

**CITY OF FERNDALE
REQUEST FOR COUNCIL ACTION**

FROM: J. Cherilynn Tallman, City Clerk

SUBJECT: Consideration of Ordinance No. 1063, amending procedures for business registration

SUMMARY & BACKGROUND:

Attached is a proposed ordinance to amend Chapter 7, Business Regulation and Licenses, of the Ferndale Code of Ordinances as it relates to the procedures for business registration. In collaboration with the Police, Fire, Assessing and CDS departments the current ordinance was reviewed with an eye to simplifying ordinance language and streamlining the process. Input from other departments show the intent of the business registration process to be the compilation of an accurate database on our city businesses that includes pertinent contact information for routine business matters as well as for after-hours emergencies and for ordinance enforcement.

The major changes are:

- To require all businesses, without differentiating among manufacturing, merchant and trade, to register with the city in order to provide a complete database.
- The registration fee remains unchanged at a nominal \$25, and language has been modified to allow discretion on assessing late fees and noncompliance fees in view of the current economy.
- Language has been added to offer the City a means of enforcement by giving staff authority to not release other city permits until a business registration has been issued.
- Clarification that non-profit and not for profit entities must register but that they are not required to pay a fee.
- References to renewals were eliminated because it is an annual process, not a renewal procedure.
- The expiration date changes to February 28 to relieve City Clerk's office staff of the necessity of processing business registrations during the November election process.

ATTACHMENTS: Redlined version of proposed ordinance
Clean version of proposed ordinance

COUNCIL AGENDA DATE: December 22, 2008

CITY ATTORNEY REVIEW: PDC 12-15-08

FINANCE DIRECTOR REVIEW: n/a

RECOMMENDED ACTION:

Moved by , seconded by , to adopt Ordinance No. 1063, an ordinance to amend Chapter 7, Business Regulation and Licenses Generally, Article VI, Business Registration, of the Ferndale Code of Ordinances.

ORDINANCE NO. 4022 1063

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND CHAPTER 7, BUSINESS REGULATION AND LICENSES GENERALLY, ARTICLE VI, BUSINESS REGISTRATION, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Code of Ordinances, Chapter 7, Business Regulation and licenses Generally, Article VI, Business Registration, is amended as follows:

Sec. 7-107. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means any form of for profit activity. ~~that has for its end the production and/or supplying of commodities. The term “manufacturing business” means any form or process of making, working, fabricating or producing wares.~~

~~— *Merchant* means any person who engages in or conducts a for profit business selling goods, wares and merchandise, and who for the purpose of carrying on such business uses, lists or occupies, either in whole or in part, a room, building, structure or vacant property for the exhibition of such wares and merchandise.~~

~~— *Trade* means all other kinds of for profit vocations, occupations, enterprises, establishments and kind of activity not included in the definition of “merchant” or “business.”~~

~~— *Transient merchant* means any person who engages in or conducts a business buying or selling goods, wares and merchandise and does not have a mercantile establishment in the city. Auctioneers shall not be deemed to be transient merchants.~~

Sec. 7-108. Applicability.

This article applies to all for profit businesses located **at a particular address** within the city except those defined as a home business or home occupation ~~in article II,~~ **pursuant to** Section 2.01 of the Zoning Ordinance of the City.

Sec. 7-109. Required.

- (1) No person shall, directly or indirectly, ~~operate a for profit business establishment in the city and no person shall, directly or indirectly,~~ operate, conduct, maintain or manage any business, ~~manufacturing business, trade, or occupation~~ in the City without first registering with the City Clerk in the manner provided in this article.
- (2) The fact that a license or permit has been granted to any person by the state or county to engage in the operation, conduct, maintenance or management of any business, ~~trade, occupation or premises~~ shall not exempt such person from the necessity of registering with the City Clerk, as required by this section.
- (3) A non-profit or not for profit entity shall submit a copy of the article of incorporation or IRS determination confirming their status and shall register with the City Clerk's office on the standard registration form. A non-profit or not for profit entity shall not be required to pay a fee.

Sec. 7-110. Application.

- (1) Each person required to register with the City Clerk under the provisions of this article shall make application for such registration with the City Clerk in the form and manner prescribed by the City Clerk and shall state such facts as may be required for, or applicable to such registration including:

~~(1) Corporation/Business Owner Information.~~

~~a. Corporation. The legal name of the corporate entity and any "doing business as" name, nature of the business, full local and corporate business addresses, local and corporate business telephone numbers; the full name, business address and business telephone number of the corporation's Michigan registered agent; the full name and business telephone number for the local and district managers in charge of the business location within the city, contact information for the corporate person/position for city complaints.~~

~~b. Partnership, sole proprietor. Any business that does not have a Michigan registered agent shall provide the legal name of the entity and any "doing business as" name, nature of the business, full local and main business addresses, local and main business telephone numbers; the full name and business telephone number for the local manager in charge of the business location within the city; the full name(s), business address, business telephone number of the business owner(s) or partner(s) and the residential address and drivers license number of at least one owner and/or partner.~~

(a) For Sole Proprietors or Partnerships:

The name, telephone number, residential address and driver's license number of

the business owner or one of the partners; the name and telephone number of an emergency contact person; the legal business name; the nature/type of business, the Ferndale business address, telephone number and parcel tax ID number; the building owner's name, address, and telephone number; and the name and telephone number of the alarm company if the building is equipped with an alarm system.

(b). For Limited Licensed Companies (LLC) and Incorporated Businesses:

The name and telephone number of a company representative who will act as a liaison with the City; the name, telephone number, residential address and driver's license number of the local business manager; the name and telephone number of an emergency contact person; the legal business name and any assumed (d/b/a), trade and/or firm names under which it conducts business; the nature/type of business, the Ferndale business address, telephone number and parcel tax ID number; the building owner's name, address, and telephone number; and the name and telephone number of the alarm company if the building is equipped with an alarm system.

(2) The city clerk shall not accept any application for registration unless the application has been fully and completely filled out and the ~~proper~~ **applicable** fee payments(s) has been received. ~~If the city clerk is required to make contact with the business to have the application correctly completed, secure missing information on the application or regarding missing/incorrect payment, an additional fee, as set by city council, will be assessed to cover administrative costs.~~

~~(3) A business that fails to obtain a business registration as required by this section, shall be assessed a fine, as set by city council.~~

~~(4) Annual business registrations will not be accepted by the city clerk until any fees or penalties assessed under this article are paid or properly waived by the city.~~

Sec. 7-111. Certificate of occupancy.

~~— Upon receipt by the city clerk of a completed application for registration and proper payment of the related fee(s), a business registration will be issued. If it is later determined that the for profit business has not obtained a valid certificate of occupancy, the business shall be subject to inspections by the CDS Department and/or payment of an additional fee to conduct such inspections related to the requirement of a certificate of occupancy.~~

A certificate of occupancy is a requirement for all buildings, under the Michigan Building Code of 2006, Section 110, which states, "110.1 Use and Occupancy. A building or structure shall not be used or occupied, and a change in the existing occupancy classification of a building or structure or portion thereof shall not be made until a certificate of occupancy has been issued in accordance with the Act." If, during the processing of an application for business registration, it is determined that the business has not obtained a valid certificate of occupancy the business shall be subject to inspections by the CDS Department and payment of any applicable fees for

the conduct of such inspections necessary for issuance of a certificate of occupancy.

Sec. 7-112. Fee.

- (1) ~~Every applicant for registration or renewal thereof~~ **Applicants for registration** shall pay a registration fee in an amount to be set by resolution of the council. No. registration fee shall be required from any ~~person~~ **business** exempt from payment of the fee by state, county or federal law.
- (2) ~~Those Businesses which are~~ not yet established at the beginning of the current registration year shall be assessed the standard, non-late registration fee for that year, as set by city council, for the initial registration and shall be subject to the requirements of a valid certificate of occupancy, pursuant to Section 7-111.
- (3) **Businesses submitting an application for business registration postmarked after the due date shall be assessed a late fee in an amount to be set by resolution of City Council.**
- (4) **Businesses submitting incomplete applications may be assessed an administration fee as set by resolution of the City Council.**
- (5) **Businesses which have not submitted a complete application and all applicable fees within 45 days of the application deadline may be fined an additional fee as set by resolution of City Council for failure to comply with this ordinance.**
- (6) **Annual business registrations will not be accepted by the City Clerk until all fees assessed under this article are paid or properly waived by the City. Building Certificates of Occupancy and other city permits shall not be issued until fees assessed under this section are paid.**

Sec. 7-113. Expiration date.

~~—The 2006 registration year shall expire on February 28, 2007, at 12:00 midnight. Subsequent registration years shall expire on January 31 at 12:00 midnight, next after the date of registration. The expiration date of each registration shall be indicated on the face thereof.—~~
Annual business registrations shall expire on February 28th of each year at 12:00 midnight. The expiration date of each registration shall be indicated on the face thereof.

Sec. 7-114. Renewal. Deleted.

~~—Prior to termination of a registration, a renewal registration can be obtained by filing an application therefor, with information supplied as in the original application, and by payment of the prerequisite registration fee. A renewal registration may be obtained after the expiration of a current registration, provided an additional late registration fee is paid in an amount to be set by resolution of city council.—~~

Sec. 7-115 114. Revocation of business registration.

A business registration may be revoked upon hearing by the city council, or its designee, preceded by five days' written notice, where it is established that:

- (1) The business is in violation of any ordinance or Code provision of the city; or
- (2) The business has failed to obtain, or has had revoked, or has permitted to expire any requisite state or federal permit for the activity conducted; or
- (3) That the business registration application contained any false, deceptive or misleading information, or any misrepresentations of any kind.

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, **including Ordinance No. 1022**, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective upon publication of a notice in a newspaper circulated in the City, stating the date of the enactment and the effective date of the ordinance, a brief notice as to the subject matter of this ordinance, and such other facts as the city clerk shall deem pertinent and that a copy of the ordinance is available for public use and inspection at the office of the city clerk.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
FERNDALE, OAKLAND COUNTY, MICHIGAN, THIS 22ND DAY OF DECEMBER, 2008.

CRAIG COVEY, MAYOR

J. CHERILYNN TALLMAN, CITY CLERK

ORDINANCE NO. 1063

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

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Sec. 7-108. Applicability.

This article applies to all for profit businesses located at a particular address within the City except those defined as a home business or home occupation pursuant to Section 2.02 of the Zoning Ordinance of the City.

Sec. 7-109. Required.

- (1) No person shall, directly or indirectly, operate, conduct, maintain or manage any business, in the City without first registering with the City Clerk in the manner provided in this article.
- (2) The fact that a license or permit has been granted to any person by the state or county to engage in the operation, conduct, maintenance or management of any business shall not exempt such person from the necessity of registering with the City Clerk, as required by this section.
- (3) A non-profit or not for profit entity shall submit a copy of the article of incorporation or IRS determination confirming their status and shall register with the City Clerk's office on the

standard registration form. A non-profit or not for profit entity shall not be required to pay a fee.

Sec. 7-110. Application.

- (1) Each business required to register with the City Clerk under the provisions of this article shall make application for such registration with the City Clerk in the form and manner prescribed by the City Clerk and shall state such facts as may be required for, or applicable to, such registration including:

- (a) For Sole Proprietors or Partnerships:

- The name, telephone number, residential address and driver's license number of the business owner or one of the partners; the name and telephone number of an emergency contact person; the legal business name; the nature/type of business, the Ferndale business address, telephone number and parcel tax ID number; the building owner's name, address, and telephone number; and the name and telephone number of the alarm company if the building is equipped with an alarm system.

- (b). For Limited Licensed Companies (LLC) and Incorporated Businesses:

- The name and telephone number of a company representative who will act as a liaison with the City; the name, telephone number, residential address and driver's license number of the local business manager; the name and telephone number of an emergency contact person; the legal business name and any assumed (d/b/a), trade and/or firm names under which it conducts business; the nature/type of business, the Ferndale business address, telephone number and parcel tax ID number; the building owner's name, address, and telephone number; and the name and telephone number of the alarm company if the building is equipped with an alarm system.

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A certificate of occupancy is a requirement for all buildings, under the Michigan Building Code of 2006, Section 110, which states, "110.1 Use and Occupancy. A building or structure shall not be used or occupied, and a change in the existing occupancy classification of a building or structure or portion thereof shall not be made until a certificate of occupancy has been issued in accordance with the Act." If, during the processing of an application for business registration, it is determined that the business has not obtained a valid certificate of occupancy the business shall be subject to inspections by the CDS Department and payment of any applicable fees for the conduct of such inspections necessary for issuance of a certificate of occupancy.

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- (1) Applicants for registration shall pay a registration fee in an amount to be set by resolution of the City Council. No registration fee shall be required from any business exempt from payment of the fee by state, county or federal law.
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- (3) Businesses submitting an application for business registration postmarked after the due date shall be assessed a late fee in an amount to be set by resolution of City Council.
- (4) Businesses submitting incomplete applications may be assessed an administration fee as set by resolution of the City Council.
- (5) Businesses which have not submitted a complete application and all applicable fees within 45 days of the application deadline may be fined an additional fee as set by resolution of City Council for failure to comply with this ordinance.
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Sec. 7-113. Expiration date.

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DELETED

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