

TOWNSHIP OF CHIKAMING
BERRIEN COUNTY, MICHIGAN

ORDINANCE NO. 100
Adopted: May 11, 2000

AN ORDINANCE PROVIDING FOR THE REGULATION OF THE LOCATION OF CERTAIN BUSINESSES AND BUSINESS ACTIVITIES WITHIN THE BOUNDARIES OF CHIKAMING TOWNSHIP AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH, IN THE INTERESTS OF THE PUBLIC'S HEALTH, SAFETY AND WELFARE PURSUANT TO MCLA 41.181; MSA 5.45(1).

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1. Regulated Businesses and Business Activities. Because some businesses and business activities are recognized as having a deleterious effect upon adjacent areas, causing blight, a chilling effect upon other businesses and occupants, and a disruption in neighborhood development, Chikaming Township finds their dispersal and limiting their hours of operation necessary to minimize their adverse impact on any specific neighborhood due to the overcrowding of such uses into a particular location and is necessary for orderly and better development of the community and preservation of the health, safety and welfare of the persons and property therein.

In order to prevent the undesirable concentration and the deleterious effect of such businesses and business activities the following businesses and businesses activities shall not be located within 1,000 feet of any school building or church building nor within 250 feet of any building used for residential purposes, measured along a line forming the shortest distance between any portion of the property used for a school or church building or residential purposes and the property proposed for the following specified uses and activities, and said business or business activities shall not operate or be open to patrons during the hours of 11:00 p.m., through 8:00 a.m., of the following day:

- a. adult book store;
- b. adult motion picture theater;
- c. adult mini motion picture theater;
- d. adult smoking or sexual paraphernalia store;
- e. host or hostess establishments offering socialization with a host or hostess for a consideration;
- f. any combination of the foregoing.

For the purpose of interpreting the application of the foregoing limitations on certain business and business activities, the following terms or designations shall have the following meanings:

- a. adult book store. an establishment having, as a substantial or significant portion of its stock in trade, books magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material;
- b. adult mini motion picture theater: an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, described or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined for observation by patrons therein;

c. adult motion picture theater: an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined for observation by patrons therein;

d. adult smoking or sexual paraphernalia store: an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.

e. host or hostess establishment: establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee;

f. specified sexual activities:

- (1) acts of human masturbation, sexual intercourse, or sodomy;
- (2) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- (3) human genitals in a state of sexual stimulation or arousal.

g. specified anatomical areas:

- (1) less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Section 2. Conflicting Ordinances. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 3. Penalty. Any person, firm, or corporation who shall violate the provisions of this Ordinance shall, upon conviction, be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed ninety(90) days, or by both such fine and imprisonment, at the discretion of the Court. Each day that a violation shall continue shall constitute a separate offense. The fines and penalties herein provided shall be in addition to any injunctive or other relief which might be available or appropriate under the circumstances.

Section 4. Other Remedies. The foregoing remedies and penalties are in addition to all other rights and powers of the Township to proceed at law or equity with other and additional appropriate remedies.

Section 5. Validity. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date. This ordinance was adopted by the Chikaming Township Board at a regular meeting held in the Township Hall on the 11th day of May, 2000, shall take effect the 22nd day of June, 2000, the same being more than thirty (30) days after the date of publication. All ordinances or parts of ordinances in conflict are hereby repealed.

Jeanne S. Dudeck
Jeanne S. Dudeck, Clerk
Township of Chikaming

Attest:

Carl R. Anderson

Carl R. Anderson, Supervisor
Township of Chikaming

CERTIFICATION

I do hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 100, duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on the 11th day of May, 2000. I further certify that Dorothy Simmons moved the adoption of said ordinance and Ivan Zimmerman 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
Zimmerman	<u> X </u>	_____	_____	_____
Gibson	<u> X </u>	_____	_____	_____
Simmons	<u> X </u>	_____	_____	_____
Dudeck	<u> X </u>	_____	_____	_____
Anderson	<u> X </u>	_____	_____	_____

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for the Township of Chikaming on the 12 day of May, 2000, 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 and Shopper, a newspaper circulated in the Township of Chikaming, Berrien County, Michigan, on the 22nd day of May, 2000.

Dated: May 22, 2000

Jeanne S. Dudeck
Jeanne S. Dudeck, Clerk
Township of Chikaming