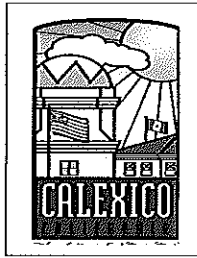


AGENDA  
ITEM

**11**



# AGENDA STAFF REPORT

**DATE:** February 5, 2020

**TO:** Mayor and City Council

**APPROVED BY:** David B. Dale, City Manager *UK to D.D.*

**PREPARED BY:** Carlos Campos, City Attorney

**SUBJECT:** Second Reading and Adoption of Ordinance No. 1208 - An Ordinance Amending Various Sections of the Calexico Municipal Code Regarding City Fees to Ensure Consistency between the Municipal Code and the Adopted Fee Waiver Policy

=====

## Recommendation:

Second Reading and Adoption of Ordinance No. 1208 – An Ordinance of the City Council of the City of Calexico, California, amending the Calexico Municipal Code regarding fee waiver authority.

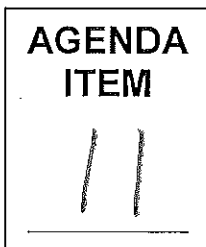
## Background:

The City of Calexico often receives requests for fee waivers from charitable, nonprofit, and other service-oriented organizations operating within the City. The City would like to establish an administrative process for such organizations to request and obtain fee waivers. This process will generate records for the City, such that the City can monitor the fiscal impact of allowing fee waivers.

## Discussion & Analysis:

The Proposed Fee Waiver Policy allows the city manager, or designee, to grant fee waivers to persons or organizations to cover special event permit fees, temporary use permit fees, other permit fees, and may include waivers for direct costs, such as staff time. The City may request that an applicant provide in-kind or other contributions to offset the fee amount.

Fee waiver requests may be made in writing to the city manager on the application form that is attached to the proposed Fee Waiver Policy. The City Manager may approve fee waivers up to \$500. If the City Manager denies a fee waiver request, the decision may be appealed to the City Council.



To ensure that the Calexico Municipal Code and the Fee Waiver Policy are consistent, the following Municipal Code amendments are proposed:

- A general provision allowing persons to apply for fee waivers which will be granted or denied by the City Manager, or designee, based on the guidelines set forth in the Fee Waiver Policy. The City Manager's, or designee's, decision may be appealed to the City Council.
- An amendment to Municipal Code Chapter 5.44 *Carnivals, Circuses, and Expositions*, Section 5.44.040 *License—Waiver of fees* that gives the city manager, or designee, authority to grant fee waivers for these certain types of events as proscribed in the Fee Waiver Policy—where the existing Code Section vests this authority in the City Council.
- An amendment to Municipal Code Chapter 12.18 *Permits for Special Events and Parades*, Section 12.18.080 *Permit fees* that gives the City Manager, or designee, the authority to grant or deny special event permit fee waivers in compliance the Fee Waiver Policy.
- An amendment to Municipal Code Chapter 17.11 *Special Uses and Conditions*, Section 17.11.160 *Fee* that gives the City Manager, or designee, the authority to grant or deny temporary use permit fee waivers in compliance with the Fee Waiver Policy.

City Council introduced the proposed Ordinance amending the Calexico Municipal Code regarding fee waiver authority and approved the Resolution No. 2020-03, adopting a Fee Waiver Policy and Setting a Fee Waiver Limit at the meeting of January 22, 2020.

**Fiscal Impact:**

Any increase in fee waiver requests that may occur and be granted as a result of adopting this Fee Waiver Policy could have a small impact on the General Fund, but would also likely increase special event revenue. As such, any fiscal impact would be minimal.

**Attachments:**

- (1) Ordinance 1208- An Ordinance of the City Council of the City of Calexico, California, amending the Calexico Municipal Code Regarding Fee Waiver Authority.
- (2) Resolution No. 2020-03, a Resolution of the City Council of the City of Calexico, California, Adopting a Fee Waiver Policy and Setting a Fee Waiver Limit. (Fee Waiver Policy attached to Resolution as Exhibit "A").

## ORDINANCE NO. 1208

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING THE CALEXICO MUNICIPAL CODE REGARDING FEE WAIVER AUTHORITY.

**WHEREAS**, the City of Calexico, California, (“City”) often receives requests for fee waivers from charitable, nonprofit, and other service-oriented organizations operating within the City; and,

**WHEREAS**, the City would like to establish an administrative process for such organizations to request and obtain fee waivers from the City; and,

**WHEREAS**, the envisioned administrative process will generate records for the City such that the City can monitor the fiscal impact of allowing fee waivers; and,

**WHEREAS**, various portions of the Calexico Municipal Code shall be amended to reflect the City’s intent to establish an administrative fee waiver program.

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the City Council of the City of Calexico, California, as follows:

**SECTION 1.** **Recitals.** The City Council of the City of Calexico, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

**SECTION 2.** **Amendment to Municipal Code.** Calexico Municipal Code Section 2.02.270 *Fee Waiver* of Chapter 2.02 *City Manager* is hereby added to the Calexico Municipal Code as follows:

**“2.02.270 – Fee waiver.**

A person may apply for a waiver of any City fee, up to an amount set by city council resolution, by submitting a written application to the city manager on a form provided by the City. The city manager, or designee, may grant a fee waiver for good cause shown, hardship, or equity as provided in the City’s Fee Waiver Policy adopted by City Council resolution and amended from time to time. The decision of the City Manager, or designee, may be appealed to the City Council.”

**SECTION 3.** **Amendment to Municipal Code.** Calexico Municipal Code Section 5.44.040 *License—Waiver of fees* of Chapter 5.44 *Carnivals, Circuses, and Expositions* is hereby amended to add underlined text and delete stricken text as follows:

**“5.44.040 - License—Waiver of fees.**

An applicant may apply for a permit fee waiver by submitting an application to the city manager as provided in Section 2.02.270.”

**SECTION 4. Amendment to Municipal Code.** Calexico Municipal Code Section 12.18.080 *Permit Fees* of Chapter 12.18 *Permits for Special Events and Parades* is hereby amended to add underlined text and delete stricken text as follows:

**“12.18.080 - Permit fees.**

A. Except as otherwise provided by this chapter or any other applicable law, rule or regulation, or by the terms of a permit, license, lease or contract which has been specifically authorized by the city council, any permit fee, application fee, daily fee, and other additional fee for the use of city streets or other city-owned or controlled property pursuant to this chapter shall be established by the city council by resolution.

~~B. An indigent natural person who cannot apply for a permit because of an inability arising from such indigence to pay the application fee due shall not be required to pay the fee. Application for indigent status shall be made at the time of permit application and shall be accompanied by such relevant information and documentation as may, in the opinion of the city manager or his/her designee, be reasonably necessary to verify such status. For purposes of this section, “indigent natural person” includes, but is not limited to, a person eligible for county relief and support as an indigent person under Section 17000 et seq., of the California Welfare and Institutions Code or as said section(s) is/are amended from time to time~~ An applicant may apply for a permit fee waiver by submitting an application to the city manager as provided in Section 2.02.270.”

**SECTION 5. Amendment to Municipal Code.** Calexico Municipal Code Section 17.11.160 *Fee* of Chapter 17.11 *Special Uses and Conditions* is hereby amended to add underlined text and delete stricken text as follows:

**“17.11.160 - Fee.**

The application shall be accompanied by a fee established by resolution of the city council to cover the cost of processing the application prescribed in this section. ~~This fee may be waived by the approving authority for charitable groups that do not need any public services.~~ An applicant may apply for a permit fee waiver by submitting an application to the city manager as provided in Section 2.02.270.”

**SECTION 6. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption.

**SECTION 7. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

**SECTION 8. Certification and Publication.** The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

**SECTION 9. CEQA.** The City Council finds that adoption of this Ordinance is not a “project,” as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Calexico, California on the 5<sup>th</sup> day of February, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
BILL HODGE, MAYOR

ATTEST:

\_\_\_\_\_  
GABRIELA GARCIA, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CARLOS CAMPOS, CITY ATTORNEY

State of California     )  
County of Imperial    ) s.s.  
City of Calexico       )

I, Gabriela Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 1208, introduced at a special meeting held on the 22<sup>nd</sup> day of January 2020, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the 5<sup>th</sup> day of January, 2020.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

GABRIELA GARCIA, CITY CLERK

**RESOLUTION NO. 2020-03**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, ADOPTING A FEE WAIVER POLICY AND SETTING A FEE WAIVER LIMIT.**

**WHEREAS**, the City of Calexico, California (“City”) often receives requests for fee waivers from charitable, nonprofit, and other service-oriented organizations operating within the City; and,

**WHEREAS**, the City would like to establish an administrative process for such organizations to request and obtain fee waivers from the City; and,

**WHEREAS**, the envisioned administrative process will generate records for the City, such that the City can monitor the fiscal impact of allowing fee waivers; and,

**WHEREAS**, the purpose of this Resolution is for the City Council of the City of Calexico, California (“City Council”), to adopt a Fee Waiver Policy.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Calexico, California, as follows:

**SECTION 1. Recitals.** The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

**SECTION 2. Adoption of Fee Waiver Policy.** The Fee Waiver Policy attached hereto and incorporated herewith as **Exhibit “A”** is approved and may be amended from time to time.

**SECTION 3. Adoption of Fee Waiver Limit.** The City Council hereby authorizes the City Manager, or designee, to waive any fee owed to the City, up to five hundred dollars (\$500.00), as provided for in the Fee Waiver Policy.

**SECTION 4. CEQA.** The City Council hereby finds and determines that this Resolution relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, section 15378(b)(5).

**SECTION 5. Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

**SECTION 6. Effective Date of Resolution.** This Resolution shall take effect immediately upon its adoption.

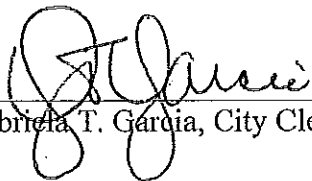


**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calexico, California, at a regular meeting held on this 22<sup>nd</sup> day of January, 2020.

AYES: Hodge, Romero, Arreola-Fernandez, Reisin, Pacheco  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
\_\_\_\_\_  
Bill Hodge, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Gabriela T. Garcia, City Clerk

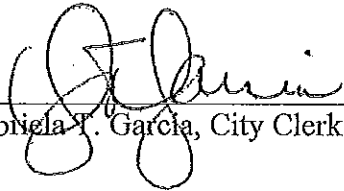
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Carlos Campos, City Attorney

State of California     )  
County of Imperial    ) ss.  
City of Calexico       )

I, Gabriela T. Garcia, City Clerk of the City of Calexico, California do hereby certify the above Resolution No. 2020-03 was approved at a regular City Council meeting held on the 22<sup>nd</sup> day of January 2020, by the following vote to wit:

AYES:           Hodge, Romero, Arreola-Fernandez, Reisin, Pacheco  
NOES:           None  
ABSTAIN:       None  
ABSENT:        None

  
\_\_\_\_\_  
Gabriela T. Garcia, City Clerk

**EXHIBIT "A"**

**FEE WAIVER POLICY**

## FEE WAIVER POLICY

This policy establishes parameters for waiving fees associated with special events (i.e., permit fees, facility fees) or temporary uses.

### 1. PURPOSE

The purpose of this policy is to provide an equitable means for charitable, community, and service-related organizations to access fee waivers.

### 2. BACKGROUND

Fee waivers are an expense to the City's General Fund. Fees are established to pay for the cost of a service provided by a City department. When a fee waiver is granted, the City General Fund pays the department in an amount equal to the fee waived.

### 3. RESPONSIBILITY

Fee waivers are determined by the City Manager, or designee, who shall ensure that department staff follow the procedures set forth in this policy.

### 4. POLICY

#### A. Eligible Events, Uses, and Activities

Fee waivers are available to wide variety of events including sporting, tourism, cultural, and community events.

Fee waivers will be considered for:

- Non-profit entities that have a documented federal tax exempt status;
- Other governmental agencies; and
- Charitable, community, and service-related organizations that demonstrate that fees will cause a financial hardship.

The following projects and organizers, for example, are ineligible:

- For-profit organizations;
- Vendors; and
- Fundraising events where attendees pay a fee for admission to the event or, in the case of festivals, where vendors pay to participate in the event.

#### B. Fee Waivers

Fee waivers are available for special event permit fees, temporary use permit fees, other permit fees, facility fees, and may include direct costs, such as staff time.

Any applicant may have its permit and/or facility fees waived if the said organization or entity provides an in-kind or other contribution of goods, services, or programs that will benefit the City of Calexico or its residents. All proposed special consideration must be equal to or exceed the value of the reduced fee or provide a substantial but immeasurable benefit.

Any waiver of permit or facility fees allowed above will not affect the obligation of a permittee to comply with the remaining qualifications, restrictions, and criteria of this policy or to pay other costs or to provide insurance as required by this policy or by ordinance. Business license, health permit, fire permit, and liquor license fees will not be waived or reduced.

C. Guidelines

Scheduling and use of City facilities are subject to the availability of the requested facilities.

Decisions made by the City Manager, or designee, may be appealed to City Council.

Applicants are required to adhere to all applicable rules, regulations, laws, and ordinances of the City of Calexico and other applicable governmental entities.

Applicants that fail to abide by the policy and procedures set forth in this policy will be ineligible to request a fee waiver for a period of at least one (1) year.

**5. PROCEDURES**

Requests for fee waiver must be made in writing by using the attached application and delivered to the City Manager, or designee, along with a copy of the organization's IRS 501(c) determination letter (if applicable), financial statements from the prior year's event (if applicable), and the proposed budget for the current year's event.

Applications must be submitted at least twenty one (21) days prior to the event, but not more than six (6) months prior to the event. Requests made within less than twenty one (21) days of an event will not be considered.

The City Manager or designee will forward the request to the appropriate departments to evaluate eligibility and estimate the fee waiver.

## APPLICATION FOR FEE WAIVER

The City of Calexico recognizes the value of partnering with other agencies and organizations in providing services that benefit the community and its residents. In an effort to provide support for organizations providing valuable services to the community, specific guidelines have been established for determining when temporary use permit fees, special event permit fees, other permit fees, and facility fees may be waived. In order to request a waiver of fees, please complete this application and submit it with necessary documentation to the address provided on the last page.

### ORGANIZATION INFORMATION

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

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Event Coordinator: \_\_\_\_\_ Phone: \_\_\_\_\_

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

Nonprofit 501(c)3 tax exempt organization? Please check:  Yes  No

Located in Calexico? Please check:  Yes  No

Has organization received any other financial assistance from the City of Calexico within the last twelve (12) months?

Please check:  Yes  No

Fee waiver amount request: \$ \_\_\_\_\_

### EVENT INFORMATION

Name of Event: \_\_\_\_\_

Type of Event (i.e., parade, street party, etc.): \_\_\_\_\_

Facility Requested or Event Location: \_\_\_\_\_

Date of Event: \_\_\_\_\_ Event Hours: \_\_\_\_\_

On which dates and at what times are you requesting permission to setup and cleanup?

Setup: Date: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

Cleanup: Date: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

In-kind services offered: \_\_\_\_\_

Please describe the event, its purpose, and the activities that will take place:

---

---

---

Is this event open to the public? Please check:       Yes       No

Estimated number of participants/spectators: \_\_\_\_\_

Is this event a fundraiser? Please check:       Yes       No

Will there be an admission, entrance, user fee, or cover charge for the event? If so, please explain: \_\_\_\_\_

How will the event benefit the Calexico community?

---

---

Has your organization put on this same event in the past? Please check:       Yes       No

If not, has your organization put on other events in Calexico? Please indicate which ones:

---

Explain how imposition of fees would create financial hardship on the organization or would have a detrimental effect up on the services provided to the public:

---

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Please deliver completed applications to City of Calexico, 608 Heber Avenue Calexico, California (760) 768-2110 along with a copy of your organization's IRS 501(c) determination letter or Calexico business license or state seller's permit, financial statements from the prior year's event, and proposed budget for the current year's event. Applicants sponsoring an event for the first time will only be required to submit the current year's proposed budget.

Please note that applications must be submitted at least twenty one (21) days prior to the event, but not more than six (6) months prior to the event. Incomplete applications or requests made within less than 21 days of an event will not be considered.