

CITY OF DEARBORN HEIGHTS
ORDINANCE NO. H-10-02

AN ORDINANCE OF THE CITY OF DEARBORN HEIGHTS AMENDING CHAPTER 36 OF THE CITY CODE PERTAINING TO ZONING, TO PROVIDE FOR THE PERIODIC ADMINISTRATIVE REVIEW FOR FESTIVALS SEEKING A LICENSE WHERE THE FESTIVAL HAS PREVIOUSLY RECEIVED A LICENSE FROM THE ZONING BOARD OF APPEALS AND TO PROVIDE THE ZONING BOARD OF APPEALS WITH THE AUTHORITY TO REVIEW AND APPROVE TEMPORARY USE PERMITS FOR FESTIVALS UPON THE REFERRAL OF THE BUILDING OFFICIAL, AND AMENDING CHAPTER 8 OF THE CITY CODE PERTAINING TO BUSINESS LICENSING, TO PROVIDE FOR FESTIVAL LICENSING APPLICATIONS, DURATION, REVIEW, RENEWAL OF LICENSES AND A RIGHT OF APPEAL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEARBORN HEIGHTS THAT SECTIONS 36-254, 36-532, 8-3, 8-4, 8-6, 8-9 AND 8-14 OF THE CODE OF ORDINANCES OF THE CITY OF DEARBORN HEIGHTS, MICHIGAN, ARE HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 1 OF ORDINANCE

The City Ordinance Code Chapter 36, Zoning, Section 36-254, Temporary structures and uses, subsection (e), Special events and other temporary uses, is hereby amended to read as follows:

Sec. 36-254. Temporary structures and uses.

(e) *Special events and other temporary uses.*

(1) The city council, the Zoning Board of Appeals or where applicable the building official (subsection 36-493(b), Administrative review), may grant temporary use of land and structures for special events and other temporary uses, subject to the following general conditions:

- a. Adequate off-street parking shall be provided.
- b. The applicant shall specify the exact duration of the temporary use. If the duration of a temporary use does not exceed five (5) days, including setup and breakdown, city council review is not required and the use may be reviewed administratively by the building official.
- c. Electrical and utility connections shall be approved by the building official.
- d. The city council, the Zoning Board of Appeals or where applicable the building official (subsection 36-493(b), Administrative review) may require a performance bond to assure proper clean-up, according to subsection 36-7(2)).

(2) *Specific uses.* The following conditions apply to specific temporary uses:

- a. *Carnival or circus.*
 1. Maximum duration: Ten (10) days.
 2. Operator or sponsor: Non-profit entity.

3. Location: Shall not be located in or adjacent to any developed residential area except on church, school or park property.
- b. *Sidewalk display and sale of bedding plants.*
 1. Maximum duration: Ninety (90) days.
 2. Location: In commercial districts only.
 3. Sidewalk coverage: Shall not cover more than fifty (50) percent of the width of the sidewalk.
- c. *Christmas tree sales.*
 1. Maximum duration: Forty-five (45) days.
 2. Location: Shall not be located in or adjacent to any developed residential area.
 3. Clean-up: Stumps, branches, and other debris shall be completely removed from site.
- d. *Festival*
 1. Maximum duration: 3 days operation, 1 day set up and 1 day tear down, total 5 days.
 2. Operator or sponsor: Non-profit entity.
 3. Location: Shall not be located in or adjacent to any developed residential area except on church property.
 4. No live animals or fish to be given as prizes.
 5. No amplified music after 10:00 p.m.
 6. Must obtain temporary use permit and license from City Building Official.

SECTION 2 OF ORDINANCE

The City Ordinance Code Chapter 36, Zoning, Section 36-532, Authority of the Zoning Board of Appeals, is hereby amended to add subsection (f), Temporary Use Permits, to read as follows:

36-532 Authority of the Zoning Board of Appeals

Sec. (f) Temporary Use Permits

- (1) The ZBA shall have authority to, pursuant to Sec. 36-254(d), review applications for temporary use permits and licenses for festivals, referred to it by the Building Official. The Building Official shall ensure that each application for a temporary use permit is reviewed by the ZBA at a public hearing at least once every four years, or more often as provided by 36-532(f)(3).
- (2) The ZBA shall, when required by the Building Official according to 36-532(f)(1), conduct a public hearing on the application for a temporary use permit. Following the close of the hearing, the ZBA shall grant the temporary use permit and recommend approval of the temporary festival license.
- (3) Where an applicant has been granted a temporary use permit to hold a festival within the past three years and has been previously granted a license, the Building Official may review the application administratively unless: there is a material change to the application; there were substantial complaints received following the most recently held festival. The Building Official shall grant the festival license upon the recommendation of the ZBA where applicable, or upon his own review and approval of the application.

SECTION 3 OF ORDINANCE

The City Ordinance Code Chapter 8, Business Licensing, Article 1, Business Licensing, Sections 8-3, Application, is hereby amended to read as follows:

Sec. 8-3. Application.

(a) Except as provided in subsection (b), every person required to secure a license under the provisions of any law or ordinance of the city shall submit an application for such license to the city clerk upon forms provided for that purpose by the clerk. The application should include, but does not have to be limited to, the following information:

- (1) Name of applicant;
 - (2) Residential address of applicant;
 - (3) Mailing address, if requested;
 - (4) Telephone number of applicant;
 - (5) Telephone number of one (1) other responsible party;
 - (6) Name of business to be licensed;
 - (7) Address of business to be licensed;
 - (8) Type of business;
 - (9) Quantities (number of rooms, number of seats, etc.);
 - (10) Brief statement about how the business will operate or the nature of the business;
 - (11) Required licensing by other agencies;
 - (12) Any other information required by any other provision of this Code.
- (b) Original applications for any festival license must be submitted to the building and engineering department upon the form provided for that purpose.

SECTION 4 OF ORDINANCE

The City Ordinance Code Chapter 8, Business Licensing, Article 1, Business Licensing, Sections 8-4, License Year, is hereby amended to read as follows:

Sec. 8-4. License year.

(a) Except as hereinafter provided, every license issued by the city clerk shall be for a period of one (1) full year commencing with the date of issuance of the first license. Renewal notices will be mailed to all licensees by the city clerk prior to the expiration of the license. The licensee must enclose payment with his renewal notice and return it to the city clerk prior to the expiration date in order to have his license renewed for another year. License renewals may be accomplished by mail unless the city clerk notifies the licensee in writing that the licensee must renew in person. Licensees who renew more than seven (7) days late will be assessed a ten (10) percent penalty on the total cost of the license. A new license application is required for any licensee who fails to renew its license within sixty (60) days of the license's expiration date.

(b) A festival license issued by the City Building Official shall be valid for the time specified in the temporary use permit only. A new license shall be required each year a festival is to be held.

SECTION 5 OF ORDINANCE

The City Ordinance Code Chapter 8, Business Licensing, Article 1, Business Licensing, Sections 8-6, Referrals, is hereby amended to read as follows:

Sec. 8-6. Referrals.

(a) Original applications for all licenses, with the exception of any festival license application, must be referred to the police department, fire department, building and engineering department, water department, and the treasurer's office to ascertain whether any cause exists to deny the application. Vendor vehicles transporting edibles and other persons selling food or beverages must possess any appropriate licenses from the county health department. In the event that no cause for denial is received in writing by the city clerk within ten (10) business days of receipt of the application, the city clerk is then authorized to issue the license. The city clerk may delay more than ten (10) business days to ascertain if there is a cause for denial.

(b) Original applications for any festival license must be submitted to the building and engineering department, which will then schedule the application for a review by the Zoning Board of Appeals or when eligible for an administrative review. The building and engineering department shall also refer copies of the application to the police department, fire department, water department, and the treasurer's office to ascertain whether any cause exists to deny the application. The police department, fire department, water department, and the treasurer's office shall report their findings to the Building Official.

SECTION 6 OF ORDINANCE

The City Ordinance Code Chapter 8, Business Licensing, Article 1, Business Licensing, Sections 8-9, Renewal of licenses, is hereby amended to read as follows:

Sec. 8-9. Renewal of licenses.

(a) The city clerk shall send a notice of license renewal to the treasurer's office and the departments noted at section 8-6 above at least sixty (60) days prior to the expiration of any license. Upon receipt of fees, the city clerk shall issue all licenses immediately unless cause for denying the renewal is shown in writing by the treasurer's office or any of the departments. The clerk shall then follow the relevant provisions of this chapter concerning denial, suspension, and revocation of licenses if such cause is shown.

(b) An application for renewal will not be considered a renewal if there has been a change in the business or owner. Such a "renewal" will be treated as an original application for a license.

(c) Festival licenses issued by the Building Official are not subject to the provisions of Section 8-9 (a) and/or (b).

SECTION 7 OF ORDINANCE

The City Ordinance Code Chapter 8, Business Licensing, Article 1, Business Licensing, Sections 8-14, Right of Appeal, is hereby amended to read as follows:

Sec. 8-14. Right of appeal.

(a) Any person aggrieved by any decision of the city clerk concerning a denial, revocation, or suspension of a license shall have a right to appeal to the license appeal board of the city by filing a written appeal with the city clerk within fourteen (14) days of the date that the notice of the right to appeal was deposited in the mail or left for regular mail pick-up.

(b) Such appeal shall set out a copy of the order or decision appealed from and shall include a statement of the facts relied upon to avoid such order.

(c) The filing of an appeal to the board by the licensee shall stay the effect of the city clerk's decision to suspend or to revoke the licensee's license until the license appeal board decides the issue. It shall not affect a denial of a license.

(d) The board shall schedule a hearing and shall notify the applicant/licensee, the city clerk, and any other interested parties of it. The applicant/licensee shall be informed of the hearing by the license appeal board which shall send notice of the hearing to the applicant/licensee at least fourteen (14) days prior to the hearing. The city clerk shall receive a copy of the notice to the applicant/licensee.

(e) The board shall consider the city clerk's decision de novo.

(f) At the hearing, both the applicant/licensee and the city clerk shall have the opportunities noted at section 8-12(c)(2) above. Both may also be represented by counsel.

(g) Within five (5) days after hearing and weighing the evidence presented, the board shall render its decision on whether or not such license should be denied, suspended, or revoked and the licensee shall be immediately notified of such decision. In all cases, the decision of the board shall be final and conclusive. If the board shall decide that the license shall be suspended or revoked, the licensee shall forthwith surrender the same to the city clerk and shall not thereafter conduct, operate, or carry on the trade or business for which he was licensed unless and until the license is restored or a new license is issued to him.

(h) Any person aggrieved by any decision of the Building Official concerning a denial, revocation, or suspension of a festival license shall have a right to appeal to the Zoning Board of Appeals as provided by City Ordinance for appeals from administrative decisions, or if the decision was made based upon the Zoning Board of Appeals recommendation, then to the state court as provided by statute.

SECTION 8 OF ORDINANCE

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 9 OF ORDINANCE

SEVERABILITY

Should any section, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 10 OF ORDINANCE

EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

SECTION 11 OF ORDINANCE

AUTHENTICATION

This is to certify that the undersigned do hereby authenticate the foregoing record of the ordinance herein set forth.

Daniel S. Paletko, Mayor

S. Judith Dudzinski, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of this ordinance adopted by the Council for the City of Dearborn Heights at a regular meeting of the Council held on the **13th** day of **April**, 2010, and became effective by publication in the official newspaper of the City of Dearborn Heights on the **21st** day of **April**, 2010.

S. Judith Dudzinski, City Clerk

Publication Date: April 21, 2010