

MEMORANDUM

Office of the City Manager



DATE: March 10, 2022

TO: Mayor and Council

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Alex Andrade, Economic Development Director

SUBJECT: ARPA Small Business Assistance Grant Program Update

Background

On August 9, 2021, the City Council approved the ARPA Investment Plan which allocated \$1,500,000 for a small business assistance grant program. On January 11, 2022, the City Council approved several programmatic changes, which prioritizes key businesses that would bypass the grant award lottery process if they are deemed eligible for the grant program. These prioritized businesses include daycare centers (commercial and home-based); fitness, recreation, and yoga businesses; and past applicants of the 2020 Milpitas Microenterprise Grant Program that entered the lottery but did not receive grant awards.

The Council-approved eligibility requirements include:

1. Have a current business license and employ between 1-25 employees;
2. Operate a physical commercial storefront within the city limits of Milpitas. Daycare centers located in physical commercial and/or home-based locations are eligible for grants;
3. Demonstrate good standing with the City of Milpitas (no code enforcement issues, no wage theft violations, etc.).

The purpose of this Informational Memorandum is to inform the City Council of a potential conflict with state law as it relates to the business license requirement for home-based daycare centers.

ANALYSIS:

On Jan 31, 2022, the ARPA Small Business Assistance Grant Program formally launched and began accepting applications. The application period was open for 30 days during which, staff was made aware of a state law that prohibits a local jurisdiction from imposing a business license, fee, or tax for the privilege of operating a family daycare home. According to the Legislative Counsel's Digest [SB 234 \(2019\)](#), "Under existing law, a small family daycare home, which may provide care for up to 8 children, is considered a residential use of property for purposes of all local ordinances. Existing law authorizes a city, county, or city and county to either classify a large family daycare home, which may provide care for up to 14 children, as residential use of the property or to provide a process for applying for a permit to use the property as a large family daycare home."

Therefore, to follow state law, home-based daycare businesses will be exempted from the business license eligibility requirement for the ARPA Small Business Assistance Grant Program. Staff will conduct further outreach to communicate this change in eligibility requirements to home-based daycare businesses and accept additional applications in this category through March 24, 2022.