

**RUTLAND CHARTER TOWNSHIP**

**BARRY COUNTY, MICHIGAN**

**NOTICE OF ORDINANCE SUBMITTAL**

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF RUTLAND, BARRY COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE proposed Ordinance #2019-170 was introduced for first reading by the Rutland Charter Township Board at its August 7, 2019 meeting. This proposed ordinance will enact as Chapter 101 of the Rutland Charter Township Code an ordinance titled Temporary Sales Ordinance providing as follows:

**CHARTER TOWNSHIP OF RUTLAND**

**BARRY COUNTY, MICHIGAN**

**ORDINANCE NO. 2019-170**

**RUTLAND CHARTER TOWNSHIP TEMPORARY SALES ORDINANCE**

**ADOPTED:**

**EFFECTIVE:**

An Ordinance to amend the Rutland Charter Township Code by enacting as new Chapter 101 pursuant to the Township Ordinances Act (*MCL 41.181*) regulations for temporary sales activities such as yard sales, garage sales, porch sales, barn sales, estate sales, rummage sales, flea markets, and other similar temporary activities on any premises in Rutland Charter Township to promote the health, safety and welfare of the people of the Township; and provide for enforcement and fix sanctions for the violation of this ordinance.

**CHARTER TOWNSHIP OF RUTLAND**

**BARRY COUNTY, MICHIGAN**

**ORDAINS:**

**§ 101-1. Title and Purpose**

- A. Title. This ordinance shall be known and may be cited as the Rutland Charter Township Temporary Sales Ordinance.
- B. Purpose. The purpose of this ordinance is to avoid the detrimental impacts of perpetual “yard sales” and similar types of sales activities on

persons and property in Rutland Charter Township, by regulating the duration and frequency of such activities, and otherwise establishing reasonable parameters applicable to such sales; and by requiring a permit for a “flea market” type of sale; and to exempt certain types of sales from these regulations.

### **§ 101-2. Definitions of terms**

As used in this ordinance, including in this section, the following words and terms shall have the meanings stated herein:

- A. “temporary sale” means and includes all such sales conducted as what is commonly known and understood to be a “yard sale”, “garage sale”, “porch sale”, “barn sale”, “estate sale”, “rummage sale”, “flea market”, or any other similar type of casual sale of goods which is advertised by any means whereby the public at large is or can be made aware of such sale, and where all or virtually all of the goods available for sale are second hand goods owned by a resident of the premises on which the sale is conducted and from the household of that person, or are owned by and from the household of a neighboring resident, family member, or other person directly or indirectly participating in the sale.
- B. “goods” means and includes any second hand household items and similar tangible property capable of being the object of a sale regulated under this Chapter.
- C. “flea market” means and includes a type of sale, typically outdoors, where the goods available for sale are generally not from the household of the person holding the sale, and may be second hand goods and/or new goods. This type of sale may also be known as a “swap meet”. A temporary sale that will not comply with § 101-3.B.1. is also a “flea market” for purposes of this ordinance, and is therefore subject to § 101-4 (unless exempted by § 101-5).

### **§ 101-3. Regulation of temporary sales (other than flea markets)**

Any temporary sale that is not a “flea market”, is subject to the following:

- A. No permit required. A permit is not required for any type of temporary sale activity regulated by this Ordinance that is not a flea market.
- B. Time limits and other requirements. Any type of temporary sale that is not a “flea market” is subject to the following regulations:
  - 1. Such sale may take place on the premises of a lawful dwelling anywhere in Rutland Charter Township, without regard to the zoning district classification of the premises under the Rutland Charter Township Zoning Ordinance (Code Chapter 220). Such sale shall not take place on a vacant lot, or other premises without a dwelling, unless the vacant lot is

contiguous to the premises of the dwelling and under the same ownership as the dwelling.

2. Such sale shall not exceed 4 consecutive days; and shall be held not more than 4 times per year per premises, with at least a 30 day interval between otherwise permissible sales.
3. Only used normal and customary household personal property and residential goods may be offered for sale, and incidental unused such goods not exceeding 1% of the items for sale.
4. Such sale shall be conducted by a resident of the premises on which the sale is conducted, or by a neighboring resident, family member, or other person whose goods are available for sale and who is actively participating in the sale.
5. The premises on which the sale is held shall be able to accommodate all vehicular traffic associated with the sale without impeding motorized or non-motorized vehicles on any public roadway or impeding pedestrians on any sidewalk or other public right-of-way, or otherwise violating any traffic/parking law administered and enforced by any unit of government.
6. If the sale is advertised by signage on or off the premises upon which the sale is held, all such signage shall comply with the applicable requirements of any other Rutland Charter Township ordinance, including Article XVIII of Code Chapter 220 (Zoning). The permitted signage shall not be in place more than 3 days prior to the day on which the sale begins, and shall be removed and properly disposed of within 24 hours of the close of the sale. In addition, and notwithstanding any such other ordinances, signage advertising a sale regulated by this ordinance shall not be placed on or over a public sidewalk, or otherwise within a public right-of-way, unless allowed by and in conformance with any applicable regulations of a governmental unit with jurisdiction over the public right-of-way.
7. All items not sold or being held for pickup after the close of the sale shall be placed inside a fully enclosed building within 24 hours of the close of the sale, unless such item may otherwise be lawfully stored outside of a building in accordance with any applicable ordinance of Rutland Charter Township.

#### **§ 101-4. Regulation of temporary sales that are flea markets**

Any temporary sale that is a “flea market” is subject to the following:

- A. Permit required. A permit is required for any type of temporary sale activity regulated by this ordinance that is a “flea market”. The Township Clerk or the Clerk’s designee (which may be the Deputy Clerk, an Ordinance Enforcement

Officer, or the Zoning Administrator) shall issue a permit for this type of sale upon:

1. The filing of a permit application indicating all the following:
  - a. the name and mailing address of the person who will be responsible for conducting the flea market;
  - b. the street address of the premises where the flea market will be conducted;
  - c. the name of the owner of the premises on which the flea market will be conducted and their consent to the sale (if the applicant is not the owner of the property).
  - d. the date(s) on which the flea market will be conducted;
  - e. the dated signature of the permit applicant, which shall signify the applicant's awareness of all applicable regulations and the intent to comply with same;
  - f. a telephone number where the applicant can be reached during the sale period;
  - g. such permit application fee, if any, as may be established by the Township Board for a flea market permit.
2. Confirmation from the Township Zoning Administrator that a flea market on the subject premises will not violate any provision of the Rutland Charter Township Code, including Chapter 220 (Zoning).

B. Time limits and other requirements. Any type of temporary sale that is a "flea market" is subject to the following regulations:

1. Such sale shall not exceed 4 consecutive days; and shall be held not more than 2 times per year per premises, with at least a 30 day interval between otherwise permissible sales.
2. Only normal and customary household personal property and residential goods may be offered for sale.
3. The premises on which the sale is held shall be able to accommodate all vehicular traffic associated with the sale without impeding motorized or non-motorized vehicles on any public roadway or impeding pedestrians on any sidewalk or other public right-of-way, or otherwise violating any traffic/parking law administered and enforced by any unit of government.

4. If the sale is advertised by signage on or off the premises upon which sale is held, all such signage shall comply with the applicable requirements of any other Rutland Charter Township ordinance, including Article XVIII of Code Chapter 220 (Zoning). The permitted signage shall not be in place more than 3 days prior to the day on which the sale begins, and shall be removed and properly disposed of within 24 hours of the close of the sale. In addition, and notwithstanding any such other ordinances, signage advertising a sale regulated by this ordinance shall not be placed on or over a public sidewalk, or otherwise within a public right-of-way, unless allowed by and in conformance with any applicable regulations of a governmental unit with jurisdiction over the public right-of-way.
5. All items not sold or being held for pickup after the close of the sale shall be placed inside a fully enclosed building within 24 hours of the close of the sale, unless such item may otherwise be lawfully stored outside of a building in accordance with any applicable ordinance of Rutland Charter Township.

#### **§ 101-5. Exemptions**

The following persons and types of sales are exempted from this Ordinance:

1. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
2. Persons selling goods in accordance with their powers and duties as public officials.
3. Any persons selling or advertising for sale items of personal property which are specifically named or described in the advertisement, such as a motor vehicle or boat, provided not more than ten such items are offered for sale, and such items are being displayed for sale in conformity with all other applicable ordinances and laws.
4. Any sale conducted by any merchant or other business establishment from or at a bona fide place of business, including any sale conducted by a manufacturer, dealer, or vendor properly licensed in the State of Michigan, on premises where such sale is permissible under the zoning regulations of the Township and all other applicable ordinances and laws.
5. Any sale conducted by a bona fide tax exempt educational, religious, cultural or governmental institution or organization, on premises where such a sale is permissible under the zoning regulations of the Township and all other applicable ordinances and laws.
6. An “estate sale” or similar type of sale conducted as an auction by a licensed auctioneer on the premises of the owner of the goods subject to auction, where such auction does not exceed 4 consecutive days on a 1-time basis.

7. Any sale of real property.
8. Sales by door-to-door sales persons otherwise operating in accordance with all applicable ordinances and laws.

**§ 101-6. Violations and enforcement**

- A. A person or other entity who fails or refuses to comply with any provision of this Chapter is responsible for a municipal civil infraction and subject to the Schedule of Fines specified in § 45-6 and all other applicable parts of Chapter 45 of the Rutland Charter Township Code.
- B. Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- C. Any violation of this Ordinance is hereby declared to constitute a public nuisance, and a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- D. This Ordinance shall be enforced by the Ordinance Enforcement Officer(s) of Rutland Charter Township and by such other person or persons as the Township Board may designate.

**§ 101-7. Severability**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

**§ 101-8. Repeal**

All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided that this ordinance shall not be construed to repeal expressly or by implication any provision of the Zoning Ordinance (Code Chapter 220).

**§ 101-9. Effective date**

This ordinance shall take effect 30 days after publication as required by law.

Robin Hawthorne, Clerk  
Rutland Charter Township

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and where all or virtually all of the goods available for sale are second hand goods owned by a resident of the premises on which the sale is conducted and from the household of that person, or are owned by and from the household of a neighboring resident, family member, or other person directly or indirectly participating in the sale.

- B. "goods" means and includes any second hand household items and similar tangible property capable of being the object of a sale regulated under this Chapter.
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  2. Such sale shall not exceed 4 consecutive days; and shall be held not more than 4 times per year per premises, with at least a 30 day interval between otherwise permissible sales.
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5. Any sale conducted by a bona fide tax exempt educational, religious, cultural or governmental institution or organization, on premises where such a sale is permissible under the zoning regulations of the Township and all other applicable ordinances and laws.
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- B. Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner (by deed or land contract), lessee, licensee, agent,

contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

- C. Any violation of this Ordinance is hereby declared to constitute a public nuisance, and a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- D. This Ordinance shall be enforced by the Ordinance Enforcement Officer(s) of Rutland Charter Township and by such other person or persons as the Township Board may designate.

**§ 101-7. Severability**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

**§ 101-8. Repeal**

All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided that this ordinance shall not be construed to repeal expressly or by implication any provision of the Zoning Ordinance (Code Chapter 220).

**§ 101-9. Effective date**

This ordinance shall take effect 30 days after publication as required by law.