

**LOCAL LAW NO. \_\_ of 2023**  
**AMENDING ARTICLE VI (SENIOR CITIZENS EXEMPTION)**  
**OF CHAPTER 251 (TAXATION)**

**BE IT ENACTED** by the Town Board of the Town of Guilderland as follows:

Pursuant to NYS Real Property Tax Law § 467, Town Code Article VI (Senior Citizens Exemption) of Chapter 251 (Taxation) as amended by Local Law No. 10 of 1984, Local Law No. 1 of 1990, Local Law No. 2 of 1990, Local Law No. 2 of 1998, Local Law No. 4 of 2001, Local Law No. 11 of 2002, Local Law No. 1 of 2004, and Local Law No. 7 of 2006, is revoked in its entirety and replaced as follows:

**§ 251-7 Persons sixty-five years of age or over.**

- (A) Effective as hereinafter provided, there shall be an exemption from taxation for town purposes on real property owned by one (1) or more persons, each of whom is sixty-five (65) years of age or over, or real property owned by a married couple or by siblings, one (1) of whom is sixty-five (65) years of age or over, to the extent of the percentage of assessed valuation provided in the following schedule, determined by the maximum income eligibility level also provided in the following schedule:

<u>ANNUAL INCOME</u>	<u>PERCENTAGE OF ASSESSED VALUATION EXEMPT FROM TAXATION</u>
\$50,000 or less	50
More than \$50,000 but less than \$51,000	45
\$51,000 or more but less than \$52,000	40
\$52,000 or more but less than \$53,900	35
\$53,900 or more but less than \$54,800	30
\$54,800 or more but less than \$55,700	25
\$55,700 or more but less than \$56,600	20
\$56,600 or more but less than \$57,500	15
\$57,500 or more but less than \$58,400	10
\$58,400	5

“Sibling” shall include persons whose relationship as siblings has been established through either half blood, whole blood or adoption.

- (B) Any exemption provided by this Article shall be computed after all other partial exemptions allowed by law, excluding the school tax relief (STAR) exemption, have been submitted from the total amount assessed; provided, however, that no parcel may receive an exemption for the same tax purpose to both this Article and NYS Real Property Tax Law §459-c.

### **§ 251-8 Cooperative apartment ownership.**

- (A) Title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his share or shares in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.
- (B) That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-shareholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the Assessor against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable or chargeable to such tenant-stockholder.

### **§ 251-9 Conditions on grant of exemption.**

No exemption shall be granted:

- (A) If the income of the owner or the combined income of the owners of the property for the applicable income tax year exceeds the maximum sum authorized by the provisions of NYS Real Property Tax Law § 467. “Income tax year” shall be the second most recent calendar year. Where title is vested in a married person, the combined income may not exceed such sum, except where a spouse, or ex-spouse is absent from the property as provided in NYS Real Property Tax Law § 467(3)(d)(ii), then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum.
- (B) The term “income” as used herein shall mean the “adjusted gross income” for federal tax purposes as reported on the applicant’s federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant’s income shall be determined based on the amounts that would have so been reported if such a return had been filed; and

provided further, that when determining income for purposes of this section, the following conditions shall be applicable:

- (1) the applicant's income shall be offset by all medical and prescription drug expenses actually paid that were not reimbursed or paid for by insurance;
- (2) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted income shall be considered income; and
- (3) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:
  - (a) the net amount of loss reported in federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule;
  - (b) the net amount of any other separate category of loss shall not exceed three thousand dollars, and
  - (c) the aggregate amount of all losses shall not exceed fifteen thousand dollars.

(C) Unless the owner shall have held an exemption under this section for the owner's previous residence or unless the title of the property shall have been vested in the owner or one (1) of the owners of the property for at least twelve (12) consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of a married spouse in whose name title of the property shall have been vested at the time of death and then becomes vested solely in such person's surviving spouse by virtue of devise by or descent from the deceased spouse, the time of ownership of the property by the deceased spouse shall be deemed also a time of ownership by the survivor, and such ownership shall be deemed continuous for the purpose of computing such period of twelve (12) consecutive months. In the event of a transfer by a married person to such person's spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve (12) consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which the application is made for exemption, and such periods of ownership shall be deemed to be consecutive for the purposes of this section. Where a residence is sold and replaced with another within one (1) year and both residences are within the state, the period of ownership of the former property shall be combined with the period of ownership of both properties shall be deemed consecutive for purposes of the exemption

from taxation by a municipality within the state granting such exemption. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine (9) months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine (9) months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve (12) consecutive months shall be deemed satisfied.

- (D) Unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this Article.
- (E) Unless the real property is the legal residence and is occupied, in whole or in part, by the owner or by all of the owners of the property; except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in Public Health Law § 2801, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or (ii) the real property is owned by a married person or a married couple, or by a formerly married person or a formerly married couple, and one spouse or ex-spouse is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this Article are not provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.

#### **§ 251-10 Application.**

- (A) Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the State Board to be furnished by the Assessor's Office, and shall furnish the information and be executed in the manner required or prescribed on such forms, and shall be filed in such Assessor's Office on or before the appropriate taxable status date. Notwithstanding any other provision of law, any person otherwise qualifying

under this section shall not be denied the exemption under this section if he becomes sixty-five (65) years after the appropriate taxable status date and on or before December 31, of the same year.

- (B) At least sixty (60) days prior to the appropriate taxable status date, the Assessor's Office shall mail to each person who was granted exemption pursuant to this Article on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. The Assessor's Office shall, within three (3) days of the completion and filing of the tentative assessment roll, notify by mail any applicant whose application includes at least one (1) self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, that the Assessor's Office shall, upon receipt and filing of the application, send by mail notification of receipt to any applicant who has included two (2) of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subsection, such notice shall be on a form prescribed by the State Board and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

**§ 251-11 Penalty for false statement; collection or erroneous exemption; payment of fines.**

- (A) Any conviction of having made any willful false statement in the application for such exemption, shall be punishable by a fine of not more than one hundred dollars (\$100) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.
- (B) Notwithstanding any inconsistent provisions of the New York State Real Property Tax Law, the collection of any amount of tax erroneously exempted due to an incorrect statement in an application for exemption shall be enforceable in the same manner provided for the collection of delinquent taxes pursuant to the provisions of Article 11 of the New York State Real Property Tax Law.
- (C) Any fine levied pursuant to this subsection shall be paid to the appropriate assessing authority.

**§ 251-11A Effective date.**

This law shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on and after January 1, 2024.