



HOMEOWNERS' ASSOCIATION APPLICATION FOR SPECIAL ASSESSMENT

CHEROKEE COUNTY ASSESSOR
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In 1996, the General Assembly amended the code of laws for South Carolina by adding section 12-43-227. This addition, along with amendments to section 12-43-230, describes the method for valuing Homeowners' Association property, as well as, defining a Homeowners' Association. The following information must be furnished to the county Assessor to determine if the organization meets the requirements of this legislation and what income should be capitalized into the taxable value.

1. NAME, MAILING ADDRESS, AND PHONE NUMBER OF HOMEOWNERS' ASSOCIATION

Name of Homeowners' Association: _____

Mailing Address: _____

Daytime Phone (8:30-5:00): _____

2. DEED RECORDING AND CORPORATION REGISTRATION

The deed must be recorded in the name of the Homeowner's Association on or before December 31st of the year of application. The corporation should be registered with the South Carolina Secretary of State on or before the deadline of the application.

3. TOTAL LAND OWNED BY ASSOCIATION

Acres: _____ Lots: _____

4. Gross Receipts from Prior Year (does not include dues, fees, or assessments from the members or the developers' contribution to the operation of the HOA): _____

5. NAME AND POSITION OF HOMEOWNERS' ASSOCIATION OFFICERS

Name: _____	Position: _____
_____	_____
_____	_____
_____	_____

6. "BYLAWS," CERTIFICATION AND SIGNATURE (Please attach a copy of the "BYLAWS" of the Homeowners' Association)

I certify under penalty of perjury under the laws of South Carolina that the information heron, including any accompanying statements or documents, is true and correct to the best of my knowledge and belief. Application must be signed by an officer or authorized agent of the HOA. (Agents must file and "Agent Authorization Form with the application.)

Signature: _____

Date Signed: _____

Signed by (Please circle one): Owner Agent

Print Name: _____

Application must be filed with the County Assessor on or before the first penalty date for taxes due (usually January 15th). Failure to timely apply constitutes a waiver of the special valuation for that year.

Filing this application does not allow you to delay paying taxes that have been billed.

SECTION 12-43-227. Valuation of homeowners' association property.

The fair market value of homeowners' association property, as defined in Section 12-43-230, for ad valorem tax purposes is defined as the nonqualified earnings value to be determined by the capitalization of the property's nonqualified gross receipts. For purposes of this section, "nonqualified gross receipts", means the gross receipts from the use of the property other than:

- (1) amounts received as membership dues, fees, or assessments from the members of the homeowners' association; and
- (2) amounts received from the developer of the property owned by the homeowners' association as reported on the most recently filed application submitted pursuant to Section 12-43-230. If additional reporting is required pursuant to Section 12-43-230, nonqualified gross receipts shall be determined utilizing gross receipts from the most recent completed tax year. After a piece of property's nonqualified gross receipts have been established, they must be capitalized to determine nonqualified earnings value by utilizing a capitalization rate of twenty percent. Notwithstanding any other provision of this section, in the event of real property with zero or de minimus nonqualified gross receipts, the special valuation of homeowners' association property shall not result in any homeowners' association property being valued at a rate less than five hundred dollars an acre.

SECTION 12-43-230. Treatment of agricultural real property, mobile home and lessee improvements to real property; department shall prescribe regulations; off-premises outdoor advertising signs.

(d) For purposes of this article, "homeowners' association property" means real and personal property owned by a homeowners' association if:

- (1) property owned by the homeowners' association is held for the use, benefit, and enjoyment of members of the homeowners' association;
- (2) each member of the homeowners' association has an irrevocable right to use and enjoy on an equal basis, property owned by the homeowners' association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the homeowners' association; and
- (3) each irrevocable right to use and enjoy property owned by the homeowners' association is appurtenant to taxable real property owned by a member of the homeowners' association.

Subject to making the appropriate application pursuant to this subsection, a homeowners' association may designate one or any number of its qualifying tracts or parcels as homeowners' association property for purposes of the special valuation contained in Section 12-43-227.

As used in this subsection, "homeowners' association" means an organization which is organized and operated to provide for the acquisition, construction, management, and maintenance of property.

Homeowners' association property does not come within the provisions of this subsection unless the owners of the real property or their agents make a written application for it on or before the first penalty date for taxes due for the first tax year in which the special valuation is claimed. The application may be with respect to one or any number of tracts or parcels owned by the homeowners' association. The application for the special valuation must be made to the assessor of the county in which the special valuation property is located, on forms provided by the county and approved by the department which includes the reporting of nonqualified gross receipts, and failure to apply constitutes a waiver of the special valuation for that year.

No additional annual filing is required while the property remains homeowners' association property and the ownership remains the same, unless the nonqualified gross receipts within the meaning of Section 12-43-227 for the most recent completed tax year either (i) exceed the amount of nonqualified gross receipts with respect to the property reported on the most recently filed application by ten percent or more or (ii) are less than ninety percent of the amount of nonqualified gross receipts with respect to the property reported on the most recently filed application. In that case, the owners of the real property or their agents must make additional written application with respect to the property and report the change in nonqualified gross receipts.

