



TOWN OF LOS GATOS
FINANCE COMMISSION REPORT

MEETING DATE: 08/09/2021

ITEM NO: 13

DATE: July 28, 2021
TO: Finance Commission
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive Information on Business License Amnesty

RECOMMENDATION:

Receive Information on Business License Amnesty.

BACKGROUND:

On July 12, 2021, the Finance Commission received a staff report entitled *Discuss and Recommend Options to Pursue for a Town Council Strategic Priority – “Explore New Revenue Opportunities”*. The report was predicated on the Town Council’s identification of “Explore New Revenue Opportunities” as a FY 2021-2023 Strategic Priority. In addition, during the recent budget deliberations of May 18, the Council reconfirmed their commitment to establish new revenues for capital needs and maintaining the high level of operating services.

DISCUSSION:

During the deliberations of July 12, 2021, the Commission discussed the potential of a business license audit program that would precede with a business license amnesty program. The Commission asked staff to perform due diligence on the business license amnesty program as the first step and report back to the Commission.

To date, the Town has explored but has not engaged in a full-scale Town-wide business license audit. However, staff does periodically cross checks other business databases, works with Town Departments and other local agencies to ensure proper licensing within Town limits.

Industry best practices show that a business license audit works more efficiently if it is preceded by a business license amnesty program. Typically, small jurisdictions with limited in-

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Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

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SUBJECT: Business License Amnesty Program

DATE: August 2, 2021

DISCUSSION (continued):

house resources would hire an outside firm to conduct the business license audit. This firm usually works for a commission based on a formulaic calculation of the recovered business license taxes. If an unlicensed business takes advantage of the business license amnesty program, the penalties and fees are waived under the program which will lower the overall fees paid to the Town and its audit contractor. The City of San Jose has administered three Amnesty Programs since 2006, successfully increasing both compliance and revenue.

An Amnesty Program typically is a limited-time opportunity for persons and businesses engaged in business activity in Town of Los Gatos, to pay a defined amount in exchange for forgiveness of a tax liability, including penalties. Waiving fees and penalties will lower revenues collected but will give businesses an opportunity to obtain proper license status and build goodwill with those businesses that may be unaware of their licensing requirements.

The Town Business License Tax program is governed by Chapter 14 of the Los Gatos Town Code: [Los Gatos Town Code - Business Licenses](#). The Articles I through III of the business license chapter are enacted solely to raise revenue for Municipal purposes and are not intended for regulation. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the Town without first having procured a license from the Town. A separate license shall be obtained for each location of the business transacted and carried on, and for each separate type of business at the same location.

In addition, the businesses activity and location are governed by the Chapter 29 of the Los Gatos Town Code. [Town of Los Gatos - Zoning Regulations](#). Each business that is located within Town limits must be approved by the Planning Department to ensure the Town of Los Gatos zoning regulations. Business licenses are issued for the calendar year. New license fees are prorated at the first year based on the time of the business establishment. The business license tax payment is due by January 2nd annually and penalties accrue 25% each month after February 2nd. Late fee penalties can go up to 100% if the license tax is not paid by May 2nd. Please note, that due to the pandemic, Town Council authorized staff to give a calendar year first quarter exemption to hair and nail service providers who were not able to operate due to Santa Clara Public Health Order restrictions and omit late business license penalties for all businesses in 2021.

The Town issues different types of business licenses based on the type of activity. The amount of business license tax paid by each business is also based on its business activity. Fees for activities such as wholesales and manufacturing are charged on a sliding scale based on gross receipts, as is retail, with retail being capped at \$975. These gross receipt activities account for approximately 25% of annual business licenses, while the remaining 75% are flat fee businesses. While the Town Code list different license types, the most common ones are listed below with the appropriate business license tax and fees. These business license tax rates were established in 1991.

DISCUSSION (continued):

Typical Business License Taxes and Fees			
Business License Processing Fee (Annual)	\$40 at the Time of Establishment/ \$30 at Renewal - Located in Los Gatos \$20 - Not Located in Los Gatos		
Planning Fees - Businesses Located in Los Gatos (One-time)	\$161.20 Home Occupancy Permit - Home Based Businesses \$176.70 Change of Occupancy / \$262.20 Change of Use - Commercial Zoning		
State Mandated Fee (Annual)	\$4		
Type of Business License	Business License Tax - Without Penalty Minimum (Annual)	Business License Tax - Without Penalty Maximum (Annual)	Typical Businesses
Retail (Based on Gross Receipt)	\$75	\$975	Restaurant, Grocery Store , Gas Station, Hair Salon
Wholesale/Manufacturee/Wholesale/Ecommerce (Based on Gross Receipt)	\$150	Based on sliding scale \$4,837.50 for \$12,000,000 in gross receipt plus \$75 for each \$550,000 or fraction therfor in excess of \$12,000,000	Netflix, Manufacturers
Professional/Semiprofessional (per employee)	\$200	\$200	Medical Doctor, Attorney, Tutor, Massage Therapist, Broker
Support Staff - Professional/Semiprofessional (per employee)	\$15	\$15	Real Estate Agent
Service (per business)	\$100	\$100	Gardeners, Repair Service, Hair Stylist, Janitorial service
Contractor (per business)	\$224	\$224	Licensed California State Contractor

The process for initiating a Business License Amnesty Program would start with staff presenting a report to the Town Council. If the Town Council approved the Program, staff would inform the business community about the upcoming Amnesty Program through a variety of mechanisms available to the Town, including advertisements in print media, social media, and other avenues to inform unlicensed businesses and delinquent taxpayers of the requirements to register and comply with Town regulation.

Staff would recommend that businesses coming forward through the Amnesty Program should be approved by Planning Department and pay appropriate one-time Planning fees, annual State mandated fees, one-year of the business license processing fee, and business license taxes without penalties back up to three years.

Noncompliant businesses typically engage and follow up in greater numbers if approached just prior to federal and state tax filing deadlines, when the owner of a business applying for any type of loans, may need to provide proof of a business license for any official reason.

At the conclusion of the Amnesty Program staff would then contract with a firm for extensive database matching and cross referencing to identify remaining noncompliant businesses. There are a variety of independent companies that perform contract business license audit services. Businesses identified during the audit process would be subject to back fees and penalties for a three-year period.

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FISCAL IMPACT:

The Amnesty Program would incur advertising and mailing cost that can be absorbed in the existing Finance Departmental budget. The administration of the program would also increase workloads for both the Finance and the Planning Departments with potential offset by increased revenues. Staff would monitor activities associated with amnesty and audit programs and request additional temporary help from the Town Council if required.