

**WELDON TOWNSHIP  
TRANSIENT ACTIVITIES AND BUSINESS ORDINANCE**

**ORDINANCE NO.: 101315A**

AN ORDINANCE TO REGULATE TRANSIENT ACTIVITIES AND BUSINESSES; PROVIDE FOR THE PURPOSE AND FINDINGS; PROVIDE FOR DEFINITIONS OF KEY TERMS; PROVIDE FOR PERMITTING REQUIREMENTS FOR TRANSIENT ACTIVITIES AND BUSINESSES; PROVIDE FOR FEES; PROVIDE FOR INSPECTION REQUIREMENT; PROVIDE FOR THE EXPIRATION OF PERMITS; PROVIDE THE SUSPENSION OF PERMITS; PROVIDE FOR THE REVOCATION OF PERMITS; PROVIDE FOR COORDINATION WITH ZONING STANDARDS; PROVIDE FOR STANDARDS OF OPERATION; PROVIDE FOR ADDITIONAL REGULATIONS PERTAINING TO CERTAIN TYPES OF TRANSIENT ACTIVITIES AND BUSINESSES; PROVIDE FOR THE PROHIBITION OF CERTAIN CONDUCT; PROVIDE FOR THE PENALTY FOR VIOLATION; PROVIDE AN APPEALS BOARD; PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES AND THE SAVINGS OF ALL PENDING MATTERS; PROVIDE FOR THE EFFECTIVE DATE HEREOF.

**THE TOWNSHIP OF WELDON ORDAINS:**

**Section 1. TITLE AND PURPOSE**

- 1.1 A. This ordinance shall be known as the Weldon Township Transient Activities and Business Ordinance.
- B. It is the purpose of this Ordinance to regulate Transient Activities in order to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious effects of Transient Activities within the Township while allowing and encouraging appropriate social, community and business activities that strengthen the community and its economy.
- C. Weldon Township further states in support of the purpose behind the ordinance the following:
- Transient Activities, whether sponsored by private individuals, community organizations, churches or businesses, can provide important benefits to the residents of the community. Such benefits may include services, entertainment, community-building, as well as products and services.
- i. Transient Activities can generate such negative impacts as increased parking demand, public sanitation requirements, noise control, traffic management, refuse removal, heightened public safety and/or demand for other public services.

- ii. By their very transitory nature, Transient Activities can be a short-lived disruption of normal community routine, but may offer benefits that outweigh potential negative impacts, if those impacts are properly mitigated.
- iii. Such negative effects constitute a harm which the Township has a substantial government interest in minimizing, preventing and/or abating while establishing an appropriate regulatory structure to encourage and enable Transient Activities to serve the community.

## Section 2. DEFINITIONS

- 2.1 A. **“ESTABLISH”** means and includes any of the following:
- i. The opening or commencement of Transient Activities;
  - ii. The conversion of an existing business to serve, provide or offer Transient Activities as defined herein,
  - iii. The addition of Transient Activities as defined herein to any other existing Business, organization or institution; or
  - iv. The relocation of Transient Activities.
- B. **“PERSON”** means a person in whose name a Permit to operate a Transient Activity has been issued, as well as the individual listed as an applicant on the application for a permit.
- C. **“PERMITTEE”** means an individual, firm, corporation, association, partnership, Limited Liability Company or other legal entity.
- D. **“RUMMAGE SALE or FLEA MARKET”** shall mean an event or establishment engaged in the sale of used or surplus merchandise extending for more than seven (7) days in any sixty (60) day period.
- E. **“TRANSIENT ACTIVITY”** means any outdoor activity that is temporary, intermittent or recurrent in nature and which offers products, goods or services, including entertainment services; and which depends on attracting the attention and patronage of the public and businesses; whether or not conducted for fees or profit, or without fees; and which are not so commonly associated with any other use or activity as to be considered a permanent accessory.
- Rummage sales or flea markets, as defined herein.
  - Art, music, ethnic, food, or other festivals providing lawful entertainment,
  - Carnivals, fairs, circuses or similar events,

- Sporting events and competitions,
- Outdoor excursions and/or product demonstrations,
- Peddling, hawking, and door-to-door soliciting, other than the activities excluded from regulation as provided in this section below,
- Temporary stands offering services, goods, food products or entertainment.

PROVIDED, HOWEVER, that, for the purposes of this ordinance, the following activities or businesses **shall not** be considered a Transient Activity:

- Farm stands or home garden produce stands,
- Christmas trees and greenery sales or similar seasonal sales activities operated by an existing business on the property of that business for periods of not more than thirty (30) days,
- Door-to-door solicitations sponsored by school or community organizations and lasting no more than ten days,
- An individual garage sale lasting no more than seven (7) days, or if recurring, conducted no more frequently than one (1) time in any sixty (60) day period in accordance with the Zoning Ordinance and completely on the property of the party selling private merchandise,
- Social gatherings, family reunions, receptions, picnics, gatherings and related events lasting no more than 48 hours if all events are conducted on private property or a public park with any permits required for the use of facilities and/or pavilions from the Township,
- Sporting events or competitions held at established athletic facilities such as stadiums, arenas, playfields and/or educational sponsored or related activities.

### **Section 3. PERMIT APPLICATION AND REQUIREMENT**

- 3.1 A. An application for a permit to conduct Transient Activities shall be made not less than thirty (30) days prior to the proposed Transient Activity, by a Person on a form provided by the Township. A Transient Activities permit shall only be issued to a Person as defined in this Ordinance.
- B. All applicants must be qualified according to the provisions of this Ordinance. An application shall be considered complete when it contains the information and/or items required in subsection “C” hereof.
- C. Permit. A complete application for a Transient Activities permit shall contain the following information and shall be accompanied by the following documents:
- i. The applicant’s legal name and any aliases including proof that he/she is eighteen (18) years of age; as well as residential address and telephone number.

- ii. If the applicant intends to operate the Transient Activity under a name other than that of the applicant; he or she must state the proposed name and the proposed form of business organization, such as corporation, proprietorship, partnership, DBA, or other legal entity.
- iii. Whether the applicant has ever applied for or held a previous permit under this Ordinance. If so, the application shall indicate the dates of permit and then whether any such permit was denied, suspended, revoked.
- iv. Whether the applicant holds any other permits under this Ordinance.
- v. A complete disclosure and description of the nature of the Transient Activity the applicant intends to operate including, but not limited to:
  - a. The proposed duration,
  - b. The hours of operation,
  - c. The nature of the activity,
  - d. Description of any products or services to be provided or sold to the public,
  - e. Procedures to manage parking, traffic and circulation,
  - f. Procedure and facilities to manage sanitation,
  - g. Procedures for crowd control,
  - h. Description of any food or beverages to be sold or provided without charge including a disclosure of whether consumption of alcohol is anticipated.
- vi. The location of the proposed Transient Activity, including the street address, and the telephone number(s), if any. For activities, businesses or gatherings that may attract more than five (5) customers or attendees at any one time, a sketch plan of the site or facility shall be provided indicating the location of parking, sanitation, events or sales area, refuse containers and other materials or facilities. The application shall be accompanied by documentation of the status of all local or county authority approvals for sanitation, traffic control, public safety, or other approval standards.
- vii. A signed acknowledgment by the applicant that any inaccurate or erroneous information on the application form or any failure to abide by any requirements of this Ordinance including any conditions that may apply to the permit shall be grounds for the suspension and/or revocation of the Transient Activities Permit as provided in Section 9 hereof.
- viii. A certificate of liability insurance naming Weldon Township as an additional insured party, with coverage limits as determined by Township Attorney, if required by an authorized official of Weldon Township.
- ix. A Transient Activities Permit application shall be accompanied by a nonrefundable permit fee and escrow deposit as determined necessary by

Weldon Township for any professional services such as Engineering, Attorney etc..

## Section 4. ISSUANCE OF PERMIT

- 4.1 A. Issuance. Any authorized Weldon Township Official or designee shall issue a Transient Activities Permit when he/she finds:
- i. An applicant is at least eighteen (18) years of age;
  - ii. An applicant is not delinquent in payment to the Township of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to property owned by the applicant in the Township;
  - iii. An applicant has truthfully provided all information required by this Ordinance for issuance of the permit;
  - iv. An applicant and/or permittee under this ordinance has not within the preceding twelve (12) months had a Transient Activities Permit revoked.
  - v. The permit fee and/or escrow deposit has been paid and maintained as required;
  - vi. All local or county authority approvals required are complete and any such approvals or other permits have been issued and are otherwise in order.
  - vii. Based on the permit application and the representations of the applicant, there is a reasonable expectation that the proposed Transient Activity will be conducted without negative impact on the health, safety or welfare of residents or businesses.
- B. Permit Issuance and Conditions. The Permit, if granted, shall state its type, the name of the Permittee to whom it is granted, and the expiration date. Any authorized Weldon Township Official or designee shall have the authority to place reasonable conditions on the issuance of a Transient Activities Permit and on the operation of the permitted activity, provided such conditions have as their primary purpose the protection of the health, safety and welfare of the persons and property. A Transient Activities Permit shall be posted in a conspicuous place at the permitted event or, in the case of door-to-door solicitation, shall be copied and provided to, and carried on the person of, any and all solicitors participating. The Permit shall clearly state that Weldon Township, in granting the permit, does not endorse any cause or event supported by the Transient Activity.
- C. Renewal. A Transient Activities Permit shall be subject to review as required by Section 6 of this Ordinance. A Transient Activities Permit shall not be renewed if a previous Permit has been revoked or suspended pursuant to this Ordinance. The renewal of the Permit shall be subject to the payment of a renewal fee as established by the Township Board from time to time.

## Section 5. INSPECTION

- 5.1 An applicant and/or Permittee as a condition of the issuance of a permit under this Ordinance shall allow any authorized representative of Weldon Township, or the Weldon Township Nuisance Abatement Officer to inspect the site of a Transient Activity for the purpose of ensuring compliance with the regulations of this Ordinance and any conditions applicable to the permit issued under this Ordinance as well as all other applicable ordinances and regulations of Weldon Township.

## Section 6. EXPIRATION OF PERMIT

- 6.1 A. Each permit shall include a firm expiration date which shall be based on the proposed duration of the event or business activity, as evaluated by an authorized official of Weldon Township or designee.

## Section 7. REVOCACTION OF PERMIT

- 7.1 The Township shall immediately revoke a permit issued under this Ordinance if an authorized Official of Weldon Township, or the Weldon Township Nuisance Abatement Officer, determines that the Permittee has:
- A. Knowingly violated any section of this Ordinance or the conditions of a Transient Activities Permit; or
  - B. Refused to allow an inspection of the Transient Activity as authorized by this Ordinance.
  - C. Permittee has failed to abide by the requirements of any other Weldon Township Ordinance, state or local code, and/or state or federal statute.

## Section 8. TRANSFERS PROHIBITED

- 8.1 A Transient Activities Permit issued hereunder shall not be transferable from one applicant to another.

## Section 9. VIOLATIONS AND PENALTY

- 9.1 **Municipal Civil Infraction.** Any person and/or permittee who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being section 600.101-600.9939 of the Michigan Compiled Laws, and shall be subject to a fine of not more than \$500. Each day this Ordinance is violated shall be considered a separate violation.

9.2 **Enforcement Official.** The Township Supervisor, the Nuisance Abatement Officer and

the Benzie County Sheriff Department and/or Deputies are hereby designated as the authorized township officials to issue municipal civil infractions citations directing alleged violators of this Ordinance to appear in court.

9.3 **Nuisance per se.** A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

9.4 **Civil remedies.** In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township reserves the right to initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

## Section 10. **SEVERABILITY**

If any portion of this Ordinance or the application thereof, to any person or circumstances is found to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and, to this end, this Ordinance is declared to be severable.

## Section 12. **REPEAL**

All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

## Section 13. **EFFECTIVE DATE**

This Ordinance shall become effective 30 days after being published in a newspaper of general circulation within the Township.

Upon roll call vote, the following voted:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

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Ron Hitesman, Township Supervisor

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Carrie Aldrich, Township Clerk

Adopted:

Published:

Effective:

Transient activities ordinance.docx