

CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE 2023-02

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING UNALASKA CODE OF ORDINANCES, SECTION 6.40.050, SUBPARAGRAPH (C), SENIOR CITIZEN REFUND

WHEREAS, the Senior Citizen Sales Tax Refund was enacted by the City Council in 2005 and the refund amount has not changed since that time; and

WHEREAS, due to the increased cost of living as reflected by the Consumer Price Index, an increase in the amount of the refund is justified; and

WHEREAS, in the past, applicants for the refund may have not been bona fide residents of the City with the intent to remain indefinitely, even though they have produced identification cards showing an address in Unalaska; and

WHEREAS, it is in the best interest of the City to establish eligibility requirements for the refund, particularly in light of the increased amount of the refund; and

WHEREAS, specifically describing the proof of residency required sets clear standards for establishing residency, while allowing discretion for rare circumstances when an applicant, who is a resident of the city, is not registered to vote or does not apply for or have eligibility for the Alaska Permanent Fund Dividend.

NOW THEREFORE, IT IS ENACTED BY THE CITY COUNCIL OF THE CITY OF UNALASKA, as follows:

Section 1: Classification. This Ordinance is a Code Ordinance.

Section 2: Unalaska Code of Ordinances § 6.40.050 APPLICATION FOR TAX REFUND, Subparagraph (C) SENIOR CITIZEN REFUND, is hereby amended to read as follows, with new language underlined and deleted language ~~overstruck~~:

(C) SENIOR CITIZEN REFUND. Natural persons of at least sixty-five (65) years of age on or before March 31 of each year shall be entitled to receive a yearly sales tax refund in the amount of ~~two~~ four hundred dollars (~~\$2400~~).

(1) To be eligible for the refund, the consumer must be sixty-five (65) years of age or older by March 31 of each year, be a resident of the City for at least thirty (30) days prior to their application, and file a timely application for refund with the City. The application form may require the consumer-applicant to provide proof of age and of residency, along, with other information reasonably necessary to administer this refund. The claim for refund may be made only by filing a timely application with the City Clerk.

(2) An application for a senior citizen refund must be filed with the City between January 1 and March 31 of each year. Claims for refund filed after March 31 of each year shall be denied.

(3) Any eligible applicant who has a delinquent account of any kind with the City shall not be entitled to receive their refund directly. The City shall, instead, apply the refund to the delinquency. Only once the delinquency is paid may any surplus refund be directed to the eligible recipient.

(4) "Resident of the City," for the purposes of this subsection, means a person who is physically present in the City with the intent to remain indefinitely in the City and to make a home in the City. The individual must also have maintained a principal place of abode in the City for at least thirty (30) consecutive days immediately preceding the date of application for a refund. A person demonstrates the intent required under this section through establishing and maintaining customary ties indicative of residence in the City and through the absence of those ties elsewhere. Physical presence in the City is not, by itself, sufficient to establish residency.

(5) Applicants shall prove residency in Unalaska by providing to the City Clerk evidence of either current voter registration in the State of Alaska, at an address in Unalaska or evidence of approved eligibility for the State of Alaska Permanent Fund Dividend for the current year, at an address in Unalaska. At the City Clerk's discretion, other proof of residency in Unalaska may be accepted.

Section 3: Effective Date. This ordinance is effective upon passage and shall not apply to the 2023 refund application.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on April 11, 2023.

Vincent M. Tutiakoff, Sr.
Mayor

ATTEST:

Marjie Veeder, CMC
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Marjie Veeder, City Clerk
Through: Chris Hladick, Interim City Manager
Date: March 28, 2023
Re: Ordinance 2023-02: Amending Unalaska Code of Ordinances, Section 6.40.050, Subparagraph (C), Senior Citizen Sales Tax Refund

SUMMARY: On March 9, 2023, Council directed the City Manager to “bring forward to Council a proposed ordinance to change the Unalaska Code of Ordinances 6.40.050 Application for Tax Refund, to include an increase in the dollar amount to \$400 and a change in residency requirements to be a registered voter in Unalaska or proof of a PFD. Also to research the Real ID as an option of proof of residency.” This memo and proposed Ordinance 2023-02 are in response to the directive.

PREVIOUS COUNCIL ACTION: In February 2005, with the adoption of Ordinance 2005-06, the Senior Citizen Sales Tax Refund was enacted. At their meeting held March 9, 2023, Council reviewed and discussed the senior citizen refund issue, focusing on a potential increase in the amount and tightening eligibility requirements. There appeared to be a consensus among Council Members both to increase the amount of the refund and to tighten the eligibility requirements.

BACKGROUND:

REAL ID

The directive requested information about the possibility of using REAL ID as proof of residency for purposes of the senior citizen sales tax refund. Staff does not believe this is a viable option to prove residency because “residency” as contemplated in code for the refund, is not a requirement of obtaining a REAL ID. Also, enforcement of REAL ID has been delayed nationwide until May 7, 2025.

Passed by Congress in 2005, the REAL ID Act enacted the 9/11 Commission's recommendation that the Federal Government “set standards for the issuance of sources of identification, such as driver's licenses.” The Act established minimum security standards for state-issued driver's licenses and identification cards and prohibits certain federal agencies from accepting for official purposes licenses and identification cards from states that do not meet these standards. These purposes include accessing certain federal facilities, boarding federally regulated commercial aircraft or entering nuclear power plants.

The Alaska DMV website states to apply for a REAL ID card, applicants must provide verification of both identity and residency; and the DMV must also be able to electronically verify name, date of birth and Social Security number with the Social Security Administration.

To verify identity, applicants must supply documentation showing their true full name, date of birth, and U.S. citizenship or lawful status in the United States, such as U.S. passport; foreign passport with U.S. Visa and I-94; certified copy of birth certificate or Consular Report of birth abroad; Certificate of Naturalization or Certificate of U.S. Citizenship; Permanent Resident Card;

Employment Authorization Card; or REAL ID license or ID card from a compliant state along with documentation of U.S. Citizenship or lawful status.

To verify their residency address, applicants must supply two documents, which list the applicant's name and match the residence address listed on the application for REAL ID driver license or ID card. Staff consulted with the local DMV agent who indicated that the two documents showing a person's physical Alaska address must be "documents of substance", containing the applicant's name and address that match their application for REAL ID, such as proof of voter registration, vehicle registration, deeds, mortgages, bank statements, tax or utility bills (including cell phone), rental agreements or a letter from their employer showing their address.

Using these criteria, an applicant for REAL ID, along with supplying proof of identification and a Social Security number, can show a letter from an employer and a cell phone bill to obtain a REAL ID. Working in Unalaska and obtaining cellular telephone service do not, in and of themselves, show residency in Unalaska as contemplated in code for purposes of the refund. It is for this reason that Staff does not believe that REAL ID is a viable option to prove residency in Unalaska as contemplated in code for purposes of the refund.

PROPOSED ORDINANCE

Ordinance 2023-02 amends the amount of the refund to \$400 as directed, and adds a new paragraph, number 5, which reads:

(5) Applicants shall prove residency in Unalaska by providing to the City Clerk evidence of either current voter registration in the State of Alaska, at an address in Unalaska or evidence of approved eligibility for the State of Alaska Permanent Fund Dividend for the current year, at an address in Unalaska. At the City Clerk's discretion, other proof of residency in Unalaska may be accepted.

Specifically describing the proof of residency required sets clear standards for establishing residency, while allowing discretion for rare circumstances when an applicant, who is a resident of the city is not registered to vote or does not apply for or have eligibility for the Alaska Permanent Fund Dividend.

ALTERNATIVES: Council may choose to adopt the ordinance as presented; to amend the proposed ordinance; or make no changes to code.

FINANCIAL IMPLICATIONS: Increasing the refund to \$400 will essentially double the cost of the refund program. However, establishing proof of residency requirements may result in fewer eligible applicants in future years.

LEGAL: The City Clerk worked with one of the city's attorney's, Sam Severin, regarding the ordinance and specifically the wording of paragraph 5. The City Attorney has approved this ordinance.

STAFF RECOMMENDATION: Staff recommends adoption.

PROPOSED MOTION: First Reading: I move to introduce Ordinance 2023-02 and schedule it for public hearing and second reading on April 11, 2023. Second Reading: I move to adopt Ordinance 2023-02.

CITY MANAGER COMMENTS: I concur with the staff recommendation.