

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: July 22
~~June 24~~, 2014 CUT OFF DATE: _____

RESOLUTION ___ ORDINANCE X PUBLIC HEARING ___

ITEM TITLE: Amend and re-adopt Section 27-10.1 of the Winchester City Code

STAFF RECOMMENDATION: Approve as recommended; send to public hearing

PUBLIC NOTICE AND HEARING: August 12, 2014

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA:
N/A

OPTIONS: Adopt ordinance as presented or amend the ordinance.

RECOMMENDATIONS: Staff recommends the adoption of this ordinance as presented.

INSURANCE:
N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. <u>Commissioner of Revenue</u>	_____	<u>ATB</u>	<u>06/09/14</u>
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<u>aw</u>	_____	<u>7/7/2014</u>
6. City Manager	<u>G</u>	_____	<u>7/9/14</u>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *M. Stone* _____ Date: 6-9-14

Finance Director

Revised: October 23, 2009


APPROVED AS TO FORM:

CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Finance Director
Celeste Broadstreet, Real Estate Administrator
Date: June 24, 2014
Re: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-10.1 OF THE WINCHESTER CITY CODE TO CHANGE REASSESSMENT DEADLINES AND TO CLARIFY REASSESSMENT RESPONSIBILITIES

THE ISSUE: Virginia code section 58.1-3331 requires a written notice be sent to all taxpayers who appeal to the Board of Equalization or Circuit Court 45 days prior to the hearing of the taxpayer's appeal. Current City code deadlines make the 45 day notice difficult to meet. In addition, language changes are included to clarify the roles and responsibilities of the Contractor, Real Estate Administrator, and Commissioner of Revenue in the Real Property reassessment process.

RELATIONSHIP TO STRATEGIC PLAN: Goal 2 – Develop High Performing Organization.

BACKGROUND: Virginia State code section 58.1-3331 - Public Disclosure of Certain Reassessment Records, was amended applicable to tax years beginning on or after January 1, 2012. The amendment requires a written notice be sent to taxpayers who appeal their real property reassessment to the Board of Equalization (BOE) or Circuit Court 45 days prior to the appeal hearing. The current City Code deadlines make the 45 day notice difficult to meet. The proposed deadlines will allow ample time for the taxpayer notice and the BOE to hold hearings, review, and finalize all appeals received in a timely manner.

	Current Deadlines	Proposed Deadlines
Change notice postmarked by:	February 1	January 1
BOE appeal deadline:	March 15	February 15
BOE complete appeals	May 1	May 1 (no change)

Language has been added to City Code section 27-10.1 to clarify where the State Code of Virginia refers to "commissioner of revenue or other official performing the duties imposed on commissioners of revenue" or "other assessing official for the purposes of real estate reassessment" that the City of Winchester designates the Contractor to perform those duties. Also, to designate the Real Estate Administrator as the City official responsible for the reassessment contract administration and the point of contact for the City for any appeals of real estate assessments or corrections of errors.

BUDGET IMPACT: No additional fiscal impact.

OPTIONS: Adopt ordinance as presented or amend the ordinance.

RECOMMENDATIONS: Staff recommends the adoption of this ordinance as presented.

AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-10.1 OF THE WINCHESTER CITY CODE TO CHANGE REASSESSMENT DEADLINES AND TO CLARIFY REASSESSMENT RESPONSIBILITIES

WHEREAS, Virginia Code Section 58.1-3331 requires a written notice be given taxpayers who appeal to the Board of Equalization or Circuit Court 45 day prior to the hearing, and

WHEREAS, Section 27-10.1 of the Winchester City Code provides deadlines for the reassessment process and those deadlines can be amended to allow sufficient time for the required state notice and the Board of Equalization to complete its work, and

WHEREAS, it is the intent of the City to streamline the reassessment process by clarifying responsibilities outlined in Section 27-10.1 of the Winchester City Code.

NOW THEREFORE BE IT ORDAINED, by the Common Council of the City of Winchester that the following provisions are hereby amended and re-adopted as follows:

SECTION 27-10.1. AUTHORIZED.

(a) BIENNIAL REASSESSMENT AND EQUALIZATION OF REAL ESTATE REQUIRED

There shall be a biennial reassessment and equalization of real estate for local taxation in the City, which shall be effective as of January 1 of each corresponding year, to be made as provided in this article. Pursuant to §58.1-3275 of the Code of Virginia, such biennial reassessments shall be conducted by an independent contractor holding valid certification issued by the Virginia Department of Taxation hereinafter “contractor”.

Said contractor shall be retained under contract in accordance with Chapter 21 of the Winchester City Code and the applicable provisions of the Virginia Public Procurement Act. Such assessments shall be conducted in accordance with all contractual obligations, the requirements of the Code of Virginia and any other requirements set forth in the City’s Code of Ordinances.

Unless otherwise specifically provided by the Constitution of Virginia, the Code of Virginia, the City Charter, or other general or special law, where the Code of Virginia refers to commissioner of revenue or other official performing the duties imposed on commissioners of the revenue or other assessing official for the purposes of real estate reassessments the contractor shall be the other official or other assessing official and shall be designated to perform the duties for the City of Winchester.

1. A “Real Estate Administrator” (hereinafter “administrator”) shall be appointed by the City Manager and come under the direct supervision of the Finance Director. The Administrator, shall be responsible for ensuring that the contractor satisfies all contractual requirements and complies with all applicable provisions of the Code of Virginia and general law with regard to the performance of the reassessments. Council may from time to time authorize the City to employ such assistants as deemed necessary to aid the Administrator in the performance of his duties.

(b) DUTIES OF THE CONTRACTOR

The “other official” or “other assessing official” (hereinafter “contractor”) shall have all authority authorized for independent contractors appointed pursuant to §58.1-3275 of the Code of Virginia, conducting assessments on behalf of a municipality as authorized under the applicable provisions of the Code of Virginia and general law.

1. The contractor, as of January 1 of each assessment year, shall:
 - i. Make assessments of real estate and the equalization thereof on the same basis as real estate is required to be assessed under the provisions of general law and this Code;
 - ~~ii. Have all authority authorized for independent contractors appointed pursuant to §58.1-3275 of the Code of Virginia, conducting assessments on behalf of a municipality as authorized under the applicable provisions of the Code of Virginia and general law; and~~
 - ~~iii.~~ ii. Be charged with duties similar to those thereby imposed upon such independent contractors; except that such assessments and the equalization thereof shall be made biennially and the assessments and the equalization so made shall have the same effect as if they had been made by assessors appointed under the provisions of general law.
2. A notice of any change in any such biennial assessment shall be given by regular mail forwarded directly to each property owner shown on the assessment records as of January 1 at the last-known mailing address as the address is shown on the most current mailing records of the city Treasurer. Such notice shall be postmarked on or before January 1 ~~February 1~~ following the effective date of such biennial assessment and at least 15 days prior to the date of any hearing to protest such change. Assessment made in accordance with Code of Virginia, §58.1-3292, §58.1-3222 and §58.1-3601.
- ~~3. A “Real Estate Administrator” (hereinafter “administrator”) shall be appointed by the City Manager and come under the direct supervision of the Finance Director. The Administrator, in consultation with the Commissioner of the Revenue, shall be responsible for ensuring that the contractor satisfies all~~

~~contractual requirements and complies with all applicable provisions of the Code of Virginia and general law with regard to the performance of the reassessments. Council may from time to time authorize the City to employ such assistants as deemed necessary to aid the Administrator in the performance of his duties.~~

4.3. Nothing in this Section shall be construed to impede any duty imposed by statute or other law upon the Commissioner of the Revenue in the performance of his or her duties.

(c) **BOARD OF EQUALIZATION**

1. The Circuit Court of the City of Winchester shall appoint a permanent board of equalization of real estate assessments to be composed of from three to five members, of whom all shall be residents, and a majority of whom shall be freeholders, of the city. The initial appointments shall be consistent with the term requirements of §58.1-3373 of the Code of Virginia. Thereafter each member shall serve a three year term. At least 30 percent of the members shall be commercial or residential appraisers, real estate professionals, builders, developers, or legal or financial professionals, and at least one such member shall sit in all cases involving commercial, industrial or multifamily property, unless waived by the taxpayer. All members shall attend courses of instruction as required by §58.1-3374 of the Code of Virginia, 1950, as amended. No person shall serve on the board more than nine consecutive years. Upon serving nine consecutive years, a board member shall not be eligible for reappointment for a period of three years.

2. Such board of equalization shall hear complaints of inequalities wherein the property owners allege a lack of uniformity in assessment or errors in acreage in such real estate assessment. The board also shall hear complaints that real property is assessed at more than its fair market value. The board of equalization shall have and may exercise all powers conferred to it by general law to revise, correct and amend a real estate assessment as necessary to equalize the burden of taxation among all citizens of the city. To this end, the board shall have authority to increase and decrease assessments, whether specific complaint is made or not. No assessment shall be increased until the owner has been notified and given an opportunity to show cause as to why the assessment should not be increased.

3. The board shall determine the fair market value of property as of January 1 for the tax year.

4. In all cases, the board shall operate under presumption that the valuation determined by the ~~contractor~~ assessor is correct. The board shall be advised that the taxpayer need not show that the assessment is the result of manifest error or disregard of controlling evidence. Instead, the board shall be advised that the taxpayer is required to produce substantial evidence that the

~~contractor's~~ ~~assessor's~~ valuation is erroneous and was not arrived at in accordance with generally accepted appraisal practice. Mistakes of fact, including computation, that affect the assessment shall be deemed not in accordance with generally accepted appraisal practice.

5. The landowner or an appointed representative of the city may apply to the board to adjust an assessment to its fair market value or take such other action necessary to equalize an assessment. Complete applications for review of assessments by the board must be received by the ~~administrator~~ ~~assessor~~ on or before ~~February 15~~ ~~March 15~~ immediately preceding the June 5 date for which taxes on such contested assessed value will be levied. The application must be filed on forms provided by the ~~administrator~~ ~~assessor~~ and contain all requested information and attachments to be deemed complete. Late or incomplete applications will not be accepted and shall be deemed invalid.
6. The board shall finally dispose of all complete applications filed in a timely manner by the May 1 immediately preceding the June 5 date for which taxes or such contested assessed value will be levied. The ~~contractor~~ ~~assessor~~ shall notify all owners of real estate of such deadlines on the annual notice of assessment.
7. All meetings of the board shall be open to the public, with notice given at least ten days beforehand by publication in a newspaper having general circulation in the city. Minutes shall be kept of all meetings and written orders of the board sent to all applicants.
8. The equalization board shall receive such per diem compensation for the time they are actually engaged in the duties of their office as may be fixed by the city council. The per diem compensation may be limited to such number of days as in the judgment of the Council is sufficient for the work of the board in any calendar year.

State Law References-- Similar provisions, Code of Virginia, §58.1-3370 *et seq.*

(d) **APPEAL TO CIRCUIT COURT**

Any person aggrieved by a determination of the board of equalization may then appeal to the Circuit Court of the City of Winchester. Any person aggrieved by an assessment and who has missed the deadline to file with the board of equalization has the right to appeal directly to the Circuit Court of the City of Winchester.

State Law References-- Similar provisions, Code of Virginia, §58.1-3382 and §58.1-3407.

(e) **CORRECTIONS OF ERRORS**

The administrator ~~or Commissioner~~, at any time upon notice of discovering an inaccuracy or error in a property record, shall coordinate with the contractor to review the property record and ensure that the appropriate correction is made and notify the property owner in writing, should that correction affect the property assessment.

State Law References-- Similar provisions, Code of Virginia, §58.1-3980 and §58.1-3981.

(Ord. No. 2010-47, 10-12-10; Ord. No. 2011-24, 7-12-11)



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TDD: (540) 722-0782
Website: www.winchesterva.gov

To: Craig Gerhart, Interim City Manager
Anthony Williams, City Attorney

From: Ann T. Burkholder 

Date: June 09, 2014

SUBJECT: Concerns with Proposed Amendments for §27-10.1 of City Code

This memo is to express serious concern with the proposed code changes which completely eliminate the Commissioner from the reassessment process. Reasons for concern:

- Reverses the intent and cooperative spirit of Code as enacted in 2011
- Removes the checks and balances which are a hallmark of Virginia law and key to a high performing organization
- Reduces accountability: Contractor solely answerable to mid-level staff person
- Removes any cooperative oversight over the City's single largest source of revenue
- Eliminates Commissioner's ability to correct errors as found and as required by code
- Eliminates the only party with hands-on experience and knowledge of local real estate trends and values. Contractor is from North Carolina and real estate administrator has neither background nor local knowledge.
- Eliminates the party with the best knowledge of state-wide code changes and legal developments
- Furthers a relationship which has not produced a fair, equitable and accurate reassessment of real estate, the requirements for which include:
 1. Adherence to contract, specifically the first two deliverables:
 - a. Conduct a sales study to update the Location Rate File to reflect Fair Market Values: NO ACTION, NO ENFORCEMENT. Contractor made changes almost solely through depreciation "factors"
 - b. Conduct a land to improvement ratio study: NO ACTION, NO ENFORCEMENT. Contractor feels values will become accurate over "next 20 years."
 2. Readily understandable methodology: NOT PRESENT. The Board of Equalization has repeatedly described the results as "equitably inaccurate."
 3. Defensible values: NOT IN PLACE. Contractor readily capitulated on two mid-cycle appeals for refunds totaling \$200,000.

The Commissioner's Office has just as much desire for a good reassessment as does Council. The contract is expensive, yet existing problems have grown only worse. At the very least, I recommend Council approve only the date change portions of this code. To better protect the City's interests I recommend that Council validate and augment the elected Commissioner's role in the reassessment process.

This office has ample documentation to back up each of the above statements.

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