

ORDINANCE
TO AMEND, RE-ORDAIN, AND RE-ENACT CHAPTER 30, ARTICLE IV OF THE CODE
OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED (REAL ESTATE TAX
RELIEF FOR THE ELDERLY AND DISABLED PERSONS) TO MAINTAIN PARITY
WITH THE CHAP PROGRAM AND STREAMLINE ADMINISTRATION OF THE
PROGRAM

WHEREAS the City Council recently reconfigured its relief program to provide relief to homeowners who may need assistance with the costs of homeownership, and in doing so City Council modified income limits in order to assist a greater number of homeowners; and

WHEREAS the Commissioner of Revenue has proposed that City Council similarly reconfigure the City's real estate tax relief program for the elderly and disabled persons, to make similar modifications of household income limits and to enhance the ability of the Commissioner's Office to administer the program efficiently, to better serve the persons who need this assistance; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, THAT:

Section 1. Chapter 30 (Taxation) of the Code of the City of Charlottesville (1990), as amended, Article IV, is hereby amended, re-ordained and re-enacted, as follows:

**ARTICLE IV. REAL ESTATE TAX RELIEF FOR THE ELDERLY AND
DISABLED PERSONS**

Sec. 30-96. Definitions.

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

"Applicant" means and refers to a claimant the individual(s) applying for tax relief under the provisions of this article.

~~*Affidavit means the real estate tax exemption or deferral affidavit.*~~

Area Median Family Income ("MFI") means and refers to the median family income most recently established by the United States Department of Housing and Urban Development (HUD) for the Charlottesville, Virginia Metropolitan Statistical Area, rounded up to the nearest \$5,000.

"Claimant" refers to an individual entitled to claim an exemption under this article.

Certification means a signed written statement ~~or affidavit~~ attesting to the accuracy of information provided by the applicant.

Combined household income means (i) the adjusted gross income, as shown on the federal income tax return as of December 31 of the calendar year immediately preceding the taxable year, of the applicant and all relatives living in the same dwelling, and of any other person who is an owner of and resides in the applicant's dwelling, or (ii) for applicants for whom no federal tax return is required to be filed, the income for the calendar year immediately preceding the taxable year: of the applicant and of any other relatives who reside in the applicant's dwelling, and of any other person who is an owner of and resides in the applicant's dwelling. The Commissioner of Revenue shall establish the combined household

income of persons for whom no federal tax return is required through documentation satisfactory for audit purposes.

Dwelling means the sole place of residence of a claimant ~~the person claiming exemption~~; provided, however, that the fact that a person who is otherwise qualified for tax exemption by the provisions of this article is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care for an extended period of time shall not be construed to mean that the real property estate for which exemption is claimed ~~is not ceases to be~~ the sole place of residence dwelling of such individual person while they are in any such facility during such period of other residence, so long as the real property estate in question is not used by, or leased to, others for consideration.

Exemption means the percentage exemption from the property tax imposed by the city allowable under the provisions of this article.

~~*Income* means total gross income from all sources, without regard to whether a tax return is actually filed; however, however, the term shall not include life insurance benefits or receipts from borrowing or other debt.~~

“Owner” means and refers to an individual in whom is vested (i) all or part of the legal title to real property, or (ii) all or part of the beneficial ownership of real property and a right to present use and enjoyment of such real property.¹

Permanently and totally disabled, as applied to a person claiming an exemption under this article, means a person furnishing the certification or medical affidavits required by section 30-99, and who is found by the Commissioner of Revenue to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

“Person” means and refers to a natural person (i.e., an individual).

Taxable year means the calendar year, from January first through December thirty-first, for which property tax exemption is claimed under this article.

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

State law reference(s)—Provisions similar to the provisions in the above definition of “dwelling,” Code of Virginia, § 58.1-3214; similar definition of “permanently and totally disabled,” § 58.1-3217.

Sec. 30-97. Purpose of article.

It is hereby declared to be the purpose of this article to provide real estate tax exemptions ~~or deferrals~~ for qualified property owners who are not less than sixty-five (65) years of age or permanently and totally disabled and who are otherwise eligible according to the terms of this article. Pursuant to the authority of section 58.1-3210, Code of Virginia, the city council finds and declares that persons qualifying for exemption ~~or deferral~~ hereunder are bearing an extraordinary real estate tax burden in relation to their income ~~and financial worth~~.

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3218.

Sec. 30-98. Qualifications for exemption.

Residential real property shall qualify for Exemption pursuant to this article ~~shall be~~

¹ Definition of “owner” is derived from Va. Code 55.1-1200.

~~granted to certain persons who own and occupy residential real property, if the owner and the property satisfy where such persons and property comply with the following requirements~~provisions:

- (1) ~~The ownership of title to~~ the residential real property for which exemption is claimed must be ~~is held, or partially held, by with a Claimant the person entitled to claim such exemption ("claimant"),~~ as of January first of the taxable year for which such exemption is claimed. If the real estate for which exemption is claimed consists of a lot containing a manufactured home, as defined in § 36-85.3 of the Virginia Code, ~~the Claimant must be the Owner of title to~~ both the lot and the manufactured home ~~must be held, or partially held, by the claimant.~~
- (2) As of January 1 of the taxable year and on the date a claim for exemption is submitted, the claimant must occupy the real property for which the exemption is sought as **their sole place of residence (dwelling)** and must intend to occupy the real property as such throughout the remainder of the taxable year. A **claimant who is residing in a hospital, nursing home, convalescent home, or other facility for physical or mental care shall be deemed to meet this condition so long as their dwelling is not being used by or leased to another for consideration.** ~~The property for which the exemption is claimed must be occupied as the sole dwelling of such claimant.~~
- (3) [Reserved.]
- (4) The claimant must be sixty-five (65) years of age or older, or permanently and totally disabled, as of December thirty-first of the year immediately preceding the taxable year for which the exemption is claimed.
- (5) The combined household income of such claimant ~~and of all relatives living in the same dwelling, for the immediately preceding calendar year,~~ must not exceed an amount equivalent to fifty percent (50%) of Area Median Family Income. Provided, however, that, if a claimant can prove by clear and convincing evidence that the only alternative to their having to permanently become a resident of a hospital, nursing home, convalescent home or other facility providing physical or mental care is to have said claimant's relative reside within the claimant's dwelling and provide care for the claimant, then that relative's income shall be excluded from the income calculation. ~~must not exceed the sum of fifty thousand dollars (\$50,000.00); provided that:~~
 - a. ~~The first seven thousand five hundred dollars (\$7,500.00) of any income (i) received by any claimant and classified as permanent disability compensation or (ii) received by any claimant who is at least sixty five (65) years of age, is permanently and totally disabled, and can show that they did receive permanent disability compensation for at least twenty four (24) consecutive months immediately prior to their sixty fifth birthday, shall not be included in such total;~~
 - b. ~~The first eight thousand five hundred dollars (\$8,500.00) of income of each relative who is not the spouse of the claimant and who does not qualify for the exemption shall not be included in such total;~~
 - c. ~~If a person who has previously qualified for an exemption under this article can prove by clear and convincing evidence that after qualifying their physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does move in for that purpose, then none of the income of the relative or of the relative's~~

~~spouse transferred assets in excess of five thousand dollars (\$5,000.00) without adequate consideration within a three-year period prior to or after the relative moves into their residence; and~~

- ~~d. The amount of income received by any claimant owner from the Veteran's Administration and classified as disability benefits, up to but not exceeding seven thousand five hundred dollars (\$7,500.00) shall not be included in such total.~~
- (6) Neither an applicant, nor an applicant's spouse who resides within the same dwelling applicant's household, shall be an owner of any other real property. ~~The net combined financial worth of such claimant and of the spouse of such claimant, as of December thirty-first of the year immediately preceding the taxable year for which the exemption is claimed, must not exceed one hundred twenty-five thousand dollars (\$125,000.00) net combined financial worth shall include the value of all assets, including the present value of all equitable interests, excluding the fair market value of the dwelling for which exemption is claimed and of the land upon which it is situated, not exceeding ten (10) acres.~~
- (7) For real property jointly owned by two or more persons, not all of whom are at least age 65 or permanently and totally disabled: provided that the property is the dwelling of all such joint owners, the tax exemption for the real property shall be prorated by multiplying the amount of the exemption by a fraction that has, as a numerator, the percentage of ownership interest in the dwelling held by all such joint owners who are at least age 65 or permanently and totally disabled, and as a denominator, one hundred percent (100%). The provisions of this subsection shall not apply to married persons who are joint owners of a dwelling, when there are no other joint owners.
- (8) An applicant who is delinquent on any portion of the real estate taxes due with respect to the real property to which the exemption is to be applied must be in good standing on a payment plan with the Treasurer's office with the aim of paying off said delinquency in a period not exceeding twelve months.

State law reference(s)—Similar provisions and authority of city as to income, net worth, etc., requirements, Code of Virginia, §§ 58.1-3210—58.1-3212.

Sec. 30-99. Application for exemption, annual certification ~~Applicant's affidavit and certificate of disability.~~

- (a) In the first year for which exemption is sought, and every third year thereafter ~~Annually, and not later than March first of each taxable year,~~ every person claiming an exemption ~~or deferral~~ under this article shall file an application ~~real estate tax exemption or deferral affidavit~~ with the Commissioner of the Revenue of the City ~~setting forth the basis for their claim of exemption. In each of the two years between their filing of such applications, if no circumstances relevant to determination of eligibility for the exemption has changed, the applicant shall certify that; however, if an applicant's circumstances have changed to affect their eligibility for exemption, the applicant will need to file a new application.~~ The date for filing such an application affidavit or certification shall be no later than March first of the taxable year by an applicant, ~~but~~ may be extended by the Commissioner of Revenue to July first of a taxable year for a first-time applicant and to July first of each taxable year in a hardship case in which the Commissioner of the Revenue determines that the applicant was unable to file by March first of the particular taxable year because of illness of the applicant or confinement of the applicant in a nursing home, hospital, or other medical facility or institution; ~~provided, that such real estate tax exemption or deferral affidavit is accompanied by a sworn affidavit of one (1) medical doctor licensed to practice medicine in the commonwealth.~~

- (b) The application affidavit shall set forth the names of the related persons occupying the real property for which exemption ~~or deferral~~ is claimed, the name of any other person who is an owner of and resides in the dwelling on the property, and the ~~total combined net worth and~~ combined household income of all such persons ~~as defined in this article~~. The form of such application or certification affidavit shall be determined by the Commissioner of Revenue ~~and approved by the city manager~~, and shall contain such other information as may be required adequately to determine compliance with the provisions of section 30-98.
- (c) If the person filing an application certification for exemption under this section is under sixty-five (65) years of age, the application certification shall have attached thereto proper documentation by the Social Security Administration, veteran's administration or the railroad retirement board that the person has been certified as being permanently or totally disabled as defined by those agencies, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the Commonwealth, to the effect that the person is permanently and totally disabled, as defined in section 30-96. The affidavit of at least one (1) of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one (1) of the doctors may be based upon medical information contained in the records of the civil service commission which is relevant to the standards for determining permanent and total disability as defined in section 30-96.
- (d) In addition, the Commissioner of Revenue may make such further inquiry of persons seeking to claim exemptions ~~or deferrals~~ requiring answers under oath and the production of certified tax returns, as may be deemed reasonably necessary to determine eligibility for an exemption ~~or deferral~~.

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3213.

Sec. 30-100. Certification by Commissioner; deductions from real estate tax.

The Commissioner of Revenue, after audit and investigation, shall certify a list of the persons and property qualifying for exemption ~~or deferral~~ under this article and the amount thereof to the City Treasurer, who shall forthwith deduct the amounts of such exemptions ~~or deferrals~~ from the real estate tax chargeable for the taxable year to such persons and property.

Sec. 30-101. Calculation of amount of exemption.

The amount of the exemption ~~or deferral~~ granted pursuant to this article shall be a percentage of the real estate tax assessed for the applicable taxable year in accordance with the following formulas using Area Median Family Income scale:

	Net Combined Financial Worth				
Gross Combined Income	\$0.00 to \$25,000.00	\$25,001.00 to \$50,000.00	\$50,001.00 to \$75,000.00	\$75,001.00 to \$100,000.00	\$100,001.00 to \$125,000.00
\$0.00—\$25,000.00	100%	100%	100%	100%	100%
\$25,001.00—\$27,500.00	80% or \$1,000.00	64% or \$1,000.00	48% or \$1,000.00	32% or \$1,000.00	16% or \$1,000.00
\$27,501.00—\$35,000.00	60% or \$1,000.00	48% or \$1,000.00	36% or \$1,000.00	24% or \$1,000.00	12% or \$1,000.00
\$35,001.00—\$41,250.00	60% or \$750.00	48% or \$750.00	36% or \$750.00	24% or \$750.00	12% or \$750.00

\$41,251.00— \$45,000.00	40% of \$750.00	32% of \$750.00	24% of \$750.00	16% of \$750.00	8% of \$750.00
\$45,001.00— \$55,000.00	40% of \$500.00	32% of \$500.00	24% of \$500.00	16% of \$500.00	8% of \$500.00

- (1) An approved applicant whose combined household income is between \$0 and 30% of MFI shall receive an exemption equivalent to 100% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- (2) An approved applicant whose combined household income is greater than 30% of MFI, but no more than 40% of MFI, shall receive an exemption equivalent to 80% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- (3) An approved applicant whose combined household income is greater than 40% of MFI, but no more than 45% of MFI, shall receive an exemption equivalent to 60% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- (4) An approved applicant whose combined household income is greater than 45% of MFI, but no more than 50% of MFI, shall receive an exemption equivalent to 40% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.

State law reference(s)—Amount of exemption ~~or deferral~~ to be as prescribed by ordinance, Code of Virginia, § 58.1-3210.

Sec. 30-102. Effect of changes in status.

Changes ~~with~~in respect to income, ~~financial worth~~, ownership of property or other factors occurring during the taxable year ~~for which an affidavit is filed~~ and having the effect of violating or exceeding the limitations and conditions of section 30-98 shall result in a prorated exemption for the then current taxable year ~~nullify any exemption or deferral for the then-current taxable year and for the taxable year immediately following; provided, that no change in income or financial worth which does not have the effect of violating the maximum limitations of section 30-98 shall operate to increase or decrease the percentage of exemption or nullify the deferral previously determined by the commissioner of revenue pursuant to section 30-101 of this Code.~~

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3215.

Sec. 30-103. Payment of deferred taxes; interest; liens.

- ~~(a) Deferred real estate taxes may be paid at any time but must be paid by the claimant or claimant's estate, as appropriate, by the earlier of:~~
- ~~(1) Sale of the dwelling; or~~
 - ~~(2) Within one (1) year after the death of the last owner who qualifies for tax deferral by the provisions of this article.~~
- ~~(b) Deferred tax payments shall include interest at the rate of eight (8) percent per annum from~~

~~the date of deferral until paid.~~

- (c) ~~Such deferred taxes shall constitute a lien upon such real estate as if they had been assessed without regard to the deferral permitted by this article; provided, however, that such liens, to the extent that they exceed in the aggregate ten (10) percent of the price for which such real estate may be sold, shall be inferior to all other liens of record.~~

~~(Code 1976, § 10-41.1)~~

~~State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3216.~~

Sec. 30-104. Filing false claims.

It shall be unlawful and a Class 1 misdemeanor for any person to falsely claim an exemption ~~or deferral~~ under this article.

Cross reference(s)—Penalty for Class 1 misdemeanor, § 1-11.