

**AN ORDINANCE TO REVISE DIVISION 1 OF CHAPTER 58, ARTICLE II, AND  
TO CREATE APPENDIX “D” OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA  
REGARDING BOARD OF SUPERVISORS PROPERTY TAX-EXEMPTIONS  
BY DESIGNATION AND CLASSIFICATION AND TO DESIGNATE AS  
TAX-EXEMPT CERTAIN PROPERTY OF OLD GLADE ANTIQUE TRACTOR ASSOCIATION AND  
THE FAIRVIEW FARM AND HOMESTEAD**

**WHEREAS**, Article X, Section 6(a)(6) of the Virginia Constitution and Section 58.1-3651 of the Code of Virginia (1950, as amended; hereinafter, “Va. Code”) enabled any County by designation or classification to exempt from County real or personal property taxes, or both, the real or personal property, or both, owned by a nonprofit organization that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes; and

**WHEREAS**, the Washington County Board of Supervisors (Board) by Ordinances 2016-005 and 2016-007 designated two properties exempt from County real property taxation as enabled by Va. Code § 58.1-3651, but the adopted ordinances were not included in the County Code of Ordinances;

**WHEREAS**, Old Glade Antique Tractor Association and the Fairview Farm and Homestead organizations have requested the Board to establish exemption from County taxation for the real property jointly owned by such organizations, located at 908 Hillman Highway, and identified as tax parcel 106-A-2A, and have submitted documentary evidence responsive to all matters required by Va. Code § 58.1-3651; and

**WHEREAS**, as the Board, pursuant to Va. Code § 58.1-3651, designates property to have tax-exempt status or establishes classifications of property to have tax-exempt status, inclusion of such designations and classifications in the County’s codification of ordinances would establish a long-term reference of such actions;

**NOW, THEREFORE, ON THE BASIS OF THE FOREGOING**, and in consideration of the best interests of the public health, welfare, and safety, and having held a public hearing on this proposed ordinance, the Board of Supervisors of the County of Washington, Virginia hereby ordains the following:

1. That this ordinance shall be deemed effective immediately upon its adoption by the Board and shall be codified in the County Code of Ordinances;
2. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code;

3. That the Code of the County of Washington, Virginia (2002, as amended) shall be amended as set forth herein by revision of Division 1 of Chapter 58, Article II and creation of Appendix D, subject to Article, Division, Section, and Subsection titles and numbers amendment by the Editor as necessary for Code consistency. New language is indicated by underline, and deletions are indicated by strikethrough.

## **Chapter 58 - TAXATION**

### **Article II. – AD VALOREM**

#### **Division 1. – ~~GENERALLY-TAX EXEMPTION~~**

**State law ref.** – Property exempt from taxation by classification or by designation by ordinance adopted by local governing body on or after January 1 2003, Va. Const. Art. X, §6(a)(6), Va. Code § 58.1-3651.

**County Code ref.** – See also, tax exemptions enumerated in County Code Chapter 58, Article II, Divisions 2 and 3.

#### **Sec. 58-31. Authority of Board of Supervisors on or after January 1, 2003, regarding tax exemption.**

- a. Board of Supervisors authority. In accordance with subsection 6(a)(6) of Article X of the Constitution of Virginia and Article 4.1, Chapter 36 of Title 58.1 of the Virginia Code, the Board of Supervisors may, by ordinance, exempt from county real or personal property taxes, or both, property that is owned by a nonprofit organization as long as such organization uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes.
- b. No unlawful discrimination. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, sexual orientation, gender identity, or national origin.
- c. Restrictions on tax-exemption.
  1. Not applicable to associations paying death, etc., benefits. Nothing contained in this Chapter shall be construed to exempt from taxation the property of any person, firm, association or corporation who shall, expressly or impliedly, directly or indirectly, contract or promise to pay a sum of money or other benefit, on account of death, sickness or accident, to any of its members or other person.
  2. Not applicable when building is source of revenue. In accordance with Va. Code § 58.1-3603, no exemption may be established or applied to any building or portion of building that is a source of revenue except as provided in Va. Code § 58.1-3603 and the procedures stated therein.
- d. Termination of exemption. Any tax exemption granted pursuant to this division shall terminate immediately upon the owner's loss of IRS classification as 26 U.S.C. 501(c) tax-exempt, when applicable; conveyance of ownership of the tax-exempt property to a person or entity not having tax-exempt status; or when the owner of such property receives substantial revenue from the property, whether by lease or otherwise, in accordance with

the provisions of Virginia Code § 58.1-3603. Any tax exemption granted pursuant to this division shall terminate immediately upon discontinuation of use of the property in accordance with the purpose for which the organization is classified or designated, and taxes for the tax year during which such discontinuation occurred shall be pro-rated.

- e. Revocation or modification of exemption. The Board of Supervisors may revoke or modify any tax exemption hereby granted by adoption of an ordinance of such effect with all formality as required for the initial adoption of ordinance to establish such tax exemption.
- f. Strict construction. Exemptions of property from taxation granted under this section on or after January 1, 2003 shall be strictly construed in accordance with Article X, Section 6(f) of the Constitution of Virginia.
- g. Pre-existing exemptions. Property that was exempt from taxation on or before December 31, 2002, by Virginia Constitution or by action of the Virginia General Assembly shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property at the time such property became entitled to exemption.
- h. General Assembly exemptions. Nothing in this division or in any ordinance adopted pursuant hereto shall affect the validity of either a classification exemption or a designation exemption granted by the General Assembly pursuant to Virginia Code Title 58.1, chapter 36.
- i. Special assessments. As used herein, the word "taxation" shall not be construed to include assessments for local improvements as provided for in Article 2 of Chapter 24 of Title 15.2 (§ 15.2-2404, et seq.).

State law reference – Special assessments excluded, Code of Virginia § 58.1-3600.

### **Section 58-32. Ordinance to establish tax-exempt status.**

- a. Ordinance procedure. Any ordinance exempting property from county taxation pursuant to this division may be adopted only after the Board of Supervisors holds a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. Notice of the hearing shall be published in accordance with statutory requirements for notice and public hearing prior to adoption of an ordinance by a county. For exemption by designation, the notice shall include the assessed value of the real and tangible personal property for which an exemption is requested as well as the amount of property taxes assessed against such property. The Board of Supervisors shall collect the cost of publication from the organization requesting the property tax exemption.
- b. Designation, classification, and specification of use. The ordinance to establish tax exemption shall do so by designation or by classification and shall state the specific use on which the exemption is based. Continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated.
- c. Board of Supervisors review. Before the Board of Supervisors may consider for adoption any ordinance to establish tax-exempt status, the owner of the property shall apply for such exemption by filing with the County Administrator a written request for such exemption.

The written request must identify the property with specificity, provide proof of 26 U.S.C. 501(c) non-profit status of the property owner, describe the use of the property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, and respond to the following list of considerations required by state law. The Board of Supervisors shall consider the following questions:

1. Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code of 1954;
2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Board of Directors of the Virginia Alcoholic Beverage Control Authority to such organization, for use on such property;
3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;
4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;
5. Whether the organization provides services for the common good of the public;
6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
7. The revenue impact to the locality and its taxpayers of exempting the property; and
8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

**Section 58-33. Tax exemptions by designation or classification by action of the Board of Supervisors.**

- (a) In accordance with the authority stated in this Division, the properties as set out in Appendix D shall be exempt from county taxation by designation.
- (b) In accordance with the authority stated in this Division, the following property shall be exempt from county taxation by classification for as long as such property is owned by a 26 U.S.C. 501(c) nonprofit organization and used for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes and otherwise meets the requirements for such classification for tax exemption as provided in this ordinance, state law, and constitution:
  1. The real and personal property of the following entities that were exempted from local property taxation prior to the effective date of this ordinance to affirm such prior exemption and to establish that such exemption shall continue for as long as each such organization continues to qualify as a 26 U.S.C. 501(c) non-profit entity,

continues to be operated not for profit, and the property so exempt continues to be used in accordance with the religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes for which the organization is classified as 26 U.S.C. 501(c) exempt: American Chestnut Foundation, Appalachian Trail Conference, Barter Foundation, Bristol Historical Association, Glade Area Senior Citizens, Nature Conservancy, People Incorporated, Washington County Historical Association, Washington County Small Business Incubator, William King Regional Arts Center, Senior Services Corporation, Senior Citizens Center, and United Way.

2. The real and personal property of an organization classified in Virginia Code § 58.1-3622 [Habitat for Humanity] and used by such organization for charitable and benevolent purposes as set forth in Article X, § 6 (a) (6) of the Constitution of Virginia shall be exempt from county taxation so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.
3. The real and personal property belonging to and occupied and used by non-profit organizations exclusively to provide medical care, including rehabilitative services, substance abuse recovery treatment, and hospice, including residential facilities that provide such services, conducted not for profit but exclusively as charities (which shall include properties operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment).

**State law ref.** – County Code § 58-33(b)(1) applies to Habitat for Humanity, in accordance with Va. Code § 58.1-3609(A), which requires local government action to be effective in locality; County Code § 58-33(b)(2) is similar to Va. Code § 58.1-3606(A)(5).

## **APPENDIX D - TAX-EXEMPT DESIGNATIONS**

1. The “Mendota Trail.” By Ordinance 2016-005, the following property was designated as exempt from County real property taxes: certain property located in the Tyler Magisterial District, F-11 Election District, and more particularly described in the Quitclaim Deed of Gift by and between the City of Bristol, Virginia (City), and Mountain Heritage, Inc. dated May 20, 2016, recorded in the land records of the Clerk of the Circuit Court of Washington County, Virginia, indexed as Instrument number 160002048. Further, the Board of Supervisors hereby confirms continuation of such tax-exempt status for successor owners of such property as long as such ownership is by one or more non-profit organizations or other tax-exempt entity. The exemption is also contingent upon continued use of such property for general public recreational purposes in association with development and maintenance of a publicly accessible trail and continued compliance with all applicable constitutional and statutory restrictions governing tax-exempt status.

2. Portion of Emory & Henry College campus. By Ordinance 2016-007, the following property was designated as exempt from County real property taxes: an approximately 33-acre tract of real property located in Emory, in the Monroe Magisterial District, D-11 Election District, more particularly described in the Deed dated October 3, 2016, recorded in the land records of the Clerk of the Circuit Court of Washington County, Virginia, indexed as instrument number 160004502, by and between Emory & Henry College, a Virginia non-stock, non-profit corporation, and E&H 1836, L.L.C., a Virginia limited liability company and a wholly owned subsidiary of Emory & Henry College. The exemption is contingent upon continued use of such property for operation as a non-profit educational institution and continued compliance with all applicable constitutional and statutory restrictions governing tax-exempt status.

3. Fairview Farm and Homestead. By Ordinance 2023- the following property was designated as exempt from County real property taxes: an approximately 4.642 acre parcel of real property located in the Town of Abingdon, located at 908 Hillman Highway, jointly owned by Old Glade Antique Tractor Association and the Fairview Farm and Homestead, identified with tax parcel 106-A-2A, and more particularly described in the deed dated June 1, 2022, recorded in the land records of the Clerk of the Circuit Court of Washington County, Virginia, indexed as instrument number 220003184, by and between James D. Moore, Jr. Family Limited Partnership and Old Glade Antique Tractor Association, Inc, and Fairview Farm and Homestead Foundation, Inc. The exemption is contingent upon continued ownership of such property by one or more non-profit organizations or other tax-exempt entit(ies), continued use of such property for historical and cultural educational purposes, and continued compliance with all applicable constitutional and statutory restrictions governing tax-exempt status.