
Sponsored by: Mayor Hennessy

AN ORDINANCE AMENDING ORDINANCE 6998 AND SECTION 630.055 OF THE O’FALLON CITY CODE TO CORRECT A SCRIVENER’S ERROR.

WHEREAS, in 2006 the City of O’Fallon recognized that rising utility costs could impose an extraordinary burden on cash-strapped residents who are senior residents or suffering from especially difficult physical and medical circumstances, and enacted Ordinance 5070 and amended the O’Fallon City Code to establish a process of rebating to qualified individuals license taxes imposed on utility providers and passed along by the utilities to their consumers; and

WHEREAS, as enacted by the City Council on September 14, 2006, the program required that any “exempt consumer” satisfy two qualifying circumstances: (a) meeting minimum age requirement or determined disabled by the Social Security Administration, and (b) satisfying income guidelines established by the Department of Housing and Urban Development, and these requirements were clearly listed in the ordinance in the conjunctive (“and”) to reflect that both criteria must be satisfied in order to be eligible for a rebate; and

WHEREAS, on February 9 2023, the City Council enacted Ordinance 6998 making an administrative change to the timeframe within which rebate applications would be processed; that legislation contained a scrivener’s error which inadvertently, unintentionally and erroneously substituted a disjunctive connection (“or”) between the qualifying conditions listed in the ordinance rather than the conjunctive (“and”) previously adopted and codified;

WHEREAS, the City Council now wishes to correct that scrivener’s error and conform the city code to the original legislation and the original and continuing intent of the City Council that the utility tax rebate program benefit those most in need of the relief it affords;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF O’FALLON, MISSOURI, AS FOLLOWS:

SECTION 1. Ordinance 6998 and Article I of Chapter 630 of the Code of Ordinances of the City of O’Fallon, Missouri, are hereby amended *nunc pro*

tunc by the repeal of Section 630.055 and the enactment of a new Section 630.055 to read as follows:

Chapter 630. Utilities License Tax

Article I. Certain Utility Taxes

Section 630.055 License Fee Refunded To Exempt Consumers.

A. Refund Authorized. The amount of any license tax paid to the City by a person or persons engaged in the business of selling, supplying or distributing electricity, gas or telephone service on account of sales by such person or persons to an exempt consumer, as herein defined, for services rendered to such consumer's residence, which has been passed through to or otherwise collected from such consumer by the person or persons paying such tax to the City, shall be refunded by the City directly to such exempt consumer.

B. Definition. As used in this Section, the following term shall have the following meaning:

EXEMPT CONSUMER Any consumer who:

1. Owns or leases residential property located within the City, who occupies the same as his/her customary place of residence and who, on the first day of any calendar month, is sixty-five (65) years of age or older or determined to be totally disabled by the Social Security Administration on said date; when any such residential property is owned or leased by two (2) or more persons jointly, requirements for exemption shall be deemed satisfied if any one (1) such owner or lessee is sixty-five (65) years of age or older on the first day of such calendar month or is determined as totally disabled under/by the Social Security Administration; and

2. Has an annual gross income, exclusive of Social Security, less than or equal to the L80 Low Income Median Family Income limits as established annually by the U.S. Department of Housing and Urban Development (HUD). The single person limit is established as the one (1) person household limit and the married couple limit is established as the two (2) person household limit as defined in the published HUD schedule for low income families in the St. Charles County area.

C. Procedure. From May 1 to May 31 of each year, any person claiming to be entitled to a refund pursuant to this Section for taxes paid

during the prior calendar year shall submit a request for such refund to the Director of Finance or his/her designee, together with such proof of claim as may be required by the Director of Finance. Such proof of claim may, at the discretion of the Director of Finance, include proof of age, proof of income level, copies of applicable utility bills and/or proof of payment of such bills. Where qualifying utility payments are included as part of the rent, the owner may provide appropriate documentation of the amount allocated for utilities for purposes of this Section.

D. Computation. The amount of refund owing to each exempt consumer shall be the amount of the license tax imposed by this Code as a result of such consumer's purchase of the utility services specified in this Section at his/her residence and paid by or on behalf of the exempt consumer for bills dated during those months during the preceding calendar year, beginning September 1, 2006, in which the consumer was sixty-five (65) years of age or older.

E. Benefit. Nothing contained in this Section shall in any way alter or diminish the obligation of any person licensed pursuant to this Code to pay a license tax computed on the full amount of his/her gross sales to exempt consumers within the City or otherwise to comply with the provisions of this Code. The exemption herein provided shall inure to the benefit of exempt consumers only and shall be administered by the City for their benefit.

F. Funds. Refunds herein required to be made shall be paid from budgeted general revenue monies. Payment of this refund is subject to availability of funds budgeted in the current year for this purpose.

SECTION 2. It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. If any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor and deemed effective *nunc pro tunc* as of February 9, 2023, the date of the passage of Ordinance 6998, to reflect the original intent of the Council.

First Reading: May 9, 2024

Second Reading: May 9, 2024

PASSED BY THE CITY COUNCIL FOR THE CITY OF O'FALLON, MISSOURI, THIS 9TH DAY OF MAY 2024.



Bill Hennessy

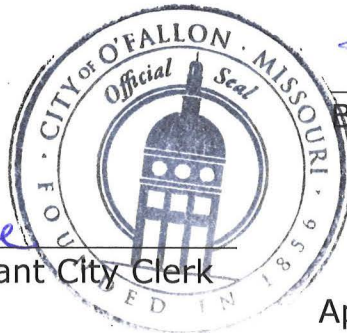
Presiding Officer

Attest:

Katie Crabtree

Katie Crabtree, Assistant City Clerk

APPROVED BY THE MAYOR FOR THE CITY OF O'FALLON, MISSOURI, THIS 9TH DAY OF MAY 2024.



Bill Hennessy

Bill Hennessy, Mayor

Attest:

Katie Crabtree

Katie Crabtree, Assistant City Clerk

Approved as to Form:
Kevin M. O'Keefe

Kevin M. O'Keefe, City Attorney