

TOWN OF PORTSMOUTH, RI

**TAX DEFERRAL FOR CERTAIN PERSONS AGE SIXTY-FIVE (65) AND OVER AND
FOR PERSONS WITH A DISABILITY**

Ordinance # 2006-10-10

Be it **ORDAINED** by the Town Council of the Town of Portsmouth, Rhode Island, that there shall be a tax deferral program established in the Town of Portsmouth, as follows:

SECTION 1.

(a) Definitions:

(1) "Qualified senior" for the purpose of this ordinance means any person who shall satisfy the criteria in subsection (i) (A) or (B) or (C); and all of the criteria of subsections (ii) through (x) inclusive:

- (i) (A) who is age sixty-five (65) or more if single or widowed;
- (B) who, if married, at least one taxpayer who has attained age sixty five (65) as long as the taxpayer's spouse is at least fifty (50) years of age;
- (C) who, if widowed, over age fifty (50) whose spouse was at least age sixty-five (65) prior to death and either spouse was a participant under this ordinance prior to death;
- (ii) whose home is a single family home (condominium ownership not eligible);
- (iii) whose Portsmouth home is the taxpayer's principal residence and that of the spouse (if living);
- (iv) who is a resident of the State of Rhode Island for income tax purposes, as is the spouse (if living);
- (v) who is not a registered voter of any other city, town or political subdivision of Rhode Island or any other state, nor is the spouse (if living);
- (vi) who has resided in the principal residence for the past seven (7) years, as has the spouse (if living);
- (vii) whose real estate tax previously billed is "not delinquent by more than four (4) quarters;
- (viii) who would otherwise qualify but has been forced to relocate residence through no fault of the taxpayer (e.g., in cases of fire, natural disaster or taking of property by eminent domain by a state or local government);

- (ix) whose real estate tax bill is more than ten percent (10%) of the total income of the taxpayer, or if living, of both spouses. "Total income" means the total of adjusted gross income per U.S. individual income tax return, Form 1040, 1040-A (or the like) plus non-taxable income such as non-taxed social security benefits, welfare benefits, child support receipts, municipal bond interest receipts and other non-taxable items of income;
- (x) who completes the application process and who attests that the individual meets, or, if living, both spouses meet all of the qualifications as outlined above.
- (2) "Person with a disability" for the purpose of this ordinance means a person with a disability as defined in Rhode Island General Laws subsection 42-87-1 (7) (i) and who shall satisfy all of the criteria of subsections (i) through (ix) inclusive:
 - (i) whose home is a single family home (condominium ownership not eligible);
 - (ii) whose Portsmouth home is the taxpayer's principal residence and that of the spouse (if living);
 - (iii) who is a resident of the State of Rhode Island for income tax purposes, as is the spouse (if living);
 - (iv) who is not a registered voter of any other city, town or political subdivision of Rhode Island or any other state, nor is the spouse (if living);
 - (v) who has resided in the principal residence for the past seven (7) years, as has the spouse (if living);
 - (vi) whose real estate tax previously billed is not delinquent by more than four (4) quarters;
 - (vii) who would otherwise qualify but has been forced to relocate through no fault of the taxpayer (e.g., in cases of fire, natural disaster or taking of property by eminent domain by a state or local government);
 - (viii) whose real estate tax bill is more than ten percent (10%) of the total income of the taxpayer, or, if living, of both spouses. "Total income" means the total of adjusted gross income per U.S. individual income tax return, Form 1040, 1040-A (or the like) plus non-taxable income such as non-taxed social security benefits, welfare benefits, child support receipts, municipal bond interest receipts and other non-taxable items of income;
 - (ix) who completes the application process and who attests that the individual meets, or, if living, both spouses meet all of the qualifications outlined above.
- (3) "Deferred Amount" for the purposes of this ordinance means the amount of tax that would otherwise be due and payable if the applicant did not qualify under this program.

- (4) "Disqualifying Event" for the purpose of this ordinance means to include any and all of the following:
- (i) Sale of the property;
 - (ii) Transfer of the property to a family member without life tenancy;
 - (iii) The point in time when the property ceases to be the taxpayer's principal residence;
 - (iv) Written request by the applicant to be removed from the program;
 - (v) Any property whose square footage living space is increased since acceptance under this ordinance.
- (b) (1) Upon proper application, approved by the administrator or his/her designee, the deferred amount will be deferred, with interest to be set by the Portsmouth town council, until the occurrence of a disqualifying event.
- (2) A deferral under this ordinance shall not be disallowed if the owner applicant has only a life estate in the property or if the property is in the name of a parent or one or more children or in a trust for the benefit of the otherwise qualified resident and the owners submit an affidavit that the qualified resident is the principal owner or present beneficiary and title is held in that manner for estate planning purposes only.
- (3) A deferral is not allowed for any improvement for outbuildings such as garages or storage sheds, attached or not, to the principal residence once application and acceptance to the tax deferral program occurs.

(c) Application Process:

- (1) The taxpayer shall initially apply for eligibility in the tax deferral program between the dates of November 1 through December 31, for taxes assessed December 31 of that year. After initial approval, the taxpayer must sign each year thereafter a statement attesting to the fact that the taxpayer and spouse continue to qualify under the ordinance provisions.
- (2) Participation is optional at the taxpayer's option.
- (3) Failure to file subsequent statements of eligibility; or the occurrence of a disqualifying event of a temporary nature; or the elimination of a disqualifying event that no longer applies; shall require re-entry into the program and full reapplication and recertification, and shall nullify any deferral for the tax year in which the disqualifying event occurred, and past deferred amounts shall be due under subsection (e). In such case, the tax shall be calculated as of the year of re-entry into the program.

(d) Recording of deferral; Lien:

- (1) All properties subject to the deferral program will have a notice of tax deferral registered and recorded with the Portsmouth town clerk. Normal recording fees will apply.
- (2) All taxes deferred and interest thereon shall constitute a lien on the real estate for which the deferment was granted until paid in accordance with the provision of this ordinance.

(e) Payment of deferral:

- (1) All deferrals must be paid in full within six (6) months of a disqualifying event in the case of a death of the legal owner of the property, at the closing and conveyance in the event of a sale and within three (3) months of any other disqualifying event.
- (2) Failure to report the disqualifying event, and/or to pay the deferral tax when due, will carry a maximum penalty of one hundred dollars (\$100) per month, or portion thereof, and applicable interest on the currently assessed tax. Interest will be assessed and due in the same manner as other past due tax receivables and will apply to all amounts previously deferred as well as the current amounts due.

(f) Appeal:

Appeals of all decisions as to the application, administration, eligibility or other matter relating to this ordinance shall be made in writing according to law.

(g) Severability:

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 2. This Ordinance shall take effect upon passage

SECTION 3. Sunset Provision. This ordinance shall automatically be repealed in its entirety two years from its effective date unless specifically extended or amended by a vote of the Town Council.

ADOPTED BY TOWN COUNCIL ACTION ON October 10, 2006


Kathleen Viera Beaudoin, Town Clerk