation provides potential benefits and costs to various segments of society. The fate of the use-value program within a jurisdiction depends on how the benefits and costs are shared within a community. Potential benefits of adopting use-value taxation include reduced tax bills, which helps lower the average cost of agricultural production to farmland owners. In addition, adoption of use-value taxation may preserve farmland, which could add value to other citizens by preserving desirable aspects of agriculture in the community. Desirable aspects of agriculture include having green spaces for scenic beauty, habitat for natural wildlife, and water and air quality (Edelman, Roe, and Patton, 1999).

The costs of adopting this program may affect landowners as well as other members of the community. Participating landowners will be restricted to how they use their land and may not be able to use it as its highest and best use. Landowners not participating in the use-value program as well as other local taxpayers may experience a higher tax rate. Local governments may choose to make up the lost revenue from property taxes by shifting the tax burden from agricultural producers to the rest of the citizens or by reducing levels of government services, such as school construction and repair, or both. In addition, some aspects of agriculture may impose additional costs on the average urban citizen. These citizens may not want farms around their homes because of the excess noise or dust (Edelman, Roe, and Patton, 1999). Environmentalists may object to support of agriculture because of the potential for nutrient runoff and pesticide use by farmers.

As a local ordinance is prepared and before the program is adopted, these costs and benefits should be conscientiously deliberated. The use-value program distributes cost and benefits over different areas of society. Therefore, groups are likely to form to advocate their particular interest. The amount of support or opposition and the balance of power within the jurisdiction will ultimately determine the fate of the use-value program.

## **Northampton County Background**

**History:** In 1608, Captain John Smith first explored Virginia's Eastern Shore, located on the southern tip of the Delmarva Peninsula (Northampton County History and Eastern Shore, 2003). The area was originally named Accomacke, a Native American name meaning "across the water place." The name was changed to Northampton County in 1643 (Northampton County History, 2003), and 20 years later, the peninsula was divided into the counties of Northampton and Accomack (Latimer, 2003).

**Population:** Northampton County has a population of 13,093 of which approximately 53 percent is female and 47 percent male (U.S. Census Bureau, 2000). Northampton County has a high percentage, 21 percent, of citizens over the age of 65, almost double the average percentage of all other counties in Virginia (11 percent). The high proportion of citizens over 65 reflects a similar trend observed nationally as rural America ages faster than other regions (Miller, 2003).

Of the total population of Northampton, 43 percent (5,634 people) are African Americans (U.S Census Bureau, 2000). Northampton's African-American population ranks 6<sup>th</sup> highest among localities in Virginia compared to an average of 20 percent for the state (U.S. Census Bureau, Census 2000). Northampton County also has a higher proportion of minority farmers with 22 out of the 152 farms (15 percent) owned or operated by African-American citizens. This percent is in stark contrast to the state as a whole where only 3 percent of all farms are owned or operated by minorities (1997 Census of Agriculture).

**Employment:** In 2001, Northampton County had 5,547 people in the labor force. However, unemployment in the county has generally been higher than the rest of Virginia, which had an average unemployment rate of 4 percent in 1997 and 3.5 percent in 2001 (USDA-ERS, 2001). In 1997, Northampton's rates were 6.6 percent and in 2001 unemployment rates were 4.5 percent (VEC, 2001).

**Personal Income:** In 2001, the county had a total personal income (TPI) of over \$290 million and a per capita personal income (PCPI) of \$22,547. TPI and PCPI had increased approximately 6 percent from 2000, and compared to the rest of Virginia's counties, Northampton ranked 61<sup>st</sup> in PCPI and 85<sup>th</sup> in TPI out of 95 counties. Northampton accounted for 0.1 percent of the state TPI. The average annual growth rate for TPI in Northampton over the last ten years has been 4.6 percent, compared to the state of Virginia's growth rate of 4.4 percent. The county has seen modest growth in PCPI over the last ten years as Virginia had an average annual growth rate of 5.8 percent compared to Northampton's 4.5 percent (U.S. Dep't of Commerce, 2002).

**Issues:** The consequences of growth policies for Northampton are best summarized by these excerpts from the *Journey to Our Future* (2003).

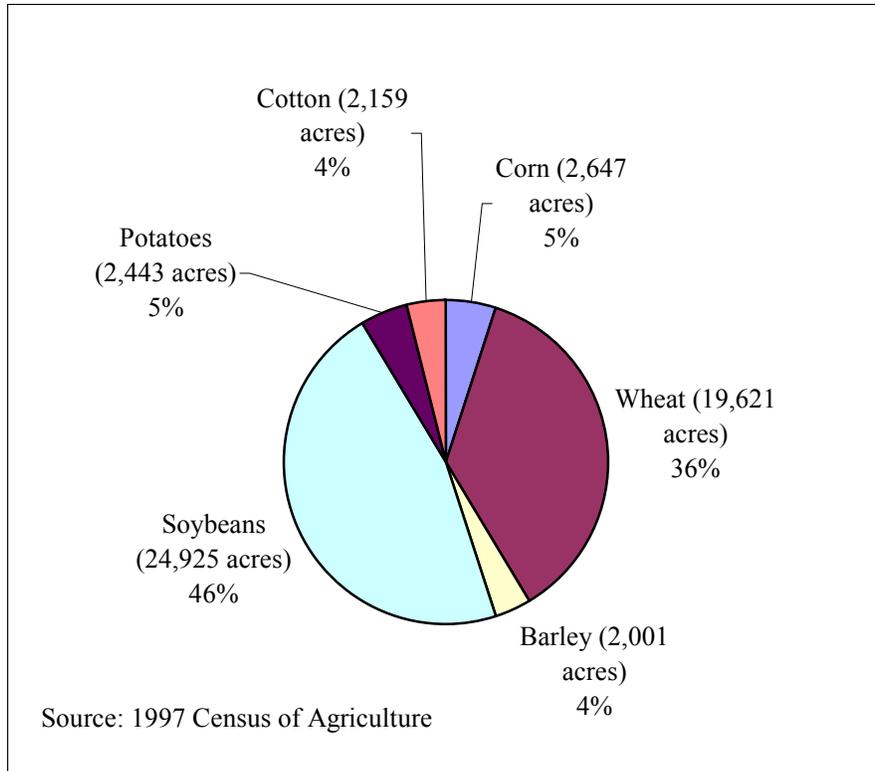
This study recognized that economic growth in Northampton is slower than the average for Virginia. An anonymous county author expressed concern by writing, "our foremost challenges are our lack of jobs and lack of affordable, decent housing." To support growth and address concerns about uncontrolled development, Northampton must pursue a policy designed to better the community without depleting unique assets within the county. Bad development plans might bring rapid growth to Northampton but could drain the county's resources such as farmland. Real development, or sustainable development, will improve the community in a way that persists, without diminishing valuable assets.

## **Northampton County Agriculture**

Northampton County's agriculture relies heavily on crop production. Northampton County has 152 farms. Total farm acreage is 56,000, and the average farm size is 371 acres (1997 Census of Agriculture). The majority of farms, 144, are used in crop production with a total of 49,974 acres of cropland planted and 46,980 acres harvested. Only 11 percent of agricultural land in the county is used for livestock grazing (1997 Census of Agriculture).

Northampton County sold \$38,597,000 in total market value of all agricultural products (1997 Census of Agriculture). The average product sales for each farm are \$254,000 and crop sales make up the majority (70 percent) of these product sales. The large proportion of total sales arising from field-crops is in stark contrast to the average Virginia county, which has average crop sales of 19.1 percent (1997 Census of Agriculture). Northampton ranks 16<sup>th</sup> in Virginia in total farm income (Northampton County, 2003).

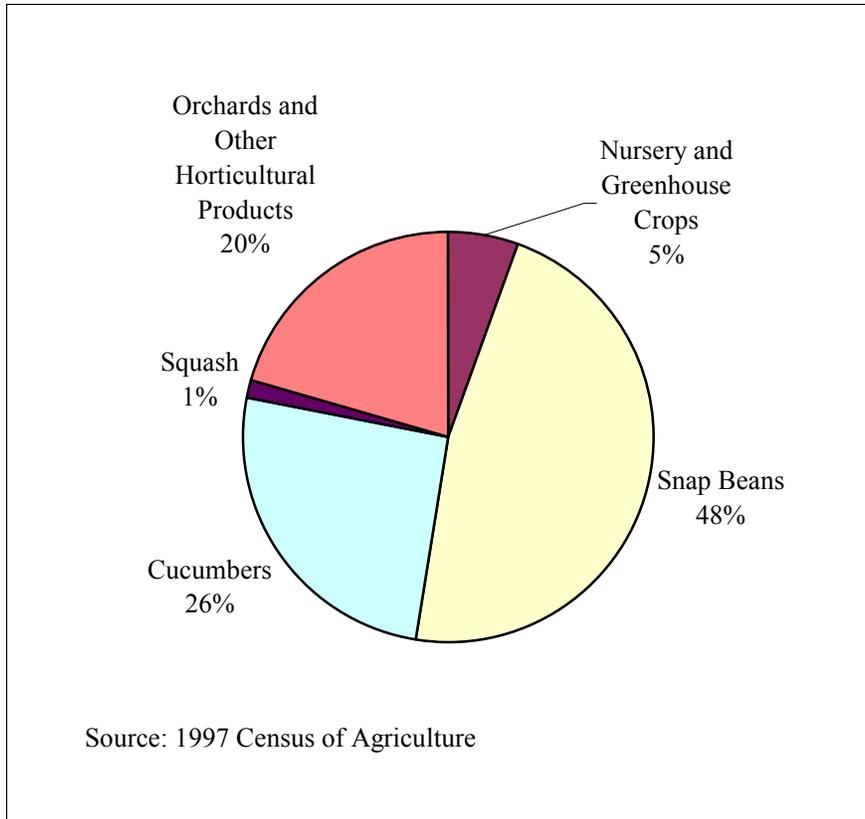
Northampton County's primary crops consist of corn, soybeans, wheat, and cotton. Cucumbers, squash, string beans, and tomatoes are also some important vegetable products grown in the county (American Farmland Trust, 2003). In fact, Northampton ranks third in the production of soybeans and winter wheat and first in the production of cucumbers and snap beans out of the 95 counties in Virginia (Northampton County, 2003).



**Figure 1: Percentage of Crops by Acreage**

Soybeans and wheat utilize 82 percent of the row-crop land base in Northampton County (Figure 1). The remaining 18 percent of the county’s farmland is used for corn, peanuts, other crops, and livestock grazing. About 25,000 acres were used for growing soybeans alone in 1997 (Census of Agriculture). Recent trends show that soybean acreage declined from 25,000 acres in the 1997 census to 22,000 acres in 2001 (VASS, 2001), while corn production grew from 2,647 acres (1997 Census of Agriculture) to 6,500 acres (VASS, 2001).

The 55 vegetable farms used 7,472 acres in Northampton County in 1997. Over half of vegetable producing acres are used for growing snap beans (Figure 2). Cucumbers take up an additional 2,000 acres, while some land is used for tomatoes, squash, sweet peppers, and various other vegetables. Twenty-nine acres were used for orchards, and 432 acres were used for all other nursery and greenhouse plants (1997 Census of Agriculture).



**Figure 2: Percentage of Horticultural Products by Acreage**

Virginia had 2.51 million acres of woodland in 1997, or about 21 percent of total land. Northampton County has approximately 5,000 acres of woodland (Virginia State Fact Sheet, 2003) and 313 acres of that woodland are used as pastures (1997 Census of Agriculture). In addition, 238 acres of Northampton’s land are under the Conservation Reserve or Wetlands Reserve Programs (Census of Agriculture; 1987, 1992, and 1997).

In 1997, only 58 percent of Northampton’s farms experienced a net gain<sup>3</sup> which averaged \$157,617 per farm and was an increase of almost \$100,000 from 1992 levels.<sup>4</sup> The number of farms with net gains decreased from 1992 to 1997 from 99 to 87, a 12 percent decline. The number of farms with net losses in 1997 totaled 64 farms, and the average net loss for these farms was \$11,866, an increase of \$3,409 per farm from 1992 (Census of Agriculture, 1997).

Farm production expenses increased \$10 million from 1987 to 1997. Farm production expenses averaged \$166,596 per farm in 1997 (Census of Agriculture). Labor and

<sup>3</sup> Net cash return from agricultural sales for the farm unit. Net cash return is derived by subtracting total operating expenditures from the gross market value of agricultural products sold. Both gross sales and production expenditures include sales and expenses of the farm operator as well as those of partners, landlords, and contractors. Therefore, the net cash return is that of the farm unit rather than the net farm income of the operator (Census of Agriculture, 1997).

<sup>4</sup> All dollar amounts in this report are nominal prices unless otherwise stated.

fertilizer were the largest expenses for Northampton County farmers for the last three census periods, accounting for one-third of all production expenses (Census of Agriculture; 1987, 1992, and 1997).

## Measuring Impact of Use Value Taxation in Northampton

Northampton County does not currently have an ordinance allowing use-value taxation; therefore, agricultural landowners not in an Agricultural and Forestal District pay real estate taxes based on the fair market value of their land. Measuring the fiscal impact of adopting a use-value taxation program requires estimates of the tax revenue pre and post adoption. To understand the fiscal impact of a use-value taxation program the components of local tax revenue collection need to be understood.

Lamie (2000) proposes the following equation to estimate the amount of revenue received under fair market assessment:

$$R^f = \tau B + L^f + S^f + F^f \quad \text{Equation 1.0}$$

Where: the superscript <sup>f</sup> demotes values at fair market assessment

$R^f$  = the amount of revenue received under fair market assessment

$\tau$  = the real property tax rate

$B$  = the real property tax base

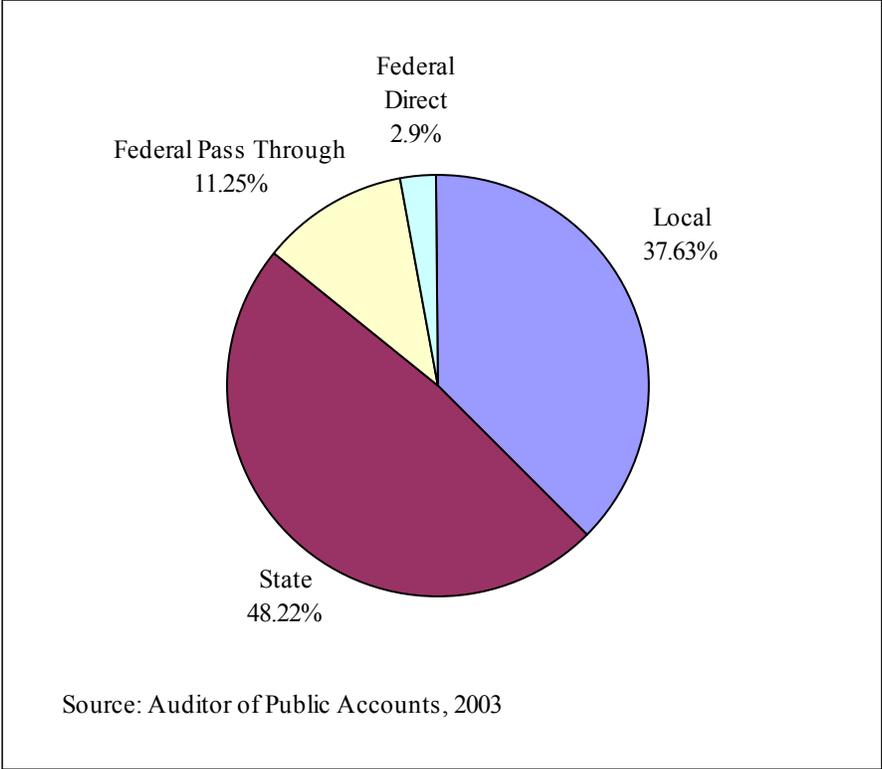
$L^f$  = revenue collected from other local sources

$S^f$  = revenue collected from state sources

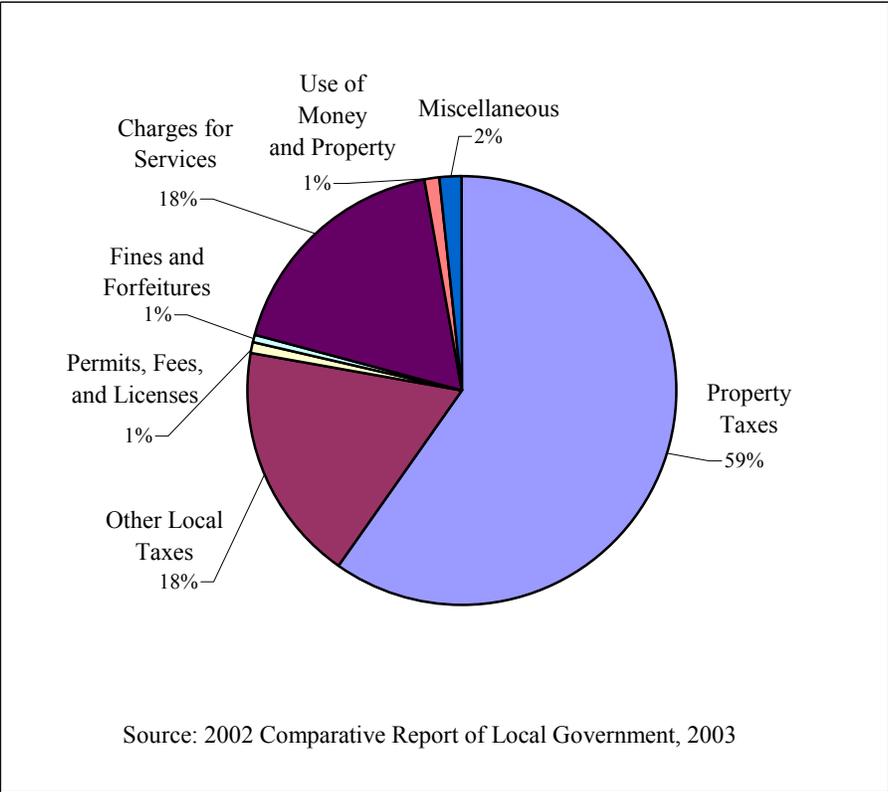
$F^f$  = revenue collected from federal sources

Applying equation 1.0 to Northampton County, we find the majority (48.2 percent) of revenue comes from state ( $S^f$ ) sources (Figure 3) followed by local revenue ( $\tau B + L^f$ ) sources (37.6 percent), and 14.2 percent came from the federal direct and indirect sources ( $F^f$ ). Total revenue for Northampton County for the fiscal year ending June 2002 was nearly \$30 million (Auditor of Public Accounts, 2003).

Property taxes accounted for approximately 59 percent of the revenue received from local sources (Figure 4). Revenue from real property taxes ( $\tau B$ ) exceeded \$4.7 million, or about 70 percent of the total property tax revenue. Other property taxes include revenue received from personal property and public service corporations. Service charges and other local taxes also accounted for much of the local revenue, each representing 18 percent (Auditor of Public Accounts, 2003).

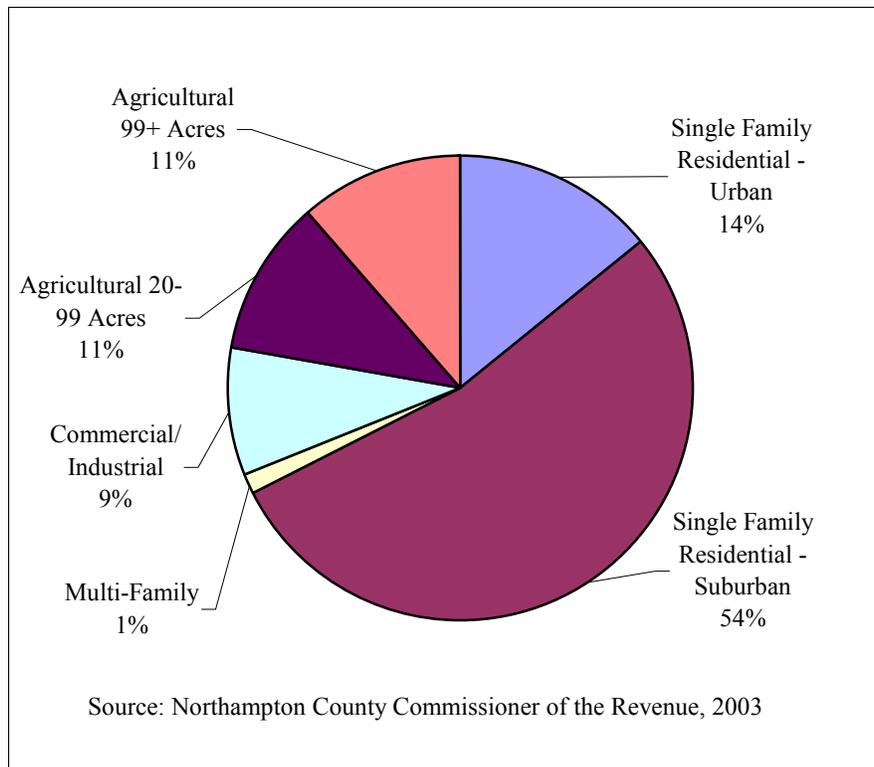


**Figure 3: Sources of Revenue, 2002**



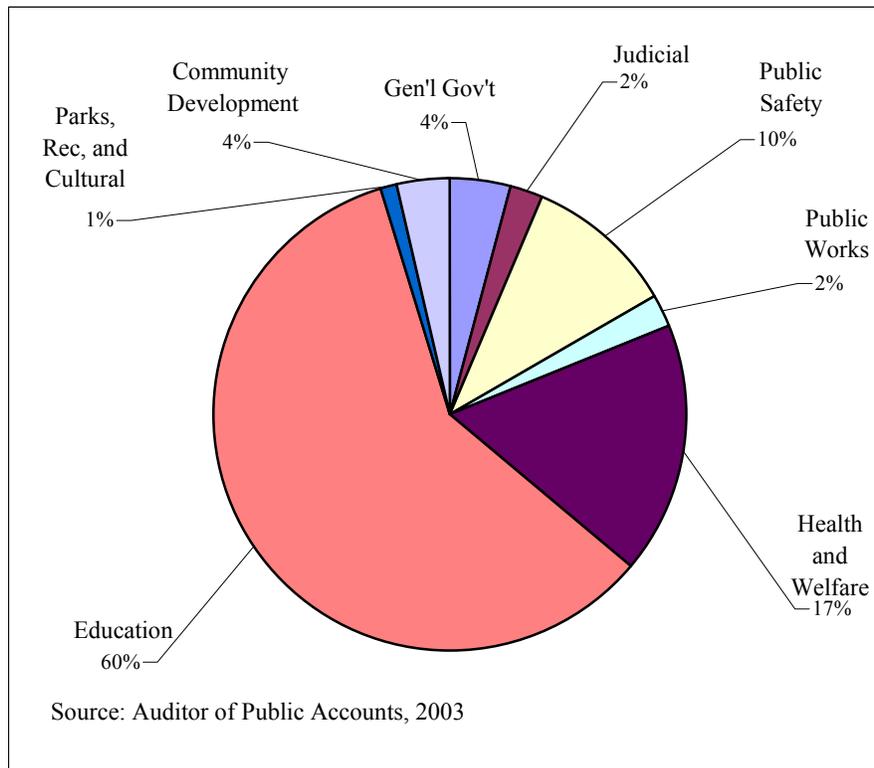
**Figure 4: Local Sources of Revenue, 2002**

A majority of the property taxes arises from single-family homes in suburban (54 percent) and urban areas (14 percent), and about 22 percent of the tax base is from agricultural land classified in two groups: 1) 20 acres to less than 99 acres and 2) 99 acres and larger (Figure 5) (Northampton County Commissioner of the Revenue, 2003). All parcels of land included in the agricultural base would meet the minimum parcel size criteria (5 acres or more), however, may not meet all other requirements, such as being a *bona fide* agricultural operation, to be considered for use value taxation.



**Figure 5: Distribution of Real Property Tax Base, 2002**

Total county expenditures, for the fiscal year ending June 30, 2002, are \$28.8 million with education making up 60 percent or \$17 million of all spending (Figure 6). The top three expenditures, education, health and welfare, and public safety, account for 87 percent of the 2002 budget. The remaining 13 percent provides for general governmental and cultural services (Auditor of Public Accounts, 2003).



**Figure 6: Expenditures, 2002**

Similar to use-value taxation, Virginia allows counties to establish Agricultural and Forestal Districts for qualified land to be taxed at its use value. The implications to Northampton from adoption of use-value taxation are similar, but the boundaries for participation are extended to all eligible land in the county. In 2001, Agricultural and Forestal Districts in Northampton County deferred \$81,398 in taxes (Table 1) (VA Dep't Tax, 1999-2002) on 6,143 acres (Northampton County Commissioner of the Revenue, 2003), an average deferral of \$13.25 per acre. The total amount of deferred taxes increased almost 250 percent from the \$32,585 deferred in 2000 (VA Dep't Tax, 1999-2002).

**Table 1: Northampton County's Deferred Taxes from 1998 to 2001**

Tax Year	FMV All Land	FMV Taxable Land	Deferred Value	Tax Rate	Deferred Taxes
2001	398,805,200	385,461,200	13,344,000	0.0061	\$ 81,398.40
2000	380,046,500	374,704,700	5,341,800	0.0061	\$ 32,584.98
1999	377,362,100	371,757,100	5,605,000	0.0061	\$ 34,190.50
1998	334,419,400	328,347,700	6,071,700	0.0068	\$ 41,287.56

Source: VA Dep't Tax, 1999-2002

As with Agricultural and Forestal Districts, all participating properties are eligible to receive tax assessments at the value in use as agricultural lands. Under use-value assessment, a portion of the jurisdiction's real property tax base is reduced in value, and the tax rate is usually increased to achieve a revenue-neutral policy. Also, jurisdictions normally collect a penalty tax or a roll-back tax when previously participating land parcels are developed or taken out of the program. The use-value program also may affect the amount of revenue received from the local, state, and federal government.

If a county wants to retain the same level of revenue after use value as before adoption, the following items must be taken into account to make consistent adjustments to Equation 1.0 to provide county citizens with the information about the benefits and costs of the program. Equation 1.0 was modified to capture the fiscal implications of agricultural property assessed based on use. Equation 1.1 reflects changes to accommodate adjustments in tax rates and tax base to leave the jurisdiction in a revenue-neutral position. In equation 1.1 the amount of revenue received under use-value taxation is denoted as  $R^u$  and differs from Equation 1.0 by the term  $\alpha\tau(B - D)$ . This term, real property base minus reduction in the real property tax base, is the net change in the value of all real property after accounting for agricultural land valued at its use value. The new term  $\alpha$  can be considered an inflation factor to increase the tax rate to compensate for lower total revenue from use value taxation program participation. The remaining new term,  $P$ , reflects a new source of county revenue from penalty taxes collected when property is removed from the use value taxation program. The terms  $L^u$ ,  $S^u$ , and  $F^u$  will remain largely unchanged unless they are based on total real property values or negatively correlated with the county's tax rate.

$$R^u = \alpha\tau (B - D) + P + L^u + S^u + F^u \quad \text{Equation 1.1}$$

Where: the superscript <sup>u</sup> demotes values under use value taxation

$R^u$  = the amount of revenue received under use value taxation

$\alpha$  = the increase in the tax rate

$\tau$  = the real property tax rate

$B$  = the real property tax base

$D$  = the reduction in the real property tax base

$P$  = revenue received from penalty taxes

$L^u$  = revenue collected from other local sources

$S^u$  = revenue collected from state sources

$F^u$  = revenue collected from federal sources (Lamie, 2000)

Adoption rates greater than zero imply that a county will experience a decrease in the amount of revenue received, or it may have to find alternate sources for income to remain revenue neutral. Local government may have to find ways to increase the amount received from other local sources, such as raising the charges on services or shifting the tax burden to industrial firms in the area. The state and federal government may also increase their financial support to encourage the preservation of farmland and open spaces. The county may also reduce the level or quality of services provided to decrease

expenditures. In any case, the county will have to reevaluate its budget with the adoption of use-value taxation.

### **Procedure for Estimating Agricultural Use Values**

Section 58.1 – 3239 of the Code of Virginia requires SLEAC to base their estimates of use value of agricultural and horticultural lands either on the capitalization of warranted cash rents or the capitalization of net income. SLEAC has elected to base estimates on capitalization of net income because capitalization of warranted cash rents is not currently considered a viable method due to very limited rental market data (Pelletier, 2003).

The capitalization of net income method requires a multi-step process and starts with the establishment of a composite farm of the row crops and hay grown in each county. The composite farm is defined by dividing total harvested acreage of each crop by the total number of farms in the county. Using the most recent Census of Agriculture (1997), Northampton County had 152 farms and 42,792 acres of harvested cropland (Table 2). Using soybeans as an example for the composite farm calculations, the harvested acreage (24,925) divided by 152 farms yield a farm harvesting 164 acres of soybeans. These calculations are repeated for all reported crops and generates the composite farm in Table 2. The total acreage is reduced to reflect reported double-cropped acreage (Pelletier, 2003). A crop that does not yield a composite farm acreage greater than or equal to 1 acre is not included in the composite farm. Thus, crops may enter and leave the composite farm as their acreage increases or declines over time.

**Table 2: Northampton County Composite Farm**

<b>Crops</b>	<b>Total Harvested Acreage</b>	<b>Composite Farm Acreage</b>
<b>Soybeans</b>	24,925	164
<b>Wheat</b>	19,621	129
<b>Corn</b>	2,647	17
<b>Potatoes</b>	2,443	16
<b>Cotton</b>	2,159	14
<b>Barley</b>	2,001	13
<b>Less Double-cropped Acreage</b>	-11,004	-72
<b>Total Cropland Harvested</b>	42,792	281

Source: Pelletier, 2003

Developing of a method to estimate annual per acre net returns for each crop grown on the composite farm is the next step in the process of establishing a use value for Northampton. Virginia Farm Management Crop and Livestock Enterprise Budgets

(2000) are the basis for calculating annual per acre returns for all crops. The budgets are used to determine the production technology and quantity of inputs used for each on crops on the composite farm. Crop prices and county yields are obtained from the Virginia Department of Agriculture and Consumer Services (Pelletier, 2003). This process of multiplying prices time the yields is repeated for each crop for each of the previous seven years. This series of net returns are “olympic” averaged by dropping the highest and lowest net returns and then averaging the remaining five years. The total estimated net return of cropland harvested is calculated by taking the weighted average of net returns and acreage. Northampton County’s total net returns have been calculated at \$48.40 (Table 3) (Pelletier, 2003).

**Table 3: Estimated Net Returns for Northampton County**

<b>Crop</b>	<b>Estimated Net Returns (\$/Acre)</b>
Soybeans	\$2.27
Wheat	\$19.26
Corn	\$32.26
Potatoes	\$598.40
Cotton	\$18.36
Barley	\$27.88
<b>Total</b>	<b>\$48.40*</b>

Source: Pelletier, 2003

\*Note that some data do not add exactly due to rounding

Next, the annual net return is capitalized to yield the value per acre based on the composite farm. This process requires a capitalization rate that accurately reflects economic conditions faced by agricultural landowners. SLEAC requires that the capitalization rate is a function of 3 components: interest rate, real property tax rate, and risk. The interest rate component is calculated by the average long-term interest rate charged by the Agricultural Credit Associations (ACA) over the ten previous years. Virginia’s average ACA interest rate from 1993 to 2002 is 7.26 percent (Pelletier, 2003).

The property tax rate is published annually for each county by the Virginia Department of Taxation. The property tax component of the capitalization rate is a ten-year moving average of the tax rate.<sup>5</sup> Northampton County’s average tax rate applicable for tax year 2004 is 0.58 percent (Pelletier, 2003). The basic capitalization rate is the sum of the interest rate component and property tax component. Therefore, Northampton County’s capitalization rate, without the risk component, is 7.84 percent (Pelletier, 2003).

The capitalization rate without risk, 7.84 percent, will be used for all agriculture land growing primary crops and not located in an area prone to flooding. The with risk component is added to the capitalization rate only for land that is susceptible to flooding.

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<sup>5</sup> A simple 10-year moving average is calculated by dropping the oldest year in the series and then adding the newest year. The new 10-year sum is averaged.

This added risk component is derived to reflect the localized (within farm) risk of crop failure associated with a total crop loss once every 20 years. The risk of localized flooding differs from droughts that are regional and are captured in the reported crop yields for a county. The SLEAC recommends that 5 percent be multiplied to the basic capitalization rate. The capitalization rate without risk factor (7.84) is inflated by 5 percent (1 in 20 years) to reflect the added risk of flood damage. The Northampton County with-risk capitalization rate is 8.23 percent (Pelletier, 2003).

The capitalized net returns for the composite Northampton County farm (Table 4) yields an unadjusted use value of cropland harvested of \$618 ( $\$48.40 \div 0.0784$  without risk capitalization rate). The unadjusted use value for land with risk is \$588 ( $\$48.40 \div 0.0823$  with risk capitalization rate) (Pelletier, 2003).

**Table 4: Unadjusted Use-Value Calculations**

1. Estimated net return per acre of cropland harvested (Table 3)	\$48.40
2. Interest Rate Component	7.26%
3. Property Tax Component	0.58%
4. Capitalization Rate without Risk (line 2 + line 3)	7.84%
5. Risk Component (0.05 times line 4)	0.39%
6. Capitalization Rate with Risk (line 4 + line 5)	8.23%
7. Unadjusted use value without risk (line 1 / line 4)	\$618
8. Unadjusted use value of with risk (line 1 / line 6)	\$588

Source: Pelletier, 2003

The SLEAC has recommended and approved that the unadjusted use value of land be adjusted to reflect the inherent level of soil productivity. A statewide land class index is used to adjust use values for various land classifications and is based on one of 8 classes (I to VIII) that reflect productivity, slope, and erosion hazard, with Class I being the most productive and VIII the least productive. Class III was approved as the base class and is assigned an index value of 1 (Table 5). Observe that Classes I and II are more productive than Class III and receive a value greater than one; conversely, Classes IV through VIII are less productive and given an index value less than 1 (Pelletier, 2003).

**Table 5: Land Index**

Land Class	Index Number
I	1.5
II	1.35
III	1
IV	0.8
V	0.6
VI	0.5
VII	0.3
VIII	0.1

Source: Pelletier, 2003

The SLEAC has approved a method to calculate soil index factor to reflect county land productivity. This method recognizes that soil or land productivity is not uniform across the state and that jurisdictions with/without highly productive soils should not be rewarded/penalized. The Virginia Conservation Needs Inventory (1967) provides county total acreages of land by soil class. These total acreages by soil class are multiplied by their corresponding index number to yield weighted acreages by land class (Table 6). The soil index factor for Northampton County, 1.411, is found by dividing the sum of total weighted acreage (70,235) by the Northampton's total acres (49,792). Land Classes I to IV are only used in this calculation because Classes V through VIII are soils not normally cropped and in turn are used for pasture and/or open space.

**Table 6: Soil Index Factor**

Land Class	Cropland Acreage	Index Number	Weighted Acreage (Acreage times Index #)
I	22,602	1.5	33,903
II	26,121	1.35	35,263
III	1,069	1	1,069
IV	0	0.8	0
<b>Total</b>	49,792		70,235
<b>Soil Index Factor</b>			
$\frac{\text{Total Weighted Acreage}}{\text{Total Cropland Acreage}}$		1.411	

Source: Pelletier, 2003

The values from Table 4 are multiplied by the soil index factor (1.411) to yield the final adjusted use value for Class III land (Table 7). The estimated use values for all other land classes are calculated by multiplying the adjusted use value for Class III land by the soil index numbers (Pelletier, 2003).

**Table 7: Adjusted use values**

<b>Land Class</b>	<b>Index Number</b>	<b><i>Estimated Use Value</i></b>	
		<b>W/O Risk</b>	<b>W/ Risk</b>
I	1.5	\$592.36	\$625.48
II	1.35	\$533.12	\$562.93
III	1	\$394.91	\$416.99
IV	0.8	\$315.93	\$333.59
V	0.6	\$236.94	\$250.19
VI	0.5	\$197.45	\$208.49
VII	0.3	\$118.47	\$125.10
VIII	0.1	\$39.49	\$41.70

Source: Pelletier, 2003

### **Quota crops**

The total acreage figures listed in Table 7 do not include net returns from quota crop acreage. Typically quota crops are not distributed evenly among owners of farmland within a county, thus the use value for quota crops is calculated independently from other crops. Up until tax year 2004 a separate peanut quota “add-on” was calculated for Northampton County. However, with the discontinuation of the peanut quota program in 2002, a peanut quota add-on is no longer produced. Tobacco is the remaining quota crop in Virginia. In counties with tobacco acreage the capitalized value of tobacco quota is added on to a farm to reflect the additional returns to quota. A tobacco quota add-on is not produced for Northampton County due to a lack of significant tobacco production within the county.

## Procedure for Estimating Horticultural Use Values

Estimation of horticultural use values requires additional assumptions because investment and returns are not evenly distributed over time as, for example, an apple orchard. The SLEAC provides for a separate method to estimate use value for horticultural land devoted to orchard use. Estimates for horticultural land are based mostly on professional opinion because a large portion of data required for the estimation is not collected or reported (Pelletier, 2003).

The composite orchard is based on a typical apple-producing orchard in Virginia. Values of other types of orchards are found by adjusting the depreciation rate. A typical orchard is planted at a density of 135 trees per acre. Also, 70 percent of the fruit is sold on the processed market while the remaining 30 percent is sold on the fresh market. The methodology also assumes that a typical orchard has 10 percent of its trees in pre-production (1 to 4 years), 25 percent in early-production age (5 to 10 years), 50 percent in full production age (11 to 25 years), and 15 percent in late production age (26 to 30 years) (Pelletier, 2003). Net income is based on the four production age groups and the fresh and processing markets, yielding eight net income categories. Based on these eight categories, a seven-year olympic average is calculated, giving the per acre net return for orchard land (Pelletier, 2003).

The capitalization rate consists of the base capitalization rate (Table 4) plus a depreciation component. The depreciation rate is based on the assumption that an apple orchard will last 30 years from planting to removal and 20 years for all other tree fruit. These assumptions yield a depreciation rate of 3.33 percent for apple orchards and 5 percent for all other orchards. The capitalization rate for apple orchards is 11.17 percent ( $7.84 + 3.33$ ) and 12.84 percent ( $7.84 + 5.0$ ) for other tree fruit.

The orchard index numbers given by the SLEAC are different from the land index numbers given for agricultural land. Orchards are more productive on land with special qualities. Land Classes II through IV are generally believed to be the best for fruit production. Land Class I land does not usually provide adequate air drainage. Therefore, it is given an index number less than Land Classes II through IV. The poor soil and steep slope characteristics of Land Classes V through VIII often inhibit fruit production and are, therefore, given a lower index number (Pelletier, 2003).

Dividing the estimated net returns by the capitalization rate and then multiplying by the orchard index number (Table 8) gives the use value of trees. The use value of trees is added to the use value of land to estimate the final use value for orchard land (Table 8) (Pelletier, 2003).

**Table 8: Use Value of Orchards in Northampton County**

Land Class	Orchard Index	<i>Apple Orchard</i>		<i>Other Orchards</i>	
		Tree Value	Trees and Land	Tree Value	Trees and Land
I	0.8	(\$245.74)*	\$411.01	(\$213.83)	\$442.92
II	1	(\$307.18)	\$283.90	(\$267.29)	\$323.79
III	1	(\$307.18)	\$130.66	(\$267.29)	\$170.54
IV	1	(\$307.18)	\$43.09	(\$267.29)	\$82.98
V	0.75	(\$230.38)	\$32.32	(\$200.47)	\$62.23
VI	0.6	(\$184.31)	\$34.61	(\$160.38)	\$58.54
VII	0.4	(\$122.87)	\$8.48	(\$106.92)	\$24.43
VIII	0	\$0.00	\$43.78	\$0.00	\$43.78

Source: Pelletier, 2003

\* Numbers in parentheses represent negative numbers

### **Procedure for Estimating Forestal Use Values in Northampton County**

The Virginia Department of Forestry (VDOF) uses a computer program called WinYield in making forestland use-value calculations (VDOF, 2003). Forestland assessment values are based on the capitalization of costs and revenues, as well as other factors such as soil type, average yield, and stumpage prices. For the purposes of forestland use value, soil productivity is classified into three categories: fair, good, or excellent. The average yields published by VDOF are then used to determine the yield of wood for each class (Table 9). In eastern Virginia, yields are based on loblolly pine; and western Virginia uses yields for Appalachian hardwoods.

**Table 9: Yields of Loblolly Pine Per Acre by Site Class**

Site Class	<i>25 years</i>		<i>35 years</i>		<i>40 years</i>	
	Yield (cords)	Use Value (\$)	Yield (cords)	Use Value (\$)	Yield (thousand board feet)	Use Value (\$)
<b>Fair</b>	8.5	310	6.5	310	9.9	310
<b>Good</b>	10.7	465	7.6	465	11.7	465
<b>Excellent</b>	11.5	710	8.7	710	16.0	710

Source: VDOF, 2003

The VDOF then determines average annual stumpage prices for loblolly pine and Appalachian hardwoods. These annual prices are used to calculate a five-year moving average. VDOF uses a management fee of \$2.50 per acre per year and a five-year running total of establishment costs in the calculation of net income. The \$2.50

management fee, current to 2004, changes annually based on a projected inflation rate of 2.5 percent (VDOF, 2003).

Forestland capitalization rate is the sum of the 10-year average property tax rate and the 10-year average interest rate. Forestland does not use a risk component in the valuation. Inflation is then added to the calculations, and all costs and revenues are discounted at a rate of 7 percent (VDOF, 2003).

Northampton County's estimated use values for forestland have been calculated by VDOF for the year 2004. Land classified in the Fair category is given a value of \$295 per acre. Land classified as Good is estimated at \$460 per acre, and land classified as Excellent is estimated at \$690 per acre (Table 9). A value for non-productive forestland, that is land not capable of growing trees for commercial or industrial use in Northampton County, is estimated by the VDOF to be \$100 per acre (VDOF, 2003).

### **Northampton County Estimates**

The analysis process for the fiscal impacts related to adoption of a use-value taxation program in Northampton County begins with the total tax levy and tax rate estimated for 2004 and builds on these known conditions. VA State Code § 58.1-3321 states that "When any annual assessment, biennial assessment or general reassessment of real property tax by a county, city or town would result in an increase of 1 percent or more in the total real property tax levied, such county, city, or town shall reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies...". The total tax levy for tax year 2003 in Northampton County was \$5,837, 809. The tax rate was 67¢ per \$100 of assessed value and the total assessed value was \$871,314,800 (Commissioner of the Revenue, 2004). The total assessed value for 2004 is \$1,147,617,800. In order to produce no more than 101 percent of the previous year's real property tax levies the total Northampton tax levy can not exceed \$5,932,547 in tax year 2004, resulting in an estimated tax rate of 52¢ per \$100 of assessed value. Adoption of use-value taxation will lead to a reduced tax levy for Northampton if the 52¢ tax rate is adopted and there are no changes to tax rate or government efficiency. Parcels of land eligible to participate in the use-value program (parcels with 5 or more acres)<sup>6</sup>, account for about \$2 million of the total estimated 2004 tax levy or about 35 percent (Land Book, 2002).

Estimates of the fiscal impact are based on the breakdown of land into primary agricultural and forestal uses. Forestland makes up 21 percent of Northampton County and is valued at \$460 per acre based on an estimate of Good forestland (VDOF, 2003). The remaining 79 percent of the land is farmland and valued on the estimated use value given in Table 7. Class I soil without risk makes up 38 percent, Class II soil without risk makes up 16 percent, and Class VIII soil with the risk of flooding makes up 28 percent of

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<sup>6</sup> Statutory requirement; see model ordinance, Appendix B.

land in the county. The other 18 percent is distributed among the remaining classes (Cobb, Smith; 1989).

**Table 10: Distribution of Forestland and Soil Types**

<b>Land Classes</b>	<b>% of Land</b>	<b>Acres</b>	<b>Value in Use (\$)</b>
<b>Total Acres - parcels &gt; 5 acres</b>	100	88,389	--
<b>Forestland</b>	21	18,562	8,715,960
<b>Other Land</b>	79	69,828	--
<b>Soil Class I</b>	38	26,534	15,872,286
<b>Soil Class II</b>	16	11,172	6,014,660
<b>Soil Class IV</b>	10	6,983	2,227,622
<b>Soil Class VI w/risk</b>	3	2,095	397,726
<b>Soil Class VII</b>	4	2,793	334,204
<b>Soil Class VIII</b>	1	698	27,840
<b>Soil Class VIII w/risk</b>	28	19,552	742,572

Note: Northampton County has no Class III, V, and VI soils

Source: VDOF, 2002; Cobb, Smith, 1989

The primary impact of the use-value program will be the amount of deferred taxes. Some of the deferred taxes may be recaptured through penalties if parcels are converted to non-agricultural or forestry use. However, parcels remaining in use value will continue the deferral.<sup>7</sup> The Virginia Department of Taxation (2003) reports the annual total fair market value (FMV) of all parcels in a county and the taxable FMV. The difference between the total and taxable FMV yields the annual deferred taxes. The average deferral for the selected counties<sup>8</sup> is 3.5 percent with a highest for King William County (7 percent) to the lowest in Lancaster County of less than 1 percent (Table 11). The highest deferred percentage in the state of Virginia is 30 percent for Rappahannock County, a rural county between two high growth areas in Northern Virginia, and the average deferral rate for the state as a whole is 7 percent.

<sup>7</sup> Please see the SLEAC manual and the county model ordinance for additional details.

<sup>8</sup> These counties, as well as Northampton County, are in the Eastern Agricultural Statistic District and are therefore used as a reference

**Table 11: Deferred Value of Counties with Use-Value Taxation for Tax Year 2001**

	<b>Total FMV (\$)</b>	<b>Taxable FMV (\$)</b>	<b>Deferred Value (\$)</b>	<b>Percent Deferred</b>
<b>Accomack</b>	1,336,337,000	1,289,509,600	46,827,400	3.5
<b>Gloucester</b>	1,799,661,840	1,754,057,450	45,604,390	2.5
<b>King William</b>	772,655,350	718,618,350	54,037,000	7.0
<b>*Lancaster</b>	1,161,249,900	1,156,174,400	5,075,500	0.4
<b>Middlesex</b>	927,078,500	899,646,900	27,431,600	3.0
<b>New Kent</b>	995,770,195	959,690,505	36,079,690	3.6
<b>Northumberland</b>	1,209,988,130	1,141,661,387	68,326,743	5.6
<b>Richmond</b>	400,417,200	391,206,290	9,210,910	2.3
<b>Westmoreland</b>	1,085,131,270	1,017,734,260	67,397,010	6.2
<b>York</b>	3,749,016,200	3,731,519,800	17,496,400	0.5
<b>Average deferred percentage</b>				3.5
<b>Statewide average</b>				7.0

\*Lancaster County does not provide for forestland use-value taxation

Source: VA Dep't Tax, 2003

Participation rates are the percentage of parcels that are taxed based on the use value of the land. The level of participation by landowners in Northampton County will determine the amount of deferred taxes. Unlike the level of deferred taxes, no complete data sets give guidance on the level of participation of property owners or the breakdown of parcels enrolled in the program. Therefore, the participation rates of 100, 75, 50, 25, and 10 percent of eligible parcels were used to estimate the impacts on deferred taxes (Table 12). A participation rate of 10 percent will decrease the total FMV of Northampton County by 14 percent. Likewise, a participation rate of 25 percent will decrease the FMV by 18 percent (Land Book, 2004). Thus, as a conservative estimate, Northampton County may expect a participation rate within the 10 to 25 percent range.

**Table 12: Impact of Varying Participation Rates (Parcels ≥ 5 Acres) on Northampton Tax Levy for Tax Year 2002**

Participation Rate (%)	Total FMV (\$)	Taxable FMV (\$)	Deferred Value (\$) <sup>a</sup>	Percent Deferred (%) <sup>b</sup>	New tax rate (per \$100) <sup>c</sup>	Increase of current tax rate (%) <sup>d</sup>
10	1,301,009,588	1,116,757,175	184,252,413	14	53¢	3
25	1,301,009,588	1,061,143,829	239,865,759	18	56¢	8
50	1,301,009,588	968,454,919	332,554,579	26	62¢	18
75	1,301,009,588	875,766,009	425,243,579	33	68¢	31
100	1,301,009,588	783,077,099	517,932,489	40	76¢	46

<sup>a</sup> Total FMV – Taxable FMV

<sup>b</sup> (Deferred Value ÷ Total FMV) \* 100

<sup>c</sup> Calculated tax rate to retain estimated 2004 tax levy at \$5,932,547

<sup>d</sup> Percentage increase in the estimated 2004 tax rate of 52¢ per \$100.

Source: Land Book 2004

A 10 percent participation rate decreases the levy only \$125,410 to a total levy of \$5,807,137. The new tax rate for a 10 percent participation rate is 53¢ per \$100, or a 3 percent increase from the estimated 2004 real property tax rate. A 25 percent participation rate will yield a tax levy of \$5,517,497, or a decrease of \$414,600 from the current levy. The tax rate required to maintain the present revenue is 56¢ per \$100, which is an 8 percent increase from the estimated 2004 real property tax rate of 52¢ per \$100. Therefore, Northampton County can expect to increase their 2004 estimated tax rate 3 to 8 percent in to maintain their current revenue.

A 50 percent participation rate will decrease the tax levy to \$5,035,965. The new tax rate will then need to be set at 62¢ per \$100, an 18 percent increase in the estimated 2004 real property tax rate, to compensate for the lost revenue at this participation rate. A participation rate of 75 percent is highly unlikely for Northampton County. Nonetheless, estimations suggest that tax revenue would decrease about \$1.38 million to \$4,780,056. The new tax rate to maintain the current levy at this participation rate is 68¢ per \$100.

A participation rate of 100 percent for all eligible parcels is almost irrelevant because not all parcels qualify as *bona fide* agricultural operations. If, however, the maximum use scenario did apply to Northampton County, the estimated tax levy would decrease from \$5,932,547 to \$4,072,000. A new tax rate must be set at 76¢ per \$100, a 46 percent increase in the estimated 2004 real property tax rate (52¢ per \$100) to maintain the current revenue.

Another option for Northampton County is not to adopt forestland use-value taxation and only adopt the program for agricultural land. This policy will have some effect on the revenue received from real property taxes. As with the previous policy, Northampton can expect to see a participation rate of between 10 and 25 percent of land parcels greater

than or equal to five acres. A 10 percent participation rate will decrease the tax levy by \$125,957. The estimated 2004 real property tax rate (52¢ per \$100) will then need to be raised 3 percent to 53¢ per \$100 to maintain the current revenue. A 25 percent participation rate will decrease the tax levy by \$415,968. The estimated 2004 real property tax rate will then need to be raised 8 percent to 56¢ per \$100. Again, Northampton County can expect to increase their estimated 2004 tax rate 3 to 8 percent in order to maintain the current tax levy.

Northampton County's participation rate may increase or decrease over the next few years, depending on how private landowners react to the ordinance. More landowners may apply for use-value taxation as the program gains popularity in the county. However, the participation rate is not expected to exceed 25 percent.

Northampton County may also acquire some revenue from penalties and roll-back taxes following adoption. Accomack County collected \$33,052 in penalties in 2002, or 0.3 percent of Accomack's total tax levy (Accomack Commissioner of Revenue, June 2003). Northampton can expect to receive about the same percentage in penalties as Accomack County in future years. The amount collected in penalties will, thus, equal about \$16,600.

### **Choices for Northampton County**

Residents often encounter negative effects when tax rates are increased on real property. The decision to adopt use value taxation is a decision that must be made by the elected county officials. Lamie (2000) discussed options to mitigate the impact of use value taxation property tax rates, and limited the choices to one or more of the following:

- 1) Reduce the level or quality of services provided by local government, or improve the efficiency in the delivery of these services. Health programs, educational expenses, and other services may require reductions to make up for lost revenue.
- 2) Increase non-real property tax rates or charges for current services.
- 3) Adopt additional revenue generating measures such as new programs that bring income to the county.
- 4) Increase the number of services supported by user fees. New services that require service fees may bring additional revenue to the county.
- 5) Find ways to increase state or federal support for county operations. State and federal governments may assist counties making an effort in preserving farmland. The support levels are dependent on state and federal budgets.

- 6) Find ways to increase the tax base by attracting firms and households that generate fiscal benefits to the county. This option may have the potential for increasing pressure on farmland conversion.
- 7) Improve community assets that comprise the current tax base. Tourism and other attractions may increase revenue.

Decision-makers will need to decide which measures are best for the county and provide plans that implement them.

## **Conclusion**

Use-value taxation has many benefits and costs. Northampton County must evaluate its current fiscal situation and the importance of preserving farmland for future generations. The intention of the use-value program is to shift the tax burden from agricultural producers to other sectors in the county. Many important factors must be identified before use-value taxation is adopted by Northampton County. How will the shift affect the business sector and the residential sector? How will the increase in the property tax rate affect farmers and other citizens in the county? Will the preservation of farmland be an asset to the community? Will the program effectively keep land in agricultural production? (Lamie, 2000)

Other factors must also be in place for use-value taxation to succeed in preserving farmland. An adequate land-use policy is essential in shifting the tax burden to the benefit of the community. Use-value taxation and a good land-use policy are complements of each other and, when properly administered, will help Northampton County retain its rural character (Lamie, 2000).

The use-value program is designed to delay the effects of urban sprawl and make farming more profitable. Northampton County must decide if preserving farmland will benefit the county in the long run. Some people believe that the shift in the tax burden is unfair to residents and businesses in the area, while others believe that agricultural land should be protected at all costs. Use-value taxation should be implemented only if it has popular support among Northampton County residents and decision-makers.

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## **Appendix A: SLEAC Manual**

To lower the printing costs of this publication, the SLEAC manual is not printed here.  
The SLEAC manual can be found online at:

<http://usevalue.agecon.vt.edu/proceduresmanual.htm>

## Appendix B: Model Ordinance

### MODEL ORDINANCE FOR SPECIAL ASSESSMENTS FOR AGRICULTURAL, HORTICULTURAL, FOREST OR OPEN SPACE REAL ESTATE

Be it ordained by the (county) (city) (town) of

§ 1. Findings. The (county) (city) (town) of finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses<sup>1</sup> within its boundaries is in the public interest and, having heretofore adopted a land-use plan,<sup>2</sup> hereby ordains that such 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*: the standards prescribed by the Director of the Virginia Department of Conservation and Recreation, the Virginia Commissioner of Agriculture and Consumer Services, the State Forester, and this ordinance.<sup>3</sup>

§ 2. Application for special assessment; fees.  
(a) Applications for taxation of real estate on the basis of use assessment shall be submitted to the commissioner of the revenue (real estate assessor) (director of finance) on forms provided by the Virginia Department of Taxation and supplied by the commissioner of the revenue (real estate assessor) (director of finance). The application shall include such additional schedules, photographs, and drawings as may be required by the commissioner of the revenue (real estate assessor) (director of finance).<sup>4</sup>

(b) Application shall be submitted:

(1) At least sixty days preceding the tax year for which such taxation is sought; or

(2) In any year in which a general reassessment is being made, until thirty days have elapsed after the notice of increase in assessment has been mailed to the property owner in accordance with § 58.1-3330 of the *Code of Virginia*, or sixty days preceding the tax year, whichever is later.

(c) The application shall be signed by all owners<sup>5</sup> of the subject property. An owner of an undivided interest in the property may apply on behalf of owners that are minors or that cannot be located, upon submitting an affidavit attesting to such facts.

(d) A separate application shall be filed for each parcel or tract shown on the land book.

(e) An application fee of \$\_\_\_\_\_ shall accompany each application.<sup>6</sup> [an additional \$0.10 to \$0.25 per acre is charged]. (f) [Optional]. An application may be filed within no more than sixty days after the filing deadline specified in subparagraph (b) above upon payment of a late filing fee in the sum of \$\_\_\_\_\_.<sup>7</sup>

(g) An application shall be submitted whenever the use or acreage of such land previously approved

changes; provided, however, that no application shall be required 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.

(h) If any tax on the land affected by an application is delinquent when the application is filed, then the application shall not be accepted. Upon payment of all delinquent taxes, interest, and penalties relating to such land, the application shall then be treated in accordance with the provisions of this section.<sup>8</sup>

(I) [Optional]. Such property owner must revalidate annually<sup>9</sup> with the commissioner of the revenue (real estate assessor) (director of finance) any application

previously approved. A revalidation fee of \$ shall accompany each application for revalidation every sixth year.<sup>10</sup> Late filing of a revalidation form must be made on or before the effective date of the assessment and accompanied with a late filing fee of \$\_\_\_\_\_.<sup>11</sup>

§ 3. Determination of use value and assessment.

(A) Promptly upon receipt of any application, the Commissioner of the Revenue (real estate assessor) (director of finance) shall determine whether the subject property meets the criteria for taxation under this ordinance. Article 4 of Chapter 32 of Title 58.1 of the *Code of Virginia*, and the applicable standards prescribed thereunder by the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, and the State Forester.

(B) Minimum acreage.

(1) Real estate devoted to:

(a) agricultural or horticultural use shall consist of a minimum of five acres;

(b) forest use shall consist of a minimum of twenty acres.

(c) open-space use shall consist of a minimum of five acres, [Optional][except that real estate adjacent to a scenic river, a scenic highway, Virginia Byway or public property shall consist of a minimum of two acres. A scenic river, scenic highway, Virginia Byway or public property under this paragraph means those which are listed in the State Comprehensive Outdoor Recreational Plan, also known as the Virginia Outdoors Plan, a copy of which can be obtained from the Department of Conservation and Recreation, 203

Governor St., Suite 302, Richmond, VA 23219].

[Optional] For cities, counties, or towns having a population density greater than 5,000 per square mile:

(c) open-space use shall consist of a minimum of two acres.

(2) The foregoing requirements for minimum acreage shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots titled in the same ownership. For purposes of this section, properties separated only by a public right of way are considered contiguous.

(C) In addition to meeting the foregoing requirements for minimum acreage, real estate devoted to open-space use shall be:

(1) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 36 ( 15.1-1507 et seq.) of Title 15.1 of the *Code of Virginia*, or

(2) subject to a recorded perpetual easement that is held by a public body, and that promotes the open-space use classification as defined in  58.1-3230 of the *Code of Virginia*, or

(3) subject to a recorded commitment meeting the standards prescribed by the Director of the Department of Conservation and Recreation and entered into by the landowner and the (city)(county)(town).<sup>12</sup>

(D) If the commissioner of the revenue (real estate assessor) (director of finance) determines that the property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value.<sup>13</sup>

(E) In determining whether the subject property meets the criteria for "agricultural use" or "horticultural use" the commissioner of the revenue (real estate assessor) (director of finance) 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 Conservation and Recreation. Upon the refusal of the Commissioner of Agriculture and Consumer Services, 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 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 ordinance.

 4. Taxation based on qualifying use. 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.<sup>14</sup> Continuation of valuation, assessment and taxation based upon land use shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as required in  58.1-3235 and compliance with the other requirements of Article 4 of Chapter 32 of Title 58.1 of the *Code of Virginia*, the applicable standards prescribed by the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, the State Forester, and this ordinance and not upon continuance in the same owner of title to the land.

 5. Delinquent taxes. If on April 1 one of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this ordinance are delinquent, the (city/ county/town treasurer)(director of finance) shall send notice of that fact and the general provisions of  58.1-3235 of the *Code of Virginia* to the property owner by first-class mail. If after sending such notice, such delinquent taxes remain unpaid on June 1, the treasurer shall notify the appropriate commissioner of the revenue (real estate assessor)(director of finance) who shall remove such parcel from the land use program. Such removal shall become effective for the current year.

 6. Change in use, zoning or area: roll-back taxes. There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Virginia Code  58.1-3237, on real estate which has qualified for assessment and taxation on the basis of use under this ordinance, upon one or more of the following occurrences:

(a) when the use by which it qualified changes to a more intensive use;

(b) when it is rezoned to a more intensive use, as described in  58.1-3237 of the *Code of Virginia*; or

(c) when one or more parcels, lots or pieces of land are separated or split off from the real estate, as described in  58.1-3241 of the *Code of Virginia*.

 7. Failure to report changes; misstatements in application. (a) The owner of any real estate liable for roll-back taxes shall, within sixty days following a change in use, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner of the revenue shall forthwith determine and assess the roll-back tax, which shall be paid to the treasurer within 30 days of 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 per centum<sup>15</sup> 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 for failure to make the required report, there is hereby imposed interest of one-half per centum<sup>16</sup> of the amount of the roll-back tax, interest and penalty, for each month or fraction thereof during which the failure continues.

(b) Any person making material misstatement of fact other than a clerical error 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 per centum<sup>17</sup> of such unpaid taxes. The term material misstatement of fact shall have the same meaning as it has under § 58.1-3238 of the Code of Virginia.

§ 8. Application of Title 58.1 of the Code of Virginia. The provisions of Title 58.1 of the Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis 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.

§ 9. This ordinance shall be effective for all tax years beginning on and after \_\_\_\_\_.

<sup>1</sup> If the local government body prefers to permit special assessment of one, two, or three of these classifications of real estate, it may do so. In that event, only the applicable standards for the specific class shall apply, i.e., for agricultural use and horticultural use, those prescribed by the Commissioner of the Department of Agriculture and Consumer Services; for forest use, those prescribed by the State Forester; and for open-space use, those prescribed by the Director of the Department of Conservation and Recreation.

<sup>2</sup> A land use plan pursuant to the Code of Virginia, § 15.1-466, is required by the statute to be adopted before the enactment of this ordinance (land use regulation or zoning ordinances are not required by §58.1-3231).

<sup>3</sup> No real estate qualifies for special assessment unless the procedures set forth herein are followed. In addition, reference is given to § 58.1-3231, last paragraph, as follows: Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of

real estate in the year following adoption of a an ordinance pursuant to this article.≡

Therefore, should the governing body desire such a general reassessment, it should be so stated as a paragraph (b) of Section 1 of this ordinance, thereby requiring the first paragraph to be lettered paragraph (a).

<sup>4</sup> Although it is not required by §58.1-3236, much administrative confusion can be avoided if the owner is required to provide all information needed for the approval and processing of his application. Where necessary he should be able to get information from the local Extension Service, Soil Conservation Service and/or Agricultural Stabilization and Conservation Service Offices. When an applicant has more than one tract or parcel of land for which he desires special assessment, administrative effort will be saved if he is encouraged to present the separate applications simultaneously.

<sup>5</sup> Only the record owners (all owners) of the property may apply. See §58.1-3234 and the opinion of the Attorney General to the Honorable Alice Jane Childs, Commissioner of the Revenue for Fauquier County dated June 7, 1973.

<sup>6</sup> This fee is suggested but may be changed by the governing body so long as it is designed to reimburse the locality for administrative expense and does not provide substantial revenue.

<sup>7</sup> This provision is optional. If adopted the fee must be reasonable.

<sup>8</sup> This provision can be waived by local ordinance.

<sup>9</sup> Annual revalidation is an optional provision of law.

<sup>10</sup> This fee is suggested but optional and, in no event, shall it exceed the current application fee.

<sup>11</sup> As revalidation is optional, so is a late filing fee also optional.

<sup>12</sup> This model ordinance does not describe a procedure by which a local government would enter into a recorded commitment with a landowner, since such procedures will vary with the structure and preferences of each local government. The local governing body, however, should set forth in the ordinance a written commitment offered by a landowner

<sup>13</sup> Many of the potential problems related to this section may be anticipated and resolved by training programs that state agencies (Extension

Service, Department of Taxation, and others) may be able to conduct.

<sup>14</sup> Special tax statements to owners who are approved for special assessment might show both the tax to be paid and the roll-back tax. This may be administratively simpler than showing only the amount to be paid.

<sup>15</sup> This penalty is suggested but may be changed by the governing body of the locality.

<sup>16</sup> This penalty is suggested but may be changed by the governing body of the locality.

<sup>17</sup> This penalty is fixed by the statute and may not be changed.

## **Appendix C: 2004 Procedures Manual**

To lower the printing costs of this publication, the 2004 Procedures manual is not printed here. The 2004 Procedures manual can be found online at:

<http://usevalue.agecon.vt.edu/proceduresmanual.htm>

## Appendix D: Code of Virginia § 58.1 – 3230-3241

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.); or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

"Real estate devoted to forest use" shall mean land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § [58.1-3666](#), (v) riparian buffers as defined in § [58.1-3666](#), (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and

consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#), and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) and the local ordinance.

**§ 58.1-3231.** Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance.

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § [58.1-3230](#). The local governing body pursuant to § [58.1-3237.1](#) may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ [58.1-3000](#) et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § [58.1-3230](#). If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § [58.1-3230](#) require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may waive such prior use requirement for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting.

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § [58.1-3230](#). Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

**§ 58.1-3232.** Authority of city to provide for assessment and taxation of real estate in newly annexed area.

The council of any city may adopt an ordinance to provide for the assessment and taxation of only the real estate in an area newly annexed to such city in accord with the provisions of this article. All of the provisions of this article shall be applicable to such ordinance, except that if the county from which such area was annexed has in operation an ordinance hereunder, the ordinance of such city may be adopted at any time prior to April 1 of the year for which such ordinance will be effective, and applications from landowners may be received at any time within thirty days of the adoption of the ordinance in such year. If such ordinance is adopted after the date specified in § [58.1-3231](#), the ranges of suggested values made by the State Land Evaluation Advisory Council for the county from which such area was annexed are to be considered the value recommendations for such city. An ordinance adopted under the authority of this section shall be effective only for the tax year immediately following annexation.

**§ 58.1-3233.** Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing officer shall:

1. Determine that the real estate meets the criteria set forth in § [58.1-3230](#) and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he 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;
2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres; except that for real estate used for purposes of engaging in aquaculture as defined in § [3.1-73.6](#) or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. For purposes of

this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § [58.1-3230](#), or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than 10 years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#). Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § [15.2-4314](#) for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

**§ 58.1-3234.** Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.

Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer:

1. At least sixty days preceding the tax year for which such taxation is sought; or
2. In any year in which a general reassessment is being made, the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § [58.1-3330](#), or sixty days preceding the tax year, whichever is later; or
3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ [58.1-3000](#) et seq.) of this Subtitle III, but continues to assess as of January 1, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing deadline specified herein, upon payment of an extension fee to be established by the governing body in an amount not to exceed the late filing fee, to a date not later than thirty days after notices of assessments are mailed. An individual who is 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 or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required 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. The governing body of any county, city or town may, however, require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. Each locality which has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § [58.1-3236](#) D. Except as provided by local ordinance, no application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as referred to in § [58.1-3235](#), and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § [58.1-3230](#). The term of the written agreement shall be for a period not exceeding twenty years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

**§ 58.1-3235. 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 special assessment as provided for in this article are delinquent, the appropriate county, city or town 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 June 1, the treasurer shall notify the appropriate commissioner of the revenue who shall remove such parcel from the land use program. Such removal shall become effective for the current tax year.

**§ 58.1-3236.** Valuation of real estate under ordinance.

A. In valuing real estate for purposes of taxation by any county, city or town which has adopted an ordinance pursuant to this article, the commissioner of the revenue or duly appointed assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes for such jurisdiction shall be extended upon the value so determined. In addition to use of his personal knowledge, judgment and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Council.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farmhouse or home or any other structure not related to such special use, shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the taxing jurisdiction, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

**§ 58.1-3237.** Change in use or zoning of real estate assessed under ordinance; roll-back taxes.

A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

B. In localities which have not adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax for each of the five most recent complete tax years including simple interest on such roll-back taxes at a rate set by the governing body, no greater than the rate applicable to delinquent taxes in such locality pursuant to § [58.1-3916](#) for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value.

C. In localities which have adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax from the effective date of the written agreement including simple interest on such roll-back taxes at a rate set by the governing body, which shall not be greater than the rate applicable to delinquent taxes in such locality pursuant to § [58.1-3916](#), for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year and based on the highest tax rate applicable to the real estate for that year, had it not been subject to special assessment. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value and based on the highest tax rate applicable to the real estate for that year.

D. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the ordinance. The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such 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, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ [58.1-3915](#) and [58.1-3916](#).

E. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be levied and collected from the owner of the real estate in accordance

with subsection D. Real property zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1, 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax, plus interest calculated in accordance with subsection B, shall be levied and collected at the time such property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or interest, except as provided in subsection B, shall be assessed, provided the said roll-back tax is paid on or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article, provided that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation, or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

However, the owner of any real property that qualified for assessment and taxation on the basis of use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural, horticultural, open-space or forest use. The real property shall be eligible for assessment and taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real property is subsequently rezoned to a more intensive use at the owner's request, within five years from the date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject to a penalty equal to fifty percent of the roll-back taxes due as determined under subsection B of this section.

F. If real estate annexed by a city and granted use value assessment and taxation becomes subject to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by the county prior to annexation, the city shall collect roll-back taxes and interest for the maximum period allowed under this section and shall return to the county a share of such taxes and interest proportionate to the amount of such period, if any, for which the real estate was situated in the county.

**§ 58.1-3237.1.** Authority of counties to enact additional provisions concerning zoning classifications.

Any county not organized under the provisions of Chapter 5 (§ [15.2-500](#) et seq.), 6 (§ [15.2-600](#) et seq.), or 8 (§ [15.2-800](#) et seq.) of Title 15.2, which is contiguous to a county with the urban executive form of government and any county with a population of no less than 65,000 and no greater than 72,000 may include the following additional provisions in any ordinance enacted under the authority of this article:

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. This provision applies only to zoning districts established prior to January 1, 1981.

2. The governing body may provide that when the zoning of the property taxed under the provisions of this article is changed to allow a more intensive nonagricultural use at the request of the owner or his agent, such property shall not be eligible for assessment and taxation under this article. This shall not apply, however, to property which is zoned agricultural and is subsequently rezoned to a more intensive use which is complementary to agricultural use, provided such property continues to be owned by the same owner who owned the property prior to rezoning and continues to operate the agricultural activity on the property. Notwithstanding any other provision of law, such property shall be subject to and liable for roll-back taxes at the time the zoning is changed to allow any use more intensive than the use for which it qualifies for special assessment. The roll-back tax, plus interest, shall be calculated, levied and collected from the owner of the real estate in accordance with § 58.1-3237 at the time the property is rezoned.

**§ 58.1-3238.** Failure to report change in use; misstatements in applications.

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such 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 locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

For purposes of this section and § [58.1-3234](#), incorrect information on the following subjects will be considered material misstatements of fact:

1. The number and identities of the known owners of the property at the time of application;
2. The actual use of the property.

The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misstatement of fact for the purposes of this section and § [58.1-3234](#).

**§ 58.1-3239.** State Land Evaluation Advisory Committee continued as State Land Evaluation Advisory Council; membership; duties; ordinances to be filed with Council.

The State Land Evaluation Advisory Committee is continued and shall hereafter be known as the State Land Evaluation Advisory Council. The Advisory Council shall be composed of the Tax Commissioner, the dean of the College of Agriculture of Virginia Polytechnic Institute and State University, the State Forester, the Commissioner of Agriculture and Consumer Services and the Director of the Department of Conservation and Recreation.

The Advisory Council shall determine and publish a range of suggested values for each of the several soil conservation service land capability classifications for agricultural, horticultural, forest and open space uses in the various areas of the Commonwealth as needed to carry out the provisions of this article.

On or before October 1 of each year the Advisory Council shall submit recommended ranges of suggested values to be effective the following January 1 or July 1 in the case of localities with fiscal year assessment under the authority of Chapter 30 of this subtitle, within each locality which has adopted an ordinance pursuant to the provisions of this article based on the productive earning power of real estate devoted to agricultural, horticultural, forest and open space uses and make such recommended ranges available to the commissioner of the revenue or duly appointed assessor in each such locality.

The Advisory Council, in determining such ranges of values, shall base the determination on productive earning power to be determined by capitalization of warranted cash rents or by the capitalization of incomes of like real estate in the locality or a reasonable area of the locality.

Any locality adopting an ordinance pursuant to this article shall forthwith file a copy thereof with the Advisory Council.

**58.1-3240.** Duties of Director of the Department of Conservation and Recreation, the State Forester and the Commissioner of Agriculture and Consumer Services; remedy of person aggrieved by action or nonaction of Director, State Forester or Commissioner.

The Director of the Department of Conservation and Recreation, the State Forester, and the Commissioner of Agriculture and Consumer Services shall provide, after holding public hearings, to the commissioner of the revenue or duly appointed assessor of each locality adopting an ordinance pursuant to this article, a statement of the standards referred to in § [58.1-3230](#) and subdivision 1 of § [58.1-3233](#), which shall be applied uniformly throughout the Commonwealth in determining whether real estate is devoted to agricultural use, horticultural use, forest use or open-space use for the purposes of this article and the procedure to be followed by such official to obtain the opinion referenced in subdivision 1 of § [58.1-3233](#). 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 standards set forth in the statements filed pursuant to this section, the party aggrieved may seek relief in the circuit court of the county or city wherein the real

estate in question is located, and in the event that 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.

**§ 58.1-3241.** Separation of part of real estate assessed under ordinance; contiguous real estate located in more than one taxing locality.

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

No subdivision of property which results in parcels which meet the minimum acreage requirements of this article, and which the owner attests is for one or more of the purposes set forth in § [58.1-3230](#), shall be subject to the provisions of this subsection.

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