

**Council Meeting: August 28, 2012****SUBJECT: Amend Council Fiscal Policy to Provide Authority for City Manager and Designees to Waive Fees, Fines, Penalties, and Interest Under Specific Circumstances****BACKGROUND**

Annually, Council approves a resolution adopting the Master Fee Schedule for the City. This Master Fee Schedule includes not only the fees that are charged for City services, but it also includes fees and fines for non-compliance, late payment penalties, and/or interest charges, as appropriate. Using past practice as a guide, staff in some departments have, under certain circumstances, waived fees, fines, penalties, and/or interest. Except in cases where it is expressly allowed under Sunnyvale Municipal Code, such as for service areas that have an administrative appeals process, however, staff does not have Council's authority to waive fees, fines, penalties, and/or interest. This report seeks to define the circumstances under which waiving fees is the most administratively efficient option, promotes good customer service, and/or maximizes the amount of revenue the City can expect to collect. Staff recommends that the City Council amend Council Fiscal Policy to allow the City Manager or the City Manager's designees to waive fees, fines, penalties, and/or interest under these circumstances.

EXISTING POLICY

7.1.1B.3.2 – An aggressive collection system for all accounts receivable, including utility receivables, will be utilized to assure that monies due to the City are received in a timely fashion.

7.1.1B.5.1 – User fees should be used to recover the cost of services that benefit specific segments of the community.

7.1.1B.5.7 – User fees should be adopted by Council resolution and included in the Annual Fee Schedule.

DISCUSSION

Fees and fines are collected by the City for various purposes. In some cases, fees are levied to cover the cost of the City providing a service, and in those cases, services are typically not provided until fees are paid. As such, charges for penalties and interest are generally not applicable. In other cases, however, fees and/or fines are charged as a punitive measure, such as when the Neighborhood Preservation Division of the Department of Public Safety issues an administrative citation. When a punitive charge such as an administrative citation is issued, it is sometimes

necessary for the City to also impose additional punitive measures such as late payment penalties in order to encourage timely payment. In many cases, however, the fees and penalties do not get paid, at which point the City has the option to send the delinquent account to collections. Because the collections process can be costly to the City, both in terms of staff time required to administer and because the collections agency takes a percentage of what is collected, past practice has been for City staff to use its discretion to determine if it is more cost effective for the City to waive, for instance, a small amount due (under \$10) rather than sending that amount to collections. City staff has also, on occasion, waived fees or penalties when it determines that the waiver will result in the City actually getting paid versus not getting paid. For example, when damage is done to City property, the City seeks reimbursement. Often times the party who damages the property is insured, and the City makes a claim against the insurance company to seek payment for the cost of the damaged property and an administrative fee for processing. Sometimes the City may agree to waive the administrative fee as part of a negotiated settlement of the claim.

In other cases, fees have been waived for first time offenses, such as for late materials returns at the Library. In these cases the fees are typically nominal amounts and are waived to both educate the customer and to promote good customer service.

Should Council determine that staff can no longer apply its discretion to waive fees under certain circumstances, staff believes that there will be an increase in instances where Council will be requested to waive fees, fines, penalties, and/or interest, which would create a number of issues. In addition to requiring time at regular Council meetings to hold hearings on waiver requests, it would also require Council to grant or deny these requests without benefit of all pertinent information available to City staff, which could lead to inconsistent results. Staff also believes that this could reduce overall revenues because in some cases, fees, fines, penalties, and/or interest are waived to maximize the collection of amounts due. As such, staff recommends Council amend Council Fiscal Policy to add the following statement:

7.1.1B.5.8 – For fees and other charges not subject to administrative hearings, the City Manager or the City Manager’s designees have the authority to waive fees, fines, interest, and/or penalties under the following circumstances:

- The fee or fine is for the first offense and the amount waived is \$20 or less, or
- The balance due is less than \$10 and sending it to collections is not cost effective, or
- City staff has determined waiving a portion of fees, fines, penalties, and/or interest maximizes the amount of revenue the City will collect and has received approval from the department director.

FISCAL IMPACT

As noted previously, the primary reason that fees, fines, penalties, and/or interest are waived is to maximize the amount of revenue the City can collect. As such, allowing the authority to waive fees, fines, penalties, and interest under the circumstances discussed in the previous section is not expected to have a negative fiscal impact on the City.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center, and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Adopt revised Council Fiscal Policy as presented in Attachment A.
2. Adopt revised Council Fiscal Policy with modifications.
3. Do not adopt revised Council Fiscal Policy.

RECOMMENDATION

Staff recommends Alternative 1, adopt revised Council Fiscal Policy as presented in Attachment A.

Reviewed by:

Grace Leung, Director, Department of Finance
Prepared by: Drew Corbett, Budget Manager

Approved by:

Gary Luebbers, City Manager

Attachments

- A. Updated Council Fiscal Policy Document

EXCERPT

Policy 7.1.1 Fiscal — Long Range Goals and Financial Policies

7.1B REVENUE POLICIES

B.5: User Fees

- B.5.1 User fees should be used to recover the cost of services that benefit specific segments of the community.
- B.5.2 User fees should be reviewed and adjusted at least annually to avoid sharp changes.
- B.5.3 User fees and charges should not exceed the City's full cost of providing the service.
- B.5.4 User fees should be established at a level which reflects the full cost of providing those services.
- B.5.5 The City Council may determine for any service whether a subsidy from the General Fund is in the public interest.
- B.5.6 User fees shall only be used when the cost of providing the service can be readily calculated and administered.
- B.5.7 User fees should be adopted by Council resolution and included in the Annual Fee Schedule.
- B.5.8 For fees and other charges not subject to administrative hearings, the City Manager or the City Manager's designees have the authority to waive fees, fines, interest, and/or penalties under the following circumstances:
- The fee or fine is for the first offense and the amount waived is \$20 or less, or
 - The balance due is less than \$10 and sending it to collections is not cost effective, or
 - City staff has determined waiving a portion of fees, fines, penalties, and/or interest maximizes the amount of revenue the City will collect and has received approval from the department director.

*Note: For additional user fee policies specific to the Utility Funds or the Community Recreation Fund, please see those sections under Enterprise Fund policies.