

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** David A. Bobardt, Community Development Director



**DATE:** December 28, 2012 (CC Meeting of 1/16/2013)

**SUBJECT:** Consider Ordinance Replacing in its Entirety Section 5.08.020 Exempt Organizations, Activities, Persons of Chapter 5.08 Business Registration Permit, of Title 5 Business Taxes, Licenses and Regulations, of the Moorpark Municipal Code and Consider Resolution Adopting a Revised Fee Schedule for Services Rendered Pursuant to the Moorpark Municipal Code Relating to Business Registration Fees and Rescinding Resolution No. 2011-2994

**BACKGROUND/DISCUSSION**

On December 19, 2012, the City Council directed staff to draft amendments to the section of the code related to Business Registration Permits to address a number of concerns related to when such permits are required. The staff report with recommendations are attached. An ordinance is provided in legislative format for Council consideration to make the changes and clarifications as recommended. This ordinance has been reviewed and approved by the City Attorney. A new fee resolution is also provided with a reduced annual fee for Business Registration Permits for individual vendors at farmers' markets and swap meets. Because this fee is not a new or increased fee and it is not a development project fee, it is not subject to notification or 60-day delay requirements per Sections 66016 and 66017 of the Government Code.

**FISCAL IMPACT**

Business Registration Permit fees are intended to recover costs associated with their processing. No fiscal impact is anticipated with adoption of the proposed Ordinance and Resolution

**STAFF RECOMMENDATION (ROLL CALL VOTE)**

1. Introduce Ordinance No. \_\_\_\_, replacing in its entirety Section 5.08.020 of the Moorpark Municipal Code, for first reading, waive full reading, and schedule second reading and adoption for February 6, 2013.
2. Adopt Resolution No. 2013-\_\_\_\_\_.

**Attachments:**

1. December 19, 2012 Staff Report
2. Draft Ordinance No. \_\_\_\_\_
3. Draft Resolution No. 2013-\_\_\_\_\_

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** David A. Bobardt, Community Development Director  
Joseph Fiss, Principal Planner



**DATE:** November 27, 2012 (CC Meeting of 12/19/2012)

**SUBJECT:** Consider Providing Staff with Direction on Business Registration Permit Requirements and Consider Resolution Directing the Planning Commission to Study, Hold a Public Hearing, and Provide a Recommendation to the City Council on an Amendment to Section 17.28.020(B) (Home Occupations and Garage Sales) of the Zoning Ordinance

**BACKGROUND**

The City has received an Administrative Permit application from Susan and Neil Adams to operate a permanent weekly swap meet/flea market with up to 200 vendors in the upper parking lot of Moorpark Community College. Its proposed hours are Saturdays to be open to the public from 8:00 AM to 5:00 PM, with set-up beginning at 6:00 AM. As part of this request, the Moorpark College Foundation has requested that individual vendors not be required to have a Business Registration Permit, instead that a single Business Registration Permit for the entire operation be acceptable for this use (request letter attached). Staff is seeking direction from the City Council regarding the issuance of Business Registration Permits for vendors at swap meets, as well as direction on other issues related to the City's Business Registration provisions in the Moorpark Municipal Code.

**DISCUSSION**

Section 5.08.010 of the Moorpark Municipal Code (Chapter 5.08 attached) requires a Business Registration Permit for any person *engaged in any business* within the City. A separate business registration permit is required for each branch establishment or location of a business in the City and, all mobile businesses must obtain a valid business registration permit. Mobile businesses are given a Business Registration sticker for their vehicles to let code compliance staff quickly know that the business has a Business Registration Permit.

**CC ATTACHMENT 1**

The primary purpose of Business Registration Permit in Moorpark is to identify and maintain records of those doing business within the City limits. This provides valuable contact information, ensures businesses are allowed under Zoning and other City regulations, and identifies businesses subject to special inspections, such as restaurants and auto repair uses. As of the writing of this report, the City has 5,834 current Business Registration Permits. The Business Registration Fee, \$90.00 for the first year, and \$35.00 for each year after that (going up by \$1.00 each beginning January 1 to cover a new State surcharge for disability access compliance), covers the City costs in processing and maintaining the Business Registration records. Moorpark does not require a business license. A business license is a tax, typically based on gross sales receipts.

There have been a number of areas in implementing the Municipal Code that have been subject to staff interpretation where the code could be clarified. Staff is seeking Council direction on an Ordinance to amend the Business Registration Permit requirements to address the following areas:

Swap Meets and Farmers' Markets – Staff has not required Business Registration Permits from individual vendors for special events that have a Temporary Use Permit, such as Country Days. However, when the use exists on a long term, regular basis, such as the proposed swap meet, where most vendors are expected to return every week, staff believes that a Business Registration Permit would be required of each vendor. One option would be to exempt those who do not need a Board of Equalization Seller's Permit, including "occasional sellers," those who only sell used personal items once or twice a year, and those selling nontaxable items consisting of fresh produce or cold food products to go (e.g. eggs, meat, or cheese) at a farmers' market. It should be noted that Moorpark's Farmers' Market now has an Administrative Permit. Staff has been holding off on enforcing the requirement for Business Registration Permits on the individual vendors pending Council direction. **Recommendation – Exempt individual vendors at one- or two-day special events for which a Temporary Use Permit has been issued, individual vendors at permitted swap meets or farmers' markets that do not need a Board of Equalization Seller's Permit, and sellers of nontaxable food items at farmers' markets. Create a special swap meet and farmers' market Business Registration Permit at \$45 per year that restricts its use to a specific permitted swap meet or farmers' market. Require a regular Business Registration Permit for those that wish to sell in multiple venues in the City.**

Deliveries, Set-Ups, and Assemblies – Delivering items to a home or business has not been considered doing business subject to a Business Registration Permit. However, when a delivery involves additional work, such as assembly, installation, or construction, a Business Registration Permit has been required. The code could be amended to provide clarity on this matter. **Recommendation – Exempt out-of-City businesses that are only making deliveries, assemblies, and installations associated with the purchase of an item, as long as a building permit is not required.**

*Design and Construction* – Professional design work and analysis, including architecture and engineering, has not required a Business Registration Permit unless the professional office is physically in Moorpark. With respect to construction, each contractor and subcontractor is required to obtain a Business Registration Permit. The code could be amended to provide clarity on this matter as to whether design and engineering work conducted for property in Moorpark requires a Business Registration Permit. **Recommendation – Exempt design and engineering businesses that do not do site work (i.e. testing, overseeing construction) in Moorpark.**

*Property Rentals* – Landlords were required to obtain a Business Registration Permit when the City's Rental Inspection Ordinance was in effect. Since this ordinance has been deleted from the Municipal Code, staff has not required Business Registration Permits from landlords. One option would be to require a Business Registration Permit when the number of rental units exceeds a certain threshold. **Exempt residential landlords that rent four or fewer units on any one site and ten or fewer units citywide.**

*Real Estate Agents* – Real Estate Agents representing property sellers are often independent agents that work out of a real estate office. If that office has a Business Registration with the City, staff has not required a Business Registration from the independent agent. Staff has not required Business Registration Permits from agents representing buyers of property in Moorpark. Business Registration Permits are generally checked at the time an agent comes in to purchase open house directional sign permits. **Recommendation – Codify existing practice as described above.**

*Vendor Permits* – Out of City companies that have had door-to-door sales staff work in Moorpark have required a Business Registration for the company and a vendor permit for the sales staff, whether or not they were actually employed by the company they represent, or independent contractors. Local residents who work out of their home and sell door-to-door have also been required to obtain a Home Occupation Permit. **Recommendation – Codify existing practice as described above.**

*Home Occupation Permits* – Currently, Chapter 17.28 of the Zoning Ordinance sets a five-year time period for Home Occupation Permits. These are issued in conjunction with Business Registration Permits which have an annual renewal. It has been difficult for staff to track the expiration of the Home Occupation Permits and include reminders at the appropriate time with the Business Registration renewal notice. Since Home Occupation Permits are subject to revocation at any time if the terms of the permit are violated, staff recommends that the zoning provisions on Home Occupation Permits be revisited for the Planning Commission and City Council to consider provisions that the Home Occupation Permits do not expire for the original permittee as long as they are in compliance with the Municipal Code. In accordance with Section 17.44.050 of the Municipal Code, a resolution of City Council is needed to initiate a Zoning Ordinance Amendment. **Recommendation – Adopt attached resolution initiating Zoning Ordinance Amendment to make Home Occupation Permits valid for original**

**permittee at the originally approved address without expiration as long as they are in compliance with Municipal Code.**

**FISCAL IMPACT**

None.

**STAFF RECOMMENDATION**

1. Direct staff to draft amendments to Chapter 5.08 of the Moorpark Municipal Code as Recommended for City Council consideration.
2. Adopt Resolution No. 2012-\_\_\_\_\_

**Attachments:**

1. Request Letter from Moorpark College Foundation
2. Chapter 5.08 of the Moorpark Municipal Code (Business Registration Permit)
3. Draft Resolution No. 2012-\_\_\_\_\_

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, REPLACING IN ITS ENTIRETY SECTION 5.08.020, EXEMPT ORGANIZATIONS, ACTIVITIES, PERSONS; OF CHAPTER 5.08, BUSINESS REGISTRATION PERMIT; OF TITLE 5, BUSINESS TAXES, LICENSES AND REGULATIONS; OF THE MOORPARK MUNICIPAL CODE

WHEREAS, at its meeting of January 16, 2013, the City Council considered proposed amendments to Section 5.08.020 Exempt Organizations, Activities, Persons of Chapter 5.08 Business Registration Permit, of Title 5 Business Taxes, Licenses and Regulations, of the Moorpark Municipal Code and reached a decision;

WHEREAS, the City Council concurs with the Community Development Director's determination that this project is exempt from the provisions of the California Environmental Quality Act by the general rule that CEQA only applies to projects that may have a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 5.08.020 Exempt Organizations, Activities, Persons of Chapter 5.08 Business Registration Permit, of Title 5 Business Taxes, Licenses and Regulations, of the Moorpark Municipal Code is replaced in its entirety, as shown in Exhibit A.

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Ventura County Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this 6th day of February, 2013.

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Janice S. Parvin, Mayor

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Maureen Benson, City Clerk

ATTACHMENTS:

Exhibit A: Proposed Amended Section 5.08.020

## EXHIBIT A

### **5.08.020 Exempt organizations, activities, persons.**

A. Nothing in this chapter shall be deemed or construed to apply to any person, business or activity exempt by virtue of the Constitution, statutes or laws of the United States or the State from the requirement to obtain a permit or pay for a permit or an application, renewal, amendment or duplicate permit fee.

B. In addition, the following organizations, activities and persons are exempt from certain provisions of this chapter, as follows:

1. Nonprofit organizations. An institution or organization that is exempt from the payment of federal income taxes under Subchapter F, commencing with Section 501, of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended from time to time, or that is exempt from the payment of State income taxes under Cal. Revenue and Taxation Code, Chapter 4, commencing with Section 23701, of Part 11 of Division 2, as amended from time to time. Exemption shall apply upon presentation of proof of nonprofit status.

2. Benefit, charitable and nonprofit activities. Any entertainment, dance, concert, exhibition or lecture from which the gross receipts are to be donated to a nonprofit institution or organization described in subsection (1) of this section, to the State, the county, the city or to any school or house of worship, is exempt from the requirements imposed by this chapter to obtain a permit and pay permit taxes, provided that profit, other than wages paid to employees of such institutions or organizations, is not derived from such activity, either directly or indirectly, by any person. The exemption set out in this subsection shall not apply to persons employed to promote benefit, charitable and nonprofit activities.

3. Independent city contractors. Certain independent contractors hired by the city. Any person hired by the city as an independent contractor to provide babysitting services; to perform artistic demonstrations or give other performances; to provide classes in art, dance, crafts, cooking, sports, music, fitness, or dog obedience; to give lectures, readings, gallery talks or workshops; or to officiate sporting events at city-owned locations, programs or performances at the High Street Art Center are exempt from the requirements imposed by this chapter to pay permit fees if those persons work in the city exclusively for the city.

4. Individual vendors at a one-day or two-day special event within the city for which a temporary use permit has been issued.

5. Individual vendors at a city-permitted swap meet or farmers' market exempt from the requirement by the state board of equalization requirement for a seller's permit as "occasional sellers."

6. Sellers of only nontaxable food items at a city-permitted farmers' market.

7. Businesses physically located outside the city making a delivery within the city of goods purchased, including set-up and assembly, provided such set-up and assembly does not require a building permit pursuant to Title 15 of this code.

8. Businesses involved in professional design work and analysis, including architecture and engineering, provided such work does not involve on-site work within the city.

9. Landlords renting four (4) or fewer residential units on any one site in the city, and ten (10) or fewer residential units citywide.

10. Real estate agents working as independent contractors from a real estate office that has a valid business registration with the city.

11. Door-to-door sales agents with a valid city street vendor permit working as independent contractors from a business that has a valid business registration with the city.

C. No person other than the permittee shall use any permit issued pursuant to this subsection.

D. No person shall purchase or transfer any permit issued pursuant to this subsection.

E. Businesses with a valid business registration permit for a store or service in the city do not need a separate business registration permit to operate as an individual vendor at city-permitted special events, swap meets, or farmers' markets.

- END -

RESOLUTION NO. 2013-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ADOPTING A REVISED FEE SCHEDULE FOR SERVICES RENDERED PURSUANT TO THE MOORPARK MUNICIPAL CODE RELATING TO BUSINESS REGISTRATION FEES AND RESCINDING RESOLUTION NO. 2011-2994

WHEREAS, Chapter 5.08 of the Moorpark Municipal Code requires annual business registration permits for any person engaged in any business within the city; and

WHEREAS, Resolution No. 2011-2994 has provided for the recovery of costs associated with administering the business registration permit program; and

WHEREAS, a review of the costs associated with the processing of business registrations and annual renewals for individual vendors at swap meets or farmers' markets calls for a reduced fee to reflect current actual costs of providing such services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The fee for a new business registration permit is \$90.00.

SECTION 2. The fee for a business registration permit annual renewal is \$35.00.

SECTION 3. The fee for a business registration permit and business registration permit annual renewal limited to use by an individual vendor at a single City-permitted swap meet or farmers' market venue is \$45.00.

SECTION 4. The above fees do not include the \$1.00 annual State-mandated surcharge for Certified Access Specialist services pursuant to Government Code Section 4467.

SECTION 5. This Resolution shall become effective immediately.

SECTION 6. Resolution No. 2011-2994 is hereby rescinded upon the effective date of this Resolution.

SECTION 7. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be file in the book of original resolutions.

Resolution No. 2013-\_\_\_\_\_

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PASSED AND ADOPTED this 16th day of January, 2013.

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Janice S. Parvin, Mayor

ATTEST:

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Maureen Benson, City Clerk