



Office of the City Auditor

CONSENT CALENDAR

October 24, 2006

To: Honorable Mayor and  
Members of the City Council

From: Ann-Marie Hogan, City Auditor

Submitted by: Ann-Marie Hogan, City Auditor

Subject: Amending BMC Chapter 2.24 Regarding the City Auditor's Duties and Authority

RECOMMENDATION

Adopt first reading of an Ordinance to amend Berkeley Municipal Code (BMC) Chapter 2.24 giving all auditor job classifications the authority to issue administrative citations for violations of City ordinances.

FISCAL IMPACTS OF RECOMMENDATION

The issuance of administrative citations will generate revenues for the City: 1) when the citation is paid and 2) when auditees provide documentation which can be used to identify and bill revenue due the City.

CURRENT SITUATION AND ITS EFFECTS

Auditors are encountering more business owners and property owners subject to Business License Tax, who during the audit, do not comply with the Auditor's request for documentation that is used to determine if all monies due to the City were paid. These business owners and property owners are in violation of the BMC Section 9.04.285. This condition causes inequities in the collection of monies owed to the City. Currently, when auditees do not provide documentation requested by an auditor, there is little that can be done within the Auditor's Office to encourage compliance. These Business License Tax audit cases are referred to Finance, and assigned to a Field Investigator for follow-up.

Due to the nature of the work performed by the auditors, particularly in the area of Business License tax revenue audits, all auditor job classifications should be identified as classifications authorized to issue administrative citations. The requested amendment to BMC Chapter 2.24 would grant this authorization.

BACKGROUND

Each year the Auditor's Office audits businesses and property owners to determine if they have paid the correct amount of Business License Tax to the City. Most business owners and property owners cooperate during these audits, and provide the requested documentation. These audits help ensure businesses and property owners all pay their fair share.

RATIONALE FOR RECOMMENDATION

Authority to issue administrative citations will provide auditors with a means of enforcing their right-to-audit businesses and rental property owners, and help ensure taxpayers pay their fair share.

ALTERNATIVE ACTIONS CONSIDERED

Consideration is currently also being given to requesting that Council establish administrative subpoena power. However, staff believes that administrative citations should be used first to compel business and property owners to comply with the Berkeley Municipal Code. This is because administrative subpoenas would require the Mayor and City Council to petition a judge in the superior court for an order compelling a party to answer interrogatories, or to attend and testify, or to produce papers, required by the subpoena.

CONTACT PERSON

Ann-Marie Hogan, City Auditor, 981-6750

Attachment:

1: Ordinance

ORDINANCE NO. -N.S.

ADDING BERKELEY MUNICIPAL CODE SECTION 2.24.070E, AUTHORIZING ALL AUDITOR JOB CLASSIFICATIONS TO ISSUE ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF CITY ORDINANCES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 2.24.070E is added to read as follows:

**2.24.070 Access to employees, contractors, taxpayers, records and property.**

E. All auditor job classifications are designated as enforcement authorities for violations of City ordinances and are authorized to issue administrative citations. Auditors will typically issue administrative citations when businesses and individuals conducting business with the City of Berkeley, or conducting business in the City of Berkeley, do not provide the Auditor's Office with requested information or documentation for an audit, when they are required to do so in City ordinances.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.