

ALPINE TOWNSHIP
KENT COUNTY, MICHIGAN
ORDINANCE NO. 98-1

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.

NON-RESTRICTED AREAS - Non-platted, less densely populated areas, and those not listed under 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.

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

RECREATIONAL FIRE - An open fire kindled on the ground, such as a "bonfire," campfire, or fire used for an entertainment or amusement event.

RESTRICTED AREAS - Populated areas within the Township where burning is limited to unusual or emergency situations. The Restricted Areas are:

- 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 developments and areas within 200 feet of residential plats.

Section 3. Annual Sign-Ups

A Person who lives or leases property in a non-restricted area 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 OR LESSEE PERMISSION TO BURN. Requests to burn can be made as outlined 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.

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 Chief is required in order to validate a permit so that proper written confirmation of every authorized burning permit can be issued to the County.

DENIAL OF A BURNING PERMIT

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.

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 Chiefs entry onto the person's property to ensure compliance with any permit conditions.

The Fire Chief 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, or to cite the person responsible for a violation of this Ordinance.

Section 6. Revocation of a Burning Permit

The Fire Chief 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 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 may order the extinguishment of or cause to be extinguished any open fire, whether permitted or un-permitted, fire in a covered barrel, outdoor cooking fire, recreational fire, fire in an unapproved burning device, or other burning which he 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 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.

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 without his express consent.

Section 7. Burning in Restricted Areas

It shall be a violation of this Ordinance for any person to burn or allow to burn any flammable material located within the Restricted Areas of Alpine Township with the following exceptions authorized only by the Fire Chief:

- a) No buildings are within 200 ft. of the burning site.
- b) Wind direction is away from densely populated areas.
- c) Conditions are such that the burning will not be a nuisance or hazard to public health and safety.
- d) Burning will be limited to one day.

Burning is allowed in restricted areas without consent of the Fire Chief if the burning will be in an “approved incinerator device” or “Outdoor cooking fires” as defined in Section 2.

Section 8. Burning in Areas in the Non-Restricted Areas.

It shall be a violation of this Ordinance for any person to burn any flammable material in Alpine Township outside the Restricted Area 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.

Burning is also allowed in non-restricted areas without consent of the Fire Chief if the burning is within a covered barrel, which is a minimum of 100 feet from a neighboring residence and/or lot line and no later than 9 P.M. Burning in a barrel is also subject to the provisions of Section 6.

Section 9. Burning Materials Imported into Alpine Township

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

Section 10. 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, tree stumps, and pesticides.

Section 11. Burning at Construction Sites

Burning of construction debris (to include tree stumps and fallen trees) is prohibited without written authorization by the Fire Chief and/or Deputy Chief. Authorized designees of the Fire Chief are NOT allowed to issue these permits.

Section 12. 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 punished by a civil fine of fifty dollars (\$50.00) for a first violation, one hundred fifty dollars (\$150.00) for a second violation, and three hundred (\$300.00) to one thousand dollars (\$1,000.00) for a third or any subsequent violation based on the charges referenced in Section

13 of this Ordinance, 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 and 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.

Section 13. 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 persons 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 Sheriffs 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 Sheriffs 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 14. 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, may cause complaint to be made for violation of the provisions of this Ordinance.

Section 15. Repeal of Ordinances and Severability

This Ordinance supercedes Ordinance #77-214 and its amendments.

The phrases, sentences, sections, and any portion of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforce ability of the remainder of this Ordinance.

Section 16. Effective Date

This Ordinance shall become effective 30 days after publication.

At a regular meeting of the Alpine Township Board of Trustees on Monday, February 16, 1998, a public hearing was held to consider the foregoing Ordinance. Chase offered a motion, with support from Roth, to approve the Ordinance, which was approved in a roll call vote as follows:

AYE: Brechting, Chase, Heinbeck, Johnson, Roth, Schweitzer, and Steffens

NAY: None
ABSENT: None

ORDINANCE NO. 98-1 WAS DECLARED ADOPTED.

Sharon Steffens, Supervisor

Cynthia Heinbeck, Clerk

I, Cynthia Heinbeck, the duly elected Clerk of Alpine Township, hereby certify that the foregoing is a true and accurate copy of an Ordinance adopted by the Alpine Township Board of Trustees at a regular meeting held on Monday, February 16, 1998.

Cynthia Heinbeck, Clerk

Public Hearing:	February 16, 1998
First Reading:	January 19, 1998
Approval/Final Reading:	February 16, 1998
Publication:	February 26, 1998
Effective Date:	March 30, 1998