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 MOVE APPLICATION/CERTIFICATION DEADLINE TO APRIL 1

WHEREAS applicants, neighborhood associations, and housing advocates have expressed a desire for elderly and disabled real estate relief applicants to have more time to submit applications or certifications for relief; and

WHEREAS the Commissioner of the Revenue and the Treasurer have determined that a later due date will not interfere with the Treasurer's duty to mail real estate bills in a timely fashion after having applied grants to qualifying real estate tax accounts; 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 applying for tax relief under the provisions of this article.

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 five thousand dollars ($5,000.00).

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

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

Combined household income means:

(1) 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

(2) 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; 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 for which exemption is claimed is not the sole place of residence of such individual while they are in any such facility, so long as the real property 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.

Owner means and refers to an individual in whom is vested:

(1) All or part of the legal title to real property; or

(2) All or part of the beneficial ownership of real property and a right to present use and enjoyment of such real property.

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 1 through December 31, for which property tax exemption is claimed under this article.

(Code 1976, § 10-36; 5-7-90, § 1; 3-3-03(4), § 1; 10-7-19(1) ; Ord. No. O-22-140 , § 1, 11-7-22)

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 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 Virginia Code § 58.1-3210, the city council finds and declares that persons qualifying for exemption hereunder are bearing an extraordinary real estate tax burden in relation to their income.

(Code 1976, § 10-37; 5-7-90, § 1; Ord. No. O-22-140 , § 1, 11-7-22)

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 if the owner and the property satisfy the following requirements:

(1) The ownership of the residential real property for which exemption is claimed must be with a claimant as of January 1 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 Virginia Code § 36-85.3, the claimant must be the owner of both the lot and the manufactured home.

(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.

(3) Reserved.

(4) The claimant must be sixty-five (65) years of age or older, or permanently and totally disabled, as of December 31 of the year immediately preceding the taxable year for which the exemption is claimed.

(5) The combined household income of such claimant must not exceed an amount equivalent to fifty (50) percent 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.

(6) Neither an applicant, nor an applicant's spouse who resides within the same dwelling, shall be an owner of any other real property.

(7) For real property jointly owned by two (2) or more persons, not all of whom are at least age sixty-five (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 sixty-five (65) or permanently and totally disabled, and as a denominator, one hundred (100) percent. 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 (12) months.

(Code 1976, § 10-38; 5-7-90, § 1; 2-19-91; 6-1-92; 11-21-94; 6-4-01(4), § 1; 3-3-03(4), § 1; 4-19-04(1), § 1; 11-15-04(1), § 5; 9-7-21(1) , § 2; Ord. No. O-22-140 , § 1, 11-7-22)

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.

(a) In the first year for which exemption is sought, and every third year thereafter, every person claiming an exemption under this article shall file an application with the commissioner of revenue of the city setting forth the basis for their claim of exemption. In each of the two (2) 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 or certification shall be no later than ~~March~~*April* 1 of the taxable year, but may be extended by the commissioner of revenue to July 1 of a taxable year for a first-time applicant and to July 1 of each taxable year in a hardship case in which the commissioner of revenue determines that the applicant was unable to file by ~~March~~*April* 1 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.

(b) The application shall set forth the names of the related persons occupying the real property for which exemption is claimed, the name of any other person who is an owner of and resides in the dwelling on the property, and the combined household income of all such persons. The form of such application or certification shall be determined by the commissioner of revenue, 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 for exemption under this section is under sixty-five (65) years of age, the application 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 requiring answers under oath and the production of certified tax returns, as may be deemed reasonably necessary to determine eligibility for an exemption.

(Code 1976, § 10-39; 11-21-94; 10-7-19(1) ; Ord. No. O-22-140 , § 1, 11-7-22)

Editor's note(s)—Ord. No. O-22-140 , § 1, adopted Nov. 7, 2022, amended § 30-99 in its entirety to read as herein set out. Former § 30-99 pertained to applicant's affidavit and certificate of disability, and derived from the Code of 1976, § 10-39; an ordinance adopted Nov. 21, 1994; and an ordinance adopted Oct. 7, 2019 .

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 under this article and the amount thereof to the city treasurer, who shall forthwith deduct the amounts of such exemptions from the real estate tax chargeable for the taxable year to such persons and property.

(Code 1976, § 10-39; Ord. No. O-22-140 , § 1, 11-7-22)

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

The amount of the exemption 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:

(1) An approved applicant whose combined household income is between zero dollars ($0.00) and thirty (30) percent of MFI shall receive an exemption equivalent to one hundred (100) percent 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 thirty (30) percent of MFI, but no more than forty (40) percent of MFI, shall receive an exemption equivalent to eighty (80) percent 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 forty (40) percent of MFI, but no more than forty-five (45) percent of MFI, shall receive an exemption equivalent to sixty (60) percent 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 forty-five (45) percent of MFI, but no more than fifty (50) percent of MFI, shall receive an exemption equivalent to forty (40) percent of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.

(Code 1976, § 10-40; 5-7-90, § 1; 11-21-94; 3-3-03(4), § 1; 4-19-04(1), § 1; 10-7-19(1) ; Ord. No. O-22-140 , § 1, 11-7-22)

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 respect to income, ownership of property or other factors occurring during the taxable year 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.

(Code 1976, § 10-41; Ord. No. O-22-140 , § 1, 11-7-22)

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

Sec. 30-103. Filing false claims.

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

(Code 1976, § 10-42; Ord. No. O-22-140 , § 1, 11-7-22)

Editor's note(s)—Ord. No O-22-140 , § 1, adopted Nov. 7, 2022, repealed the former § 30-103 and renumbered former § 30-104 as § 30-103 as set out herein. Former § 30-103 pertained to payment of deferred taxes; interest; liens, and derived from the Code of 1976, § 10-41.1. The historical notation has been retained with § 30-103 for reference purposes.

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

Secs. 30-104—30-125. Reserved.

Section 2. ***The requirement of City Code Sec. 2-97 for a second reading of this ordinance is hereby waived, and this ordinance shall be and become effective upon its adoption by a recorded four-fifths vote of City Council.***