

GUNPLAIN CHARTER TOWNSHIP

ORDINANCE NO. 154

AN ORDINANCE TO AMEND AND RESTATE THE OUTDOOR GATHERING ORDINANCE, CHAPTER 16, AS AMENDED, OF THE GUNPLAIN CHARTER TOWNSHIP CODE OF ORDINANCES.

ADOPTED: 1-3-2013
EFFECTIVE: 1-10-2013

THE TOWNSHIP OF GUNPLAIN ORDAINS:

Section 16.1 Preamble. The Township Board finds and declares that the interests of the public health, safety, and welfare of the citizens of the township requires the regulation, licensing and control of assemblies of large numbers of people in excess of those normally drawing on the health, sanitation, fire, police, transportation, utility, and other public services regularly provided in the Township.

Section 16.2 Definitions.

"Outdoor gathering," referred to in this Ordinance as "assembly," means any outdoor event attended by more than 500 attendants, including a festival, concert, public show, display, entertainment, amusement or exhibition, or similar gatherings, but does not mean:

1. An event conducted or sponsored by a governmental unit or agency on publicly owned land or property; or
2. An event conducted or sponsored by an entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, being 26 USC 501(c)(3), as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Public Act 281 of 1967, MCL 206.201; or
3. An event held entirely within a permanently enclosed and covered structure.

"Person" means any natural person, partnership, corporation, association or organization.

"Sponsor" means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

"Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

"Licensee" means any person to whom a license is issued pursuant to this Ordinance.

Section 16.3 License required. A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in Gun Plain Charter Township without a license for each such assembly.

Section 16.4 Application for License. Applicants for a license to conduct an outdoor assembly must submit a complete application to the Township clerk at least forty-five (45) days prior to the date of the proposed assembly. Each application must be accompanied by a fee of \$5000 to be held by the Township in escrow to cover all costs and expenses associated with the application review and approval process, which costs may include, but are not limited to, Township attorney fees, Township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, special meeting costs, and any reports or studies which the Township anticipates it may have done related to the application review process for the particular application.

At any point during the application review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so promptly, the Township may suspend the application review and approval process until and unless the applicant makes the required escrow deposit. If the applicant fails to replenish the escrow deposit as set forth above and the Township continues the application review and approval process, then the applicant shall pay the Township an amount equal to the costs in excess of any escrow amounts deposited by the applicant that the Township incurred in the application and review process. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded to the applicant. Each application must include at least the following:

1. The applicant's name, age, residence and mailing address. (Where the person making the application is a partnership, corporation or other association, this information must be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation must be filed, along with the names and addresses of all shareholders having financial interest greater than \$500.)
2. A statement of the kind, character, and type of proposed assembly.
3. The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, the prospective licensee must submit an affidavit from the owner indicating consent to the use of the site for the proposed assembly.
4. The date or dates and hours during which the proposed assembly is to be conducted.
5. An estimate of the number of attendants expected at the assembly for each day it is conducted, along with a detailed explanation of the evidence of admission that

will be used and of the sequential numbering or other method which will be used for accounting purposes.

6. A map or maps of the overall site of the proposed assembly.
7. A detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:
 - a. Police and fire protection,
 - b. Food and water supply and facilities,
 - c. Health and sanitation facilities,
 - d. Medical facilities and services, including emergency vehicles and equipment,
 - e. Vehicle access and parking facilities,
 - f. Camping and trailer facilities,
 - g. Lighting facilities,
 - h. Communications facilities,
 - i. Noise control and abatement,
 - j. Facilities for clean up and waste disposal, and
 - k. Insurance and bonding arrangements.

Section 16.5 Review. On receipt by the clerk, copies of the application shall be forwarded to the sheriff, the fire chief, and to other appropriate public officials as the Township Board may identify. Such officers and officials shall review and investigate matters relevant to the application and report their findings and recommendations to the Board within 20 days of receipt.

Section 16.6 Township Board approval; conditions; insurance. Within 30 days after the application is filed, the Township Board must:

- a. Issue a license,
- b. Issue a license subject to specified conditions, or
- c. Deny a license. The Township Board may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, notice

must be mailed to the applicant by certified mail within five days after the Board's decision. In the case of denial, the reasons for the denial must be stated in the notice.

Section 16.7 Denial. A license may be denied if:

1. The applicant fails to comply with any or all requirements of this Ordinance, or with any or all conditions imposed by the license, or with any other applicable provision of state or local law; or,
2. The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

Section 16.8 License; posting on premises. A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license, and any other conditions imposed by the Township. A license must be posted in a conspicuous place on the premises of the assembly and cannot be transferred to any other person or location.

Section 16.9 Minimum requirements. All licenses will, at a minimum, require the following:

Security Personnel—The licensee is responsible for employing such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and/or the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the sheriff is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.

Water Supply—The licensee shall provide sufficient potable water for drinking, cooking, washing and other water-using facilities for peak demand conditions.

Restroom Facilities—The licensee shall provide sufficient toilet facilities or portable toilets, hand washing stations, and drinking water facilities. The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

<u>Facilities</u>	<u>Male</u>	<u>Female</u>
Toilets	1:300	1:200
Urinals	1:100	1:100
Lavatories	1:200	1:200
Drinking Fountains	1:500	1:500
Taps or Faucets	1:500	1:500

Where the licensee allows attendants to remain on the premises between the hours of 2 a.m. and 6 a.m., the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

<u>Facilities</u>	<u>Male</u>	<u>Female</u>
Shower Heads	1:100	1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the county public health department.

Food Service—If food service is made available on the premises, it shall be delivered only through concessions operated in accordance with the temporary food establishment provisions of the Michigan Food Law of 2000, MCL 289.1101, *et seq.*; applicable rules and regulations, including R 285.558, *et seq.*, Temporary Food Establishments; and any other applicable provision of state or local law. If the assembly is distant from food service establishments open to the public, the licensee must make such food services available on the premises as will adequately feed the attendants.

Medical Facilities—If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities, including cooling tents or facilities, on the premises of the assembly.

Liquid Waste Disposal—The licensee shall provide for liquid waste disposal in accordance with all the rules and regulations established by the county public health department of the Public Health Code, Part 127; Water Supply and Sewer Systems, MCL 333.12701, *et seq.*; the Natural Resources and Environmental Protection Act, Part 117: Septage Waste Servicers, MCL 324.11701, *et seq.*; applicable rules and regulations, and any other applicable provision of state or local law.

If liquid waste retention and disposal requires septage waste servicers, they shall be licensed in accordance with the Natural Resources and Environmental Protection Act, Part 13: Permits, MCL 324.1301, *et seq.*, applicable rules and regulations and any other applicable provision of state or local law. The licensee shall provide the Township clerk and county public health department with a true copy of an executed agreement with a licensed septage waste servicer for the proper, effective, and frequent removal of liquid wastes from the premises to prevent a nuisance or threat to the public health.

Solid Waste Disposal—The licensee shall provide for solid waste storage on, and removal from, the premises in accordance with the Natural Resources and Environmental Protection Act, Part 115: Solid Waste Disposal, MCL 324.11501, *et seq.*, applicable rules and regulations, and any other applicable provision of state or local law.

Storage shall be in approved, covered, fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the Township clerk and county public health department with a true copy of an executed agreement with a licensed refuse collector for the proper, effective, and frequent removal of solid waste from the premises to prevent a nuisance or threat to the public health.

The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches, and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides, shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health.

Solid waste containing food water shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

Public Bathing Beaches—Public bathing beaches shall be provided only in accordance with the Public Health Code, Part 125: Campgrounds, Swimming Areas and Swimmer's Itch, MCL 333.12501, *et seq.* and the Natural Resources and Environmental Protection Act, Part 801, MCL 324.80198b, applicable rules and regulations, and any other applicable provision of state or local law.

Public Swimming Pools—Public swimming pools shall be provided only in accordance with the Public Health Code, Part 125: Campgrounds, Swimming Areas and Swimmer's Itch, MCL 333.12521-MCL 333.12534, applicable rules and regulations, and any other applicable provision of state or local law.

Access and Traffic Control—The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Prior to the issuance of a license, the county road commission and county sheriff must approve the licensee's plan for access and traffic control.

Parking—The licensee shall provide a parking area sufficient to accommodate all motor vehicles, with at least one automobile space for every four attendants.

Camping and Trader Parking—A licensee who permits attendants to remain on the premises between the hours of 2 a.m. and 6 a.m. shall provide for camping and trailer parking and facilities in accordance with the Martin Township Zoning Ordinance; the Martin Township Campground Ordinance; the Public Health Code, Part 125: Campgrounds, Swimming Areas and Swimmer's Itch, MCL 333.12502, *et seq.*, and the Michigan Department of Community Health rules regarding sanitation and safety standards for campgrounds and public health.

Lighting—The licensee shall provide lighting of all occupied areas sufficient to ensure safety and comfort of all attendants. The licensee's lighting plan shall be approved by the Township.

Insurance—Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$1,000,000 and property damage insurance with a limit of not less than \$50,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to person or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall name the Township as an additional insured and

shall include an endorsement to the effect that the insurance company will notify the Township in writing at least 10 days before the expiration or cancellation of said insurance.

Bonding—Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000 in a form to be approved by the Township attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the Township, its agents, officers, and employees and the Board against any and all loss, costs, fees, charges, injury or damage whatsoever arising out of or in any way connected with the assembly or the Township's (or its agent's) provision of services for the same and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.

Fire Protection—The licensee shall, at its own expense, take adequate steps as determined by the fire chief to ensure fire protection, and the assembly shall be subject to all applicable sections of the Fire Prevention Code, MCL 29.1 *et seq.*, and any applicable rules and regulations promulgated thereunder.

Noise Control—Sound-producing equipment, including, but not limited to, public address systems, speaker systems, radios, live or broadcast musical instruments, or other live, electronic, mechanical or broadcast sound or music devices shall not be used or operated on the premises of the assembly so as to cause or create any sound or noise in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort, or repose of other persons between the hours of 10 p.m. and 7 a.m.

Fencing—The licensee shall erect a fence completely enclosing the site, of sufficient height and strength to prevent persons in excess of the maximum permissible attendants from gaining access, and that has sufficient gates properly located to provide ready and safe ingress and egress.

Miscellaneous—Prior to issuance of a license, the Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare, and property of attendants or of citizens of the Township.

Section 16.10. Revocation. The Board may revoke a license whenever the licensee's employee or agent fails, neglects, or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated herein by reference.

Section 16.11 Violations. It shall be unlawful for a licensee, his employee, or agent to knowingly:

- a. Advertise, promote or sell tickets to, conduct, or operate an assembly without first obtaining a license as herein provided.

- b. Conduct or operate an assembly in such a manner as to create a public or private nuisance.
- c. Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.
- d. Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.
- e. Permit any person to unlawfully consume, sell, or possess intoxicating liquor while on the premises.
- f. Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs, or other controlled substances as defined by state law.
- g. Operate in violation of the current version of the Incident Action Plan as authorized by the Emergency Management Act, MCL 30.401 *et seq.*, which is incorporated herein by reference.
- h. Failure to obtain a building permit for any temporary structure including, but not limited to staging, and/or an electric permit from the Township as required under the adopted Michigan Building Code.

Any of the above-enumerated violations is a separate offense, is a nuisance *per se* immediately enjoined in the circuit courts. Without limiting the foregoing, any violation of this ordinance is a misdemeanor punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500 or by both such fine and imprisonment. It is further provided that any of the above violations is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

Section 16.12. Severability. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, 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 16.13 Repealer. All ordinances or parts of ordinances inconsistent with this Ordinance are repealed.

Section 16.14 Effective Date. This Ordinance shall be adopted as an emergency ordinance and shall take effect 30 days following its publication as provided by law.

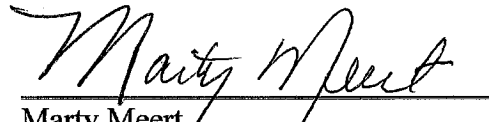
Moved by PEARSON seconded by HORTON , that the foregoing Ordinance be adopted.

YEAS: SEVEN

NAYS: NONE

ABSENT:

I attest that the Ordinance amendment as set forth above was adopted by the Gun Plain Charter Township Board in regular session on 1-13-13 and that it was published in the Allegan County News on 1-10-13. Further, I certify that the attested copy of the Ordinance amendment was filed with the Township Clerk on 1-3-2013 .



Marty Meert
Gun Plain Charter Township Clerk