Ordinance No. 2014 - xx____

AN ORDINANCE TO AMEND CHAPTER 58, SUBDIVISION II OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA, TO UPDATE FINANCIAL ELIGIBILITY CRITERIA FOR THE PARTIAL EXEMPTION FROM TAXATION OF QUALIFYING ELDERLY AND HANDICAPPED PERSONS

WHEREAS, section 58.1-3210 of the Code of Virginia (1950, as amended) allows the local governing body, by ordinance, to provide for exemption from taxation of real estate and manufactured homes in such amount as provided by the ordinance;

WHEREAS, the Washington County Code (2002, as amended) provides for such exemption, for which eligibility is determined based on specified financial criteria; and

WHEREAS, such financial criteria requires amendment from time to time to adjust for inflation, and the Commissioner of Revenue has recommended adjustment based on current economic conditions;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors of Washington County, Virginia, after notice and public hearing, as required by law, and finding it in the best interest of the public health, safety, and welfare, the Code of the County of Washington (2002) shall be amended as set forth below subject to the following terms and conditions:

1. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code.
2. That this ordinance shall become effective immediately upon its enactment.
3. Chapter 58, Subdivision II, is amended, as set forth below; underline and italic indicates language to be added; strikethrough indicates language to be deleted:

PART I – CODE OF COUNTY OF WASHINGTON, VIRGINIA
Chapter 58 - TAXATION
ARTICLE II. - AD VALOREM
DIVISION 3. - REAL PROPERTY

…Subdivision II.
Exemption from Taxation of Certain Elderly and Handicapped Persons

State Law reference— Authority of county to adopt exemption, Code of Virginia, § 58.1-3210.

Sec. 58-81. Exemption authorized.
Sec. 58-82. Administration of exemption.
Sec. 58-83. Requirements for exemption.
Sec. 58-84. Application for exemption.
Sec. 58-85. Amount of exemption.
Sec. 58-86. Forfeiture of exemption.
Sec. 58-87. False claims.
Secs. 58-88—58-105. Reserved.

Sec. 58-81. Exemption authorized.

(a) Real estate and manufactured homes, as defined in Code of Virginia, § 36-85.3, owned by and occupied as the sole dwelling by qualified property owners at least 65 years of age or by qualified property owners found to be "permanently or totally disabled," as that term is defined by Code of Virginia, § 58.1-3217, shall be exempt from taxation subject to the conditions and restrictions provided in this subdivision.

(b) Code of Virginia, § 58.1-3214, shall be applicable for determination of the sole dwelling of a person who is otherwise qualified for tax exemption.

(c) Notwithstanding any other provision of this subdivision, a real estate tax exemption in the minimum amount of $100.00 is provided for qualified property owners claiming exemption who are members of the Disabled American Veterans or who are eligible for membership in the Disabled American Veterans and who are permanently or totally disabled.

(d) For purposes of this subdivision, any reference to real estate shall include manufactured homes as defined in Code of Virginia, § 36-85.3.

(Code 1997, § 58-76; Ord. No. 2006-05, § 1, 3-28-2006)

Sec. 58-82. Administration of exemption.

(a) The exemption authorized in this subdivision shall be administered by the commissioner of the revenue according to the general provisions contained in this division. The commissioner of the revenue is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations in conformity with the general provisions of this subdivision, including the requirements of answers

under oath, as may be reasonably necessary to determine qualifications for exemption as specified by this subdivision. The commissioner of the revenue may require the production of certified tax returns and appraisal reports to establish income or financial worth.

(b) The treasurer shall provide notice of the exemption in accordance with Code of Virginia, § 58.1-3213.1.

(Code 1997, § 58-77)

State law reference— *Similar provisions, Code of Virginia, § 58.1-3213.*

Sec. 58-83. Requirements for exemption.

(a) Exemption under this subdivision shall be granted for real estate taxes on the qualifying dwelling and land, not exceeding one acre, subject to the following provisions:

(1) The title of the property for which exemption is claimed is held, or partially held, on January 1 of the taxable year by the person claiming exemption. *Nothing in this section shall be interpreted or construed to provide for an exemption from tax for any dwelling jointly held by non-individuals.*

(2) The person occupying the dwelling and owning title or partial title thereto is 65 years of age or older or is permanently and totally disabled on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person not less than 65 years of age or permanently and totally disabled *and of all joint owners, if any*. A dwelling jointly held by a husband and wife, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled.

(3) The person qualifying for and claiming exemption shall have income no greater than ~~$23,038.00~~ *the maximum income amount specified in the schedule of net worth, income, and amount of exemption set forth in this subdivision*. ~~The~~ *In the event of joint ownership, the* total combined gross income received from all sources during the preceding calendar year by owners of the dwelling who use it as their principal residence and owners' relatives and non-relatives who live in the dwelling shall not exceed the county's median adjusted gross income of its married residents as determined by the most recent median adjusted gross income of individual income tax returns of the married residents of the county for a taxable year as published by the Weldon Cooper Center for Public Service of the University of Virginia; provided that the first $4,322.00 of income of each individual who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption shall not be included in such total.

(4) *The applicant shall be eligible only if the net combined financial worth of the applicant; joint owners, if any; and of the spouse of the applicant, as of December 31 of the immediately preceding calendar year, excluding the value of the dwelling and the land not exceeding five acres upon which it is situated, and including equitable interests, does not exceed $100,000.00.* ~~The net combined financial worth, including equitable interests, as of December 31 of the preceding calendar year of the owners and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding five acres, upon which it is situated shall not exceed $100,000.00.~~

(5) For purposes of this division, "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.

(b) *Prorated tax exemption.*

(1) The provisions of this subsection that require prorating of the exemption shall not apply to dwellings jointly held by a husband and wife, with no other joint owners.

(2) The tax exemption shall be prorated as provided in this section if the dwelling is jointly owned by two or more individuals not all of whom are at least age 65 or permanently and totally disabled and the dwelling is occupied as the sole dwelling by all such joint owners. ~~The applicant shall be eligible only if the net combined financial worth of all such joint owners, including the present value of all equitable interests and computed without any exclusion for the dwelling or for any other asset as of December 31 of the immediately preceding calendar year, does not exceed $69,159.00.~~

(3) The tax 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 65 or permanently and totally disabled, and as a denominator, 100%. As a condition of eligibility for such tax exemption, the joint owners of the dwelling shall be required to furnish to the relevant local officer sufficient evidence of each joint owner's ownership interest in the dwelling.

~~(4) Nothing in this section shall be interpreted or construed to provide for an exemption from tax for any dwelling jointly held by non-individuals.~~

(c) *Change in circumstances.*

(1) In the event of changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed that have the effect of exceeding or violating the limitations and conditions provided herein, the exemption shall be prorated to apply only for the portion of the taxable year during which the taxpayer qualified for such exemption.

(2) In the event of a change in ownership to a spouse or a non-qualifying individual, when such change resulted solely from the death of the qualifying individual, or a sale of such property, the exemption shall be prorated to apply only for the portion of the taxable year during which the taxpayer qualified for such exemption. The proceeds of the sale which would result in the prorated exemption shall not be included in the computation of net worth or income as provided in subsection A. 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 12 is the denominator.

(3) An individual who does not qualify for the exemption under this article based upon the previous year's income limitations and financial worth limitations, may nonetheless qualify for the current year by filing an affidavit that clearly shows a substantial change of circumstances, that was not volitional on the part of the individual to become eligible for the exemption and that will result in income and financial worth levels that are within the limitations of the ordinance. The exemption shall be prorated from the date the affidavit is submitted.

(4) Any exemption affected by change in circumstances as presented in this subsection shall be conditioned upon the individual filing an affidavit no later than July 1 of the taxable year affected by change in circumstances showing that the actual income and financial worth levels were within the limitations set by this subdivision.

(Code 1997, § 58-78; Ord. No. 97-3, § 1(7-18), 6-10-1997; Ord. No. 2006-05, § 1, 3-28-2006; Ord. No. 2007-03, § 1, 2-13-2007; Ord. No. 2008-03, § 1, 2-12-2008; Ord. No. 2009-002, § 1, 4-14-2009; Ord. No. 2010-001, 1-26-2010)

State law reference— *Restrictions and exceptions authorized, Code of Virginia, § 58.1-3212.*

Sec. 58-84. Application for exemption.

(a) Annually, and not later than February 1 of the taxable year, the person or persons claiming an exemption must file a real estate tax exemption affidavit or written statement with the commissioner of the revenue setting forth in a manner prescribed by the commissioner of the revenue:

(1) The location, assessed value and tax on the real estate;

(2) The names of the related and non-relative persons occupying the real estate;

(3) The combined gross income from all sources of the persons specified in subsection 58-83(a)(3); and

(4) The total combined net worth of the persons specified in subsection 58-83(a)(4).

(b) If the person claiming exemption is under 65 years of age, such affidavit or written statement shall have attached thereto proof of permanent or total disability in the manner prescribed by Code of Virginia, § 58.1-3213(D).

(c) If after audit and investigation the commissioner of the revenue determines that the person or persons are qualified for exemption, he shall issue to the person a certificate that shall show the amount of the exemption from the claimant's real estate tax liability upon the qualifying dwelling and land, not exceeding one acre.

(d) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit or written statement is filed and having the effect of exceeding or violating the limitations and conditions provided in this subdivision shall nullify any exemption for the then current taxable year and the taxable year immediately following.

(e) The commissioner of revenue may require submittal of certified tax returns to establish the income and financial worth of any applicant for tax relief.

(Code 1997, § 58-79; Ord. No. 2009-002, § 1, 4-14-2009)

State law reference— *Similar provisions, Code of Virginia, § 58.1-3213.*

Sec. 58-85. Amount of exemption.

The person qualifying for and claiming exemption shall be relieved of that portion of the real estate tax levied on the qualifying dwelling and land, not exceeding five acres, in the amount calculated in accordance with the following schedule:

~~If income is:~~	~~and net worth is:~~	~~the percentage is:~~
~~$-0- to $9,774~~	~~$-0- to $33,000~~ ~~$33,001 to $66,000~~ ~~$66,001 to $100,000~~	~~80%~~ ~~64%~~ ~~56%~~
~~$9,775 to $14,502~~	~~$-0- to $33,000~~ ~~$33,001 to $66,000~~ ~~$66,001 to $100,000~~	~~60%~~ ~~48%~~ ~~42%~~
~~$14,503 to $19,387~~	~~$-0- to $33,000~~ ~~$33,001 to $66,000~~ ~~$66,001 to $100,000~~	~~40%~~ ~~32%~~ ~~28%~~
~~$19,388 to $24,273~~	~~$-0- to $33,000~~ ~~$33,001 to $66,000~~	~~20%~~ ~~16%~~

	~~$66,001 to $100,000~~	~~14%~~

If income is:	and net worth is:	the percentage is:
$-0- to $9,921	$-0- to $33,000 $33,001 to $66,000 $66,001 to $100,000	80% 64% 56%
$9,922 to $14,720	$-0- to $33,000 $33,001 to $66,000 $66,001 to $100,000	60% 48% 42%
$14,721 to $19,678	$-0- to $33,000 $33,001 to $66,000 $66,001 to $100,000	40% 32% 28%
$19,679 to $24,637	$-0- to $33,000 $33,001 to $66,000 $66,001 to $100,000	20% 16% 14%

(Code 1997, § 58-80; Ord. No. 97-3, § 1(7-20), 6-10-1997; Ord. No. 2006-05, § 1, 3-28-2006; Ord. No. 2007-03, § 1, 2-13-2007; Ord. No. 2008-03, § 1, 2-12-2008; Ord. No. 2009-002, § 1, 4-14-2009; Ord. No. 2010-001, 1-26-2010; Ord. No. 2011-014, § 3, 12-13-2011; Ord. No. 2012-003, § 3, 11-27-2012)

State law reference— *County may specify lower income levels, etc., Code of Virginia, § 58.1-1212.*

Sec. 58-86. Forfeiture of exemption.

Failure to pay the difference between the exemption and the full amount of taxes levied on the property for which the exemption is issued by the tax collection date of the

semi-annual tax period for which such exemption is issued shall constitute a forfeiture of the exemption *for the past-due period and subsequent semi-annual tax periods until all past-due taxes are paid in full*.

(Code 1997, § 58-81; Ord. No. 2009-001, § 3, 2-10-2009)

Sec. 58-87. False claims.

The false claiming of the exemption authorized in this subdivision shall constitute a class 2 misdemeanor, punishable as provided in section 1-15.

(Code 1997, § 58-82)

State law reference— *Similar provisions, Code of Virginia, § 58.1-3916.1.*

Secs. 58-88—58-105. Reserved.