

INTRODUCED: May 9, 2016

AN ORDINANCE No. 2016-145

To amend City Code §§ 26-366, concerning the real estate tax exemption for qualified veterans, 26-367, concerning the real estate tax exemption for surviving spouses of members of the Armed Forces killed in action, and 26-518, concerning the tax exemption for certified pollution control equipment, for the purpose of reflecting amendments to Va. Code §§ 58.1-3219.5 and 58.1-3219.9, and to art. 5, ch. 36 of Title 58.1 of the Va. Code.

Patron – President Mosby

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAY 23 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 26-366, 26-367 and 26-518 of the Code of the City of Richmond (2015) be and hereby are **amended** as follows:

Sec. 26-366. Real estate tax exemption for qualified veterans.

(a) Pursuant to Code of Virginia, § 58.1-3219.5, and for tax years beginning on or after January 1, 2011, a real estate tax exemption is hereby provided for the dwelling and land, not exceeding one acre, upon which the dwelling is situated, including the joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 23 2016 REJECTED: _____ STRICKEN: _____

or its successor agency pursuant to Federal law to have a 100 percent service-connected, permanent and total disability, and who occupies the real property as such veteran's principal place of residence. If the veteran owns a house that is his residence, including a manufactured home as defined in Code of Virginia, § 46.2-100, whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. In addition, a real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision (A)(14) of Code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (ii) for other than a business purpose.

(b) The surviving spouse of a veteran eligible for the exemption set forth in this section shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as such surviving spouse's principal place of residence.

(c) The veteran or surviving spouse claiming the exemption under this section shall file with the City Assessor, on forms to be supplied by the City Assessor, an affidavit or written statement:

(1) Setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property;

(2) Indicating whether the real property is jointly owned by a husband and wife; and

(3) Certifying that the real property is occupied as the veteran's principal place of residence.

The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

Sec. 26-367. Real estate tax exemption for surviving spouses of members of the Armed Forces killed in action.

(a) For purposes of this section, a determination of “killed in action” includes a determination by the U.S. Department of Defense of “died of wounds received in action.”

(1) Pursuant to Subdivision (b) of Section 6-A of article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2015, a real estate tax exemption is hereby provided for the real property of the surviving spouse:

a. Of any member of the Armed Forces of the United States who was killed in action as determined by the [~~United States~~] U.S. Department of Defense; and

b. Who occupies the real property as such spouse's principal place of residence.

(2) Such exemption from real property taxes shall be for:

a. The qualifying dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant to Subsection (b) of this section; and

b. [~~The~~] Except land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated.

If such member of the Armed Forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the Armed Forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the Armed Forces is killed in action. However, the City shall not be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by Section 26-369. If the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Code of Virginia, § 58.1-3360. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision (A)(14) of Code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (ii) for other than a business purpose.

(b) Those dwellings in the City with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single-family residential shall qualify for a total exemption from real

property taxes under this section. However, if the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in Code of Virginia, § 46.2-100, whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that:

- (1) Are zoned as single-family residential; and
- (2) Are occupied by such persons as their principal place of residence;

shall qualify for the real property tax exemption. If the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

(c) The surviving spouse of a member of the Armed Forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption provided for in this section shall apply without any restriction on the spouse's moving to a different principal place of residence.

(d) For purposes of this exemption, real property of any surviving spouse of a member of the Armed Forces killed in action includes real property:

- (1) Held by a surviving spouse as a tenant for life;

(2) Held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation; or

(3) Held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support.

The term does not include any interest held under a leasehold or term of years.

(e) In the event that:

(1) A surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in Subsection (d) of this section; and

(2) One or more other persons have an ownership interest in the property that permits them to occupy the property;

then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has one as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

(f) In the event that the principal residence is jointly owned by two or more individuals, including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in Subsection (d) of this section, then the exemption 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 the surviving spouse and that has as a denominator 100 percent.

Sec. 26-518. Exemption from taxation.

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

Certified pollution control equipment, facilities and property means property, including real or personal property, equipment, facilities, or devices used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the State-certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a State certifying authority. Such property shall also include solar energy equipment, facilities or devices owned or operated by a business that collects, generates, transfers, or stores thermal or electric energy, whether or not such property has been certified to the Department of Taxation by a State certifying authority. Such property shall not include the land on which such equipment or facilities are located.

State-certifying authority means the State Water Control Board for water pollution; the State Air Pollution Control Board for air pollution; the Department of Mines, Minerals and Energy for coal, oil and gas production, including gas, natural gas and coalbed methane gas; the

Virginia Waste Management Board for waste disposal facilities, natural gas recovered from waste facilities and landfill gas production facilities; and includes any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

(b) Certified pollution control equipment, facilities and property are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classifications of real or personal property, and such property shall be exempt from local taxation. For solar photovoltaic or electric energy systems, the exemption provided for by this subsection shall apply only to projects equaling 20 megawatts or less, as measured in alternating current generation capacity. Except as otherwise explicitly provided under Title 58.1, Chapter 36, Article 5 of the Code of Virginia, as to any real or personal property, machinery, equipment, facilities, devices, or real estate improvements required to be certified by a state or local certifying authority for tax exemption under Title 58.1, Chapter 36, Article 5 of the Code of Virginia, once the required certification is made, such property shall be deemed exempt as of the date the property is placed in service. Nothing in this section shall be interpreted or construed as extending any limitations period under law for applying for correction of an assessment or otherwise appealing an assessment.

§ 2. This ordinance shall be in force and effect upon adoption.



Richmond City Council

The Voice of the People

Richmond, Virginia

Office of the Council Chief of Staff

Ordinance/Resolution Request

RECEIVED
APR 29 2016
OFFICE OF CITY ATTORNEY

TO Allen Jackson, City Attorney

THROUGH Lou Ali, Council Chief of Staff *V. Jones for Lou Brown Ali*

FROM Steven Taylor, Council Policy Analyst *ST*

COPY Michelle Mosby, President & 9th District Council Member
Uzziah Harris, 9th District Liaison
Haskell Brown, Deputy City Attorney
Vincent Jones, Council Deputy Chief of Staff

DATE April 29, 2016

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TITLE Amending City Code to Implement Legislation from the 2016 General Assembly Session.

This is a request for the drafting of an **Ordinance** **Resolution**

REQUESTING COUNCILMEMBER/PATRON

M. Mosby

SUGGESTED STANDING COMMITTEE

Government Operations

ORDINANCE/RESOLUTION SUMMARY

Patron requests that amendment(s) to the City Code be drafted for Council's consideration that would implement legislation passed during the 2016 Session of the General Assembly regarding the taxation of real property in the City.

The descriptions below describes bills changing the State's law regarding taxation of real property which in turn have been found to necessitate changes to the City Code so that they can be properly implemented by the City Assessor.

Companion bills HB 127 and SB 99 expanded the definition of soldiers "killed in action" to correspond with the definitions used by the U.S. Department of Defense. The Department of Defense's definition of "killed in action" includes persons who have "died of wounds received in action." The Virginia Constitution (Article X, Section 6) mandates a real property tax exemption for a surviving spouse's principal residence. This change in definition requires that the City allow for the property tax exemption for surviving spouses of persons who died of combat wounds after the immediate action in which they received their wounds because some combatants have died long after receiving the initial would that

lead to their deaths.

HB 421 expanded the real property tax exemptions for certain disabled veterans and surviving spouses of disabled veterans and soldiers killed in action to include real property improvements made to the land surrounding the residences provided that the improvement is used to house or cover motor vehicles or household goods and personal effects for other than business purposes. Virginia law allows for tax exemptions of certain improvements to land and houses for surviving spouses of military personnel killed in action and disabled veterans. Amendments to the City Code are needed to allow for exemptions to be granted to qualifying City land owners.

HB 1203 clarified the definition of principal residence to include manufactured homes for the real property tax exemptions provided for certain disabled veterans and surviving spouses of disabled veterans and soldiers killed in action. The bills approved by General Assembly allow manufactured homes to qualify for the tax exemptions.

HB 80 exempts real or personal property, machinery, equipment, facilities, devices, or real estate improvements that are required to be certified by a state or local certifying authority to qualify for the local tax exemptions for 1) certified pollution control equipment and facilities; 2) certified stormwater management developments and property; 3) certified solar energy equipment, facilities, and devices; and 4) certified recycling equipment, facilities, and devices would be deemed exempt, once certified, as of the date the property is placed in service. The City Attorney's Office has advised that City Code Section 26-518(b) will need to be amended to implement this change in State law.

BACKGROUND

The 2016 General Assembly approved changes tax exemptions of real property in the City regarding property owned by disabled veterans and spouses of disable or deceased veterans. The changes necessitate changes to the City Code so that the City can properly tax and bill the owners of real property that is now exempt under State law.

FISCAL IMPACT STATEMENT

Fiscal Impact Yes No

Budget Amendment Required Yes No

Estimated Cost or Revenue Impact \$ N/A

Note: No fiscal impact expected from amending the City Code. However, revenue reductions can be expected by the exemptions of property, improvements, and equipment from local taxation. The amount of revenue reductions cannot be determined at this writing.

Attachment/s Yes No