



Agenda Report

20-205

Agenda Date: 3/17/2020

REPORT TO COUNCIL

SUBJECT

Action to the Introduction of an Ordinance Amending Chapter 9.30 of the City Code ("Trespassing") Related to the Storage and Removal of Personal Property from Public Property [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

Santa Clara City Code (SCCC) Chapter 9.30, and specifically Section 9.30.020, prohibits entering onto, or remaining on, City property after having been ordered by appropriate City personnel to vacate the property, as may be reasonably necessary for the conduct of City business or for the protection or preservation of the public peace, health and safety, or to avoid personal injury or property damage. The proposed ordinance adds two sections to Chapter 9.30. The first section (9.30.030 Storage of Personal Property on City Property Prohibited) prohibits storing personal property or unattended property on City grounds. The second section (9.30.040 Removal of Personal Property from City Property) prescribes the process the City will use to collect, store and dispose of unattended property collected from City grounds. The proposed ordinance seeks to balance the City's need to protect and preserve the public peace, health, and safety with the due process and property rights of the individuals who have (either intentionally or inadvertently) left their property on City grounds.

DISCUSSION

The proposed Ordinance provides the basic legal support for actions taken to remove unattended private property from City grounds. This would apply to all City locations including parks, trails, Civic Center, unimproved lots, etc. The basic framework set forth in the proposed ordinance for such removal is that the City shall first post notices at the subject area at least seventy-two (72) hours before the property is removed. If, after the 72-hour notice period has ended, the property is still on City land, then the City can remove and store that unattended property for ninety (90) days, during which time the individual can come to the designated storage location to recover his/her property. If the individual does not come to claim the item(s) within the 90-day period, then the City may destroy or otherwise dispose of the property. Of course, if the unattended property creates any immediate risk of danger to the health, safety, and welfare of the public, then the City can remove it without going through the notice and storage process.

In addition to the proposed ordinance, the City will also adhere to a set of procedures and guidelines in performing the collection, storage and disposal work, aimed at ensuring that the process is legally compliant, fair, effective, and workable for the individuals affected, for City staff, and for City contractors. First, if the area is one in which a large amount of debris has accumulated, and if individuals are occupying the area, the Police Department will conduct in-person outreach prior to posting the 72-hour notices. Such outreach would include advising the individuals present of the

health and environmental concerns associated with the storage and coordinating with (or providing information related to) agencies or other organizations that may provide supportive services such as medical services, shelter options, or housing assistance. Second, the City will post 72-hour notices in reasonably visible locations so that persons present are well advised of the City's intent to collect any unattended property in that location. Third, items that are perishable, hazardous, clearly broken, etc., will be separated from other items and disposed of as refuse. Items of apparent value such as clothing, bicycles, tents, electronics, etc., shall be bagged, tagged, and stored. Fourth, notices stating the location where the property can be retrieved will be posted in the area. Lastly, the private property will be stored at the designated location and returned to an individual who comes to claim it (without charge) within the 90-day period. After the 90-day period has ended, the City will dispose of the property in accordance with the Surplus Property requirements of SCCC 2.105.350.

As an example only, these procedures and guidelines were incorporated into the Tucker Construction contract approved by Council on February 11, 2020.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal impact to the City other than administrative staff time and expense.

COORDINATION

This report has been coordinated with the Department of Public Works, Community Development Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Approve the Introduction of an Ordinance Amending Chapter 9.30 of the City Code ("Trespassing") Related to the Storage and Removal of Personal Property from Public Property.

Reviewed by: Daniel Winter, Assistant Chief of Police

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Procedures and Guidelines for Collection and Storage of Items Stored on Public Property
2. Ordinance Amending Chapter 9.30 of the City Code ("Trespassing")