

INTRODUCED: May 8, 2017

AN ORDINANCE No. 2017-096

To amend City Code § 26-518, concerning the tax exemption for certified pollution control equipment, for the purpose of reflecting amendments to Va. Code § 58.1-3660.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAY 22 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 26-518 of the Code of the City of Richmond (2015) be and hereby is **amended** as follows:

Sec. 26-518. Exemption from taxation.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Certified pollution control equipment, facilities and property means property, including real or personal property, equipment, facilities, or devices used primarily for the purpose of abating

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 22 2017 REJECTED: _____ STRICKEN: _____

or preventing pollution of the atmosphere or waters of the Commonwealth and which the State-certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a State certifying authority. Such property shall also include solar energy equipment, facilities or devices owned or operated by a business that collects, generates, transfers, or stores thermal or electric energy, whether or not such property has been certified to the Department of Taxation by a State certifying authority. Such property shall not include the land on which such equipment or facilities are located.

State-certifying authority means the State Water Control Board for water pollution; the State Air Pollution Control Board for air pollution; the Department of Mines, Minerals and Energy for solar energy projects and for coal, oil and gas production, including gas, natural gas and coalbed methane gas; the Virginia Waste Management Board for waste disposal facilities, natural gas recovered from waste facilities and landfill gas production facilities; and includes any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

(b) Certified pollution control equipment, facilities and property are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classifications of real or personal property, and such property shall be exempt from

local taxation. For solar photovoltaic or electric energy systems, the exemption provided for by this subsection shall apply only to (i) projects equaling 20 megawatts or less, as measured in alternating current generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018, (ii) projects equaling 20 megawatts or less, as measured in alternating current generation capacity, that serve any of the public institutions of higher education listed in the Code of Virginia, § 23.1-100 or private college as defined in Code of Virginia, § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization after January 1, 2015, and greater than 20 megawatts, as measured in alternating current generation capacity, for projects first in service on or after January 1, 2017, (iv) projects equaling five megawatts or less, as measured in alternating current generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019, and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts, as measured in alternating current generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019. The exemption for solar photovoltaic (electric energy) projects greater than 20 megawatts, as measured in alternating current generation capacity, shall not apply to projects upon which construction begins after January 1, 2024. Except as otherwise explicitly provided under Title 58.1, Chapter 36, Article 5 of the Code of Virginia, as to any real or personal property, machinery, equipment, facilities, devices, or real estate improvements required to be certified by a state or local certifying authority for tax exemption under Title 58.1, Chapter 36, Article 5 of the Code of Virginia, once the required certification is made, such property shall be deemed exempt as of the

date the property is placed in service. Nothing in this section shall be interpreted or construed as extending any limitations period under law for applying for correction of an assessment or otherwise appealing an assessment.

§ 2. This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST
MAR 31 2017
4-640/
Office of the
Chief Administrative Officer

O&R REQUEST

DATE: March 24, 2017 EDITION: 1

TO: The Honorable Members of City Council

RECEIVED

THROUGH: The Honorable Levar M. Stoney, Mayor

Handwritten initials and date: 4/24/17

APR 27 2017

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

Handwritten initials: SLO

OFFICE OF CITY ATTORNE

THROUGH: Lenora G. Reid, Deputy CAO, Finance and Administration

Handwritten initials and date: LGR 3/30/17

FROM: John B. Wack, Director of Finance

Handwritten initials: JBW

RE: Amendment to City Code Regarding the Taxation of Pollution Control Equipment

ORD. OR RES. No. _____

PURPOSE: To amend Section 26-518 of the Richmond City Code, concerning the City's Pollution Control Equipment, Facilities and Property Exemption, for the purpose of reflecting amendments to Va. Code § 58.1-3660.

REASON: Chapters 346 and 518 of the Acts of Assembly of 2016 amended Va. Code § 58.1-3660, concerning certified pollution control equipment and facilities, to modify the definition of "certified pollution control equipment and facilities" by altering the types of projects of solar photovoltaic systems that qualify for the real and personal property tax exemptions on photovoltaic equipment facilities and the definition of "state certifying authority" by adding to the duties of the Division of Energy of the Virginia Department of Mines, Minerals and Energy the duty of serving as the state certifying authority in determining conformity with state requirements for solar energy projects and the production of coal, oil, and gas. Section 26-518 must be updated to reflect these changes.

RECOMMENDATION: The City Administration recommends adoption.

BACKGROUND: Section 58.1-3660 of the Code of Virginia declares certified pollution control equipment and facilities, as defined in that section, used primarily for the purpose of abating or preventing pollution as a separate class of property that is to be exempt from state and local taxation pursuant to Article X, Section 6(d) of the Constitution of Virginia. The process for

securing a tax exemption certification for water pollution control facilities is to first submit a written request to the appropriate Department of Environmental Quality Regional Office.

Beginning January 2017, certified pollution control equipment and facilities include (i) projects equaling 20 megawatts or less, as measured in alternating current generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current generation capacity, that serve any of the public institutions of higher education listed in Code of Virginia, § 23.1-100 or private college as defined in Code of Virginia, § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization after January 1, 2015 and greater than 20 megawatts, as measured in alternating current generation capacity, for projects first in service on or after January 1, 2017; (iv) projects equaling 5 megawatts or less, as measured in alternating current generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than 5 megawatts, as measured in alternating current generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019. The exemption for solar photovoltaic (electric energy) projects greater than 20 megawatts, as amended by Chapter 346 of the Acts of Assembly of 2016, and measured in alternating current generation capacity, shall not apply to projects upon which construction begins after January 1, 2024.

FISCAL IMPACT / COST: To be determined by future year tax returns if any – the change to City Code is needed to ensure companies conform to applicable air pollution control laws and regulations and/or to prevent release of air pollution in the city of Richmond. The businesses will have to indicate on the Business Personal Property (BPP) Tax return that provided the equipment is certified, 2018 is the first year the equipment will be excluded.

FISCAL IMPLICATIONS: To be determined – equipment is not exempt until certification is received from Commonwealth of Virginia, State Department of Taxation.

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: None

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: May 8, 2017

CITY COUNCIL PUBLIC HEARING DATE: May 22, 2017

REQUESTED AGENDA: Consent

O&R Request

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RECOMMENDED COUNCIL COMMITTEE: Finance & Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Department of Finance, Economic Development

RELATIONSHIP TO EXISTING ORD. OR RES.: Richmond City Code section 26-518

REQUIRED CHANGES TO WORK PROGRAM(S): Additional work will be performed by Finance Department Revenue Administration

ATTACHMENTS: Text of proposed City Code amendments

STAFF: John Wack, Director of Finance 646-5776
Valerie Weatherless, Operations Manager 646-5195