

By: 
Office of the City Attorney

By: 
DEPT. City Attorney's Office

NORFOLK, VIRGINIA

R-8 ORDINANCE NO. 49,066

AN ORDINANCE TO AMEND AND REORDAIN ARTICLE IV OF CHAPTER 24 OF THE NORFOLK CITY CODE SO AS TO ADD A NEW DIVISION 2.2 ENTITLED "EXEMPTION FOR SURVIVING SPOUSES OF CERTAIN PERSONS KILLED IN THE LINE OF DUTY".

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Article IV of Chapter 24 of the Norfolk City Code is hereby amended and reordained as follows:

ARTICLE IV. - REAL ESTATE TAXES

DIVISION 2.2 - EXEMPTION FOR SURVIVING SPOUSES OF CERTAIN PERSONS KILLED IN THE LINE OF DUTY

Sec.24-211.1 Definitions.

As used in this section, "covered person" means any person set forth in the definition of "deceased person" in the Line of Duty Act, §§ 9.1-400 et seq. of the 1950 Code of Virginia, as amended (the "Act"), whose beneficiary, as defined in Virginia Code § 9.1-400, is entitled to receive benefits under Virginia Code § 9.1-402, as determined by the Commonwealth of Virginia's Comptroller prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.

(a) Upon application, total or partial exemption from real estate taxation shall be granted for residential real estate, consisting of a single-family dwelling unit, accessory structures, and no more than three acres of land owned by and occupied as the principal place of residence of a surviving spouse of any covered person, provided that each of the following criteria are met:

- (1) The surviving spouse holds title or partial title to the real property at the time the application is made;
- (2) The surviving spouse occupies the real property as his or her principal place of residence; and
- (3) The surviving spouse does not remarry.

(b) If the assessed value of the dwelling in the most recently ended tax year, exclusive of the value of the land on which it is situated, is not in excess of the average assessed value for such year of a dwelling situated on property zoned for single-family residential use, a total exemption from real estate taxation shall be granted for the dwelling.

(c) If the assessed value of the dwelling in the most recently ended tax year, exclusive of the value of the land on which it is situated, is in excess of the average assessed value for such year of a dwelling situated on property zoned for single-family residential use, then only that portion of the assessed value shall be subject to real property taxation, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes;

(d) The first three acres of land of any property on which a dwelling that is totally or partially exempt from real estate taxation pursuant to this section is situated shall be exempt from real estate taxation.

(e) For tax years beginning on or after January 1, 2017, a real property improvement other than a dwelling, including the land on which such improvement is situated, made to such three acres shall also be exempt from taxation so long as the principal use of the improvement is:

- (1) To house or cover motor vehicles or household goods and personal effects, and
- (2) For other than a business purpose.

(f) For purposes of the exemption provided above, real property of any surviving spouse of a covered person includes any single-family home, condominium, townhome, manufactured home, whether or not the wheels and other equipment previously used for mobility have been removed, or other type of dwelling unit designed for occupancy by a single family, whether or not the land on which the single-family home, condominium, townhome, manufactured home, or other type of dwelling is located is owned by someone other than the surviving spouse, that is (i) held by a surviving spouse of a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) 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. If the land on which the single-family home, condominium, townhome, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

(g) For purposes of the exemption provided above, in the event that a surviving spouse is entitled to an exemption by virtue of holding the real property in any of the three ways set forth in subsection (f) by which one or more persons have an ownership interest in the real 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 "1" 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.

(h) For purposes of the exemption provided above, 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 (f), 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 as a denominator, 100 percent.

(i) The City Manager or his designee is authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption. The City Manager may require the production of such documentation as may be required as necessary to establish eligibility for an exemption under this section.

(j) Filing of application. A surviving spouse claiming the exemption under this section shall file a real estate tax exemption application containing the following:

(1) An affidavit or notarized written statement:

(a) Setting forth the surviving spouse's name;

(b) Indicating any other joint owners of the real property;

(c) Certifying that the real property is occupied as the surviving spouse's principal place of residence;

(d) Certifying the surviving spouse has not remarried; and

(e) Including evidence of the determination of the Commonwealth of Virginia's Comptroller or the Virginia Retirement System pursuant to Section 24-211.1 above.

(2) The surviving spouse shall also provide documentation that he or she is the surviving spouse of a covered person and of the date that the covered person died.

(3) The surviving spouse shall be required to refile the information required by this section only if the surviving spouse's principal place of residence changes.

(k) Changes in material factors. The surviving spouse of a covered person shall have an affirmative duty to notify the administrator of any remarriage, any change in ownership, or any change in his or her principal place of residency.

(l) Operation of exemption. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition. 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 notarized written statement required by paragraph (j) hereof.

(m) Absence from residence. The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this article 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 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.

(n) Penalty for false claims. Any person falsely claiming an exemption shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$2,500.00 or confinement in jail not exceeding 12 months or both.

(o) The exemption is for tax years beginning on or after January 1, 2017 and shall be applied retroactively to that date.

Section 2:- That this ordinance shall be in effect from and after its date of adoption.

ADOPTED BY COUNCIL JANUARY 24, 2023
EFFECTIVE JANUARY 24, 2023