

BOARD OF SUPERVISORS
COUNTY OF RUSSELL
LEBANON, VIRGINIA

Ordinance

At a regular meeting of the Russell County Board of Supervisors held in the Russell County Government Center, Lebanon, Virginia on the 10th day of September, 2012:

<u>Present</u>	<u>Vote</u>
Jon Bowerbank, Chairman	Aye
Joseph Puckett, Vice Chairman	Absent
Bob Gibson	Aye
Ernest "Shy" Kennedy	Aye
Larry Rasnake	Aye
Danny L. Brown	Aye
Rebecca Dye	Aye

On motion of Mr. Gibson, seconded by Mr. Brown, which carried 6:0, the following ordinance was adopted:

AN ORDINANCE TO PROVIDE REAL PROPERTY TAX RELIEF TO
THE ELDERLY AND DISABLED

WHEREAS, pursuant to Virginia Code Section 58.1-3218, the General Assembly has deemed certain elderly and disabled persons to be bearing an extraordinary tax burden on the real estate in relation to their income and financial worth; and

WHEREAS, Virginia Code Section 58.1-3210 *et seq.* (1950), as amended, provides that the governing body of any county may, by ordinance, provide for the exemption from taxation of real estate owned by certain elderly and disabled persons;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of Russell County, Virginia, after notice and public hearing, as required by law, hereby adopts the following:

An ordinance providing for the exemption from taxation of real estate and manufactured homes for qualified property owners at least sixty-five (65) years of age or permanently disabled. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least sixty-five (65) years of age or anyone found to be permanently and totally disabled as defined in Article 3(B) of this Ordinance.

ARTICLE 1: DEFINITIONS

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Article:

- A. “*Affidavit*” shall mean the Real Estate Tax Exemption Affidavit.
- B. “*County Assessor*” shall mean the Russell County assessor or his or her duly authorized deputies or agents.
- C. “*County Board*” shall mean the Board of Supervisors of Russell County, Virginia, or any of its duly authorized deputies or agents.
- D. “*Commissioner*” shall mean the Commissioner of the Revenue of Russell County, Virginia.
- E. “*Dwelling*” shall mean the full-time residence of the person or person claiming exemption, including manufactured homes, including up to ten (10) acres of land upon which the dwelling is located.
- F. “*Exemption*” shall mean exemption from the Russell County Real Estate Tax according to the provisions of this Ordinance.
- G. “*Disabled*” shall mean 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 person’s life.
- H. “*Income*” shall mean total gross income from all sources, without regard to whether a tax return is actually filed. Income shall not include life insurance benefits or receipts from borrowing or other debt.
- I. “*Manufactured home*” shall mean a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.
- J. “*Property*” shall mean real property, including manufactured homes.
- K. “*Taxable year*” shall mean the calendar year, from January 1 until December 31, for which exemption is claimed.
- L. “*Treasurer*” shall mean the Treasurer of Russell County, Virginia.

ARTICLE 2: EXEMPTION AUTHORIZED – EFFECTIVE DATE

A Real Estate Tax Exemption is provided for qualified property owners who are sixty-five (65) years of age or older, or determined to be permanently and totally disabled, and who are eligible according to the terms of this Ordinance. A dwelling jointly held by a husband and wife may qualify if either spouse is sixty-five (65) or over or is permanently and totally disabled. A dwelling jointly held by two or more individuals not all of whom are at least age sixty-five (65) or permanently and totally disabled, provided that the dwelling is occupied as the sole dwelling by all such joint owners.

ARTICLE 3: CERTIFICATION FOR DISABLED PERSONS

If a disabled property owner is under sixty-five (65) years of age, the owner shall file, together with an Application for Real Estate Tax Exemption, a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such a person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such a person is permanently and totally disabled as defined in Article 3(B). However, a certification by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in Article 3(B). The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in Article 3(B).

For purposes of this Ordinance, a person is permanently and totally disabled if he is certified as required in Article 3(A) and is found by the Commissioner 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 person's life.

ARTICLE 4: ADMINISTRATION OF THE EXEMPTION

The exemption shall be administered by the Commissioner according to the provisions of this Ordinance. The Commissioner is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations in conformance with the provisions of this Ordinance, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption as specified by this Ordinance. The Commissioner of Revenue may require the production of certified tax returns and appraisal reports to establish income and/or financial worth.

ARTICLE 5: REQUIREMENTS FOR EXEMPTION

Exemptions shall be subject to the following restrictions and conditions:

- A. The person claiming the exemption must be sixty-five (65) years of age or over, or be permanently and totally disabled on December 31 of the year immediately preceding the taxable year.
- B. The real estate for which the exemption is claimed must be owned and occupied on January 1 of the taxable year, as his or her sole dwelling, by the person claiming the exemption. A dwelling jointly held by a husband and wife may qualify if either spouse is sixty-five (65) or over or is permanently and totally disabled.
- C. A dwelling jointly held by two or more individuals not all of whom are at least age sixty-five (65) or permanently and totally disabled, provided that the dwelling is occupied as the sole dwelling by all such joint owners. Such exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who are at least age sixty-five (65) or are permanently and totally disabled, and as a denominator, 100%. As a condition for such tax exemption, the joint owners shall be required to furnish to the Commissioner sufficient evidence of each joint owner's ownership interest in the dwelling. Nothing in this subsection (C) shall be interpreted or construed to provide for an exemption from tax for any dwelling jointly held by nonindividuals.
- D. The total combined income received from all sources during the preceding calendar year by (i) owners of the dwelling who use it as their principal residence, and (ii) owners' relatives who live in the dwelling, shall not exceed the greater of Thirty Thousand Dollars (\$30,000.00). Any amount up to \$10,000.00 of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by Article 5(E) shall be excluded in determining total combined income. Any form of public welfare assistance (other than medical care for the medically indigent) must be listed as income.
- E. The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding ten (10) acres, upon which it is situated shall not exceed Eighty Thousand Dollars (\$80,000.00). The value of furnishings, household appliances and other items typically used within a home, shall also be excluded from the net combined financial worth of such owner.
- F. If a person qualifies for the exemption under this Ordinance, and if the person can prove by clear and convincing evidence that the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for

physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the income of the relative or of the relative's spouse shall be counted towards the income limit, provided the owner of the residence has not transferred assets in excess of \$10,000.00 without adequate consideration within a three-year period prior to or after the relative moves into such residence.

ARTICLE 6: CLAIMING OF EXEMPTION

- A. Annually after January 1 and not later than April 1 of the taxable year, the person or persons claiming an exemption must file a Real Estate Tax Exemption Affidavit with the Commissioner of Revenue.
- B. The Affidavit shall set forth, in a manner prescribed by the Commissioner of Revenue, the names of all persons occupying the dwelling for which exemption is claimed, their gross combined income, and their total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in Article 5, and that such total combined net worth does not exceed the limits prescribed in this Ordinance.
- C. If a disabled property owner is under sixty-five (65) years of age, the owner shall file, together with an Application for Real Estate Tax Exemption, a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such a person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such a person is permanently and totally disabled as defined in Article 3(B). However, a certification pursuant to 42 U.S.C. § 423(d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in Article 3(B). The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in Article 3(B).
- D. The Commissioner of Revenue shall make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in Article 3(B) and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling, or as specified by ordinance.
- E. If, after audit and investigation, the Commissioner of Revenue determines that the person or persons are qualified for exemption, he shall so certify to the Treasurer,

who shall deduct the amount of the exemption from the claimant's real estate tax liability.

- F. The fact that persons who are otherwise qualified for tax exemption or deferral by this Ordinance are residing in hospitals, nursing homes, convalescent homes or other facilities of physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption or deferral is sought does not continue to be the sole dwelling of such person during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

ARTICLE 7: AMOUNT OF EXEMPTION

For qualified persons, the amount of exemption of the real estate tax shall be \$165.00 of the tax bill. The difference between the original tax and the figure arrived at will be due the County as the assessed property tax for that year. In no case will the tax excused exceed \$165.00.

ARTICLE 8: CHANGES IN STATUS

- A. Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the Affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided in this Ordinance shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following.
- B. A change in ownership to a spouse due to the death of the qualified individual will result in a prorated exemption for the then eligible year. Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption is the numerator and the number twelve (12) is the denominator.

ARTICLE 9: VIOLATIONS

Any person or persons falsely claiming an exemption shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$250.00 nor more than \$1,000.00 for each offense.

ARTICLE 10: NOTICE

The Treasurer of Russell County, Virginia shall enclose written notice, in each real estate tax bill, of the terms and conditions of this Ordinance. The Treasurer shall also employ any other reasonable means necessary to notify residents of Russell County about the terms and conditions of the real estate tax exemption program for elderly and disabled residents of Russell County.

ARTICLE 11: SEVERABILITY

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of such Ordinance shall not be affected thereby.

ARTICLE 12: PRE-EXISTING ORDINANCE

This Elderly and Disabled Real Estate Tax Exemption Ordinance shall supersede and take the place of all other previous Elderly and Disabled Real Estate Tax Exemption Ordinances as previously adopted.

ARTICLE 13: CERTIFIED COPIES FILED

A certified copy of this Ordinance and all amendments thereto shall be filed in the office of the County Administrator and in the office of the Clerk of the Circuit Court of Russell County.

ARTICLE 14: DATE OF EFFECT

This Ordinance shall apply retroactively from January 1, 2011.

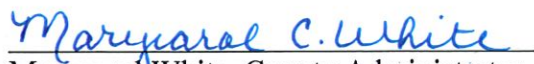
WHEREUPON, this Ordinance is hereby adopted by the recorded vote of members of the Russell County Board of Supervisors. And thereupon, the Chairman of said Board of Supervisors upon presentation to him of said Ordinance approved and signed the same.

ADOPTED this the 10th day of September, 2012.

**RUSSELL COUNTY BOARD
OF SUPERVISORS**

By: 
Jon Bowerbank, Chairman

ATTEST:


Marycarol White, County Administrator