

**ORDINANCE NO. 251 AS AMENDED BY NO. 253**

**INERT MATERIAL DISPOSAL CONTROL ORDINANCE**

**AN ORDINANCE TO PREVENT, REDUCE OR ELIMINATE BLIGHT, BLIGHTING FACTORS OR CAUSES OF BLIGHT WITHIN THE TOWNSHIP, AND TO SECURE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE, BY PROVIDING FOR THE REGULATION OF THE DISPOSAL OF INERT MATERIALS AND OTHER MATERIALS, INCLUDING THE LOCATION, DESIGN, AND OPERATION OF INERT MATERIAL DISPOSAL AREAS WITHIN THE TOWNSHIP, AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THE ORDINANCE**

**THE CHARTER TOWNSHIP OF GRAND RAPIDS ORDAINS:**

Because of the noise, dirt and dust emitted in the disposal of broken concrete, brick, masonry, pavement, soil, mine overburden, rock and other inert materials, and because of the permanent changes in the topographical and geological characteristics of the Township as a result of such disposal, and because of the dangers inherent in such disposal and such changes by virtue of the shifting, settlement, subsidence, or erosion of earth, the creation of steep hillsides or uneven grades, the encroachment upon wetland or flood plain areas, the collection of standing water, the diversion of water onto adjacent property, the affects or groundwater levels and water supply, and other like considerations, and for the purposes of protecting the health, safety and welfare of the residents of Grand Rapids Charter Township, and further, protecting the property of said residents, this Ordinance is enacted.

This Ordinance is enacted by the Grand Rapids Charter Township Board pursuant to the authority vested in it by Act 246 of the Public Acts of the State of Michigan for 1945, as amended.

Section 1. Title. This Ordinance shall be known as the AGrand Rapids Charter Township Inert Material Disposal Control Ordinance@ and may elsewhere be referred to as Athis Ordinance.@

Section 2. Interpretation, Existing Disposal Activities and Restrictions. It is not the intention of this Ordinance to in any way repeal or annul any existing law or ordinance unless expressly so stated in this Ordinance. Further, it is not the intention of this Ordinance to

interfere with existing or completed inert material disposal activities, except that this Ordinance sets forth minimum standards which shall apply to such activities. To the extent that any restrictions or standards imposed by this Ordinance are more stringent and restrictive than existing restrictions or standards, this Ordinance shall control.

Section 3. Definitions. For the purposes of this Ordinance, the terms defined in subsections (A) to (H) shall have the meanings ascribed to them in those subsections.

(a) The terms "Disposal" or "Dispose" mean to fill, accumulate, place, deposit, or to allow to permit the filling, accumulation, placing, or depositing of inert materials.

(b) The term "Inert materials" means substances, as defined by Rule 299.4103(h) of the Michigan Administrative Code (1982 AACCS, R 299.4103(h)), that will not decompose, dissolve, or in any way form a contaminated leachate upon contact with water or other liquids percolating through them when disposed of on land and includes all of the following: broken concrete; brick; masonry; pavement; uncontaminated soil; mine overburden; rock; and other materials designated as inert by the Director of the Michigan Department of Natural Resources.

(c) The term "Inert Material Disposal Area" means an area for which a permit has been obtained for the disposal of inert material within the Township, as required by this Ordinance.

(d) The term "Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from the wastes.

(e) The term "Licensed disposal area" means a "type II" or "type III" sanitary landfill, or other solid waste handling or disposal facility utilized in the disposal of solid waste, as defined by the Michigan Solid Waste Management Act, and duly licensed by the State of Michigan in accordance with that Act.

(f) The term "Michigan Solid Waste Management Act" means Act No. 641 of the Public Acts of 1978, as amended, being MCLA 299.401 et seq. Unless otherwise indicated, all references to the Act in this Ordinance include reference to the rules promulgated by the Michigan Department of Natural Resources under the Act, being 1982 AACCS, R 299.4101 et seq.

(g) The term "Person" as used herein shall include any individual, sole proprietorship, partnership, association, or corporation.

(h) The term "Solid waste" means garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial by-products or waste, and animal waste, as defined by the Michigan Solid Waste Management Act.

Section 4. Disposal of Inert Materials.

(a) Inert Material Disposal Permit Required. From and after the effective date of this Ordinance, no person shall dispose of inert materials on any premises in the Township except in a licensed disposal area unless an "Inert Material Disposal Permit" is first obtained, or unless the proposed disposal is exempt from the permit requirements, as provided by this Ordinance. All existing areas upon which inert materials are being or have been disposed shall be brought into compliance with the requirements of this Ordinance and an Inert Material Disposal Permit shall be obtained no later than ninety (90) days after the effective date of this Ordinance.

(b) Application for Inert Material Disposal Permit. Compliance with the following application procedures and requirements shall occur prior to the commencement or continuation of any proposed or existing disposal of inert materials as of or after the effective date of this Ordinance.

(1) Exemptions from permit requirements. An "Inert Material Disposal Permit" shall not be required for the disposal of inert material in connection with the following activities, provided that the disposal or method of disposal will not create a nuisance or unreasonably interfere with the enjoyment of life or property:

a. Excavation, removal, or filling approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the material excavated is temporarily stored and then placed back upon the excavation site, or where inert materials are brought to the excavation site from another site specifically for use in connection with and as necessitated by the installation or maintenance of the public improvement; provided, that where inert materials are excavated and removed from the excavation site of a public improvement for disposal at another site and not in conjunction with the installation or maintenance of a public improvement, the owner of the site within the Township where the inert materials are to be disposed must obtain a permit under this Ordinance.

b. Excavation, removal, or filling of an individual lot for the construction of a single family dwelling unit pursuant to a duly issued building permit.

c. The moving, grading, or leveling or inert materials by a land owner for the immediate use or development of the land upon which the inert materials are found; provided, however, that where inert materials are removed from the site where found to another site, the owner of the site within the Township where the inert materials are to be placed must obtain a permit under this Ordinance.

d. The disposing of inert material from an individual=s own land upon the individual=s own land as a part of a farming operation conducted in accordance with generally accepted agricultural practices.

e. Grading, disposal or excavations in accordance with plans incorporated in a permit issued pursuant to the Township=s Mineral Mining Control Ordinance.

f. Other circumstances where the Township Supervisor determines, in his or her sole discretion, that the proposed disposal is unlikely to create a nuisance or unreasonably interfere with the enjoyment of life or property. The Township Supervisor=s determination shall be based upon a review of the proposed location of the disposal site, the source, type, and amounts of inert materials to be disposed, the proposed methods of disposal, and other factors which may bear on the potential of any disposal activity to create a nuisance or to otherwise adversely affect the public health, safety, or general welfare of the community.

(2) Preliminary Application. The owner of land upon which it is proposed to dispose of inert materials shall submit an application to the Township Supervisor for a determination of the acceptability of the location of the proposed disposal. The preliminary application shall include the following:

a. A legal description of the land owned by the applicant upon which the inert material will be disposed, including a statement of the type of ownership interest possessed by the applicant.

b. A scale drawing showing the outline of the area on which the inert material will be deposited, the sufficient landmarks to enable the Township to identify the proposed Inert Material Disposal Area on the ground.

c. A description of the types and amounts of inert material proposed to be disposed.

d. The names of the persons who will actually conduct the disposal operations, if other than the landowner-applicant.

e. A statement of the intended use of the area after disposal of the inert material has been completed.

After review of the preliminary application, the Township Supervisor will examine the proposed disposal site and preliminarily determine whether it is suitable for the disposal of inert materials, consistent with the public health, safety, and general welfare.

(3) Additional application information required. If the Township Supervisor preliminarily finds that the site is suitable for the disposal of inert material, within the intent of these regulations, the applicant shall submit to the Township Board the following information, which shall be prepared and signed by a competent registered professional engineer:

a. A map at a scale not smaller than 100 feet to the inch on which there shall be shown:

1. The boundary of the proposed Inert Material Disposal Area, identified on a rectangular coordinate system referred to the most convenient exterior Section Line and Section Corner or Quarter Section Corner.

2. All boundaries of the property which are located closer than 600 feet from any part of the proposed Inert Material Disposal Area.

3. Areas from which cover material will be obtained.

4. Existing surface elevations of the proposed Inert Material Disposal Area, borrow areas, and of contiguous areas whose future utility will be directly influenced by the disposal or borrow, shown by accurate contours at intervals not exceeding two (2) feet. Elevations shall be expressed, directly, on U.S.G.S. datum.

5. Location of existing or proposed access roads from public highways to the proposed Inert Material Disposal Area.
  6. Location of existing or proposed on site roads.
  7. Location of existing or proposed fencing.
  8. Drainage channels or other provisions to be made for drafting surface runoff from the proposed Inert Material Disposal Area during and after completion of the disposal of inert materials.
  9. Location of surface water, wetlands, and flood plains on the site or within 1,000 feet of the site.
  10. Location of existing or proposed structures on the site.
  11. Location of existing or proposed utilities.
- b. A separate, similar map showing, by way of contours as previously specified, the surface elevations and slopes which will be established when disposal or borrow operations are complete.
- c. A projected schedule of the disposal operations, including the following specific dates:
1. Commencement and completion of disposal operations;
  2. Commencement and completion of fencing, roads, utilities, or any other structures or improvements to be located on the site;
  3. Commencement and completion of erosion and drainage control measures to be instituted during and after completion of the disposal operations; and
  4. Commencement and completion of final grading, topsoil replacement, and replanting or landscaping.
- d. If any inert material other than soil is to be included in the proposed Inert Material Disposal Area, the applicant shall submit a comprehensive statement

describing the source, type, and amounts by type of inert materials proposed to be disposed, together with plans showing the complete design of inert material fill, including the following details: (1) typical sections of fill; (2) depth of layers; (3) height of lifts; (4) thickness of cover; (5) number of lifts; (6) surface slopes of lifts and final surface; and (7) direction of filling progress.

e. If the proposed Inert Material Disposal Area is subsequently to be included in a plat or subdivision of land contemplating the erection of buildings for any purpose, the required maps (Section 4 (b) (3) a. and b., above) shall show the proposed subdivision layout; and the future locations of streets, building sites, and utility easements shall be clearly excluded from fill with any material other than soil. Such subdivision need not be shown in final exact detailed dimensions. However, if significant latitude is retained for future alteration of layout, the areas restricted to soil fill only shall be expanded accordingly.

f. Where inert material other than soil is to be included in the proposed Inert Material Disposal Area, the applicant must submit a hydrogeological report prepared by a hydrogeologist or a registered professional engineer with appropriate training indicating the existing groundwater level and the highest groundwater level which can be expected in the fill area. The report shall indicate whether the groundwater may have connection with an aquifer constituting a source of water supply and, if lowering of the ground water by drainage is contemplated, shall indicate whether the proposed drainage would be likely to adversely affect any water supply.

(c) Recordation of size and location with Michigan DNR. The size and location of disposal sites intended to receive more than 1,000 cubic yards of inert material shall be recorded with the Michigan Department of Natural Resources.

(d) Design and operation of Inert Material Disposal Areas.

(1) Area in which disposal permitted. The disposal of inert material shall be confined within the Inert Material Disposal Area boundary as indicated in the approved plan.

(2) Disposal within wetlands and flood plains prohibited. No disposal of inert material will be permitted which will encroach upon a wetland or the flood plain area of any body of water, except as permitted by applicable state laws.

(3) Fill placed in ponds. Unless otherwise specifically permitted by the Township, all fill placed in water in existing ponds shall be granular material which will be compact when placed in water.

(4) Drainage of disposal areas. Except in situations covered in the last preceding paragraph (Section 4 (d) (3)), drainage of inert material disposal areas shall at all times be maintained in such manner that inert materials shall not be placed in ponded water, nor be washed from the disposal area into natural water courses nor onto the property of others. The entire Inert Material Disposal Area site shall be sloped, graded, and provided with drainage facilities as needed to prevent erosion, to drain off rainwater falling onto the disposal area, to prevent the collection of standing water, and to minimize runoff onto adjacent property. Erosion control measures shall be instituted to comply with Act No. 347 of the Public Acts of 1972, as amended.

(5) Minimum clearance to groundwater level. Inert Material Disposal Areas shall have a permanent minimum clearance of four (4) feet from the bottom of the fill area to the groundwater level.

(6) Disposal of soil alone. Where the only inert material to be disposed of will consist of uncontaminated soil, the design of fill shall provide for the stripping of all areas where the total depth of fill will be less than six (6) feet, so that the soil fill will be placed upon bare earth. In areas where the depth of fill will exceed six (6) feet, all trees, vegetation and other materials whose consistency, shape or decomposition might cause significant settlement, shall be removed in advance of filling. Except in locations where the future use of the area is such that settlement will be of no consequence, soil fills shall be controlled so that the completed fill shall be compacted throughout to a density not less than ninety (90) percent of the maximum unit weight of the earth material.

(7) Hours of operation; noise and vibration. Inert material disposal areas which are located and operated such that the noise of operation or equipment vibration can reasonably be considered disturbing to neighboring uses of land shall not carry on operations between the hours of 5:00 p.m. and 7:00 a.m., nor on Sundays or holidays. Objectional noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses. The applicant shall demonstrate as part of the permit application that operation of the proposed disposal area will not result in noise exceeding the following levels for specified adjacent land uses when measured at the common property line nearest the active work area:

Adjacent Use Maximum Sound Level

Residential	75 dBA
Commercial	85 dBA
Industrial and other	90 dBA

The Township shall monitor noise levels using weighted decibel measurements (referenced to 20 micropascals) with a type of audio output meter approved by the United States Bureau of Standards.

(8) Dust control. Reasonable and appropriate control measures shall be used at all times to prevent dust from becoming a problem or nuisance, both at the disposal area and on access roads.

(9) Township right of entry. The officers and agents of the Township shall have at all times the right of entry to any premises where an Inert Material Disposal Permit is in effect for the purpose of determining compliance with the requirements of this Ordinance.

(10) Bringing to final grade. The plan shall be designed to bring the active disposal area to approved final grade as quickly as possible within the constraints of safe equipment operating practice and efficient use of the land available for disposal.

(e) Transporting inert materials.

(1) Vehicles or other equipment or containers used to transport inert material over public streets within the Township shall be designed to prevent the accidental discharge of their contents and shall be operated, loaded or covered to prevent littering, the blowing of dust, or any other hazard or nuisance.

(2) A law enforcement officer may inspect a vehicle, equipment or container that is being used to transport inert material along a public road to determine if the same is designed, maintained, and operated in a manner consistent with Section 4 (e) (1) of this Ordinance. A vehicle, equipment, or container that fails to meet the requirements of said Section shall be repaired or its use for purposes of hauling inert materials over public streets shall be discontinued.

(3) Where accidental spillage does occur during the transport of inert materials over public streets, the driver shall be responsible for assuring that the material is removed immediately and that the area is suitably cleaned.

(4) The transporting of inert materials shall be confined to routes which may be approved by the Township and included in provisions of the permit. The Township reserves the right, from time to time, in its discretion, to make revisions in approved routes.

(5) On-site roads and access roads shall be maintained, and if necessary, vehicle wheels shall be cleaned before leaving the disposal area premises, so that dirt and mud will not be tracked onto the public streets.

(f) Disposal of waste other than inert material prohibited. Only materials which are inert as defined by this Ordinance or designated as inert by the Director of the Michigan Department of Natural Resources may be disposed of in an Inert Material Disposal Area. All other solid waste as defined by the Michigan Solid Waste Management Act must be disposed of in disposal areas licensed by the state under that Act, consistent with the Solid Waste Management Plan for Kent County Michigan. Hazardous wastes, liquids, or sewage shall not be disposed of in an Inert Material Disposal Area.

(g) Determination of material as inert. Material not specifically listed as inert in Section 3(b) must be designated in writing as inert for disposal at the applicant=s proposed disposal site by the Director of the Michigan Department of Natural Resources. In the absence of such a written designation, the unlisted material may not be disposed of in any Inert Material Disposal Area.

(h) Confirmation of inert character of material. Where there is any uncertainty as to the inert character of material proposed to be disposed of in an Inert Material Disposal Area, the material proposed to be disposed of in an Inert Material Disposal Area, the material shall be subjected to a leaching test procedure, satisfactory to the Township Board, for evaluation of groundwater contamination potential. Further, the material may be subject to retesting to confirm the inert character of the material annually or on a more frequent schedule as may be specified by the Township Board. The leaching test procedure selected shall have been developed by a recognized independent testing association, trade association, professional society, or regulatory agency and shall be documented as to applicability and reproducibility. The leaching test analytical data, details of the leaching test utilized, and any actual field data available shall be submitted to the Township Board for review and used in the determination of the inert character of the material proposed to be disposed.

(i) Completion or discontinuation of disposal. Within one (1) year after the completion or discontinuation of disposal and the placement and grading of final cover on any Inert Material Disposal Area, the area shall be dressed with top soil and shall be seeded with a hardy grass which will serve as a binder of the cover and prevent erosion and dust problems. This requirement may be waived by the Township Board if the use of the area after completion or discontinuation of disposal includes other measures which will accomplish the same purposes.

Section 5. Permits.

(a) Issuance. An application for an Inert Material Disposal Permit shall be considered complete upon submission of all required application information, including a proposed plan for the design and operation of the Inert Material Disposal area. After review of the completed application and upon a determination that the proposed disposal site is suitable for the disposal of inert materials consistent with the public health, safety, and general welfare, the Township Board shall approve the applicant=s plan and shall issue an Inert Material Disposal permit, in accordance with the requirements of this Ordinance. Inert Material Disposal Permits shall be issued for a term of two (2) years.

(b) Renewal. Permits will be renewable without additional charge if the Township Board finds that the following conditions have been met:

(1) Operation of the Inert Material Disposal Area has conformed to the approved plans, to conditions contained in the permit, and to the requirements of this Ordinance; and

(2) All fees and inspection charges have been paid when due.

(c) Refusal of renewal. Renewal of permits may be refused if:

(1) Disposal operations are inactive or conducted on so small a scale that, in the opinion of the Township Board, the duration of the disposal operation will itself constitute a nuisance; or

(2) Operation of the Inert Material Disposal Area develops any unforeseen nuisance or hazard to the health or safety of the community, and adequate measures are not, or cannot be, put into effect within a reasonable period to correct such detrimental conditions; or

(3) The operation of the Inert Material Disposal Area is in violation of the approved plans, conditions contained in the permit, or the requirements of this Ordinance.

(d) Cancellation of permits. Inert Material Disposal Permits are subject to summary cancellation, and disposal activities must be discontinued, if:

(1) The operation of the Inert Material Disposal Area is in violation of the approved plans, conditions contained in the permit, or the requirements of this Ordinance; or

(2) Unpaid fees and inspection charges have accumulated to such an amount that in the opinion of the Township Board the balance of the deposit required by this Ordinance may not be sufficient to guarantee satisfactory completion of the Inert Material Disposal Area as required by the approved plan in the event of neglect by the permit holder.

(e) Joint permit holders. If the disposal of inert materials will be accomplished in whole or in part by a party other than the landowner-applicant, any permit which the Township Board may subsequently issue will issue to the landowner and proposed third-party operator jointly and will embody the joint and several obligations of each in accordance with this Ordinance.

(f) Conditions in permit. Upon the issuance or renewal of an Inert Material Disposal Permit, the Township Board may impose as conditions of the permit any reasonable restrictions or requirements related to the location, design, or operation of an Inert Material Disposal Area, as required to secure the public health, safety, and general welfare of the community or to ensure that the disposal of inert materials will not create a nuisance or unreasonably interfere with the enjoyment of life or property. Such permit conditions may be in addition to the express requirements of this Ordinance.

#### Section 6. Fees and Deposits.

(a) Fees. Fees payable to the Township for review of Inert Material Disposal Area plans and inspection of disposal operations shall be determined by resolution of the Township Board for the following activities:

(1) Examination of site and determination of suitability for use as an Inert Material Disposal Area.

(2) Review of plans for disposal of inert material consisting of soil only per acre of fill area.

(3) Inspection of construction or operation of Inert Material Disposal Area for each month in which construction or operation occurs.

(b) Deposits. A deposit shall be made with the Township, in an amount determined by the Township Board, to assure payment of inspection fees and completion of the disposal of inert materials in accordance with approved plans, permit conditions, and the requirements of this Ordinance. The deposit may be calculated on a per acre or proposed fill basis, with a minimum deposit required.

(c) Payment of fees and deposits.

(1) Fees for examination of the proposed disposal sites shall be paid with the initial application. Fees for review of plans shall be paid upon submission of the plans.

(2) Deposits shall be paid before an Inert Material Disposal Permit will be issued.

(3) Inspection charges will be billed, and shall be paid monthly.

(d) Use and refund of deposit.

(1) Collection of unpaid charges. If inspection charges or charges for work done by the Township remain unpaid 60 days after a bill for such charges has been mailed to the record address of the permit holder, the Township may withdraw such amounts as required from the deposit on hand toward payment of the delinquent charges.

(2) Reduction of deposit. On completion or discontinuation of any Inert Material Disposal Area, if, in the judgment of the Township Board, the amount of deposit on hand is more than sufficient to assure the performance of any further actions required of the permit holder, the Township Board may reduce the amount of the deposit to such sum as the Township Board considers appropriate and sufficient and any additional amount of deposit on hand may be refunded to the permit holder.

(3) Final disposition of deposit. The balance of the deposit held on account of any Inert Material Disposal Area will be refunded when (a) the disposal activities

are completed or terminated, (b) the disposal area has been finished off in conformance with the approved plan or to the satisfaction of the Township Board, and (c) all amounts owed the Township on account of the disposal area have been paid.

Section 7. Enforcement and penalties.

(a) Any person who violates any provision of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each violation (as authorized by Section 21 of Act No. 359 of the Public Acts of 1947, as amended, and the Grand Rapids Charter Township Municipal Civil Infraction Ordinance).

(1) Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section, below. As used in this Section, Arepeat offense@ means a second (or any subsequent) violation of the same requirement or provision of this Ordinance (i) committed by a person within any 90 day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

a. The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.

b. The fine for any offense which is a second repeat offense, or any subsequent repeat offense, shall be not less than \$500.00 each, plus costs.

(2) Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense subject to separate sanctions.

(3) The Building Inspector is hereby designated as the authorized township official to issue municipal civil infraction citations for violations of this Ordinance, as provided by the Grand Rapids Charter Township Municipal Civil Infraction Ordinance. As used in this Ordinance, ABuilding Inspector@ means the township official, employee, agent or other entity appointed by resolution of the Township Board to perform the functions and tasks assigned by this Ordinance to the ABuilding Inspector.@ **[Section 7(a) amended 5/3/95 by Ord. No. 325]**

(b) In addition to any other remedy available at law, the Township may bring an action for an injunction or other process against a person, or an agency of a person, to restrain or prevent any violation of the provisions of this Ordinance.

(c) If the permit holder for any Inert Material Disposal Area shall fail or neglect to do any of the things required by the permit or by this Ordinance, and the permit holder fails to remedy such omissions within a reasonable period after notice of the omissions has been delivered to the permit holder, or if the permit holder cannot be readily located, the Township shall have the right to enter on the property and to do by its own forces or its agents whatever may be necessary to eliminate any dangerous or objectional conditions. The permit holder shall be billed and shall pay for all such work done by the Township.

Section 8. Severability. This Ordinance and each section, subsection, paragraph, subparagraph, or any provision thereof shall be deemed severable. If any section, subsection, paragraph, subparagraph, or any other provision is adjudged by a Court of competent jurisdiction to be invalid or unenforceable or unconstitutional for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 9. Effective Date. This Ordinance shall be effective October 28, 1987, as amended December 24, 1987.

