



MOTION: GERLACH

July 9, 2024
Regular Meeting
Ordinance No. 24-24

SECOND: DUFFY

RE: Amending Chapter 70 of the City Code (Taxation) to Provide for Authority of the Commissioner of the Revenue and Treasurer to Provide Administrative Refunds Arising from Assessment Adjustments of Certain Amount

ACTION: APPROVED: Ayes: 6; Nays: 0

FIRST READ: July 9, 2024

SECOND READ: July 9, 2024

Sec. I. Introduction.

Code of Virginia §§ 58.1-3981 and 58.1-3990 provide that the Commissioner of the Revenue shall correct tax assessments when satisfied of manifest factual or other error. The Commissioner of the Revenue may independently adjust the assessment if not yet paid in certain cases; however, if an excess payment has been made, the issuance of a refund typically requires the consent of the City Attorney and City Council. The following proposed ordinance would effectuate an optional provision of Code of Virginia § 58.1-3981(A) to authorize the Commissioner of the Revenue to certify a correction and the Treasurer to issue a refund of up to \$10,000 as a result of an assessment adjustment.

This administrative refund process remains subject to procedural provisions provided elsewhere in the City Code for particular types of assessment disputes, including administrative appeals of license taxes provided at City Code § 70-321 and appeals of real estate assessments to the Board of Equalization provided at City Code § 70-92.2.

Pursuant to Code of Virginia § 58.1-3990, the refund period is limited to three years after the last day of the tax year for which such taxes were assessed.

Sec. II. City Code amendment.

1. City Code §70-41, "Reserved," is amended to provide the following:

Sec. 70-41 Administrative tax refunds.

Local taxes which have been paid, including business license taxes for which a taxpayer successfully appeals pursuant to City Code § 70-321, shall be refunded to the taxpayer, in accordance with the following provisions. No refund shall be made if the proposed refund period extends more than three years after the last day of the tax year for which the taxes were assessed unless otherwise allowed by law. Any overpayment of funds received by the City may

be applied to any other delinquent taxes owed by the taxpayer, regardless of any intent expressed with regard to such payment. Any remaining balance of funds remitted shall be refunded as follows:

- A. *Refunds as a result of erroneous assessment.* In order for a refund to be made as authorized by Code of Virginia § 58.1-3981, the Commissioner of the Revenue must first be satisfied a tax assessment was erroneously assessed regardless of source of error and submit a copy of an intended correction to the Treasurer. If the Treasurer determines that a tax payment was made on the uncorrected assessment, upon concurrence of the City Attorney with the recommendation from the Commissioner of the Revenue to refund in whole or part an assessment of up to \$10,000, the Treasurer shall issue a refund. Recommendation of refunds of greater amounts are subject to the approval of the City Council.
- B. *Applicable interest.* Interest to be included as party of a refund as authorized by City Code § 70-40 shall not accrue on an overpayment during any time period in which the Commissioner of the Revenue is unable to act on an assessment appeal due to the taxpayer's failure to provide requested information in a timely manner nor apply to refunds arising from prorated tax on motor vehicles and trailers pursuant to City Code § 70-133.
- C. *Other recourse.* The provisions herein shall be consistent with other laws, including that in cases in which the board of equalization decreases valuation, the order of the board shall entitle the taxpayer to an exoneration from so much of the assessment as exceeds the decreased valuation, and the Treasurer is authorized to issue a refund in the event of overpayment without any further action.

Sec. III. Effective date.

This ordinance shall become effective immediately upon adoption.

Votes:

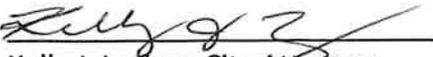
Ayes: Devine, Frye, Duffy, Gerlach, Holmes, Mackintosh

Nays: None

Absent from Vote: Graham

Absent from Meeting: Graham

Approved as to form:


Kelly J. Lackey, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 24-24 duly adopted at a meeting of the City Council meeting held July 9, 2024 at which a quorum was present and voted.



Tonya B. Lacey, MMC
Clerk of Council