Chapter 201

ELDERLY OR DISABLED PERSONS EXEMPTION

[HISTORY: Adopted by the Board of Supervisors of Amelia County 1-17-2007. Amendments noted where applicable.]

§ 201-1. Statutory provisions.

Pursuant to Title 58.1, Chapter 32, Article 2 (§ 58.1-3210 et seq.) of the Code of Virginia, as amended from time to time (the "enabling legislation"), the Board of Supervisors of Amelia County, Virginia, hereby adopts this chapter which provides for the exemption from real estate taxation of certain elderly and/or permanently and totally disabled persons who own their own homes in Amelia County, and further provides a schedule of exemption to persons qualifying and the procedures to be followed for claiming such exemptions.

§ 201-2. Qualifications for exemption.

Persons who qualify for this exemption are deemed to bear an extraordinary real estate tax burden in relation to their income and financial worth.

A. Persons ("qualified owners") who are 65 years of age or older, or who are determined to be permanently and totally disabled, and who own and occupy, as the sole dwelling of the person, a dwelling and the land not exceeding one acre, or a manufactured home, as defined in Code of Virginia, § 36-85.3, on land not exceeding one acre, and which they occupy as their sole dwelling subject to the limitations of this chapter, shall be entitled to have their real estate or manufactured home to be exempt from real estate tax liability. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

B. For purposes of this chapter, the term "permanently and totally disabled" shall mean that the qualifying property owner is 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 that person's life.

C. If such person is under 65 years of age, such person shall provide certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or, if such person is not eligible for certification by and 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 the person is permanently and totally disabled. However, a certification pursuant to 42 U.S.C. § 423(d) by the Social Security Administration shall be deemed to satisfy such definition for as long as the person remains eligible for such social security benefits. 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.

D. A dwelling jointly held by a husband and wife may qualify if either spouse is 65 years of age or older, or is permanently and totally disabled.

§ 201-3. Authorization to administer exemption.

The exemption shall be administered by the Commissioner of the Revenue according to the general provisions contained in this chapter and the requirements of the enabling legislation. The Commissioner is hereby authorized and empowered by prescribe, adopt, and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption.

§ 201-4. Provisions for granting exemption.

Exemption shall be granted to persons subject to the following provisions:

A. The title to the property for which exemption is claimed is held, or partially held, on December 31 immediately preceding the taxable year, by the person or persons claiming exemption.

B. The head of the household occupying the dwelling and owning title or partial title thereto is 65 years of age or older on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons claiming exemption.

C. The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the Commissioner to be an amount not to exceed $30,000. The computation of gross combined income shall be based on adding together the income received during the preceding calendar year, without regard to whether a tax return is actually filed, by owners of the dwelling who use it as their principal residence, the owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide care-giving services to the owner, whether such relatives are compensated or not, and nonrelatives of the owner who live in the dwelling, except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not. For purposes of this chapter, the first $6,500 of annual income of each of the owner's relatives living in the owner's dwelling shall be excluded in computing gross combined income. "Owner" as used herein shall be construed as "owners." Also, for purpose of this chapter, the first $7,500 of income received by an owner as compensation for permanent disability shall be excluded in computing gross combined income. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

D. The net combined financial worth of the owner as of December 31 of the year immediately preceding the taxable year shall be determined by the Commissioner to be an amount not to exceed $100,000. Net combined financial worth shall include the value of all assets, including equitable interest, of the owner and the spouse of any owner, excluding the fair market value of the dwelling and the land, not exceeding one acre, upon which the owner's dwelling is situated and for which exemption is claimed.

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

F. The exemption shall be allowed for any year following the date that the qualified owner occupying the dwelling and owning title to the property reaches the age of 65 years, or for any year following the date the disability occurred.

G. 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 chapter for the exemption from taxation shall nullify any exemption or deferral for the then current taxable year and the taxable year immediately following.

H. A certification is required by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board, or, if the person is not eligible for certification by any of those agencies, the sworn affidavit of two medical doctors licensed to practice in this commonwealth to the effect that the person is permanently and totally disabled. If the doctor's affidavit is used, the affidavit of at least one of the doctors shall be based upon a physical examination by the 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 this chapter.

I. If there is a change of ownership of the property from a qualified owner to a spouse who is less than 65 years of age or is not permanently and totally disabled, and when that change of ownership has resulted solely from the death of his or her qualified spouse, the change shall result in a prorated exemption for the then current taxable year. The prorated exemption shall be determined by multiplying the amount of the exemption by a fraction whose numerator is the number of complete months of the year that such property was eligible for the exemption, and whose denominator is the number 12.

J. The Commissioner of the Revenue is designated to administer this exemption. Persons who claim this exemption shall annually report the following information on forms provided by the Commissioner of the Revenue:

(1) The name of the qualified owner.

(2) The spouse of the qualified owner who resides at the dwelling for which the exemption is claimed.

(3) The names of the related persons occupying the dwelling for which the exemption is claimed.

(4) The total combined net worth, including equitable interests, of the persons specified in Subsection J(1), (2), and (3) of this section.

(5) The combined income from all sources of the persons specified in Subsection J(1), (2), and (3) of this section.

(6) The applicant shall provide the required certification or affidavits to be used in

the determination of the applicant's status as being permanently and totally disabled.

(7) The applicant shall provide some reliable proof of age if the exemption claim is based upon the owner being not less than 65 years of age.

(8) The applicant for the exemption shall be required to produce a copy of the most recent federal income tax returns necessary to establish the incomes. A detailed financial statement may be required to establish financial worth.

§ 201-5. Filing of exemption affidavit; determination of qualified persons.

A. Annually, after January 1 and by May 1 of the tax year, the person or persons claiming an exemption must file a real estate tax exemption affidavit with the Commissioner. Such affidavit shall set forth, in a manner prescribed by the Commissioner, the location, assessed value of the property, and the names of the related persons occupying the dwelling for which exemption is claimed, their gross combined income, and their net combined financial worth.

B. If the Commissioner of the Revenue determines that the person or persons are qualified for exemption, the Commissioner shall so certify the same and shall determine the percentage of exemption allowable and issue non-negotiable exemption certificates in the amount of the exemption determined to be applicable to the claimant's real estate liability. Such exemption certificate shall apply only to the tax year for which issued. The person or persons to whom an exemption certificate has been issued shall, on or before the past due date established for the payment of such real estate tax, present such exemption certificate to the Treasurer's office, together with payment of the difference between such exemption and the full amount of the tax payment then due on the property for which the exemption was issued. Any exemption certificate not presented in settlement of such taxes on or before the date specified for payment shall be null and void and unusable thereafter, and the Commissioner of the Revenue may not reissue a certificate for such tax year.

§ 201-6. Schedule of exemptions.

Where the person or persons claiming exemption conform to the standards and do not exceed the limitations contained in this section, the tax exemption shall be as shown on the following schedule:

Total Income, All Sources	Tax Exemption
$0 to $15,000	75%
$15,001 to $30,000	50%