

COMMON COUNCIL



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I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 11th day of March 2016 that the following Ordinance is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 8th day of March 2016.

AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-8 OF THE WINCHESTER CITY CODE REGARDING REFUNDS FOR ERRONEOUSLY ASSESSED TAXES AND ERRONEOUSLY PAID TAXES

WHEREAS; the Code of the City of Winchester §27-8, pursuant to Code of Virginia §58.1-3981, provides for the refund of local taxes which have been erroneously assessed; and,

WHEREAS; Code of Virginia §58.1-3990 is further intended to address taxes which were erroneously paid, not as the result any erroneous assessment, and not as the result of any action taken by the City or any Constitutional Officer and to which the City has no legal claim; and,

WHEREAS; the Code of the City of Winchester contains no corresponding local ordinance pursuant to Code of Virginia §58.1-3990; and,

WHEREAS; it is the desire of all City parties to maintain clarity in our City Code to ensure compliance, sound fiscal practices and maintain good relationships with our taxpayers.

NOW THEREFORE BE IT RESOLVED, that §27-8 of the Code of the City of Winchester is hereby amended and re-adopted as follows:

SECTION 27-8. REFUNDS OF ERRONEOUSLY ASSESSED-PAID TAXES. (~~EFFECTIVE FEBRUARY 10, 1993~~)

Local taxes, including business license taxes pursuant to Chapter 28, which have been erroneously paid, shall be refunded to the taxpayer. No refund shall be made if application therefor is made more than three years after the last day of the tax year for which the taxes were assessed. Any funds received by the City are first presumed to be in remittance for any outstanding taxes owed by the taxpayer, regardless of any intent expressed with regard to such payment. Any remaining balance of funds remitted shall be considered for a refund as follows:

(a) **Refunds as a Result of Erroneous Assessment.**

In order for a refund to be made, the Commissioner must first be satisfied that he has erroneously assessed the taxpayer with a local tax and the Treasurer must determine that the tax has been paid. The City Council shall, upon the certificate of the Commissioner with the consent of the City Attorney, direct the Treasurer to refund to the taxpayer the amount erroneously paid, together with any penalties and interest paid thereon. However, the City Council authorizes the Treasurer to approve and issue any refund up to \$2,500.00 as a result of an erroneous assessment.

(b) **Refunds as a Result of Erroneous Overpayment**

A refund as a result of erroneous overpayment is considered to be one for which the City and/or its constitutional officers have done nothing to precipitate the payment, and therefore funds for which the City has no legal claim. In such instance, the Treasurer, after confirming that the taxpayer has no currently outstanding taxes owed to the City, -shall proceed forthwith to refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon. If it is determined that the taxpayer has a currently outstanding tax liability to the City, such funds shall be applied to such outstanding balances with priority afforded to the oldest outstanding liabilities being paid first. For any refund in excess of \$2,500.00, made pursuant to this subsection, the Treasurer shall provide written notice to the City Manager of the details of said refund prior to or contemporaneous with the issuance of said refund **not less than three business days prior to the issuance of said refund.**

(Ord. No. 2010-52, 10-12-10)

State Law Reference--Code of Virginia, §58.1-3981; [Code of Virginia §58.1-3990.](#)

Ordinance No. 2016-8

ADOPTED by the Common Council of the City of Winchester on the 8th of March 2016.

Witness my hand and the seal of the City of Winchester, Virginia.

*Kari J. Van Diest, CMC
Deputy Clerk of the Common Council*