



Legislation Details (With Text)

File #: 19-0140 **Version:** 1 **Name:** Elderly Tax Deferral
Type: Ordinance-Coded **Status:** Passed
File created: 3/28/2019 **In control:** City Council Legislative Session
On agenda: 4/10/2019 **Final action:** 4/10/2019
Title: Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia by Amending Chapter 37, Titled "Taxation," Article II, Titled "Real Estate Taxes," Division 6, Titled "Deferral or Freeze for Elderly and Disabled Persons" Section 37-119 Regarding Income Thresholds Applicable to Qualification

Sponsors:

Indexes: Commissioner of the Revenue, Economic Vitality
Code sections: Chapter 37, Article II - Taxation, Real Estate Taxes
Attachments: 1. Redlined Ordinance

Date	Ver.	Action By	Action	Result
4/10/2019	1	City Council Legislative Session	approved	Pass

Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia by Amending Chapter 37, Titled "Taxation," Article II, Titled "Real Estate Taxes," Division 6, Titled "Deferral or Freeze for Elderly and Disabled Persons" Section 37-119 Regarding Income Thresholds Applicable to Qualification

PURPOSE/BACKGROUND:

See the Discussion below.

Discussion:

The City of Hampton offers tax relief to certain qualifying elderly and disabled individuals pursuant to a program through which such qualifying individuals can either freeze or defer his or her real estate tax liability. In order to qualify, an individual must be at least 65 years of age or permanently and totally disabled on or before December 31 of the year immediately preceding the year in which you are applying for tax relief. In addition, the qualification is subject to certain income thresholds. Historically, that income threshold has been a combined gross household income of \$50,000 or less from all sources, including all relatives residing in the residence. Those programs have been in place for at least a decade, yet that income threshold has not been adjusted to reflect the time value of the dollar, or the marginal cost of living increases that many of the individuals had to their otherwise fixed income.

Program qualification is based on an analysis of income received in the prior calendar year. Accordingly, applications for relief for real estate for the upcoming fiscal year (July 1, 2019 - June 30, 2020) will be evaluated based on income received in calendar year 2018. The proposed ordinance directs the Commissioner of the Revenue to annually increase the income threshold 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. This proposed revision will be effective immediately. The social security cost of living increase for 2018 was 2%. Accordingly, the income threshold for current applicants will be \$51,000.

Impact:

See Purpose/Background above.

Recommendation:

Approve the Ordinance

BE IT ORDAINED by the City Council of the City of Hampton, Virginia, that Section 37-119 of the City Code of the City of Hampton, Virginia be amended and restated to read as follows:

Chapter 37 - Taxation

...

Article II - Real Estate Taxes

...

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

...

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

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

- (1) The real estate is owned by, or is partially owned by, and occupied as the sole dwelling of, a person who is either permanently and totally disabled or is not less than sixty-five (65) years of age, as of the last day of the calendar year immediately preceding the taxable year. A dwelling jointly held by a husband and wife shall qualify if either spouse is over sixty-five (65) years of age or is permanently and totally disabled.
- (2) For the tax freeze program, the total combined income during the calendar year immediately preceding the taxable year from all sources of the owner of the dwelling living therein, the owner's or owner's relatives living in the dwelling, and of the owner's nonrelatives living in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner living in the dwelling does not exceed the income qualification cap amount set forth in subsection (9) hereof; provided, that the first seven thousand dollars (\$7,000.00) of income of each relative, other than spouse, of the owner who is living in the dwelling, and each nonrelative who is not the bona fide tenant or bona fide paid caregiver of an owner living in the dwelling and who does not qualify for the exemption provided by subsection (6) hereof, shall not be included in

such total.

- (3) For the tax deferral program, the total combined income during the calendar year immediately preceding the taxable year, from all sources, of the owner of the dwelling living therein, the owner's or owner's relatives living in the dwelling, and of the owner's nonrelatives living in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner living in the dwelling does not exceed the income qualification cap amount set forth in subsection (9) hereof; provided, that the first seven thousand dollars (\$7,000.00) of income of each relative, other than spouse, of the owner who is living in the dwelling, and each nonrelative who is not the bona fide tenant or bona fide paid caregiver of an owner living in the dwelling and who does not qualify for the exemption provided by subsection (6) hereof, shall not be included in such total.
- (4) For the tax freeze program, the net combined financial worth, including equitable interests, as of December 31 of the year immediately preceding the taxable year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land not exceeding ten (10) acres upon which it is situated, shall not exceed two hundred thousand dollars (\$200,000.00).
- (5) For the tax deferral program, the net combined financial worth, including equitable interests, as of December 31 of the year immediately preceding the taxable year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land not exceeding ten (10) acres upon which it is situated, shall not exceed two hundred thousand (\$200,000.00).
- (6) Notwithstanding subsections (2), (3), and (4) of this section, if an owner qualifies for a deferral or freeze under this division, and if the owner can prove by clear and convincing evidence that his 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 person move in and provide care for the owner, and if a person does then move in for that purpose, then none of the income of the person or of the person's spouse shall be counted towards the income limit, provided the owner of the residence has not transferred assets in excess of ten thousand (\$10,000.00) without adequate consideration within a three-year period prior to or after the person moves into such residence.
- (7) If the dwelling of a person who would otherwise be eligible for deferral or freeze under this division is transferred as a result of eminent domain, or threat or imminence thereof, such person shall be entitled to such deferral or freeze for the period of such person's holding title to this property so transferred and also from the date of his taking record title to a dwelling acquired to replace the transferred property.
- (8) The fact that persons who are otherwise qualified for tax deferral or freeze pursuant to this division are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax deferral or freeze is sought does not continue to be the sole dwelling of such persons 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, rounded up to the nearest thousandth.