

ORDINANCE NO. 1148

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND CHAPTER 3, ALCOHOLIC BEVERAGES,
ARTICLE II, VENDORS FOR CONSUMPTION ON PREMISES, SECTION 3-17
OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Code of Ordinances, Chapter 3, Alcoholic Beverages, Article II, Vendors for Consumption on Premises, Section 3-17, is amended as follows:

Sec. 3-17. Approval or transfer of License for consumption on premises.

All personal property taxes and real property taxes and other obligations due and payable to the city shall be paid which relate to any premises for which a license approval is sought or to which or from which a liquor license is sought to be transferred before the city council shall approve the issue or transfer of such license under this article.

- (a) Purpose. The purpose of this division is to establish regulations for the review of new licenses and transfer applications of the location of licenses for sales of intoxicating liquor for consumption on the premises in the city.
- (b) New or transfer of location - Standards. Any and all new licenses and transfers of location of a license for consumption of intoxicating liquor on premises within the city require the approval of the city council. Applications for a new license or a transfer of location shall be in writing and filed with the city clerk. An application for a new license or the transfer of a location of a license for consumption of intoxicating liquor on the premises shall be considered by the city council based on the following criteria:
 - (i) An applicant will be given consideration only if it proposes to provide and continues to provide for the service of meals to be consumed on the premises in the amount provided prior to the transfer application or if such application provides for service of meals which shall be established to be at least fifty (50%) percent of the establishment's revenue.
 - (ii) The location proposed and methods of operation must not detrimentally and unreasonably impact nearby property owners, businesses and residents.
 - (iii) All applicable health and safety codes, building codes and ordinances, including zoning, must be met.

(iv) Applicants will be required to submit a detailed plan of proposed operation as part of their application for a new license or a transfer of location, which shall include a site plan for the proposed location, a plan identifying any proposed change in exterior and interior design, lay-out of any proposed change to ancillary facilities and a general operational statement outlining the proposed manner in which the establishment will be operated, including a schedule of the hours of operation, crowd control plans, use of the facility, parking provisions and the estimated cost of any proposed improvements.

(v) Full identification and history of the proposed licensed holder or the licensed holder as it pertains to the license proposed or to be transferred including any complaints filed with the liquor control commission, any adverse actions taken by any municipality or the liquor control commission and a positive recommendation from the city department directors who have conducted an investigation from the referral from the city manager identified in section (c)(ii).

(vi) Criteria set forth in City of Ferndale Resolution Regarding New and Transfers of On-Premise Licenses dated August 12, 2013.

(vii) This section shall not apply to a transfer of a license or interest in a license that does not require prior approval of the Commission as set forth in MCL §436.1529, except a transfer of location of a license within the City of Ferndale.

(c) Procedure.

(i) Each applicant for a new license or a transfer of the location of a license for consumption of intoxicating liquor on the premises within the city must make an application to the city clerk. This application is in addition to any application required by the liquor control commission.

(ii) Upon receipt of an application for a new license or a transfer of location, the city manager will refer it to the police chief, building official, fire chief, community and economic director, the county department of health and such other city officers or employees as the manager determines, who shall cause a investigation of the applicant to be made, including an analysis of the proposed location for the new license or the proposed location for the transfer of the license for consumption of intoxicating liquor on the premises.

(iii) The applicant will be required to reimburse the city for the cost of its investigation, based on a fee schedule to be adopted by resolution of city council prior to the city undertaking its review. The city shall schedule a public hearing prior to city council considering any new license or approval of an application for transfers of locations for a liquor license within the city. The public hearing shall be scheduled within sixty (60) days of city's receipt of the completed application and notice shall be provided to the applicant and the public by the city clerk.

(iv) The applicant may be required to appear before the city council to address any questions or concerns raised regarding the new license or the requested transfer and/or the proposed plan of operation for the proposed new location.

(v) If the city council is satisfied that the new license or the transfer of the location of the license for consumption of intoxicating liquor on the premises will constitute a positive asset to the community and meets the standards of this section, it may adopt a resolution approving a new license and may adopt a resolution approving the transfer of the license, subject to any conditions stated in the resolution. Once the city council approves the new license or the transfer of the location of the license, a copy of the resolution shall be provided to the applicant. The applicant shall comply with all representations made to the city council as part of the request for transfer of location. If, following transfer of the location a license for consumption of intoxicating liquor on the premises or issue a new license it is determined that the project was not completed as presented or in compliance with the representations made to the city council, the city council may consider such matters in objecting to the renewal of the license for the following year or commence an action to revoke the license with the liquor control commission.

(d) Duty of continuing compliance. Successful applicants for a new license or transfer of the location of a license for consumption of intoxicating liquor on the premises shall continue to comply with all city and state codes and the standards set forth in this section, including the submitted plan of operation and any verbal representations made to the city council in obtaining written approval of the license or requested transfer. A licensee's failure to comply with all codes or the written plan of operation or its verbal representations to city council may result in the objection by the city council to renew of its license or in action to revoke the license with the liquor control commission.

(e) Enforcement.

(i) If a person violates any provision of this section, or an order issued, the city may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner.

(ii) Any person who violates any provision of this section, shall be subject, upon order of a court, to a misdemeanor punishable by a fine of not more than \$500.00 and/or 90 days in jail, or both for each violation. Each day during which the violation continues shall constitute an additional, separate and distinct violation.

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 the 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, 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 12TH DAY OF AUGUST, 2013.

DAVE COULTER, MAYOR

J. CHERILYNN BROWN, CITY CLERK

Date of Adoption: August 12, 2013

Date of Publication: August 21, 2013

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the 12th day of August, 2013.

J. CHERILYNN BROWN, CITY CLERK

CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE 1148

The City of Ferndale has adopted Ordinance No. 1148, amending Article II, Vendors for Consumption on Premises, Section 3-17 of the City of Ferndale. This Ordinance shall be effective upon publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

J. CHERILYNN BROWN, CITY CLERK