

ORDINANCE NO. 90-01

(As Amended by Ord. No. 96-13, Ord. No. 12-03 and Ord. No. 17-02)

AN ORDINANCE TO REGULATE THE OPERATION OF SHORT-TERM OPEN AIR BUSINESS WITHIN THE CHARTER TOWNSHIP OF ALPINE

The Charter Township of Alpine ordains:

Section I. "Short-Term Open Air Business" defined:

The words "Short-Term Open Air Business" as used in this Ordinance shall include the act of offering merchandise for sale from a fixed place not within a building, from a vehicle or from a fixed place in a temporary structure or shelter; including merchants offering merchandise for sale upon commercial premises permanently occupied by them. Merchandise may include items such as Christmas trees, pictures and paintings, lawn ornaments, toys, flowers, food items (including farm markets), legal fireworks, and other merchandise offered during sidewalk sales, tent sales, or other special event sales. The definition of a Short-Term Open Air Business does not include flea markets or swap meets; which are characterized by multiple defined spaces for people to sell or barter merchandise such as used goods, inexpensive items, collectibles or antiques.

Section II. Permitted Areas of Operation:

The operation of any Short-Term Open Air Business within Alpine Charter Township shall be permitted in the Commercial, Agricultural, and Rural Agricultural Zoning Districts and for authorized commercial uses in the Commercial Planned Unit Development, Business Planned Unit Development and Mixed Use Planned Unit Development zoning districts of the Township with the approval of the Township Supervisor or his or her designated agents in accordance with the provisions of this Ordinance. A Short-Term Open Air Business shall not be operated within any public right-of-way.

Section III. Permit Required:

- (1) A person, firm, corporation, or organization shall not engage in a Short-Term Open Air Business within the Charter Township of Alpine without first obtaining a permit. The permit shall allow an applicant to conduct an activity permitted under this Ordinance for thirty (30) consecutive days within one calendar year.
- (2) No more than three (3) thirty (30) day permits shall be issued to the same applicant in the same calendar year.
- (3) No more than three (3) thirty (30) day permits shall be issued for the same property in the same calendar year.
- (4) No more than one permit shall be issued for the same site property for the same time period.

Section IV. Exempt Persons:

- (1) No permit shall be required for any persons engaged in the sale of items under the direct supervision of any school or recognized charitable or religious organization, upon premises owned by the school or charitable or religious organization.
- (2) No permit shall be required for those persons operating temporary yard sales or garage sales on their own residentially zoned property.
- (3) A permit shall not be required to sell produce on the same property on which it was grown.
- (4) Any person under the age of sixteen (16) who engages in a Short-Term Open Air Business in any residential, agricultural, rural agricultural, Commercial Planned Unit Development, Business Planned Unit Development and Mixed Use Planned Unit Development zoning district shall not be required to obtain a permit under this Ordinance.
- (5) Veterans who have been issued a Peddler's license under State of Michigan Act 359 of 1921 shall not be required to obtain an Open Air Business Permit under this Ordinance, but shall comply with other regulations of this Ordinance.

Section V. Procedure for Application for Permit:

A person seeking a permit for a Short-Term Open Air Business shall file an application with the Township Clerk. Such application shall contain the following information:

- (1) Name and description of the applicant as well as names of such person(s) to be employed by such applicant;
- (2) Permanent home address(es), phone number(s) both permanent and local, and full local address(es) of the applicant and such person(s) employed by such applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of employer;
- (5) Location of the proposed activity, with the property owner's name, address, and phone number, along with written permission from the owner of the lot, parcel, or tract intended for the site of operations;
- (6) Dates and hours of the proposed activity;
- (7) When necessary, written proof of compliance with requirements of the Kent County Health Department;
- (8) A statement as to approximate locations within the Township where such orders are to be taken or goods are to be sold;
- (9) A simple site plan sketch with dimensions shall be provided by the applicant which illustrates the layout of the site, including access, parking, and location of tables, tents, merchandise, electrical apparatus, and other items necessary to conduct the business.

Section VI. Fee:

A fee for a thirty (30) day permit shall be paid at the time the permit is issued. A new permit may be issued at the discretion of the Township Supervisor or his or her designated agent upon resubmittal of the application and payment of the required fee. These fees shall be established by resolution of the Township Board from time to time and may be revised as the Township determines necessary to meet the fair and reasonable costs for clerical and inspection costs incurred related to the issuing of these permits.

Section VII. Issuance of Permit:

- (1) The Township Supervisor or his or her designated agent shall issue a permit for a Short-Term Open Air Business after a determination that the applicant and/or proposed activity will comply with the regulations of this Ordinance and the following:
 - (a) If the applicant has past criminal conviction(s), the Township Supervisor, based on the conviction(s), shall determine if the applicant, while conducting the business activity, will pose a threat to the health, safety, and welfare of Township residents.
 - (b) An investigation by the Township Supervisor or his or her designated agent shall show that the applicant and the proposed open air business have a favorable business reputation or at a minimum that no complaints have been reported about the applicant or the proposed business operation.
- (2) Upon approval of the application and payment of the required fee, the Township Supervisor or designated agent shall furnish to the applicant a copy of the application and a permit which shall bear the words "Short-Term Open Air Business Permit" and the signature of the Township Clerk. The permit shall also stipulate the period for which the permit is issued and the number of the permit. The permit shall be carried by the applicant and shall be readily accessible during the time of the business operation.
- (3) If the Township Supervisor or designated agent denies an application, the Township Clerk shall notify the applicant thereof in writing by certified mail, return receipt requested, postage prepaid, sent to the address as stated on the application with a statement of the reason(s) for denial.

Section VIII. Compliance and Enforcement:

Any person issued a permit under this ordinance shall comply with the following minimum regulations:

- (1) The Short-Term Open Air Business shall be designed and operated to avoid hazards caused by fire, electrical apparatus, tents, seating, on or off site vehicle movement, or other operational characteristics of the business. The Township Fire Chief, Building Inspector, and Zoning Administrator shall review and approve

such businesses to ensure such hazards are avoided in the interest of public safety. Any fees incurred by such review or inspection shall be in addition to the fee required for the Short-Term Open Air Business permit.

- (2) The permit shall be presented upon request to law enforcement officers or representatives of Alpine Township or Kent County.
- (3) No concealed weapon shall be carried by the permittee or kept on the location of the proposed activity without the express approval of the Township Board of Trustees.
- (4) The permittee shall comply with all regulations imposed upon the permit by the Township Supervisor.
- (5) Upon termination of the activity, all litter, debris, or refuse shall be removed from the site within three (3) days.
- (6) No permit shall be issued to applicants under the provisions of this Ordinance shall be used by any person other than the one to whom it was issued.
- (7) The Township Board may revoke any permit issued under the provisions of this Ordinance, after notice and hearing, due to fraud, misrepresentation, or a false statement contained in the application for the permit, or in the course of the business of the applicant and for any violation of this Ordinance.
- (8) Notice of permit termination hearing shall be given in writing and shall state the reason(s) for revocation. Notice shall be by certified mail, return receipt requested, to the applicant at the address shown on the application, at least five (5) days prior to the date set for the hearing.
- (9) It shall be the responsibility of the Kent County Sheriff's Department to enforce the terms of this Ordinance. In all arrests and prosecutions for violations of this Ordinance, appearance tickets and the appropriate procedures set forth in Act 147, Michigan Public Acts of 1968, as amended, may be used.

Section IX. Signs:

- (1) Any Short-Term Open Air Business is permitted to have one (1) sign of no more than twenty (20) square feet or two (2) signs totaling no more than twenty (20) square feet. In no case shall the sign exceed four (4) feet in height.
- (2) Signs shall not be located in the public road right-of-way and shall not obscure the vision of motorists and pedestrians in a manner jeopardizing their safety.
- (3) Flashing and intermittently lighted signs and revolving signs are prohibited. Any sign or lighting that resembles or may be confused with a safety device is also prohibited. All illumination shall be indirect and must not resemble a highway sign or lighting device.
- (4) In no event shall any part of the sign be closer than ten (10) feet from any right-of-way line. Where the property upon which a sign is located abuts a residential or office zone, the sign shall not be placed any closer to the lot line than ten (10) feet.

Section X. Penalties:

Any person, firm, corporation, or organization not specifically exempted by Section 5, which violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any section of this Ordinance, or any amendment thereof, shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than five hundred (\$500.00) dollars, or shall be imprisoned in the County jail for not more than **ninety (90) days**, or both such fine and imprisonment, in the discretion of the Court before whom the conviction is held.

Section XI. Validity:

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than that part declared to be invalid.

Section XII. Effective Date:

This Ordinance shall become effective thirty (30) days after publication thereof and shall be published in a newspaper of general circulation within the Township of Alpine.

The forgoing Ordinance was adopted at a regular meeting of the Alpine Charter Township Board held on the 19th of February, 1990.