

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-23-17**

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 15<sup>th</sup> day of November, 2017:

Present:	Vote:
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye
W.R. Davis, Jr.	Aye

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Motion was made by Mr. Tiller, which carried 5:0, to adopt the following resolution:

**ORDINANCE AMENDING CHAPTER 66 OF THE NEW KENT  
COUNTY CODE (TAXATION) TO INCLUDE EXEMPTIONS  
FOR SURVIVING SPOUSES OF CERTAIN PERSONS KILLED  
IN THE LINE OF DUTY**

**WHEREAS**, at the 2014 Session of the Virginia General Assembly House Bill 46 was enacted directing a proposed amendment to Article X, Section 6-A of the Virginia Constitution mandating exemption from local real property taxes of certain real property occupied by spouses of members of the United States Armed Forces who were killed in action, beginning January 1, 2015 subject to a referendum held on November 4, 2014; and

**WHEREAS**, at the 2017 Session of the Virginia General Assembly House Bill 1884 was enacted to provide a local option for exemption from local real property taxes of certain real property occupied by spouses of certain first responders killed in the line of duty; and

**WHEREAS**, it is necessary to amend Chapter 66 of the New Kent County Code to implement such provisions; and

**WHEREAS**, the New Kent County Board of Supervisors desires to express its gratitude for the sacrifices of military veterans and first responders and acknowledges that the removal of the burden of paying real estate taxes can never replace the loss felt by a surviving spouses; and

**NOW THEREFORE BE IT ORDAINED AND ENACTED**, by the New Kent County Board of Supervisors pursuant to the authority granted in the Code of Virginia, that Chapter 66 of the New Kent County Code be amended as follows:

**DIVISION 2. - EXEMPTIONS AND DEFERRALS FOR ELDERLY, ~~AND~~ DISABLED<sup>[3]</sup>, AND SURVIVING SPOUSES OF CERTAIN PERSONS KILLED IN THE LINE OF DUTY**

Footnotes:

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**State Law reference**— Exemptions and deferrals for elderly and disabled, Code of Virginia, § 58.1-3210 et seq.

Subdivision I. - In General

Sec. 66-61. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Affidavit* means the tax exemption affidavit provided for in this division.

*Commissioner of the revenue* means the commissioner of the revenue of the county or his duly authorized deputies or agents.

*Dwelling* means the building or manufactured home owned or partially owned by and occupied as the sole residence of the person claiming exemption under this division, including up to one acre of the land on which it is situated.

*Manufactured home* means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 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.

*Permanently and totally disabled* means 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.

*Taxable year* means the calendar year from January 1 through December 31 for which exemption is claimed under this division.

(Code 1999, § 14-33)

**Cross reference**— Definitions generally, § 1-2.

**State Law reference**— Similar provisions, Code of Virginia, § 36-85.3.

Secs. 66-62—66-80. - Reserved.

Subdivision II. - Exemptions **For Elderly, Disabled and Surviving Spouses Of Certain Persons Killed In The Line Of Duty**

Sec. 66-81. - Intent of division.

The intent of this subdivision is to provide for the exemption from taxation of real estate owned by and occupied as the sole dwelling of a person not less than 65 years of age or a person determined to be permanently and totally disabled, subject to the restrictions and conditions contained in this subdivision and as authorized by Code of Virginia, § 58.1-3210 et seq.

(Code 1999, § 14-32)

Sec. 66-82. - Authorized; maximum amount.

Persons who are at least 65 years of age or who are permanently and totally disabled and deemed to be bearing an extraordinary tax burden in relation to their income and financial worth may qualify for an exemption. Where the person or persons claiming exemption meets the criteria set forth in subsections (1) and (2) of this section, the tax exemption shall be follows:

Income	Exemption
\$0.00—\$15,000.00	\$800.00
15,000.01—25,000.00	650.00
25,000.01—35,000.00	500.00
35,000.01—50,000.00	350.00

- (1) *Total income:* The total combined gross income received from all sources during the preceding calendar year by (1) the owners of the dwelling unit who use it as their principal residence is not greater than \$35,000.00, and (2) 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 \$50,000.00, or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z). The following exclusions from income apply: (1) an amount of \$10,000.00 of income from all relatives living in the dwelling who are not the spouse of an owner; (2) an amount of \$10,000.00 of income for an owner who is permanently disabled; and (3) all of the income of a person who qualifies as a caretaker of the owner as set forth in Code of Virginia § 58.1-3211.1(b). Income from all non-spouse relatives living in the household must qualify as set forth in Code of Virginia § 58.1-3211.1(a).
- (2) *Financial worth:* 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 any spouse of any owner, excluding the value of the dwelling and the land immediately surrounding the dwelling, not exceeding ten acres, upon which it is situated, shall not exceed \$150,000.00. For the purposes of this section, the term "dwelling" shall include mobile homes. The term "mobile homes" is deemed to be synonymous with "manufactured home" as that term is defined in Code of Virginia § 55-248.41. The value of furnishings, such as furniture, household appliances and other items typically used in a home shall also be excluded from the net combined financial worth of such owner.

(Code 1999, § 14-34; Ord. No. O-3-99, 5-10-1999; Ord. No. O-07-05, 4-11-2005; Ord. No. O-11-07, 4-23-2007; Ord. No. O-02-08, 4-14-2008; Ord. No. O-14-11, 11-9-2011; Ord. No. O-14-14, 12-8-2014)

Sec. 66-83. - Administration; rules and regulations of commissioner of the revenue.

The exemption provided for in this subdivision shall be administered by the commissioner of the revenue. The commissioner of the revenue is authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations as may be reasonable and necessary to determine qualifications for exemption in conformance with the provisions of this subdivision. The commissioner of the revenue shall require the production of certified tax returns to establish the income and financial worth of any applicant for exemption or shall require an affidavit that no such returns are required to be filed by state or federal law, and shall also make such further inquiry as may be reasonably necessary to determine qualification for such exemption.

(Code 1999, § 14-35; Ord. No. O-07-05, 4-11-2005)

**Cross reference**— Administration, ch. 2.

Sec. 66-84. - General prerequisites to grant.

An exemption shall be granted to eligible persons, subject to the following requirements:

- (1) A dwelling jointly held by a husband and wife may qualify if either spouse is 65 years of age or over or is permanently and totally disabled.
- (2) The dwelling is occupied as the sole residence of the persons claiming exemption. For the purposes of this requirement, the temporary residence in a hospital, nursing home, convalescent home or other facility for medical or mental care, shall not be construed to mean that the real estate for which tax exemption is sought has ceased to be the sole dwelling of such persons during such extended periods of other residence, unless such real estate is used by or leased to others for consideration.
- (3) The eligible person occupying such dwelling and owning title thereto is not less than 65 years of age on December 31 of the calendar year immediately preceding the taxable year or is determined to be totally and permanently disabled not later than December 31 of the calendar year immediately preceding the taxable year.
- (4) The net combined financial worth and income fall within the criteria set forth in section 66-82 of this Code.

(Code 1999, § 14-36; Ord. No. O-07-05, 4-11-2005)

Sec. 66-85. - Claimant's affidavit and certificate of disability; commissioner of the revenue's certification to treasurer.

- (a) The persons claiming exemption shall file annually, with the commissioner of the revenue, a tax exemption affidavit. Such affidavit shall be filed after January 1 and not later than May 1 of each year, except that the commissioner of the revenue may accept the first such affidavit on or before May 31 or the first day thereafter which is not a Saturday, Sunday or legal holiday, and may accept within such time the affidavit for any year filed by a person who he finds was prevented by genuine hardship from making such filing on or before May 1 of that year. In any year in which the eligibility requirements contained in section 66-82 are amended, such affidavit shall be filed not later than July 1 of that year. In lieu of the annual filing of such an affidavit, the person having filed an initial affidavit shall only be required to refile such an affidavit every three years, if during each of the two intervening years the taxpayer files a certification on a form provided by the county certifying that no information contained on the last preceding affidavit has changed to violate the limitations and conditions set out in this subdivision.
- (b) If such person is under 65 years of age, such affidavit shall have attached thereto a 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 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 the person is permanently and totally disabled, as defined in section 66-61; however, a certification pursuant to 42 USC 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 section 66-61. 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 section 66-61.

(Code 1999, § 14-37; Ord. No. O-11-07, 4-23-2007)

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

Sec. 66-86. - Change in circumstances.

- (a) Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided in this division shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following. Such exemption shall only be reinstated upon reunification's inaccuracies with the limitations and conditions set forth in this chapter.
- (b) A change in ownership to a spouse, when such change resulted solely from the death of the qualifying individual, or a sale of such property shall result in a prorated exemption or deferral for the then current taxable year. The proceeds of the sale which would result in the prorated exemption or deferral shall not be included in the computation of net worth or income as provided in subsection (a) of this section. Such prorated portion shall

be determined by multiplying the amount of the exemption or deferral by a fraction wherein 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

(Code 1999, § 14-38; Ord. No. O-26-02, 10-8-2002)

**State Law reference**— Similar provisions, Code of Virginia, § 58.1-3215.

Sec. 66-87. - False claims.

Any person who falsely claims an exemption or violates any provision of this subdivision to collect amounts exempted falsely, shall be guilty of a class 1 misdemeanor.

(Code 1999, § 14-39)

~~Secs. 66-88—66-110.—Reserved.~~

**Sec. 66-88. - Exemption for surviving spouse of covered persons killed in the line of duty.**

- (a) Pursuant to § 58.1- 3219.13 et seq., of the Code of Virginia, for tax years beginning on or after January 1, 2017, the County hereby exempts from taxation the dwelling and up to one acre of land upon which the dwelling is situated, of the surviving spouse of any covered person who occupies the real property as his or her principal place of residence. Eligibility for the exemption and any applicable refunds on taxes shall begin on such dates and conform to the procedures as prescribed in Virginia Code § 58.1-3219.13 through § 58.1-3219.16. The County shall not be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouses filing of the affidavit or written statement required by Virginia Code § 58.1-3219.15.**
- (b) The exemption described in subsection A shall apply only to so much of the value of the dwelling in question that is not in excess of the average assessed value in the County for single-family dwellings. Other types of dwellings, including without limitation manufactured homes or condominiums meeting the requirements of Virginia Code § 58.1-3219.14 (B) shall also qualify for the exemption in the same manner as a single-family home.**
- (c) "Covered person" means any person set forth in the definition of "deceased person" in § 9.1-400 whose beneficiary, as defined in § 9.1-400 is entitled to receive benefits under § 9.1-402, as determined by the Comptroller prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.**
- (d) All definitions, eligibility requirements, and procedures set forth in § 58.1-3219.13 et seq., of the Code of Virginia, shall apply in interpreting and administering this ordinance**

**66-89. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action.**

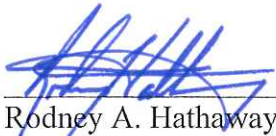
- (a) Pursuant to §58.1-3219.9 et seq. of the Code of Virginia, the County hereby exempts from taxation for tax years beginning on or after January 1, 2015, the real property described in subsection B of the surviving spouse (i) of any member of the armed forces of the United States who was killed in action as determined by the U.S. Department of Defense and (ii) who occupies the real property as his principal place of residence. For purposes of this section, such determination of “killed in action” includes a determination by the U.S. Department of Defense of “died of wounds received in action.” If such member of the armed forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the armed forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the armed forces is killed in action. The County shall not be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse’s filing of the affidavit or written statement required by § 58.1-3219.10 of the Virginia Code. If the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.**
- B. The exemption described in subsection A shall apply only to so much of the value of the dwelling in question that is not in excess of the average assessed value in the County for single-family dwellings. Other types of dwellings, including without limitation manufactured homes or condominiums meeting the requirements of Virginia Code § 58.1-3219.9 (B) shall also qualify for the exemption in the same manner as a single-family home.**
- C. The surviving spouse of a member of the armed forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption applies without any restriction on the spouse’s moving to a different principal place of residence.**
- D. For purposes of this exemption, real property of any surviving spouse of a member of the armed forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.**
- E. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has 1 as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.**
- F. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the**

exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D, then the 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 the surviving spouse, and as a denominator, 100 percent.

G. All definitions, eligibility requirements, and procedures set forth in § 58.1- 3219.9 et seq., of the Code of Virginia, shall apply in interpreting and administering this ordinance.

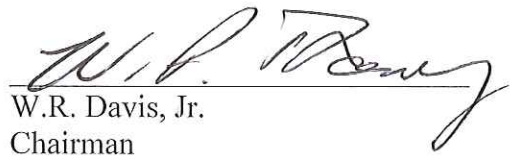
Secs. 66-90—66-110. - Reserved.

This Ordinance shall take effect on November 15, 2017.



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Rodney A. Hathaway  
County Administrator



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W.R. Davis, Jr.  
Chairman