



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 17, 2019

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8364, amending Chapter 3-5, "Tax Refund Program," B.R.C. 1981, to add two new categories of qualifying applicant, comply with Federal Tax Code, and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager
Kurt Firnhaber, Director Housing & Human Services
Kristin Hyser, Deputy Director Housing & Human Services
Eden Bailey, Manager Senior Services
Lucas Markley, Assistant City Attorney II

EXECUTIVE SUMMARY

Since 1967, the city has provided rebates to help compensate residents with lower incomes for the city sales tax they pay on food through the Food Tax Rebate Program. Some of the language in the current code is outdated with regards to people living with a disability and how those individuals document their disability in order to qualify for the rebate. The Ordinance tax code definition requires updating to comply with the 2018 Federal Tax Reform changes. In addition, there is no provision in the current code to allow people without permanent shelter or people filing as Head of Household on their taxes to apply for and receive a rebate if they meet the other eligibility requirements.

STAFF RECOMMENDATION

Based on staff recommendation and input from the Senior Community Advisory Committee and key service providers, the recommendation to City Council is to adopt Ordinance 8364, (**Attachment A**) in order to:

- Update the language referring to people with disabilities bringing it into alignment with current disability etiquette and best practices
- Update the documentation required for people with disabilities bringing it into alignment with current practices
- Add documentation requirements for people experiencing homelessness
- Update the definition of tax code to align with current tax forms
- Update "Head of Household" status to not penalize single parents

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance 8364, amending Chapter 3-5, "Tax Refund Program," B.R.C. 1981, to add two new categories of qualifying applicant, comply with Federal Tax Code, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – This action has relatively low economic impact although with the changes to the family eligibility and the inclusion of people experiencing homelessness there could be a small increase in total annual rebate amount.
- Environmental – This action has negligible environmental impacts.
- Social – This language and qualifying update supports the city’s goals of creating a more welcoming and inclusive community, which is particularly important given that the existing language and qualifying documentation for people with disabilities can be considered offensive and out-of-date. The proposed language is more inclusive and respectful to community members living with a disability. The change in language eliminates persons living without permanent shelter from being denied a rebate for the sales tax they pay on food.

OTHER IMPACTS

- Fiscal – This action has no significant budgetary impacts to the city.
- Staff time – No additional staff time will be required.

BOARD AND COMMISSION FEEDBACK

The Senior Community Advisory Committee discussed the proposed amendments on October 8, 2019 and unanimously voted in support of the proposed ordinance.

PUBLIC FEEDBACK

Several human services nonprofit and government organizations were consulted about the proposed changes. Feedback was requested from Mental Health Partners, Boulder County Area Agency on Aging, Center for People with Disabilities and the Boulder Shelter for the Homeless. Leadership at all of the agencies supported the changes. The Center for People with Disabilities indicated that the language describing persons with disabilities and documentation of a disability was outdated and offensive. The Area Agency on Aging stated they were very much in favor of these changes when considering the increasing demographic of older adults who are grandparents raising grandchildren but not legal guardians.

BACKGROUND

Program History

Each year since 1967, the city provides rebates to help compensate residents with lower incomes for the city sales tax they pay on food. During the open application period, those seeking a rebate must fill out an application documenting their eligibility. To be eligible to receive a refund, applicants must meet financial eligibility guidelines, have been a resident of Boulder for the entire previous calendar year and be either age 62 and

over for the entire previous year, or a family with children under 18 years of age in the household for the entire previous year, or a person with a disability.

The financial eligibility for all three categories is based on the Department of Housing and Urban Development's (HUD) determination of Area Median Income (AMI) for the previous calendar year. To qualify for the Food Tax Rebate Program (FTRP), the income must be at or below 50% AMI. The rebate amount is based on regional Consumer Price Index (CPI). Both the AMI and the CPI are adjusted on an annual basis.

Since 2001, rebate amounts for qualified households are indexed each year for inflation based on the Consumer Price Index (CPI) that includes Boulder County. In 2017 an extensive outreach plan was adopted to increase community awareness of the program. The city has an MOU with Boulder Housing Partners (BHP) to streamline the application process for their residents. Applications are available in English and Spanish.

The charts below highlight the distribution of funds by category from 2010 – 2019.

Families with Children

Year	Qualified Applicants	Rebate Amounts \$	Total Amount \$
2010	175	213	37,275
2011	155	217	33,635
2012	162	224	37,184
2013	166	227	37,682
2014	172	231	39,732
2015	160	236	37,760
2016	143	238	34,034
2017	128	245	31,360
2018	150	253	37,950
2019	130	260	33,800
Total	1545		360,412

Older Adults 62+

Year	Qualified Applicants	Rebate Amounts \$	Total Amount \$
2010	465	70	32,550
2011	475	71	33,725
2012	549	73	40,077
2013	554	74	40,996
2014	540	75	40,500
2015	527	77	40,579
2016	591	78	46,098
2017	642	80	51,360
2018	645	83	53,535
2019	661	85	56,185
Total	5649		435,605

Individuals with a Disability

Year	Qualified Applicants	Rebate Amounts \$	Total Amount \$
2010	167	70	11,690
2011	150	71	10,650
2012	158	73	11,534
2013	173	74	12,802
2014	172	75	12,900
2015	141	77	10,857
2016	120	78	9,360
2017	124	80	9,920
2018	148	83	12,284
2019	146	85	12,410
Total	1499		114,407

Between 2010 and 2019 a total of 8,693 qualified applications were processed for a rebate distribution of \$910,424.

2019 Highlights

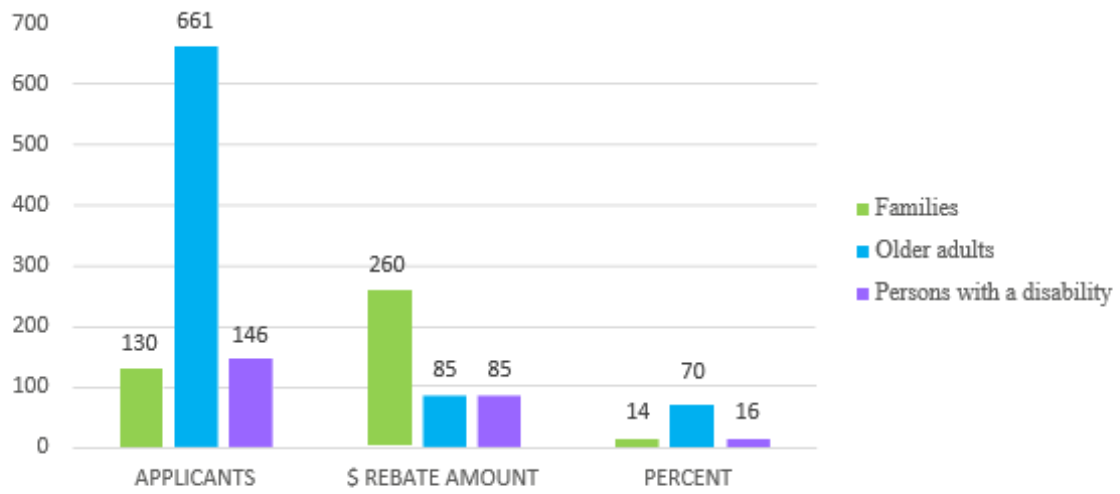
The 2019 rebate amounts per category were \$85 for older adults and individuals with disabilities and \$260 for families with children.

2019 Financial Eligibility Guidelines (50% Area Median Income)

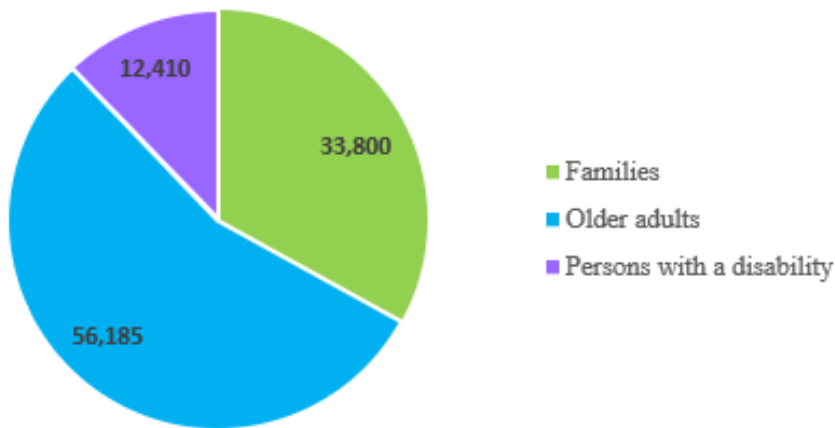
Family Size	1	2	3	4	5	6	7	8
Income Limit	\$38,050	\$43,450	\$48,900	\$54,300	\$58,650	\$63,000	\$67,350	\$71,700

In 2019, the FTRP received a total of 1,008 applications. Of those 1,008 applications, 71 were denied because they were incomplete or were submitted past the deadline or did not meet the established qualification guidelines. As a result, 937 rebates were processed, and refunds were issued totaling \$102,395.

2019 Distribution of Qualified Applicants



2019 \$ TOTAL DISBURSEMENT



ANALYSIS

The original language of the Tax Refund Program was established in 1967. Since that time there has been progress in use of person first language for people with disabilities, changes in the tax code, and changes in family structure and support for persons without permanent shelter. The proposed changes to the ordinance include amending Section 3- 5-1 “Legislative Intent” by changing the phrase “low income families and individuals” to “families and individuals with lower incomes.” This change reflects respectful person- first language and supports the city’s commitment to equity and inclusivity.

Section 3-5-2, “Definitions,” uses the term “Disabled” and defines it as “a person receiving Supplemental Security Income or Social Security Disabled Income or certified as disabled by the Center for People with Disabilities, the Developmental Disabilities Center or the Mental Health Center in and for Boulder County.”

The term Social Security Disabled Income is incorrect. The correct term is Social Security Disability Insurance or SSDI. The process for receiving SSDI is extremely difficult and has a high denial rate. It is not uncommon for individuals with a disability to appeal a denial two or three times, therefore alternatives for documentation were included in the original Ordinance. However, the Center for People with Disabilities and Mental Health Partners do not “certify” anyone as having a disability. The Center for People with Disabilities found this language to be outdated, inaccurate and offensive.

The term Developmental Disabilities Center, in this context would refer to Imagine!, a private, nonprofit community-centered board that serves as the local area’s single point of entry into local, state, and federally funded programs for people with developmental disabilities. A community-centered board also does not certify that a person has a disability. The suggested changes to the Ordinance update the language and provides accuracy in providing alternative documentation. This proposed change allows a physician to provide a letter validating a disability or functional limitation using Americans with Disabilities Act (ADA) guidelines.

Other proposed changes include additional qualifications in Section 3-5-3, “Qualifications for Tax Refund.” The current qualifications do not provide for persons without permanent shelter that live, work, and shop for food in the city. Because the Boulder Shelter for the Homeless is unable to provide documentation of continual residency for an entire calendar year, adding language that allows residents without a permanent address to apply by documenting work with a city-approved homelessness services agency allows individuals experiencing homelessness to apply for the rebate.

Lastly, adding Head of Household as a qualifying category supports single parents who provide more than 50% of the care for their family but are unable to claim the children as dependents as a result of the divorce or custody agreement.

NEXT STEPS

Following this update, the FTRP will be advertised starting in February 2020, as it is every year. HHS staff is also engaged in the Google.org Fellowship Program developing a means to enhance access and referral to city services. FTRP will be one of the many city services featured in the tool that is currently under development.

ATTACHMENTS

Attachment A- Ordinance 8364

ORDINANCE 8364

AN ORDINANCE AMENDING CHAPTER 3-5, "TAX REFUND PROGRAM," B.R.C. 1981, TO ADD TWO NEW CATEGORIES OF QUALIFYING APPLICANT, COMPLY WITH FEDERAL TAX CODE; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 3-5, "Tax Refund Program," B.R.C. 1981, is amended as follows:

3-5-1. – Legislative Intent.

The purpose of this chapter is to make refunds of estimated sales tax on the purchase of food to certain qualifying ~~low income~~ families and individuals with lower incomes in order to make more equitable the burden placed upon them by city sales taxes.

3-5-2. - Definitions.

The following terms used in this chapter have the following meanings unless the context clearly indicates others:

~~*Disabled Person with a Disability*~~ means a person receiving Supplemental Security Income or Social Security ~~Disabled Disability~~ Income or who can produce a letter from a physician stating that the individual has a disability as defined by the federal Americans with Disabilities Act. ~~certified as disabled by the Center for People with Disabilities, the Developmental Disabilities Center or the Mental Health Center in and for Boulder County.~~

Family is defined in ~~s~~Section 3-1-1, "Definitions," B.R.C. 1981.

Income means total income and is found on the following tax forms in the following places:

I.R.S. Form 1040	Line 22 <u>6</u> "Total Income"
I.R.S. Form 1040EZ	Line 4 "Adjusted Gross Income"
I.R.S. Form 1040NR	Line 23 "Total Effectively Connected Income"

~~*Individual* is defined in section 3-1-1, "Definitions," B.R.C. 1981.~~

1 **3-5-3. - Qualifications for Tax Refund.**

2 Every person desiring to claim a tax refund shall submit to the city manager a verified,
 3 written application therefor signed under oath, on the form specified by the city manager and
 4 with the attachments required by the city manager, filed between March 1 and June 30 of the
 5 year subsequent to the year for which the refund application is made. Each applicant must satisfy
 6 the following qualifications to be entitled to a refund in the amount provided in sSection 3-5-4,
 7 “Refund Amount,” B.R.C. 1981:

- 8 (a) The applicant must be one of the following categories of families or individuals:
- 9 (1) A family at least one of the members of which is a child under the age of
 10 eighteen who is the son or daughter of one of the other persons who is:
- 11 (A) claiming the dependant deduction on his or her tax return as set forth on
 12 I.R.S. Form 1040, Section 6c, “Exemptions,” or I.R.S. Form 1040NR,
 13 Section 7c, “Dependents;” or
- 14 (B) filing Head of Household status with the I.R.S. if applicant is unmarried
 15 and pays more than 50% of the cost of upkeep for a home with children
 16 under 18; or
- 17 (2) A n-person individual who is disabled with a disability or over the age of sixty-
 18 one and who is not a member of a family which has applied or which
 19 subsequently applies for a refund for the same year.
- 20 (b) The applicant must have been a resident of the City of Boulder during the entire year
 21 for which the refund application is made. Individuals experiencing homelessness can
 22 meet this residency requirement by providing documentation that they are receiving
 23 services from a city-recognized homelessness services agency.
- 24 (c) The applicant's income during the year for which the refund is requested must be no
 25 greater than fifty percent of the Area Median Income for Boulder County by family
 size, as published by the United States Department of Housing and Urban
 Development or its successor agency, for such year.

20 **3-5-4. - Refund Amount.**

- 21 (a) If the applicant meets the requirements for a refund as set forth in sSection 3-5-3,
 22 “Qualifications for Tax Refund,” B.R.C. 1981, the city manager shall refund, for
 23 calendar year 20182001, \$83.0061.00 per individual and \$253.00183.00 per family.
- 24 (b) For each calendar year after 20182001, the city manager shall also adjust the refund
 25 amounts set forth above in accordance with the change in the cost of living for the
 previous calendar year as shown in the “all items” category of the United States
 Department of Labor Consumer Price Index for All Urban Consumers for the
 metropolitan statistical area which includes the City. In the event that either of these

1 data has not been published as of the start of the refund program during any particular
 2 year, then for the refund program during that year, the manager shall adjust the
 3 income levels, or the refund amounts, based on the manager's best estimate of the
 4 unknown data, but the manager shall take the subsequently published data, rather than
 the estimated data, into account in setting the qualifying income levels or refund
 amounts for the refund program for the following year.

5 **3-5-5. - Administration of Chapter.**

- 6 (a) The city manager shall administer the program established by this chapter and may
 7 prepare a refund application form, specifying attachments, such as, without limitation,
 8 income tax forms and other proof of income and residency, adjust qualifying income
 9 levels and refund amounts, adopt rules and regulations consistent with the provisions
 of this chapter, and audit and verify the applications submitted pursuant to this
 chapter. The city manager shall provide public notice of the tax refund application
 period annually, at least two weeks before it starts.
- 10 (b) Any refund application form shall require the claimant to verify and sign the
 11 application under oath. Any applicant who receives a refund based upon information
 12 provided by the applicant that is materially incorrect shall, within fifteen days of the
 13 mailing by first class mail of a written demand therefor from the city manager, repay
 14 the City the full amount of any excess refund that was based on this incorrect
 information, together with a penalty. The penalty shall be interest at the rate of
 15 eighteen percent per annum on the excess refund from the date the City paid the
 16 applicant the refund to the date the excess refund is repaid to the City.
- 17 (c) The burden of proving entitlement to a tax refund under this chapter is on the
 18 applicant. The city manager may require reasonable information to support the refund
 19 application, as long as such information is uniformly required of all similarly situated
 20 applicants. Upon audit, the manager may require all reasonable information necessary
 21 to support the claim of tax refund.
- 22 (d) If the city manager denies any claim for tax refund, the manager shall state the
 23 reasons therefor in writing to the claimant and indicate all or the portion of the claim
 24 that is being denied. If a claimant wishes to appeal the decision of the program
 25 administrator, the claimant must do so in writing within fourteen days of the date of
 mailing of the notice of denial. The claimant shall be thereupon entitled to a hearing
 before the manager to appeal the decision of the director, under the procedures
 established pursuant to ~~sSections 3-17-163-2-25, "Hearings (Applies to Entire Title)"~~
 and ~~3-17-173-2-26, "Appeals From City Manager's Decision (Applies to Entire~~
~~Title),"~~ B.R.C. 1981.

23 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of
 24 the residents of the city, and covers matters of local concern.

