

CHARTER TOWNSHIP OF ALPINE
FILL ORDINANCE
(ORD. NO. 93-01, 04/08/93)

(See also: Application and Checklist for Fill Permit)

SECTION 1. PURPOSE AND SCOPE

A. The purpose of this Ordinance is:

1. To regulate the filling and stockpiling activities in order to **avoid or mitigate negative impacts of changes** to existing drainage patterns.
2. To monitor the amount and type of material brought into the Township or transferred between sites within the Township.
3. To prevent the creation of hazardous conditions or nuisances from filling or stockpiling activities.
4. **To prevent conflict with the installation of future underground public utilities.**

B. This Ordinance is not intended to apply to such businesses such as landscaping, nurseries, excavating or others that regularly stockpile fill material as defined herein, on the same property as the business.

C. The Ordinance is not intended to apply to activities regulated by P.A. 641 of 1978 as amended, the Solid Waste Management Act.

SECTION 2. AUTHORITY

The Alpine Township Board pursuant to Act 359 of the Public Acts of 1947 as amended and Chapter 16 of the Revised State Statutes of 1846 as amended, hereby authorizes the Alpine Township Planning Commission and Zoning Administrator to carry out the provisions of this Ordinance as set forth herein.

SECTION 3. DEFINITIONS

For purposes of this Ordinance, the following definitions shall apply:

- A. Acceptable Organic Materials-- Wood chips, shredded or chopped bark, sawdust, or similar material.
- B. Earth Materials-- Soil, topsoil, clay, sand, gravel, rock, stone, or other similar material.
- C. Fill Material-- Acceptable organic or earth material as defined herein which is free from cinders, ashes, refuse, soft or plastic clays, vegetable or other similar organic matter such as food waste, trees, branches, or stumps. Fill material shall be capable of being compacted. Up to ten (10) percent of fill material may be cobbles (small boulders), bricks, concrete or asphalt pieces nor more than **twenty-four (24)** inches in size in any direction.
- D. Concrete slabs, asphalt chunks, metal bars, or similar material larger than **twenty four (24)** inches in size in any direction are prohibited as fill material.

SECTION 4. PERMIT REQUIRED AND EXCEPTIONS

A.

1. A permit shall be required for any activity that involves fill materials as defined herein being brought into a property from an off-site location. This requirement shall also apply to all properties where filling or stockpiling is occurring or has occurred as of the date of adoption of this Ordinance **except for businesses such as landscaping, nurseries, excavating or others which stockpile fill material on the same property as the business.** The owners of such properties shall apply for a permit under this Ordinance within thirty (30) days of the effective date of this Ordinance or such fill activities shall be deemed a violation of this Ordinance.

2. Activities permitted under this Ordinance may also be subject to a Soil Erosion Control Permit which is under the jurisdiction of the Kent County Road Commission.

B. A permit is not required for the following fill activities:

1. When the total amount of fill material to be brought onto a property is less than **five hundred (500)** cubic yards.

2. When the fill material to be brought onto a property has already been authorized under a Special Use Permit for the removal of natural resources as required by the Alpine Charter Township Zoning Ordinance.

3. When the fill material is to be brought onto a site for a public improvement project **which has been duly authorized by the appropriate public agency or agencies.** For the purposes of this Ordinance, a public improvement project shall be defined as a project funded with federal, state, and/ or local monies such as roads, utilities, parks, public buildings, or similar projects.

4. The construction of a single or two family dwelling unit **for which a permit has been issued.**

5. The construction of any use which is subject to site plan review in accordance with the requirements of the Alpine Township Zoning Ordinance.

6. Ground restoration activities for public utility construction.

SECTION 5. APPLICATION AND REVIEW PROCEDURES.

A. Application for a Fill Permit shall be filed with the Zoning Administrator, who shall provide the application form. The application shall include a fee as determined by resolution of the Alpine Township Board from time to time. In those instances where there will be only one (1) operator stockpiling or filling, application for a Fill Permit may be made by the

operator on behalf of the land owner or by the land owner.

When more than one (1) operator will be stockpiling, or filling in connection with a project, then application for a Fill Permit shall be made by the land owner.

B. The Township Zoning Administrator shall review all applications for fill activities involving between **500 and 5000** cubic yards of fill material. The Zoning Administrator may, however, refer any such application to the Planning Commission for review and disposition.

C. The Township Planning Commission shall review all applications for fill activities involving over **5000** cubic yards of fill material.

SECTION 6. REVIEW BY ZONING ADMINISTRATOR

A. An application for a fill permit which is initially to be reviewed by the Zoning Administrator shall contain the following information:

1. The address and signature of the property owner and the business address of the person who will conduct the filling operation;
2. Permanent parcel number of the property where the fill activity will take place;
3. The nature of the proposed project, the type of fill material to be brought onto the site, an estimate of the number of cubic yards of materials involved, and the depth and composition of proposed fill materials;
4. A statement of the manner in which the project work is to be completed, the kind of equipment proposed to be used, and estimated frequency of vehicle trips;
5. The proposed route which the applicant proposes to use over the public streets and over private property in transporting fill materials;
6. The time within which the project is to be commenced after the granting of the permit and the time when it is to be completed;
7. The measures that will be taken by the applicant to control noise, vibration, dust and traffic, and the measures that will be provided during the project to prevent soil, dust, or other materials from being deposited on adjoining lands, public or private streets or in waterways through erosion by wind or water;
8. A description of any traffic control devices, public facilities, or public services which will be required for the proposed operation and a statement indicating how these will be provided;
9. Any measures which the applicant proposes to take to insure public safety especially the prevention of trespass by children or recreational vehicles on land

where filling or stockpiling activities may create hazardous situations.

10. A drawing of the property which shall contain the following information as deemed necessary by the Zoning Administrator:

- (a) North arrow,
- (b) The dimensions of the lot and acreage,
- (c) Dimensions of area to be filled and proposed phasing and method of stabilization for each phase,
- (d) The location of all roads bordering or on the property,
- (e) The location of any power or gas lines on the property,
- (f) The location of any easements on the property,
- (g) Existing drainage patterns on the site,
- (h) Natural features, such as significant vegetation, bodies of water, wetlands, and streams on the site as well as within 500 feet of the site. **The presence of these water related items may also require a Soil Erosion and Sedimentation Permit from the Kent County Road Commission, as well as an Inland Lake and Stream Permit from the Michigan Department of Natural Resources,**
- (i) The location, size and use of buildings, structures, or other improvements on the land to which the Permit is to apply, as well as any buildings, structures, or other improvements within one hundred (100) feet of the property to which the Permit is to apply,
- (j) Ingress and egress to the property.

11. Additional information as the Zoning Administrator may reasonably require to assist in reviewing the application.

B. The Zoning Administrator shall review the information required for the application and other applicable information in accordance with the Standards for Permit Approval contained herein.

If, in the opinion of the Zoning Administrator, the proposed operation is in compliance with the requirements of this Ordinance, a Fill Permit shall be issued to the applicant.

If the proposed operation does not meet the requirements of this Ordinance, the Zoning Administrator shall so notify the applicant in writing stating the reasons for denial of the Permit.

The Zoning Administrator shall render a decision within **five (5) working days** of the date

of receipt of the completed application.

C.

1. Any person or party **who is adversely affected** by a decision of the Zoning Administrator under this Ordinance may appeal such decision to the full Planning Commission. Such appeal shall be filed with the Township Clerk within ten (10) days of the date of a final decision on the permit by the Zoning Administrator. The Clerk shall schedule the appeal for the next regular meeting of the Planning Commission. The Planning Commission shall affirm, reverse, or modify the decision of the Zoning Administrator and shall state its findings in writing to the applicant.

2. Further appeal shall be to the Township Board within ten (10) days of a decision by the Planning Commission in the same manner as described above. The Board shall affirm, reverse, or modify the action of the Planning Commission and shall state its findings in writing to the applicant.

SECTION 7. REVIEW BY THE PLANNING COMMISSION

A. An application for a Fill Permit which is initially to be reviewed by the Planning Commission shall be processed in the following manner:

1. The application shall be filed with the Zoning Administrator who shall review the application for compliance with the submission requirements of this Section. The Applicant shall provide ten (10) copies of the site drawing as required herein.

2. If the application contains sufficient information, the Zoning Administrator shall place the application on the next appropriate Planning Commission agenda for a public hearing. The Zoning Administrator shall follow the public hearing notification procedures for Special Use Permits as contained within the Alpine Township Zoning Ordinance. Such procedures are hereby incorporated by reference.

3. The Zoning Administrator shall forward all information submitted with the application to the Planning Commission.

4. The Planning Commission shall hold a public hearing on the application and shall render a decision on the application based on the information presented to it.

5. The Commission may approve, deny, modify, or approve with conditions, the application.

6. If the proposed operation is in compliance with the requirements of this Ordinance, the Commission shall approve the application and instruct the Zoning Administrator to issue a Fill Permit.

If the proposed operation fails to meet the requirements of this Ordinance, the Commission Chair shall notify the applicant in writing of the reasons for denial.

7. Any person or party **who is adversely affected** by a decision of the Planning Commission may appeal such decision to the Board of Trustees. Such appeal shall be filed with the Township Clerk within ten (10) days of the date of the Planning Commission's decision. The Clerk shall schedule the appeal for the next regular meeting of the Board. The Township Board shall affirm, reverse, or modify the decision of the Planning Commission and shall state its findings in writing to the applicant.

B. An application for a Fill Permit under this Section shall contain the following information:

1. As required by Section 6.A (1) - (9) and (11),
2. A drawing of the property at a scale not to exceed one inch equals two hundred feet, which must illustrate the following:
 - (a) As required by Section 6.A. (10),
 - (b) Existing and proposed contours at four (4) feet intervals (minimum) on the site and extending one hundred (100) feet beyond the boundaries of the site. Such contours shall be certified by a registered engineer, surveyor, or landscape architect,
 - (c) Ingress and egress to the site, and any driveways or roads within 125 feet of the driveway to the site.

SECTION 8. STANDARDS FOR APPROVAL

The following standards shall serve as the basis for decisions involving fill permits. The Zoning Administrator or Planning Commission, as the case may be, shall find:

- A. That the proposed fill activity shall not interfere with existing drainage patterns so as to cause a negative impact on adjacent properties.
- B. That the operation shall not result in hazardous traffic situations from vehicles entering or leaving the site.
- C. That the proposed method of fill will result in the filled area being readied for building placement or other site improvements without the need for excessive or expensive measures such as removing the fill to permit site development.
- D. That the proposed operation will be carried out in a manner that will not be detrimental to nearby persons or property by reason of excessive production of traffic, noise, dust, fumes, or odor.

E. That the fill material is not hazardous, toxic or otherwise a threat to the public health, safety, and general welfare, and complies with the type of fill permitted by this Ordinance.

F. That the restored elevation of the land will be compatible with elevations on adjacent properties.

SECTION 9. RESTRICTIONS GOVERNING PERMIT HOLDER

Every person to whom any permit is granted under these regulations shall comply with the following:

A. The topsoil for the area to be filled shall first be removed before any fill is brought onto the site. If stockpiled on site, the topsoil shall be no higher than twenty (20) feet and comply with Item G herein.

B. All vehicles transporting fill materials from or to a project over public streets in the Township shall follow the truck route approved with the application.

C. The restored elevation of the land shall be compatible with the surrounding area and the land shall be left in a condition suitable for subsequent development for uses permitted in the zoning district in which the land is zoned by the Alpine Township Zoning Ordinance.

D. If, at the time the permit is granted, the Zoning Administrator shall determine that any project will present a dangerous condition if left open and unfenced, then such project shall be enclosed by chain link, wire mesh, or snow fence completely surrounding the portion of the land where the project extends; said fence to be not less than four (4) feet in height and to be complete with gates, such gates to be kept locked when operations are not being carried on. Barbed wire shall not be used as part of any such fence.

E. Any fill materials that may be spilled on any public street or public place from any vehicle transporting materials from the project site shall be immediately removed without damage to the public street or public place at the expense of the permit holder.

F. Any on-site roads used for the purpose of ingress and egress to the site which are located within three hundred (300) feet of any occupied residential, commercial, or industrial establishment **must be treated to reduce airborne dust** by hand topping with concrete, asphalt, chemical treatment, or such other means as may be proposed by the applicant and approved by the Zoning Administrator or Planning Commission at the time a permit is granted.

G. The slopes of the banks of the materials dumped, stockpiled, or used as fill shall not exceed two (2) feet of run to one (1) foot of rise **and shall be compatible with adjoining grades and land uses.** However, the Zoning Administrator or Planning Commission may, at the time a permit is granted, prescribe more lenient or stricter requirements.

H. Filling activities shall not interfere with or change existing surface water drainage **so as to be detrimental to nearby properties.**

I. As phases of the fill operation are completed, they shall be stabilized by ground cover by the applicant to prevent erosion by wind and water. The Zoning Administrator shall approve the stabilization plan so that continuing fill activities will avoid newly stabilized areas.

J. The Planning Commission or Zoning Administrator may require additional performance standards or stricter performance standards than are provided herein where, because of peculiar conditions, such standards are necessary to achieve the purposes of these regulations. In addition, the Planning Commission may also attach and impose conditions, restrictions, or requirements as it shall determine are necessary to achieve the purposes of these regulations. Violations of any performance standard, condition, restriction, or requirements imposed by the Planning Commission shall be deemed a violation of these regulations.

K. Conditions imposed by the Commission shall remain unchanged unless a change is mutually agreed to by the applicant and the Commission in writing.

L. The project may be inspected by the Zoning Administrator as deemed necessary.

SECTION 10. PROJECT COMPLETION

In order to insure that fill activities authorized by this Ordinance are carried out to completion, the following procedures shall be followed:

A. Upon completion of a project or expiration of a Fill Permit, **the applicant shall contact the Zoning Administrator to arrange for an inspection of the site.**

If the requirements have not been met, the Zoning Administrator shall notify the applicant in writing of the permit deficiencies and shall pursue permit compliance as authorized by this Ordinance.

B. For those permits approved by the Planning Commission, the above procedure shall be followed. In addition to this, the applicant shall retain the services of a registered engineer to certify that the final elevations of the fill activity comply with those illustrated on the approved site drawing.

SECTION 11. DEPOSIT OF BOND AND CERTIFICATE OF INSURANCE

The Planning Commission or Zoning Administrator may require as a condition to the granting of a permit that the applicant file or deposit with the Township Treasurer performance securities in the form of a performance bond, cash, a certified or cashier's check payable to the Township, or an irrevocable bank letter of credit, in form satisfactory to the Township Attorney.

The Planning Commission or Zoning Administrator shall, in establishing the amount of the surety, consider the scale of the operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs, and other reasonable expenses to guarantee that the applicant will fully and faithfully perform all applicable performance standards, conditions, restrictions, and requirements of these regulations. The Township Engineer may be consulted in determining the amount of the surety.

The Planning Commission may also require, as a condition to the granting of any such permit, that the

applicant deposit a certificate of an indemnity company licensed to do business in the State of Michigan, in an amount reasonably relevant to the proposed work to be done as specified by the Planning Commission, insuring the Township against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any person acting on his behalf, in carrying on any work connected directly or indirectly with the issuance of said permit.

SECTION 12. EXPIRATION OF PERMIT

A permit granted under this Ordinance shall be valid for one year, at which time it shall automatically expire. However, the Planning Commission **or Zoning Administrator** may grant up to a three-year permit **with an option for an additional three-year permit.**

The expired permit may be reviewed by the Planning Commission or Zoning Administrator as the case may be, for reinstatement and/or continuance without payment of a permit filing fee, provided that the failure to complete the project within the permitted time is caused by access problems, weather conditions, **lack of proper fill materials**, or other conditions or circumstances beyond the control of the applicant.

SECTION 13. REVOCATIONS AND SUSPENSION OF PERMIT.

Any permit granted under these regulations may be revoked and/or suspended for failure to comply with any of the performance standards, conditions, restrictions or requirements attached and imposed as part of the issuance of a permit. Revocation of such permit shall be accomplished through a hearing held before the Planning Commission after five (5) days written notice to the permit holder stating the grounds of complaint against the Permittee, stating the time and place where such hearing will be held.

SECTION 14. FINES.

Any person or organization who violates any of the provisions of these regulations shall be subject to a fine of up to Five Hundred and No Dollars (\$500.00) for each offense and/or an imprisonment not to exceed ninety (90) days.

SECTION 15. SEVERANCE CLAUSE.

This ordinance in each article, section, subsection, paragraph, subparagraph, or words shall be deemed severable, and if any portion or provision is adjudicated by a Court of competent jurisdiction to be invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.