2/17/2025

Code of Virginia
Title 58.1. Taxation
Chapter 32. Real Property Tax

§ 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" refers to property used for the genuine production and sale of plants, animals, or products derived from these, or for activities that meet the criteria for compensation under state or federal soil and water conservation programs, in accordance with uniform standards established by the Commissioner of Agriculture and Consumer Services under the Administrative Process Act (§ 2.2-4000 et seq.). This includes properties that previously participated in such programs but no longer receive payments, provided they still meet the qualifications.

If the property is used for recreational activities for profit or otherwise, it will still qualify as agricultural use as long as these activities do not alter the character of the property in a way that would prevent it from meeting the prescribed standards. The designation of agricultural use will not be lost if a portion of the property is used for a different purpose, such as under a special use permit or zoning exception, as long as the remaining portion still qualifies. The portion used for a different purpose will be treated separately for assessment purposes.

The presence of utility lines does not affect the determination of agricultural use, nor do zoning designations or special use permits solely determine eligibility. Furthermore, the existence of noxious weeds or woody growth will not be the sole reason for denying this designation or excluding the land from meeting minimum acreage requirements, provided the landowner offers proof of regular control methods through receipts or invoices.

"Real estate devoted to horticultural use" refers to property used for the genuine production and sale of various fruits (including grapes, nuts, and berries), vegetables, nursery and floral products, and plants or products directly derived from these on the property. It also includes land used in compliance with the requirements of soil and water conservation programs under state or federal agreements, as per the uniform standards set by the Commissioner of Agriculture and Consumer Services in line with the Administrative Process Act (§ 2.2-4000 et seq.). This designation also extends to properties that previously participated in such programs but no longer receive payments, as long as they still meet the program's qualifications.

If the property is used for recreational activities, for profit or otherwise, it will still be considered devoted to horticultural use as long as these activities do not alter the property's character in a way that prevents it from meeting the prescribed standards. The designation of horticultural use will not be lost if part of the property is used for another purpose, such as under a special use permit or zoning allowance, provided the remaining portion continues to meet all the criteria for horticultural use. The portion of the property used for a different purpose will be assessed separately.

The presence of utility lines does not affect the classification of horticultural use, and zoning or special use permits alone are not the determining factors for the designation. Additionally, the presence of noxious weeds or woody growth will not automatically disqualify the property from horticultural use, provided the landowner can show evidence of regular control methods, such as receipts or invoices.

The portion of the property used for a different purpose, such as under a special use permit or as allowed by zoning, will be treated as a separate piece of property when it comes to assessment. The existence of utility lines on the property will not be considered when determining whether the property, including the area where the utility lines are located, is dedicated to horticultural use. Zoning designations and special use permits alone will not be the only factors in determining if the real property qualifies as being devoted to horticultural use.

Real estate that is no longer receiving payments or compensation but previously met the qualifications for a soil and water conservation program will still be considered as meeting the criteria for horticultural use. Past use, even if discontinued, will not affect its current classification. Real estate used for recreational activities, whether for profit or not, may still be classified as horticulturally devoted, provided those activities do not alter the character of the land to the extent that it no longer meets the prescribed standards. If a portion of the property is used for another purpose under a special use permit or zoning allowance, that portion will be treated as a separate entity for assessment purposes, while the rest of the property can still retain its horticultural designation. The presence of utility lines will not affect the classification of the property as horticulturally devoted. Zoning designations and special use permits alone will not be the determining factors in assessing whether the property qualifies for horticultural use.

"Real estate devoted to forest use refers to land, including its standing timber and trees, that is dedicated to tree growth in a manner that meets the standards established by the State Forester. These standards are designed to ensure that the land qualifies as a forest area. Past use of the property, even if discontinued, is not a factor in determining its current classification.

Recreational activities, whether conducted for profit or not, will not affect the land's classification as forest use, as long as these activities do not alter the land's character to the point where it no longer qualifies as a forest area based on the prescribed standards. If part of the property is used for a different purpose under a special use permit or zoning allowance, that portion will be treated separately for assessment purposes, while the rest of the property can maintain its forest use designation.

The presence of utility lines does not impact whether the property qualifies as forest use. When determining eligibility for forest use, zoning designations and special use permits are not the sole criteria considered.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (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) requirements for the open-space use designation. If a portion of the property is being used for a different purpose under a special use permit or zoning allowance, that portion will be considered a separate piece of property for assessment purposes.

The designation of real property as devoted to open-space use aims to support the public interest, help shape community development, and align with the local land-use plan. As with other land-use classifications, prior or discontinued use does not affect the current designation.

Exactly. Real property designated for open-space use will maintain that status even if a portion is repurposed for another use, provided the remaining part of the property continues to meet the open-space criteria. The portion used for a different purpose, whether through a special use permit or zoning allowance, is treated as a separate property for assessment purposes. Additionally, the presence of utility lines does not affect the property’s open-space designation, nor are zoning designations and special use permits the sole factors considered when determining whether a property qualifies as open-space use. The overall intent is to prioritize the conservation and development of open spaces in line with local standards.

Code 1950, § 58-769.5; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, c. 695; 1989, cc. 648, 656; 1996, c. 573; 1998, c. 516; 2006, c. 817; 2009, c. 800; 2012, c. 653; 2018, c. 504; 2023, c. 345.