

INTRODUCED: June 10, 2019

AN ORDINANCE No. 2019-155

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: JUN 24 2019 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

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:      JUN 24 2019      REJECTED: \_\_\_\_\_      STRICKEN: \_\_\_\_\_

abating 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]~~ For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve ten or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds. All such property as described in this definition shall not include the land on which such equipment or facilities are located.

*State-certifying authority* means the State Water Control Board or the Virginia Department of Health 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

4-8846
MAY 24 2019

Office of the
Chief Administrative Officer

O&R REQUEST

DATE: May 23, 2019

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

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

FROM: John B. Wack, Director of Finance

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

ORD. OR RES. No. \_\_\_\_\_

Handwritten signature and date 6/6/19

RECEIVED

JUN 07 2019

OFFICE OF THE CITY ATTORNEY

Handwritten initials JBW

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: HB2811 of the 2019 Session of the General Assembly amended Va. Code § 58.1-3660, concerning certified pollution control equipment and facilities. It adds to the duties of the Virginia Department of Health the duty of serving as a state certifying authority in determining conformity with state requirements for certain tax-exempt water pollution control projects. Under current law, the State Water Control Board is the only state certifying authority for water pollution projects. The bill contains an emergency clause. City Code Section 26-518 must be updated to reflect these changes.

RECOMMENDATION: The City Administration recommends adoption.

BACKGROUND: As noted in the attachment, 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.

House Bill 2811 of the 2019 Session of the General Assembly amends Virginia Code section 58.1-3660 to provide that for water pollution, in addition to the State Water Control Board, the Virginia Department of Health would be authorized to certify properties 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. City Code Section 26-518 must be updated to reflect these changes.

**FISCAL IMPACT / COST:** N/A

**FISCAL IMPLICATIONS:** N/A

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** None

**DESIRED EFFECTIVE DATE:** July 1, 2019

**REQUESTED INTRODUCTION DATE:** June 10, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** June 24, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Finance & Economic Development

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None

**AFFECTED AGENCIES:** Department of Finance

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

**REQUIRED CHANGES TO WORK PROGRAM(S):** N/A

**ATTACHMENTS:** Text of proposed City Code amendments

**STAFF:** John Wack, Director of Finance 646-5776