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5-13-03

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

**Special Meeting -- REVISED DOCKET
Tuesday, April 29, 2003 - - 7:30 p.m.**

Present: Mayor Kerry J. Donley, Vice Mayor William C. Cleveland, Members of Council Claire M. Eberwein, William D. Euille, Redella S. Pepper, David G. Speck, and Joyce Woodson.

Absent: None.

Also Present: Mr. Sunderland, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mr. Jinks, Assistant City Manager; Public Information Officer Gordon; Mr. Baier, Director of Transportation and Environmental Services; Mr. Neckel, Director of Finance; Human Rights Administrator Niebauer; Ms. Boyd, Director of Citizen Assistance; Ms. Moore, Acting Deputy Director of Management and Budget and Staff Members; Ms. Fogarty, Director of Planning and Zoning; Mr. Howard, Director of Personnel Services; Ms. Whitmore, Director of Recreation, Parks and Cultural Activities; Mr. Cole, Director of Information Technology Services; Ms. Smith-Page, Director of Real Estate Assessments; Mr. Gee, Deputy Director of Real Estate Assessments; Ms. Steele, Interim Director of Human Services; City Engineer Baker; Mr. Culpepper, Deputy Director of Transportation and Environmental Services; Library Director O'Brien; Health Director Konigsberg; Ms. Davis, Director of Housing; Superintendent of Schools Perry; School Board Chair Eaton and Members of the School Board; Legislative Services Director Caton; Acting Fire Chief Gower; Ms. Federico, Director of Historic Alexandria; Code Enforcement Director Dahlberg; Police Chief Samarra; and Police Lieutenant Uzzell.

Recorded by: Mrs. Beverly I. Jett, City Clerk and Clerk of Council.

It was noted that there was a Work Session at 6:30 p.m. in the Council Workroom to go through the Final FY 2004 Add/Delete List. Assistant City Manager Jinks walked the Members of City Council through the add/delete list. Members of City Council made comments and Assistant City Manager Jinks and City Manager Sunderland participated in the discussion. The City Manager was requested to report back in June regarding the sole-source contract of the Campagna Center.

The Work Session was concluded at 7:10 p.m.

(A copy of Budget Memo #45: Final FY 2004 Add/Delete List dated April 24, 2003, is on file in the office of the City Clerk and Clerk of Council and incorporated herewith as part of the record by reference.)

OPENING

The Meeting was called to Order by Mayor Donley, and the City Clerk called the Roll; all Members of City Council were present.

(It was noted that a Notice of this Special Meeting had been previously served upon each Member of Council pursuant to a provision of the City Charter, a copy of the Notice certified by each Member of Council present being on file in the office of the City Clerk and Clerk of Council.)

2. Consideration of the Proposed Annual Operating Budget for FY 2004 (including Schools) and The Proposed Capital Improvements Program for FY 2004-2009 (including the School CIP). (#2 4/2/03; #8 3/11/03)

(Communications received on this item are on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 2; 4/29/03, and is incorporated herewith as part of this record by reference.

A copy of the Final 2003 Add/Delete list is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 2; 4/29/03, and is incorporated herewith as part of this record by reference.)

WHEREUPON, upon motion by Councilman Speck, seconded by Councilwoman Pepper and carried unanimously, City Council adopted the Manager's proposed Budget of expenditures levels of \$398,623,187, revenue levels of \$392,039,586, and the Manager's proposed Capital Improvement Program of \$327,740,715 with the following amendments: The first group of amendments are revenue adjustments. (1) Real Property Tax Revenues increase \$1,000,000; (2) Business License Tax Revenue increase \$800,000; (3) Sanitary Sewer Fees increase \$600,000; (4) Recordation Taxes increase \$400,000; (5) Use of Money and Property (i.e., the interest rate earnings on investments) decrease \$1,200,000; (6) Meals Sales Tax decrease \$300,000; (7) Senior and Disabled Tax Relief decrease \$200,000, (the effect of a decrease on the revenue is an increase in the program); (8) Real Property Net Tax Rate Reduction of 2.5 cents which is a decrease of \$4,880,000, this is in addition to the City Manager's proposed reduction of 3 cents; The next group of amendments are expenditure adjustments; (9) the WMATA Subsidy decrease \$600,000; (10) Reduction in Cash Capital for Sewers as a result of the increased Sanitary Sewer Fees decrease \$500,000; (11) the Alexandria City Public Schools' Appropriation decrease \$900,000 noting the increased State aid of \$670,000 (the net reduction to the Public School Appropriation is \$230,000); (12) Reduction in City and ACPS COLA funding to 2% decrease \$700,000; (13) Community Partnership Fund increase \$124,500; Day Care Home Providers Compensation increase \$200,000; (14) Meals on Wheels to go to the Department of Human Services increase \$20,000; (15) Street Trash Can Match Program increase \$10,000; (16) Burke Library for additional books increase \$15,500; (16) Traffic Calming for the Central Alexandria area, Janneys, Seminary, Quaker area, increase \$50,000; (17) Overall City Funding Reduction decrease \$1,500,000 (noting that the City Manager may account for this reduction through personnel, non-personnel, cash capital adjustments, or other accounts, and he will report back to the Council in June regarding these changes). Further, this motion includes the following designations in Contingent Reserves: (18) \$245,000 for the Campagna Center After-School program subject to further staff analysis of retention and recruitment issues related to compensation; (19) \$75,000 for consultants for the Planning Department to conduct further area plans as recommended by the City Manager. These designations are made understanding that further Council action is required prior to appropriation. Further, this motion includes: (20) Approval of a COLA of 2% for City employees, including the City Manager, City

Attorney and City Clerk; (21) Approval of merit-in-step increases for all eligible employees; (22) Approval of an increase of employer share of health care benefits; (23) Approval of an increase in funding for the City Supplemental Retirement Plan; (24) Approval of an increase in the employer share of life insurance benefits; (25) Incorporation of savings in replacement cycle for desktop computers; The proposed amendments result in an appropriation from Fund Balance in the amount of \$6,583,601 which was the Manager's recommendation. Further, I move adoption of the FY 2004 to FY 2009 Capital Improvement Program as proposed by the City Manager with the following changes: (26) Increase in cash capital for the Open Space Trust Fund: (a) in FY 2004 \$2,905,000 (which includes funds collected in prior years); (b) FY 2005 \$2,029,000; (c) FY 2006 \$2,110,000; (d) FY 2007 \$2,194,000; (e) FY 2008 \$2,283,000; (f) FY 2009 \$2,374,000; (27) Increase in cash capital for traffic calming in the Central Alexandria area, Janneys, Seminary, Quaker, of \$50,000 as noted previously; (28) transfer of \$200,000 from the proposed Open Space allocation for preliminary planning and design work for the Charles Houston and the Patrick Henry Recreation Centers. The elements of this motion are premised on a Real Property Tax rate of \$1.025 and Personal Property Tax rate of \$4.75, with \$.01 cent of the Real Property Tax rate being hereby assigned and appropriated for the cash capital contribution for Open Space acquisition and preservation. The net effect will be a tax rate of \$1.035, .045 cents lower than the current rate. The voting was as follows:

| | | | |
|--------|-------|-----------|-------|
| Speck | "aye" | Cleveland | "aye" |
| Pepper | "aye" | Eberwein | "aye" |
| Donley | "aye" | Euille | "aye" |
| | | Woodson | "aye" |

3. Second Reading and Final Passage of AN ORDINANCE to establish real estate and personal property tax rates for calendar year 2003, to establish the City of Alexandria Open Space Trust Fund Account, and to designate \$0.01 out of the real property tax rate to fund such Account. (#21(b) 4/22/03; #24 3/25/03) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated March 17, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 4/29/03, and is incorporated herewith as part of this record by reference.

Communications received on this item are on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 3; 4/29/03, and is incorporated herewith as part of this record by reference.)

With respect to the Open Space Trust Fund, Councilman Speck requested the City Manager to come back to Council with some additional recommendations on how we want to involve the community and begin to make some of the decisions on how this will actually be implemented.

Councilman Speck noted in the new language of the substitute is the creation of the Open Space Trust Fund Account, and the establishment of that account is to be within the Capital Projects Fund. It will be known as the City of Alexandria Open Space Trust Fund. The funding of that account results in funds assigned and appropriated from the revenue generated from the one penny per year of each fiscal year as noted previously. The expenditures from that account must be used according to very specific definitions which are noted in the ordinance. As used in this section, permanent open space public improvements means land acquired by the City in fee or by perpetual easement, and dedicated to outdoor recreational and park uses, whether active, passive or natural resource area, for use of the general public, together with accessory buildings and structures incidental and subordinate to the outdoor

recreational and park uses of such acquired land. Mr. Speck noted that so that there is an understanding that as these revenues are created, their purpose as assigned and appropriate is very specific and used clearly for open space preservation and for acquisition.

Councilman Speck singled out Judy Noritake, the chair of the Park and Recreation Commission, Eric Wagner, the chair of the Planning Commission, and Sandra Whitmore for the efforts that they have made, not just simply to support, but to really create the framework for making it logical for us to think about doing this. It never would have worked if all we did was simply float as a vacuum. One of the reason that it got the broad-based community support that it did, was because people understood that there was a coherent and thoughtful vision that would be reflected in the funds that were to be raised.

Because there were going to be some modifications to the tax rate from the previous reading of this ordinance, it was necessary to move a substitute first.

WHEREUPON, upon motion by Councilman Speck, seconded by Councilwoman Pepper and carried unanimously, City Council moved an amendment in the nature of a substitute. The voting was as follows:

| | | | |
|--------|-------|-----------|-------|
| Speck | "aye" | Cleveland | "aye" |
| Pepper | "aye" | Eberwein | "aye" |
| Donley | "aye" | Euille | "aye" |
| | | Woodson | "aye" |

THEREUPON, upon motion by Councilman Speck, seconded by Councilwoman Pepper and carried on a unanimous ROLL-CALL vote, City Council finally passed the substitute ordinance with the following changes: that the tax rate will be \$1.035, and those changes will be noted on both line 32 of page 1, and line 28 of page 2, simply to correct the previously filed tax rate. The voting was as follows:

| | | | |
|--------|-------|-----------|-------|
| Speck | "aye" | Cleveland | "aye" |
| Pepper | "aye" | Eberwein | "aye" |
| Donley | "aye" | Euille | "aye" |
| | | Woodson | "aye" |

The substitute ordinance finally passed reads as follows:

ORDINANCE NO. 4296

AN ORDINANCE to amend and reordain Section 3-2-181 (LEVIED; AMOUNT) of Division 1 (REAL ESTATE), and Section 3-2-221 (LEVIED ON TANGIBLE PERSONAL PROPERTY OTHER THAN MOBILE HOMES, AUTOMOBILES, TRUCKS, ANTIQUE MOTOR VEHICLES, TAXICABS, MOTOR VEHICLES WITH SPECIALLY DESIGNED EQUIPMENT FOR USE BY THE HANDICAPPED, MOTORCYCLES, CAMPERS AND OTHER RECREATIONAL VEHICLES, BOATS AND TRAILERS; AMOUNT), Section 3-2-222 (LEVIED ON MACHINERY AND TOOLS USED IN MINING OR MANUFACTURING BUSINESS; AMOUNT), Section 3-2-223 (LEVIED ON MOBILE HOMES; AMOUNT) and Section 3-2-224 (LEVIED ON AUTOMOBILES, TRUCKS, TRAILERS, SEMI-TRAILERS, ANTIQUE MOTOR VEHICLES, TAXICABS, MOTORCYCLES, CAMPERS AND OTHER RECREATIONAL VEHICLES, BOATS AND TRAILERS; AMOUNT) of Division 3 (TANGIBLE PERSONAL PROPERTY AND MACHINERY AND TOOLS), all of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code

of the City of Alexandria, Virginia, 1981, as amended, and to further amend the said Title 3 by adding to Chapter 1 (GENERAL PROVISIONS) thereof a new Section 3-1-2 (OPEN SPACE TRUST FUND ACCOUNT).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-181 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:

Sec. 3-2-181 Levied; amount.

There shall be levied and collected for the calendar year 2003 on all real estate located within the territorial boundaries of the city and subject to taxation for city purposes under the constitution and laws of this state and city, a tax of \$1.035 on each \$100 of the assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

Section 2. That Section 3-2-221 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:

Sec. 3-2-221 Levied on tangible personal property other than mobile homes, automobiles, trucks, antique motor vehicles, taxicabs, motor vehicles with specially designed equipment for use by the handicapped, motorcycles, campers and other recreational vehicles, boats and boat trailers; amount.

There shall be levied and collected for the calendar year 2003 on all tangible personal property, other than mobile homes, automobiles, trucks, antique motor vehicles, taxicabs, motor vehicles with specially designed equipment for use by the handicapped, motorcycles, campers and other recreational vehicles, boats and trailers, owned or held by residents or citizens of the city or located within the territorial boundaries of the city or otherwise having a situs within the city and subject to taxation for city purposes under the constitution and laws of this state and city, a tax of \$4.75 on every \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

Section 3. That Section 3-2-222 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:

Sec. 3-2-222 Levied on machinery and tools used in mining or manufacturing business; amount.

There shall be levied and collected for the calendar year 2003 on all machinery and tools used in a mining or manufacturing business taxable on capital and subject to taxation for city purposes under the constitution and laws of this state and city, a tax of \$4.50 on each \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

Section 4. That Section 3-2-223 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:

Sec. 3-2-223 Levied on mobile homes; amount.

There shall be levied and collected for the calendar year 2003 on all vehicles without motor power, used or designed to be used as mobile homes as defined in section 46.2-100 of the Code of Virginia, owned or held by residents or citizens of the city or located within the territorial boundaries of the city or otherwise having a situs within the city and subject to taxation for city purposes under the constitution and laws of this state and city, a tax of \$1.035 on each \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

Section 5. That Section 3-2-224 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:

Sec. 3-2-224 Levied on automobiles, trucks, trailers, semi-trailers, antique motor vehicles, taxicabs, motorcycles, campers and other recreational vehicles, boats and trailers; amount.

(a) Except as provided in subsections (b), (c) and (d), there shall be levied and collected for the calendar year 2003 on all automobiles, trucks, trailers, semi-trailers, antique motor vehicles (as defined in section 46.2-100 of the Code of Virginia, 1950, as amended, which may be used for general transportation purposes as provided in subsection C of section 46.2-730 of the Code of Virginia, 1950, as amended), taxicabs, motorcycles, campers and other recreational vehicles, boats and boat trailers owned or held by residents or citizens of the city or located within the territorial boundaries of the city or otherwise having a situs for taxation in the city, a tax of \$4.75 on every \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

(b) There shall be levied on and collected for the calendar year 2003 on all automobiles, trucks, trailers and semi-trailers with a gross vehicle weight of 10,000 pounds or more which are used to transport property for hire by a motor carrier engaged in interstate commerce, and are owned or held by residents or citizens of the city, are located within the territorial boundaries of the city or otherwise have a situs for taxation in the city, a tax of \$4.50 on every \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

(c) There shall be levied on and collected for the calendar year 2003 on all automobiles and trucks which are equipped with specially designed equipment for use by the handicapped and are owned or held by residents or citizens of the city, are located within the territorial boundaries of the city or otherwise have a situs for taxation in the city, a tax of \$3.55 on every \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

(d) There shall be levied on and collected for the calendar year 2003 on all privately owned pleasure boats and watercraft, which are used for recreational purposes only, and are owned or held by residents or citizens of the city, or are located

within the territorial boundaries of the city or otherwise have a situs for taxation in the city, a tax of \$.01 on every \$100 of assessed value thereof, for the support of the city government, for the payment of principal and interest of the city debt and for other municipal expenses and purposes.

Section 6. That Title 3, Chapter 1 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 3-1-2, to read as follows:

Section 3-1-2 Open Space Trust Fund Account.

(a) Establishment of account. There is hereby established for the City of Alexandria a permanent account within the Capital Projects Fund to be known and designated as The City of Alexandria Open Space Trust Fund Account, which Account shall be accounted for and maintained separate and apart from all other accounts maintained by the City of Alexandria.

(b) Funding of account. There is hereby assigned and appropriated to such Account, from January 1, 2003 until June 30, 2003, and for the fiscal year commencing July 1, 2003 and in each succeeding fiscal year, from the tax on real estate levied pursuant to section 3-2-181 of this code, in addition to all other appropriations made to such Account, if any, the sum of \$0.01 on each \$100 of the assessed value of all real estate subject to such tax.

(c) Expenditures from account. Notwithstanding any contrary provision of law, appropriations from the said Account shall be authorized and made exclusively to finance permanent open space public improvements included in the capital budget. Unexpended appropriations to such Account shall not lapse or expire at the end of the fiscal year in which made, irrespective of whether such appropriations were encumbered within such fiscal year.

(d) Open space public improvements defined. As used in this section, permanent open space public improvements means land acquired by the City in fee or by perpetual easement, and dedicated to outdoor recreational and park uses, whether active, passive or natural resource area, for the use of the general public, together with accessory buildings and structures incidental and subordinate to the outdoor recreational and park uses of such acquired land.

Section 7. That this ordinance shall become effective January 1, 2003.

KERRY J. DONLEY
Mayor

Introduction: 3/25/03
First Reading: 3/25/03
Publication: 3/27/03
Public Hearing: 4/22/03
Second Reading: 4/29/03
Final Passage: 4/29/03

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4. Second Reading and Final Passage of AN ORDINANCE to amend the provisions of Title 3, Chapter 2 of the City Code, relating to real estate tax relief, as amended on April 22, 2003. (#22 4/22/03; #22 4/8/03; #15 2/11/03) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated April 3, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 4/29/03, and is incorporated herewith as part of this record by reference.)

WHEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried on a unanimous ROLL-CALL vote, City Council finally passed the ordinance. The voting was as follows:

| | | | |
|--------|-------|-----------|-------|
| Euille | "aye" | Cleveland | "aye" |
| Pepper | "aye" | Eberwein | "aye" |
| Donley | "aye" | Speck | "aye" |
| | | Woodson | "aye" |

The Mayor and Members of Council made comments with respect to the FY 2004 budget and thanked the City Manager and staff for a job well done.

WHEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Eberwein and carried on a vote of 6-to-1, City Council moved to reconsider docket item no. 4. The voting was as follows:

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|----------|-------|-----------|-------|
| Euille | "aye" | Cleveland | "aye" |
| Eberwein | "aye" | Pepper | "aye" |
| Donley | "aye" | Speck | "aye" |
| | | Woodson | "no" |

THEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried on a ROLL-CALL vote of 6-to-1, City Council finally passed the ordinance, as amended, with the deletion of Division 2 as noted on Page 7 of the proposed ordinance. The voting was as follows:

| | | | |
|--------|-------|-----------|-------|
| Euille | "aye" | Cleveland | "aye" |
| Pepper | "aye" | Eberwein | "aye" |
| Donley | "aye" | Speck | "aye" |
| | | Woodson | "no" |

The ordinance finally passed, as amended, reads as follows:

ORDINANCE NO. 4297

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 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) Reserved.
- (3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this 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 division.
- (5) Exemption. An exemption from the obligation to pay real estate taxes granted pursuant to the provisions of this 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 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 \$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 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 may not exceed the limits established by section 3-2-166.
- (2) The net combined financial worth of an applicant may not exceed \$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 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.

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 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 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 2003, and every third taxable year thereafter, and not later than April 15 of the taxable year, any applicant claiming an exemption or 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 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;
 - (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 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 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 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 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 (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 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 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 division for any taxable year shall be limited and calculated as follows:
 - (1) when the total combined income of the applicant does not exceed \$40,000, the applicant shall be exempt from the taxes owed for the year;
 - (2) when the total combined income of the applicant exceeds \$40,000 but does not exceed \$50,000, the applicant shall be exempt from 50 percent of 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 \$50,000 but does not exceed \$62,000, the applicant shall be exempt from 25 percent of the taxes owed for the year, , and may defer all or part of the amount of such taxes in excess of the amount exempted
- (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 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.

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 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 division.

Any person wilfully making a false statement in claiming an exemption or 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.

**Division 2
Reserved**

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

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

Introduction: 02/11/03
First Reading: 02/11/03
Publication: 02/13/03; 04/10/03
Public Hearing: 04/10/03
Second Passage: 04/29/03
Final Passage: 04/29/03

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THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Pepper and carried unanimously, at 8:25 p.m., the Special Meeting of April 29, 2003, was adjourned. The voting was as follows:

| | | | |
|-----------|-------|----------|-------|
| Cleveland | "aye" | Eberwein | "aye" |
| Pepper | "aye" | Euille | "aye" |
| Donley | "aye" | Speck | "aye" |
| | | Woodson | "aye" |

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APPROVED BY:

KERRY J. DONLEY MAYOR

ATTEST:

Beverly I. Jett, CMC City Clerk