

# MEMORANDUM

Recreation and Community Services Department



**DATE:** March 9, 2022

**TO:** Mayor and Councilmembers

**THROUGH:** Steve McHarris, City Manager *Steve McHarris*

**FROM:** Renee Lorentzen, Director of Recreation and Community Services

**SUBJECT:** **City Council Policy on Donations and Fee Waivers / Reductions**

At the March 1, 2022, City Council meeting, Members of the City Council made several requests regarding fee waivers for use of City indoor and outdoor rental facilities. This Information Memorandum transmits the City Council approved policy titled "City Council Donation and Fee Waiver/Reduction Policy," summarizes key Policy provisions, outlines the process for organizations requesting a donation or fee waiver/reduction, and provides an initial assessment regarding the organizations eligibility to receive a fee waiver given the current policy.

## **Background and Policy Overview**

In 2013, the City Council adopted a Donation and Fee Waiver/Reduction Policy. The policy was established as City Council recognized the value of partnership with other agencies and organizations in providing services that benefit the community and its residents. The policy further clarifies that the purpose is so that the City may "...provide a donation or grant a reduction and/or waiver of fees to intergovernmental agencies or non-profit organizations that provide Milpitas community benefit."

## Eligible Groups & Organizations

As part of the policy's purpose statement, it defines that the donation and fee waiver/reductions are for intergovernmental agencies or non-profit organizations that provide Milpitas community benefit. To be eligible, the organization must be a non-profit organization as described by the Internal Revenue Section such as 501(c)3 or an intergovernmental agency. In either case, only events that provide community benefit within the City of Milpitas are eligible. The organization must be non-discriminatory, and non-political in nature, based in Milpitas or have a local affiliation within the City. An example of a local affiliation would be an operating Milpitas club/organization whose non-profit status is tied under a larger district, state or national club or organization.

## Eligible Events & Activities

Only activities and events that provide community benefit within the City of Milpitas are eligible for a donation or fee waiver/reduction. If the request for donation or fee waiver/reduction is for a community event, the event must be advertised, open to the public and no entrance fees can be charged for the event. If the activity or event is a fundraiser the organization must demonstrate that at least 60% of funds raised will be of general benefit to the Milpitas community.

## Budget & Funding Rules

Per the Policy, as part of the annual approval of the budget, the City Council may allocate funds for donations and fee waiver award. These monies are intended to offset City fee charges and the corresponding revenue for fee waivers. Donations and fee waivers/reductions will not be granted after all funds have been allocated. As part of the approval of the FY 2021-22 Adopted Budget, the City Council allocated \$25,000 for this program. The full amount is still available for donations and fee waivers/reductions for the current fiscal year.

The City Council may award donations or fee waivers/reductions to each organization once a year, regardless of an organization's number of local branches or affiliations. The maximum donation amount is \$500, and the maximum fee waiver/reduction amount is \$1,500. Donation and waiver/reduction requests cannot be combined.

Fee waivers/reductions can only be applied to services provided by the City during its regular course of business. These types of fees may include rental fees for the City's facilities or equipment, building permit fees or fire permit fees. Fees like City staff overtime costs required due to the event cannot be waived. Any fees not covered by the fee waiver/reduction will be due to the City before the scheduled activity or event.

### **Process for Applying and Receiving a Donation or Fee Waiver/Reduction**

All interested organizations seeking a donation or fee waiver/reduction by City Council must first reserve their desired activity or event space with the appropriate City department or property owner and file any required special event permit applications (outdoor events of 150+ only). Once the location is secured, requests for donations or fee waiver/reductions must be submitted in writing using the Donation or Fee Waiver/Reduction Request Application Form available through the Office of the City Clerk or the Recreation and Community Services Department. The organization's IRS Tax Exempt Determination Letter is due at the time of application submittal. Staff contacts the IRS to verify the organization's tax-exempt status.

If approved, the City's contribution is required to be recognized in the event fliers and/or advertising. Within 60 days after completion of the event in which a donation was received or a fee waiver/reduction was granted by the City Council, the organization is required provide a written report to the City Clerk to include at minimum:

- number of participants;
- copies of all publicity of the event;
- any benefit to the community; and
- amount of funds raised and an accounting of how the proceeds of the event will be dispersed.

Failure to abide by the rules and procedures as set forth in the policy will result in the organization being denied for funding by donation and/or fee waiver/reduction for future activities and events.

Once organizations have secured their activity or event space and submitted their Donation and Fee Waiver/Reduction Application, IRS Letter, the City Clerk's office will add a Donation or Fee Waiver/Reduction staff report on a regularly scheduled City Council meeting consent agenda.

### **Initial Assessment of Fee Waiver Requests Supported by Members of the City Council**

Based on Council discussion at the March 1, 2022 City Council meeting, staff reached out to the various organizations this week to advise them of their eligibility for fee reductions, the process as outlined in the Policy and steps they can take, if any, to be eligible to receive fee reductions. Staff has been able to make contact with every organization except for the Filipino American South Bay Community and the Christian Worship Center. Staff will continue to reach out to the organizations and identify potential eligibility avenues such as partnering with a Milpitas based non-profit organization consistent with the Policy.

The table below identifies the Member of the City Council who brought forward the request for a fee reduction, the Organization's Name, and proposed event, as staff understands, the initial eligibility assessment and the reasons for non-compliance with the Council approved Policy. All organizations, if determined to be eligible and as approved by the City Council would be able to receive a fee reduction amount up to \$1,500.

Member of the City Council Supporting a Fee Reduction	Name of Organization	Event Description	Initial Eligibility Assessment	Non-compliance with Policy (Initial Determination)
<b>Councilmember Chua</b>	Filipino American Real Estate Professional Association	ADU Seminar for local	Not Eligible	Not a Milpitas non-profit or local affiliate branch based on information provided
<b>Councilmember Dominguez</b>	Filipino American South Bay Community	Pop-Up Resource Faire	Not Eligible	Not a non-profit based on IRS database research
<b>Vice Mayor Montano</b>	Samuel Ayer Graduates	Annual picnic with Ayer Graduates	Not eligible	Per representatives of the organization, Samuel Ayer Graduates is not a non-profit organization
<b>Mayor Tran</b>	Milpitas Kiwanis	Annual Crab Feed benefitting MHS Football Team	Eligible	Milpitas based non-profit
<b>Mayor Tran</b>	Christian Worship Center	Easter Egg Hunt	Not eligible	Not a non-profit based on IRS database research

### Next Steps

Staff will continue to reach out to the organization and identify potential eligibility avenues such as partnering with other organizations consistent with the Policy. Updates will be provided as part of the March 15, 2022 Agenda Packet scheduled for release on Friday March 11, Agenda Item C4, titled "Receive and Review the List of Agenda Items Requested by City Councilmembers."

Once any of the five organizations has submitted the required information and meet the eligibility requirements, staff will bring the request forward for City Council consideration at a future City Council meeting. For example, the request from Milpitas Kiwanis is scheduled for Council consideration for the March 15, 2022 City Council meeting.

Attachment:  
Policy No. 01-07 – City Council Donation and Fee Waiver/Reduction Policy

**CITY OF MILPITAS, CALIFORNIA**  
**STANDARD OPERATING PROCEDURE**

**SUBJECT: CITY COUNCIL DONATION AND FEE WAIVER/REDUCTION POLICY**

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1. Purpose

The City of Milpitas recognizes the value of partnership with other agencies and organizations in providing services that benefit the community and its residents. To that end, the City may provide a donation or grant a reduction and/or waiver of fees to intergovernmental agencies or non-profit organizations that provide Milpitas community benefit.

2. Donation and Fee Waiver Budget

With each budget cycle, the City Council will establish an annual budget amount for donations or fee waivers/reductions for unspecified community events. Except for extraordinary circumstances, donations and or fee waivers/reductions will not be granted once the budgeted amount has been expended.

3. Requirements

- a) Any requests for donation or fee waiver/reduction must be submitted in writing using the attached application form.
- b) Requests for donations or fee waivers/reductions will be considered by the City Council during a regularly scheduled meeting.
- c) To be eligible, the organization must be a non-profit organization as described by the Internal Revenue Section such as 501(c)(3) or an intergovernmental agency. In either case, only events that provide community benefit within the City of Milpitas shall be eligible. If fund raising is involved, the organization must demonstrate that at least 60% of fund raised will be of general benefit to the Milpitas community. The organization must be non-discriminatory, and non-political in nature, based in Milpitas or have a local affiliation within the City.
- d) If the request for donation or fee waiver/reduction is for a community event, the event must be advertised, open to the public and no entrance fee shall be charged for the event.
- e) Fee waivers/reductions only apply to services provided by the City during its regular course of business. Such fees may include rental fees for the City's facilities or equipment, building permit fees or fire permit fees. Any City staff overtime costs required due to the event cannot be waived.
- f) The City Council may grant donation or fee waiver/reduction to each organization once annually, regardless of how many branches or affiliations it may have in the City.
- g) The fee waiver/reduction amount is further subject to \$1,500 maximum annually and the donation amount is subject to \$500 maximum annually for each organization. A fee waiver/reduction request cannot be combined with a donation request.
- h) To the extent possible, the City's contribution should be recognized in the event fliers and/or advertising.
- i) Within 60 days after completion of the event in which a donation was received or a fee waiver/reduction was granted by the City, the organization will provide a written report to the City Clerk to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed.
- j) Failure to abide by the rules and procedures as set forth in this document will result in the organization being denied for funding and/or fee waiver/reduction in the future.

**City of Milpitas**  
**Donation or Fee Waiver/Reduction Request Application Form**  
**for Non-Profit Organizations**

*Complete this form and return it to Milpitas City Clerk*

Please provide a copy of the IRS tax-exempt letter with the application.

Name of Organization: \_\_\_\_\_

Is there a Milpitas branch or affiliation? \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone No. \_\_\_\_\_

Email Address: \_\_\_\_\_

What is your request? Donation Amount Requested \_\_\_\_\_ OR

Fee Requested to be waived (type and \$ amount) \_\_\_\_\_

Event date(s): \_\_\_\_\_

What is the purpose of the event? \_\_\_\_\_

\_\_\_\_\_

How will the Milpitas community benefit from this event? \_\_\_\_\_

\_\_\_\_\_

What % of the fund raising proceeds will benefit Milpitas community? \_\_\_\_\_

\_\_\_\_\_

How will the City's contribution (if granted) be recognized in any publicity? \_\_\_\_\_

\_\_\_\_\_

***Within 60 days after completion of the event for which a donation was received or a fee waiver/reduction was granted by the City of Milpitas, your organization will provide a written report to the City Clerk to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed.***

Signature of Officer: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_