

**ORDINANCE C-4-2020**

**CITY OF FARMINGTON HILLS  
OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE FARMINGTON HILLS CITY CODE BY AMENDING CHAPTER 5, "AMUSEMENTS AND ENTERTAINMENTS," CHAPTER 22, "SALES," CHAPTER 26, "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," AND CHAPTER 32, "VEHICLES FOR HIRE," TO REPEAL BUSINESS LICENSE REQUIREMENTS FOR CERTAIN AMUSEMENTS AND ENTERTAINMENTS, USE OF SNOW REMOVAL EQUIPMENT, AND RENTAL OF RECREATIONAL EQUIPMENT, TO MODIFY BUSINESS LICENSE REQUIREMENTS FOR CARNIVALS, AMUSEMENT RIDES, AND AUCTIONS.**

**THE CITY OF FARMINGTON HILLS ORDAINS:**

**Section 1 of Ordinance. Ordinance Amendment.**

The Farmington Hills City Code, Chapter 5, "Amusements and Entertainments," Article II, "Poolroom and Bowling Establishments," Article III, "Theaters, Shows and Exhibitions," Article V, "Skating Rinks," Article VII, "Miniature Golf Courses and Driving Ranges," Article VIII, "Gun and Archery Ranges," Article IX, "Coin-Operated Amusement Devices," and Article X, "Public Dances," are hereby repealed.

**Section 2 of Ordinance. Ordinance Amendment.**

The Farmington Hills City Code, Chapter 5, "Amusements and Entertainments," Article IV, "Carnivals, Amusement Rides, and Special Events," Division 2, "License," Sections 5-122, 5-126, and 5-130 are hereby amended to read as follows:

**ARTICLE IV. – CARNIVALS, AMUSEMENT RIDES AND SPECIAL EVENTS.**

**DIVISION 1. - GENERALLY**

**Sec. 5-101. - Statement of necessity.**

The City of Farmington Hills hereby determines that, as it is necessary to protect the health and safety of persons and property within the City of Farmington Hills, carnivals, amusement rides and special events should be licensed and controlled.

**Sec. 5-102. - Definitions.**

As used in this article:

Carnival means a show, amusement, contest, exhibit, display or attraction or similar amusement which may or may not be designed for pecuniary profits, and is a temporary or traveling amusement which does not seek a permanent site or business location, and is of such a nature as to be acceptable to the general public with regard to health, safety and welfare features and conduct of the carnival participants.

Event includes a carnival, mechanical amusement ride, or special event.

Mechanical amusement ride means any device or assembly designed to carry three (3) or more persons which is propelled by motive power, to entertain or thrill the persons occupying seats thereof in a manner similar to devices commonly associated with a carnival, fair, amusement park or the like. This term shall not be deemed to include coin-operated cars, ships, mechanical horses, airplanes, spacecraft and similar devices designed, installed and used for the purpose of providing amusement for not more than two (2) small children or infants at a time by providing a rocking or vibrating ride when limited to the confines of a stationary platform or pedestal.

Not open to the public includes any special event at which only the applicant for the license, its employees, associates and members, and their immediate families are permitted to attend or participate.

Special event includes, but is not limited to, whether for profit or not, outdoor festivals, flea markets, outdoor rummage sales, block parties, fun runs, bicycle races, walk-a-thons marathons, outdoor gatherings on non single-family residential property involving the use of temporary structures, and similar type activities, that do not have or seek a permanent site or business location, and are temporary and of such a nature as to be acceptable to the general public with regard to morals, health, safety features, and the conduct of the special event participants.

#### **Sec. 5-103. - Prohibited events.**

After investigation by the city, no event judged to be a nuisance, safety hazard or otherwise not conforming to public welfare or morals shall be permitted and no license shall be issued to such event, nor permits granted for operation in Farmington Hills. Prohibited events include, but are not limited to: live ammunition shooting contests, freak shows (where natural or artificial curiosities are exhibited) and endurance contests, where the duration and physical requirements of the contest are such that the city would deem such an activity unsafe and unreasonable.

#### **Sec. 5-104. - Operation; public conduct.**

The operation of any carnival, amusement ride or special event must be orderly and in keeping with the nature of the event. The event, and all persons attending the event, must

comply with all applicable laws and ordinances at all times. Persons attending such event shall not create a disturbance in the audience. The licensee shall not operate the event in such a way as to permit or encourage the creation of disturbances or breaches of the peace.

Secs. 5-105—5-120. - Reserved.

## DIVISION 2. - LICENSE

Sec. 5-121. - Required.

No person shall conduct or operate a carnival, amusement ride or special event without having first procured a license for the event.

Sec. 5-122. - Application; fee.

(a) Applications for such licenses shall be made to the city clerk, and shall include all of the following information:

- (1) The name and address of the applicant;
- (2) All of the partners, if the applicant is a partnership;
- (3) All of the officers and directors, if the applicant is a corporation;
- (4) The present resident addresses of all such persons;
- (5) The address or parcel identification number(s) at which the event is to be conducted;
- (6) The exact nature of the event and whether the event is not open to the public;
- (7) The date(s) of the event and the hours during which the event will take place on each day;
- (8) The maximum number of persons that the applicant will permit to attend or participate in the event per day;
- (9) Information as to whether the applicant, or any of its officers, directors or partners if it is a company, has ever been convicted of a felony;
- (10) Information as to whether the applicant owns or occupies the property at which the event is to be held, and, if the applicant does not own the property, the applicant shall also furnish written consent from the owner of the property;

- (11) Plans showing the layout of the event area, which plans shall identify all existing structures and improvements on the property where the event is to occur, and shall identify the location and describe all event-related temporary structures, tents, stands, ingress and egress, parking, signs, lighting, electrical equipment, sound equipment, mechanical equipment, portable toilets, and any other information related to the event that may be requested by the city in order to make an informed decision regarding the issuance of a license for the event; and
- (12) Such other information as may be required by applications on forms as designated by the city, which shall be completed prior to such application being considered.
- (b) A nonrefundable license fee shall be paid at the time the application is approved. The amount of the fee shall be determined by the city.
- (c) The completed application shall be submitted at least thirty (30) days in advance of the event. The city may, but is in no way obligated to, consider an application submitted late, if the city manager determines in his or her discretion that exceptional circumstances exist and there is sufficient time for reviews, inspection and decisions to be made under this Code.

**Sec. 5-123. - Mechanical amusement rides.**

No person shall engage in the business of operating any mechanical amusement ride without first obtaining a license therefor. No such license shall be granted until the divisions of zoning and building inspection inspects each such ride and verifies that each ride has been issued all State of Michigan certifications and approvals required by law. No such license for the operation of a mechanical amusement ride shall be issued except upon certification of the chief of police.

**Sec. 5-124. - Investigation; recommendation to council.**

The city clerk shall refer such applications to the city manager, who shall instruct the various city departments to make an investigation of and report with recommendations concerning all phases of the proposed event. After these investigations are concluded, if the application is for an event requiring city council approval, the city manager shall make a report and recommendation to the city council.

**Sec. 5-125. - Zoning compliance or zoning board of appeals approval required.**

No license shall be issued for the operation of any carnival, mechanical amusement ride or special event at any location where such use is not permitted under Chapter 34 of this Code, unless the activity qualifies as a general exception under Article XXIV of Chapter 34 or the applicant has first obtained approval by the zoning board of appeals.

**Sec. 5-126. - License approval; issuance.**

- (a) Following receipt of the departmental reports and investigations, the city manager, or his designee, may approve, approve with conditions, or deny license applications for special events that are not open to the public. Upon approval of a license application, the city manager shall provide a report to city council of the nature and date of the special event that has been approved. An applicant aggrieved by the decision of the city manager under this subsection may appeal the decision to city council by filing a written appeal with the city clerk within twenty-one (21) days of the city manager's decision.
- (b) License applications for carnivals, mechanical amusement rides, and special events other than those qualifying for approval under (a), above, shall, following receipt of all reports, investigations and recommendations of the city manager, be placed on the agenda for the next available city council meeting for its consideration, after which city council may approve, approve with conditions, or deny the license.
- (c) If an application for a license is approved under (a) or (b), above, the city clerk will issue the appropriate license with a statement of any applicable conditions upon completion of all requirements under this article and payment of the required license fee. The amount of such fee shall be established by resolution of the city council.

**Sec. 5-127. - Duration of license.**

Such license shall be issued for a period to be established by the city. Licenses issued hereunder are not renewable.

**Sec. 5-128. - Bond and insurance or indemnification required.**

(a) It shall be a condition precedent to the issuance of any license under this article that the applicant post with the city a cash cleanup bond deposit in an amount to be determined by a resolution of the city council or the city manager. The condition of such deposit shall be that the licensee shall obey all of the laws of the State of Michigan and the ordinances of the City of Farmington Hills in connection with the operation of the event, shall cease operation on or before the expiration of the license, and shall remove all equipment, paraphernalia and other personal property belonging to the event from the premises immediately thereafter.

(b) It also shall be a condition precedent to the issuance of any license under this article that the applicant shall either: (i) execute and deliver to the city an indemnification agreement in a form approved by the city attorney, in which the applicant agrees to indemnify and hold harmless the city and its officers, employees, agents, and representatives from any and all damages, injuries, liability, claims, actions, losses, demands and/or lawsuits, including attorney fees and costs, that arise out of the carnival, mechanical amusement rides, or special event; or (ii) provide the city clerk with proof of insurance in a form and amount established by resolution of city council or the city manager naming the city as an additional insured and evidencing that the applicant, as well as each person that will be engaged in or involved with the carnival,

mechanical amusement rides, or special event on behalf of the applicant, is covered by such insurance policy.

#### Sec. 5-129. - Permits.

In addition to the requirement for obtaining a license for the event, other required permits for events shall include, but not be limited to, the following areas:

- (1) Health facilities. A permit from the Oakland County Health Department shall be obtained for all sanitary, water and food service facilities. However, no permit shall be required where only pre-packaged, ready-to-eat type foods are sold from a concession stand or booth.
- (2) Electricity. A permit from the city is required for all temporary generator or electric supply sources. All electrical work is to be done by a licensed electrical contractor.
- (3) Mechanical amusement devices. Certification by the State of Michigan Department of Labor of all mechanical amusement devices and rides is required. Also, certification by the city building department as to construction and safety features of all devices is required.
- (4) Fire hazards. Certification by the fire department of flame spread rates of all canvass and/or other cloth enclosures is required. Also, certification of all buildings and concession stands on the event premises is required.
- (5) Inspections; certificate of use. A temporary permit fee shall be charged for the inspection of the premises by the City of Farmington Hills. In addition, a fee per each mechanical amusement ride and booth shall be charged for inspection purposes. If all inspections have been approved, the building department will issue a temporary certificate of use for the time period designated.

#### Sec. 5-130. - Exceptions.

This article does not apply to events that are held or sponsored by the city, or to events held on city property pursuant to applicable city facility use or other policies.

### **Section 3 of Ordinance. Ordinance Amendment.**

The Farmington Hills City Code, Chapter 22, "Sales," Article II, "Auctions," is hereby amended to read as follows:

#### DIVISION 1. - GENERALLY

#### Sec. 22-26. - Definition.

The term "auction sale," as used in this article, shall mean the offering for sale or selling of personal property to the highest bidder or offering for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

**Sec. 22-28. - Fraudulent practices.**

At any sale by auction, no person shall act as a bidder commonly known as a capper, booster or shill or offer or make any false bid or offer or pretend to buy any article sold or offered for sale by auction.

**Sec. 22-29. - False representations.**

It shall be unlawful for any person to sell or attempt to sell by auction or to advertise for sale any personal property by falsely representing the whole or a part thereof to be bankrupt or insolvent stock, or damaged goods, or goods saved from fire or to make any false statements as to the previous history or character of such property.

**Sec. 22-30. - Street sales.**

It shall be unlawful for any person to conduct auction sales on any street, sidewalk or other public place.

**Sec. 22-31. - Exempt sales.**

The provisions of this article shall not extend or apply to the following sales:

- (1) Sales at public auction of livestock, farm machinery, farm produce, used household goods and other similar items if sold in connection with a so-called farm sale;
- (2) Sales under mortgage foreclosure, or sales under direction of a court or court officers;
- (3) Sales by or on behalf or under authority of the city, United States, the state or any political subdivision, branch, board, agency or commission of such governmental bodies;
- (4) Sales made in pursuance of judgment, decree, order or authority of any court or seizure of any officer;
- (5) Sales by receivers appointed by law or by a general assignment for the benefit of creditors;
- (6) Sales made by online or internet auctions.

Secs. 22-32—22-45. - Reserved.

## DIVISION 2. - LICENSES

Sec. 22-46. - Required.

Except as otherwise provided in this article, it shall be unlawful for any person to sell, dispose of or offer for sale at public auction within the city any personal property whatsoever, unless and until such person has first obtained a license from the city clerk in accordance with the provisions of article I of chapter 8 and has complied with all the provisions, regulations and requirements of this article.

Sec. 22-48. - Application.

- (a) Any person desiring to engage in the business of auctions shall at least ten (10) days prior to any single proposed auction sale, and at least ten (10) days prior to the opening and commencement of any auction business on a continuing or any other basis, file with the city clerk an application in writing duly verified by the applicant. The application shall state the following facts:
- (1) The name, residence and post office address of the person making the application, and if a firm or corporation, the name and post office address of the firm or officers of the corporation, as the case may be;
  - (2) The address at which the auction sale or sales will be conducted;
  - (3) The name, residence and post office address of the auctioneer who shall conduct such sale or sales;
  - (4) A detailed inventory of all new merchandise to be offered for sale and a valuation thereof;
  - (5) A detailed inventory of all other personal property to be offered for sale and a valuation thereof;
  - (6) If it is proposed to conduct auction sales on any other basis than a single sale of property on hand at the time of application, the applicant shall submit a statement covering the kind and nature of property to be offered for sale and a fair estimate of the average value of property to remain on hand for sale from day to day;
  - (7) If the license applied for covers only the sale or property then on hand the statement shall disclose whether the sale will be with or without reservation;

(8) All information required under article I of chapter 8.

- (b) Where the license applied for covers a continuing business the sale shall be conducted without reservation.

#### Sec. 22-50. - Bond.

- (a) At the time of filing a license application under this division, the applicant shall execute and file with the city clerk a bond with two (2) individual sureties or a surety company in an amount to be set by resolution of the council. Such bond shall be approved by the city manager or the city attorney and shall run to the city for the use and benefit of any purchaser of property at such auction who might have a cause of action of any nature arising from or out of such sale against the applicant or auctioneer or both. The bond shall be further conditioned on the payment by the applicant of all taxes that may be payable by or due from the applicant to or collectable by the city, the county or that may be due to the state or any department or division thereof; the payment of any fines that may be assessed by any court against the applicant or auctioneer for violations of this article and the satisfaction of all causes of action commenced within one (1) year from date of any auction sale and arising therefrom; provided, that the aggregate liability of the surety for all such taxes, fines and causes of action shall in no event exceed the sum of the bond.
- (b) In such bond the applicant and the surety or sureties shall appoint the city clerk the agent of the applicant and sureties for the service of process. In the event of such service, the agent on whom such service is made shall within three (3) days after service mail by ordinary mail a true copy of the process served upon the agent to each party for whom he or she is served, addressed to the last known address of such party. Failure to so mail the copy shall not, however, affect the court's jurisdiction.
- (c) Such bond shall also contain the consent of the applicant and surety that the circuit court of the county or the district court for the city shall have jurisdiction of all actions within their respective jurisdiction, against the applicant or surety or both, arising out of any such sale.
- (d) The city, the county, any affected school district, the state or any subdivision thereof, or any person having a cause of action against the applicant arising out of the auction sale of personal property may join the applicant and the surety on such bond in the same action or may in such action sue either such applicant or surety alone.

#### Sec. 22-51. - Fees.

The fees for licenses issued under the provisions of this division shall be as prescribed in section 8-23.

#### Sec. 22-52. - Renewal.

All applications for renewals of licenses under this division shall clearly state any changes regarding information contained in the original application, any new conditions that may affect the issuance of a license and any other information the city clerk may request.

Secs. 22-53—22-75. - Reserved.

**Section 4 of Ordinance. Ordinance Amendment.**

The Farmington Hills City Code, Chapter 26, "Streets, Sidewalks and Other Public Places," Article V, "Use of Snow Removal Equipment," Division 2, "License," is hereby repealed.

**Section 5 of Ordinance. Ordinance Amendment.**

The Farmington Hills City Code, Chapter 32, "Vehicles for Hire," Article II, "Rental Agencies for Bicycles, Motorcycles, Motor-Driven Cycles, Trailer, Recreation Vehicles, Campers, Snowmobiles," is hereby repealed.

**Section 6 of the Ordinance. Severability.**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated, and such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

**Section 7 of the Ordinance. Savings.**

The amendment of the Farmington Hills Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Farmington Hills Code of Ordinances set forth in this Ordinance.

**Section 8 of the Ordinance. Effective Date.**

The provisions of this Ordinance are ordered to take effect twenty-one (21) days after enactment.

**Section 9 of the Ordinance. Enactment.**

This Ordinance is declared to have been enacted by the City Council of the City of Farmington Hills at a meeting called and held on the 13<sup>th</sup> day of January, 2020 and ordered to be given publication in the manner prescribed by law.

Ayes: Barnett, Boleware, Bridges, Knol, Massey, Newlin and Steckloff  
Nays: None  
Abstentions: None  
Absent: None

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF OAKLAND    )

I, the undersigned, the qualified and acting City Clerk of the City of Farmington Hills, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance adopted by the City Council of the City of Farmington Hills at a meeting held on the 13<sup>th</sup> day of January, 2020, the original of which is on file in my office.

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PAMELA B. SMITH, City Clerk  
City of Farmington Hills

Introduced: December 9, 2019  
Enacted: January 13, 2020  
Published: January 22, 2020  
Effective: February 3, 2020