

ORDINANCE NO. 4390

AN ORDINANCE to amend and reordain Article L (REAL ESTATE TAX RELIEF), of Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article L, Chapter 2, Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

ARTICLE L Real Estate Tax Relief

Sec. 3-2-160 Short title.

This article shall be known as the City of Alexandria Real Estate Tax Relief Ordinance.

DIVISION 1 Real Estate Tax Exemption or Deferral For Elderly or Permanently and Totally Disabled Persons

Sec. 3-2-161 Definitions.

The following words and phrases shall, for the purposes of this division, have the following respective meanings, except where the context clearly indicates a different meaning:

- (1) Applicant. Any natural person who claims an exemption or deferral under section 3-2-165.
- (2) Reserved.
- (3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this division.
- (4) Dwelling. The building, or portion of a building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which an exemption from or deferral of taxes is sought pursuant to this division.
- (5) Exemption. An exemption from the obligation to pay real estate taxes granted pursuant to the provisions of this division.
- (6) Net combined financial worth of applicant. The value of all assets of an applicant, of an applicant's spouse and of any other person who is an owner of and resides in the applicant's dwelling, calculated as of December 31 of

the calendar year immediately preceding the taxable year; provided, that the value of the applicant's dwelling, of household furnishings in the dwelling and of up to two acres of the land on which the dwelling is situated shall be excluded.

- (7) Permanently and totally disabled persons. An applicant certified as provided by section 3-2-165(d) and found by the city manager 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 such applicant's life.
- (8) Relative. Any person related by blood or marriage to an applicant who uses the applicant's dwelling as his or her principal residence, other than a spouse.
- (9) Taxes owed for the year. The amount of real estate taxes levied on the dwelling of the applicant for the taxable year.
- (10) Taxable year. The current calendar year for which an exemption or deferral is claimed.
- (11) Spouse. The husband or wife of any applicant who resides in the applicant's dwelling.
- (12) Total combined income of applicant. The annual gross income from all sources, calculated as of December 31 of the calendar year immediately preceding the taxable year, of the applicant, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling; provided, that up to \$10,000 of the income of any such relative shall be excluded and, provided further, that up to \$10,000 of the income of any applicant, and any other owner residing in the dwelling, who is permanently disabled shall be excluded.
- (13) Notwithstanding the provisions of subsection (12), above, if an applicant proves to the director of finance, by clear and convincing evidence, that the applicant's 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 to the applicant, and if a relative does actually move in and provide such care, then none of the income of the relative and of the relative's spouse shall be counted towards the total

income of the applicant; provided, however, that the applicant has not transferred to the relative assets in excess of \$10,000, without adequate consideration, within a three-year period prior to or after the relative moves into the dwelling.

Sec. 3-2-162 Exemption or deferral--provided.

There is hereby provided to any natural person who is or becomes 65 years of age or older during the taxable year or who is or becomes permanently and totally disabled during the taxable year, or is or becomes both, at such person's election, an exemption from or deferral of taxation on the real estate in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. There is also hereby provided to any person who is less than 65 years of age and is not disabled, at the election of such person and his or her spouse, an exemption from or deferral of taxation on the real estate in the city which such person owns jointly with his or her spouse and which they occupy as their sole dwelling, provided the spouse is or becomes 65 years of age or older during the taxable year or is or becomes permanently and totally disabled during the taxable year. The real estate tax exemption or deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this division and sections 58.1-3210 through 58.1-3218 of the Code of Virginia (1950), as amended.

Sec. 3-2-163 Same--eligibility, restrictions generally.

Exemptions from or deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

- (1) The total combined income for the calendar year immediately preceding the taxable year of an applicant may not exceed the limits established by section 3-2-166.
- (2) The net combined financial worth of an applicant may not exceed \$240,000.
- (3) As of January 1 of the taxable year, the applicant must occupy the real estate for which the exemption or deferral is sought as his or her sole residence and must be expected to so occupy the real estate throughout the year; provided, that an applicant 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 the real estate is not being used by or leased to another for consideration.

- (4) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-165 no later than April 15 of the taxable year.
- (5) Interest on any taxes deferred under this article division shall accrue at the rate of five percent per annum from the date by which such taxes were required to be paid to the date on which such taxes are paid in full. Any and all deferred taxes shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.

Sec. 3-2-164 Same--administration by city manager.

The exemption from or deferral of payment of real estate taxes for elderly or permanently and totally disabled persons shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for exemption or deferral. The city manager may require the production of certified tax returns and appraisal reports to establish total combined income or net combined financial worth.

Sec. 3-2-165 Same--procedure for claim.

- (a) For taxable year 2003, and every third taxable year thereafter, and not later than April 15 of the taxable year, any applicant claiming an exemption or deferral of real estate taxes under this division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:
 - (2) the name and age of the applicant;
 - (2) a statement whether the applicant is permanently and totally disabled;
 - (3) the address of the real estate for which the exemption or deferral is claimed;
 - (4) the names of the applicant's spouse and of the relatives of the applicant and any other owners of the real estate who reside in the applicant's dwelling;

- (5) the total combined income of the applicant as defined in section 3-2-161(12);
 - (6) the net combined financial worth of the applicant as defined in section 3-2-161(6);
 - (7) the applicant's election of an exemption or deferral;
 - (8) the name and addresses of all owners of the real estate other than the owners who reside therein; and
 - (9) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.
- (b) If, after audit and investigation, the city manager determines that the applicant is eligible for an exemption or deferral, the manager shall so certify to the director, who shall deduct the amount of the exemption from the applicant's real estate tax liability or defer such tax liability as herein provided.
 - (c) Any provision of this division to the contrary notwithstanding, the director may declare eligible to apply for an exemption or deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (f), after April 15 but before November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April 15 of the taxable year.
 - (d) Any applicant under 65 years of age claiming an exemption or deferral on the basis of a permanent and total disability shall attach to the affidavit or written statement required by subsection (a), or the written certification required by subsection (f), a certification by the Social Security Administration or, if the person is not eligible for social security, an affidavit by two medical doctors licensed to practice medicine in the commonwealth to the effect that the person is unable to engage in any substantial gainful activity by reason of a 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.
 - (e) Any applicant initially claiming an exemption or deferral of real estate taxes

under this division, in a taxable year other than 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (f).

- (f) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects either the applicant's eligibility for an exemption or deferral under this division or the amount of the exemption or deferral. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-166 Same--calculation of amount; limitation.

- (a) The exemption from or deferral of real estate taxes granted under this division for any taxable year shall be limited and calculated as follows:
 - (1) when the total combined income of the applicant does not exceed \$40,000, the applicant shall be exempt from the taxes owed for the year;
 - (2) when the total combined income of the applicant exceeds \$40,000 but does not exceed \$50,000, the applicant shall be exempt from 50 percent of the taxes owed for the year, and may defer all or part of the amount of such taxes in excess of the amount exempted; and
 - (3) when the total combined income of the applicant exceeds \$50,000 but does not exceed \$62,000, the applicant shall be exempt from 25 percent of the taxes owed for the year, and may defer all or part of the amount of such taxes in excess of the amount exempted
- (b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-165 is not owned solely by the applicant and his or her spouse, the amount of the tax exemption or deferral shall be the amount of the taxes on the real estate for the taxable year times the percentage ownership interest in the real estate held by the applicant, or by the applicant and his or her spouse.

- (c) Notwithstanding the provisions of subsection (a) above, if an applicant becomes eligible for exemption or deferral of real estate taxes owed during the course of the taxable year, the amount of the exemption or deferral computed under subsection (a) shall be reduced by one-twelfth of such amount for each full calendar month of the taxable year during which month such applicant is not eligible for exemption or deferral.

Sec. 3-2-167 Change in status.

- (a) Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this division to be exceeded or violated shall nullify any exemption or deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated exemption or deferral for the portion of the taxable year during which the applicant qualified for such exemption or deferral.
- (b) The transfer of ownership of the property from a qualifying spouse to a spouse who is less than 65 years of age and not permanently and totally disabled, when such transfer results solely from the death of the qualifying spouse, shall result in a prorated exemption or deferral for the then current taxable year. Such prorated exemption or deferral shall be determined by multiplying the amount of the exemption or deferral granted the qualifying spouse by a fraction in which the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number 12 is the denominator.

Sec. 3-2-168 Penalty for violation of division.

Any person wilfully making a false statement in claiming an exemption or deferral of real estate taxes under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$500 for each offense.

'' 3-2-169, 3-2-170 reserved.

DIVISION 2 Affordable Homeownership Preservation Program

Sec. 3-2-171 Definitions.

The following words and phrases shall, for the purposes of this division, have the

following respective meanings, except where the context clearly indicates a different meaning:

- (1) Applicant. Any natural person who applies for a grant under section 3-2-173.
- (2) Dwelling. The building, or portion of a building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which a grant is sought pursuant to this division.
- (3) Grant. A grant in aid of payment of taxes owed for the year as provided under section 3-2-175.
- (4) Net combined financial worth of applicant. The value of all assets of the applicant, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling, calculated as of December 31 of the calendar year immediately preceding the taxable year; provided, that the value of the applicant's dwelling, of household furnishings in the dwelling, of up to two acres of the land on which the dwelling is situated, of qualified retirement plans of any person whose assets are included hereunder, and of motor vehicles for the personal use of any such person, shall be excluded.
- (5) Spouse. The husband or wife of any applicant who resides in the applicant's dwelling.
- (6) Taxes owed for the year. The amount of real estate taxes levied on the dwelling of the applicant for the taxable year.
- (7) Taxable year. The current calendar tax year for which a grant is applied.
- (8) Household income of applicant. 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, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling. The city manager shall promulgate regulations for the determination of the income of such persons for whom no federal income tax return is required to be filed.

Sec. 3-2-172 Grant--provided.

There is hereby provided to any natural person, at such person's election, a grant for affordable homeownership preservation in aid of payment of the taxes owed for the taxable year on real property in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. The grant provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this division.

Sec. 3-2-173 Same--eligibility, restrictions generally.

A grant under this division in any taxable year shall be subject to the following restrictions and conditions:

- (1) The household income of the applicant shall not exceed \$62,000.
- (2) The assessed value of the real estate owned by the applicant shall not exceed \$442,000.
- (3) The net combined financial worth of an applicant shall not exceed \$50,000.
- (4) The applicant and/or the applicant's spouse shall own at least 50 percent interest in the real estate.
- (5) As of January 1 of the taxable year, the applicant must occupy the real estate for which the grant is sought as his or her sole residence and must be expected to so occupy the real estate throughout the year; provided, that an applicant 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 the real estate is not being used by or leased to another for consideration.
- (6) An applicant shall file the affidavit or written statement required by section 3-2-175 no later than September 1 of the taxable year.
- (7) An applicant for a grant provided under this division shall not participate in the real estate tax exemption or deferral program for the elderly or permanently and totally disabled provided under division 1 of this article, and no grant shall be applied to real estate taxes on property subject to such exemption or deferral program.
- (8) An applicant for a grant provided under this division shall not be delinquent

on any portion of the real estate taxes to which the grant is to be applied.

Sec. 3-2-174 Same--administration by city manager.

The grant program provided under this division shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for a grant. The city manager may require the production of tax returns to establish household income and the status of any person claimed as a dependent.

Sec. 3-2-175 Same--procedure for application.

- (a) Commencing with taxable year 2004, and not later than September 1 of the taxable year, any applicant for a grant under this division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:
 - (1) the name of the applicant;
 - (2) the address of the real estate for which the grant is to be applied against the tax liability;
 - (3) the names of all persons who reside in the applicant's dwelling;
 - (4) the household income of the applicant as defined in section 3-2-171(9);
 - (5) the net combined financial worth of the applicant as defined in section 3-2-171(5);
 - (6) such additional information as the city manager reasonably determines to be necessary to determine eligibility for a grant pursuant to this division.
- (b) If, after audit and investigation, the city manager determines that the applicant is eligible for a grant, the manager shall so certify to the director, who shall implement the grant as a prepayment on the applicant's real estate tax bill due on November 15 of the taxable year.
- (c) Any provision of this division to the contrary notwithstanding, the director

may declare eligible to apply for a grant any person filing the affidavit or written statement required by subsection (a), after September 1 but before November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit or statement on or before September 1 of the taxable year.

Sec. 3-2-176 Same--amount; limitation.

- (d) The amount of each grant under this division shall be \$675, for an applicant with household income which does not exceed \$40,000.
- (e) The amount of each grant under this division shall be \$475, for an applicant with household income of more than \$40,000, but which does not exceed \$50,000.
- (f) The amount of each grant under this division shall be \$275, for an applicant with household income of more than \$50,000, but which does not exceed \$62,000.
- (d) Only one grant under this division shall be made per household.

Sec. 3-2-177 Change in status.

Changes in household income, ownership of property, or other factors occurring after the application deadline but before the end of the taxable year for which an affidavit has been filed shall not affect a grant which has been certified pursuant to section 3-2-175(b).

Sec. 3-2-178 Penalty for violation of division.

Any person willfully making a false statement in applying for a grant under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$500 for each offense.

Sec. 3-2-179 Sunset date.

No grant pursuant to section 3-2-172 shall be permitted in any taxable year which commences after December 31, 2005.

' 3-2-180 reserved.

Section 2. That this ordinance shall become effective January 1, 2005,
nunc pro tunc.

WILLIAM D. EUILLE
Mayor

ATTEST:

Jackie M. Henderson, CMC City Clerk

Final Passage: May 2, 2005