

1 AN ORDINANCE TO REVISE THE CITY'S
2 POLICY AND PROCEDURES FOR THE
3 REVIEW AND CONSIDERATION OF
4 APPLICATIONS FOR EXEMPTION FROM
5 LOCAL PROPERTY TAXES
6

7 WHEREAS, by Ordinance adopted on February 3, 2004, the City Council
8 adopted a policy regarding the review and consideration of applications for exemption
9 from local property taxation;

10 WHEREAS, the City Council desires to revise the current policy so as to provide
11 that the Commissioner of the Revenue shall review and report to the City Council
12 concerning all applications for exemption and to provide that applications shall be
13 accepted quarterly.
14

15 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
16 VIRGINIA BEACH, VIRGINIA:
17

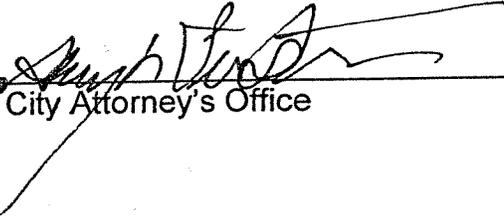
18 That the attached policy regarding applications for tax exemption by designation
19 is hereby adopted and shall replace the policy concerning this subject adopted February
20 3, 2004 in its entirety.
21

Adopted by the City Council of the City of Virginia Beach, Virginia, on this 6th
day of May, 2008.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Commissioner of the Revenue


City Attorney's Office

CA10692
R-1
April 29, 2008



City Council Policy

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 1 of 4

1.0 Purpose and Need

Purpose: To establish criteria for approval of resolutions by City Council to exempt, by designation, local nonprofit organizations from real and personal property taxes.

Need: City Council has requested guidance as to criteria for considering exemptions as well as a procedure for reviewing requests for exemption from local property taxes. The Commissioner of the Revenue has offered revisions to Council's policy adopted on February 2, 2004 in an effort to streamline the exemption review process for local nonprofit organizations and provide necessary analysis and oversight of the application process.

Legislative Background: The Virginia Constitution provides that, after January 1, 2003, local governments may, by designation, exempt the real and personal property of nonprofit organizations from local property taxes if used exclusively for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. However, as provided in Virginia Code § 58.1-3651, the local governing body must adopt an ordinance to exempt the property.

2.0 Policy

The City Council is not required to designate any organization properly applying for exemption from taxation, and every designation of an organization is conditioned upon compliance with the terms of this policy and any ordinance granting the exemption. If an organization does not comply with these requirements, the City Council may revoke the tax exemption after providing notice and a hearing to the organization. Any revocation of an exemption shall be effective at the beginning of the tax year during which the revocation occurs.

The applicant or a representative of the applicant shall provide the Commissioner of the Revenue detailed information necessary to determine the benefits to the public that will result from granting tax exemption. In considering applications, the Commissioner of the Revenue shall employ the following guidelines:

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 2 of 4

1. The organization must be exempt from federal income tax pursuant to Internal Revenue Code § 501(c).
2. Personal or real property for which an exemption is sought cannot be used by any member of the organization or other persons except for non-profit purposes benefiting the non-profit organization applying for exemption.
3. The organization must be in compliance with all City ordinances and regulations (including but not limited to building, property maintenance, and zoning codes) and all applicable tax obligations.
4. The organization must provide a service to the residents of the City that results in a benefit to the public (tangible or intangible).

The following requirements apply to each entity exempted from local property taxes by the City Council:

1. Upon obtaining exemption, the organization must annually submit (by July 1 of each year) its Internal Revenue Service Form 990 or 990 EZ to the Commissioner of the Revenue. If not required to file Form 990 or 990 EZ, then the organization must annually certify on form(s) prescribed by the Commissioner of the Revenue its continuing tax exempt status. Loss of 501(c) status must immediately be reported to the Commissioner of the Revenue and City Attorney, and is grounds for revocation of tax exempt status.
2. Pursuant to Virginia Code § 58.1-3605, each entity exempted from local property taxes shall, every three years, file an exemption application with the Commissioner of the Revenue as a requirement for retention of the exempt status of the property. The application form shall be approved as to form by the City Attorney.
3. Each entity exempted from local property taxes must cooperate fully with the Commissioner of the Revenue with respect to audit of its financial records, compliance with the terms of this policy, and compliance with any ordinance granting tax exemption.

3.0 Procedure to Accomplish Policy

1. Organizations applying for exemption must request a determination from the Commissioner of the Revenue as to whether the organization is or may be tax-exempt by classification, pursuant to Article 2 (§58.1-3606 et seq.) or Article 3 (§58.1-3609 et seq.) of Title 58.1 of the Virginia Code. If the organization is not exempt, but meets the criteria of organizations that can be exempted by designation (*see* Virginia Code §58.1-3651), the organization will receive

Title: City Council Policy Regarding Applications for Tax Exemption by Designation	
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008
	Page 3 of 4

an application from the Commissioner of the Revenue. The application form shall request all information required by Virginia Code §58.1-3651 and be approved as to form by the City Attorney.

2. Applications for exemption shall be considered quarterly. Applications for exemption must be submitted to the Commissioner of the Revenue. Applications shall be submitted no later than October 1 of the year preceding the effective date of the exemption. Based on the criteria set forth in section 2.0 of this policy, the Commissioner of the Revenue will review each application and make a report to City Council regarding whether an organization qualifies for exemption under law and City policy. The Commissioner of the Revenue will not submit applications he deems incomplete to City Council for a determination.
3. The Commissioner of the Revenue shall forward copies of the applications along with his written findings to the City Attorney. The City Attorney shall prepare the necessary ordinances for City Council and coordinate with the City Clerk to ensure that the applications are properly advertised and placed on the City Council's agenda for a public hearing and formal consideration.
4. The City Council will conduct a public hearing and consider the criteria set forth in Virginia Code §58.1-3651, section 2.0 of this policy, and the findings of the Commissioner of the Revenue.
5. Any exemptions granted shall be effective as of the next January 1.
6. Exemptions, as well as any departure from these guidelines, shall require approval by three-fourths (3/4) of the members of City Council.

4.0 Responsibility and Authority

Responsibility for initiating application for exemption and timely providing any information or application required by the Commissioner of the Revenue shall rest with the organization seeking exemption. Responsibility for making available information, application for exemption, verifying submitted tax information and reporting on the initial and continuing status of the taxpayer shall rest with the Commissioner of the Revenue.

Responsibility for preparing required ordinances, arranging for the advertising of public hearings, and placing items on the City Council's agenda for a vote on proposed exemptions shall rest with the City Attorney. Responsibility for the final determination of the public benefits resulting from tax exemption shall rest exclusively with the City Council.

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 4 of 4

5.0 Definitions

PUBLIC BENEFIT- Any benefit or advantage expected to be realized by the public, whether tangible or intangible, which may accompany the tax exemption.

LOCAL PROPERTY TAXES- Ad valorem taxes levied by the City of Virginia Beach on real estate or tangible personal property.

6.0 Specific Requirements

In addition to the procedures and responsibilities set forth in paragraphs 3.0 and 4.0, respectively, documentation forwarded to the City Council shall include submission of an application form in form and substance substantially as presented in the attached Exhibit A, as well as any additional information that the applicant wishes to present to the City Council.