

ORDINANCE NO. 35

AN ORDINANCE REGULATING THE USE OF LANDS AND THE ERECTION, CONVERSION OR ALTERATION OF BUILDINGS AND STRUCTURES IN THE FLOOD PLAIN DISTRICT OF CHIKAMING TOWNSHIP, BERRIEN COUNTY, MICHIGAN.

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN, ORDAINS:

To protect the public health, safety and welfare and the lands and resources of the Township of Chikaming there is hereby established a Flood Plain District.

Section 1 - Flood Plain District Boundaries: The Flood Plain District and the boundaries thereof are identified and shown on the official Zoning map of Chikaming Township which Zoning map is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Plain District and its boundaries are further identified by the flood plain study for Chikaming Township dated June 1, 1978 which study is also adopted by reference and incorporated herein.

Section 2 - District and Intent: All land lying within the Flood Plain District is subject to the regulations of this district for the purpose of protecting against flood damage or destruction to structures which might otherwise be constructed in flood hazard area, and for the purpose of meeting the requirements of Act 167, P. A. 1968, and rules promulgated therefor. Any construction within this district shall be subject to compliance with the Soil and Sedimentation Control Act, Act 347 of 1972 and rules and regulations promulgated thereto.

Section 3 - Permitted Principal Uses; Notwithstanding any other provisions of this ordinance, no building or structure shall be erected, converted or structurally altered, and no land and/or structure shall be used in a flood plain district except for one or more of the following uses:

- (a) Gardening, horticulture, open recreational uses such as parks, playgrounds, playfields, athletic fields, golf courses, bridle trails and nature paths.
- (b) In the area above the 100-year Flood Plain, uses permitted by the zoning district otherwise established for the lot, subject to the regulations of such district; provided, however, the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least three (3) feet above the elevation of the nearest point of the 100-year Flood Plain designated on the Zoning map.
- (c) In the area below the 100-year Flood Plain, land may be used to supply open space or lot area requirements of a lot partially located above; provided, however, no building or structure shall be located below the 100-year Flood Plain. In Agricultural Districts, land below the 100-year Flood Plain may also be used for agricultural purposes otherwise permitted by the regulations of the Agricultural District.

Section 4 - Permitted Accessory Uses: Below the 100-year Flood Plain area off-street parking is permitted as a use accessory to a principal use above the 100-year Flood Plain on the same lot. However, no building, structure, or equipment other than boundary monuments are permitted below the 100-year Flood Plain as an accessory use.

Section 5 - Uses Requiring Board of Appeals Special Exception Permit:

- (a) In the area below the 100-year Flood Plain, dumping or back-filling with any material in any manner is prohibited unless through compensating excavation and shaping of the flood plain, the flow and impoundment capacity of the flood plain will be maintained or improved; and unless all applicable state regulations are met.
- (b) In the area below the 100-year Flood Plain, the construction or location of bridges, outdoor play equipment, bleachers, and similar outdoor equipment and appurtenances is prohibited unless such elements would not cause any significant obstruction to the flow or reduction in the flood plain.

Approval of a Special Exception Permit for any of the above shall be subject to an engineering finding by a registered engineer that the above requirements are satisfied.

Section 6 - No building or structure shall be erected, converted or structurally altered and no land or structure used in a flood plain district, unless a permit therefore shall have first been obtained from the Chikaming Township Zoning administrator after due compliance shown with all Township ordinances, state statutes and federal regulations.

Section 7 - All on site new and replacement water and sewer systems and appurtenances in the flood plain shall be designed to minimize infiltration of flood waters and so constructed so as to avoid impairment that might otherwise result from flooding.

Section 8 - No alteration of any water course in the flood plain district shall be undertaken unless and until neighboring communities and the Michigan Department of Natural Resources shall have first been notified and provided with detailed plans and specifications prepared by a registered engineer. Such plans shall show full compliances with local ordinances, state statutes, state regulatory agencies and federal regulations and shall make provisions for maintaining the full carrying capacity of the altered water course.

Section 9 - Penalties: Any building or structure which is erected, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, per se. The Township Board and the duly authorized attorney for the Township of Chikaming and the prosecuting attorney for the County may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use of lands in the flood plain district.

Section 10- Conflicting Ordinances: All Ordinances and parts of Ordinances of Chikaming Township in conflict with this Ordinance are hereby repealed to the extent that they conflict with this Ordinance.

Section 11 - Validity: If any Section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not effect the validity of the remaining portion of this Ordinance.

Section 12 - Effective Date: The foregoing Ordinance was approved by the Township Board of Chikaming Township, Berrien County, Michigan on the 9th day of November, 1978, and ordered to take effect immediately.

Lena Abrahamsen
Lena Abrahamsen, Clerk

Attest:

Dennis Scheer, Supervisor

CERTIFICATION

I hereby certify that the foregoing is a true, accurate and complete copy of Ordinance No. 35, titled, An Ordinance Regulating the Use of Lands and the Erection, Conversion or Alteration of Buildings and Structures in the Flood Plain District of Chikaming Township, Berrien County, Michigan, adopted by the Chikaming Township Board on the 9th day of November, 1978.

Lena Abrahamsen
Lena Abrahamsen, Clerk

A resolution that the aforesaid Ordinance be enacted and given immediate effect was made by Trustee Sandtveit and supported by Trustee Gibson.

The names of the Chikaming Township Board and their vote thereon was as follows:

AYES: Scheer, Abrahamsen, Sperry, Gibson, Sandtveit

NAYES: None

I hereby certify that the foregoing Ordinance was published in the
Galien River Gazette, a newspaper circulated
in Chikaming Township on the 16 day of November, 1978.

Lena Abrahamsen
Lena Abrahamsen, Clerk