EXHIBIT NO. 1

# City of Alexandria, Virginia

4/8-03

## MEMORANDUM

22
4-22-03

DATE: APRIL 3, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER PS

SUBJECT: AN ORDINANCE TO AMEND THE PROVISIONS OF TITLE 3, CHAPTER 2 OF THE CITY CODE, RELATING TO REAL ESTATE TAX RELIEF, AS PASSED ON FIRST READING ON FEBRUARY 11, 2003 (DOCKET ITEM NO. 15)

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**ISSUE:** Consideration of the adoption of an amendment, in the nature of a substitute to the ordinance, to amend the provisions of Title 3, Chapter 2 of the City Code, relating to real estate tax relief, as passed on first reading on February 11, 2003 (Docket Item No. 15).

**RECOMMENDATION:** So that it can consider the full range of options during the FY 2004 budget process, that City Council adopt the amendment in the nature of a substitute, and set the ordinance as amended, for public hearing Tuesday, April 22, 2003, and second reading and final passage Tuesday, April 29, 2003. The proposed substitute ordinance is structured with three program options, all or any of which could be adopted if City Council determines in the FY 2004 Add/Delete process that it wishes to fund a further expansion of tax relief. The substitute ordinance is structured to:

1. Expand the existing tax relief program for the elderly and disabled to include the following:

   - Increase the maximum income limit to qualify for a full real estate tax exemption from the current $12,800 to $40,000;

   - Change the maximum income limit to qualify for a partial exemption equal to 50% of the taxes owed for the year from the current $35,000 to $50,000;

   - Establish the maximum income limit to qualify for a partial exemption equal to 25% of the taxes owed for the year at $62,000;

   - Continue to offer a deferral of real estate taxes for qualified applicants with total income that does not exceed $62,000;

- Increase the asset eligibility limit for the real estate tax relief program from $195,000 to the new State limit of $240,000; and

- Increase the deduction allowed for a family member living in the household from $6,500 to the new State limit of $8,500.

2. Establish a new Residential Real Estate Tax Deferral Program for Owner/Occupants which includes the following provisions:

   - Permit taxpayers to defer the portion of their actual tax bill that exceeds 110% of their 2002 tax bill;

   - Establish the income limit to qualify for the deferral program at $45,200 for a household of up to two persons (HUD Low-Income measure) and $4,000 for each additional dependent;

   - Subject the deferred tax amount to interest at the IRS Section 6621 rate; and

   - Limit the City's first priority lien for deferred taxes and interest to 10% of the sale price, or 10% of the assessed value if there is no sale.

3. Establish a new Small Business Real Estate Tax Deferral Program, which includes the following provisions:

   - Permit a business to defer the portion of their actual real estate tax bill that exceeds 110% of their 2002 tax bill;

   - Establish the annual gross income limit for a business to qualify for the deferred program at $100,000;

   - Limit the assessed value of the real estate property owned and used by the business to $499,900; and

   - Limit the City's first priority lien for deferred taxes and interest to 10% of the sale price, or 10% of the assessed value if there is no sale.

**DISCUSSION:** On February 11, 2003, City Council passed the proposed ordinance, which only addressed changes in tax relief for the elderly and disabled, on first reading. On February 22, 2003, Council deferred second reading and final passage of the proposed ordinance, and requested staff to consider additional changes to, and substantial expansion of the tax relief program. The revisions were discussed at the March 26, 2003, Budget Work Session.

In response to the discussions at the Budget Work Session, a proposed substitute three-part ordinance has been prepared. This ordinance creates three divisions within the City's Real Estate Tax Relief Program: 1) Tax Relief for the Elderly and Disabled; 2) Residential Real Estate Tax Deferral; and 3) Small Business Real Estate Tax Deferral. Each division is discussed separately.

**1) Tax Relief for Elderly and Disabled (Recommended)**: This particular program has been in existence for many years. Program enhancements were implemented in 2001 and 2002. In February 2003, staff proposed a new program to include an increase in the program income limits. However, the proposed program limits were not comparable to those of Arlington and Fairfax Counties. The substitute ordinance increases the City's maximum income limit to qualify for a full real estate tax exemption from the current $12,800 (or $25,600 in certain circumstances) to $40,000. Arlington County uses a comparable limit of $39,585 and Fairfax uses $40,000. The substitute ordinance changes the City's income limit to qualify for a partial exemption equal to 50% of the taxes owed for the year from the current $35,000 to $50,000. The limit for Arlington is $48,720 in the same category. Fairfax uses $46,000. Additionally, the substitute ordinance establishes the income limit to qualify for a partial exemption equal to 25% of the taxes owed for the year at $62,000. This limit equals that used by Arlington County in the same category. This is also the maximum income limit permitted by State Code for eligibility in the tax relief program administered by jurisdictions in Northern Virginia. Fairfax uses $52,000 as the deferral limit for the elderly and disabled.

If City Council decides it wishes to expand tax relief for the elderly and disabled to the levels included in this revised ordinance (Division 1), then Council will need to earmark $200,000 in the upcoming FY 2004 Add/Delete process to fund the expansion of the existing program to this level. Given that the structure and processes of the existing elderly and disabled tax relief program works well, and given other jurisdictions' experience with tax relief programs with similar eligibility levels, City staff does not see any issues with implementing this expanded program.

**2) Residential Real Estate Tax Deferral (Not Recommended)**: At the February 22 Public Hearing, Council asked staff to develop a tax relief program for City Council consideration which would cover more than just the elderly and disabled. The Residential Real Estate Tax Deferral Program, as laid out in the substitute ordinance, is designed to meet Council's request. Since at least 1990, the State Code has authorized a general real estate tax deferral program. To date, no jurisdiction in Virginia has implemented the program.

In the program described in the attached substitute ordinance, a family of one or two with an income at or below $45,200 (HUD Low Income Limit) would be able to defer the portion of their actual 2003 tax bill that exceeds 110% of their 2002 tax bill. The deferral would be subject to interest at the IRS Section 6621 rate, as mandated by the State Code. In order for banks and mortgage companies to accept the deferral program, the substitute ordinance limits the City's first priority lien for the deferred amount to 10% of the sales price, or 10% of the assessed value if there is no sale. While this theoretically puts repayment of the deferred amount to the City at risk, it is highly unlikely that the total amount of cumulative deferrals would ever reach this level.

The following chart shows the amount that could be deferred on the average residential condominium and single family unit in the City if this program would have been in effect for the last ten years. For tax year 2003, a real estate tax rate of $1.05 has been assumed.

| | Average Residential Condominium | | Average Single Family Residence | |
|---|---|---|---|---|
| Year | % tax increase | Average amount deferrable | % tax increase | Average amount deferrable |
| 1994 | -1.79% | no deferral | -0.09% | no deferral |
| 1995 | -0.24% | no deferral | 1.33% | no deferral |
| 1996 | -0.29% | no deferral | 1.33% | no deferral |
| 1997 | -1.85% | no deferral | 1.07% | no deferral |
| 1998 | 3.13% | no deferral | 4.99% | no deferral |
| 1999 | -0.95% | no deferral | 2.51% | no deferral |
| 2000 | 4.06% | no deferral | 6.47% | no deferral |
| 2001 | 8.28% | no deferral | 11.32% | $38 |
| 2002 | 13.65% | $47 | 12.48% | $122 |
| 2003 | 27.36% | $305 | 18.61% | $478 |

City staff does **not** recommend establishing a Residential Real Estate Tax Deferral Program for many reasons, including the following:

- The program is an entitlement with no budget limits. If adopted, the City cannot refuse to grant a deferral to a taxpayer who meets the qualifications. There is a huge uncertainty as to the amount of this entitlement. If all of the 2,300 taxpayers who City staff estimates may qualify for the program elect to participate, the first year's deferred taxes would be approximately $750,000. If only 10% of the qualified taxpayers utilize the program, the deferred taxes would be $75,000. No one on staff has enough information to make a solid educated guess as to the percentage of taxpayers who would elect to participate in the program. With no other Virginia jurisdiction ever adopting this type of program, there is no track record to guide costing this program. Staff is estimating if 20% participate, the cost would be $150,000 for deferrals. Administrative costs are estimated at $75,000.

- The program is expensive to administer (estimated at $75,000, or one-half the estimated total tax deferred benefits) and would require the hiring of at least one additional staff. It is possible that the administrative costs would exceed the direct benefit to taxpayers.

- Citizens would need to be made aware of the advantages and requirements of this program. A major advertising and communications campaign would be needed to properly initiate the program. This campaign is envisioned to include direct mailing and newspaper advertising and cable television use.

- There is just a short time to advertise the program for 2003, accept and process applications between now and May 15 (first half real estate bills are mailed) or June 15 (tax payments are due). No matter how much advertising the City does, many potentially eligible taxpayers will still become confused and frustrated. They may not understand if they can defer a portion of the bill, or if they are required to pay the total bill and get a refund for the portion deferred.

**3) Small Business Real Estate Tax Deferral Program (Not Recommended)**: At the Budget Work Session, Council discussed the possibility of extending the tax deferral program to small businesses. The substitute ordinance includes a Small Business Real Estate Tax Deferral Division designed to meet Council's request. Under the program, a small business that owns real estate with a value of less than $499,900 and has gross receipts of less than $100,000 would be able to defer the portion of their 2003 real estate taxes that exceeds 110 % of their 2002 tax bill.

City staff does **not** recommend this program. Commercial property has not increased in value as drastically as residential property. There are 996 commercial properties with an assessed value of less than $499,900. Approximately 240, or 25%, had an increase in assessment of more than 10%. Most of those were office condominiums which on the average experienced an increase in their real estate assessment of approximately 11%. City staff does not expect many businesses to bother with the paper work to defer only one percent of their tax bill. As a result, the cost of advertising and notifying businesses about this program, at least for this year, would probably exceed the amount businesses actually defer.

## FISCAL IMPACT:

**1) Tax Relief for the Elderly and Disabled**: Based on the applications the City received last year for the Tax Relief for the Elderly and Disabled program, staff estimates that the enhancements in excess of those recommended by the staff in February would cost an additional $200,000.

**2) Residential Real Estate Tax Deferral**: This year alone, staff estimates that the amount of taxes deferred under this program may fluctuate from $75,000 to $750,000. This depends on what percentage of qualified taxpayers take advantage of the program. If 20% of qualifying taxpayers take advantage of the program, the cost would be $225,000, which includes $75,000 in administrative costs and $150,000 in deferral costs.

3) **Small Business Real Estate Tax Deferral**: Staff does not believe many businesses would use the tax deferral program. Therefore, the costs of this phase of the tax deferral program would consist primarily of advertising (printing, distribution and direct mailing of brochures). This will be geared toward explaining the program to taxpayers. Staff estimates the cost to be $15,000, mostly in administrative costs.

The costs of the various phases or divisions of the Real Estate Tax Relief Program (beyond the tax relief program expenses included in the FY 2004 Proposed Budget) are not included in the proposed budget. Each division would have to be separately put on the Add/Delete list if Council wishes to have any one of the three divisions of the program enacted.

Due to the highly uncertain nature of the costs and issues of the Residential and Small Business Deferral programs, the drafted ordinance includes a sunset provision at the end of calendar year 2004. This will create a mechanism for the program to be evaluated and re-adopted or terminated after two years of experience. It is also likely that the current annual double digit rate of increased assessments will have slowed by 2005.

**ATTACHMENTS:** Proposed Substitute Ordinance

**STAFF:**
Mark Jinks, Assistant City Manager
D. A. Neckel, Director of Finance

Attachment 1

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|---|---|
| Introduction and first reading: | 2/11/03 |
| Amendment in the nature of a substitute | 4/08/03 |
| Public hearing: | 4/22/03 |
| Second reading and enactment: | 4/29/03 |

## INFORMATION ON PROPOSED SUBSTITUTE ORDINANCE

### Title

AN ORDINANCE to amend and reordain Article L (REAL ESTATE TAX EXEMPTION OR DEFERRAL FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

### Summary

First, the substitute ordinance, known as the City of Alexandria Real Estate Tax Relief Ordinance, would adjust the income and net worth limits for the exemption from, or deferral of, real estate taxes for elderly or disabled taxpayers, by raising the existing limits for tax relief. Such taxpayers who have an income up to $40,000 would be exempt from all real estate tax on their house. Those with an income between $40,001 and $50,000 would be exempt from 50% of the tax on their house, and may defer the 50% balance, and those with an income between $50,001 and $62,000 would be exempt from 25% of the tax on their house, and may defer the 75% balance. Deferred amounts accrue interest, and other terms and conditions for relief apply.

Second, the substitute ordinance would establish a new residential real estate tax deferral program for owner/occupants with limited incomes, but who are not elderly or disabled. Under this program, a taxpayer with a household income up to $45,200 would be permitted to defer that portion of his or her actual 2003 real estate tax bill which exceeds 110% of the taxpayer's 2002 tax bill. In subsequent tax years, the taxpayer can defer the amount which exceeds 110% of the amount required to be paid and not subject to deferral in the previous year. Thus, the net effect is to cap the amount of the bill which must be paid, and cannot be deferred, at 10% over the amount from the immediately prior year. Deferred amounts accrue interest. Again, other terms and conditions for this tax relief apply.

Finally, the substitute ordinance would establish a new real estate tax deferral program for small businesses which own their business property. Under this program, the property for which tax deferral is sought must be the taxpayer's sole place of business. In addition, the gross receipts of the business for the prior year cannot exceed $100,000, and the assessed value of the property used for the business cannot exceed $499,900. A small business would be permitted to defer that portion of its actual 2003 real estate tax bill which exceeds 110% of the taxpayer's 2002 tax bill. In subsequent tax years, the taxpayer can defer the amount which exceeds 110% of the amount required to be paid and not subject to deferral in the

previous year. Thus, the net effect is to cap the amount of the bill which must be paid, and cannot be deferred, at 10% over the amount from the immediately prior year. Deferred amounts accrue interest. As with the residential program, other terms and conditions for this tax relief apply.

The limits described above, and the terms and conditions of each program, are subject to amendment by the City Council, to the extent permitted by Virginia law, during the process for adopting this ordinance.

Sponsor

Staff

Mark Jinks, Assistant City Manager
Daniel A. Neckel, Director of Finance
Ignacio B. Pessoa, City Attorney

Authority

§§ 58.1-3210, *et seq.*; 58.1-3219, *et seq.*, Code of Virginia

Estimated Costs of Implementation

See memorandum from the City Manager.

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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AMENDMENT IN THE NATURE OF A SUBSTITUTE
ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Article L (REAL ESTATE TAX EXEMPTION OR DEFERRAL FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article L, Chapter 2, Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

**ARTICLE L**
**Real Estate Tax Relief**

Sec. 3-2-160 Short title.

This article shall be known as the City of Alexandria Real Estate Tax Relief Ordinance.

**Division 1**
**Real Estate Tax Exemption or Deferral For Elderly or Permanently and Totally Disabled Persons**

Sec. 3-2-161 Definitions.

The following words and phrases shall, for the purposes of this ~~article~~ division, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Applicant. Any natural person who claims an exemption or deferral under section 3-2-165.

(2) ~~City council. The council of the City of Alexandria, Virginia.~~ Reserved.

(3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this ~~article~~ division.

(4) Dwelling. The building, or portion of a building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which an exemption from or deferral of taxes is sought pursuant to this ~~article~~ division.

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(5) Exemption. An exemption from the obligation to pay real estate taxes granted pursuant to the provisions of this ~~article~~ division.

(6) Net combined financial worth of applicant. The value of all assets of an applicant, of an applicant's spouse and of any other person who is an owner of and resides in the applicant's dwelling, calculated as of December 31 of the calendar year immediately preceding the taxable year; provided, that the value of the applicant's dwelling, of household furnishings in the dwelling and of up to one acre of the land on which the dwelling is situated shall be excluded.

(7) Permanently and totally disabled persons. An applicant certified as provided by section 3-2-165(d) and found by the city manager to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such applicant's life.

(8) Relative. Any person related by blood or marriage to an applicant who uses the applicant's dwelling as his or her principal residence, other than a spouse.

(9) ~~Taxes on the average residential property. An amount equal to the product of (i) the real estate tax rate for the taxable year, as set forth in section 3-2-181, multiplied by (ii) the average assessment for the taxable year of properties reported by the city manager, pursuant to section 3-2-235, as single-family detached, single-family semi-detached, single-family-row, condominium garden, condominium high-rise, condominium townhouse, and residential cooperative.~~ Taxes owed for the year. The amount of real estate taxes levied on the dwelling of the applicant for the taxable year.

(10) Taxable year. The current calendar year for which an exemption or deferral is claimed.

(11) Spouse. The husband or wife of any applicant who resides in the applicant's dwelling.

(12) Total combined income of applicant. The annual gross income from all sources, calculated as of December 31 of the calendar year immediately preceding the taxable year, of the applicant, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling; provided, that up to ~~$6,500~~ $8,500 of the income of any such relative shall be excluded and, provided further, that up to $7,500 of the income of any applicant, and any other owner residing in the dwelling, who is permanently disabled shall be excluded.

Sec. 3-2-162 Exemption or deferral--provided.

There is hereby provided to any natural person who is 65 years of age or older or who is permanently and totally disabled, or is both, at such person's election, an exemption from or deferral of taxation on the real estate in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. There is also hereby provided to any person who is less than 65 years of age and is not disabled, at the election of such person and his or her spouse, an exemption from or deferral of taxation on the real estate in the city which such person owns jointly with his or her spouse and which they occupy as their sole dwelling, provided the spouse is 65 years of age or older or is permanently and totally disabled. The real estate tax exemption or deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this ~~article~~ division and sections 58.1-3210 through 58.1-3218 of the Code of Virginia (1950), as amended.

Sec. 3-2-163 Same--eligibility, restrictions generally.

Exemptions from or deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

(1) The total combined income for the calendar year immediately preceding the taxable year of an applicant ~~for an exemption~~ may not exceed ~~$35,000. Such income of an applicant for a deferral may not exceed $62,000~~ the limits established by section 3-2-166.

(2) The net combined financial worth of an applicant may not exceed ~~$195,000~~ $240,000.

(3) As of January 1 of the taxable year, the applicant must occupy the real estate for which the exemption or deferral is sought as his or her sole residence and must be expected to so occupy the real estate throughout the year; provided, that an applicant who is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care shall be deemed to meet this condition so long as the real estate is not being used by or leased to another for consideration.

(4) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-165 no later than April ~~10~~ 15 of the taxable year.

(5) Interest on any taxes deferred under this article division shall accrue at the rate of five percent per annum from the date by which such taxes were required to be paid to the date on which such taxes are paid in full. Any and all deferred taxes shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.



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Sec. 3-2-164 Same--administration by city manager.

The exemption from or deferral of payment of real estate taxes for elderly or permanently and totally disabled persons shall be administered by the city manager according to the provisions of this ~~article~~ division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this ~~article~~ division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for exemption or deferral. The city manager may require the production of certified tax returns and appraisal reports to establish total combined income or net combined financial worth.

Sec. 3-2-165 Same--procedure for claim.

(a) For taxable year ~~2000~~ 2003, and every third taxable year thereafter, and not later than April ~~10~~ 15 of the taxable year, any applicant claiming an exemption or deferral of real estate taxes under this ~~article~~ division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:

(1) the name and age of the applicant;

(2) a statement whether the applicant is permanently and totally disabled;

(3) the address of the real estate for which the exemption or deferral is claimed;

(4) the names of the applicant's spouse and of the relatives of the applicant and any other owners of the real estate who reside in the applicant's dwelling;

(5) the total combined income of the applicant as defined in section 3-2-161(12);

(6) the net combined financial worth of the applicant as defined in section 3-2-161(6);

(7) the applicant's election of an exemption or deferral; ~~and~~

(8) the name and addresses of all owners of the real estate other than the owners who reside therein; and

(9) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.

(b) If, after audit and investigation, the city manager determines that the applicant is

eligible for an exemption or deferral, the manager shall so certify to the director, who shall deduct the amount of the exemption from the applicant's real estate tax liability or defer such tax liability as herein provided.

(c) Any provision of this ~~article~~ division to the contrary notwithstanding, the director may declare eligible to apply for an exemption or deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (f), after April ~~10~~ 15 but before ~~December~~ November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April ~~10~~ 15 of the taxable year.

(d) Any applicant under 65 years of age claiming an exemption or deferral on the basis of a permanent and total disability shall attach to the affidavit or written statement required by subsection (a), or the written certification required by subsection (f), a certification by the Social Security Administration or, if the person is not eligible for social security, an affidavit by two medical doctors licensed to practice medicine in the commonwealth to the effect that the person is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

(e) Any applicant initially claiming an exemption or deferral of real estate taxes under this ~~article~~ division, in a taxable year other than ~~those specifically referred to in subsection (a)~~ 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (f).

(f) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April ~~10~~ 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects either the applicant's eligibility for an exemption or deferral under this ~~article~~ division or the amount of the exemption or deferral. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-166 Same--calculation of amount; limitation.

(a) The exemption from or deferral of real estate taxes granted under this ~~article~~ division for any taxable year shall be limited and calculated as follows:

(1) when the total combined income of the applicant does not exceed ~~$12,800~~

$40,000, the applicant shall be exempt from the taxes owed for the year;

(2) when the total combined income of the applicant exceeds ~~$12,800~~ $40,000 but does not exceed ~~$25,600~~ $50,000, the applicant shall be exempt from 50 percent of the taxes owed for the year, ~~in an amount equal to the taxes on the average residential property, as defined in section 3-2-161(9) (but in no event greater than the taxes owed for the year)~~, and may defer all or part of the amount of such taxes in excess of the amount exempted; and

(3) when the total combined income of the applicant exceeds ~~$25,600~~ $50,000 but does not exceed ~~$30,000~~ $62,000, the applicant shall be exempt from 25 percent of the taxes owed for the year, ~~in an amount equal to 75 percent of the taxes on the average residential property, as defined in section 3-2-161(9) (but in no event greater than the taxes owed for the year)~~, and may defer all or part of the amount of such taxes in excess of the amount exempted~~; and~~

~~(4) when the total combined income of the applicant exceeds $30,000 $35,000 but does not exceed $35,000, the applicant shall be exempt from the taxes owed for the year, in an amount equal to 50 percent of the taxes on the average residential property, as defined in section 3-2-161(9) (but in no event greater than the taxes owed for the year), and may defer all or part of the amount of such taxes in excess of the amount exempted; and~~

~~(5) when the total combined income of the applicant exceeds $35,000 but does not exceed $62,000, the applicant may defer all or part of the taxes owed for the year~~.

(b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-165 is not owned solely by the applicant and his or her spouse, the amount of the tax exemption or deferral shall be ~~either~~ the amount of the taxes on the real estate for the taxable year times the percentage ownership interest in the real estate held by the applicant, or by the applicant and his or her spouse~~, or an amount equal to taxes on the average residential property, as defined in section 3-2-161(9), whichever is less~~.

Sec. 3-2-167 Change in status.

(a) Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this ~~article~~ division to be exceeded or violated shall nullify any exemption or deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated

exemption or deferral for the portion of the taxable year during which the applicant qualified for such exemption or deferral.

(b) The transfer of ownership of the property from a qualifying spouse to a spouse who is less than 65 years of age and not permanently and totally disabled, when such transfer results solely from the death of the qualifying spouse, shall result in a prorated exemption or deferral for the then current taxable year. Such prorated exemption or deferral shall be determined by multiplying the amount of the exemption or deferral granted the qualifying spouse by a fraction in which the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number 12 is the denominator.

Sec. 3-2-168 Penalty for violation of ~~article~~ division.

Any person wilfully making a false statement in claiming an exemption or deferral of real estate taxes under this ~~article~~ division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $500 for each offense.

Secs. 3-2-169 ~~through 3-2-180~~ 3-2-170 reserved.

[The following is all new language.]

**Division 2**
**Residential Real Estate Tax Deferral**

Sec. 3-2-171 Definitions.

The following words and phrases shall, for the purposes of this division, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Applicant. Any natural person who claims a deferral under section 3-2-173.

(2) Base amount of nondeferrable tax. The base amount of nondeferrable tax for each tax year shall equal the real estate tax levied on the dwelling in the first full tax year of ownership by the applicant after December 31, 2001, multiplied by 110 percent in each tax year until the taxable year.

(3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this division.

(4) Dependent. A person claimed as a dependent on the federal income tax return filed

by the applicant or the applicant's spouse, as of December 31 of the calendar year immediately preceding the taxable year.

(5) Dwelling. The building, or portion of a building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which a deferral of taxes is sought pursuant to this division.

(6) Spouse. The husband or wife of any applicant who resides in the applicant's dwelling.

(7) Taxes owed for the year. The amount of real estate taxes levied on the dwelling of the applicant for the taxable year.

(8) Taxable year. The current calendar tax year for which a deferral is claimed.

(9) Household income of applicant. The adjusted gross income, as shown on the federal income tax return as of December 31 of the calendar year immediately preceding the taxable year, of the applicant, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling.

Sec. 3-2-172 Deferral– provided.

There is hereby provided to any natural person, at such person's election, deferral of taxation on the real estate in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. The real estate tax deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this division and sections 58.1-3219 through 58.1-3219.3 of the Code of Virginia (1950), as amended.

Sec. 3-2-173 Same– eligibility, restrictions generally.

Deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

(1) The household income of the applicant shall not exceed $45,200 for a household of up to two persons, plus an additional $4,000 per dependent for each additional dependent of the applicant or of the applicant's spouse.

(2) As of January 1 of the taxable year, the applicant must occupy the real estate for which the deferral is sought as his or her sole residence and must be expected to so occupy the real estate throughout the year; provided, that an applicant who is residing

in a hospital, nursing home, convalescent home or other facility for physical or

mental care shall be deemed to meet this condition so long as the real estate is not being used by or leased to another for consideration.

(3) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-175 no later than April 15 of the taxable year.

(4) Interest on any taxes deferred under this article division shall accrue at the rate established pursuant to Section 6621 of the Internal Revenue Code. Any and all deferred taxes and interest shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.

(5) The deferral provided under this division shall not apply to real estate which participates in the real estate tax exemption or deferral program for the elderly or permanently and totally disabled provided under division 1 of this article.

(6) The deferral provided under this division shall not apply to any person who is delinquent on any portion of real estate taxes for which deferral is sought.

(7) The accumulated amount of taxes deferred pursuant to this division, together with interest thereon, shall be paid by the applicant upon sale or transfer of the dwelling, or from the estate of the decedent within one year after the death of the applicant; provided, however, that if the dwelling is owned jointly and all such owners applied for and qualified for the deferral provided under this division, the death of one of the joint owners shall not trigger the payment required pursuant to this subsection. Unpaid deferred taxes, together with interest thereon, shall be deemed delinquent 45 days after the payment date established by this subsection, and subject to collection as delinquent taxes.

Sec. 3-2-174 Same--administration by city manager.

The deferral of payment of real estate taxes provided herein for residential real estate shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for deferral. The city manager may require the production of tax returns to establish household income and the status of any person claimed as a dependent.

Sec. 3-2-175 Same--procedure for claim.

(a) For taxable year 2003, and every third taxable year thereafter, and not later than April 15 of the taxable year, any applicant claiming a deferral of real estate taxes under this division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:

(1) the name of the applicant;

(2) the address of the real estate for which the deferral is claimed;

(3) the names of all persons who reside in the applicant's dwelling;

(4) the names of all dependents of the applicant and of the applicant's spouse;

(5) the household income of the applicant as defined in section 3-2-171(12);

(6) the name and addresses of all owners of the real estate other than the owners who reside therein;

(7) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.

(b) If, after audit and investigation, the city manager determines that the applicant is eligible for a deferral, the manager shall so certify to the director, who shall defer the applicant's real estate tax liability as herein provided.

(c) Any provision of this division to the contrary notwithstanding, the director may declare eligible to apply for a deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (e), after April 15 but before November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April 15 of the taxable year.

(d) Any applicant initially claiming a deferral of real estate taxes under this division, in a taxable year other than 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (e).

(e) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects the applicant's eligibility for a

deferral under this division. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-176 Same--calculation of amount; limitation.

(a) The amount of real estate tax deferred under this division shall be limited and calculated by subtracting from the real estate tax for the taxable year the base amount of nondeferrable tax, as determined pursuant to section 3-2-171(2).

(b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-175 is not owned solely by the applicant and his or her spouse, the amount of the deferral shall be the amount calculated pursuant to subsection (a) times the percentage ownership interest in the real estate held by the applicant, or by the applicant and his or her spouse.

Sec. 3-2-177 Change in status.

(a) Changes in household income, ownership of property, dependent status or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this division to be exceeded or violated shall nullify any deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated deferral for the portion of the taxable year during which the applicant qualified for such deferral.

(b) Any real estate tax, attributable to an increase in the value of the dwelling greater than five percent over the value in the prior taxable year, which occurs by reason of

the renovation of, or addition or improvement to, the dwelling, shall be included in the base amount of nondeferrable tax in the subsequent taxable year.

Sec. 3-2-178 Penalty for violation of division.

Any person wilfully making a false statement in claiming a deferral of real estate taxes under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $500 for each offense.

Sec. 3-2-179 Sunset date.

No deferral of taxation on real estate tax pursuant to section 3-2-172 shall be permitted in any taxable year which commences after December 31, 2004.

## Division 3
## Small Business Real Estate Tax Deferral

Sec. 3-2-180.1 Definitions.

The following words and phrases shall, for the purposes of this division, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Applicant. Any natural person who, or legal entity which, claims a deferral under section 3-2-180.3.

(2) Base amount of nondeferrable tax. The base amount of nondeferrable tax for each tax year shall equal the real estate tax levied on the property in the first full tax year of ownership by the applicant after December 31, 2001, multiplied by 110 percent in each tax year until the taxable year.

(3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this division.

(4) Gross receipts. The gross receipts reported by the applicant to the city as of December 31 of the calendar year immediately preceding the taxable year, pursuant to chapter 1, title 9 of this code.

(5) Legal entity. A corporation, partnership or limited liability company.

(6) Property. (a) For an applicant who is a natural person, the building, or portion of a building, which is owned, at least in part, by the applicant, and which is used for the actual conduct of a trade, business or profession in which the applicant directly and materially participates as proprietor, officer, director, partner or principal, and which is a part of the real estate for which a deferral of taxes is sought pursuant to this division. (b) For an applicant which is a legal entity, the building, or portion of a building, which is owned, at least in part, by the applicant and which is used for the actual conduct of a trade, business or profession by the applicant, and which is a part of the real estate for which a deferral of taxes is sought pursuant to this division.

(7) Taxes owed for the year. The amount of real estate taxes levied on the property of the applicant for the taxable year.

(8) Taxable year. The current tax year for which a deferral is claimed.

Sec. 3-2-180.2 Deferral– provided.

There is hereby provided to any natural person or legal entity, at such person's or entity's election, deferral of taxation on the real estate in the city which is owned, in whole or in part, and is used by such person or entity as the situs of a trade, business or profession. The real estate tax deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this division and sections 58.1-3219 through 58.1-3219.3 of the Code of Virginia (1950), as amended.

Sec. 3-2-180.3 Same– eligibility, restrictions generally.

Deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

(1) The gross receipts of the trade, business or profession conducted at the property shall not exceed $100,000.

(2) As of January 1 of the taxable year, the applicant must conduct a trade, business or profession at the property as the applicant's sole place of business and must be expected to so occupy the property throughout the year. In the event the property from which the trade, business or profession is conducted is comprised of more than one tax map parcel, all such parcels shall be contiguous.

(3) The assessed value of all the real estate from which the trade, business or profession is conducted shall not exceed $499,900.

(4) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-180.5 no later than April 15 of the taxable year.

(5) Interest on any taxes deferred under this article division shall accrue at the rate established pursuant to Section 6621 of the Internal Revenue Code. Any and all deferred taxes and interest shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.

(6) The deferral provided under this division shall not apply to any person who, or legal entity which, is delinquent on any portion of real estate taxes for which deferral is sought.

(7) The deferral provided under this division shall not apply to real estate assessed on the basis of use value pursuant to division 2, article m, title 2 of this code.

(8) The accumulated amount of taxes deferred pursuant to this division, together with interest thereon, shall be paid by the applicant upon sale or transfer of the property,



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or from the estate of the decedent within one year after the death of an applicant who a natural person; provided, however, that if the property is owned jointly by natural persons and all such owners applied for and qualified for the deferral provided under this division, the death of one of the joint owners shall not trigger the payment required pursuant to this subsection. Notwithstanding the foregoing provisions, the annual amount of taxes deferred pursuant to this division, together with interest thereon, shall be paid by an applicant which is a legal entity within 10 years of deferral. Unpaid deferred taxes, together with interest thereon, shall be deemed delinquent 45 days after the payment date established by this subsection, and subject to collection as delinquent taxes.

Sec. 3-2-180.4 Same--administration by city manager.

The deferral of payment of real estate taxes provided herein for residential real estate shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for deferral. The city manager may require the production of business licenses and tax returns to establish eligibility.

Sec. 3-2-180.5 Same--procedure for claim.

(a) For taxable year 2003, and every third taxable year thereafter, and not later than April 15 of the taxable year, any applicant claiming a deferral of real estate taxes under this division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:

(1) the name and address of the applicant;

(2) the name and description of the trade, business or occupation conducted on the property;

(3) the applicant's relationship to the trade, business or profession conducted on the property;

(4) the gross receipts of the trade, business or profession conducted on the property;

(5) the address and tax map parcel number of all of the real estate from which the trade, business or profession is conducted;

(6) the name and addresses of all owners of the real estate;

(7) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.

(b) If, after audit and investigation, the city manager determines that the applicant is eligible for a deferral, the manager shall so certify to the director, who shall defer the applicant's real estate tax liability as herein provided.

(c) Any provision of this division to the contrary notwithstanding, the director may declare eligible to apply for a deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (e), after April 15 but before November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April 15 of the taxable year.

(d) Any applicant initially claiming a deferral of real estate taxes under this division, in a taxable year other than 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (e).

(e) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects the applicant's eligibility for a deferral under this division. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-180.6 Same--calculation of amount; limitation.

(a) The amount of real estate tax deferred under this division shall be limited and calculated by subtracting from the real estate tax for the taxable year the base amount of nondeferrable tax, as determined pursuant to section 3-2-180.1(2).

(b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-180.5 is not owned solely by the applicant, or if the applicant is a natural person by the applicant and his or her spouse, the amount of the deferral shall be the amount calculated pursuant to subsection (a) times the percentage ownership interest in the real estate held by the



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applicant, or if the applicant is a natural person by the applicant and his or her spouse.

Sec. 3-2-180.7 Change in status.

(a) Changes in gross receipts, assessed value, ownership of property or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this division to be exceeded or violated shall nullify any deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated deferral for the portion of the taxable year during which the applicant qualified for such deferral.

(b) Any real estate tax, attributable to an increase in the value of the property greater than five percent over the value in the prior taxable year, which occurs by reason of the renovation of, or addition or improvement to, the property, shall be included in the base amount of nondeferrable tax in the subsequent taxable year.

Sec. 3-2-180.8 Penalty for violation of division.

Any natural person or legal entity willfully making a false statement in claiming a deferral of real estate taxes under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $500 for each offense.

Sec. 3-2-180.9 Sunset date.

No deferral of taxation on real estate tax pursuant to section 3-2-180.2 shall be permitted in any taxable year which commences after December 31, 2004.

Section 2. That this ordinance shall become effective December 31, 2001, and shall apply to the exemption or deferral of real estate taxes levied in calendar year 2003, and subsequent years.

KERRY J. DONLEY
Mayor

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