

City of Ferndale
Application for Demonstration on Public Property
Pursuant to Ord. No. 1106 of the City of Ferndale Code of Ordinances

Applicant Information

Name _____

Address _____

Email Address _____ @ _____

Daytime Phone _____ Fax _____

Onsite Contact Information

Name _____

Demonstration Sponsor Information

Name _____

Address _____

Email Address _____ @ _____

Daytime Phone _____ Fax _____

Demonstration Details

Date _____ Time _____

Duration _____ Location _____

Estimated Attendance _____

Does the Demonstration include a march or parade? Yes No

If yes, the following must be included with this application:

- Detailed description of the proposed route of the march or parade, including assembling, starting, and ending points.
- Proposed starting and ending times for the march or parade.

Is the Demonstration a spontaneous event planned in response to a specific occurrence? Yes No

If yes, briefly describe such occurrence _____

The following must be included with this application:

- Statement of any equipment or facilities which are owned by the Applicant or Demonstration Sponsor that are expected to be used
- Statement of any equipment or facilities that the Applicant or Demonstration Sponsor desires to rent from the City

The Applicant agrees to notify the City immediately of any amendments, supplements or changes to any of the information provided in this application.

Application Deadlines:

- At least five (5) days prior to the proposed date and time of Demonstration
- Applications may be accepted with less than five (5) days notice for spontaneously-planned events in response to a recent occurrence
- At least thirty (30) days if the Applicant is:
 - Requesting the City to provide special or technical services for the purposes of assisting in the production or staging of the Demonstration
 - Requesting or requiring the rental and use of City-owned equipment for the production or staging of the Demonstration
 - Intends to erect fixed structures upon City property e.g., sound stage, canopies or tents

Non-refundable Application Fee: \$75.00

Reimbursement of City Costs: Pursuant to Sections 16-16.13 (a) and (b) and 16-16.14 of Ordinance No. 1106, Demonstrations on Public Property, the Demonstration Sponsor agrees to pay rental fees at least five (5) days in advance of the Demonstration, pay all repair/replacement costs for damaged rented materials, and reimburse the City for all personnel costs for services requested from the City for the purpose of staging and conducting the Demonstration.

Certification: The Applicant and Demonstration Sponsor agree to comply with all governmental rules and regulations applicable to the Demonstration, including regulations concerning emergency medical services at special events.

Right of Appeal: Appeal must be filed within 48 hours of the Permit Denial or Permit Revocation with the City Clerk pursuant to the conditions set forth in Ordinance No. 1106, Section 16-16.10.

Applicant Signature

Date

Demonstration Sponsor Signature

Date

An application shall be deemed submitted on the date it is received by the City or, if received on a holiday or after normal business hours, on the next business day that is not a holiday.

For City Use Only

Date Received _____ Clerk _____

Applicant prefers notification of grant/denial by Email Mail Fax Personal Pick up

Date Permit Granted/Denied _____ Permit No. _____

ORDINANCE NO. 1106

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE AMENDING CHAPTER 16, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE I, IN GENERAL, ADDING SECTIONS 16-14 THROUGH 16-16.14, DEMONSTRATIONS ON PUBLIC PROPERTY, OF THE CODE OF ORDINANCES OF THE CITY OF FERNDALE.

THE CITY OF FERNDALE ORDAINS:

Part I. That Chapter 16, Streets, Sidewalks and Other Public Places, Article I, In General, is amended to add Sections 16-14 through 16-16.14 as follows:

Sec. 16-14. Permit Requirement for a Demonstration.

No person or entity shall conduct or hold a Demonstration on City Property without first obtaining a Permit from the City.

Sec. 16-15. Definitions.

- a. The term “Applicant” means the person or entity that seeks the issuance of a Permit.
- b. The term “Application” means a written application for a Permit on a form prescribed for such purpose.
- c. The term “City” means The City of Ferndale, Oakland County, Michigan.
- d. The term “City Property” means all City streets, alleys, sidewalks, parks, and public spaces that have been constructed or maintained for the exclusive use and benefit of the public, including those that constitute traditional public forums, or limited public forums. The term “City Property” shall not include the interior spaces of the City Hall or other City buildings.
- e. The term “Demonstration” means a public assembly, parade, meeting or gathering, a rally or protest event, a political rally or event, a demonstration, speechmaking, marching, the holding of vigils or religious services, and all other like forms of conduct, the primary purposes of which is expressive activity or the communication or expression of views or grievances, that (1) is engaged in by more than 100 persons and the conduct of which has the effect, intent, or propensity to draw a crowd or onlookers, and (2) will occur upon any City street, sidewalk, or alley without compliance with the normal and customary traffic regulations or controls governing such places and will interfere or obstruct the normal and free passage of vehicular or pedestrian traffic upon any City street, sidewalk or alley; or seeks to use City Property exclusively or seeks to construct or install permanent or temporary structures on City Property, including, but not limited to, bleachers or seating, or seeks to utilize City’s electricity or other resources in conducting its demonstration. The term “Demonstration” shall not mean the casual

use of City Property which does not have an intent or propensity to draw a crowd or onlookers or will not interfere with normal and free passage of vehicular or pedestrian traffic upon any City street, sidewalk or alley or does not seek to use City Property exclusively.

f. The term “Permit” means a written authorization issued by the City for the staging or production of a Demonstration on City Property under stated terms and conditions.

g. The term “Permittee” means the person or entity to whom a Permit is issued.

h. The term “Permit Denial” means a written notice from the City informing an Applicant that its Application for a Permit has been denied.

i. The term “Permit Revocation” means a written notice from the City informing a Permittee that its Permit has been revoked.

Sec. 16-16.1. Application for Permit.

a. The Applicant must apply for a Permit by filing an Application, in person, by mail, by facsimile, or by e-mail, with the City of Ferndale Clerk, 300 E. Nine Mile Road, Ferndale, Michigan 48220.

b. The Application must be filled out completely and signed and dated by the Applicant. If the Demonstration is sponsored or produced by an entity, a person legally authorized to bind the entity must also sign the Application.

c. The Application must contain the following information:

1. the name, address, e-mail address, if available, day-time telephone number, and fax number, if available, of the Applicant;
2. the name of the person who will be in charge of the Demonstration onsite;
3. the name, address, e-mail address, if available, day-time telephone number, and fax number, if available, of the Demonstration Sponsor;
4. the date, time, duration, and location of the proposed Demonstration (including all set up and take down time);
5. an estimate of the approximate number of persons who are reasonably expected to attend the Demonstration;
6. if the Demonstration will include a march or parade, a detailed description of the proposed route of the march or parade (with assembling, starting, and ending points) and the proposed starting and ending times for the march or parade;
7. a statement of any equipment or facilities which are owned by the Applicant or Demonstration Sponsor that are expected to be used;
8. a statement of any equipment or facilities that the Applicant or Demonstration Sponsor desires to rent from the City;
9. whether the Demonstration is a spontaneous event which has been planned in response to a specific occurrence, and, if so, must briefly describe such occurrence; and

10. a certification that the Applicant and Demonstration Sponsor will comply with all governmental rules and regulations applicable to the Demonstration, including, e.g., regulations concerning emergency medical services at special events.

d. After submission of an Application, the Applicant must immediately provide the City with any information that will amend, supplement or change any of the information originally provided in the Application.

Sec. 16-16.2. Application Deadlines.

a. The Application for a Permit must be submitted to the City at least five business days prior to the proposed date and time of the Demonstration. However, the City will accept Applications less than five days prior to the proposed date and time of the Demonstration, provided, however, that the proposed Demonstration is a spontaneously-planned event in response to a recent occurrence (e.g., a march or rally that is timed to coincide with a recent or future political or other announcement, decision, determination, or declaration by a local, state, or federal official).

b. Where (1) the Applicant has requested the City to provide special or technical services for purposes of assisting in the production or staging of the Demonstration, (2) the Applicant has requested or requires the rental and use of City-owned equipment for the production or staging of the Demonstration, or (3) the Applicant intends to erect fixed structures upon City Property, e.g., sound stage or canopies or tents, the Application for a Permit must be submitted to the City at least thirty (30) business days prior to the proposed date and time of the Demonstration. Absent extraordinary circumstances, the City will not accept Applications meeting the criteria of this subsection beyond this thirty (30) day deadline.

c. An Application shall be deemed submitted on the date it is received by the City or, if received on a holiday or after normal business hours, on the next business day that is not a holiday.

Sec. 16-16.3. Application Fees.

Each Applicant for a Permit must remit an application fee in an amount established by resolution of the City Council as necessary for the administration of the law and maintaining traffic control for the Demonstration. The application fee must be by check or money order payable to the "City of Ferndale," and is non-refundable.

Sec. 16-16.4. Order of Processing.

The City will process Applications for a Permit in the order that the City receives them. The City will allocate the use of a particular City Property among competing Applicants in the order of receipt of fully executed Applications together with the required application fee. The City will have priority use of the requested City Property where the proposed Demonstration conflicts or interferes with a previously scheduled event or with an annual or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the City.

Sec. 16-16.5. Grounds for Denial of Application for Permit.

- a. The City will approve an Application and grant a Permit unless there is a basis for denial of the Application.
- b. The following grounds will constitute a sufficient basis for denial of an Application for a Permit:
 1. the Application for a Permit (including any required attachments and submissions) is not fully completed and executed;
 2. the Application for a Permit contains a material falsehood or misrepresentation;
 3. the Applicant has not tendered the required application fee;
 4. the proposed Demonstration conflicts or interferes with a previously scheduled, annual, or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the City or any other person or entity at the same City Property for the same date and time;
 5. a fully executed prior Application for a Permit for the same City Property and for the same date and time has been received, and a Permit has been or will be granted to a different Applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular City Property or part thereof;
 6. the property sought to be used for the Demonstration is closed or partially closed for construction, renovations, or other reasons, and use of the City Property will pose a threat to the safety of participants or will impose an adverse impact upon the natural environment of the City Property;
 7. the Demonstration will substantially or unnecessarily interfere with traffic in the area contiguous to the activity, and will unreasonably disrupt movement or circulation of vehicular or pedestrian traffic, unless there are readily available at the time of the proposed Demonstration sufficient City resources to mitigate any interference or disruption;
 8. there are unavailable at the time of the Demonstration a sufficient number of police officers to police and protect lawful participants in the Demonstration and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed Demonstration;
 9. the concentration of persons, vehicles, or things at the assembly and disbanding areas and along the route of the Demonstration will prevent proper fire and police protection or emergency medical service;
 10. the City has revoked a Permit which was previously issued to the Applicant or for a Demonstration that was previously sponsored by the Demonstration Sponsor;
 11. the proposed route of any march or parade to be conducted in connection with such Demonstration will proceed in a direction that is opposite of the normal flow of vehicular traffic on such route, unless the direction of the march or parade, or the location thereof, was inextricably intertwined with the purpose of the Demonstration;

12. the City Property cannot safely accommodate the expected number of participants in the Demonstration without an unduly adverse impact upon the natural environment of the City Property;
13. the Demonstration cannot reasonably be accommodated with the customary recreational and other uses and policies attendant to the City Property, e.g., park;
14. the Demonstration for which the Applicant has requested the provision of services from the City will place an undue burden on the personnel resources of the City;
15. the Demonstration will have an unduly adverse impact on the landscaping, planting, or natural environment of the City Property;
16. the Demonstration will have an unduly adverse impact on the public health or safety of the Applicant, other users of the City Property, City employees, or the public (e.g., the Demonstration will unreasonably interfere with the movement or service capability of police vehicles, fire fighting equipment, or emergency medical or ambulance services);
17. the Demonstration will unreasonably interfere with the customary functions and uses of, and ingress and egress to and from, buildings that are immediately adjacent to the City Property;
18. the Applicant, or the person on whose behalf the Application for a Permit was made, has on prior occasions damaged City Property and has not paid in full for such damage;
19. the Applicant, or the person on whose behalf the Application for a Permit was made, has not reimbursed the City for requested City personnel or requested City equipment utilized in connection with a previously issued Permit;
20. the Demonstration is prohibited by law, including applicable City ordinances and regulations;
21. the City Property requested is a limited public forum and the expressive activities of the Demonstration do not fall within the designated category of expressive activities for which the limited public forum has been opened;
22. the City Property requested is a non-public forum that has not been opened for expressive activity to the general public; and/or
23. the Application is sought for an event that is more appropriately covered by the provisions of Section (a) of Chapter 16-12 of the Ferndale Code.

Sec. 16-16.6. Action on Application; Amendment or Revision of Applications.

a. In the case of Applications submitted under the deadline set forth in Section 16-16.2(a) above, the City will grant or deny the Application within two business days after receipt of the Application, provided, however, that the City may in its sole discretion extend this period of review for an additional period of two business days, where the Application has been submitted more than twenty days prior to the proposed date and time of the Demonstration.

b. In the case of Applications submitted under the deadline set forth in Section 16-16.2(b) above, the City will grant or deny the Application within seven days of receipt of the Application.

c. Any amendment or revision of an Application for a Permit will for purposes of determining the priority of the Application, relate back to the original filing thereof; but the time within which the City will grant or deny the Application for a Permit will be computed from the date of the amendment or revision.

Sec. 16-16.7. Notice of Action; Issuance of Permit.

a. The City will immediately provide to the Applicant notice of the grant or denial of the Application for a Permit by telephone, facsimile, or by e-mail, in accordance with the written instructions of the Applicant in the Application.

b. Upon approval of the Application for a Permit, the City will issue to the Applicant a Permit denoting the location of the City Property, the approved route of any march or parade, and the date, time, and duration for which the Permit is valid. The Permit will note thereon any reasonable restrictions, and any other special requirements, that are applicable to the Permit.

c. The Permit will be made available for personal pick up by the Applicant, or will be mailed to the Applicant, in accordance with the written instructions of the Applicant in the Application.

d. A Permit cannot be transferred or assigned, except that a Permit may be assigned or transferred to an entity that is a legal successor to the Permittee upon the City's written permission.

Sec. 16-16.8. Denial of Application; Contents of Notice.

a. In the Permit Denial, the City will clearly set forth all grounds upon which the Application for a Permit was denied by reference to Section 16-16.5 above.

b. Where feasible, the Permit Denial will contain a proposal by the City for measures by which the Applicant may cure any technical defects in the Application.

c. Where the grounds for the Permit Denial are included in Section 16-16.5(b) (4), (5), (7), (8), (9),(11), (12), or (13) above, the City, may offer to the Applicant:

1. a proposal to hold the Demonstration at different City Property, if available, for the same date and time, so long as the alternate City Property is reasonably similar to the proposed location with comparable public visibility;
2. a proposal to hold the Demonstration at the same City Property, if available, but on an alternative date or time; or
3. a proposal for an alternative route for any proposed march or parade to be conducted in connection with such Demonstration, so long as the alternate route is reasonably similar to the proposed route and has comparable public visibility.

d. The City will serve the Permit Denial on the Applicant by first class U.S. mail, by facsimile, or by e-mail, in accordance with the written instructions of the Applicant in the

Application. The City will also make the Permit Denial available for personal pick up by the Applicant.

e. An Applicant desiring to accept an alternate proposal made by the City in accordance with subsection (c)(1) – (3) above will promptly notify the City of its acceptance.

Sec. 16-16.9. Permit Revocation.

Upon written notice to a Permittee, the City may revoke a Permit, where it has been determined that: the Permittee does not intend to comply with, cannot comply with, or has violated, any of the conditions or restrictions applicable to the Permit, including but not limited to the following:

- a. failure of the Applicant to obtain any permits or licenses that are legally required by the City of Ferndale Code of Ordinances in connection with the Demonstration;
- b. failure of the Applicant to remit any required user fee(s) for City-owned equipment;
- c. failure to comply with any conditions applicable to the Permit.

Sec. 16-16.10. Procedures for Appeal of Permit Denials and Permit Revocations.

a. An Applicant who is denied a Permit, or a Permittee whose Permit has been revoked, may file a written appeal (the “Appeal”) from such Permit Denial or Permit Revocation with the City Council.

b. The Appeal must be filed within 48 hours of the Permit Denial or Permit Revocation with the City Clerk and must state succinctly the grounds upon which it is asserted that the Permit Denial or Permit Revocation should be modified or reversed. The Appeal must be accompanied by copies of the Application for a Permit, the written Permit Denial or Permit Revocation from the City, and any other papers or documentation material to the determination.

c. The City of Ferndale Council shall schedule a meeting as promptly as reasonably possible, in compliance with the Michigan Open Meetings Act, and affirm, modify, or reverse the Permit Denial or Permit Revocation and give notice of the decision to the Applicant.

Sec. 16-16.11. Permit Restrictions.

The City may place reasonable restrictions on the conduct of a Demonstration, which restrictions may consider the customary use and nature of the City Property, recreational use policies, the size and location of the City Property, and the degree to which the Demonstration interferes with the customary uses for the City Property.

Sec. 16-16.12. Compliance with Applicable Law.

- a. A Permittee must comply with all applicable provisions of the City of Ferndale Code of Ordinances, including those provisions concerning noise levels.
- b. The issuance of a Permit under this Regulation will not supersede a requirement for the Applicant to obtain any other permits required by law.

Sec. 16-16.13. Reimbursement of City Equipment Costs.

- a. Each Demonstration Sponsor of a Demonstration shall pay rental fees, at least five days in advance of the Demonstration, for any and all equipment to be provided by the City for use in connection with the production or staging of the Demonstration.
- b. Following the conclusion of a Demonstration, the Demonstration Sponsor shall pay the City for the repair and/or replacement costs (as determined by the City in its sole discretion) of equipment that is not returned or is returned in an unacceptable condition (reasonable wear and tear excepted).

Sec. 16-16.14. Reimbursement of City Personnel Costs.

Each Demonstration Sponsor of a Demonstration shall reimburse the City an amount equal to all personnel costs for services that are specifically requested from the City for the purpose of staging and conducting the Demonstration.

Part II. Savings Clause.

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

Part III. Severability.

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

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

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

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FERNDALE, OAKLAND COUNTY, MICHIGAN, THIS 28th DAY OF MARCH, 2011.

DAVE COULTER, MAYOR

J. CHERILYNN TALLMAN, CITY CLERK

Date of Adoption: March 28, 2011

Date of Publication: April 6, 2011

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the 28th day of March, 2011.

J. CHERILYNN TALLMAN, CITY CLERK

CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE 1106

NOTICE IS GIVEN that the City of Ferndale Council has adopted Ordinance No. 1106, an Ordinance to amend Chapter 16, Streets, Sidewalks and Other Public Places, Article I, In General, to Add Sections 16-14 through 16-16.14, Demonstrations on Public Property, to the Code of Ordinances of the City of Ferndale.

This Ordinance shall become effective upon publication. This Ordinance was adopted by the City Council on Monday, March 28, 2011. A complete copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

J. CHERILYNN TALLMAN, CITY CLERK
(248) 546-2384