

TOWNSHIP OF CHIKAMING
BERRIEN COUNTY
MICHIGAN

ORDINANCE No. 17
(adopted June 5, 1969)

AN ORDINANCE TO REGULATE AND CONTROL THE REMOVAL OR RELOCATION OF SAND, GRAVEL, TOPSOIL, CLAY, MARL, MINERALS, WASTE AND FILL MATERIAL IN CHIKAMING TOWNSHIP, BERRIEN COUNTY, MICHIGAN; AND TO PROVIDE PENALTIES TO THE VIOLATION THEREOF.

THE TOWNSHIP OF CHIKAMING ORDAINS:

ARTICLE I

It shall be unlawful for any person, firm, or corporation to remove, deposit, or relocate any sand, gravel, topsoil, clay, marl, minerals, waste or fill materials, or other similar materials, in or from lands in the Township of Chikaming, Berrien County, Michigan, except as hereinafter provided, without first obtaining a written permit therefore from the Chikaming Township Board.

ARTICLE II

Any person, firm or corporation desiring to obtain a permit, as provided in Article I above, shall first file an application therefor with the Township Clerk. Such application shall be addressed to the Township Board and shall set forth the following information:

1. Name and address of petitioner.
2. Legal description of land involved.
3. Maximum amount of material to be moved, removed, deposited or relocated.

4. Type or kind of material to be moved, removed or relocated, or used for fill material.
5. Measures to be taken by the applicant to control noise, vibration, dust and traffic during the operations.
6. A description of any traffic control devices, public facilities, or public services which will be required by the proposed operations and a statement as to how applicant proposes that the costs thereof be paid.
7. Any measures which applicant proposes to take to insure public safety, the exclusion of children from the premises, and the lateral support of surrounding land and structures.
8. The time required for the proposed operations.
9. In addition, the applicant shall describe in detail, by contour maps or otherwise, the contour and condition of the lands as he proposes to leave them upon completion of the operations. Such a statement shall include proposed plans of landscaping or other stabilization control to be employed to leave the premises in a reasonably level and useable condition and to prevent erosion, dust, and unsightly conditions.

ARTICLE III

Each application for such a permit shall be accompanied by a fee in the amount of \$1.00 for each acre or fraction thereof described therein, provided, however, that the minimum fee shall be \$10.00, and provided further that in the event that the permit is denied, said permit fee shall be refunded to the applicant.

ARTICLE IV

Upon receipt of any application and fee, the application shall be transmitted forthwith by the Township Clerk to the Township Planning Commission for its advice and recommendation, and no action shall be taken thereon by the Township Board until the Clerk has received a report from the Township Planning Commission or until the expiration of 40 days from the filing of the application, whichever is sooner. The recommendation of the Township Planning Commission shall not be binding upon the

Township Board. Either the Township Board or the Township Planning Commission may make suggestions regarding amendment of the application by the applicant, and no application which has been amended in pursuance of any such suggestion need be referred to the Township Planning Commission a second time as a result of such amendment.

ARTICLE V

No permit shall be issued unless the Township Board, after considering the application and the recommendation of the Township Planning Commission, if any, and after giving the applicant an opportunity to be heard in person or by counsel, shall find that the proposed operations are not likely to cause any dangerous, unsanitary, or unhealthy condition, that they will impose no undue financial burden upon the Township, that they are not likely to create any public or private nuisance, that they are not likely to be conducted in violation of any State Law or Township Ordinance, that there is adequate assurance that the premise will be left in such condition as will protect them from erosion, and that after completion of the operations, the premises will be at least as useable for purpose permitted by the Township Zoning Ordinance as at the time of granting of the permit. To this end, as a condition of granting the permit, the Township Board may require the applicant to post bond or escrow funds to assure that operations will be conducted and the premises left as herein required, and that any undertakings of the application will be carried out.

ARTICLE VI

In addition to the matters heretofore mentioned, the Township Board in considering the granting of such a permit may hear any other person or consider any other factor which may bear on the public health, safety, or

general welfare in the particular situation. The effect upon surrounding property values may be considered as a factor affecting the general welfare, but no permit shall be denied solely because its granting would have an adverse effect upon property values.

ARTICLE VII

After the Township Board has reached a decision regarding the granting or denial of an application for such a permit, the applicant shall be advised thereof in writing by the Township Clerk, and if the applicant is favorably acted upon by the Township Board such permit shall be issued forthwith.

ARTICLE VIII

Each permit shall apply only to the lands described in the application and may be revoked if the permit holder operates in any manner inconsistent with the statements in the application or any amendment thereto or fails to comply with any special requirement which the Township Board may order set forth in the permit to protect the public health, safety and welfare in the special circumstances of the situation, or if it shall at any time appear that any of the findings set forth above could not be made if the matter were then before the Township Board for decision, provided, however, that no permit shall be revoked unless the permit holder is given written notice, mailed or personally served at least 5 days prior to the date of the meeting at which revocation is considered, and the opportunity be given to the permit holder to be heard in person or by counsel. Said notice shall specify date, time and place of the meeting at which revocation will be considered and inform the permit holder of the reason or reasons why revocation is under consideration and of his right to be heard either

in person or by counsel. Revocation of a permit shall not exempt the permit holder from punishment for any violation of this ordinance as hereinafter provided.

ARTICLE IX

This ordinance shall not apply to normal and necessary excavation or grading done in the connection with construction of roads, farm ponds, farm erosion control projects, drains, sewers, construction of dwellings and other buildings where a construction permit is granted therefor under other township ordinances, nor shall it apply in any case where the amount removed from or relocated or deposited on any parcel of land in any one calendar year is less than 500 cubic yards of sand, gravel, clay, marl, minerals, waste and fill materials or other similar materials. Provided, however, nothing herein contained shall in any way permit any kind of mining, mineral removal or relocation or dumping of waste and fill materials in any amount, where such use would be apt to interfere with the public health, safety, or welfare or create a public or private nuisance or such use would be apt to endanger children or deprive adjoining owners of property of the beneficial use and enjoyment of their lands.

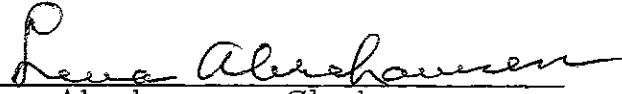
ARTICLE X

Any person, firm or corporation who shall violate any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed One Hundred Dollars (\$100.00), or by commitment to the County Jail for a period not to exceed 90 days or by both fine and commitment. Each and every day that such violation continues shall constitute a separate offense.

ARTICLE XI

This ordinance shall take effect thirty days from and after the 5th day of June, 1969.

Enacted by the Township Board of the Township of Chikaming, Berrien County, Michigan, on this 5th day of June, 1969.


Lena Abrahamsen, Clerk

Attest:


Herbert Seeder, Supervisor

17

PROOF OF PUBLICATION

I, Lena Abrahamsen, Township Clerk of Chikaming Township, Berrien County, Michigan, do hereby certify that notice of the adoption of the foregoing ordinance was publicly given by publishing a true copy thereof in the St. Joseph Herald Press, a newspaper of general publication and circulation in this area, on the 14th day of June, 1969.

Lena Abrahamsen
Lena Abrahamsen, Clerk