



# City of Palo Alto

## City Council Staff Report

(ID # 6470)

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**Report Type: Consent Calendar**

**Meeting Date: 1/19/2016**

**Summary Title: Business Registry Ordinance**

**Title: Adoption of an Ordinance Amending Palo Alto Municipal Code Chapter 4.60 (Business Registration Program) to Exempt Very Small Businesses, Very Small Non-Profits, and Religious Organizations with No Ancillary Business On Site from the Business Registration Program, and Review of Policy and Services Committee Recommended Updates to Enforcement Approach and Questionnaire**

**From: City Manager**

**Lead Department: City Manager**

### **Recommendation**

The Policy & Services Committee and Staff recommend that Council:

1. Adopt an ordinance amending Chapter 4.60 of the Palo Alto Municipal Code to exempt very small businesses, very small non-profits, and religious organizations with no ancillary business on site (the suggested minor changes are shown in context in Attachment A).
2. Review the staff enforcement plan for businesses not yet registered.
3. Review the updated questionnaire (Attachment B).

### **Executive Summary**

This action codifies the Council-directed changes to the Business Registry program. It includes updates to the administration of the Business Registry based on the input of the Policy and Services Committee, especially as it relates to refinements and additions to the questionnaire and activities related to enforcement of non-registered companies.

### **Background**

In November, 2014, the Council adopted Ordinance #5279 creating a business registry certificate (BRC) requirement. The ordinance requires all businesses operating in a fixed place of business in the City to obtain a BRC. To obtain a certificate, businesses must complete a City questionnaire, which is available online through the City's website, and pay a flat \$50 fee.

Home-based businesses and transitory businesses (such as general contractors whose

corporate office is located outside of the city) are exempt from the ordinance. Based on initial Council direction, non- profit corporations (in fixed places of business within Palo Alto) are not exempted from the BRC. The related staff report (including Ordinance #5279) is available online at: <https://www.cityofpaloalto.org/civicax/filebank/documents/44100>. The program was launched in March of 2015.

On September 15, 2015, staff returned to Council with an update on the first 6 months of the program, and the Council discussed direction related to the second phase of the business registry. At that time, approximately 69% of businesses (2,173 of 3,151 in the subject list) had registered in the City. Staff has continued the outreach/ initial enforcement work as well as the refinement of the subject list. As of December 7, 2015, 89% of businesses (2,557) are registered from a total subject list (2,876).

At the September meeting, Council gave staff direction relating to the enhancement/ refinement of the business registry online system. Subsequently, staff executed a contract with OpenCounter, the BRC software service provider, and work has begun on phase 2 related to reporting capabilities, improvements to user functionality, and user experience.

Council also directed staff to obtain the National Establishment Time Series Database (NETS) as a point of comparison for the BRC. The most recent NETS database was very recently released, and staff obtained it in mid-December. Staff is reviewing it, and anticipates some training with the provider to gain an understanding of its value for comparative purposes.

Further, staff was directed to exempt very small businesses, very small non-profits, and religious organizations with no ancillary business on site, and to further define the aspects of the ordinance related to enforcement including proposed mechanisms for ensuring compliance. Staff was directed to return to Policy & Services in a timely manner with these changes as well as to discuss changes to the registration survey to ensure that any suggested changes could be brought to Council and subsequently incorporated into the BRC program in time for the renewal date in year two of the program (launching March 1, 2016).

Staff was also directed to explore integration with other permits and return to the Policy & Services Committee with a plan for implementation to execute as Phase 3 of the BRC. Lastly, the Council directed staff to return to Policy and Services Committee to review the possibility of including short term rental businesses in the BRC. The staff report from September is available at: <http://www.cityofpaloalto.org/civicax/filebank/documents/48831>. The action minutes for the September Council meeting are available here: <http://www.cityofpaloalto.org/civicax/filebank/documents/49138>.

On December 15, 2015, staff met with the Policy & Services Committee and received feedback on the ordinance, enforcement approach, and questionnaire. The staff report from that evening is available here: <http://www.cityofpaloalto.org/civicax/filebank/documents/50169>. Action minutes are available at:

## **Discussion**

The updated ordinance draft (Attachment A), includes the Council-directed, and Policy & Services reviewed exemptions for year 2 of the program. Staff and the Committee recommend that “very small” businesses or non-profits be defined as entities with less than one full time equivalent (FTE) worker. In implementing the registry, staff received questions regarding the applicability of the registry as it relates to one- member firms. Staff does not believe this limited exemption would impact the primary goal of the registry – reliable data collection. Likewise, Council recommended including an exemption for religious organizations with no ancillary business on site and this has also been included in the updated ordinance.

Within the ordinance and associated administrative penalty schedule, late penalties and administrative penalties for non-compliance are established. Late fees are currently assessed at \$25 for 30-day past due and an additional \$25 for 60-day past due. Administrative penalties for non-compliance with the registry are established at \$250. As of December 2015, 299 Palo Alto businesses are 60+ days past due. On December 1, 2015, staff sent a final mailing indicating that those businesses who do not comply immediately may be subject to administrative penalties. Staff sought input from the Policy & Services Committee as to the level of proactive outreach (and related resource impacts) it thought staff should undertake to obtain full compliance. It must be noted that compliance with the ordinance dictates both the payment of the fee and the remittance of required data related to the business. Staff is in the process of evaluating outside firms for the purposes of proactive outreach/compliance activity of those firms very seriously delinquent (180 days late) and may return to Council with any resulting contract or contract amendment.

Within the attached questionnaire (Attachment B), the required questions are highlighted in yellow. Based on input from the Policy & Services committee as it relates to the question set, several refinements and additions to the question set have been included. As noted in earlier reports, the requirement of Federal Employer Identification Number (FEIN) was changed shortly after the launch to be an optional question for all businesses. This was due to some concerns raised early into the launch. The FEIN is an important data point for the City to collect, especially as it relates to comparing and linking companies across disparate data sets. It is included in the business license questionnaire in every other City that Staff surveyed. Staff and the Policy & Services Committee recommend that it once again be a required question for all businesses. Since very small companies are the most likely to use their Social Security Number as the FEIN, their exemption from the BRC (as per tonight’s recommended action) will virtually eliminate earlier concerns regarding the collection of this sensitive data point.

Based on input from the Policy & Services Committee, staff has refined the question related to parking, and made some clarifications to other areas of the question set. Staff has also added some questions related to Transportation Demand Management and Transportation

Management Association. We may continue to refine some of the questions but we believe we are able to proceed and it isn't necessary for Council to approve the precise wording of questions included.

With respect to adding short-term rentals to the BRC, staff recommends that this aspect be discussed within the context of a future Council conversation regarding the overall issue of short term vacation rentals.

Integration of the BRC with other City permits and inspections (for example the Certificate of Use or "Use and Occupancy" permit) will be the focus of staff discussions in the first quarter of 2016. As noted in the September report, the significant overhaul of this existing process is a major internal work effort requiring key staff time from multiple departments, additional software and technical resources.

### **Timeline**

Staff expects to return to Council on February 1, 2016 for a second reading of the updated ordinance. The first renewals of the Business Registry will begin on March 1, 2016 and are due per the ordinance by March 31, 2016. Staff is targeting a return to the Policy & Services Committee in the summer of 2016 with an initial strategy for integration of the BRC with other City permits and inspections (Phase 3 of the BRC). Phase 3 is largely dependent on Council direction once this initial strategy is available, but is expected to begin implementation in late 2016.

### **Resource Impact**

Currently, there are 667 companies and non-profits registered in the program with 1 or less employee, with 161 indicating less than 1 employee, and 506 indicating 1 employee. Staff expects that some of the sole proprietors that indicated 1 employee are actually less than 1 FTE. Therefore, staff estimates that the revenue impacts of exempting employers with less than 1 employee will result in a negative impact to revenues between \$8,050 and \$33,350. Exempting religious organizations with no ancillary business on site is expected to negatively impact revenues by about \$1,000. The costs to administer the business registry will ultimately decrease due to these changes as well, although the estimation based on these actions is not immediately known (largely because in phase 2 the software is still in a development mode). As staff begins to streamline the program as part of the FY 2017 budget process, Business Registry expenses and fees will be re-evaluated to ensure that the program aligns to the stated 100% cost recovery goal.

### **Policy Implications**

Launching phase two of the Business Registry Program is consistent with Council direction. Data from the BRC is considered helpful in achieving programs outlined in the City's Comprehensive Plan.

### **Environmental Review**

Information gathering and data collection is not a project for the purposes of the California Environmental Quality Act.

**Attachments:**

- Attachment A: 0131496 ORD Business Registration Revised January 19 2016 (PDF)
- Attachment B: Business Registry Questionnaire (PDF)
- Attachment C: Public Letters to Council (PDF)

Ordinance No. \_\_\_\_  
Ordinance of the Council of the City of Palo Alto Amending Chapter 4.60 of  
the Palo Alto Municipal Code Regarding Business Registration Program

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Section 4.60.040 of Chapter 4.60 (Business Registration) of Title 4 (Business Licenses and Regulations) of the Palo Alto Municipal Code is hereby amended to read as follows:

**4.60.040 Exemptions from Business Registration**

The following types of businesses are exempt from this chapter:

- (a) Home based business
- (b) Transitory business
- ~~(c) Non-profit organizations having less than one full time equivalent employee~~
- ~~(a) Businesses having less than one full time equivalent employee~~
- ~~(b) Religious organizations which operate a worship hall but have no other ancillary facilities or services. For purposes of this exception ancillary facilities or services include but are not limited to religious or educational classrooms, gift shops, and daycare services.~~

SECTION 2. Any provision of the Palo Alto Municipal Code inconsistent with the provisions of this chapter, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this chapter.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this chapter and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional.

SECTION 4. The Council finds that the adoption of this chapter is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline section 15061 because it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment and section 15378(b) (3) in that it involves creation of a governmental funding mechanism or other governmental fiscal activity that does not involve commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 5. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

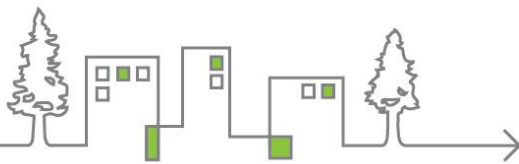
\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Senior Assistant City Attorney

\_\_\_\_\_  
City Manager



# PALO ALTO BUSINESS REGISTRY

\*Highlights indicate required field

## BASIC INFORMATION

Business Name \_\_\_\_\_ Date \_\_\_\_\_

Business Type \_\_\_\_\_

(For example: Bar, Daycare, Hair/Nail Salon, Hotel, Medical, Non-Profit, Office, Restaurant, Retail, Private School)

## BUSINESS DETAILS

Address \_\_\_\_\_

Street Number and Name

Suite or Bldg #

Zip Code

Main telephone number \_\_\_\_\_

### Business Structure

- Sole Proprietorship
- General Partnership
- Limited Liability
- Limited Liability Partnership
- Limited Liability Company
- Corporation
- Trust
- Joint Venture
- Other (select if no business structure)

Business Inception Date      Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

Date You Moved to Fixed Place of Business in Palo Alto      Month \_\_\_\_\_ Year \_\_\_\_\_

Brief Business Description \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## APPLICANT INFORMATION

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone number \_\_\_\_\_

Mailing Address \_\_\_\_\_

Street Number and Name (or PO Box)

Zip Code

### Applicant Role

- Owner or Principal
- Employee
- Administrative or Operational
- Other

**Note: If you selected Employee, Administrative/Operational, or Other, complete the information below for Owner/Principal.**





**PRINCIPAL OR OWNER (if not provided above)**

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone number \_\_\_\_\_

Mailing Address \_\_\_\_\_  
Street Number and Name (or PO Box) Zip Code

**PRIMARY ADDRESS (where the business is located)**

Address \_\_\_\_\_  
Street Number and Name Suite or Bldg # Zip Code

Floor business is located \_\_\_\_\_ Square Footage \_\_\_\_\_

Total # of Employees at this location (this includes the maximum number of part-time and full-time employees, contractors, and/or volunteers on site during your peak time) \_\_\_\_\_

Number of parking permits purchased for employees at this site \_\_\_\_\_

(This is the number of annual number of permits **your business purchases for employees** at this location to park within the City of Palo Alto)

Number of parking spaces dedicated to your business on site \_\_\_\_\_

(This is the number of off-street spaces that your business has exclusive (private) access to. If you share exclusive (private) access with other firm(s), divide total spaces by number of firms, e.g. if there are 10 spaces shared by 2 firms, use 5 spaces as your answer here)

Is this your primary mailing address? \_\_\_\_\_ (If N, go to page 3 and provide a different address than the site you're using for your primary address.)  
(Y/N)

Do you have any other registered businesses or entities on site? \_\_\_\_\_ (If Y, go to page 3 and provide the names of all entities.)  
(Y/N)

Does your business have additional locations in the City of Palo Alto? \_\_\_\_\_ (If Y, go to page 3 and provide information for all locations.)  
(Y/N)

**HOURS OF OPERATION**

Please estimate your opening and closing times to the nearest 30 minute increment. If you're closed on a particular day, enter "Closed."

Monday \_\_\_\_\_ to \_\_\_\_\_

Tuesday \_\_\_\_\_ to \_\_\_\_\_

Wednesday \_\_\_\_\_ to \_\_\_\_\_

Thursday \_\_\_\_\_ to \_\_\_\_\_

Friday \_\_\_\_\_ to \_\_\_\_\_

Saturday \_\_\_\_\_ to \_\_\_\_\_

Sunday \_\_\_\_\_ to \_\_\_\_\_

**BUSINESS REGISTRATIONS**

If you have any Federal or State registration numbers for your business, please report them below.

Federal Employer Identification Number (EIN) \_\_\_\_\_

Reseller's license number \_\_\_\_\_ State of incorporation \_\_\_\_\_

**TRANSPORTATION DEMAND MANAGEMENT/ COMMUTER BENEFITS**

Does the business provide any of the following benefits for employees?

- Flexible work hours  On-site bike parking
- Shuttle service
- Car or bike share program for employees
- Subsidized public transit
- Pre-tax payroll deduction for transit passes

**COMMUTER PROGRAMS**

Let us know if you are interested in learning more about commuter programs within the City of Palo Alto.

- SamTrans
- Bike Boulevards
- Bay Area Bike Share
- Zipcar
- Caltrain
- VTA
- Palo Alto Free Shuttle
- Transportation Management Association

**MAILING ADDRESS**

Let us know if you'd prefer correspondence sent to a different address than the site for your primary physical address

\_\_\_\_\_  
Street Number and Name (or PO Box)

\_\_\_\_\_  
City and State

\_\_\_\_\_  
Zip Code

**ADDITIONAL BUSINESS ENTITIES** (required if you answered yes to additional business entities on page 2. Enter info for all associated business names. If more than 6, include on a separate sheet)

Many business locations contain more than one entity, particularly in the case of commercial real estate offices, financial or investment services and medical uses. Please share the legal names of the other associated entities on site.

Associated Business Name 1 \_\_\_\_\_

Associated Business Name 2 \_\_\_\_\_

Associated Business Name 3 \_\_\_\_\_

Associated Business Name 4 \_\_\_\_\_

Associated Business Name 5 \_\_\_\_\_

Associated Business Name 6 \_\_\_\_\_

**SECONDARY LOCATION 1** (required if you answered yes to additional locations on page 2. Enter all info for all secondary locations your business maintains within Palo Alto. If more than 4, include on a separate sheet)

Address \_\_\_\_\_  
Street Number and Name Suite or Bldg # Zip Code

Floor business is located \_\_\_\_\_ Square Footage \_\_\_\_\_ # of Employees at this location \_\_\_\_\_

Number of annual parking permits purchased from the City for your employees at this site \_\_\_\_\_

Number of parking spaces dedicated to your business on site \_\_\_\_\_

**SECONDARY LOCATION 2** (required if you answered yes to additional locations on page 2. Enter all info for all secondary locations your business maintains within Palo Alto. If more than 4, include on a separate sheet)

Address \_\_\_\_\_  
Street Number and Name Suite or Bldg # Zip Code

Floor business is located \_\_\_\_\_ Square Footage \_\_\_\_\_ # of Employees at this location \_\_\_\_\_

Number of annual parking permits purchased from the City for your employees at this site \_\_\_\_\_

Number of parking spaces dedicated to your business on site \_\_\_\_\_

**SECONDARY LOCATION 3** (required if you answered yes to additional locations on page 2. Enter all info for all secondary locations your business maintains within Palo Alto. If more than 4, include on a separate sheet)

Address \_\_\_\_\_  
Street Number and Name Suite or Bldg # Zip Code

Floor business is located \_\_\_\_\_ Square Footage \_\_\_\_\_ # of Employees at this location \_\_\_\_\_

Number of annual parking permits purchased from the City for your employees at this site \_\_\_\_\_

Number of parking spaces dedicated to your business on site \_\_\_\_\_

**SECONDARY LOCATION 4** (required if you answered yes to additional locations on page 2. Enter all info for all secondary locations your business maintains within Palo Alto. If more than 4, include on a separate sheet)

Address \_\_\_\_\_  
Street Number and Name Suite or Bldg # Zip Code

Floor business is located \_\_\_\_\_ Square Footage \_\_\_\_\_ # of Employees at this location \_\_\_\_\_

Number of annual parking permits purchased from the City for your employees at this site \_\_\_\_\_

Number of parking spaces dedicated to your business on site \_\_\_\_\_

\_\_\_ I declare under penalty of perjury that the information provided in this Application is true and correct as per the BRC Terms and Conditions.

\_\_\_ I understand that payment of this business fee does NOT represent approval of my use/business with respect to zoning, County Health Department approval, hazardous materials use or storage, wastewater discharge, or any other requirement. Further, I recognize that it is my responsibility to secure appropriate clearances and that it is advisable for me to secure such requisite approvals prior to establishing this business and paying this business registry fee.

Authorized Signature \_\_\_\_\_

### Payment with a Check

Please make check payable to **City of Palo Alto** in the amount of \$50.00\* and send with application form to:

City of Palo Alto  
Business Registry  
250 Hamilton Street  
Palo Alto, CA 94301

\*Fee Amount: \$50

If paid after September 1, 2015: \$75 (includes \$25 penalty)

If paid after October 1, 2015 \$100 (includes additional \$25 penalty)

Please note that after October 1, businesses not registered may be subject to additional penalties and collections activities.

### Questions?

Call (650) 329-2360 or send email to [BusinessRegistry@cityofpaloalto.org](mailto:BusinessRegistry@cityofpaloalto.org)

#### TERMS AND CONDITIONS

**NOTE: Payment of a business registry fee and issuance of a business registry certificate do not necessarily entitle you to conduct business in the City of Palo Alto. As the owner or operator of a business, you must comply with all applicable zoning and public safety regulations and obtain all required permits.**

#### **THIS INFORMATION IS NOT A COMPLETE LISTING OF CLEARANCES THAT MIGHT BE REQUIRED**

1. If you intend to alter, remodel, relocate, or install any structural, electrical, plumbing, or mechanical portions of the building, you will need to obtain building permits from the Development Services Department at (650) 329-2496
2. Businesses involving any use changes, exterior building changes, or sign changes are advised to secure Department of Planning and Community Environment approval prior to lease execution or purchase. Contact the Planning and Community Environment Department at (650) 329-2442
3. Businesses operated out of the home must comply with Home Occupation Regulations (Section 18.42.060 of the Municipal Code).
4. If you intend to serve food or beverages on the premises, you must obtain approval from the Santa Clara County Health Department. For information, call (408) 737-1018.
5. If your business uses or stores hazardous materials (including paints, thinners, solvents, acids, compressed gases, etc.), you may be required to obtain a Hazardous Materials Permit from the Fire Department. NOTE: Certain hazardous materials and processes such as spray-painting, welding, etc., are NOT ALLOWED in certain buildings. Contact the Fire Department at (650) 329-2184 for information on permitted uses within the City.
6. Industries discharging processed wastewater down the sewer, such as machining fluid, water from glass washing, chemical neutralization, etc., may be required to obtain an Industrial Waste Discharge Permit from the Public Works Department. For more information, call (650) 329-2122.
7. Police Department approval is required for live entertainment, gaming, massage establishments, and outcall massage services. For more information, call (650) 329-2147.
8. If there is a change of ownership, business name, or location, you are required to obtain a new business registration certificate and are subject to any associated fees and approvals.

**Carnahan, David**

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**From:** William Blythe <wrbsr@sbcglobal.net>  
**Sent:** Tuesday, January 05, 2016 3:07 PM  
**To:** Council, City  
**Cc:** Alex A. Clerk MD; 'Basil Williams'; Betty Guthrie; 'Hyacinth Stephens'; Julian Lake; monielovez@aol.com; sgottke1@comcast.net; Sophia and James Cho; Steve Constantine  
**Subject:** Business Registry - for churches?

To: City Council, Palo Alto

I see in the Mercury News of 1/5/16 (Page B2) that the City Council will discuss, this month sometime, the possibility of lifting registration requirements for religious organizations with no ancillary businesses on site.

I support this move.

I suggest that requiring churches to file may border on a constitutional issue of separation of church and state, an issue in which I doubt the Council wants to become involved.

My church has not yet responded to the request for registration.

Thank you for considering removing churches from the registration requirement.

William Blythe  
Administrator  
Palo Alto Adventist Church  
786 Channing Avenue



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