

**TOWNSHIP OF CHIKAMING
BERRIEN COUNTY, MICHIGAN**

ORDINANCE NO. 131

Adopted: May 13, 2010

**AN ORDINANCE TO SECURE THE PUBLIC HEALTH, SAFETY AND
GENERAL WELFARE OF THE PROPERTY OWNERS, RESIDENTS AND
VISITORS OF CHIKAMING TOWNSHIP BY REGULATING, AND WHERE
NECESSARY PROHIBITING NOISE WITHIN SAID TOWNSHIP AND
PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF**

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1: Title

This Ordinance shall be known and may be cited as the Noise and Nuisance Ordinance of Chikaming Township.

Section 2: Purpose

Pursuant to its statutorily authorized power to enact ordinances for the purpose of preserving and protecting the general health, safety, and welfare, the Township Board of Chikaming Township hereby enacts the following Noise and Nuisance Ordinance, the purpose of which is to prohibit excessive, unnecessary, unnatural, or unusually loud noises, or which are prolonged, unusual, and unnatural in their time, place, and use, and which disturb the peace and comfort of the public, or are a detriment to the public health, comfort, convenience, safety, welfare, peace and prosperity of the general public, and to provide penalties for the violation of this Ordinance.

Section 3: General Prohibited Noise

It shall be unlawful for any person or entity to make, maintain, or continue, or cause to be made or continued, any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise, or any noise which annoys or disturbs or injures or irritates or unreasonably impairs the comfort, repose, health, or peace of another, within the limits of Chikaming Township. Any noise which is clearly audible more than fifty (50) feet from a person's property line or a property under his control, shall be deemed to be in violation of Subsection A, excepting lawn mowers and other usual and customary lawn maintenance equipment snow blowers and snow throwers.

Section 4: Specific Noises Prohibited; Standards

The following noises and acts are hereby declared to be excessive, unnecessary, unnatural, or unusually loud which annoy, disturb, injure, or unreasonably impair the comfort, repose, health, or peace of others in violation of this Ordinance, said specification is not to be construed to exclude other violations not enumerated:

A. **HORNS AND OTHER SIGNALING DEVICES.** The sounding of any horn or signaling device on any automobile, motorcycle, boat, bus, truck, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time, or at an unnecessary and

unreasonable time of the day or night; and, the use of any hand held or hand operated signal device which emits a loud or harsh sound except as a danger warning.

B. **RADIOS, TELEVISIONS, STEREOS, AND MUSICAL INSTRUMENTS.** The using, operating, or permitting to be played, used, or operated, any radio, television, stereo, or musical instrument, or other such device for the production or reproduction of sound, in such a manner as to unreasonably or unnecessarily irritate, annoy, or disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at a volume unnecessary for convenient listening of the person or persons in the room, vehicle or on the property where such machine or device is being operated. The operation of any such radio, television, stereo, musical instrument, or other such machine or device between the hours of ten o'clock (10:00) p.m., and seven o'clock (7:00) a.m., in such a manner as to be plainly audible at a distance of fifty (50') feet from the building, structure, or vehicle in which it is located, or which is plainly audible in a dwelling unit other than that in which it is located, shall be prima facie evidence of a violation of this Section.

C. **YELLING, SHOUTING, AND VERBAL NOISE.** Yelling, shouting, hooting, whistling, singing, or other verbal noise upon any premises, or upon the public streets, between the hours of ten o'clock (10:00) p.m., and seven o'clock (7:00) a.m., or at any other time or place, in such a manner so as to unreasonably annoy or disturb peace, natural quietude, comfort, or repose of any persons in the vicinity where such noise is plainly audible at a distance of fifty (50') feet from its point of origin shall be prima facie evidence of a violation of this Section.

D. **ANIMALS, BIRDS, OR PETS.** The keeping of any animal, bird, or pet which, by causing frequent or continuous noise, plainly audible at a distance of fifty (50') feet from its point of origin, shall be a prima facie evidence of a violation of this Section.

E. **EXHAUST NOISES.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or any other form of engine, whether in a boat, motor vehicle, motorcycle, off-road vehicle, or tractor, except through a muffler or other device which effectively prevents or reduces loud or explosive noises.

F. **CONSTRUCTION OR REPAIRING OF BUILDINGS.** The erection (including excavation), demolition, alteration or repair of any building or structure other than between the hours of seven o'clock (7:00) a.m. and eight o'clock (8:00) p.m., where such activity results in the creation of unusually loud noise or noise which annoys, disturbs, injures, or unreasonably impairs the comfort, repose, health, peace or safety of others except in case of urgent necessity in the interest of public health and safety, for the duration of such emergency.

G. **BUSINESS OPERATIONS AND OTHER PREMISES ACTIVITIES.** The carrying on of any business operations, or any other activities upon any premises in such a manner so as to create any excessive, unnecessary, or unusually loud noise, which disturbs, injures, or unreasonably impairs the comfort, repose, health, peace or safety of others.

H. **HEAVY EQUIPMENT.** The operation between the hours of eight o'clock (8:00) p.m., and seven o'clock (7:00) a.m., of any pile driver, excavator, backhoe, or other form of heavy equipment, the use of which is attended by loud, or repeated or continuous noise.

I. **RACE TRACKS.** The operation of any race track, proving ground, testing area, or obstacle course for vehicles, motorcycles, boats, racers, automobiles, snowmobiles, off-road vehicles, or vehicles of any kind or nature in a residentially zoned district of the Township, or adjacent to a residential area of the Township where such noise emanating from the identified vehicles would be unusually loud or continuous, or unreasonably disturbing, or upsetting to persons in that vicinity.

Section 5. Exceptions

The noise prohibitions set out hereinbefore shall not apply to the following:

- A. Any police vehicle, ambulance, fire engine, or other emergency vehicle while engaged in necessary emergency activities.
- B. Excavation, snow plowing, utility main repair, and repair of bridges, streets, roads, highways, or other property by or on behalf of the State of Michigan, Berrien County or Chikaming Township, when the public welfare, health or safety is in danger.
- C. Noises emitted from warning devices for the purpose of notifying individuals or the public at large as authorized by law.
- D. All railroad operations meeting the maximum permissible noise levels allowed or permitted by law.
- E. Noise emanating from the discharge of firearms providing that such discharge is otherwise authorized under Michigan law.
- F. Normal farming operations on property in an Agricultural Zoning District, as defined by Chikaming Township Zoning Ordinance No. 87, as amended.

Section 6. Nuisances

OVER-OCCUPANCY. The number of occupants of a residential structure shall not exceed the habitable floor area in square feet requirement of Table 1004.1.1 of the Michigan Building Code being a floor area of 200 square feet per occupant. Occupancy in excess of this limit shall be a violation of this Ordinance.

Section 7: Violations

Any person who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00) Dollars, plus costs and other sanctions, for each infraction.

Repeat offenses shall be subject to an increased civil fine as follows:

- (1) The fine for any offense which is a first repeat offense shall be not less than Two Hundred Fifty (\$250.00) Dollars, plus costs and other sanctions.
- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than Five Hundred (\$500.00) Dollars, plus costs and other sanctions.

A repeat offense means a second (or any subsequent) violation of this Ordinance (i) committed by a person within any six (6) month period and (ii) for which the person admits responsibility or is determined to be responsible.

Each separate violation of this Ordinance constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

In addition, the Township specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this ordinance.

As used herein "person" means any individual, partnership, association or corporation.

Section 8: Enactment This ordinance was enacted on the 13th day of May, 2010, by the Chikaming Township Board and ordered to be published in the Harbor Country News on 27th day of May, 2010, being within thirty (30) days of its enactment and ordered to be made effective on the 27th day of June, 2010, being thirty (30) days after publication thereof.

Elizabeth K. Bohac, Clerk
Township of Chikaming

Attest:
Jeanne S, Dudeck, Supervisor
Township of Chikaming

CERTIFICATION

I do hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 131, duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on 13th day of May, 2010. I further certify that Simmons moved the adoption of said ordinance and Marske supported said motion. The names and the members of the Township Board and their vote on the foregoing ordinance were as follows:

Ayes: Van Ginhoven, Marske, Simmons, Bohac, Dudeck
Nays: None
Abstain: None
Absent: None

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for the Township of Chikaming on the 17th day of May, 2010, and such recording has been authenticated by the signatures of the Supervisor and Township Clerk. I further certify that the foregoing ordinance was published in full in the Harbor Country News, a newspaper circulated in the Township of Chikaming, Berrien County, Michigan, on the 27th day of May, 2010.

Dated: May 17, 2010

Elizabeth K. Bohac, Clerk
Township of Chikaming