

TOWNSHIP OF CHIKAMING
BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 73
Adopted January 13, 1994

AN ORDINANCE TO AMEND ORDINANCE NO. 44 OF CHIKAMING TOWNSHIP ENTITLED: AN ORDINANCE TO ESTABLISH COMPREHENSIVE ZONING REGULATIONS FOR THE TOWNSHIP OF CHIKAMING, PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE TOWNSHIP RURAL ZONING ACT, ACT 184 OF THE PUBLIC ACTS OF 1943, AS AMENDED, BY ACT 637, OF THE PUBLIC ACTS OF 1978, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith AND TO PROVIDE PENALTIES FOR VIOLATIONS HEREOF.

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1.

ARTICLE 14, Section 14.01--Zoning Board of Appeals: Establishment and Terms of Office; Procedure, is hereby amended and shall read as follows:

Section 14.01--Zoning Board of Appeals: Establishment and Terms of Office; Procedure.

- A. A Zoning Board of Appeals which shall consist of 5 regular members is hereby established in accordance with Act 184, P.A. 1943, as amended. The first regular member of the Board of Appeals shall be a member of the Township Planning Commission, and his term of office shall be concurrent with his term of office on the Planning Commission. The second regular member of the Board of Appeals shall be a member of the Township Board appointed by the Township Board, and his term of office shall be concurrent with his term of office on the Township Board. The second regular member shall not serve as chairman of the Board of Appeals. The remaining regular members and any alternate members of the Board of Appeals shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township, their terms of office shall be 3 years, and they shall not serve simultaneously as a member or employee of the Board of Appeals while employed by the Township Board or as an elected officer of the Township.
- B. The Township Board shall appoint two (2) alternate members to the Board of Appeals for the same term as regular members of the Board of Appeals. An alternate member may be called by the Chairman of the Board of Appeals to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called by the Chairman of the Board of Appeals to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
- C. Terms of office of members of the Board of Appeals shall ordinarily be as provided in Paragraph A., above, except that

at the first meeting of the Township Board subsequent to enactment of this ordinance, the Township Board shall appoint the second member of the Board of Appeals for a term of office concurrent with his term of office on the Township Board, the third member for a 3-year term, the fourth member for a 2-year term and the fifth member for a 1-year term. Thereafter, upon expiration of terms of office, appointments shall be made as provided in Paragraph A.

- D. A successor shall be appointed by the Township Board at the next regular meeting subsequent to the expiration or vacancy of any term of office. All vacancies for unexpired terms shall be filled for the remainder of such term.
- E. The Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and hearings shall be open to the public.
- F. The Board of Appeals shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Township Clerk.
- G. A member of the Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges submitted to the Township Board and after public hearing by the Township Board. At the hearing the member may appear in person or by his attorney and shall have an opportunity to present evidence in his support. Notice of the hearing shall be given to the member by personal service or registered mail, return receipt requested, not less than thirty (30) days prior to the hearing. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest constitutes misconduct in office.

Section 2.

ARTICLE 14, Section 14.02--Zoning Board of Appeals: Powers and Duties, A., 1., is hereby amended and shall read as follows:

1. Appeals; Filing. Appeals to the Board of Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the township affected by any decision of the Zoning Administrator. Such appeals shall be taken within a reasonable time of the aggrieved action, not to exceed thirty (30) days, by filing with the Zoning Administrator and with the Board of Appeals a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken. The Zoning Administrator shall not accept an appeal which is identical to or substantially similar to a previous appeal submitted by the same applicant and which previous appeal is the subject of judicial review by a court of record or litigation in which Chikaming Township, or any of its boards or commissions is a party.

Section 3.

ARTICLE 14, Section 14.02--Zoning Board of Appeals: Powers and Duties, B.,1., is hereby amended and shall read as follows:

1. A written application for a Variance is submitted to the Zoning Administrator demonstrating that
 - a) Special conditions and circumstances exist peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - b) Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - c) The special conditions and circumstances do not result from the actions of the applicant himself.
 - d) Granting the Variance requested will not confer on the applicant any special privilege denied by this ordinance to other lands, structures or buildings in the same district.
 - e) The variance requested is not identical to or substantially similar to a previous variance request submitted by the same person or his predecessor in interest within the previous twelve (12) months or is presently the subject of judicial review or litigation in which Chikaming Township, its boards or commission is a party.

Section 4.

ARTICLE 14, Duties of Zoning Administrator, Board of Appeals, and Township Board on Matters of Appeal. B., 3), is hereby amended and shall read as follows:

- 3) appointing and removing members of the Board of Appeals and the Zoning Administrator.

Section 5.

Enactment. The foregoing changes and amendments to Ordinance No. 44, the Township Zoning Ordinance, were enacted on the 13th day of January, 1994, by the Township Board of Chikaming Township, Berrien County, Michigan, and ordered to take effect immediately.

Jeanne S. Dudeck
Jeanne S. Dudeck, Clerk

Attest:

Harold J. Gilmore
Harold J. Gilmore, Supervisor
Chikaming Township

CERTIFICATION

I do hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 73, duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on the 13th day of January, 1994. I further certify that Jeanne Dudeck moved the adoption of said ordinance and Jack Gibson supported said motion. The names and the members of the Township Board and their vote on the foregoing ordinance were as follows:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Gibson	<u>X</u>	_____	_____	_____
Zimmerman	<u>X</u>	_____	_____	_____
Simmons	<u>X</u>	_____	_____	_____
Dudeck	<u>X</u>	_____	_____	_____
Gilmore	<u>X</u>	_____	_____	_____

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for the Township of Chikaming on the 14 day of January, 1994, 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 Southcounty Gazette, a newspaper circulated in the Township of Chikaming, Berrien County, Michigan, on the 20th day of January, 1994.

Dated: January 14, 1994

Jeanne S. Dudeck

 Jeanne S. Dudeck, Clerk
 Township of Chikaming