



## Agenda Report

19-890

Agenda Date: 10/29/2019

### REPORT TO COUNCIL

#### **SUBJECT**

Action on the Introduction of an Ordinance Amending Chapters 2.115 ("General Characteristics of License or Permit - Suspension Procedure"), 3.25 ("Transient Occupancy Tax"), 3.40 ("Business Tax"), 5.05 ("Solicitors and Peddlers"), 5.30 ("Pawnbrokers and Secondhand Dealers"), 5.35 ("Taxicabs and Pedicabs"), 5.61 ("Public Entertainment Generally"), 5.75 ("Bingo"), and 13.10 ("Sewers") of "The Code of the City of Santa Clara, California" to Streamline the Appeal Procedures for City Licenses And Permits

#### **BACKGROUND**

The Santa Clara City Code ("SCCC") contains provisions in which the City grants, approves, denies, revokes, or suspends a City license or permit. In the event the City decides that a license or permit shall be denied, revoked, suspended or not renewed, the license or permit applicant has the right to appeal the decision. Currently, the SCCC contains separate and varying processes for appealing decisions depending upon the type of license or permit involved. This has led to inefficiencies in the appeals systems. Therefore, the City Attorney's Office recommended amendments to update the SCCC to: 1) ensure that applicants' due process interests in appeals continue to be properly protected; and 2) create uniformity in the appeals process.

#### **DISCUSSION**

The City of Santa Clara issues various licenses and permits for a variety of commercial activities such as operation of certain regulated businesses in the City. Licenses and permits may be denied, revoked, suspended or not renewed for various reasons set forth in the City Code. The current appeal and hearing process, depending on the type of license or permit, is contained in different sections of the Santa Clara City Code. The SCCC allows for a party to appeal a decision to a designated City staff person, such as the City Manager or a Department or Division head; this person in turn would serve as the hearing officer. Staff went through the entire City Code and is proposing to amend several sections of the SCCC to improve language consistency and to streamline the City's appeal procedures for certain City licenses and permits. The Ordinance will establish a clear, streamlined process and designate an administrative hearing officer (rather than a City staff member) to preside over the hearings.

In the proposed Ordinance, the person who applied or who was the holder of the license or permit can appeal the City's decision through a uniform hearing process. The hearing process is similar to the hearing process for appeals of administrative citations (SCCC Chapter 1.10). The hearing process provides an opportunity for a party affected by a City decision to present its position and/or objections to a neutral arbiter (i.e. the hearing officer). The City staff involved in the underlying decision or action also has the opportunity to present its position at the hearing. The hearing officer, after taking evidence from both sides, renders a decision with respect to the matter at issue. Such a decision constitutes the final decision from the City, which is subject to judicial review.

Chapter 2.115, as proposed, sets forth the new appeals process in which appeals will be heard before a hearing officer and will be the “catch-all” process if the particular City Code section does not specifically identify a separate appeals process. Other amendments set forth in the Ordinance are revisions to refer to Chapter 2.115. Other ordinances being brought forward at or around the time of this appeals process ordinance (such as the Massage Ordinance and False Alarm Ordinance) will also refer to Chapter 2.115.

The City currently has an agreement with one hearing officer who hears the City’s administrative citation appeals. If the City Council introduces and adopts this Ordinance, the City will conduct a Request for Qualifications (RFQ) for additional hearing officers.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project within the meaning of a California Environmental Quality Act (“CEQA”) pursuant to the CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

### **FISCAL IMPACT**

Funds for the existing hearing officer agreement are included in the FY 2019/20 Operating Budget (\$12,000). Additional funding required will be determined upon the completion of the RFQ process to support additional hearing officers. Necessary budget amendments will be brought forward to the City Council separately for approval.

### **COORDINATION**

This report has been coordinated with the 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) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **ALTERNATIVES**

1. Introduce an Ordinance Amending Chapters 2.115 (“General Characteristics of License or Permit - Suspension Procedure”), 3.25 (“Transient Occupancy Tax”), 3.40 (“Business Tax”), 5.05 (“Solicitors and Peddlers”), 5.30 (“Pawnbrokers and Secondhand Dealers”), 5.35 (“Taxicabs and Pedicabs”), 5.61 (“Public Entertainment Generally”), 5.75 (“Bingo”), and 13.10 (“Sewers”) of “The Code of the City of Santa Clara, California.”
2. Do not introduce the Ordinance and provide alternative direction to staff.

### **RECOMMENDATION**

Alternative 1: Introduce an Ordinance Amending Chapters 2.115 (“General Characteristics of License or Permit - Suspension Procedure”), 3.25 (“Transient Occupancy Tax”), 3.40 (“Business Tax”), 5.05 (“Solicitors and Peddlers”), 5.30 (“Pawnbrokers and Secondhand Dealers”), 5.35 (“Taxicabs and Pedicabs”), 5.61 (“Public Entertainment Generally”), 5.75 (“Bingo”), and 13.10 (“Sewers”) of “The

Code of the City of Santa Clara, California.”

Reviewed by: Cynthia Bojorquez, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Ordinance