



Issue: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2 OF THE NIXA CITY CODE BY ADDING THERETO A NEW SECTION PROVIDING FOR THE WAIVER OF USER FEES BY RESOLUTION.

Date: November 4, 2021

Submitted By: Nick Woodman, City Attorney

Background

Frequently, City Council will, by motion, waive certain municipal user fees. This practice exposes the City to liability under the Sunshine Law and the First Amendment.

Analysis

Council Bill 2021-114 is presented to formalize the Council's practice into a more legally sound process. This Bill would amend the City Code to authorize the Council to waive user fees for other government organizations by Resolution.

Recommendation

Adopting and adhering to this Ordinance will help the City avoid certain claims under the Sunshine Law and the First Amendment, therefore, staff recommends approval.

1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING**
2 **CHAPTER 2 OF THE NIXA CITY CODE BY ADDING THERETO A NEW**
3 **SECTION PROVIDING FOR THE WAIVER OF USER FEES BY RESOLUTION.**
4

5
6 **WHEREAS** the City of Nixa charges various municipal user fees for providing
7 certain services and approvals; and
8

9 **WHEREAS** the City Council desires to implement a procedure whereby other
10 governmental entities may request waivers of the City’s user fees; and
11

12 **WHEREAS** such waivers must be acted on by the Council via Resolution and only
13 after a showing that the public is better served by the requested fee waiver; and
14

15 **WHEREAS** because the City’s governmental community partners are also
16 supported by the taxpayer funding, the Council desires to authorize the waiver of user
17 fees in the manner described herein to utilize taxpayer funding more efficiently.
18

19 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
20 **NIXA, AS FOLLOWS, THAT:**
21

22 **SECTION 1:** Chapter 2, Article IV of the Nixa City Code is hereby amended by
23 adding thereto one new section, which said section shall read as follows:
24

25 (Note: Language to be added is indicated by being underlined. Language to be
26 removed is indicated by being stricken.)
27

28 Sec. 2-151. – Waiver of fees for governmental entities by resolution – authorized.
29

30 No municipal user fees, whether imposed by this code or any other ordinance shall
31 be waived except by Resolution of the City Council. The Council shall only waive such
32 fees by Resolution for other governmental entities and upon a showing by said
33 governmental entity that the public is better served by the requested waiver than by the
34 imposition of the fee.
35

36 **SECTION 2:** The City Attorney, when codifying the provisions of this Ordinance, is
37 authorized to provide for different section numbers, subsection numbers, and different
38 internal citation references than those provided herein when such section numbers,
39 subsection numbers, or internal citation references are in error or are contrary to the intent
40 of this Ordinance.
41

42 **SECTION 3:** Savings Clause. Nothing in this Ordinance shall be construed to
43 affect any suit or proceeding now pending in any court or any rights acquired, or liability
44 incurred nor any cause or causes of action occurred or existing, under any act or
45 ordinance repealed hereby.
46

47 SECTION 4: Severability Clause. If any section, subsection, sentence, clause, or
48 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
49 the validity of the remaining portions of this Ordinance. The Council hereby declares that
50 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
51 phrase thereof, irrespective of the fact that any one or more sections, subsections,
52 sentences, clauses, or phrases be declared invalid.

53
54 SECTION 5: This Ordinance shall be in full force and effect from and after its final
55 passage by the City Council and after its approval by the Mayor, subject to the provisions
56 of section 3.11(g) of the City Charter.

57
58
59 ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____ 2021.

60
61
62 ATTEST:

63
64 _____
65 CITY CLERK

66
67 _____
68 PRESIDING OFFICER

69
70
71 APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2021.

72
73 ATTEST:

74 _____
75 CITY CLERK

76
77 _____
78 MAYOR

79
80 APPROVED AS TO FORM:

CITY ATTORNEY