

REPORT**To the Honorable Mayor and City Council
From the City Manager**

October 22, 2007

SUBJECT

Conform Business License Ordinance to California State Law

RECOMMENDATION

Introduce Ordinance Amending business license ordinance, section 32.133, to conform to Health and Safety Code section 1596.803 (b) (2) to exempt small family day care homes that provide child care for eight (8) or fewer children, and repealing section 32.154 (Adjustments) as this section has been nullified by Proposition 218.

BACKGROUND

Staff has become aware that a section of the City's business license ordinance is not in conformance with a specific provision of California state law. In 1990 when the most recent comprehensive revision of the business license ordinance occurred, an exemption was provided to child care operators who cared for six (6) or fewer children. In 1997 the California State Legislature amended Health and Safety Code section 1596.803 (b) (2) to exempt small family day care homes that provide child care for eight (8) or fewer children from business license taxes.

Although the City of Redwood City is a charter city, in this particular situation the City's ordinance is preempted by this provision of state law. The Health and Safety (H&S) Code 1596.72 (b) provides that it's the intent of the state to provide a comprehensive quality system for licensing of child day care facilities. H&S 1596.90 provides that day care centers for children shall be subject to licensure exclusively in accordance with this chapter of Health and Safety Code.

With respect to adult day care, Health and Safety Code 1569.84 continues to provide that facilities for six (6) or fewer adults are not subject to the business license tax. The City is in conformance with this provision of the state law.

At this time, staff also recommends the repeal of section 32.154 as this has been nullified by Proposition 218, which was approved by the voters in November 1996. This section, which was added in May 1995, provided an adjustment to business taxes annually by a percentage equal to the percentage change in the Consumer Price Index (CPI). When the business license ordinance was adopted by Council in April 1990, the ordinance contained a provision for a 5% annual increase in the business license tax through June 1995 and did not provide for any tax increases thereafter. Accordingly, there was no provision in the business license ordinance that allowed increases in business license taxes after June 30, 1995. Since section 32.154 was approved by Council in May 1995, such action was nullified under Proposition 218 as Proposition 218 requires that any general tax increases approved by governing bodies on or after January 1, 1995 be submitted to the electorate for ratification.

Since we are recommending an amendment to the business license ordinance to bring the taxation of child care operators into conformance with state law, we also

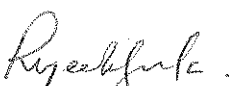
recommend that this section concerning annual rate increases be repealed to eliminate this inconsistency with state law and the corresponding confusion this section generates.

ALTERNATIVES

The Council may elect not to amend the business license ordinance which will create some level of confusion as the two foregoing sections of the business license ordinance will be inconsistent with the prevailing state law.

FISCAL IMPACT


There is no fiscal impact associated with either recommended change to the business license ordinance as in both situations staff is required to follow state law.



Rajesh Sewak
Senior Accountant



Brian Ponty
Finance Director



Edward Everett
City Manager

ATTACHMENTS

None

RELATED DOCUMENTS IN CITY CLERK'S OFFICE

None

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 32.133 AND REPEALING SECTION 32.154 OF CHAPTER 32, ARTICLE V. BUSINESS LICENSES OF THE REDWOOD CITY MUNICIPAL CODE

WHEREAS, Chapter 32, Article V. Sec. 32.133 of the Redwood City Municipal Code provides exemption of payment of any business license tax prescribed by any person engaged in or conducting the business of child care for six (6) or less person; and

WHEREAS, subsequent to the adoption of Chapter 32, Article V. Sec. 32.133 of the Redwood City Municipal Code, the California State Legislature amended Health and Safety (H&S) Code section 1596.803 (b) (2) to exempt small family day care home that provides child care for eight (8) or fewer children; and

WHEREAS, staff has had the opportunity to review the existing Chapter 32, Article V. Sec. 32.133 of the Redwood City Municipal Code; and

WHEREAS, the City Council of the City of Redwood City desires to amend Section 32.133 in order to be in conformance with California, H&S Code section 1596.803 (b) (2); and

WHEREAS, the City Council of the City of Redwood City desires to repeal Section 32.154 because those adjustments were nullified by Proposition 218. Section 32.154, Adjustments, required the City to adjust the base business taxes and the additive business license tax amount calculated on the basis of the average number of employees annually by a percentage equal to the percentage change in the Consumer Price Index (CPI).

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

1. Chapter 32, Article V. Section 32.133 of the Redwood City Municipal Code is amended in its entirety to read as follows:

Nothing contained in this Article shall be deemed or construed to require the payment of any business license tax prescribed in this Article by any person engaged in or conducting the business of child day care facilities pursuant to California Health and Safety Code section 1596.803 (b) (2) as the same now exists or is hereafter amended or an adult day care facilities pursuant to California Health and Safety Code section 1569.84 as the same now exists or is hereafter amended.

2. Chapter 32, Article V. Section 32.154 is repealed in its entirety.

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