

**ALPINE TOWNSHIP
KENT COUNTY, MICHIGAN**

ORDINANCE NO. 13-02

ALPINE TOWNSHIP BURNING ORDINANCE

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY REGULATING THE USE OF FIRE, PROHIBITING FIRES WITHIN CERTAIN PRESCRIBED AREAS, PROHIBITING FIRES UNDER CERTAIN PRESCRIBED CIRCUMSTANCES, AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION THEREOF.

THE TOWNSHIP OF ALPINE ORDAINS:

SECTION 1. PURPOSE

Burning of leaves, grass, wood and/or trash creates a risk of the accidental spread of fire and also creates hazardous byproducts that can irritate eyes and lungs, obscure visibility, soil nearby surfaces, create odors and pose other health threats. Open burning may substantially increase the discomfort of persons who suffer asthma, chronic bronchitis and other respiratory ailments. This Ordinance is intended to reduce the negative impact of burning throughout the Township, particularly within the most densely populated areas of the Township.

This Ordinance recognizes the traditional use of open burning in the practice of agriculture and horticulture and is not intended to diminish that use when performed according to the requirements of this Ordinance.

This Ordinance shall not apply to the burning of fuels in heating and cooking appliances or similar devices located within a structure or to internal combustion engines and motors.

SECTION 2. DEFINITIONS

ANNUAL SIGN-UPS - The registration, each calendar year, to acknowledge receipt of Fire Department rules and regulations and become eligible to request a burning permit.

APPROVED INCINERATOR DEVICE - A properly installed and maintained incinerator displaying an American Gas Association or similar rating seal of approval stating that the device meets such organization's requirements for smokeless/odorless operation at the date of manufacture. The absence of a seal of approval or the noticeable emission of offensive effluent shall be prima facie evidence that such incinerator is not an approved burning device.

BURN - The combustion of materials with or without a visible flame, and including smoldering and the emission of smoke or odor. To ignite, kindle, or deliberately cause the combustion of materials.

BURNING PERMIT - The approval from the Fire Chief or authorized designee(s) permitting open burning as outlined in Section 4.

COVERED BARREL - Any metal 55 gallon barrel or pail covered with 1/2 inch mesh.

FIRE CHIEF- The duly appointed Fire Department executive and, for the purpose of administering and enforcing this Ordinance, his or her authorized designees.

FIRE PIT - A defined area on property designed for open burning of wood, charcoal, or other solid

fuel and fully surrounded by a noncombustible barrier consisting of stone, brick, concrete, or similar noncombustible material.

MOBILE HOME PARK - A mobile home park as defined in the Mobile Home Commission Act, PA 96 of 1987, as amended, or any successor statute.

NON-RESTRICTED AREAS - Areas of the Township not included in the definition of Restricted Areas.

OPEN BURNING OR OPEN FIRE - Shall mean the burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

ORDER TO STOP BURNING - A written order of the Fire Chief directing the extinguishment of a fire and the cessation of burning. An "Order to Stop Burning" may be issued where there is or has been no immediate violation of the Burning Ordinance but a determination has been made pursuant to Section 6 of the necessity of terminating burning. The "Order" shall specify the reasons for its issuance, prohibit further burning, and warn of the consequences of its violation. The order shall include the procedure for its administrative appeal to the Township Board.

OUTDOOR COOKING FIRE - A fire contained within a manufactured cooking device such as a barbecue grill, solely intended for the cooking of food, and extinguished upon completion.

OUTDOOR FIREPLACE - A portable, commercially-produced device that is designed, manufactured, and purchased for the sole purpose of burning wood, charcoal, or solid fuel similar to any indoor fireplace. Outdoor fireplaces include, but are not limited to, chimineas, "fire bowls", and similar devices but do not include fire pits as defined in this Section.

PERSON - Any individual, corporation, partnership, association, or any officer, employee, or agent of the foregoing.

RECREATIONAL FIRE - An open fire within a fire pit or outdoor fireplace used for food preparation or recreational purposes.

RESTRICTED AREAS - The following areas within the Township:

- a) Sections 25 and 36 (the two square mile rectangular area bounded by Six Mile Road on the north, Alpine Avenue on the west, and the southern and eastern borders of the Township);
- b) Commercial and industrial developments;
- c) Platted or condominium developments and areas within 200 feet of residential plats on condominiums.

SECTION 3. ANNUAL SIGN-UPS

A Person who occupies real property in a non-restricted area or a parcel of at least three (3) acres in a restricted area as provided in Section 7c) must register and acknowledge receipt of the Fire

Department rules and procedures each calendar year before any burning requests can be considered. Annual sign-ups can be completed at the Township offices, 5255 Alpine Avenue, or at the Fire Chief's office, 841 Alpine Church Road, during normal business hours. This sign-up does not give any property owner, lessee, or other user of the property permission to burn. Requests to burn shall be made as provided in Section 4.

SECTION 4. BURNING PERMIT REQUEST PROCESS

Prior to any permitted burning, a property owner who has completed an annual sign-up registration, must contact the Fire Chief (or Township offices in the absence of the Chief) to request permission to burn. In determining whether to grant or deny such requests, the Fire Chief shall consider factors such as, but not limited to, the proposed location, weather conditions, need for and/or availability of fire department resources necessary to guard against the spread of fire, previous ordinance compliance by the applicant, and other factors likely to affect the public health, safety, and welfare of persons and property in Alpine Township.

The Fire Chief may impose reasonable conditions prior to approval including, but not limited to, limitations relative to size, duration, time of day, manner of burning, and material to be burned. Generally, open burning by permit shall be for daylight hours and is issued for no more than 72 hours in duration.

If the Fire Chief imposes special conditions on the permit, the property owner or person requesting to burn may be required to pick up a written permit with the restrictions outlined.

Notwithstanding Section 11522 of Act No. 451 of the Public Acts of 1994, as amended (MCL 324.11522), the Fire Chief may permit the open burning of grass clippings and leaves pursuant to this Section in a non-restricted area and a parcel of at least three (3) acres in a restricted area as provided in Section 7(c).

The Fire Chief may determine that a request to burn should be denied based on factors such as, but not limited to, the proposed location, weather conditions, need for and/or availability of fire department resources necessary to guard against the spread of fire, previous violations of the ordinance by the applicant, and other factors likely to affect the public health, safety, and welfare of persons and property in Alpine Township. If the request for permission to burn is denied, the reasons for denial shall be provided in writing to the applicant within five (5) business days of submission of the application.

Phone messages left on answering machines or voice mail at the offices of the Fire Chief and/or Township are not acceptable in securing a burning permit. A verbal confirmation from the Fire Department is required in order to validate a permit so that proper written confirmation of every authorized burning permit can be issued to the County.

SECTION 5. CONSENT TO BE ON THE PROPERTY

As a condition to the utilization of any burning permit, a person shall be deemed to have consented to the Fire Chief or authorized designee(s) entry onto the person's property to ensure compliance with any permit conditions.

The Fire Chief or authorized designee(s) may enter onto all property within the Township, whether there is a permit or not, where smoke, open burning, or fire has been observed for the purpose of inspecting the burning permit, to investigate the nature of an un-permitted fire, to extinguish an un-permitted, illegal, accidental, or unconfined fire, and to take all other actions authorized by law.

SECTION 6. REVOCATION OF A BURNING PERMIT/FIRE CHIEF ORDER

The Fire Chief or authorized designee(s) may revoke a burning permit in the event any of its terms and conditions are being violated or should circumstances become such that the Fire Chief or authorized designee(s) believes that the burning poses a health or safety risk or otherwise will result in a condition detrimental to Alpine Township or its residents. The Fire Chief or authorized designee(s) may also order the extinguishment of or cause to be extinguished any open fire, whether permitted or un-permitted, including fire in a covered barrel, outdoor cooking fire, recreational fire, fire in an unapproved burning device, or other burning which the Fire Chief deems to be a nuisance or hazard to public health and safety.

In the event of a violation of this Ordinance or a permit, the Fire Chief or authorized designee(s) may issue to a person who is burning, or to the property owner, or in their absence post the property an "Order to Stop Burning." Any person receiving an "Order to Stop Burning" shall immediately extinguish the fire and shall desist from further burning until such time as expressly approved by the Fire Chief or authorized designee(s).

It shall be a violation of this Ordinance to reignite or allow the re-ignition of a fire extinguished by order of the Fire Chief or authorized designee(s) without his/her express consent.

SECTION 7. BURNING IN RESTRICTED AREAS

No open burning is allowed in restricted areas except the following:

- a) Open burning in an approved incinerator device or outdoor cooking fires, as defined in section 2.
- b) Recreational fires as permitted in Section 8.
- c) Open burning other than as allowed under subsections 7a) and 7b) is permitted on parcels of at least three (3) acres in restricted areas if the property owner registers and obtains a permit under Sections 3 and 4 of this Ordinance and otherwise complies with all provisions of this Ordinance applicable to such open burning.

Except as provided in subsection 7c) above, a permit is not required for open burning permitted in restricted areas under this Section.

SECTION 8. RECREATIONAL FIRES

- a) Except as provided in subsection 8 b), recreational fires are allowed without a permit in outdoor fireplaces and fire pits (as defined in Section 2) in restricted areas and non-restricted areas in compliance with the following requirements:

1. All outdoor fireplaces must be used in accordance with the manufacturer's guidelines.
 2. Outdoor fireplaces and fire pits shall not be used or stored on a balcony or deck.
 3. Outdoor fireplaces and fire pits shall be at least 15 feet away from any structure, building, or overhead wires.
 4. Outdoor fireplaces and fire pits must be on a dirt, masonry, concrete or other noncombustible surface with all combustible materials and growth cleared four feet from the fire area.
 5. No brush, leaves, grass clippings, trash, garbage, rubbish, or treated construction materials or debris shall be used as fuel. Only clean burning of firewood, charcoal, or similar solid fuel is allowed. Clean burning firewood shall be no longer than 30" and no longer than 4" in diameter.
 6. No recreational fires may occur between midnight and 7:00 a.m. All recreational fires must be extinguished not later than midnight.
 7. Recreational fires must be attended by an adult at all times.
 8. The diameter of the outdoor fireplace or fire pit, and the recreational fire itself, shall not exceed four feet on the ground.
 9. Burning material in a fire pit shall not be stacked higher than two feet above the ground.
 10. All other applicable provisions of this Ordinance shall be followed.
- b) Recreational fires in fire pits are prohibited in mobile home parks.
- c) Notwithstanding any other provision of this Ordinance, recreational fires are prohibited if the Michigan Department of Natural Resources, or a successor agency, issues a burning ban due to dangerous fire conditions.

SECTION 9. BURNING IN NON-RESTRICTED AREAS.

- a) Except as provided in Section 8, and subsection 9 b) below, it shall be a violation of this Ordinance for any person to burn any flammable material in Alpine Township in non-restricted areas until he (she) has completed the annual sign-up as outlined in Section 3 and applied for and received a burning permit as outlined in Section 4 from the Fire Chief.
- b) In addition to recreational fires allowed under Section 8, open burning is also allowed in non-restricted areas without a permit in compliance with the following:
1. Burning within a covered barrel (as defined in Section 2) located at least 100 feet from a neighboring residence and/or lot line if the burning does not occur between 9:00 p.m. and 7:00 a.m. Burning in a covered barrel is also subject to the provisions of Section 6 and other applicable provisions of this Ordinance.
 2. Open burning in an approved incinerator device or outdoor cooking fires, as defined in Section 2.

SECTION 10. BURNING MATERIALS IMPORTED INTO ALPINE TOWNSHIP

Except as authorized by resolution of the Township Board, no person shall burn waste, trash, refuse, construction or demolition debris, imported into Alpine Township from other areas, for the purpose of its disposal.

SECTION 11. BURNING OF MATERIALS RESULTING IN HAZARDOUS SMOKE

It shall be a violation of this Ordinance to burn with or without a permit any substance or material which emits in substantial concentration, smoke or gas which is toxic to plant or animal life, noxious or offensive in odor, or creates a lasting condition of thick smoke. Among those substances and materials it is expressly prohibited to burn tires, plastic, and pesticides.

SECTION 12. BURNING AT CONSTRUCTION SITES

Burning of construction debris (including tree stumps and fallen trees) is prohibited without written authorization by the Fire Chief or Deputy Chief provided, however, that authorized designees of the Fire Chief are not allowed to issue these permits.

SECTION 13. PENALTIES

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of fifty dollars (\$50.00) for a first violation, one hundred fifty dollars (\$150.00) for a second violation, and five hundred (\$500.00) for a third or any subsequent violation as well as the charges provided for in Section 14, and shall be liable for the payment of the costs of prosecution in an amount of not less than nine dollars (\$9.00) and not more than five hundred (\$500.00).

- a) Each day during which a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.
- b) The fines and penalties provided for in this section shall be in addition to the abatement of the violating condition, any injunctive or other relief prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a Township ordinance which is designated as a municipal infraction, and those remedies set forth in Section 14.

SECTION 14. COST RECOVERY FOR EMERGENCY RESPONSE

The Township Board finds that a number of responses of the Township Fire Department involve persons who fail to burn in accordance with the conditions of an approved permit, or who fail to obtain a burning permit as required by law or by property owners who permit the same. In addition, the Township Board finds that such incidents pose a greater likelihood of personal or property damage. As a result of these determinations, a greater operational and financial burden is placed upon the Township's firefighting and rescue services by persons who fail to burn in accordance with

the conditions of approval or failure to obtain a burning permit or property owners who permit the same. Accordingly, any person is liable for the expense of all emergency response if, while burning without a valid burning permit or in violation of conditions of approval of a valid burning permit, such person's activities cause an incident resulting in an emergency response. The foregoing shall also apply to a property owner who permits or consents to another's burning without a valid burning permit or in violation of conditions of approval of a valid burning permit on that property owner's premises.

- a) **Charge Against Person.** The expense of an emergency response shall be a charge against the person or property owner liable for the expenses under this Ordinance. The charge constitutes a lien against the property as well as a debt of that person and is collectible by Alpine Township for incurring those costs in the same manner in which general property taxes may be collected or, alternatively, in the same manner as in the case of an obligation under a contract, expressed or implied.
- b) **Cost Recovery Schedule.** The Alpine Township Board of Trustees shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available to the public from either the Township Clerk or the Fire Department.
- c) **Billing.** The Fire Chief may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment in thirty (30) days from the date of service.
- d) **Failure to Pay; Procedure to Recover Costs.** Any failure by the person described in this Ordinance as liable for the expense of an emergency response, to pay the bill within thirty (30) days of service shall be considered in default. In case of default, Alpine Township may impose the expense as a lien on the property where the violation occurred or, alternatively, may commence civil suit to recover the expenses and any costs allowed by law.
- e) **Definitions.** For purposes of this Section, the following words and phrases shall be defined as follows:
 - 1. "Emergency Response" shall mean:

The providing, sending and/or utilizing of firefighting, emergency medical or rescue services by the Township or County Sheriffs Department, to an incident involving a fire where the person burning combustible materials, or a property owner permitting such burning, is in violation of a condition of approval of a valid burning permit or where no burning permit has been obtained as required by this Ordinance. An Emergency Response may also include a surcharge to Consumers Energy for power lines down.
 - 2. "Expense of an emergency response" means:

The direct and reasonable costs incurred by Alpine Township or the County Sheriff's Department when making an emergency response to the incident, including the costs of providing firefighting and rescue services at the scene of the incident. These costs further include those incurred at the scene of the incident. These costs further include all of the salaries and wages of the

Township or County Sheriff's Department personnel responding to the incident, all salaries and wages of the personnel engaged in investigation, supervision and report preparation, and all costs related to any prosecution of the person causing the incident.

SECTION 15. ENFORCEMENT

The Fire Chief of Alpine Township, the Alpine Township Planning and Zoning Administrator, Deputies of the Kent County Sheriff's Department, or any duly authorized law enforcement officer acting on complaint of the Fire Chief, are authorized to enforce this Ordinance.

SECTION 16. REPEAL OF ORDINANCES AND SEVERABILITY

Ordinance No. 98-1, "Alpine Township Burning Ordinance", is repealed in its entirety.

SECTION 17. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. Alpine Township hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, independent of whether any one or more sections, subsections, sentences, clauses, and phrases were declared unconstitutional.

SECTION 18. PRIOR ACTION

Nothing in this Ordinance shall be construed to effect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance repealed as provided in Section 16; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

SECTION 19. EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication as provided by law.

At a regular meeting held on Monday, June 17, 2013, a motion was offered by Schweitzer, supported by Cordes, to adopt Ordinance No. 13-02.

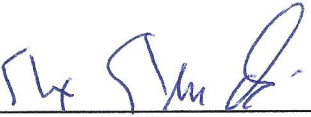
The motion carried as follows in a roll call vote:

AYES: Arends, Cordes, May, Schweitzer, Townsend, J. Wahlfield, and M. Wahlfield.

NAYS: None.

ABSENT: None.

ORDINANCE NO. 13-02 DECLARED ADOPTED.



Alex Arends, Supervisor



Jean Wahlfield, Clerk

I certify the foregoing to be a true and accurate copy of an ordinance duly adopted at a regular meeting of the Alpine Township Board held on Monday, June 17, 2013, and that public notice of that meeting was given pursuant to and in compliance with Act No. 287 of the Public Acts of Michigan of 1976, as amended.





Jean Wahlfield, Clerk