

1 **Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia**
2 **by Amending Chapter 37, Titled "Taxation," Article II, Titled "Real Estate Taxes,"**
3 **Division 6, Titled "Deferral or Freeze for Elderly and Disabled Persons" Section**
4 **37-199 Regarding Income Thresholds Applicable to Qualification**
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6 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Section 37-
7 119 of the City Code of the City of Hampton, Virginia be amended and restated to read
8 as follows:
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10 **Chapter 37 – Taxation**

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12 **Article II – Real Estate Taxes**

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14 **DIVISION 6. - DEFERRAL OR FREEZE FOR ELDERLY AND DISABLED PERSONS**

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16 **Sec. 37-119. - General prerequisites to grant; effect of transfer of dwelling as**
17 **result of eminent domain and of residency in hospital, nursing home, etc.**

18 Either the deferral or freeze, but, not both, as provided for in this division shall be
19 granted to eligible persons subject to the following conditions:

20 (1) The real estate is owned by, or is partially owned by, and occupied as the sole
21 dwelling of, a person who is either permanently and totally disabled or is not
22 less than sixty-five (65) years of age, as of the last day of the calendar year
23 immediately preceding the taxable year. A dwelling jointly held by a husband
24 and wife shall qualify if either spouse is over sixty-five (65) years of age or is
25 permanently and totally disabled.

26 (2) For the tax freeze program, the total combined income during the calendar
27 year immediately preceding the taxable year, from all sources, of the owner of
28 the dwelling living therein, the owner's or owner's relatives living in the dwelling,
29 and of the owner's nonrelatives living in the dwelling except for bona fide
30 tenants or bona fide paid caregivers of the owner living in the dwelling does not
31 exceed **the income qualification cap amount set forth in subsection (9) hereof**
32 ~~fifty thousand dollars (\$50,000.00)~~; provided, that the first seven thousand
33 dollars (\$7,000.00) of income of each relative, other than spouse, of the owner
34 who is living in the dwelling, and each nonrelative who is not the bona fide
35 tenant or bona fide paid caregiver of an owner living in the dwelling and who
36 does not qualify for the exemption provided by subsection (6) hereof, shall not
37 be included in such total.

- 38 (3) For the tax deferral program, the total combined income during the calendar
39 year immediately preceding the taxable year, from all sources, of the owner of
40 the dwelling living therein, the owner's or owner's relatives living in the dwelling,
41 and of the owner's nonrelatives living in the dwelling except for bona fide
42 tenants or bona fide paid caregivers of the owner living in the dwelling does not
43 exceed ~~the income qualification cap amount set forth in subsection (9)~~
44 ~~hereoffifty thousand dollars (\$50,000.00)~~; provided, that the first seven
45 thousand dollars (\$7,000.00) of income of each relative, other than spouse, of
46 the owner who is living in the dwelling, and each nonrelative who is not the
47 bona fide tenant or bona fide paid caregiver of an owner living in the dwelling
48 and who does not qualify for the exemption provided by subsection (6) hereof,
49 shall not be included in such total.
- 50 (4) For the tax freeze program, the net combined financial worth, including
51 equitable interests, as of December 31 of the year immediately preceding the
52 taxable year, of the owners, and of the spouse of any owner, excluding the
53 value of the dwelling and the land not exceeding ten (10) acres upon which it is
54 situated, shall not exceed two hundred thousand dollars (\$200,000.00).
- 55 (5) For the tax deferral program, the net combined financial worth, including
56 equitable interests, as of December 31 of the year immediately preceding the
57 taxable year, of the owners, and of the spouse of any owner, excluding the
58 value of the dwelling and the land not exceeding ten (10) acres upon which it is
59 situated, shall not exceed two hundred thousand (\$200,000.00).
- 60 (6) Notwithstanding subsections (2), (3), and (4) of this section, if an owner
61 qualifies for a deferral or freeze under this division, and if the owner can prove
62 by clear and convincing evidence that his physical or mental health has
63 deteriorated to the point that the only alternative to permanently residing in a
64 hospital, nursing home, convalescent home or other facility for physical or
65 mental care is to have a person move in and provide care for the owner, and if
66 a person does then move in for that purpose, then none of the income of the
67 person or of the person's spouse shall be counted towards the income limit,
68 provided the owner of the residence has not transferred assets in excess of ten
69 thousand (\$10,000.00) without adequate consideration within a three-year
70 period prior to or after the person moves into such residence.
- 71 (7) If the dwelling of a person who would otherwise be eligible for deferral or
72 freeze under this division is transferred as a result of eminent domain, or threat
73 or imminence thereof, such person shall be entitled to such deferral or freeze
74 for the period of such person's holding title to this property so transferred and
75 also from the date of his taking record title to a dwelling acquired to replace the
76 transferred property.
- 77 (8) The fact that persons who are otherwise qualified for tax deferral or freeze
78 pursuant to this division are residing in hospitals, nursing homes, convalescent
79 homes or other facilities for physical or mental care for extended periods of time
80 shall not be construed to mean that the real estate for which tax deferral or
81 freeze is sought does not continue to be the sole dwelling of such persons

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during such extended periods of other residence, so long as such real estate is not used by or leased to others for consideration.

(9) The income qualification cap applicable for deferral or freeze applications based on total combined income for all calendar years prior to 2018 shall be fifty thousand dollars (\$50,000.00). The income qualification cap for deferral or freeze applications based on total combined income during calendar year 2018 and every calendar year thereafter shall be determined annually by the commissioner of the revenue and shall be equal to the income qualification cap applicable for the immediately preceding calendar year increased by a percentage equal to the federal social security cost of living adjustment applicable to the year for which income is reported on the application, round up to the nearest thousandth.