

## ORDINANCE NO. 06-01

AN ORDINANCE OF THE CITY OF FERNDALE LICENSING THE TRANSACTION AND CARRYING ON OF CERTAIN BUSINESSES, TRADES, PROFESSIONS, CALLINGS AND OCCUPATIONS IN THE CITY OF FERNDALE FOR THE PURPOSE OF RAISING MUNICIPAL REVENUE, PROVIDING A PENALTY FOR VIOLATION AND REPEALING VARIOUS ORDINANCES.

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THE CITY COUNCIL OF THE CITY OF FERNDALÉ DOES ORDAIN AS FOLLOWS:

ARTICLE 1: PURPOSE, SCOPE & REPLACEMENT

- §1.01 Purpose: This ordinance is enacted to raise revenue for municipal purposes, and to support costs of regulation including granting of licenses, investigating, inspecting and exercising police supervision.
- §1.02 Scope: This ordinance is intended to regulate businesses, trades, professions, callings and occupations in the City of Ferndale.
- §1.03 The provisions adopted in this ordinance shall not be exclusive but shall be cumulative and complementary to any other provisions of Ferndale City ordinances and County, State and Federal laws. Nothing in this ordinance shall be read, interpreted or construed so as to limit any existing right or power of the City.
- §1.04 This ordinance repeals the following ordinances: 131 and 213 (games of chance); 145 (vending machines); 156 (movie theatres); 229 (junk yards); 247 (documentary transfer tax); 250 (dances), 262 and 293 (use and sales tax); 305 (business license), 311 (TOT); 02-01 (film ordinance); 05-01 (property transfer regulations).

**CHAPTER ONE: Retail Businesses, Services**

ARTICLE 2: STATUTORY AUTHORITY / ENFORCEMENT AUTHORITY

- §2.01 Statutory Authority:
- 2.01.1 A city may “make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” Cal. Const. Art. XI §7. A “legislative body may pass ordinances not in conflict with the Constitution and the laws of the State or the United States.” Cal. GC 37100.
- §2.02 Enforcement:
- 2.02.1 The City Clerk is empowered to enforce all provisions of this Chapter of this Ordinance. Any refusal to comply as directed by the City Clerk will be referred to the City Police for enforcement.
- 2.02.2 The City Clerk has the authority to physically examine or to cause to be examined by any agent of the City of Ferndale any site of business or suspected site of business to confirm or enforce compliance of this chapter of this ordinance.

ARTICLE 3: VIOLATIONS, LEGAL ACTIONS AND PENALTIES

- §3.01 Duty of Complaint: Any authorized city official must file a complaint against any person who violates any provision of this ordinance.

- §3.02 Delinquent payment fine: Failure to pay licenses and fees within 45 days of notice shall result in a fine of 25% of the original fee. Additional 25% fines will be added every 30 days until the fees are paid, not to exceed 100% of fees due.
- §3.03 Appeals of Clerk's Decisions:
- 3.03.1 If any business contests the assessed business license fee, or revocation of a business license, that business may appeal the assessment to the City Council.
- 3.03.2 Subject only to the rules regarding the placing of matters on its agenda, at its next regular meeting following the receipt of the report, the Council shall set a date for a public hearing. Notice of time and place of the hearing shall be given by posting in at least two public places in the city at least 10 days prior to the hearing, and by such other means as the City Council may deem advisable.
- 3.03.3 The City Clerk shall give notice to the aggrieved of the time and place of hearing by serving it personally or by depositing it in the United State Post Office of the city, postage prepaid, addressed to the aggrieved at his/her last known address.
- 3.03.4 The City Council shall have authority to determine all questions raised on the appeal. No determination shall conflict with any substantive provision of this ordinance.
- §3.04 Violation:
- 3.04.1 Any person who willfully fails to exhibit a business license on demand shall be guilty of an infraction.
- 3.04.2 Any person violating any of the provisions of this Chapter or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit provided shall be guilty of a misdemeanor, except as provided above.

#### ARTICLE 4: DEFINITIONS

- §4.01 Business: Shall include professions, trades and occupations, major TV or Movie productions and every kind of calling carried on for profit.
- §4.02 Carnival: Any group or attractions such as ballgames, dice games, whips, Ferris wheels or other riding devices, freaks, dancing shows, minstrels or any other like entertainment or game for which a charge is made for attending, playing or participating.
- §4.03 Peddlers, Canvassers, Solicitors, Hucksters, Hawkers, Transient Merchants and Itinerant Merchants: Persons with no fixed place of business within the City of Ferndale who travel from place to place, who carry with them the wares they offer for sale or enter into contracts with consumers or other dealers for future delivery, or who substantially comply with the above definition.
- §4.04 Person: Includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind and individuals transacting and carrying on business in the City of Ferndale, other than as an employee.
- §4.05 Public Dance: A one-time dance open to the public free or charged admission.

- §4.06 Public Dancehall or Public Dancing Place: A site established for dancing, either indoor or outdoor, where the public is admitted free or for charge.
- §4.07 Self Employed: Applies to those persons who engage in some type of endeavor, activity, or service for which they receive remuneration other than as an employee (Examples are, but not limited to, handymen, independent carpenters, firewood producers/sellers, concessionaires, gardeners, real estate agents, etc.)

#### ARTICLE 5: GENERAL PROVISIONS

- §5.01 Business License:
- 5.01.1 No business may be conducted within the city without a business license and in full compliance of the provisions of this ordinance.
  - 5.01.2 Every person required to have a license under the provisions of this ordinance shall make application for the license to the City Clerk. The applicable departments shall review all new applications.
  - 5.01.3 Any business which ceases doing business in the city shall notify the City Clerk on or before the date of closing.
  - 5.01.4 Relocation: No business license is transferable to another business or person, but a business may relocate to a new location within the city for a fee as set by the Fee Resolution to record the change of location.
  - 5.01.5 Duplicate License: A duplicate license may be issued by the City Clerk to replace any license previously issued under the provisions of this ordinance which has been lost or destroyed upon the licensee filing a statement and paying to the City Clerk a duplicate license fee as set by the Fee Resolution.
  - 5.01.6 Posting of License: Any licensee transacting and carrying on business at a fixed place of business in the City shall keep the license posted in a conspicuous place upon the premises where such business is carried on.
  - 5.01.7 Possession of License: Any person or business not operating at a fixed business location must have a current, valid business license in their possession while conducting business in the city (gardeners, chimney sweeps, etc.).
- §5.02 Contents of Business License:
- 5.02.1 Upon payment of the prescribed license fee, the City Clerk shall issue to the person applying a license which shall contain the following:
    - a. The name of the person to whom the license is issued.
    - b. The business licensed and nature of the business.
    - c. The place where such business is to be transacted and carried on.
    - d. The date of the expiration of the license.
    - e. Such other information as may be necessary for the enforcement of the provisions of this ordinance.
- §5.03 Branch Establishments: two or more separate businesses at the same location; warehouse, etc.
- 5.03.1 A separate license pursuant to this ordinance must be obtained for each branch establishment or location of the business transacted and carried

- on for each separate type of business at the same location when the separate businesses are operated by different persons.
- 5.03.2 Each licensee to transact and carry on only the business licensed at the location or in the manner designated in such license.
- 5.03.3 Warehouses and distributing plants used in the provisions of this ordinance shall not be deemed to be separate places of business or branch establishments.
- §5.04 Rentals: Every person carrying on the business of renting residences, apartments, house trailers, house trailing parking spaces, or commercial properties and renting two or more units, must obtain a business license from the City Clerk.
- §5.05 Vehicle Delivery – Merchandise or Services: Every person not having a fixed place of business within the city, who delivers goods, wares or merchandise of any kind by vehicle, or who provides any service by the use of vehicles in the city shall pay a license fee as set by resolution by the City Council.
- §5.06 Fees:
- 5.06.1 Every person who engages in business within the City of Ferndale shall pay a license fee as prescribed from time to time by resolution of the Ferndale City Council following a public hearing at a City Council meeting.
- 5.06.2 Annual Fees Due: All business licenses renewal fees are due on or before July 1 of each year. New or reactivated licenses shall be prorated to the next July 1, and all future renewals will be due on each July 1.
- 5.06.3 Except as otherwise provided by the ordinance, license fees, other than annual, required under the provisions of this ordinance, shall be due and payable quarterly.
- 5.06.4 There shall be two (2) classifications for determining the amount of fee payable for a business license, as determined by resolution of the Ferndale City Council:
- Those businesses that collect sales tax.
  - Those businesses that do not collect sales tax.
- §5.07 Exemptions & Exceptions:
- 5.07.1 Juvenile Vendors: any business conducted by anyone under age 16 is exempt from city business taxes. The juvenile vendor must be a sole owner (lemonade stand) or an agent for a charity (Boy/Girl Scouts, etc). If the juvenile is working for a for-profit business (paper route, computer vending, etc.), that business must obtain a business license.
- 5.07.2 Wholesalers: Any person acting as a commercial agent or salesman for soliciting orders for wholesale houses or firms selling goods, wares and merchandise or any commodity from wholesale retail dealers, manufacturers, or to contractors shall be exempt.
- 5.07.3 Charitable Institutions, concert, dance, lecture, etc. by religious, fraternal, charitable, etc. organizations.
- The provisions of this ordinance shall not be construed to require the payment of a license fee to conduct, manage, or carry on any

business or activity from an institution or organization which is conducted, managed, or carried on wholly for the benefit of charitable purposes or from which profits are not derived, either directly or indirectly, by an individual.

- b. Any church, school or library which sponsors a public concert, lecture, screening, or other information exchange shall not require a business license.
- c. Any church, school, charitable organization or government entity which sponsors a dance, lecture, concert, exhibition, exchange of information or entertainment for fee does not require a business license if the proceeds are used entirely by and for the not-for-profit entity.
- d. Nothing in this section shall be deemed to exempt any such organization or association from complying with any of the provisions of this ordinance requiring a permit from the City Council, or any commission of officer to conduct, manage, or carry on any profession, trade, calling or occupation.

5.07.4 Veterans (This section modified by Ord. 07-05 on 10/10/07)

- a. Honorably discharged veterans from the armed forces of the United States are exempt from business license fees.
- b. Exemption shall not apply to any person acting as a commercial agent or salesman for soliciting orders for wholesale houses or firms selling goods, wares and merchandise or any commodity from wholesale retail dealers, manufacturers, or to contractors.  
(end of section modified by Ord. 07-05 on 10/10/07)

5.07.5 Agricultural Business

- a. Agricultural endeavors such as growing crops for sale, raising beef or other farm animals, growing feed, raising and/or grazing dairy animals, and selling the raw product without changing the original makeup of the product (value added) are exempt.
- b. Once a product is further processed (such as apples into applesauce, which is then bottled, labeled and sold or beef which is butchered and packaged onsite), the business is no longer exempt, and would require a business license.

§5.08 Application for Fee Adjustment or Exemption

5.08.1 Exemption:

- a. Any person making a claim for license fee exemption must present supporting documents to the City Clerk.
- b. A denied exemption may be appealed to the City Council.
- c. Any exemption may be revoked if information challenges the validity of a claimed exemption.
- d. The City Clerk shall, upon proper showing contained in the verified statement provided for by 5.08.1a, issue a license to the person claiming exemption under this section without payment of the license fee required by the ordinance.

- e. The City Clerk, after giving notice and reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this ordinance upon information that the licensee is not entitled to the exemption as provided by this ordinance. License will be invalidated if fee is not paid.
- 5.08.2 Interstate Commerce Adjustment:
  - a. Any business providing statewide or interstate service which finds multiple business licenses to be cost prohibitive may make an appeal to the City Council for a reduction or exemption of normal business license fees.
- §5.09 Ordinance not substitute for other licensing provisions: Persons required to pay a license fee for transacting and carrying on any business under this ordinance shall not be relieved from payment of any license fee for the privilege of doing business required under any other section of this ordinance or other ordinance of the City, and that person shall remain subject to the regulatory provisions of this ordinance and other ordinances.
- §5.10 Conflict with State and Federal Law: This ordinance shall not be construed to require any person to obtain a license prior to doing business with the City if such requirement conflicts with applicable statutes of the United State or of the State of California.

#### ARTICLE 6: OTHER BUSINESSES

- §6.01 Carnivals:
  - 6.01.1 Every person owning, maintaining, conducting or presenting a carnival in the City, after having first obtaining a permit to do so from the City Clerk, shall be charged a license fee as set from time to time by Resolution of the City Council.
  - 6.01.2 If the group of attractions as mentioned in 6.01.1 of this section is owned or conducted by any one person, or if any one or more of the groups of attractions as mentioned in 6.01.1 of this section is owned by different persons exhibiting or showing the attractions at the same time, in such instance the group of attractions shall, for the purpose of this section, be considered a carnival.
- §6.02 Circuses and Kindred Performances:
  - 6.02.1 Every circus, menagerie, acrobatic performance, or exhibition of trained animals connected by or showing with other attractions shall be charged a license fee as set from time to time by Resolution of the City Council.
- §6.03 Fortune Tellers and Kindred Persons:
  - 6.03.1 Every person conducting, managing or carrying on the business of astrology, palmistry, phrenology, life reading, fortune telling, crystal gazing, hypnotism or any occult science, and who demands or receives a fee for the practice of exhibition of his business for free, or who practices or gives an exhibition of his business as a bonus, prized or free with the sale of any book or other article, or who gives an

exhibition at any place where any admission is charged or received, shall be charged quarterly.

§6.04 Card Tables:

- 6.04.1 Any establishment maintaining or operating card tables for any card game legal in California for which a fee is paid shall be required to have a business license.

§6.05 Mechanical Devices and Vending Machines:

- 6.05.1 Any person maintaining, operating, renting or leasing a phonograph, juke box or other musical device, or a vending machine or other mechanical device, the operation of which depends upon the insertion of a coin, plate, disc, slug or key into which dispenses or vends a product, service, entertainment or exchange of equal value, other than telephone service, furnished under public utility tariffs, if the individual or firm's business is primarily for such maintenance, operation, renting or leasing, shall pay a license fee based upon a resolution of the City Council.

§6.06 Peddlers, Hucksters, Hawkers, Solicitors and Canvassers:

- 6.06.1 It is unlawful for any person to engage in the business of solicitation or peddling, either in person or by telephone, within the corporate limits of the city, without first obtaining a permit in compliance with the provisions of this section.

- 6.06.2 Permit Application Contents: Every person who desires to peddle or solicit in the city shall file with the Police Chief a sworn registration on a form furnished by the Police Department, which shall give the following information:

- a. Name, address and telephone number of the applicant.
- b. Permanent address of the place where the goods or property proposed to be sold, or the orders taken for the sale, are manufactured or produced, where such goods or products are located, and the proposed method of advertising and of delivery.
- c. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment assessed.
- d. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- e. A brief description of the nature of the business and the goods to be sold.
- f. The length of time the permit is desired.
- g. Any other information required by the Police Chief to perform a background investigation.

6.06.3 Permit Application – Investigation

- a. Upon receipt of the registration application, the Police Chief shall cause investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.



- b. A complete set of fingerprints will be taken and forwarded to the Bureau of CII, Sacramento, CA and to the FBI in Washington D.C. The return of this record must be received before permit will be granted.
  - c. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, such application shall be denied; if character and business responsibility of applicant are found satisfactory, the Police Chief shall approve the registration.
- 6.06.4 Permit Fee – Issuance and Renewal
- a. A registration fee shall be paid to the City to cover the cost of processing and investigating the application. The fee will be set by resolution of the council and will be periodically reviewed to reflect current costs.
  - b. If the Police Chief approves the application, a registration permit will be issued by the City Clerk; such registration permit will be valid for a period not to exceed one year.
  - c. Renewal of registration permit may be made by refiling an application; and, if approved by the Police Chief, a fee of one dollar will be paid to the City Clerk and a new registration permit will be issued.
- 6.06.5 Permit Form
- a. The registration permit will be in the form of a badge that must be worn in plain sight while engaged in the business for which the permit was granted.
  - b. The following information will appear on the face of the badge:
    - i. Name and description of holder
    - ii. Name and brief description of merchandise
    - iii. Date permit expires
    - iv. Verification by Police Chief.
- 6.06.6 Permit Revocation - The registration permit may be revoked by the Police Chief for any of the following reasons:
- a. Any fraud, misrepresentation, or false statement contained in the registration application for permit.
  - b. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.
  - c. Conviction of the licensee for any felony or misdemeanor involving moral turpitude.
  - d. Making any attempt to solicit or peddle after the hour of eight p.m. and before the hour of eight a.m. of any day.
- 6.06.7 Permit Appeals
- a. Any person aggrieved by the action of the Police Chief in the denial of a registration permit or the revocation of such permit shall have the right to appeal to the City Council.

- b. Such appeal shall be taken by filing with the City Clerk, within ten (10) days after notice of the decision of the Police Chief, a written statement setting forth the grounds for the appeal.
- c. The City Council shall set the time and place for hearing on the appeal within 60 days and notice of the hearing will be given by mail to the person making the appeal.
- d. The hearing may be continued from time to time if impossible to complete within the 60-day period.
- e. The order of the City Council on such an appeal shall be final.

#### ARTICLE 7: PUBLIC DANCES AND DANCEHALLS

- §7.01 Permit Required: No person shall conduct or assist in conducting the business of operating or maintaining any public dancehall, public dancing place, or public dance in the City unless under and by authority of a written permit from the Police Chief.
- §7.02 Issuance by Police Chief:
- 7.02.1 Permits to operate a public dancehall, public dancing place, or public dance in the City may be issued by the Police Chief upon the written application of any person for himself, or on behalf of any association of persons, firms or corporation.
  - 7.02.2 The Police Chief must first satisfy himself that the conduct of the public dancehalls will conform with the public welfare and, for this purpose, may consider any facts of evidence bearing on the place where the proposed public dancehall, public dancing place or public dance is to be located such as the character, reputation and moral fitness of the person in charge and any other facts or evidence intended to enlighten the Police Chief in this respect.
- §7.03 Permit Application for Dancehall or Dancing Place
- 7.03.1 Persons applying for a permit to operate a public dancehall or public dancing place shall pay the permit fee, unless expressly exempted under section 5.07.2, to the Police Chief, complete an application and background investigation form and be fingerprinted.
  - 7.03.2 Within 30 days the Police Chief shall determine whether to grant or deny the permit.
  - 7.03.3 Should the Police Chief grant the permit, prior to the actual issuance of the permit, the person or persons applying shall show evidence of liability insurance of one million dollars (\$1,000,000) or in amounts as, from time to time, are determined by the City Council and evidence of workers' compensation insurance, if required by state law.
  - 7.03.4 Evidence shall be a certificate of insurance granting 30 days notice of cancellation to the City.
- §7.04 Permit Application for Public Dance:
- 7.04.1 Persons applying for a permit to hold a public dance shall pay the permit fee, unless expressly exempted under Section 5.07.2, to the Police Chief and complete an application.

- 7.04.2 Should the Police Chief grant the permit, prior to the actual issuance of the permit, the person or persons applying shall show evidence of liability insurance of one million dollars (\$1,000,000) or in amounts as, from time to time, are determined by the City Council and evidence of workers' compensation insurance, if required by state law.
- 7.04.3 Evidence shall be a certificate of insurance granting 30 days notice of cancellation to the City.
- §7.05 Police Protection:
- 7.05.1 In issuing the permit, the amount of police protection required, if any, will be stipulated by the Police Chief and the prevailing rate of pay calculated and paid in advance of the event held.
- 7.05.2 Police protection will be provided in all cases by the Ferndale Police Department.
- 7.05.3 Although school dances are excluded from the definition of public dance so long as they are primarily held for students, this does not relieve them of the requirement to arrange for police protection through the Police Chief.
- §7.06 Applicability to Dance Studios: This section is not intended to regulate any legitimate dance studio or school which is not exclusively adult entertainment nor serves alcoholic beverages either on a temporary or permanent basis.
- §7.07 Hours of Operation: No public dance hall, public dancing place or public dance shall be open between three a.m. and eight a.m.
- §7.08 Right of Entry of Police Officers: Any public event subject to this section shall allow accessibility at all times to any member of the Ferndale Police Department.
- §7.09 Closure by Police: If at any time the Police Chief or his designated watch commander determines that public safety is endangered by continuance of the event, he may order the event closed and all sponsors, co-sponsors and attendees will comply immediately.

## ARTICLE 8: JUNK YARDS

- §8.01 Definition:
- 8.01.1 An aggregate area of more than two hundred (200) square feet within any parcel, lot or contiguous lots of real property which is used as a place where imported waste, inoperable machinery, inoperable household appliances, inoperable motor vehicles, portions of inoperable motor vehicles or discarded or salvaged materials are disassembled, handled, placed, processed, baled, packaged or stored.
- 8.01.2 Includes but not limited to:
- a. Auto wrecking yards
  - b. Other wrecking yards
  - c. Scrap metal yards
  - d. Used lumberyards and places or yards for storage of salvaged house wrecking and structural steel material and equipment.

- 8.01.3 Any of the activities or conditions that would otherwise be a junk yard shall not constitute a junk yard if conducted entirely within a completely enclosed building.
- 8.01.4 Does not include:
- a. Areas used for the sale of operable automobiles, tractors, farm machinery house trailers or boats.
  - b. Areas used for the salvaging of materials incidental to and used in manufacturing or farming operation, providing such salvaging of materials takes place where the manufacture or farming is done.
- §8.02 Permit to Operate Junk Yard:
- 8.02.1 A permit for the operation, maintenance and establishment of a Junk Yard is obtained from the City Council of the City of Ferndale.
- 8.02.2 There shall be a fee as set by the Fee Resolution for filing such application and a hearing shall be held on the application, after public notice of application and hearing has been made one time, at least thirty (30) days before the hearing date.
- 8.02.3 The application may be granted if the City Council determines that such action will not be detrimental to neighboring property.
- §8.03 Enclosure of Junk Yards:
- 8.03.1 Each and every Junk Yard shall be completely enclosed by a solid fence or wall which shall be not less than six (6) feet nor more than eight (8) feet in height.
- 8.03.2 Such fence or wall shall have a solid door or gate which shall be opened only for ingress and egress.
- §8.04 Height Limitations on Items in Junk Yards
- 8.04.1 Individual items located in Junk Yards shall not be placed in piles or stacks in such manner as to cause such piles or stacks to be higher than the fence or wall required in 8.03.
- §8.05 Compliance by Existing Junk Yards
- 8.05.1 Junk Yards presently in existence shall have ninety (90) days from the effective date of this ordinance within which to comply with the provisions of sections 8.03 and 8.04.

## **CHAPTER TWO: Hotels, Motel, Inns**

### **ARTICLE 9: SHORT TITLE, STATUTORY AUTHORITY / ENFORCEMENT AUTHORITY**

- §9.01 Short Title: This Chapter of this Ordinance shall be known as “Hotels, Motels, Inns” Chapter of the Business Ordinance.
- §9.02 Statutory Authority: California Revenue & Tax Code §§7280 et seq.
- §9.03 Enforcement Authority: The Tax Administrator shall have enforcement authority of this Chapter of this Ordinance.
- §9.04 *[begin section added by Ordinance 08-05]* In the event that any fee or charge is not paid within the time period specified by the City, the City shall retain the right to seek enforcement and/or collection in court, at the expense of the responsible party. Expenses shall be recoverable by the City whether by assessment by the City Council following a hearing at a regularly scheduled City Council meeting or by a court of competent jurisdiction and shall further include the actual costs of collection such as staff time, administrative costs, court costs, attorneys’ fees and penalties. *[end section added by Ord. 08-05.]*

### **ARTICLE 10: VIOLATIONS**

- §10.01 Any person violating any of the provisions of this Chapter of this Ordinance shall be guilty of a misdemeanor and shall be punishable by a fine of not more than five thousand dollars (\$5000) or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment.
- §10.02 Any Operator or other person who fails or refuses to register as required here, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as noted in §10.01.
- §10.03 Any person required to make, render, sign or verify any report or claim with intent to defeat or evade the determination of any amount due required by this Chapter of this Ordinance to be made, is guilty of a misdemeanor and is punishable as noted in §10.01.

### **ARTICLE 11: DEFINITIONS**

- §11.01 Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter of the Ordinance:
- 11.01.1 **Hotel:** Any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, vacation rental, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof.

- 11.01.2 Occupancy: The use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- 11.01.3 Operator: The person who is proprietor of the motel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this ordinance by either the principal or the managing agent shall, however, be considered to be compliance by both.
- 11.01.4 Person: Any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, cooperation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.
- 11.01.5 Rent: The consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefore whatsoever.
- 11.01.6 Tax Administrator: The City Clerk of the City of Ferndale.
- 11.01.7 Transient: Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive days or less, counting portions of calendar days as full days. Any person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered.

## ARTICLE 12: TRANSIENT OCCUPANCY TAX

### §12.01 Tax Imposed:

- 12.01.1 For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eight percent (8%) of the rent charged by the operator.
- 12.01.2 Said tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City.
- 12.01.3 The transient shall pay the tax to the operator of the hotel at the time the rent is paid.
- a. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment.

- b. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel.

§12.02 Exemptions:

12.02.1 No Tax shall be imposed upon:

- a. Any person or occupancy who is beyond the power or jurisdiction of the city to impose the occupancy tax.
- b. Any Federal or State of California officer or employee when on official business;
- c. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

12.02.2 No exemption shall be granted upon a claim made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax Administrator.

§12.03 Operator's Duties:

12.03.1 It is the duty of each operator to collect the tax from every transient.

12.03.2 The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator.

12.03.3 No operator shall advertise or state in any manner, whether directly or indirectly, that the tax or any part of it will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

§12.04 Registration:

12.04.1 Within ten (10) days after commencing business, each operator of any hotel renting occupancy to transients shall register said hotel with the Tax Administrator and obtain from him/her a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises.

12.04.2 The certificate shall, among other things, state the following:

- a. The name of the operator
- b. The address of the hotel
- c. The date upon which the certificate was issued
- d. "This Transient Occupancy Registration Certificate signifies that the person named on the face of the certificate has fulfilled the requirements of the Business Ordinance, Chapter 3: Hotels, Motels and Inns by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit."

§12.05 Reporting and Remitting:

- 12.05.1 Each operator shall on or before the 10<sup>th</sup> of the month following the close of the prior month, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator on forms provided by him/her, of the total rents charged and received and the amount of tax collected for all transient occupancies.
- 12.05.2 At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator.
- 12.05.3 The Tax Administrator may establish shorter reporting periods for any certificate holder if he/she deems necessary in order to insure collection of the tax and he/she may require further information in the return.
- 12.05.4 Returns and payments are due immediately upon cessation of business for any reason.
- 12.05.5 All taxes collected by operators pursuant to this Chapter of this Ordinance shall be held in trust for the account of the City until payment is made to the Tax Administrator.

ARTICLE 13: PENALTIES, DELINQUENCY, FRAUD, INTEREST AND FAILURE TO COLLECT

§13.01 Penalties:

- 13.01.1 Original Delinquency – Any operator who fails to remit any tax imposed by this Chapter of this Ordinance within the time required shall pay a penalty of 10% of the amount of the tax in addition to the amount of the tax.
- 13.01.2 Continued Delinquency – Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the 10% penalty first imposed.

§13.02 Fraud:

- 13.02.1 If the Tax Administrator determines that the non-payment of any remittance due under this Chapter of this Ordinance is due to fraud, a penalty of 25% of the amount of the tax shall be added thereon in addition to the penalties stated in §10.01 of this section.

§13.03 Interest:

- 13.03.1 *[Begin section amended by Ord. 08-05.]* In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter of this Ordinance shall pay interest at the rate of five percent (5%) per year or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid. *[End section amended by Ord. 08-05.]*

§13.04 Penalties merged with tax:



- 13.04.1 Every penalty imposed and such interest as accrues under the provisions of this Chapter of this Ordinance shall become a part of the tax required to be paid.
- §13.05 Failure to Collect and Report Tax:
- 13.05.1 If any operator shall fail or refuse to collect said tax and to make, within the time provided in this Chapter of this Ordinance, any report and remittance of said tax or any portion required by this Chapter of this Ordinance, the Tax Administrator shall proceed in such manner as he/she may deem best to obtain facts and information on which to base his/her estimate of the tax due.
- 13.05.2 As soon as the Tax Administrator shall procure such facts and information as he/she is able to obtain upon which to base the assessment of any tax imposed by this Chapter of this Ordinance and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he/she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter of this Ordinance.
- 13.05.3 In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Mail, postage prepaid, addressed to the operator so assessed at his last known place of address.
- 13.05.4 The served operator may within ten (10) days after the serving or mailing of notice make application in writing to the Tax Administrator for a hearing on the amount assessed.
- 13.05.5 If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable.
- 13.05.6 If such application is made, the Tax Administrator shall give not less than five (5) days written notice in the manner prescribed to the operator to show cause at the time and place fixed in said notice why the amount specified should not be fixed for the tax, interest, and penalties.
- 13.05.7 At the hearing, the operator may appear and offer evidence why the specified tax, interest and penalties should not be so fixed.
- 13.05.8 After such hearing, the Tax Administrator shall determine the proper tax to be remitted and shall give written notice to the person in the manner prescribed herein of the determination and the amount of the tax, interest and penalties.
- 13.05.9 The amount determined to be due shall be payable after five (5) days unless an appeal is taken as provided in §13.06.
- §13.06 Appeal:
- 13.06.1 Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk

within ten (10) days of the serving or mailing of the determination of tax due.

13.06.2 The City Council shall fix a time and place for hearing the appeal, and the City Clerk shall give notice in writing to the operator at his last known place of address.

13.06.3 The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for services of notice of hearing.

13.06.4 Any amount found to be due shall be immediately due and payable upon the service of the notice.

§13.07 Records:

13.07.1 It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Chapter of this Ordinance to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of the tax as he may have been liable for the collection of and payment to the City, which records the Tax Administrator or his agent shall have the right to inspect at all reasonable times.

§13.08 Refunds:

13.08.1 Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Chapter of this Ordinance, it may be refunded as provided in §13.08.2 and §13.08.3 provided a claim in writing stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within one year of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

13.08.2 An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient, provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

13.08.3 A transient may obtain a refund or taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in §13.08.1, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

13.08.4 No refund shall be paid under the provisions of this section unless the claimant establishes his/her right by written records showing entitlement.

§13.09 Actions to Collect:

- 13.09.1 Any tax required to be paid by any transient under the provisions of this Chapter of this Ordinance shall be deemed a debt owed by the transient to the City.
- 13.09.2 Any tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City.
- 13.09.3 Any person owing money to the city under the provisions of this Chapter of this Ordinance shall be liable to an action brought in the name of the City of Ferndale for the recovery of such amount.

## **CHAPTER THREE: Film & Image Media**

### **ARTICLE 14: SHORT TITLE, PURPOSE & SCOPE**

- §14.01 Short Title: This Chapter of this Ordinance shall be known as the “Film & Image Media Chapter” of the Business Ordinance.
- §14.02 Purpose: The purpose of this chapter of the Business Ordinance is to provide a comprehensive method to control and to adjudicate all activity attendant to staging or shooting commercial motion pictures, television shows, programs, commercials, or any image media.
- §14.03 Scope: The City of Ferndale has a responsibility to its residents and business owners to promote conditions that are beneficial to the health, safety, welfare and prosperity of the entire community. The presence and activities of visual media agents have and do create disruption to what is considered the normal affairs and lifestyle of the City. The control of these conditions is in the best interest of the City and its residents and business owners.

### **ARTICLE 15: STATUTORY AUTHORITY / ENFORCEMENT AUTHORITY**

- §15.01 California Constitution Article XI, §7. Government Code §65850.1.
- §15.02 The Ferndale City Council, or their appointee, shall enforce this Chapter of this Ordinance.

### **ARTICLE 16: VIOLATIONS**

- §16.01 If an applicant violates any provision of this Chapter of this Ordinance or a permit issued pursuant thereto, the City Council may cancel the permit.
- §16.02 Violation of the terms and conditions of the film permit is considered a misdemeanor.

### **ARTICLE 17: DEFINITIONS**

- §17.01 Charitable Films: Commercials, motion pictures, television, videotapes or still photography produced by a nonprofit organization, which qualifies under Section 501 (c) (3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.
- §17.02 City: The City of Ferndale.

- §17.03 Major: The level of the production includes one or more of the following criteria:
- 17.03.1 Pre-production construction.
  - 17.03.2 Production filming of more than two days in total.
  - 17.03.3 Road or walkway closures in excess of 30 minutes per day cumulative.
  - 17.03.4 Post-production demolition or restoration.
- §17.04 Minor: The production does not contain any of the criteria named in §17.03.
- §17.05 Motion Picture and Television: All activity attendant to staging or shooting commercial motion pictures, television shows or programs, DVD and commercials.
- §17.06 News Media: The filming or videotaping for the purpose of spontaneous, unplanned television news broadcast by reporters, photographers or camerapersons.

#### ARTICLE 18: PERMITS AND EXEMPTIONS

- §18.01 Permit Required:
- 18.01.1 No person shall use any public or private property, facility or residences for the purpose of taking commercial motion pictures or television pictures without first applying for and receiving a permit from the City Council of Ferndale.
  - 18.01.2 The permit will be conditional until permits from all other pertinent agencies are obtained. Such permits must be on file with the City Clerk prior to commencement of filming. In addition, detailed written agreements with the Ferndale Post Office and the Ferndale Volunteer Fire Department are required prior to issuance of the permit.
- §18.02 Exemptions:
- 18.02.1 News Media: The provisions of this Chapter of this Ordinance shall not apply to or affect reporters, photographers or camerapersons in the employ of a newspaper, news service or similar entity engaged in on-the-spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.
  - 18.02.2 Local Commercials: Commercials which are produced for local businesses. These are very small productions, usually filmed entirely within a business property and usually involve one cameraperson and assistant.
  - 18.02.3 Private Use: The filming or videotaping of motion pictures solely for private family use.
  - 18.02.4 Charitable Films: Projects that qualify under Section 501 (c) (3) of the Internal Revenue Code.

#### ARTICLE 19: RULES AND REGULATIONS:

- §19.01 Change of Date: Upon the request of the applicant, the City Council shall have the power, upon a showing of good cause, to change the date for which the

permit has been issued provided that established limitations are complied with in respect to time and location.

- §19.02 Rules: The City Council will promulgate rules and regulations by resolution. The resolution will govern the form, time and location of any film actively set forth within the City. The rules and regulations shall be based on the following criteria, but not limited to:
- 19.02.1 The health and safety of all persons.
  - 19.02.2 Avoidance of undue disruption of all persons within the affected area.
  - 19.02.3 The safety of property within the City.
  - 19.02.4 Traffic congestion, road closures and their location and duration.
  - 19.02.5 See Film & Image Media Application Process.

ARTICLE 20: APPLICANTS, ISSUANCE AND FEES:

- §20.01 Issuing Authority: The City Council of Ferndale is responsible for permit issuance for major productions. The City Manager or City Clerk is responsible for permit issuance for minor productions.
- §20.02 Applications:
- 20.02.1 The following information shall be included in the application:
    - a. The name(s) of the owner(s), the address(es) and telephone number(s) of the place(s) at which the activity is to be conducted.
    - b. The specific location(s) at such address(es) or place(s).
    - c. The inclusive hours and dates such activity will transpire and cease.
    - d. A specific statement of the character or nature of the proposed film activity.
    - e. The name, address and telephone number of the person or persons in charge of such filming activity.
    - f. The name, address and telephone number of the person or persons responsible for film liaison and coordination with local government and private citizens.
    - g. The exact number of personnel to be involved.
    - h. Use of any animals or pyrotechnics.
    - i. The exact amount and type of vehicles and equipment to be involved.
    - j. List of other agencies requiring permits. This list is available from the Humboldt County Convention and Visitors Bureau Film Liaison Coordinator.
    - k. Additional places and/or locations not covered in the original permit shall be addressed by a rider and include the information requested in Section 20.02.1a through 20.02.1j.
    - l. See Film & Image Media Application Process.
- §20.03 City Oversight Committee:
- 20.03.1 Notwithstanding any other provision included in this chapter of this Business Ordinance, the City Council of Ferndale will appoint an oversight committee of three persons; one City Council member or the

City Manager, one Chamber of Commerce member and the Police Chief.

- 20.03.2 The committee will provide daily city oversight during the construction, production and restoration phases of the film. This committee will ensure compliance with the rules criteria set forth in Section 19.02 of this ordinance. If a violation of the filming permit occurs, this committee may temporarily stop filming activity and request a special City Council meeting. The Oversight Committee will designate one member to interface with the production representative as spokesperson.
- 20.03.3 The Oversight Committee and the Police and Fire Chief, or respective designee, will meet not less than bi-weekly after issuance of the permit.
- 20.03.4 City officials, including Mayor, City Manager, City Council Members, Police Chief and Oversight Committee members, are not permitted to serve as actors or extras in any film over which they have jurisdictional control, nor may they receive monetary compensation for services rendered.

§20.04 Fees:

- 20.04.1 A permit application fee, in an amount established by City Council Fee resolution, shall be paid by the applicant at the time the application is filed.

§20.05 Reimbursement for Personnel and Material:

- 20.05.1 For productions that are declared Major, the company shall reimburse the City for all material and personnel provided to the company (i.e. police, fire, traffic) for the purpose of assisting the production.
- 20.05.2 For productions that are declared Minor, the City Council may waive portions of applicable fees and special controls.

ARTICLE 21: LIABILITY PROVISIONS

- §21.01 Liability Insurance: Before a permit is issued, a certificate of insurance will be required in the amount of one million dollars (\$1,000,000) naming the City as the co-insured for protection against claims of third persons for personal injuries, wrongful deaths and property damage. The City officers and employees shall be named as additional insured. The certificate shall not be subject to cancellation or modification until after thirty days written notice to the City. A copy of the certificate will remain on file in the City Clerk's office.
- §21.02 See Film & Image Media Application Process, Certificate of Insurance.
- §21.03 Worker's Compensation Insurance: An applicant shall conform to all applicable federal and state requirements for Worker's Compensation Insurance for all persons operating under a permit.
- §21.04 Hold Harmless agreement: An applicant shall execute a hold harmless agreement as provided by the City prior to the issuance of a permit under this ordinance.

§21.05 Faithful Performance Bond: To ensure cleanup and restoration of the site, an applicant may be required to post a refundable faithful performance bond when the application is submitted. Upon completion of filming and inspection of the site by the City, the bond may be returned to the applicant.

## **CHAPTER FOUR: Real Estate**

### **ARTICLE 22: SHORT TITLE, PURPOSE AND SCOPE**

- §22.01 This Chapter of this Ordinance shall be known and cited as the “Property Transfer Chapter” of the Business Ordinance.
- §22.02 Purpose: Upon the transfer of real property within the City limits of the City of Ferndale, the property shall comply with all existing city ordinances.
- §22.03 Scope: This ordinance shall apply to the transfer of property within the city limits of Ferndale.
- §22.04 The provisions adopted in this ordinance shall not be exclusive but shall be cumulative and complementary to any other provisions of Ferndale City ordinances and County, State and Federal laws. Nothing in this ordinance shall be read, interpreted or construed so as to limit any existing right or power of the City.

### **ARTICLE 23: STATUTORY AUTHORITY**

- §23.01 Authority is granted by the California Constitution, Article 11 Local Government, Section 7. “A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.”

### **ARTICLE 24: ADMINISTRATION, ENFORCEMENT & PENALTIES**

- §24.01 Administration and Enforcement:
- 24.01.1 The City Manager (or his/her designee) of the City shall administer and enforce the additional powers and duties imposed by this ordinance.
- §24.02 Penalties:
- 24.02.1 This section provides penalties for violations of this Chapter of this Ordinance except when in conflict with existing state statutes which take precedence.
- 24.02.2 Except as otherwise provided, any violation of any provision of this Chapter of this Ordinance is hereby declared to be a misdemeanor and civil action. The City shall endeavor to recover all costs pursuant to enforcement of this ordinance. (GC 36900)

### **ARTICLE 25: DEFINITIONS**

- §25.01 Whenever words or phrases used in this ordinance are not defined in the government code of this state, such definitions are incorporated in this section and shall be deemed to apply to such words and phrases used in this ordinance.
- 25.01.1 Transfer: Granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers or any other person or persons.



ARTICLE 26: COMPLIANCE UPON TRANSFER OF REAL PROPERTY

§26.01 Upon transfer of real property within the City Limits of the City of Ferndale, the property shall comply with all existing city ordinances.

ARTICLE 27: DOCUMENTARY TRANSFER TAX ON THE SALE OF REAL PROPERTY

§27.01 Statutory Authority: This Article is adopted pursuant to the authority beginning with §11901 of Division 2 of the Revenue and Taxation Code of the State of California.

§27.02 General Provisions:

- 27.02.1 There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100), a tax at one-half the amount specified in Revenue & Taxation Code, Section 11911(a) for each five hundred dollars (\$500) or fractional part thereof.
- 27.02.2 Any tax imposed pursuant to §26.02.1 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.
- 27.02.3 Any tax imposed pursuant to this part shall not apply to any instrument in writing given to secure a debt.
- 27.02.4 Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this part when the exempt agency is acquiring title.
- 27.02.5 Any tax imposed pursuant to this part shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment
- a. Confirmed under the Federal Bankruptcy Act, as amended;
  - b. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;
  - c. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or
  - d. Whereby a mere change in identity, form or place of organization is affected.
    - i. Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of

transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

- 27.02.6 Any tax imposed pursuant to this part shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:
- a. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
  - b. Such order specifies the property which is ordered to be conveyed; and
  - c. Such conveyance is made in obedience to such order.
- 27.02.7 In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no levy shall be imposed pursuant to this part by reason of any transfer of an interest in the partnership or other entity or otherwise, if both of the following occur:
- a. The partnership or other entity treated as a partnership is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of ~~1954~~ **1986**.
  - b. The continuing partnership or other entity treated as a partnership continues to hold the realty concerned.
- 27.02.8 If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes, within the meaning of Section 708 of the Internal Revenue Code of ~~1954~~ **1986**, for purposes of this part, the partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by the partnership or other entity at the time of the termination.
- 27.02.9 Not more than one tax shall be imposed pursuant to this part by a county, city and county or city by reason of a termination described in 26.02.8 and any transfer pursuant thereto, with respect to the realty held by a partnership or other entity treated as a partnership at the time of the termination.
- 27.02.10 No levy shall be imposed pursuant to this part by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.
- 27.02.11 The County shall collect all taxes imposed pursuant to this part and the county auditor shall allocate the proceeds in conformity with the

provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any County Ordinance.

- 27.02.12 Claims for refunds of taxes imposed pursuant to this part shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue & Taxation Code.

## **CHAPTER FIVE: Miscellaneous**

ARTICLE 28: SEVERABILITY: If any article, section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 29: EFFECTIVE DATE: This ordinance becomes effective thirty (30) days after the date of its enactment.

### ARTICLE 30: POSTING REQUIREMENTS

ARTICLE 31: The City Clerk shall cause publication of this ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city, and posted in at least three public places in the city.

### ARTICLE 32: ENACTING DATE AND SIGNATURES:

Passed, approved and adopted by the City Council of the City of Ferndale at a regular meeting on April 6, 2006 by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

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Frances Scalvini, City Clerk

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James Moore, Mayor

First Reading: April 6, 2006

Second Reading: May 4, 2006

§5.07.4 modified by Ordinance 07-05

§9.04 and §13.03 modified by Ordinance 08-05