



City of Richmond

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Legislation Text

File #: ORD. 2019-029, **Version:** 1

To amend and reordain City Code §§ 26-364 and 26-365, concerning tax relief for elderly and permanently and totally disabled persons, for the purpose of revising the income ranges and corresponding exemption percentages for qualification of elderly and permanently and totally disabled persons for tax relief.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 26-364 and 26-365 of the Code of the City of Richmond (2015) be and are hereby amended and reordained as follows:

Sec. 26-364. Tax relief for elderly persons.

(a) *Exemption authorized.* Real estate tax exemption is provided for qualified property owners, who are not less than 65 years of age and who are eligible according to the terms of this section. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Freeze authorized.* Real estate tax freeze is provided for qualified property owners, who are not less than 65 years of age and who are eligible according to the terms of this section. Persons qualifying for freeze are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(c) *Freeze defined.* As used in this division, “tax freeze” or “freeze” refers to the total exemption of that portion of the real estate tax which represents the increase in such tax since the taxpayer initially applied and qualified for exemption under this division, so that the taxpayer’s real estate tax will be frozen at the amount assessed in the tax year in which the taxpayer initially applied and qualified. If, for any tax year following the initial qualification of a taxpayer for a tax freeze such taxpayer becomes disqualified, any subsequent application for exemption by such taxpayer shall be treated as an initial application for purposes of determining the tax freeze.

(d) *Administration of exemption or freeze.* The exemption and the freeze shall be administered by the Director of Finance. The Director of Finance is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption or freeze as specified by this section. The Director of Finance may require the production of certified tax returns and appraisal reports to [~~established~~] establish income or financial worth.

(e) *Requirements for exemption or freeze.* The taxpayer may apply for either the exemption or the freeze, but not both, and shall be granted the exemption or freeze for which they applied subject to the following provisions:

- (1) The title of the property for which exemption or freeze is claimed is held, or partially held, on January 1 of the taxable year, by the person or persons claiming exemption.
- (2) The head of the household occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons not less than 65 years of age. A dwelling jointly held by a husband and wife may qualify if either spouse is over 65 years of age. The fact that persons who are otherwise qualified for tax exemption or freeze by this section 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 exemption 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.
 - a. For purposes of this section, the sole dwelling of the person or persons eligible for an exemption or freeze in accordance with this section includes real property:
 1. Held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives;

2. Held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation; or
 3. Held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.
- b. For purposes of prorating the tax exemption authorized by this section in accordance with Code of Virginia, § 58.1-3211.1, real property that is a dwelling jointly held by two or more individuals includes real property:
1. Held by an eligible person in conjunction with one or more other people as tenant or tenants for life or joint lives;
 2. Held in a revocable inter vivos trust over which an eligible person with one or more other people hold the power of revocation; or
 3. Held in an irrevocable trust under which an eligible person in conjunction with one or more other people possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

The term “eligible person” does not include any interest held under a leasehold or term of years.

- (3) The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the Director of Finance to be an amount not to exceed [~~\$50,000.00~~] \$60,000.00. Gross combined income shall include all income from all sources of the owner and of the owner’s relatives living in the dwelling for which exemption or freeze is claimed, except that the income of each relative providing bona fide caregiving services to the owner whether such relative is compensated or not, other than spouse, of the owner, who is living in the dwelling, shall not be included in such total. The term “owner,” as used in this subsection, shall also be construed as “owners.”
- (4) The total combined financial worth of the owner as of December 31 of the year immediately

preceding the taxable year shall be determined by the Director of Finance to be an amount not to exceed [~~\$200,000.00~~] \$350,000.00. Total financial worth shall include the value of all assets, including equitable interests, of the owner and spouse of any owner, of the dwelling for which exemption or freeze is claimed, excluding the fair market value of the dwelling and the land, not exceeding one acre, upon which such dwelling is situated for which exemption or freeze is claimed.

(5) Notwithstanding other subsections of this section, if a person has already or would otherwise be qualified for an exemption or freeze under this section, and if the person can prove by clear and convincing evidence that after so qualifying the person'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 for the person, and if a relative does then move in for that purpose, none of the relative's income shall be counted towards the income limit.

(f) *Claiming exemption or freeze.* Procedures for claiming the exemption or freeze shall be as follows:

(1) Not later than March 31 of the taxable year, the person claiming an exemption or freeze must file in writing an application or certificate therefor with the Director of Finance. In lieu of the filing of an annual application, once a taxpayer is determined to be eligible, an application may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding application filed has so changed as to violate the limitations and conditions provided therein. Such annual certification and conditions must be filed not later than March 31 of the taxable year. The Director of Finance may accept applications filed before June 15 by first-time applicants and in hardship cases.

(2) The application shall set forth, in a manner prescribed by the Director of Finance:

- a. The name, age, income and net worth of the person claiming an exemption or freeze;
- b. The location, assessed value and tax on the property;

c. The names of the related persons, except for those related persons living in the dwelling and providing bona fide caregiving services to the owner, whether such related persons are compensated or not, occupying the dwelling for which exemption or freeze is claimed and their gross combined income; and

d. A clear statement of whether the applicant desires to claim an exemption or a freeze.

(3) If after audit and investigation, the Director of Finance determines that the person is qualified for exemption or freeze the Director shall issue a determination letter to the person who ~~have~~ has applied for the tax exemption or freeze regarding the person’s qualification. The amount of the tax exemption or freeze shall be communicated to the taxpayer or the taxpayer’s agent with each annual real estate billing presented for payment in such manner as prescribed by the Director of Finance.

(g) *Amount of exemption.* The person qualifying for and claiming exemption shall be relieved of that portion of the real estate tax levied on the qualifying dwelling and land in the amount calculated in accordance with the following schedule:

Range of Income	Percentage of Exemption
\$0.00 to [\$20,000] <u>\$30,000.00</u>	100%
[\$20,001.00 to \$30,000.00]	[70%]
\$30,001.00 to \$40,000.00	[35%] <u>75%</u>
\$40,001.00 to \$50,000.00	[30%] <u>50%</u>
\$50,001.00 to \$60,000.00	<u>25%</u>

(h) *Payment of difference.* In order to avoid the payment of penalty and interest on the full amount of the taxes, the person to whom an exemption or freeze determination letter has been issued shall, on or before January 14 of the tax year for which such exemption or freeze is issued and on or before June 14 of such tax year, present to the Collector the payment of one-half of the difference between the full amount of taxes levied on the property for which the exemption or freeze is issued and the amount of the exemption or freeze. The

Collector will receipt the tax bill in full and cause an amount equal to that represented by tax exemption or freeze to be transferred from the appropriation made for tax relief for the elderly to the appropriate real estate tax account. Failure to remit one-half of the payment for the difference between the full amount of the taxes levied and the amount of the exemption or freeze on or before January 14 of the tax year for which the exemption or freeze is issued or the remaining one-half of such payment on or before June 14 of such tax year shall void the tax exemption or freeze previously granted for that tax year.

(i) *Payment extension.* The Director of Finance may prescribe, adopt, promulgate and enforce rules, as well as enter into payment arrangements, that [~~enables~~] enable a person who fails to remit the nonexempt portion of the taxes levied by the due dates of the year for which the exemption or freeze is issued^[5] to retain the exemption or freeze for which they have qualified if the failure to remit the payment is due to medically determinable physical or mental impairment or extreme financial hardship, as determined by the Director of Finance. In such cases, the nonexempt portion must be paid no later than the respective tax due date of the following tax year. The failure to honor payment arrangements or remit the nonexempt portion under the terms established by the Director of Finance shall render void the tax exemption or freeze granted for the prior tax year under the terms of the extension. An extension granted under the above term, to enable the taxpayer to retain a tax exemption or freeze, shall be assessed penalty and interest, as prescribed by Code of Virginia, § 58.1-3916 and section 26-361.

(j) *Computation of exemption or freeze when appropriation is insufficient.* In any tax year in which the amount appropriated by the City Council for the purpose of providing real estate tax relief for the elderly shall not be sufficient to afford the entire relief allowable under the computations made pursuant to Subsection (e) of this section, the amount of exemption or freeze shall be computed as a fraction of that produced under the formula set out in Subsection (e) of this section, the numerator of the fraction to be the amount of the appropriation for the tax year and the denominator of the fraction to be the total amount of all allowable exemptions or freezes computed under the formula shown in Subsection (e) of this section.

(k) *False claim of exemption or freeze.* The false claiming of the exemption of freeze authorized in this section shall constitute a misdemeanor; any person convicted of falsely claiming such exemption of freeze shall be punished by a fine not exceeding \$1,000.00 or confinement in jail not exceeding 12 months, either or both.

(l) *Effective date of exemption or freeze.* The exemption or freeze herein authorized shall be effective for the tax year commencing January 1, 2007, and for each tax year thereafter until otherwise provided by law or ordinance.

Sec. 26-365. Real estate tax relief for qualified permanently and totally disabled.

(a) *Exemption authorized.* Real estate tax exemption is provided for qualified property owners who are permanently and totally disabled in accordance with the criteria set out in Va. Const. art. X, § 6, paragraph 7(b), and Code of Virginia, [title] tit. 58.1, ch.32, art. 2 (Code of Virginia, § 58.1-3210 et seq.), and who are eligible according to the terms of the State Constitution, State law and this section. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Freeze authorized.* Real estate tax freeze is provided for qualified property owners who are permanently and totally disabled in accordance with the criteria set out in Va. Const. art. X, § 6, paragraph 7(b), and Code of Virginia, [title] tit. 58.1, ch. 32, art.2 (Code of Virginia, § 58.1-3210 et seq.), and who are eligible according to the terms of the State constitution, State law and this section. Persons qualifying for freeze are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(c) *Administration of exemption or freeze.* The exemption and the freeze shall be administered by the Director of Finance. The Director of Finance is hereby authorized and empowered to prescribe, promulgate and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption or freeze as specified by this section. The Director of Finance may require the production of certified tax returns and appraisal reports to establish income or financial worth.

(d) *Requirements for exemption or freeze.* The taxpayer may apply for either the exemption or the freeze, but not both, and shall be granted the exemption or freeze for which they applied subject to the following

provisions:

- (1) The title of the property for which exemption or freeze is claimed is held, or partially held, on January 1 of the taxable year, by the person claiming exemption or freeze.
- (2) The head of the household occupying the dwelling and owning title or partial title thereto is permanently and totally disabled. The fact that persons who are otherwise qualified for tax exemption or freeze by this section 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 exemption 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.
 - a. For purposes of this section, the sole dwelling of the person or persons eligible for an exemption or freeze in accordance with this section shall include real property:
 1. Held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives;
 2. Held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation; or
 3. Held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.
 - b. For purposes of prorating the tax exemption authorized by this section in accordance with Code of Virginia, § 58.1-3211.1, real property that is a dwelling jointly held by two or more individuals includes real property:
 1. Held by an eligible person in conjunction with one or more other people as tenant or tenants for life or joint lives;

2. Held in a revocable inter vivos trust over which an eligible person with one or more other people hold the power of revocation; or
3. Held in an irrevocable trust under which an eligible person in conjunction with one or more other people possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

The term “eligible person” does not include any interest held under a leasehold or term of years.

(3) The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the director of finance to be an amount not to exceed [~~\$50,000.00~~] \$60,000.00. Gross combined income shall include all income from all sources of the owner and of the owner’s relatives living in the dwelling for which exemption is claimed, except that the of income of each relative providing bona fide caregiving services to the owner whether such relative is compensated or not, other than spouse, of the owner, who is living in the dwelling, shall not be included in such total. The term “owner,” as used in this subsection, shall also be construed as “owners.”

(4) The total combined financial worth of the owner as of December 31 of the year immediately preceding the taxable year shall be determined by the Director of Finance to be an amount not to exceed [~~\$200,000.00~~] \$350,000.00. Total financial worth shall include the value of all assets, including equitable interests, of the owner and spouse of any owner[;] of the dwelling for which exemption or freeze is claimed, excluding the fair market value of the dwelling and the land, not exceeding one acre, upon which such dwelling is situated for which exemption or freeze is claimed.

(5) Notwithstanding other subsections of this section, if a person has already or would otherwise be qualified for an exemption or freeze under this section, and if the person can prove by clear and convincing evidence that after so qualifying the person’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 for the person, and if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit.

(e) *Claiming exemption or freeze.* Procedures for claiming the exemption or freeze shall be as follows:

(1) Not later than March 31 of the taxable year, the person claiming an exemption or freeze must file in writing an application therefor with the Director of Finance. The Director of Finance may accept applications filed before June 15 by first-time applicants and in hardship cases. However, in lieu of filing an application annually, an application may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding application filed has so changed as to violate the limitations and conditions provided therein. Such annual certification must be filed not later than March 31 of the taxable year.

(2) The application shall set forth, in the manner prescribed by the Director of Finance:

a. The name, age, income and net worth of the person claiming an exemption or freeze and information as will establish such applicant for exemption or freeze is permanently and totally disabled;

b. The location, assessed value and tax on the property;

c. The names of the related persons, except for those related persons living in the dwelling and providing bona fide caregiving services to the owner, whether such related persons are compensated or not, occupying the dwelling for which exemption or freeze is claimed and their gross combined income; and

d. A clear statement of whether the applicant desires to claim an exemption or a freeze.

(3) If after audit and investigation, the Director of Finance determines that the person is qualified for exemption or freeze the Director shall issue a determination letter to the person who has

applied for the tax exemption or freeze regarding the person’s qualification. The amount of the tax exemption or freeze shall be communicated to the taxpayer or the taxpayer’s agent with each annual real estate billing presented for payment in such manner as prescribed by the Director of Finance.

(f) *Amount of exemption.* The person qualifying for and claiming exemption shall be relieved of that portion of the real estate tax levied on the qualifying dwelling and land in the amount calculated in accordance with the following schedule:

Range of Income	Percentage of Exemption
\$0.00 to [\$20,000.00] <u>\$30,000.00</u>	100%
[\$20,001.00 to \$30,000.00]	[70%]
\$30,001.00 to \$40,000.00	[35%] <u>75%</u>
\$40,001.00 to \$50,000.00	[30%] <u>50%</u>
<u>\$50,001.00 to \$60,000.00</u>	<u>25%</u>

(g) *Payment of difference.* In order to avoid the payment of penalty on the full amount of the taxes, the person to whom an exemption or freeze determination letter has been issued shall, on or before January 14 of the tax year for which such exemption or freeze is issued and on or before June 14 of such tax year, present to the Collector the payment of one-half of the difference between and the full amount of taxes levied on the property for which the exemption or freeze is issued and the amount of the exemption. The Collector will receipt the tax bill in full and cause an amount equal to that represented by tax exemption or freeze to be transferred from the appropriation made for tax relief for the permanently and totally disabled to the appropriate real estate tax account. Failure to remit one-half of the payment for the difference between the full amount of the taxes levied and the amount of the exemption or freeze on or before January 14 of the tax year for which the exemption or freeze is issued or the remaining one-half of such taxes on or before June 14 of such tax year shall void the tax exemption or freeze previously granted for that tax year.

(h) *Payment extension.* The Director of Finance may prescribe, adopt, promulgate and enforce rules, as well as enter into payment arrangements, that ~~[enables]~~ enable a person who fails to remit the nonexempt

portion of the taxes levied by the due dates of the year for which the exemption or freeze is issued^[5] to retain the exemption or freeze for which they have qualified if the failure to remit the payment is due to a medically determinable physical or mental impairment or extreme financial hardship, as determined by the Director of Finance. In such cases, the nonexempt portion must be paid not later than the respective tax due date of the following tax year. The failure to honor payment arrangements or remit the nonexempt portion under the terms established by the Director of Finance shall render void the tax exemption or freeze granted for the prior tax year under the terms of the extension. An extension granted under the above terms to enable the taxpayer to retain a tax exemption or freeze shall be assessed penalty and interest, as prescribed by Code of Virginia, § 58.1-3916 and section 26-361.

(i) *Computation of exemption or freeze when appropriation insufficient.* In any tax year in which the amount appropriated by the City Council for the purpose of providing real estate tax relief for the permanently and totally disabled shall not be sufficient to afford the entire relief allowable under the computations made pursuant to Subsection (e) of this section above, the amount of exemption or freeze shall be computed as a fraction of that produced under the formula set out in Subsection (e) of this section, the numerator of the fraction to be the amount of the appropriation for the tax year and the denominator of the fraction to be the total amount of all allowable exemptions or freezes computed under the formula shown in Subsection (e) of this section.

(j) *False claim of exemption or freeze.* The false claiming of the exemption or freeze authorized in this section shall constitute a misdemeanor; any person convicted of falsely claiming such exemption or freeze shall be punished by a fine not exceeding \$1,000.00 or confinement in jail not exceeding 12 months, either or both.

(k) *Effective date of exemption or freeze.* The exemption or freeze herein authorized shall be effective for the tax year commencing January 1, 2007, and for each tax year thereafter until otherwise provided by law or ordinance.

§ 2. This ordinance shall be in force and effect on January 1, 2020.