ARTICLE I. Tax Relief for the Elderly and Disabled

[Adopted 1-19-2010 Editor's Note: This ordinance also supersedes former Art. I, Tax Relief for the Elderly and Disabled, adopted 2-17-2004. **]**

§ 26A-1. Tax relief granted; purpose.

The Town of Wilton (the Town) hereby enacts tax relief for the elderly and disabled homeowners pursuant to § 12-129n of the Connecticut General Statutes (C.G.S.) for eligible residents of the Town on the terms and conditions provided in this article. The article is enacted for the purpose of assisting elderly and/or disabled homeowners with the costs of property taxation.

§ 26A-2. Qualifications for tax relief.

Any person who owns real property in the Town who is liable for the payment of taxes thereon pursuant to C.G.S. § 12-48 shall be eligible for a real property tax credit or tax deferral as set forth herein, provided that all of the following conditions are met:

A. Such person has resided in a residence located in the Town for a period of one year prior to his or her application for tax relief and has been a taxpayer of the Town for one year immediately preceding the receipt of tax relief under this article.

B. The real property for which the tax credit or tax deferral is claimed must be the principal residence of such person, and such person shall be in residence therein for at least 183 days during the 12 months immediately prior to the filing of an application hereunder.

C. Said person or his or her spouse residing with said person is:

(1) Sixty-five years of age or over by December 31 of the year preceding the year in which such application is made, or said person is 60 years of age or over by December 31 of such preceding year and is the surviving spouse of a taxpayer who qualified for tax relief under this article at the time of his or her death; or

(2) Under 65 years of age and, as of December 31 of the year preceding the year in which application is made, is eligible in accordance with applicable federal regulations to receive permanent, total disability benefits under Social Security or has not been engaged in employment covered by Social Security and, accordingly, has not qualified for benefits thereunder but has become qualified for permanent total disability benefits under any federal, state or local government retirement or disability plan, including the Railroad Retirement Act (45 U.S.C.A. § 231 et seq.) and any government-related teacher's retirement plan, in which eligibility requirements for such permanent, total disability benefits are comparable to such requirements under Social Security.

D. Before any tax credit or tax deferral shall be given, such person must first have applied for tax relief under any other state statute for which he or she is eligible or shall certify at the time of filing an application for tax relief hereunder on a form provided by the Town Assessor that he or she is ineligible for such tax relief.

E. Such person shall have, individually, if unmarried, or jointly, if married (whether or not separate federal income returns were filed by said person and/or his or her spouse), during the calendar year preceding the filing of his claim, total gross income in an amount not to exceed the amounts set forth in § 26A-6 of this article. For purposes of this article, the term "total gross income" shall be defined as adjusted gross income and tax exempt interest, plus any other income as may be reportable for federal income tax purposes, as well as nontaxable income, including the nontaxable component of social security benefits and excluding any current year business operating losses and losses from rental activities and current year deductions for depreciation of assets used in a trade or business, and any net operating loss (NOL) carryover reportable for federal income tax purposes. All monies received are to be considered part of total gross income unless specially excluded. Such amount of gross income may be reduced by the amount of allowable medical expenses deductible for purposes of federal income tax; i.e., amounts in excess of 7 1/2% of adjusted gross income.

(1) Although the following list is not intended to be all-inclusive, examples of items to be included in total gross income are as follows:

(a) Wages, bonuses, commissions, gratuities, fees, self-employment net income (excluding depreciation).

(b) Gross social security, federal supplemental security income, payment for jury duty (excluding travel allowance).

(c) Dividends, interest, annuity distributions.

(d) Taxable portion of IRA distributions.

(e) Black Lung payments.

(f) Green Thumb payments.

(g) Interest or other income produced by gifts, bequests or inheritances received.

(h) Lottery winnings.

(i) Net income from sale or rent of real or personal property (excluding depreciation).

(j) Taxable pensions, veteran's pensions, railroad retirement pension.

(k) Severance pay, unemployment compensation.

(l) Workers' compensation.

(m) Alimony.

(2) For purposes of this article, the following types of income are specifically excluded from total gross income:

(a) Casualty loss reimbursements by insurance companies.

(b) Gifts, bequests, inheritances.

(c) Grants for disaster relief.

(d) Income derived from volunteer service under the Domestic Volunteer Service Act of 1973, as amended.

(e) Social security income of a spouse who resides in a health-care or nursing home facility in Connecticut and who is receiving payment related to such spouse under Title IX, Medicaid.

(f) Food stamps, fuel assistance, AFDC payments, social security payments specifically for a minor child or other dependent individual.

(3) The failure to produce required documentation without good and reasonable cause shall result in a disqualification for benefits hereunder. No tax relief shall be given if the applicant's income exceeds applicable limits as set forth herein.

F. If such tax credit or tax deferral is claimed for permanent total disability pursuant to § 26A-2C(2) of this article, such applicant shall furnish proof of eligibility for permanent total disability benefits with each annual application for tax relief hereunder.

G. No tax credit shall be given under this article to any person who has delinquent taxes (i.e. real property, personal property or motor vehicle taxes), capital assessments, fees, fines, or user charges owed to the Town. This subsection is not intended to disqualify persons seeking a tax deferral only. For purposes of this subsection, deferred taxes are not considered as delinquent taxes.

H. No property tax credit under this article, together with any property tax relief received by such person under all applicable Connecticut General Statutes, shall exceed, in the aggregate, 100% of the tax which would, except for the Connecticut General Statutes and this article, have been laid against the person applying for property tax credit hereunder.

I. No property tax credit or deferral shall be given under this article if a person is receiving tax relief as a homeowner in any other state or in any other Connecticut municipality.

§ 26A-3. Form of application for tax relief.

Application for tax relief under this article shall:

A. Be made on forms provided by the Town Assessor and be accompanied by documentation of all qualifying income, including a copy of the applicant's most recent federal tax returns for the calendar year preceding the fiscal year for which tax relief is being requested and a signed IRS Form 4506 allowing the Town to verify the federal tax information.

B. State, in addition to the qualifying information set forth in the above sections, whether the applicant has previously applied or is currently applying for this or any other tax relief for the elderly under any state statute.

§ 26A-4. Time of filing of application for tax relief.

The application, including any required affidavit and documentation, shall be filed annually not earlier than February 1 nor later than May 15 to obtain tax relief for the next fiscal year.

§ 26A-5. Limitations on property eligible for tax relief.

A. The tax relief provided under this article shall be limited to the principal residence (if more than one residence is on such property) of the taxpayer, the lot on which the principal residence is located (hereinafter "lot") and the improvements thereon. The lot (i.e., the acreage to which the tax relief applies) shall be defined as one developable building lot and any additional undevelopable property. For example: If the applicant's property, otherwise available for tax relief hereunder, consists of a residence and 10 acres and said property is located in a two-acre zone, only the residence and the two acres on which the residence is located shall be eligible for tax relief. However, if said property consists of a residence on 10 acres of land, a portion of which is undevelopable, then the residence, the lot, and the undevelopable portion shall be eligible for tax relief.

B. The tax relief sought hereunder shall be available for one residence only.

§ 26A-6. Computation of tax relief.

Subject to § 26A-2H above, the amount of tax relief under this article shall be on the following graduated basis:

A. Tax credit. For applicants who elect to apply for tax credit under this article, the amount shall be based upon such applicant's qualifying income as defined in § 26A-2E, in accordance with the following formula for the fiscal year commencing July 1, 2010 and subsequent fiscal years as provided in this article.

$$\left(\frac{MI - QI}{MI - MCI} \right)^2 xMC$$

MI	=	Maximum Income
QI	=	Qualifying Income
MCI	=	Maximum Credit Income
MC	=	Maximum Credit
2	=	Exponent

Applicants with qualifying income of up to $39,500 (MCI) are eligible for the Maximum Credit of $4,000 (MC). Applicants with qualifying income of $39,501 to $75,000 (MI) will be eligible for credit in accordance with the formula.

B. Tax deferral.

(1) For applicants who elect tax deferral benefits, the maximum tax deferral benefit rate available shall be based upon such applicant's qualifying income as defined in § 26A-2E.

(2) Applicants with income up to $75,000 are eligible to defer up to 100% of their tax liability after tax credits from the state and the Town have been applied for the fiscal year commencing July 1, 2010, and subsequent fiscal years as provided in this article.

C. Income limits. The income limits established in § 26A-6A and B above shall apply to tax relief granted for the fiscal year commencing July 1, 2010, and thereafter; provided, however, that in January of 2011 and of each year thereafter, the Assessor shall revise said limits for the subsequent fiscal year by adjusting the MCI on a yearly basis to meet the upper qualifying limit for married couples as set forth in C.G.S. § 12-170aa. The MI will be adjusted on a yearly basis by the same percentage change as the MCI. The revised limits shall be rounded to the nearest $50.

D. Amount of tax credit. The maximum tax credit (MC) established in § 26A-6A above shall apply to tax relief granted for the fiscal year commencing July 1, 2010, only. In January 2011 and of each year thereafter, the Assessor shall revise the tax credit for the subsequent fiscal year by multiplying it by the percentage change in the total tax levy of the then-current fiscal year as compared to the total tax levy of the prior fiscal year. The revised limits shall be rounded to the nearest $50.

E. Application of tax credit and tax deferral. Any person qualifying for both tax credit and tax deferral under this article may utilize both the tax credit and tax deferral for any given fiscal year. If a person utilizes both tax relief methods, the tax bill will be reduced first by property tax credits provided by the State of Connecticut, if any, and the tax credit provided under § 26A-6A. The tax deferral percentage will then be applied to the remainder of the tax bill in accordance with § 26A-6B.

§ 26A-7. Repayment of tax deferral benefits.

A. All tax deferral benefits shall be reimbursed and paid to the Town of Wilton upon the death of the recipient or the conveyance of the real property, subject to taxation in accordance with 26A-8 of this article. Notwithstanding the foregoing, if upon death of the recipient ownership passes, by will or by operation of law, to a person qualified for deferral at the time of death under the terms of the article, the tax deferral provisions will remain in place. In all other cases upon death of the recipient a grace period of up to 12 months from the date of death shall apply, and program interest will accrue until one year following the date of death or the transfer of title, whichever the first to occur. Thereafter the statutory delinquency rate shall apply.

B. Except as herein provided, all tax deferral benefits shall be subject to simple interest of not more than the rate of 5% per year; however, such interest rate shall be subject to change, no more than once a year, by the Board of Selectmen in consultation with the Board of Finance.

C. The recipient may pay the interest charge on the taxes owed at any time or may defer the interest in addition to the tax itself pursuant to the other conditions of this article.

D. The Tax Collector of the Town shall record on the land records, a lien against the benefited property, in favor of the Town, in the amount of the deferral amount.

§ 26A-8. Death of applicant or conveyance of property.

A. If any person entitled to tax relief pursuant to this article dies prior to July 1 of the fiscal year for which the application has been made, unless his or her spouse is otherwise qualified, no tax relief shall be given for the following fiscal year.

B. If any person entitled to tax relief pursuant to this article sells property with respect to which such tax credit is or has been granted, no additional tax credit shall be allowed for his or her interest in such property for any fiscal year commencing after the date of the sale of such property, and the purchaser of such property shall pay the Town a prorated share of the tax due for the tax year in which the transfer took place as provided by C.G.S. § 12-81a.

§ 26A-9. Proration of tax credit or deferral.

The property tax credit or deferral provided in this article shall, in any case where title to real property is recorded in the name of the qualified taxpayer or his/her spouse and any other person or persons, be prorated to reflect the fractional share of such qualified taxpayer or spouse, or, if such property is a multiple-family dwelling, such credit or deferral shall be prorated to reflect the fractional portion of such current property occupied by the qualified taxpayer or his/her spouse.

§ 26A-10. Applicant as revocable trust.

Notwithstanding the provisions of § 26A-2 and the other provisions herein identifying the qualifying applicant/recipient of tax relief hereunder as a "person," said term and provisions shall incorporate and apply equally to a trust or trustee holding title to property in the Town of Wilton under the following conditions:

A. The settlor of the trust is a person who, but for having transferred ownership of the subject property to said trust, qualifies for tax relief hereunder.

B. The trust is revocable by the settlor under its terms.

C. All trust income is taxed to the settlor pursuant to I.R.C. §§ 671 and 676, as the same may be amended.

D. All references to "person," "applicant," "taxpayer" and "recipient" shall apply to the settlor of the trust, and the trust shall be bound by the terms and conditions herein. (As an instance, upon the death of the settlor, all tax deferral benefits shall be due and owing by the trust as set forth in § 26A-7.)

§ 26A-10.1. Implementation of provisions; qualifying income confidentiality.

The Tax Collector and the Assessor of the Town shall prescribe, with regard to their respective duties under this article, such forms and procedures as may be necessary to implement this article. The Assessor, in addition, shall satisfy himself or herself as to the qualifying income of an applicant for benefits under this article by requesting and reviewing such evidence of qualifying income as he or she may deem pertinent. All applications, federal income tax returns filed therewith and any additional evidence of qualifying income which the Assessor may require shall not be open to public inspection.

§ 26A-10.2. Relationship of tax relief to total property taxes assessed.

Tax relief granted under this article may be capped by the Board of Selectmen in consultation with the Board of Finance for either the tax credit or tax deferral program or both, for any given fiscal year prior to the setting of the mill rate for that fiscal year. Such tax relief granted to eligible persons for any fiscal year shall be adjusted, if necessary, to keep the total amount of Town tax relief within such limit.

§ 26A-10.3. Effective date.

This article shall be effective immediately and shall apply to taxes due in fiscal years commencing 1-19-2010 and thereafter.

§ 26A-10.4. Severability.

The invalidity of any clause, section or provision of this article shall not affect the validity of any other part which can be given effect without such invalid part or parts.

§ 26A-10.5. Supersession of prior ordinance.

This article is intended to and does replace and supersede Tax Relief for the Elderly and Disabled Ordinance, §§ 26A-1 through 26A-10.5. Editor's Note: This provision refers to former Art. I, Tax Relief for the Elderly and Disabled, originally adopted 1-16-2001 and revised and re- adopted 2-17-2004.