

CHARTER TOWNSHIP OF GRAND RAPIDS

COUNTY OF KENT, MICHIGAN

At a regular meeting of the Township Board of the Charter Township of Grand Rapids, held in the Township Hall, 1836 East Beltline Avenue, N.E., Grand Rapids, Michigan, on the 17th day of February, 2009, at 7:00 p.m.

PRESENT: Members: DeVries, Merchant, Robinette, Saalfeld, Van Popering

ABSENT: Members: Afendoulis, Hulbert

The following ordinance was offered by Member Van Popering and supported by Member Robinette.

ORDINANCE NO. 468

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
OF THE CHARTER TOWNSHIP OF GRAND RAPIDS**

[Sexually Oriented Businesses, Mineral Removal and Condominiums]

THE CHARTER TOWNSHIP OF GRAND RAPIDS ORDAINS:

[PART A – SEXUALLY ORIENTED BUSINESSES]

Section 1. **Sexually Oriented Businesses – Repeal of Existing Regulations.** Section 12.5 of the Zoning Ordinance of the Charter Township of Grand Rapids is hereby repealed in its entirety.

Section 2. **Sexually Oriented Businesses – Repeal of Permitted Use.** Section 12.1(25) of the Zoning Ordinance of the Charter Township of Grand Rapids is hereby repealed and hereafter designated as “[reserved]”.

Section 3. **Sexually Oriented Businesses – Special Land Use.** Section 12.2 of the Zoning Ordinance of the Charter Township of Grand Rapids is hereby amended by the addition of subsection 15 thereto, which shall read in its entirety as follows:

15. Sexually Oriented Businesses (see Section 24.13.B.18).

Section 4. Sexually Oriented Businesses – Special Land Use Standards. Section

24.13.B of the Zoning Ordinance of the Charter Township of Grand Rapids is hereby amended by the addition of subsection 18 thereto, which shall read in its entirety as follows:

18. **Sexually Oriented Business.**

- a. **Purpose.** It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content-neutral regulations which addresses the adverse secondary effects of sexually oriented businesses.

There are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary in order to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. These special regulations are itemized in this section.

A primary goal of regulation of these uses is to prevent a concentration of the uses in any one area of the Township; to minimize and/or prevent the well-documented adverse secondary effects of such uses; to insure the integrity of the Township's residential and agricultural areas; and to protect the integrity of churches and other places of religious worship, schools, licensed day-care facilities, parks and playgrounds, and other areas where persons congregate. Nothing in this section shall be construed as permitting a violation of any state or federal law

A sexually oriented business shall be permitted only if approved as a special land use under the terms of this chapter. It shall be subject to review and approval by the Planning Commission under Chapter 26, Site Plan Review, and the following provisions.

- b. **Location.** A sexually oriented business shall be located only in the "C" General Commercial District. Further, a sexually oriented business shall not be located or operated within 1,000 feet of existing land uses, as follows:
- i. Another sexually oriented business. This requirement may be waived upon a determination by the Planning Commission that a second sexually oriented business

would not contribute to blighting or an excessive concentration of such uses.

- ii. Church, synagogue, mosque or other place of religious worship, or a park, playground, school, or licensed day-care facility.
- iii. An agricultural, recreational or residential zoning district, or any residential dwelling.

The measurement of the above-stated isolation-distance requirement shall be made by extending a straight line from the property line of the sexually oriented business to the nearest property line occupied by any other use or to the property line of any church, synagogue, mosque or other place of religious worship, park, playground, school, licensed day-care facility, or any adjacent agricultural, residential or recreational district.

- c. Signs. Any message, image or picture that depicts or refers to any specified anatomical area or specified sexual activity shall be prohibited. All signs shall comply with the requirements of Chapter 30.
- d. Building Exterior. Upon order of the Zoning Administrator, graffiti appearing on any exterior surface of a building or structure shall be removed and that surface restored within 72 hours of notification of the owner or person in charge of the premises. Adult products or services or any picture or other representation shall not be displayed so as to be visible from a point outside the establishment.
- e. Lighting Requirements.
 - i. All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.
 - ii. The premises of all sexually oriented businesses, except adult motion picture theaters, shall be

equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination intensity of not less than two foot-candles of light as measured at the floor level.

- iii. Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination intensity of not less than one foot-candle of light as measured at the floor level.

f. Age Requirement Regulations.

- i. It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- ii. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during the business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished a valid operator's, commercial operator's, or chauffeur's driver's license; or a valid personal identification certificate issued by the State of Michigan verifying that such person is 18 years of age or older.

g. Hours of Operation. Hours of operation of a sexually oriented business shall be limited to 10:00 a.m. to 10:00 p.m.

h. Other Regulations, Permits or Licenses. The provisions of this section do not waive or modify any other provision of this Ordinance, any other Ordinance of the Township, or any county, state or federal law or regulation.

i. Alcohol Prohibited. Open alcohol shall not be permitted in any sexually oriented business.

j. Information Submission. In addition to the information and documents required to be submitted with an application for a special land use in accordance with the requirements of this

chapter, an applicant for a special land use to establish a sexually oriented business shall submit the following:

- i. A floor plan of the premises showing the following:
 - A. Location and dimensions of any manager's station, demonstrating that there is an unobstructed view from a least one of the manager's stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - B. Location of all overhead lighting fixtures.
 - C. Identification of any portion of the premises in which patrons will not be permitted.
 - D. The location of any stage.
 - E. Identification of the use of each room or other area of the premises.
- ii. A current certificate and straight-line drawing, prepared within 30 days prior to the application, by a land surveyor depicting the property lines and the structures of the sexually oriented business, showing a circle extending 1,000 feet from the property line of the property on which the business will be located, and depicting the property line of any church, synagogue, other place of worship, park, playground, school, licensed day care facility, or agricultural, recreational or residential zoning district or residences within 1,000 feet of the property on which the business will be located.
- k. Application to be Complete. The Township Clerk shall not accept any application that is not complete in every detail. In the event that the Clerk determines that an application is incomplete, the Clerk shall notify the applicant accordingly.
- l. Limit on Reapplication. No application for a sexually oriented business which has been denied in whole or in part shall be resubmitted for a period of one year from the date of the denial, except on the grounds of new evidence not previously available or proof of changed conditions.
- m. Conditions Requiring Rejection of Special Land Use Application. The Planning Commission shall not approve a

special land use application for a sexually oriented business if it finds one or more of the following to be true:

- i. An applicant is under 18 years of age.
- ii. An applicant is overdue in payment to the Township of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
- iii. An applicant has failed to provide information required by the Zoning Ordinance or has knowingly answered a question or request for information falsely.
- iv. The premises to be used for the sexually oriented business have not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances.
- v. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had a sexually oriented business license or adult business license revoked or suspended within one year prior to the date of application.
- vi. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated a sexually oriented business or adult business which was determined to be a public nuisance under laws of any state, county, city, village or township within one year prior to the date of application.
- vii. The applicant is not in good standing or authorized to do business in Michigan.
- viii. The application fee has not been paid.
- ix. An application of the proposed sexually oriented business is in violation of or is not in compliance with, any of the provisions of this section.
- x. The applicant or owner has been convicted of any of the following criminal offenses in any jurisdiction within the last ten years:
 - A. Prostitution, procuring a prostitute, or solicitation of a prostitute.

- B. Sale, distribution or display of obscene material.
 - C. Sale, distribution or display of material which is harmful to minors.
 - D. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
 - E. Possession, sale or distribution of child pornography.
 - F. Public lewdness.
 - G. Indecent conduct with a child.
 - H. Sexual assault or rape.
 - I. Sexual solicitation of a child.
 - J. Contributing to the delinquency of a minor.
 - K. Harboring a runaway child.
- n. Inspection. An applicant or owner shall permit all representatives of the Township, Kent County and the State of Michigan to inspect the premises of the sexually oriented business for the purpose of determining compliance with applicable law.
- o. Exterior Structural Requirements. All sexually oriented businesses shall comply with the following exterior structural requirements:
- i. The merchandise or activities of the sexually oriented business may not be visible from any point outside the business.
 - ii. The exterior portion of the sexually oriented business may not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any kind.
 - iii. It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the sexually oriented business to be painted any color other than one neutral color.

- p. Interior Structural Requirements.
- i. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the manager's station. The view required in this subsection shall be by direct line of sight from the manager's station.
 - ii. A manager's station shall not exceed 32 square feet of floor area.
 - iii. No alteration to the configuration or location of a manager's station shall be made without the prior approval of the Township zoning enforcement officer.
 - iv. Viewing rooms or peep booths shall be separated from other viewing rooms or peep booths by a solid, opaque, uninterrupted physical divider which is a minimum one-inch thick and serves to prevent physical contact between patrons.
 - v. No private viewing rooms or booths shall be constructed unless one side is always open to a central public area. No door shall be placed on any viewing room or peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent viewing rooms or peep booths.
- q. Standards of Conduct. The following standards of conduct shall be adhered to on the premises of the sexually oriented business by all employees, managers, officers and agents of any sexually oriented business:
- i. No employee or entertainer mingling with the patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical areas.

- ii. No employee or entertainer shall engage in, encourage or permit any specified sexual activities on the premises of the sexually oriented business.
- iii. No employee or entertainer while in view of the patrons on the licensed premises shall be unclothed or in such attire, costume or clothing so as to expose any specified anatomical areas, except upon a stage which shall be fixed and immovable at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. Such barrier shall be a minimum of one-quarter-inch thick and have no openings between the entertainer and any patrons.
- iv. A list of food and drink prices shall be conspicuously posted in the common areas of each sexually oriented businesses offering entertainment.
- v. Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the sexually oriented business and no tip may be handed directly to an entertainer. A business that desires to provide for such tips from its patrons shall provide one or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.
- vi. No entertainment occurring on the premises shall be visible at any time from the outside of the premises.
- vii. An owner, manager or an employee shall not allow the possession, use, or sale of controlled substances on the premises.
- viii. An owner, manager, or an employee shall not allow prostitution on the premises.
- ix. An owner, manager, or an employee shall not allow any live specified sexual activity to occur in or about the premises.
- x. An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the premises, or upon any parking areas, sidewalks, walkways, access ways or grounds

of the premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.

- xi. At least one manager shall be on duty and situated in each manager's station at all times that the business is open to the public.
- xii. All doors to public areas on the premises shall remain unlocked during business hours.
- xiii. It shall be the duty of the owner, and it shall also be the duty of any agents and employees present in the premises to ensure that any view area or peep booth remains unobstructed by any doors, curtains, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- xiv. No viewing room or peep booth may be occupied by more than one person at any one time.

r. Massage Parlors. No establishment, regardless of whether it is a public or private facility, shall operate as a massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless the person(s) massaging any client or customer is a graduate of a recognized school and certified as a massage therapist by the American Massage Therapy Association or by the Associated Bodywork and Massage Professionals. In addition:

- i. The premises of each massage parlor may be inspected by law enforcement personnel or by the Township zoning enforcement officer during business hours and at other reasonable times to ensure compliance with this Ordinance.
- ii. All persons offering massages in a massage parlor shall, not less than five months and not more than six months following the issuance of a special land use approval for a massage parlor, file with the Township Clerk a statement from a licensed medical doctor or osteopath certifying or recertifying that such person has been examined within the 30 days immediately prior thereto and has been found to be free from all communicable or contagious diseases, including but not limited to, sexually transmitted diseases. Failure

to comply with this requirement shall constitute grounds for revocation of special land use approval.

- iii. No employee of a massage parlor, or any other person associated with a massage parlor, on the premises of a massage parlor, may offer or engage in any specified sexual activity.
- iv. Each massage parlor and massagist shall comply with the following standards:
 - A. No patron shall be served or treated who is infected with any fungus or other skin infection; nor shall any service be performed on a patron exhibiting skin inflammation or eruptions.
 - B. All massagists shall wash their hands in hot water before giving any service or treatment to each separate patron.
 - C. All towels, tissues, sheets or other coverings shall be used for only one patron and discarded for laundry or disposal immediately after use.
 - D. Nondisposable tools of the trade shall be disinfected after use upon each patron.
 - E. In any establishment in which massage services are rendered to members of the same sex at any one time, such persons of the same sex may be placed in a single, separate room, or the operators of the massage parlor may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside such room or booth while massage services are being performed.
 - F. No massage or massage service may be carried on within any cubicle, room, booth, or area within a massage parlor which is fitted with a door capable of being locked.
 - G. Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each

patron to be served, which locker shall be capable of being locked, as well as a minimum of one toilet and wash basin, shall be provided by every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room, or rooms, separate dressing and separate toilet facilities shall be provided for male and female patrons.

- H. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.
- v. Non-transparent uniforms or garments covering the torso shall be worn by massagists at all times while attending patrons. Such uniforms or garments shall be of a washable material and shall be kept in a clean condition.
- s. License Required. It shall be unlawful to operate or cause to be operated a sexually oriented business in the Township without a valid license issued pursuant to the provisions of this section. The granting of a special land use under this section does not confer a license on the applicant.
- t. License Application.
 - i. All applicants for a sexually oriented business license shall file an application for such license with the Zoning Administrator. Each individual applicant, partner of a partnership, member of a limited liability company, partner of a limited liability partnership, officer and director of a corporation and all managers shall be named in each application and each of them shall be photographed and fingerprinted by the Kent County Sheriff's Department.
 - ii. The applicant shall be qualified according to the provisions of this section and the premises shall be

inspected and found to be in compliance with the law by the Township building inspector and zoning enforcement officer.

- iii. If a person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as the applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation shall sign the application for a license as applicant, along with each officer and director of the corporation. If the applicant is a partnership, each partner shall sign the application. If the applicant is a limited liability company each member shall sign the application. If the applicant is a limited liability partnership each partner shall sign the application.
- iv. Applications for a license, whether original or renewal, must be made to the zoning enforcement officer by the intended operator of the sexually oriented business. Applications shall be submitted by hand delivery to the office of the Zoning Administrator during regular working hours. The intended operator shall be required to give the following information on the application:
 - A. If the applicant is an individual, the individual shall state his legal name and address and any aliases.
 - B. If the applicant is a partnership, the partnership shall state its complete name, and the names and addresses of all partners and whether the partnership is general or limited.
 - C. If the applicant is a limited liability company, the limited liability company shall state its complete name and the names and addresses of all of its members.
 - D. If the applicant is a limited liability partnership, the limited liability partnership shall state its complete name and the names and addresses of all of its partners.
 - E. If the applicant is a legal entity other than a partnership, limited liability company or

limited liability partnership, the application shall state its complete name, the date and place of its organization, the names, addresses and capacity of all officers and directors of a corporation and of the chief executive officer and manager for any other legal entity, and the name of the resident agent and the address of the registered office for service of process.

- F. The name under which the sexually oriented business is to be operated and a general description of the services to be provided.
- G. The telephone number of the sexually oriented business.
- H. The address and legal description of the real property on which the sexually oriented business is to be located.
- I. If the sexually oriented business is in operation, the date on which the owner(s) acquired the sexually oriented business for which the license is sought, and the date on which the sexually oriented business began operations as a sexually oriented business at the location for which the license is sought.
- J. If the sexually oriented business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of the application). If the expected start-up date is to be more than ten days following the date of the application, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same is also required.
- K. Whether the applicant or any other individual identified in the application had a previous sexually oriented business license under this section or other adult business ordinance from another city, village, township or county denied, suspended or revoked, including the name and location of the sexually oriented or adult business for which the license was

denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

- L. Whether the applicant or any other individuals identified in the application has been partner in a partnership, a member of a limited liability company or partnership or an officer, director, chief executive officer or manager of any other legal entity that is permitted under this section whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - M. Whether the applicant or any other individual identified in the application holds any other licenses under this section or other similar sexually oriented or adult business ordinance from another city, village, township or county and, if so, the names and locations of such other permitted business.
 - N. The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.
 - O. The applicant's mailing address and residential address.
 - P. The applicant's driver license number, social security number and/or federally issued tax identification number.
- v. The application shall be accompanied by the following:
- A. Payment of the application, investigation and license fees.
 - B. If the applicant is an individual, satisfactory proof that he or she is at least 18 years of age.
 - C. If the applicant is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto, and a current good standing certificate.

- D. If the applicant is a corporation incorporated in another state, a certified copy of the certificate of authority to transact business in Michigan.
- E. If the applicant is a partnership, a copy of the partnership agreement, together with all amendments thereto.
- F. If the applicant is a Michigan limited partnership, a certified copy of the certificate of limited partnership, together with all amendments thereto.
- G. If the applicant is a limited partnership formed under the laws of another state, a certified copy of the Michigan certificate of registration.
- H. If the applicant is a Michigan limited liability company, a certified copy of the articles of organization, together with all amendments thereto.
- I. If the applicant is a limited liability company formed under the laws of another state, a certified copy of the Michigan certificate of authority.
- J. If the applicant is a Michigan limited liability partnership, a certified copy of the registration of limited liability partnership, together with all amendments thereto.
- K. If the applicant is a limited liability partnership formed under the laws of another state, a certified copy of the Michigan registration.
- L. Documentation identifying the owner(s) of the real property on which the sexually oriented business is to be situated.
- M. If the person(s) identified as the owner(s) of the real property identified above is not also the owner(s) of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally

enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the real property that is to be used for the purpose of the operation of the sexually oriented business.

- vi. The application shall contain a statement under oath that:
 - A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct.
 - B. The applicant has read the provisions of this section.
- vii. A separate application and license shall be required for each sexually oriented business.
- u. Approval of License Application. The Zoning Administrator shall approve the issuance of a license to an applicant within 60 days after receipt of an application if the application is complete and meets all the requirements of this section, unless he or she finds that the applicant or owner is ineligible for special land use approval for any of the reasons set forth in subsection m. above.
- v. Display of License. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance of the sexually oriented business so that it may be easily read at any time.
- w. Denial of License. In the event that the Zoning Administrator determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within 60 days of the receipt of the application by the Zoning Administrator, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than 10 days at any time before the notice is issued in order to make modifications necessary to comply with this section.
- x. Appeal to Board of Zoning Appeals. An applicant may appeal the decision of the Zoning Administrator denying an application or determining to revoke a license, to the Board of

Zoning Appeals by filing a written notice of appeal within 15 days after the applicant is given notice of the Zoning Administrator's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Zoning Administrator may submit a memorandum in response to the memorandum filed by the applicant on appeal. After reviewing the relevant information, the Board of Zoning Appeals shall vote to either uphold or overrule the zoning enforcement officer's decision. Such vote shall be taken within 60 calendar days after the date on which the Board of Zoning Appeals receives the notice of appeal. However, the applicant shall be required to comply with the Zoning Administrator's decision during the pendency of the appeal.

- y. Investigation of Applicant. Upon receipt of a properly completed application, together with all information required in connection therewith, fingerprints and photographs, and the payment of the application, investigation and license fee, the Zoning Administrator shall transmit the application to the Kent County Sheriff's Department for investigation of the background of each individual applicant, the partners of a partnership, the members of a limited liability company, the partners of a limited liability partnership, or the officers and directors of a corporation and manager of the proposed sexually oriented business.
- z. Application Fee. Each applicant shall pay an application fee at the time of filing an application for a license in an amount as established from time to time by resolution of the Township Board. The application fee shall include the cost of the investigation by the Kent County Sheriff's Department. The application fee shall be non-refundable.
- aa. License Fee. Each licensee issued a license pursuant to this section shall pay an annual license fee at the time of application for the license as herein provided. The annual license fee shall be established from time to time by resolution of the Township Board. The license fee shall be refunded if the license is not approved.
- bb. License Renewal. Any application for renewal of a license shall be filed with the Zoning Administrator not less than 45 days prior to the date of expiration. The Zoning Administrator may, for good cause shown, waive the requirement for timely filing of a renewal application.

- cc. Term of License. All licenses issued pursuant to this section shall be for a term of one year. The term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated as if they were filed January 1 of that year and shall terminate on December 31 of the same year, and no proration of fees shall be permitted.
- dd. Revocation of License. The Zoning Administrator shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months. The Zoning Administrator shall also revoke a license if he or she determines that any of the following has occurred:
- i. Any condition exists that would warrant disapproval of a license as set forth in this section;
 - ii. A licensee, operator manager or employee has engaged or has allowed patrons or employees to engage in acts of misconduct on the licensed premises in violation of any Township Ordinance, the laws of the State of Michigan or of the United States when the licensee, operator, manager or employee knew or should have known such acts were taking place; or
 - iii. Repeated disturbances of public peace have occurred within the licensed sexually oriented business or upon any parking areas, sidewalks, access ways or grounds of the licensed sexually oriented business involving patrons, employees, or the licensee.

When the Zoning Administrator revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective. If, subsequent to revocation, the Zoning Administrator finds that the basis for the revocation has been corrected or abated, a license may be reinstated if at least 90 days have elapsed since the date the revocation became effective.

- ee. Registration of Managers, Entertainers and Employees.
- i. No person shall work as a manager, entertainer or employee at a sexually oriented business without being registered under this section.
 - ii. All managers, entertainers and employees shall provide to the Township their legal name and any aliases, social security number, home address,

telephone number, date of birth and satisfactory proof that they are 18 years of age or older, and any other necessary identifying information for the Township to conduct a criminal background check on the manager, entertainer or employee.

iii. The registration fee shall be as established from time to time by resolution of the Township Board.

iv. The owner or manager of a sexually oriented business shall provide the Township with the names, any aliases, dates of birth, and social security numbers of all managers, entertainers and employees within five days of employment. This information will be used to verify the information submitted by the manager, entertainer or employee, who must also register with the Township within five days of employment.

ff. Exemptions from Enforcement. It is a defense to prosecution under this section that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

i. By a proprietary school, licensed by the State of Michigan or a college, community college, or university supported entirely or partly by taxation; or

ii. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college, or university supported entirely or partly by taxation.

gg. Reporting of Violations. Any owner, manager or employee shall immediately report to the Township Clerk and to the Kent County Sheriff's Office any violation of this section or any breach of the peace or unlawful or disorderly act, conduct or disturbance committed on the sexually oriented business, including any parking area or adjoining area under the control or management of the owner, provided that the owner, manager or employee knew or should have known of such violation of law.

hh. Definitions. For the purposes of this Section 24.13.B.18, the following words and terms shall be defined, as provided below:

i. "Adult Book Store." An establishment having more than an insubstantial or insignificant portion of its stock in trade in 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 defined herein. An establishment may have other categories of items for sale which are not characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein, but still be classified as an Adult Book Store.

- ii. “Adult Cabaret.” A nightclub, bar, restaurant, lounge or similar establishment, whether or not alcoholic beverages and/or food are served, which regularly features one or more of the following: (i) persons who appear nude or in a state of nudity or semi-nudity; or (ii) live or recorded performances which are characterized by an emphasis on matter depicting “specified anatomical areas” or “specified sexual activities,” or which involve the exposure of “specified anatomical areas” or “specified sexual activities” as defined herein.
- iii. “Adult Motion Picture Theater.” An establishment predominantly used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein, for observation by patrons therein.
- iv. “Adult Novelty Store.” An establishment having more than an insubstantial or insignificant portion of its stock in trade in devices that simulate human genitals or devices designed for sexual stimulation. An establishment may have other categories of items for sale which are not devices that simulate human genitals or devices designed for sexual stimulation, but still be classified as an Adult Novelty Store.
- v. “Adult Video Store.” An establishment having more than an insubstantial or insignificant portion of its stock in trade in video or digital material (in any form) for sale or rental which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein. An establishment may have other categories of items for sale which are not characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical

areas,” as defined herein, but still be classified as an Adult Video Store.

- vi. “Employee.” Any person who works or performs in and/or for a Sexually Oriented Business, including the manager, regardless of whether such person is paid a salary, wage or other form of compensation.
- vii. “Entertainer.” Any person who performs any entertainment, exhibition or dance of any type within a Sexually Oriented Business, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition or dance.
- viii. “Escort.” A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie, to privately perform a striptease for another person, or to otherwise display specified sexual activities or specified anatomical areas.
- ix. “Escort Agency.” A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- x. “Manager.” An Employee, other than the licensee, who is employed by a Sexually Oriented Business to act as a Manager or supervisor of Employees or who is otherwise responsible for the operation of, or in charge of, a Sexually Oriented Business.
- xi. “Massage.” A method of treating or touching external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting or tapping with the hand or any instrument, electric, magnetic or otherwise, with or without supplementary aids.
- xii. “Massage Parlor.” Any establishment having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops, beauty salons, beauty or health spas, or athletic

facilities, in which massages are administered only to the scalp, the face, the arms, the neck, the shoulder, the back above the waist or the legs below the upper area of the thighs, by persons who are graduates of a recognized school and certified as a massage therapist by the American Massage Therapy Association or by the Associated Bodywork and Massage Professionals, and in good standing with such organization. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool or tennis court, or other educational, cultural, recreational or athletic facilities for the welfare of the residents of the area.

- xiii. “Nude Artist and Photography Studios.” Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display “specified anatomical areas” as defined herein for artists and photographers for a fee or charge.
- xiv. “Operator.” A person who owns, operates, directs, oversees, conducts, maintains, or effectively exerts management control or authority over a Sexually Oriented Business or its affairs, without regard to whether such person owns the premises in which the Sexually Oriented Business does business. An Operator effectively exerts management control or authority when he or she actually participates, or is in a position to participate, in the management, direction or oversight of a Sexually Oriented Business or its affairs, whether or not such person’s name appears on any public record filed with any government agency in connection with a Sexually Oriented Business or any parent company or affiliate.
- xv. “Owner.” A person owning, directly, indirectly or beneficially, any interest or part interest, however identified, in a Sexually Oriented Business.
- xvi. “Recognized School.” Any school or educational institution which teaches the theory, method, profession, or work of massage; requires at least five hundred (500) class hours or other units of study before the student receives a diploma or certificate of graduation for having completed the course; and is either licensed to teach massage and to do business as a school or educational institution in the State of

Michigan, or is approved by the American Massage Therapy Association.

- xvii. “Sexually Oriented Business.” Any of the uses defined in this subsection of this ordinance as an adult bookstore, adult cabaret, adult motion picture theater, adult novelty store, adult video store, escort agency, massage parlor, and/or nude artist and photography studio, or any establishment which advertises or holds itself out to the public (on signs, publications, television, radio and/or other media forms) as being for the use or benefit solely of adults because of its products or services with an emphasis on, or associated with, Specified Anatomical Areas and/or Specified Sexual Activities, even if only a portion of the establishment is dedicated to one or more of the activities listed herein. This definition shall include the conversion of an existing business, whether or not a Sexually Oriented Business, to a Sexually Oriented Business.
- xviii. “Specified Anatomical Areas.” Less than completely and opaquely covered: (a) Human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and (b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- xix. “Specified Sexual Activities.” Any of the following: (a) Human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

[PART B – MINERAL REMOVAL]

Section 5. **Mineral Removal Special Land Use.** Sections 5.3.21, 6.3.19, 7.3.19, 10.2.10, 11.2.11, and 12.2.13 of the Zoning Ordinance of the Charter Township of Grand Rapids are hereby amended so that each of the amended provisions reads in its entirety as follows:

Removal and Processing of Sand, Gravel and Other Mineral Resources (see Section 24.13.B.8).

Section 6. **Mineral Removal Special Land Use Standards.** Section 24.13.B.8 of the Zoning Ordinance of the Charter Township of Grand Rapids is hereby amended so as to read in its entirety as follows:

8. **Removal and Processing of Sand, Gravel and Other Mineral Resources.**

- a. **Purpose.** The purpose of the mineral removal special land use is to regulate the appropriate excavation and removal of mineral resources, but to authorize such activity only if it can be accomplished without serious adverse consequences to other land uses in the vicinity and elsewhere in the Township. While the excavation and removal of mineral resources is a legitimate land use, it may involve activities which are incompatible with residential uses or which have other adverse impacts. The objective of these special land use provisions is to enable the Township to permit such mineral extraction and removal, where such activity can reasonably be permitted, but only upon such terms and conditions as will adequately protect residential and other land uses from serious adverse consequences and also assure that, once mineral material has been removed, the land shall be reclaimed and restored so as to be available for residential uses or other uses permitted by this Ordinance.
- b. **Exempt Activity; Zoning Administrator Approval Required for Certain Excavation and Removals.**
 - i. The provisions of this section shall not apply to the extraction or removal of mineral material of 1,000 cubic yards or less; provided, however, that such mineral removal activity involving 1,000 cubic yards or less shall not result in hazardous or unsafe conditions nor have serious adverse consequences to adjacent or nearby lands.
 - ii. In order for an extraction or removal of mineral material of 1,000 cubic yards or less to be exempt from the provisions of this section, such excavation and removal must be complete in and of itself, and shall not constitute only a part, portion or phase of some other larger, different, or recurring mineral removal operation, plan or activity. An applicant shall not repeat or combine successive removal operations of 1,000 cubic yards or less for the purpose of attempting to classify each individual removal operation as being exempt under this subsection.

- iii. The excavation and removal of sand, gravel, soil and other mineral resources in a quantity from 1,000 cubic yards up to and including 5,000 cubic yards shall be subject to the issuance of a mineral removal permit by the Zoning Administrator under the terms of subsection o of this section.
- iv. The excavation and removal of sand, gravel, soil and other mineral resources in a quantity not greater than 10,000 cubic yards shall not be subject to the provisions of this section if all of such excavation and removal is solely for the purpose of site preparation for an approved land use. In such a case, the fact that the removed soil or other mineral material may be sold to another party shall not cause the activity to be deemed other than site preparation, but any such excavation and removal shall be only that which is necessary to reconfigure or otherwise prepare the site for permitted building construction or other approved land use.

c. Special Land Use Required for Excavation and Removal of More than 5,000 Cubic Yards of Mineral Material. The excavation and removal of sand, gravel, soil and other mineral resources of more than 5,000 cubic yards shall take place only upon the granting of a special land use by the Planning Commission. An application for a special land use for mineral removal shall include the following:

- i. A written legal description of all of the lands proposed for the use.
- ii. Thirteen copies of a plan for mineral removal, drawn to a scale of 1 inch = 100 feet, prepared and sealed by a registered civil engineer, and including the following:
 - A. A north arrow, scale and date.
 - B. Shading indicating the extent of land area on which mineral removal operations and activities will take place.
 - C. The location, width and grade of all easements or rights-of-way on or abutting the lands.
 - D. The location and direction of all water courses and flood control channels which may be affected by the mineral removal operations.

- E. Existing elevations of the lands at intervals of not more than five feet, based on U.S.G.S. datum.
 - F. Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table.
 - G. Mineral conveying, screening and stockpiling areas.
 - H. Proposed fencing, gates, parking areas, temporary or permanent structures, drives, signs and other features of the proposed use.
 - I. Roads for ingress to and egress from the lands, including on-site roads, acceleration and deceleration lanes, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles.
 - J. A map showing access routes between the subject lands and the nearest county primary road.
 - K. Areas, if any, to be used for ponding.
- iii. Narrative to be Submitted. The applicant shall submit a narrative description and explanation of the proposed mineral removal operations and activities, which shall include the following:
- A. Name of the owner(s) of the lands on which mineral removal operations are proposed to be conducted.
 - B. The name and address of the person(s) who will be conducting the mineral removal operations.
 - C. The date of commencement of operations, and the estimated completion date. The schedule for commencement and completion shall provide dates for the following specific items:

- (1) Commencement and completion of mining operations as provided by the plan of operation.
 - (2) Commencement and completion of erosion and drainage control measures to be instituted during mining operations.
 - (3) Commencement and completion of fencing, roads, utilities or any other structures or improvements to be located on the site as provided by the plan of operation.
- D. The proposed hours and days of operations.
- E. An estimate of the type and quantity of mineral material to be removed.
- F. A detailed description of the extraction and removal methods, including proposed excavation, crushing, screening and removal equipment and vehicles.
- G. A map or drawing of the parcel to be used for mineral removal operations, showing buildings, if any, all adjacent streets, drainage areas and facilities and other significant natural features.
- H. A current aerial photograph, or other accurate drawing or plan, showing the lands covered in the application, and all other lands within 990 feet thereof, and also showing the location of current land uses; types and extent of existing natural features; topography; soils; vegetation; wild life habitat; and other significant land features.
- I. A detailed description of any known, anticipated or possible adverse or detrimental effects upon any aspect or element of the environment, including both the lands proposed for the special land use and surrounding lands.
- J. The narrative shall clearly depict and describe the sequence of mining operations, including

existing conditions, mining underway, mining completed, rehabilitation underway, rehabilitation completed, mining proposed, rehabilitation proposed, stockpiles, roadways, and similar land use elements.

iv. Site Rehabilitation Plan. Once rehabilitated, mineral removal lands may be used for purposes permitted under the terms of the Zoning Ordinance. The applicant shall submit a site rehabilitation plan. It shall include the following:

A. A description of the planned site rehabilitation, including methods of accomplishment, phasing and timing. The schedule for rehabilitation shall include dates for the following specific items:

(1) Commencement and completion of rehabilitation operations, as provided by the rehabilitation plan.

(2) Commencement and completion of erosion and drainage control measures to be instituted under the rehabilitation plan.

(3) Commencement and completion of final grading, top soil replacement, and replanting or landscaping, as provided by the rehabilitation plan.

B. A plan showing the final grades of the lands as rehabilitated, at contour intervals not exceeding two feet, and also including water courses, ponds or lakes, if any; landscaping and plantings; and areas of cut and fill. The plan shall also provide a description of the methods and materials proposed for restoration of topsoil to the required fertility and the amount of any type of planting as a part of the rehabilitation plan.

C. A description of the proposed methods or features which will insure that the end uses are feasible and will comply with the Township Master Plan and the requirements of this Ordinance.

- D. Item C may be deferred until such time as the Planning Commission may require.
- v. Environmental Impact Statement. The Planning Commission may require an environmental impact statement, engineering data, traffic impact study, economic analysis or other studies or information concerning the need for and consequences of the proposed mineral extraction and removal.
- d. Review by Planning Commission. Upon submission of a complete application and following the public hearing required by the terms of this chapter, the Planning Commission shall review the application and determine whether to approve it, to disapprove it or to approve it with conditions. In its review of the application, the Planning Commission shall consider, among other matters, the intent and purposes of this section and the Zoning Ordinance.
- e. Operating Conditions. All mineral extraction and removal activities shall comply with all of the following operational and other conditions:
- i. Mineral removal operations shall be approved for a total duration determined by the Planning Commission, but such approval may be given in increments of a stated number of years, but not less than one year each. In such cases, approval for each successive increment shall be required under paragraph xxii of this subsection e.
 - ii. Driveway access to a mineral removal site shall be only at the locations approved for such purpose in the special land use.
 - iii. Routes for truck movements to and from the removal site may be restricted by the Planning Commission.
 - iv. The entry road or roads to and from a removal area shall be hard surfaced for such distance as may be required by the terms of the special land use.
 - v. No machinery shall be located or used within 50 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation.

- vi. No removal area, storage area, structure, access drive or loading area shall be closer than 150 feet to a principal structure on adjoining or nearby lands, unless a public street is located between the removal operation and the adjoining lands.
- vii. All areas of excavation and removal, including areas in which excavation or earth moving activities are taking place in order to prepare the land for removal of mineral material, shall be fenced and gated at all times, so as to avoid hazards to persons who may enter the removal area. Such fencing shall completely enclose all excavation, removal and preparation areas. The fencing shall be at least four feet high, and shall be constructed in accordance with Planning Commission requirements. Gates shall be at least four feet in height and they shall be locked when operations are not occurring.
- viii. All active mineral removal operations shall be visually screened from view from all adjacent public highways and residentially-used parcels, as viewed by a person standing on the paved portion of the public highway or from the lot line of adjacent residentially-used parcels. The following are acceptable methods for screening of mining areas:
 - A. Construction of a raised earthen berm area on the mining site along the boundary lines thereof where such lines abut a public highway or abut privately-owned property which is improved and occupied for residential purposes. This provision with regard to lands improved and occupied for residential purposes shall be applicable to any land upon which dwellings are built and occupied subsequent to the commencement of mining operations. The berm shall be seeded and planted during the first available planting season with sufficient vegetative ground cover so as to control erosion and to provide a visible ground cover substantially similar to surrounding natural vegetation. The berm shall have slopes not in excess of 1 foot vertical to 2 foot horizontal. Where existing natural topography would screen the site as effective as a constructed berm, the Planning

Commission may waive this berming requirement.

- B. Planting of coniferous trees along the boundaries of the mineral removal property with sufficient rows and depth, as determined by the Planning Commission, to permit effective screening of the mining area.
 - C. To the extent that the foregoing options are not practical, the proposed operator may submit alternate proposals for the Planning Commission's consideration, which may be approved in the Planning Commission's discretion, if they would provide for screening that is as effective as the methods provided above.
- ix. All mineral removal operations shall have direct access to a public road having a minimum right-of-way width of 66 feet and improved to the specifications of the road approval authority. When the operation of a mineral removal area results in mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the site operator to remove such material immediately.
 - x. Mineral removal, crushing, screening and transport operations and activities shall occur during such daily hours and on such days of the week as shall be determined by the Planning Commission in its approval of the special land use. In all cases, however, the maximum hours of operation shall be 7 a.m. to 6 p.m., Mondays through Saturdays, and no operations or activity may occur on Sundays or legal holidays.
 - xi. Equipment for the excavation, crushing, screening and removal of mineral material, and other mineral excavation and removal activities, shall not emit noise or vibration that could reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency or shrillness shall be muffled so as to not to become a nuisance to adjacent lands. In no case shall any equipment or operations result in noise exceeding the following levels for specified adjacent land uses,

when measured at the common property line nearest the active mineral removal site:

<u>Adjacent Use</u>	<u>Maximum Sound Level</u>
Residential	75 dba
Commercial	85 dba
Industrial	90 dba

Noise levels shall be measured using weighted decibel measurements (referenced to 20 micropascals) with a type of audio output meter approved by the United States Bureau of Standards. In addition to the specific requirements listed above, all equipment and facilities used in a mineral removal operation shall be conducted, maintained and operated in such a manner so as to eliminate, insofar as practicable, noises, vibrations and dust which would interfere with the reasonable use and enjoyment of surrounding property.

- xii. All roads, trails or other areas used by vehicles in connection with mineral removal operations or activities shall have gates at specified locations, and any dust arising therefrom shall be controlled by such measures as may be required by the Planning Commission as a part of the special land use. Required dust control measures may include the application of dust-inhibiting solvents, such as chloride, or similar surface treatments that produce no potential pollution hazard to surface or ground waters, and other special road surfacing intended to control dust. In addition, any interior road or drive providing access to an adjacent public street shall be paved from the public road right-of-way to a distance of not less than 300 feet into the mineral removal area in order to minimize the deposit of dirt and gravel from trucks onto the public street. All entrance and exit drives shall be securely locked during hours when the site is not in operation.
- xiii. Drainage on the mineral removal site shall be maintained in a manner which most closely approximates the natural drainage patterns. The mineral removal site shall be contoured and graded so as to avoid the unintentional impoundment of water, except where the impoundment of water in one or more locations is included as a part of the approved

site rehabilitation plan. Measures shall be taken to avoid or mitigate the run-off of surface water so that adjacent or nearby lands shall not be adversely affected by excessive surface water drainage, erosion or other effects.

- xiv. The type, nature and quantity of equipment to be used at the removal site, and the type and nature of vehicles used to remove mineral material from the site, shall be specified in the special land use and such requirements shall be fully complied with.
- xv. Temporary stockpiling of excavated material shall be permitted within the removal site, at such locations and upon such terms as may be specified in the special land use.
- xvi. No sand, gravel or other mineral material excavated or obtained from lands other than those covered by the special land use shall be brought to the mineral removal site, for stockpiling, mixing, or otherwise, unless such activities are authorized in the special land use and then only to the extent of such authorization.
 - A. The Planning Commission may permit the applicant to deliver to the removal site a specifically limited quantity of off-site natural mineral material, solely for the purpose of mixing such material with mineral material extracted from the site itself, in order to produce a desired natural resource product. In permitting such activity, the Planning Commission shall limit the quantity thereof, with reference to a specified percent of off-site natural mineral material which may be delivered to and used on the removal site, with such percent to be calculated on an average basis, over a specified period of time; alternatively, the Planning Commission may limit the quantity of off-site natural mineral material by reference to some other reasonable standard or method of calculation.
 - B. In authorizing the delivery of quantities of off-site natural mineral material to a removal site, up to a specified quantity or rate, the Planning Commission shall also include provisions permitting the reasonable stockpiling of such

off-site material, within the removal site, so as to afford a suitable efficiency in on-site excavation, mixing and removal operations, consistent with reasonable protection of adjacent and nearby lands from serious adverse effects.

- C. If as a part of an approved site rehabilitation plan, topsoil or other soil or earth is to be brought to and deposited on the site, the Planning Commission shall, as a part of its approval of the site rehabilitation plan, specify the conditions or limits under which such materials may be so utilized.
 - D. If as a part of the special land use the Planning Commission authorizes the delivery and use of off-site natural resource materials at the removal site, the Commission shall also specify the terms and conditions under which such activity shall be permitted.
- xvii. No cement, concrete, asphalt or other artificial mineral material, nor any other artificial material or debris, shall be brought to or stored on a mineral removal site.
 - xviii. All vehicles used to transport excavated material from the mineral removal site shall be loaded in a manner so that the materials shall not be unintentionally discharged from the vehicle. Vehicles shall be cleaned of all material not in the load bed prior to entering a public street.
 - xix. All outdoor lighting used to illuminate the mineral removal area, access roads, stockpile area and similar areas shall be directed away from all surrounding property. Shielding of lighting may be required by the Planning Commission where the lighting has the potential to shine toward a residential use and/or a public road.
 - xx. No mineral excavation or removal shall take place in a manner so as to produce conditions that will result in the collection of stagnant water. The banks of all excavated areas shall be sloped to a degree not less than that required to prevent erosion and to a degree sufficient to maintain vegetation.

- xxi. The Planning Commission may require compliance with such other conditions as may be necessary to insure compliance with the terms of this Ordinance. Such conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation and fuel loading and storage requirements.
- xxii. The Planning Commission may reasonably limit the total duration of all mineral excavation and removal activities.
 - A. In establishing such time limitation, the Planning Commission may include in the special land use a statement of its intent that the specified duration shall not be exceeded or renewed, irrespective of the quantity of mineral material that may have been removed at the conclusion of the specified period of time for such removal.
 - B. If a special land use has been specifically limited in its duration, an applicant shall nevertheless have the right to apply for a renewal of the special land use, for a period of time beyond the stated duration, and the Planning Commission shall consider such application for renewal, in the same manner and to the same extent as it would consider an original application. In reviewing such requested renewal, the Planning Commission shall consider whether the originally-estimated amount of mineral material has been removed.
 - C. If in originally limiting the total duration of all mineral excavation and removal activities, the Planning Commission has stated its intent that such duration shall not be exceeded, any subsequent application for renewal of the special land use shall be approved only if there are extraordinary circumstances justifying such renewal. Among the circumstances to be considered in such cases shall be whether a substantial amount of mineral material has not yet been removed

and whether there is a general or public need for the removal and use of such material.

- f. Review of Site Rehabilitation Plan. Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:
- i. Topsoil shall be replaced on the site to a depth sufficient to establish vegetation, except where the end-use activities or features do not involve the growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized in one phase before mineral removal operations or activities are commenced in another phase or area.
 - ii. Final slopes shall have a ratio of not greater than one foot of elevation to each three feet of horizontal distance.
 - iii. Final surface water drainage courses and areas of surface water retention shall be laid out and constructed at such locations and in such manner as to constitute the least possible deviation from the original surface water drainage patterns and surface water retention areas.
 - iv. Plantings of grasses, shrubs, trees and other vegetation shall be located on the site so as to maximize erosion protection, screen less attractive areas, and to enhance the natural beauty of the site as rehabilitated.
 - v. The creation or enlargement of a lake, in connection with rehabilitation of the site, shall be permitted only where the applicant demonstrates from engineering and hydrogeological studies that the waters of the lake will not become polluted or stagnant. Any such lake shall be approved by the state and county agencies having jurisdiction.
 - vi. The end-use or end-uses provided for in the site rehabilitation plan shall conform to the uses designated for the lands by the Township Comprehensive Plan.

- g. No Serious Adverse Consequences. The Planning Commission shall not approve any special land use for mineral removal unless the application sufficiently demonstrates that the proposed mineral removal operations and activities will not create any very serious adverse consequences or serious environmental impact upon adjacent or nearby lands or other lands in the Township or the area.
- i. The Planning Commission, in considering whether any such very serious adverse consequences or serious environmental impact would result from the proposed removal operations and activities, shall determine the degree and extent of public interest in the removal of the minerals from the applicant's land, considering the type of resource involved, the market demand and availability of supply, and other relevant factors and conditions which determine the relative benefit to the public from the proposed removal operations and activities.
- ii. The Planning Commission shall approve the special use only if the proposed removal operations and activities do not, considering the nature and extent of public benefit from the resource removal, result in very serious adverse consequences or serious environmental impact. Safety concerns and additional noise occasioned by the proposed operations, including additional truck traffic; decreased air quality caused by dust and odors from the operations and truck traffic; diminution of nearby property values; decrease in residential or other development in the area; loss of property tax revenues and other relevant factors may be considered in determining whether very serious adverse consequences or serious environmental impact would result from the removal operations and activities.
- h. Letter of Credit or Performance Bond. An applicant for a mineral removal special land use shall submit a letter of credit or performance bond, in the amount specified in the special land use, before commencing any operations. The letter of credit or performance bond shall be in an amount determined by the Planning Commission, based on the recommendation of the Township Engineer. The letter of credit or performance bond shall name the Township as the benefited party and shall be conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the special land use. If a performance bond, it

shall be executed by a surety acceptable to the Township. The letter of credit or performance bond shall have such other terms and shall be in such form as may be required by the Planning Commission, consistent with this section.

- i. The letter of credit or performance bond shall not be refunded, reduced or transferred until all mineral removal operations, site rehabilitation or restoration and all other required or permitted activities have received final inspection and approval by the Zoning Administrator and until the Planning Commission has determined that the applicant has fully complied with all of the terms and conditions of the special land use, including all required site rehabilitation.
 - ii. The timely and faithful compliance with all of the provisions of the letter of credit or performance bond shall be a condition of the special land use.
- i. The special land use authorized by this section may be renewed in the discretion of the Planning Commission, for periods of time not exceeding any maximum duration specified in the special land use, except where a renewal thereof is approved under the terms of paragraph xxii of subsection e of this section. Such renewal shall be subject to the terms of this subsection.
- i. The applicant or operator shall file an application for renewal of the special land use, prior to the expiration of the use, or prior to the expiration of any annual or other time-increment in which excavation and removal operations are permitted under the terms of the special land use.
 - ii. Prior to consideration of an application for renewal, the Zoning Administrator or other designated Township official shall inspect the land, shall review the mineral excavation and removal activities to date, all payments to the Township of any required mineral removal surveillance or administration fee, and shall submit a report thereon to the Planning Commission. To assist the Zoning Administrator or other designated official in preparing the report, the applicant shall, if requested, furnish load tickets or other proof of the quantity of mineral material removed and the quantity, if any, of natural off-site material brought to the removal site. The report of the Zoning Administrator or other designated official shall be a part of the application for renewal.

- iii. Upon receiving the completed application for renewal, including the report of the Zoning Administrator, the Planning Commission shall approve, disapprove or approve with conditions the requested renewal.
- iv. In determining whether to approve a renewal, the Planning Commission may consider whether, as stated in the report of the Zoning Administrator or otherwise, the applicant or other operator has complied with the terms and conditions of the special land use. If there have been violations thereof, the report of the building inspector shall describe the same. If the Zoning Administrator determines that operations do not comply with the special land use, the Zoning Administrator shall notify the applicant of the measures necessary to cure any deficiencies. The report of the Zoning Administrator shall not, however, bind the Planning Commission to any particular decision with regard to renewal of the use.
- v. In determining whether to approve a renewal of the special land use, the Planning Commission shall apply the standards and conditions for approval that are applicable to original special land uses under this section, taking into consideration current land use conditions in the vicinity, the operational history under the special land use and any complaints, comments or other information that have been received concerning the uses and operations thereunder.
- vi. The consideration of any such renewal shall take place at and following a public hearing of the Planning Commission. Notice of the public hearing shall be given in the same manner and to the same extent as the notice required to be given for an original hearing on the consideration of the special land use.
- vii. In approving a renewal of the special land use, the Planning Commission may include terms and conditions which are in addition to or different from those specified in the original special land use or in a previous renewal thereof.

j. Enforcement.

- i. The enforcement of the terms of the special land use may be directed against the applicant, the property owner and all operators acting or purporting to act under the special land use, or any of them. Full and timely compliance with all of the terms of this section and of the special land use is a condition for the continued effectiveness of the special land use or any renewal thereof.
- ii. In the enforcement of the provisions of this section and the terms of the special land use, the Township may avail itself of all procedures and remedies permitted by this Ordinance or otherwise by law.
- iii. Enforcement measures may include but need not be limited to the revocation of the special land use, where operations under the use do not comply with this section or the special land use.
- iv. For purposes of determining compliance with this section and the special land use, the Zoning Administrator or other designated Township official shall be entitled to access to the lands subject to the special land use during reasonable business hours. The Zoning Administrator is authorized to demand compliance with the terms of this section and the special land use, and if such compliance is not obtained, the Zoning Administrator may issue an order directing the applicant and any operator to cease immediately all mineral excavation and removal activities on or from the lands and all other operations relating thereto, either permanently or for such period of time as the Zoning Administrator may require.
- v. Upon the issuance of a stop work order, an order of revocation or any other order or directive of the Zoning Administrator, the applicant and any operator shall have no further right or privilege to continue or initiate any mineral excavation or removal operations or related activities on or with respect to the lands covered by the special land use, except emergency work which may be required to protect the public safety and except any limited or transitional operations which may be authorized under the terms of any such order or other directive. In enforcing any such stop work order, the Township may avail itself

of all remedies and procedures provided in this Ordinance or otherwise by law.

- k. Transferability of Special Land Use. No special land use authorized by this section shall be transferred to a person or party other than the applicant to whom it was granted unless such transfer is approved by the Planning Commission. In considering a request for transfer of the special land use, the Planning Commission may consider, among other matters, whether the terms of the required letter of credit or performance bond remain sufficient to assure satisfactory compliance with the terms of the special land use.
- l. Existing Special Land Uses. Upon the adoption of this section, special land uses for “Earth Removal, Sand and Gravel Mining,” that have previously been granted, and which have been properly licensed under Township Ordinances Nos. 250 and 252, shall, if lawful, continue in effect according to their terms, as follows:
 - i. Where an existing special land use and/or license expires, by reason of the expiration of the entire term for which it was granted, then the special land use, if renewed or otherwise approved, shall thereafter comply with all of the terms and conditions of this section.
 - ii. Upon an annual renewal of an existing special land use, or upon other renewal thereof, where the total permitted duration of the use has not yet expired, the special land use shall thereafter comply with all of the operating conditions stated in subsection e hereof, except as to those operating conditions that the Planning Commission determines would not be reasonably necessary in the circumstances or for the protection of other lands or the public interest.
 - iii. In any approved renewal of the special land use, the Planning Commission may include other or additional requirements, consistent with the terms of this section, if such other or additional requirements may be necessary because of changed circumstances or for the further protection of other lands or the public interest.
- m. Fee for Administration of Special Land Use. As a condition of any such special land use, the applicant shall pay to the Township such fee as determined by the Township Board, for the purpose of defraying the Township’s cost of

administration, surveillance and enforcement of the special land use, including but not limited to, consideration of applications and renewals, testing, monitoring, sampling, surveying, engineering fees, legal fees and other consultant fees and other related costs and expenses. Such fee shall be calculated and paid as required by resolution of the Township Board. In its discretion, the Board may provide for the advance payment into escrow, by the applicant, of all of the Township's costs and expenses with respect to the consideration of the special land use, in accordance with the Township Board resolution concerning such escrowed fees. In addition, the applicant shall pay such application fee or renewal fee as may be established by the Board.

- n. Zoning Administrator Permit for Removal of Certain Quantities under 5,000 Cubic Yards. The excavation for and removal of sand, gravel, soil and other mineral resources may be authorized upon the issuance of a mineral removal permit by the Zoning Administrator, where the total quantity of mineral material to be removed will be from 1,000 cubic yards up to 5,000 cubic yards, in accordance with the provisions of this subsection. Any such mineral removal operation shall comply with all of the following requirements:
 - i. The removal shall not cause serious adverse effects upon adjacent or nearby lands.
 - ii. The removal operation shall be subject to all of the operating terms and conditions stated in the permit issued by the Zoning Administrator. Such terms and conditions may include requirements pertaining to driveway access; truck routes; use and placement of equipment; isolation distance between operations and property boundary lines; storm water drainage; fencing and gates; elevation of slopes; preservation of trees and other vegetation, visual screening; and other matters.
 - iii. The excavation and removal operation must be one that is complete in and of itself; it may not constitute merely a part, portion or phase of some other larger, different or recurring removal operation, plan or activity. A property owner or operator may not repeat or combine successive removal operations of up to 5,000 cubic yards each, for the purpose of ultimately removing a larger quantity of mineral material.
 - iv. An applicant for such mineral removal operation of from 1,000 cubic yards up to 5,000 cubic yards shall

submit an application to the Zoning Administrator, for a permit for such operation. The application shall include the legal description of the lands; a description of the nature and intent of the proposed removal activity; a list of equipment to be used in the operation; a description of the measures to be taken to ensure that there will be no serious adverse effects upon other lands or persons; a description of the proposed route or routes to be used in transporting the removed material; proposed reclamation measures; and a topographic map showing existing and proposed final contour lines, unless such map is waived by the Zoning Administrator.

- v. In considering whether to approve a mineral removal permit, the Zoning Administrator shall consider the following matters:
 - A. The land area involved and the quantity of earth material to be removed.
 - B. The effects of the removal activity on adjoining and nearby lands.
 - C. The possibility that the removal operation may cause or create safety hazards, erosion of lands or other adverse effects.
 - D. Potential traffic congestion and adverse traffic effects which may result from the removal and hauling of mineral material.
 - E. The proposed nature and extent of reclamation of the land after completion of the removal operations.
- vi. Any mineral removal permit issued by the Zoning Administrator shall include the following matters:
 - A. The duration of the permit and its expiration date;
 - B. A description of the lands covered and the removal routes authorized;
 - C. A list of the permitted equipment;
 - D. A listing of all required precautionary measures, including any requirements

involving driveways, isolation distances, fencing, maximum grades of slopes, hours and days of operation, maximum depth of excavations, final required contours upon reclamation of the lands, and other requirements deemed appropriate to protect the public health, safety and welfare.

- vii. The permit issued by the Zoning Administrator shall terminate as of its stated expiration date, but the permit may be renewed, in the discretion of the Zoning Administrator, upon the filing of a subsequent application and if requirements under the previously-issued permit have been complied with. In considering whether to approve a renewal, the Zoning Administrator shall consider the matters specified above for the original issuance of the permit.
- viii. An applicant for a mineral removal permit shall, upon filing the application, pay the required fee as established by the Township Board.

[PART C – CONDOMINIUMS]

Section 7. **Title of Chapter 25.** Chapter 25 of the Zoning Ordinance of the of the Charter Township of Grand Rapids is hereby amended so as to amend the title of that chapter to provide as follows: “REVIEW AND APPROVAL OF SITE CONDOMINIUM AND CONDOMINIUM PROJECTS.”

Section 8. **Purpose and Scope of Chapter 25.** Section 25.1 of the Zoning Ordinance of the of the Charter Township of Grand Rapids is hereby amended so as to read in its entirety as follows:

SECTION 25.1 PURPOSE AND SCOPE.

1. Tracts of land that are developed and sold as site condominium developments and condominium developments are not subject to regulation under the Michigan Land Division Act. The Township determines that it is in the best interest of public health, safety, and welfare to regulate site condominium developments and condominium developments to assure that the developments will not adversely affect the occupants thereof, or other properties in the Township.

2. This Chapter covers both site condominiums and condominiums, whether for residential use or non-residential use. The references herein to site condominiums shall also include condominiums; accordingly, the requirements of this Chapter for submission of condominium plans and for Township consideration and approval thereof shall apply to condominium developments, as well as to site condominium developments.

Section 9. **Definitions for Chapter 25.** Section 25.2 of the Zoning Ordinance of the of the Charter Township of Grand Rapids is hereby amended so as to read in its entirety as follows:

SECTION 25.2 DEFINITIONS. For purposes of this Chapter, the following words and phrases are defined as follows:

1. “Building envelope” means an area of land within which a condominium unit may be constructed and used, and which complies with the minimum lot area and the minimum lot width requirement of the zone district in which the condominium unit is located.
2. “Condominium Act” means Public Act 59 of 1978, as amended.
3. “Condominium Unit” means a condominium established in compliance with the Condominium Act which consists of a volume of surface or subsurface, vacant air space, designed and intended for separate ownership and use as described in the condominium master deed. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a condominium unit shall be deemed to be a dwelling, if a residential use, or shall be deemed to be a building or portion thereof, if for an approved non-residential use.
 - a. In the case of an attached condominium, the minimum requirements of this ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building in which the attached condominium is located; provided, however, that a building envelope surrounding the attached condominium unit shall be established and described, so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located. The building envelope surrounding a two-unit condominium building must comply with the minimum lot area requirement, the minimum lot width requirement and the minimum building setback requirements for duplexes in the zone district in which the two-unit condominium is located. The building envelope for a building that contains more than two attached condominium

units must comply with the minimum lot area requirement, the minimum lot width requirement and the minimum building setback requirements for multi-family dwelling units in the zone district in which the building is located.

- b. In the case of a detached condominium, the applicable provisions of this ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building comprising the detached condominium; provided, however, that a building envelope or other equivalent space surrounding the detached condominium unit shall be established, so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located.
- c. For the purposes of this Chapter, the term “building site” shall refer to the area within a building envelope or other equivalent space surrounding an attached or detached condominium unit that has been established, as required, so as to comply with the minimum area, yard, and density requirements of the zone district in which the attached or detached condominium is located.

4. [no change]

5. [no change]

6. [no change]

7. [no change]

8. [no change]

9. [no change]

10. “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the site condominium master deed, and within which a building or other improvements may be constructed by the condominium unit owner. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a site condominium unit shall be considered to be the equivalent of a “lot.”

11. Except as otherwise provided by this Chapter, words or phrases shall have the meanings as defined in the Condominium Act.

Section 10. **Definition – Lot.** Section 2.1 of the Zoning Ordinance of the of the Charter Township of Grand Rapids is hereby amended by amending the definition of the term “lot” so that it reads in its entirety as follows:

Lot: A parcel of land which is or may be occupied, wholly or in part by one main building or use and its accessory buildings or uses; provided, however, that a lot may be occupied by more than one main building or use if it is owned and used on a condominium basis and complies with the applicable provisions of this ordinance, including, but not limited to, the provisions of Chapter 25 pertaining to condominiums. A lot is not necessarily limited to the boundaries of a platted lot where contiguous lots or land is under the same ownership and is so situated or used as in fact to constitute one parcel of land.

Section 11. **Site Plan Review for Condominium Conversions.** Section 26.2 of the Zoning Ordinance of the of the Charter Township of Grand Rapids is hereby amended so as to read in its entirety as follows:

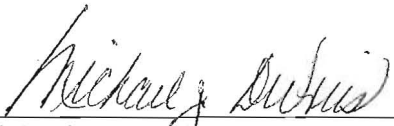
SECTION 26.2 SITE PLAN. Site plan review and approval by the Site Plan Review Committee in accordance with the provisions of this Chapter shall be required for all uses in the RR, R-1, R-2, R-3, S-R, C-2, C-1, and C Districts, except single family dwellings, and two-family dwellings. In addition, site plan review and approval is required pursuant to this Chapter when an existing building or use, located in any zone district, has its form of ownership changed to that of a condominium. This Chapter shall not apply to special land uses or PUD rezoning unless specifically referenced.

[PART D – OTHER MATTERS]

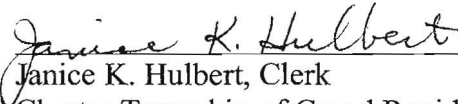
Section 12. **Publication; Effective Date.** A summary of the regulatory effect of this Ordinance shall be published in a newspaper of general circulation in the Township, within 15 days after adoption. This Ordinance shall become effective seven days after such publication.

AYES: Members: DeVries, Merchant, Robinette, Saalfeld, Van Popering
NAYS: Members: NONE

ORDINANCE DECLARED ADOPTED.



Michael J. DeVries, Supervisor
Charter Township of Grand Rapids



Janice K. Hulbert, Clerk
Charter Township of Grand Rapids

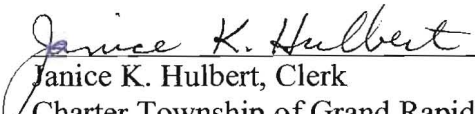
First Reading: February 3, 2009

Second Reading: February 17, 2009

Ordinance Becomes Effective: March 3, 2009

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Charter Township of Grand Rapids at a public meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



Janice K. Hulbert, Clerk
Charter Township of Grand Rapids

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