

**ALPINE TOWNSHIP
KENT COUNTY, MICHIGAN**

ORDINANCE NO. 08-02

**AN ORDINANCE TO LICENSE AND REGULATE
SOLICITORS, PEDDLERS and TRANSIENT MERCHANTS**

THE TOWNSHIP OF ALPINE ORDAINS:

Section 1 PURPOSE

The purpose of this Ordinance is to protect the public health, safety and welfare of the citizens of Alpine Township by the regulation, licensing and control of solicitors, peddlers, transient merchants and similar sales persons conducting business within the Township.

Section 2 DEFINITIONS

The term "solicitor", as used in this Ordinance, shall mean any person traveling either by foot or conveyance from place to place, who solicits, asks for or invites donations of money or goods, or who takes or attempts to take orders for the sale of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. The term solicitor also includes the driver of any conveyance used for or associated with soliciting.

The term "peddler", as used in this Ordinance, shall mean any person traveling either by foot or conveyance from place to place, carrying goods, wares or merchandise, and offering the same for sale, or making sales and delivering articles to purchasers, or offering to provide services either immediately or in the future. Peddler also includes the driver of any conveyance used for or associated with peddling.

The term "transient merchant", as used in this Ordinance, shall mean any person who engages in the temporary business of the retail sale and delivery of goods, wares or merchandise within the Township, and who, for the purpose of conducting such business, uses or occupies any lot, premises, building, room or structure, provided however that such definition shall not include merchants having regularly established places of business within the Township if they are operating from their established place of business, persons making sales at any annual fair, street fair, festival, annual celebration or observance, or regularly employed route salespeople.

Section 3 PERMIT REQUIRED

Except as otherwise provided in this Ordinance, it shall be unlawful for any solicitor, peddler or transient merchant whether a person, firm or corporation to solicit, peddle or engage in business within Alpine Township without first having secured a permit to conduct such business from the Township. The agents or other representatives of a permittee doing business in the Township shall be responsible for compliance with this Ordinance by their principals and by the businesses they represent.

Section 4 EXEMPTIONS FROM PERMIT

- (1) Any person under 18 years of age, when engaged in soliciting or selling on foot under the direct supervision of a school or a recognized charitable or religious organization, when such soliciting is solely for the benefit of their respective school, classes, activity groups or athletic teams.
- (2) Members of churches, synagogues, mosques and other religious organizations when such soliciting is solely for the benefit of the respective religious organization.
- (3) Persons or their agents engaged in farming that are selling or offering for sale agricultural products grown and harvested on their own farmlands, if such activity is otherwise in compliance with Township ordinances.
- (4) Persons or their agents who display and sell used household goods at their own dwelling (garage/yard sales) if such activity is in compliance with the Township Zoning Ordinance.
- (5) Persons soliciting at private homes for the purpose of soliciting or obtaining orders for the sale of goods or merchandise, if such persons are on the premises of such homes because of prior invitation by the owner or resident.
- (6) Any person who is exempt from such license under the terms of state or federal law. These persons shall remain subject to the other provisions of this Ordinance except as to those provisions which may be preempted by state or federal law.
- (7) A person soliciting exclusively to canvass or petition for a public official, political candidate, public policy or initiative being promoted for purposes of public referendum, initiative, or election, or a person canvassing solely for the limited purpose of distributing religious, political or other noncommercial information.

Section 5 PERMIT APPLICATION AND FEES

- (1) Application for a permit for a solicitor, peddler or transient merchant shall be made to the Alpine Township Zoning Administrator. The application shall be in the form prescribed by the Zoning Administrator and shall include the following:
 - (a) The name, address and telephone number of the applicant, and business if different than the applicant, to include both local information and permanent information, if different.
 - (b) The name, address and telephone number for each person, agent and independent contractor who shall be operating as a solicitor, peddler or transient merchant.
 - (c) A description of the nature of the business and the goods or services to be offered.
 - (d) The period of time during which the proposed soliciting or sales is proposed to occur.
 - (e) The hours of the day and the days of the week during which the applicant and all employees, agents and independent contractors will be engaging in the proposed soliciting, peddling or other sales activities.
 - (f) If the applicant will be soliciting on behalf of an employer, the application shall be accompanied by a letter from the employer stating authorization for the employee to carry out such business on the employer's behalf, and also provide the employers federal taxpayer identification number and state employer identification number.
 - (g) If motor vehicles are to be used in the proposed activity, the applicant shall provide a complete description for each vehicle, their respective license plate numbers and proof of valid insurance for each.
 - (h) A recent photograph clearly showing the head and shoulders shall be provided for each person, agent or independent contractor who shall be engaging in the proposed soliciting, peddling or sales activity.
 - (i) The applicant shall provide a statement as to whether any person, agent or independent contractor who will be engaging in the proposed soliciting, peddling or sales activity has been convicted of any crime, misdemeanor, or violation of any municipal ordinance other than traffic offenses. The statement shall describe each offense and the penalty assessed.
 - (j) If the applicant proposes to handle or sell any food or other item for human consumption, the applicant shall provide proof of any required

health permit issued by the Kent County Health Department or Michigan Department of Agriculture.

- (k) The applicant shall provide the address of the place at which any proposed transient merchant sales are to be conducted. If the property owner is different than the transient merchant, a letter of permission from the property owner shall be provided.
- (l) Such other information as the Zoning Administrator may reasonably determine is necessary to verify the character and nature of the proposed soliciting, peddling or other sales activity.
- (2) A non-refundable permit fee of one hundred dollars (\$100.00) and a fee of twenty five dollars (\$25.00) per person proposed to be engaged in soliciting, peddling or other sales activity shall accompany the application.
- (3) A permit issued under the terms of this Ordinance shall be valid for no longer than 90 days from the date of issue. No permit shall be renewable.
- (4) No same solicitor, peddler, transient merchant, firm or corporation shall be issued more than two (2) permits in any same calendar year. Each permit shall be separate and require its own application and fees.
- (5) Each permit shall allow up to a maximum of four (4) persons to engage in soliciting, peddling or other sales activity provided all the application requirements of this Ordinance for each person has been met.

Section 6 REVIEW OF APPLICATION, APPROVAL/DENIAL AND ISSUANCE

- (1) Upon receipt of an application, the Zoning Administrator shall determine whether all requirements of the application have been submitted. If any required information or supplements have not been included, the Zoning Administrator shall notify the applicant of the same in writing and require correction before further review.
- (2) If the Zoning Administrator determines that all required contents of the application have been submitted and the application fee has been paid, the Zoning Administrator shall make an investigation of the applicant, the applicant's business and other matters as the Zoning Administrator deems necessary for the protection of the public with respect to soliciting, peddling and any other sales activity governed by this Ordinance.
- (3) If as a result of such investigation, the Zoning Administrator determines that the applicant should not be issued a permit by reasons of noncompliance with the requirements of this chapter; misleading or false information on the application; prior history or conduct which would be detrimental to the health, safety and

welfare of the citizens of the Township or for other reasons the Zoning Administrator determines necessary for the protection of the public consistent with the purposes of this Ordinance, the applicant shall be notified in writing that the permit request has been denied and the reasons for such denial.

- (4) If as a result of such investigation the applicant and application are found to be satisfactory for purposes of issuing a permit under the provisions of this chapter, such approval shall be endorsed on the application by the Zoning Administrator. Permits issued shall be subject to all terms and conditions contained in this Ordinance. The Zoning Administrator shall then prepare the permit on a prescribed form and forward it to the applicant.
- (5) Upon issuance of a permit, each person actively soliciting, peddling or engaging in sales activity shall have a copy of the endorsed permit in their possession and readily available for proof.

Section 7 REVOCATION OF PERMIT

- (1) The Zoning Administrator may revoke a permit for any of the following causes:
 - (a) Fraud, misrepresentation or false statement contained in the permit application.
 - (b) Fraud, misrepresentation or false statements made in the course of soliciting, peddling or other sales activities.
 - (c) Any violation of the terms of the permit or this Ordinance.
 - (d) Conducting the business of soliciting, peddling or transient merchant sales in such a manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public.
 - (e) Remaining in a private residence or on the premises thereof after the owner or occupant has requested such person to leave.
 - (f) Going in and upon the premises of a private residence or business where the owner or occupant has displayed a “no soliciting”, “no peddling”, “no sales” or “no trespassing” signs.
 - (g) Soliciting, peddling or conducting a transient merchant business outside permitted days or hours as provided for in this Ordinance.
 - (h) There is reasonable evidence that the applicant, employee, agent or independent contractor thereof has a prior criminal conviction, permit revocation or has engaged in, aided, abetted, permitted or assisted in the

commission of a violation of any law, ordinance or any provision of this Ordinance.

Section 8 APPEAL FROM DENIAL OF APPLICATION OR REVOCATON

- (1) Any person, firm or corporation aggrieved by the action of the Zoning Administrator in the application for a permit or revocation of a permit may appeal to the Alpine Township Board.
- (2) Such appeal shall be commenced by filing the appeal in writing with the Township Board within 14 days after notice of the denial or revocation.
- (3) A notice of the hearing before the Township Board shall be served by regular mail to the last known address of the applicant or permit holder at least 10 days prior to the date of the hearing.
- (4) At the hearing the Township Board shall consider comments made by the applicant and any written materials submitted. If the applicant fails to appear at the time of the hearing the denial of the application or revocation of the permit by Zoning Administrator shall stand.
- (5) The decision by the Board shall be made by majority vote of the members present and voting. The decision and the reasons therefore shall be stated in the minutes of the meeting or other writing. The decision of the Board on the appeal shall be final and conclusive.

Section 9 HOURS AND DAYS OF SOLICITATION OR SALES ACTIVITY

No person shall travel from place to place, street to street or door to door, within the boundaries of Alpine Township, for the purposes of soliciting, peddling or other sales activity except; Monday through Saturday between the hours of 9:00 a.m. to 8:00 p.m., without an appointment.

Section 10 CONDUCT BY SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS

- (1) No solicitor, peddler or transient merchant shall enter a dwelling or place of business under false pretenses or remain upon the premises of a private residence or place of business after the owner or occupant has requested the solicitor, peddler or transient merchant to leave.
- (2) No solicitor, peddler or transient merchant shall call upon, without an appointment, at any dwelling or place of business where there is a sign displayed saying; "no soliciting", "no peddling", "no salesman" or "no trespassing".

- (3) No solicitor, peddler or transient merchant shall, while conducting their business, obstruct any street, alley, sidewalk or driveway.
- (4) No solicitor, peddler or transient merchant shall operate or maintain any stand, structure, building or vehicle on or near to any public right-of-way for the service of customers or for the transaction of business in such a manner that requires customers to stand, occupy or congregate within the limits of the public right-of-way.
- (5) No solicitor, peddler or transient merchant engaged in their business shall, while in any public place, street, alley or park, shout or cry out his goods or merchandise, nor blow any horn or whistle, ring any bell, or use any other similar device to attract attention of the public, nor broadcast or play any sound, including a radio or sound amplifying system, at a sufficient sound level which could be determined a nuisance.
- (6) No solicitor, peddler or transient merchant shall transfer or assign a permit to any other person.

Section 11 PENALTIES

- (1) Any person, firm or corporation who violates any provision of this Ordinance shall be responsible for a civil infraction subject to a civil fine as listed.
 - (a) 1st offense not less than \$100.00
 - (b) 2nd offense not less than \$250.00
 - (c) 3rd and subsequent offenses not less than \$500.00
- (2) Each day that an offense continues to occur shall constitute a separate offense and be subject to the repeat offense civil fines defined in section 11(1)(b) and 11(1)(c).

Section 12 SEVERABILITY

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, section or clause is found to be unlawful by a court of competent jurisdiction the remainder of the Ordinance shall not be affected.

Section 13 REPEAL

Alpine Township Ordinance No. 85-5, *An Ordinance to Provide for the Licensing of Solicitors within the Charter Township of Alpine* and Alpine Township Ordinance No. 96-14, which modified Ordinance No. 85-5, are hereby repealed in their entirety as of the effective date of this Ordinance. Additionally, all other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 14 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following its publication in a newspaper of general circulation in accordance with State law.

At a regular meeting held on Monday, April 21, 2008, a motion was offered by Stefens, with support from May to adopt Ordinance No. 08-02. The motion carried as follows in a roll call vote:

AYES: M. Brechting, Cordes, May, Steffens, Wahlfield, and Wallace.

NAYES: None.

ABSENT: J. Brechting

ORDINANCE NO. 08-02 WAS DECLARED ADOPTED

Marta Brechting, 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, April 21, 2008, and that public notice of that meeting was given pursuant to and in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended.

Jean Wahlfield, Clerk