

**AN ORDINANCE AMENDING CHAPTER 30 OF THE CHESAPEAKE CITY CODE, ENTITLED “FINANCE AND TAXATION,” ARTICLE III, ENTITLED “ASSESSMENTS,” DIVISION 1, SECTION 30-104.3 THEREOF, CLARIFYING THE TYPES OF PROPERTY INTERESTS THE EXEMPTION APPLIES TO FOR SURVIVING SPOUSES, EXTENDING PROPERTY TAX EXEMPTIONS TO INCLUDE CERTAIN REAL PROPERTY IMPROVEMENTS, CLARIFYING “RESIDENCE” INCLUDES MANUFACTURED HOMES AND APPLIES TO RESIDENCES REGARDLESS OF OWNERSHIP OF THE LAND, AND MAKING CLERICAL CORRECTIONS.**

WHEREAS, the Council of the City of Chesapeake finds the public necessity, convenience, and general welfare so requires;

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Chapter 30 of the Chesapeake City Code, entitled “Finance and Taxation,” Article III, entitled “Assessments,” Division 1, Section 30-104.3, be amended and reordained as follows:

**Sec. 30-104.3. - Real estate tax exemptions for certain disabled veterans or their surviving spouses.**

(a) *General prerequisites.*

- (1) An exemption from real estate taxation shall be granted, upon application, 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. A veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability. A dwelling jointly held by a husband and wife may qualify if either spouse is a veteran with a 100 percent service-connected, permanent, and total disability; or

- b. A surviving spouse of a veteran determined to have a 100 percent service-connected, permanent, and total disability, 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 his or her principal place of residence; provided that the owner claiming tax exemption for the property holds title or partial title to the real property at the time application is made.
- (2) For purposes of the tax exemption pursuant to subsections ~~(1)a. and (1)b.~~ (1) above, a dwelling jointly held by husband and wife includes real property (i) held by a qualified veteran ~~with a 100 percent service-connected, permanent and total disability~~ alone or in conjunction with his or her spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the ~~disabled~~ qualified veteran alone or the ~~disabled~~ qualified veteran and his or her spouse hold the power of revocation, or (iii) held in an irrevocable trust under which the ~~disabled~~ qualified veteran in conjunction with his or her spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The foregoing does not include any interest held under a leasehold or term of years.
- a. The exemption for a surviving spouse under subsection (1) includes real property (i) held by the veteran's spouse as 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 exemption does not apply to any interest held under a leasehold or term of years.

- (3) For purposes of the tax exemption pursuant to subsection (1) above, if the veteran owns a house that is his residence, including a manufactured home 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.
- (4) The fact that persons who are otherwise qualified for tax exemption 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 principal place of residence 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.
- (5) For tax years beginning on or after January 1, 2017, a real property improvement other than a dwelling, including the land upon 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 (i) to house or cover motor vehicles or household goods and personal effects as listed in section 30-515 of this chapter and (ii) for other than a business purpose.
- (36) In the event that (i) a person is entitled to an exemption under subsection (1)~~a.~~ and ~~(1)b.~~ (1) above by virtue of holding the property in any of the three ways

set forth in subsection (2) above, and (ii) 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 as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

- (47) In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection ~~(1)a. or (1)b.~~ (1) above, 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 (2) above, then the exemption shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections ~~(1)a. or (1)b.~~ (1) and (2), and as a denominator, 100 percent.

- (b) *Administration.* This section shall be administered by the commissioner of the revenue or such officer designated by the city council, referred to in this section as the “administrator.” The administrator 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 administrator may require the production of such documentation as may be required

by the administrator as necessary to establish eligibility for an exemption under this section.

(c) ~~Criteria for exemption. An exemption shall be granted subject to the following:~~

(1) ~~The owner claiming tax exemption for the property holds title or partial title to the property at the time application is made.~~

(2) ~~The owner is:~~

- a. ~~A veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent and total disability, as provided in this section and the owner occupies the property as his or her principal place of residence; or~~
- b. ~~A surviving spouse of a veteran eligible for the exemption set forth above 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 his or her principal place of residence.~~

(3) ~~The fact that persons who are otherwise qualified for tax exemption 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 principal place of residence 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.~~

(~~4c~~) *Filing of application; certification of disability.*

(1) A qualified veteran claiming an exemption ~~based on a 100 percent service-connected, permanent and total disability~~ shall file with the administrator a real estate tax exemption application and a supporting affidavit or notarized written statement containing the following:

- (~~1~~) a. Name of the disabled veteran and the name of the spouse, if any, also occupying the real property;
- (~~2~~) b. Name and relationship of all persons having an ownership interest in the real property; and
- (~~3~~) c. Certification that the real property is occupied as the veteran's or surviving spouse's principal place of residence.
- (~~4~~) d. Documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has been rated to have a 100 percent service-connected, permanent, and total disability.

(~~5~~) In the case of a surviving spouse of a qualified ~~disabled~~ veteran, the spouse shall provide the administrator with the following:

- a. Documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that prior to his or her death, the veteran had a 100 percent service-connected, permanent, and total disability;
- b. A real estate tax exemption application and supporting affidavit or notarized written statement that:
  - (i) The surviving spouse continues to occupy the real property as his or her principal place of residence; and

(ii) The surviving spouse has not remarried.

c. Certified documentation that the veteran's death occurred on or after January 1, 2011.

(ed) *Ownership verification.* The administrator shall verify through the city real estate assessor's office the ownership of the property for which the exemption is claimed.

(f) ~~*Disabled veterans exemption.* Veterans who are rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, or their qualifying surviving spouses, shall be entitled to a tax exemption for so long as they continue to qualify for tax relief under this section.~~

(he) *Changes in material factors.* A qualifying veteran or his or her qualifying surviving spouse shall be entitled to a tax exemption for so long as they continue to qualify for tax relief under this section. ~~rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent and total disability.~~ A qualifying veteran shall have an affirmative duty to report to the administrator a change in principal residence, disability status, ownership of property, marital status, or death of his or her spouse. Qualifying surviving spouses of such disabled veterans shall have an affirmative duty to report to the administrator a change in principal residence, ownership of property, or marital status.

(if) *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.

An emergency is deemed to exist and this ordinance shall be effective retroactively to July 1, 2016.

ADOPTED by the Council of the City of Chesapeake, Virginia, this 15<sup>th</sup> day of November, 2016.

APPROVED:

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Mayor

ATTEST:

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Clerk of the Council