

FREEDOM TOWNSHIP
Washtenaw County, Michigan

ORDINANCE No. 32

Extraction

Section 1. Short Title

1.01 This Ordinance shall hereinafter be known and cited as the Freedom Township Extraction Ordinance.

Section 2. Purpose and Authority

2.01 Exportation of Non-Metallic Minerals and Importation of Fill Materials. Freedom Township recognizes that sand, gravel and other non-metallic minerals within the Township's boundaries are non-renewable natural resources necessary and beneficial to the welfare of its inhabitants and the surrounding region. To provide for utilization of these resources in a manner compatible with nearby residential uses, to protect human health and the environment, and to insure complete reclamation for another land use at the conclusion of the extraction operation, it is necessary to regulate and provide procedures and standards for extraction of non-metallic minerals and for the reclamation of the land at the conclusion of the operation. These regulations are required because extraction operations and related activities, such as the importation of fill material, can cause unique and substantial impacts upon the environment and the welfare of adjacent properties and the community as a whole. They can disrupt the environment, impair water quality and quantity, cause noise and dust nuisances, damage roads and create conditions dangerous to Township residents. Extraction of non-metallic minerals and importation of fill materials can leave land in an unsightly condition and present an unattractive and dangerous nuisance. The Township has authority to regulate extraction and importation of fill materials to protect the public health, safety and welfare pursuant to P.A. 246 of 1945, as amended (MCL §41.181, et seq.).

2.02 Preservation of Wetlands and Water Bodies. Wetlands are indispensable and fragile natural resources that provide many public benefits, including maintenance of water quality through nutrient cycling and sediment trapping, and by serving as biological and chemical oxidation basins; flood and storm water runoff control through temporary water storage; groundwater recharge; and by providing open space, passive outdoor recreation opportunities, and fish and wildlife habitat. Preservation of Township wetlands and water bodies in a natural condition is necessary to maintain hydrological, economic, recreational, and aesthetic natural resource values for existing and future Township residents.

2.03 Planning Commission and Township Zoning Inspector. The Planning Commission has the authority to administer, review, deny, approve or approve with conditions permits issued under the Freedom Township Extraction Ordinance. The Freedom Township Zoning Inspector, under the direction of the Planning Commission, shall assist in the administration and enforcement of this Ordinance.

Section 3. Exemptions

3.01 Subject to compliance with all other applicable statutes, ordinances, rules and regulations, this Ordinance does not apply to the following activities:

A. Ordinary and necessary grading of land for the tilling and cultivation of soils for the growing of crops and trees.

- B.** Ordinary and necessary grading or excavation for construction of buildings, structures or related septic systems pursuant to all required permits from the Township and any other governmental authority having jurisdiction over such activities.
- C.** Ordinary and necessary grading, excavation, or maintenance within a public right-of-way by any governmental authority having jurisdiction over that public right-of-way road or drainage easement.
- D.** Remediation of environmental contamination.
- E.** Construction of solid waste disposal facilities in accordance with Michigan Department of Environmental Quality permits.

Section 4. Definitions

- 4.01 Active Cell-Unit.** Means a cell-unit set forth in the approved progressive cell-unit extraction and reclamation plan, in which vegetation and topsoil have been removed in preparation for extraction or in which active extraction is occurring. Vegetation removal does not preclude the removal of marketable forest products from a cell-unit, if the removal maintains the ground cover and topsoil within the cell-unit in stable condition.
- 4.02 Applicant/Owner/Operator.** The terms “applicant”, “owner”, and “operator” shall include the tenants, lessees, agents, servants or assigns thereof.
- 4.03 Application.** Means an Application for Extraction Permit, Application for Removal of Small Amount Permit, Application for Modification of Extraction Permit, Application for Renewal of Extraction Permit, and an Application for Importation of Fill Materials Permit.
- 4.04 Application Fee.** Means a sum to be paid by the applicant to the Township which is fixed by resolution of the Township Board of Trustees.
- 4.05 Aquifer.** Means a saturated permeable geologic unit capable of yielding a significant amount of groundwater to a well or spring.
- 4.06 Base Document(s).** Means a document required to be submitted under the Freedom Township Extraction Ordinance.
- 4.07 Beneficiation.** Means to process (but does not include the drying process) the extracted materials for any of the following purposes: **(i)** Regulating the grain size of the desired product; **(ii)** Removing unwanted constituents; and **(iii)** Improving the quality and purity of the desired product.
- 4.08 Cell-Unit.** Means a subunit of the total extraction project that will be reclaimed during extraction operations in another area.
- 4.09 Commencement Date.** Means the date a permit is signed by the Township Supervisor and Chairperson of the Planning Commission or, where applicable, the Zoning Inspector.
- 4.10 De-watering.** Means the lowering of groundwater or surface water elevation by discharging water to an off-site location or to another portion of the site.
- 4.11 Escrow fee.** Means a sum paid to the Township to defray reasonable actual costs and expenses incurred by the Township to review an application and/or administer a permit and includes (but not limited to) costs for engineering, geologic, hydrologic, land use planning, legal, and other expert assistance and analysis; testing; inspections; publications, mailings; recording fees; and special meetings.

- 4.12 Extraction.** Means the digging, dredging, quarrying, excavation, or other removal of sand, gravel, soil, or other non-metallic mineral from a site.
- 4.13 Extraction Area.** Means the area, as depicted on a topographical map, from which earth materials are intended to be removed.
- 4.14 Extraction Operation.** Means extraction from the earth of mineral aggregates or non-metallic minerals for sale or use by the operator and includes the use of mining equipment or techniques to remove materials from the in-place non-metallic mineral deposit, as well as associated activities such as excavation, grading and dredging. Also, it includes processes carried out at a non-metallic mining site that are related to the preparation or processing of the mineral aggregates or non-metallic minerals obtained from the non-metallic mining site, such as, but not limited to, stockpiling of materials, blending mineral aggregates or non-metallic minerals with other mineral aggregates or non-metallic minerals, grading, crushing, screening, scalping and de-watering; it does not include removal from the earth of products or commodities that contain only minor or incidental amounts of non-metallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
- 4.15 Fill.** Means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.
- 4.16 Fines.** Materials mined from the site passing 200 mesh sieve opening as defined by the National Standard Sieve Size (ASTM-E11) that are a by-product of any extraction operations at the site.
- 4.17 Fixed Costs.** Means costs incurred by the Township generally shared by all applications as determined time to time by the Freedom Township Board of Trustees.
- 4.18 Groundwater.** Means water below the land surface in a zone of saturation.
- 4.19 Groundwater Elevation.** The level to which groundwater will rise naturally in a well and measured in relation to sea level.
- 4.20 Groundwater Recharge.** Means the process involved in the addition of water to the zone of saturation or the amount of water added.
- 4.21 Groundwater Recharge Area.** Any area on the ground that facilitates the addition of water to the zone of saturation; generally, it is that portion of the drainage basin where the direction of groundwater flow near the surface is downward (e.g., away from the water table).
- 4.22 Hydrogeologic Study/Report.** Means a document presenting and interpreting a sufficient collection of field data and published data to identify, define and describe groundwater and surface water (including wetlands) resources, conditions (e.g., location, extent, depth, flow direction, and quality) interactions (e.g., groundwater discharges to surface waters or supports a wetland) and potential impacts on those resources from proposed activities.
- 4.23 Inert Materials.** Means a substance that will not decompose, dissolve, or in any other way form a contaminated leachate upon contact with water or other liquids, determined by the Township or the Michigan Department of Environmental Quality as likely to be found at the fill area, percolating through the substance.
- 4.24 Non-Metallic Minerals.** Means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, non-metallic, non-renewable material. Non-metallic minerals include, but are not limited to, stone, sand, gravel, clay, peat, and topsoil.
- 4.25 Notice of Reclamation.** Means a document recorded with the Washtenaw County Register of Deeds, signed by the titleholder(s), which provides notice that a site is subject to a reclamation plan.

- 4.26 Operator.** Means an owner and/or lessee of mineral rights or any other person engaged in or preparing to engage in extraction activities with respect to mineral rights within an existing or proposed extraction area.
- 4.27 Ordinance.** Means Ordinance No. 29, as amended.
- 4.28 Overburden.** Means earth materials situated below the layer of topsoil and above the mineral deposit to be extracted from the site which must be removed prior to mining.
- 4.29 Permit.** Means a document issued pursuant to the Freedom Township Extraction Ordinance which authorizes the extraction or importation of inert materials on a specified parcel of land.
- 4.30 Person.** Any individual or combination of individuals, corporations, limited liability companies, partnerships, or other legally recognized entity.
- 4.31 Planning Commission.** Means the Freedom Township Planning Commission.
- 4.32 Processing.** The washing, sorting, crushing, aggregating, grinding, blending, mixing, or cutting of extracted material from the extraction site.
- 4.33 Reclamation.** Means to recondition, rehabilitate or restore the extraction area and associated property, or portions thereof, to a self-sustaining, long term useful purpose which is compatible with contiguous land uses, which protects the natural resources, including the control of erosion and the prevention of land or rock slides and air and water pollution, and which process shall include the re-establishment of vegetation, soil stability and establishment of safe conditions appropriate to the intended use of the land in accordance with the Township's Master Plan and the permit conditions allowing for excavation and/or processing on the site.
- 4.34 Runoff.** Means water from rain, snowmelt, irrigation, or other source that flows over the land surface.
- 4.35 Sediment (or Settling) Ponds.** Typically, a series of ponds that are designed to clarify (*i.e.*, remove fine particles from) water used for processing materials extracted from the site.
- 4.36 Site.** Means a parcel of land in the Township upon which activities are conducted subject to the Freedom Township Extraction Ordinance.
- 4.37 Surface Water.** Means water that is on the earth's surface, such as in a stream, river, lake or reservoir.
- 4.38 Topsoil.** Means the fertile, dark-colored surface soil; the upper layer of soil, usually richer than the subsoil; generally, the "A" horizon.
- 4.39 Township.** Means Freedom Township situated in the County of Washtenaw, State of Michigan.
- 4.40 Water Table.** Means the surface of unconfined groundwater at which the pressure is atmospheric. The water table is found at the level at which water stands in wells that penetrate the unconfined groundwater zone.
- 4.41 Wetland.** Means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is any of the following: **(i)** Contiguous to an inland lake or pond, or a river or stream; **(ii)** Not contiguous to an inland lake or pond, or a river or stream and one acre or greater in size; **(iii)** Not contiguous to an inland lake or pond, or a river or stream and is ½ acre or greater but less than an acre in size if the Township determines that protection of the area is essential to the preservation of the natural resources from pollution, impairment, or destruction.

Section 5. Prohibitions

- 5.01** It shall be unlawful to extract non-metallic minerals or import fill materials without complying with the provisions of this Ordinance.
- 5.02** It shall be unlawful for the permit holder to conduct an activity in violation of the permit issued under this Ordinance.

Section 6. Procedure

The following procedures shall apply when processing an Application for Extraction Permit, Application for Removal of Small Amount Permit, Application to Modify Extraction Permit, Application to Renew Extraction Permit, Application to Transfer Extraction Permit, and an Application for Importation of Fill Materials Permit.

6.01 Freedom Township Clerk

A. Application. All applications shall be on a form approved by the Planning Commission. All applications shall be signed by the titleholder(s) of the parcel upon which the excavation or importation of fill materials is proposed and, if different from the titleholder(s), signed by the person who intends to conduct (or be responsible for) the extraction/importation operation. An application, together with ten (10) copies, shall be filed with the Township Clerk. The Township Clerk shall date stamp the documents, retain custody of the original, and forward the copies to the Planning Commission.

B. Application Fee. The amount of the application fee shall be established by resolution of the Freedom Township Board of Trustees. The Township Clerk shall not forward copies of the application to the Planning Commission until the application fee is paid.

C. Application for Removal of Small Amount. An applicant requesting the removal of minerals less than five hundred (500) cubic yards within a twelve (12) month period shall file an Application for Removal of Small Amount in accordance with Subsection 6.01(A). There shall be no application fee for an Application for Removal of Small Amount. The applicant shall not be required to submit any Base Documents required under Section 7 of this Ordinance, unless directed to do so by the Planning Commission.

6.02 Freedom Township Planning Commission and Zoning Inspector

A. Pre-Application Conference. Prior to filing an application, a prospective applicant may request to meet with the Chairperson of the Planning Commission, Supervisor, Township's Zoning Inspector, Engineer, Land Use Planner, and other representatives to discuss their Extraction Operation. The applicant may be required to pay a fee in an amount determined by resolution of the Freedom Township Board of Trustees.

B. Planning Commission. Before the Planning Commission commences its technical review of an application, it shall review the application and base documents to **(i)** determine whether the application is administratively complete, dated and signed; **(ii)** determine whether the proposed activity is in accordance with the Freedom Township Zoning Ordinance and Master Plan; **(iii)** determine whether the base documents have been submitted and completed, or irregularity waived; and **(iv)** specify in writing corrections, supplements or additions to be submitted by the applicant. The applicant may request in writing that a base document(s) or feature thereof be waived. The request must set forth the rationale upon which the applicant contends the document or requirement is not necessary to sustain a standard or define the scope or character of the activities on the site.

6.03 Escrow Fee.

A. Amount. In addition to the application fee provided in Section 6.01(B), the applicant shall deposit with the Township Clerk at the time the application is submitted the sum of Seven Thousand Five Hundred (\$7,500.00) Dollars to defray the Township's actual costs to process the application and/or administer the permit.

B. Accounting. The Township shall annually mail to the applicant an accounting which shows the debits and credits during the accounting period.

C. Annual Renewal of Escrow Fee. During the period the Township is either processing the application or administering the permit the applicant shall annually restore the sums in the escrow account to Seven Thousand Five Hundred (\$7,500.00) Dollars, or such other amount as may be established by resolution of the Planning Commission. The sums needed to restore the account shall be promptly paid by the applicant to the Township Clerk.

D. Additional Escrow Fees. If at any time it appears the sums in escrow are insufficient to process the application or pay the expenses to administer the permit, the Planning Commission shall request the applicant in writing to deposit additional sums with the Township Clerk. In the event such sums are not timely deposited, the Planning Commission may stop processing the application or dismiss the application. If a permit has been issued and the additional sums are not timely deposited, the Planning Commission may issue a stop work order at which time no further excavation or stockpiling of materials may occur until and unless the order is rescinded.

E. Interest. The Township Treasurer shall have no duty to deposit the sums in an interest bearing account. However, if interest is earned on the sums deposited by applicant, such interest shall be credited to the applicant's account.

F. Return of Escrow Funds. If the application is denied, the Planning Commission, after all actual costs and expenses incurred by the Township have been paid, shall forthwith authorize the Township Treasurer to return to the applicant any unexpended funds. If a permit is issued, the Planning Commission, after the site is completely restored and all actual costs and expenses incurred by the Township have been paid, shall forthwith authorize the Township Treasurer to return to the applicant any unexpended funds.

6.04 Public Hearing. The Planning Commission may hold a public hearing(s) on an application. An interested person may file a written request for a public hearing. The Planning Commission shall determine whether the nature and scope of the application warrants a public hearing. If a public hearing is warranted, the Planning Commission shall cause notices to be **(i)** mailed to all property owners whose names appear on the assessment rolls, **(ii)** posted at the Township Hall, **(iii)** published once in the local newspaper, and **(iv)** placed on the Township website. The notice and public hearing may be combined with any notice and public hearing required under the Freedom Township Zoning Ordinance.

6.05 Standards. An application shall be approved if the applicant provides information, data and documentation sufficient to meet each of the following standards:

A. The applicant has demonstrated the legal, financial, technical and other resources necessary to comply with the Freedom Township Extraction Ordinance;

B. Written assurance in the form of a reclamation plan and financial guarantee that the site will be reclaimed to a condition which is safe and harmonious with surrounding land uses and consistent with the Master Plan;

C. Required fees, surety bonds and evidence of insurance have been submitted;

D. Copies of all federal, state, and local permits which relate to an activity on the property which were issued and in effect at the time the application was submitted to the Township Clerk;

E. The Extraction Operation will not adversely affect groundwater (e.g., water table, water quality or supply to surrounding wells), surface water or wetlands;

F. No net loss of wetlands on-site; and

G. The operation will not impair the environment; pollute, or degrade the air, water, or other natural resources; interfere with the quiet enjoyment of persons in the vicinity of the operation; or adversely affect the health, safety and welfare of the residents.

The burden of meeting each standard is on the applicant. Applicant's failure to provide the information, data or documentation necessary to meet a standard is a basis for denial of the application.

6.06 Decision. The decision rendered on the application shall be in writing, shall be supported by competent, material, and substantial evidence on the record (or the applicant's failure to submit such evidence) and the standards and provisions set forth in this Ordinance.

6.07 Reapplication. If an application is denied, a reapplication for that site shall not be filed for one year from the date the decision was rendered, unless there is a material change in circumstances which was not present when the application was considered.

6.08 Conditions of Approval.

A. An extraction operation is a conditional use in the C-1 District. A condition precedent to the issuance of a permit under this Ordinance is the issuance of a conditional use permit under the Freedom Township Zoning Ordinance. The Freedom Township Zoning Ordinance provides that the conditions imposed on an extraction operation are those conditions imposed under this Ordinance.

B. Non-conforming rights are not applicable to this Ordinance. Except as specifically provided with respect to base documents, provisions of this Ordinance may be added, deleted, or modified and shall apply equally to all present and future permit holders.

C. In granting approval of an application the Planning Commission may impose such reasonable conditions as it deems necessary to ensure the standards are met and maintained. The following conditions shall be printed on the permit:

The authorization herein granted is subject to the Township's right to inspect the Site and conditioned upon the applicant(s) strict adherence to the terms and provisions of the permit, Freedom Township Extraction Ordinance, and other applicable ordinances, rules and regulations.

Within twelve (12) months following cessation of the extraction operation by abandonment or otherwise, the Site shall be fully reclaimed in strict accordance with the approved reclamation plan.

6.09 Importation of Fill Materials.

A. Prior to coming on-site, all imported fill materials shall meet the following specifications: **(i)** Materials shall be "inert materials" as defined by the Michigan Department of Environmental Quality, or as specified by the Planning Commission; **(ii)** Materials shall be free of contaminants; **(iii)** Planning Commission may require imported materials be inspected and tested to determine that the materials are inert and free of contaminants.

B. The applicant shall provide a list of the type or kind of materials to be imported with such specificity as to enable the Planning Commission to determine its potential threat. Where possible, the applicant shall state the location from which these materials are imported.

C. The applicant or any other person who seeks authorization from any federal, state or county governmental body or agency related to the importation of materials on a site shall simultaneously file a copy of that application (plus ten copies) together with submitted materials (plus ten copies) with the Township Clerk. The Township Clerk shall retain one set of materials and forward the remainder to the Planning Commission. This provision includes (but not limited to) permits issued by: **(i)** Washtenaw County Soil Erosion for fill that results in the altering of the contours of the site or is not part of a normal construction; and **(ii)** Michigan Department of Environmental Quality for fill within a floodplain, wetland or adjacent to a river or lake.

D. All reasonable costs and expenses incurred by the Township related to the importation of materials, to include (but not limited to) inspections and testing, shall be paid by the applicant from an escrow account.

E. The applicant shall submit such financial guarantee(s) as the Planning Commission in its reasonable discretion deems necessary to ensure that the importation of such materials does not adversely affect the quality of the groundwater, wells or surface waters.

6.10 Authorized Use(s).

A. A permit only authorizes those uses and activities specifically set forth in the permit.

B. Extraction below the groundwater elevation is prohibited unless specifically provided for in the permit and then only to the maximum depth authorized.

6.11 Form of Permit.

A. A permit shall state: **(i)** Name of the Applicant; **(ii)** Metes and bounds description of the site; **(iii)** Define area and depth to be excavated; **(iv)** State the variances granted in conjunction with the permit; **(v)** Conditions imposed in conjunction with the permit; **(vi)** List by date (both initial date and revision dates) and name the person preparing and/or signing each base document upon which the permit is issued; and **(vii)** The commencement date and term for which the permit is issued.

B. The application and base documents are incorporated by reference into the permit. A material misrepresentation or unauthorized change in a base document is cause for revocation of the permit.

C. Duplicate original permits signed by the Township Supervisor and Chairperson of the Planning Commission shall be issued. One permit shall be retained by the Township Clerk and a duplicate original shall be sent to the applicant.

6.12 Term of Permit.

A. For a permit issued under Ordinance No. 23 the term shall be from the date the permit was issued to March 18, 2011. A renewal of a permit issued under Ordinance No. 23 shall be renewed in accordance with the provisions of Ordinance No. 29, as amended.

B. For a permit issued or renewed under Ordinance No. 29, as amended, unless otherwise specified in the permit, the term is five (5) years from the commencement date. The term of a permit may be issued for a period to coincide with the term of a permit issued by another governmental body or agency which has jurisdiction.

6.13 Transferability. A permit is transferable by the permit holder(s) with the prior written consent of the Planning Commission. The Planning Commission may impose conditions to ensure that the standards set forth in the Ordinance are met. Transfers include mergers, reorganization, acquisition, and similar business actions.

6.14 Renewal.

- A.** The applicant shall submit an Application for Renewal of Extraction Permit not less than six (6) months nor more than one (1) year before the end of the term of the permit.
- B.** The base documents, variances and conditions upon which a permit was issued shall carry forward and be the basis for any renewal permit, unless the applicant(s) and Township mutually agree in writing to a change in the base documents, variances, or conditions.
- C.** Unless required to be filed sooner by the Planning Commission, base documents (or aspects thereof) which were not required when a permit was initially issued (or renewed) shall be submitted to the Township Clerk with an application to modify or renew the permit.
- D.** A permit issued under Ordinance No. 23 or issued or renewed under Ordinance No. 29 is subject to future amendments to this Ordinance, provided the amendment does not alter base documents previously submitted, unless the applicant and Township mutually agree to the change in writing.

6.15 Permits Issued By Other Governmental Bodies or Agencies. Copies of permits issued by a governmental body or agency which regulates an aspect of the activity conducted on a site shall be filed with the Township Clerk. When a change in a permit issued by a governmental body or agency is contemplated the applicant shall simultaneously file with the Township Clerk eleven (11) copies of the application together with eleven (11) copies of submitted materials. The Township Clerk shall retain one (1) set and forward the remaining to the Planning Commission. If the application contemplates a present or future change to a base document submitted under this Ordinance, then the applicant shall file with the Township Clerk an Application for Modification of Extraction Permit, together with revised base documents, and an application fee. Such permits, applications or requests shall include (but not limited to) the following:

- Michigan State Fire Marshall and/or Michigan State Police permit for the on-site storage or transfer of fuels;
- Michigan Department of Environmental Quality (“DEQ”) permit to construct a lake, wetland permit or such other permit or authorization issued by DEQ; and
- Washtenaw County and Environmental Protection Agency (“EPA”) permits which involve the site with respect to such matters as storm water, septic systems, erosion or sedimentation control, and road.

6.16 Recording. The Township shall prepare and record, at the expense of the applicant, a Notice of Reclamation. The Notice shall be signed by the titleholder(s), be binding on their successors in title and run with the land.

Section 7. Base Documents

7.01 General Provisions.

- A.** The purpose of the base documents is to define the scope and character of the activities authorized on the site and provide competent, material and substantial evidence that the standards are met. Any modification or change intended or contemplated to the scope or character of the activities must be approved by the Planning Commission and the base document(s) revised accordingly.
- B.** Except for the base documents required under Subsection 7.09, the base documents (together with ten copies) shall be submitted to the Township Clerk with an Application for Extraction Permit. When a change in the scope or character of the activities on a site is intended or contemplated, the applicant shall submit to the Township Clerk an Application for Modification of Extraction Permit (together with ten

copies) with revised base documents (together with ten copies) which reflect the proposed change(s). The Township Clerk shall date stamp all documents, retain the original and forward the copies to the Planning Commission, provided the application fee is paid.

C. This Ordinance requires certain documents be prepared by professionally qualified individuals such as geologists, hydrologists, engineers, architects, environmental scientists and surveyors. In all such cases the person preparing the document shall hold all necessary degrees, licenses, registrations, certificates, errors and omissions insurance, and such other recordation necessary to practice in the State of Michigan.

D. Each base document shall be signed and dated by the person who prepared the document and, if applicable, bear their seal.

E. Unless waived in writing, all base documents must be submitted in compliance with this Ordinance.

F. Upon the initiative of the Planning Commission or petition of the applicant, the documents and/or specifications required in this Ordinance shall be modified or waived, provided such modification or waiver does not adversely affect the purposes set forth in Subsection 7.01(A) or the ability of the Planning Commission to ascertain whether the standards set forth in Section 6.05 are met. The applicant has the burden of providing facts, data and documents sufficient to establishing that a requested waiver meets the standards, and the applicant's failure to do so may be grounds for not granting the waiver. If at any time, it appears that the documents and/or specifications waived become relevant under either Subsection 7.01(A) or Subsection 6.05, then, upon written notice to the applicant, those documents and/or specifications shall be forthwith submitted by the applicant to the Planning Commission.

G. Section 7.02 (Survey), Section 7.03 (Public Documents), Section 7.04 (Titleholders), Section 7.05 (Base Maps and Photographs), Section 7.06 (Site Inventory Map), Section 7.07 (Reserve/Exploration Map), Section 7.08 (Hydrogeologic Study), and Section 7.09 (Other Relevant Information and Documents), are intended to provide a factual foundation for Section 7.10 (Mining Plan), Section 7.11 (Reclamation Plan), and Section 7.12 (Environmental Impact Statement).

7.02 Survey. A survey prepared and sealed by a surveyor or engineer in compliance with the minimum standards and requirements of the American Land Title Association and showing:

- Its scale and a north directional arrow;
- A legal description, with street address and identity of city, village or township and county, and the property's location and dimensions by metes and bounds written on the survey map from a fixed point of beginning or, if applicable, the lot and block numbers, by subdivision name and recording information;
- The means of ingress and egress to and from the property, if not by abutting street(s);
- The established building line(s), if any, the line of the abutting street(s) identified by names and widths, and the location of all utility lines and connections;
- All structures and improvements by location, nature (including character of construction and number of stories), dimensions, distance from the property lines on all sides, and occupants;
- All servient and beneficial easements, if any, and all easements appurtenant to the property, if any, indicating the identity, by liber and page, if any, the origin (e.g., Deed from A to B), if applicable, and nature (e.g., ten foot sewer easement);
- The location, dimensions and nature of all encroachments upon the property and from the property on adjoining lands and all party walls;
- The location of all waterways, wetlands and established flood plains, if any;
- Designation of existing uses surrounding the permit area;
- The benchmark utilized for the survey; and
- The following certificate executed by the surveyor:

CERTIFICATE

I certify to Freedom Township, this print of survey is based on a survey made by _____, Civil Engineer/Registered Surveyor No. _____, on _____, _____, and correctly shows the location of all buildings, structures and other improvements situated on the described property and that except as shown, there are no visible easements or rights-of-way of which I have been advised, no party walls or encroachments upon adjoining property, streets or alleys by any of said buildings, structures or other improvements, no cemeteries or family burying grounds, and no encroachments of any nature upon the property. I further certify that the property abuts an accessible street or that there is ingress and egress to and from the property. I further certify that on the above date, I found the following person(s) to be in possession of the property in the indicated capacities: _____.

*Dated: _____
_____*
Civil Engineer/Registered Surveyor

7.03 Public Documents.

- A.** A title commitment, together with copies of all recorded documents identified in the commitment, current to within thirty (30) days of the date of submission of the application, which evidences ownership and all easements on the site, together with a copy of the record document which vests fee title in the applicant.
- B.** Copies of all existing federal, state and county permits which are in effect and relate to an activity on the site.
- C.** If an applicant is other than an individual, a copy of the public document which evidences its legal status and right to conduct business in the State of Michigan.

7.04 Titleholders. A list of names, address, telephone/facsimile number(s), and e-mail address of all persons, firms, corporations or other entity having legal or equitable interest in the property.

7.05 Base Maps and Photographs.

- A. Topographical Map/Aerial Photograph.** A recent topographical map showing two-foot (2') contour intervals superimposed on an aerial photograph (current to within two (2) years of the submittal of the application) at a scale of one (1') inch equals one hundred feet (1" = 100') or, depending on the size of the site, at a scale of one inch equals two hundred feet (1" = 200'). The aerial photograph shall extend a distance of five hundred (500') feet and the topographic contours shall extend at least one hundred (100') feet beyond the boundaries of the requested extraction area on the site. This topographic/aerial map shall include boundary lines of the site with dimensions and bearings correlated with the legal description and all required setback lines.
- B. Township Map.** Township map which depicts the location of the site and the haul route(s) to and from the site.

7.06 Site Inventory Map(s).

- A.** A Site Inventory Map(s) at the scale set forth in Subsection 7.05(A) and assessment prepared by a qualified environmental professional, certified to the Township and clearly showing the locations and types of existing natural features both on the site and where possible those within a region two hundred (200') feet beyond the site property boundary lines. The map shall depict the following:

- delineate woodland;
- wooded fence rows;
- all wetlands - regardless of size;
- drainage courses;
- depth to groundwater - generalized;
- existing structures;
- flood plain boundaries;
- utility and other easements;
- road right-of-ways;
- public road access points to the site;
- archeological features, special habitats;
- endangered flora and fauna;
- setbacks;
- watercourse stream banks;
- pond at ordinary high water marks;
- areas of hydric soils;
- highly permeable soils;
- groundwater recharge areas;
- percentages of slope on the site; and
- trees with a diameter of eighteen (18") inches (DBH) or greater located by numbered dots, with an accompanying database table of corresponding specie and size listings.

B. The site inventory should contain a written description of the quality, character and health of the natural features on the site.

7.07 Reserve/Exploration Map. A Reserve/Exploration map and cross sections shall be prepared by an engineer or geologist and certified to the Township as true and accurate showing the extent, location and nature of all subsurface materials on the proposed extraction site on a topographic map including:

- Estimated extent (outline) of deposit limits of extraction materials; Location by GIS information and identification number of all subsurface exploration locations and all data or reports however embodied or obtained from the site exploration locations; Proposed location of observation wells;
- Depth and lowest elevations of exploration (e.g., drill holes) and the claimed deposit of materials to be extracted from the site;
- Groundwater elevations;
- Estimated quantity of reserves;
- Depth and estimated quantity of topsoil to be stripped;
- Depth, lower elevations and estimated quantity of overburden to be stripped; and
- Ten (10') foot contour intervals indicating the anticipated vertical and horizontal extent of excavation below the existing surface elevations.

Materials furnished under this section shall be considered proprietary information and shall be used by the Township to verify the feasibility of the operation plan, reclamation plans and other matters relevant under this Ordinance. Upon verification of such plans, the chairperson of the planning commission shall initial and date the documents submitted pursuant to this section and return the same to the applicant. The applicant shall retain possession of these documents which, upon written request, shall be furnished to the Township for further review and inspection and thereafter returned to the applicant.

7.08 Hydrogeologic Study.

A. A hydrogeologic study shall be prepared and sealed by a certified professional geologist ("CPG") who specializes in hydrogeology. The Planning Commission, at the expense of the applicant, may have the study reviewed by the Township's consultant.

B. The hydrogeologic study is intended to document the hydrogeological conditions on the site and assess any impact the mining plan may have on the water resources of the Township (both on and off-site). This section provides a guide for gathering the needed data and assessing potential impacts. Different levels of investigation are required depending on site features, such as location in a watershed, proximity of existing surface water bodies, site hydrology, local geology, groundwater and surface water quality, and local land use. Some of these features are readily discernible; others, such as geology, are not. The applicant's consultant should provide a report addressing the following minimum hydrogeological data and evaluation requirements (the hydrogeological report shall be a "stand alone" document):

1. Site and Extraction Operation Description.

i. Prepare a map showing the regional setting. At a minimum, the map should cover an area with a one-mile radius measured in all directions from the center of the property. If the size of the project is large, it may be appropriate to increase the geographic area covered by this map. The site location map must show the following features:

- Proposed limits of excavation;
- Scale and north arrow;
- Section lines and numbers;
- Township and range numbers;
- Township name;
- Location of all existing lakes, streams, drainage ditches, surface impoundments and apparent wetlands within the geographic area covered by this map;
- Water surface elevation; and
- Boundaries for the property where the proposed Extraction Operation will occur.

ii. Prepare a detailed site map that covers an area that extends at least two thousand (2,000') feet beyond the property boundaries of the permit applicant. This map should show:

- Scale and north arrow;
- Applicant's property boundaries;
- Boundaries and owner names for all adjoining land parcels;
- Based on available public information, provide the location of all existing lakes, streams, drainage ditches, and apparent wetlands on-site and within two thousand (2,000') feet of the property boundaries;
- Based on available public information, provide water surface elevation for all existing lakes, streams drainage ditches, and wetlands located on-site and within two thousand (2,000') feet of the property boundaries.
- Delineated wetlands expected to be impacted by the extraction operation;
- Location of proposed extraction operation; and
- Land surface elevations for the property shown by appropriately selected contour intervals.

iii. Describe the existing land use, site conditions and the basic scope of the operation.

2. Field Investigations.

i. Test borings must be drilled to determine the subsurface geology. A minimum of four (4) test borings shall be located outside the perimeter of the proposed Extraction Operation. At least one boring shall be in the center of the proposed Extraction Operation. These borings must be drilled at least ten (10') feet deeper than the proposed

depth of an excavation or to the existing groundwater table, whichever is greater. The borings may be completed as temporary observation wells. The locations of these borings must be clearly shown and labeled on the site topographic map. Descriptive logs for each boring should be prepared by a geologist using the Unified Soil Classification System (“USCS”) to describe the subsurface soil and sediment. Boring logs must contain the following minimum information:

- Boring name;
- Land surface elevation;
- Depth of boring;
- Description of different sediments encountered to the bottom of the boring;
- Construction details for the temporary observation wells;
- Top of casing elevation;
- Depth to water; and
- Elevation of water in the well.

ii. Monitor wells shall be installed near the perimeter of the site and outside of any proposed excavation or construction. If more than one aquifer is encountered in the test borings, separate monitor wells must be screened in each aquifer to determine the vertical head gradient between aquifers, groundwater flow direction, and water quality in each aquifer. Include monitor well construction logs in the report appendix. A minimum of five (5) monitor wells shall be installed: three to determine the direction of groundwater flow and the fourth and fifth set as a cluster down gradient of the operations area to determine vertical gradient within the aquifer (the fifth well may not be necessary if the aquifer thickness is less than ten (10') feet). Monitor wells shall be constructed to requirements of the United States EPA, Michigan Department of Environmental Quality or Washtenaw County Environmental Health, and retained for future monitoring. The applicant’s consultant and Township’s consultant shall discuss, but the Township’s consultant shall determine, the required number and/or locations of such monitor wells. These monitor wells must be capable of detecting any significant change in groundwater elevation and quality.

iii. Water levels and water quality in the monitor wells and on-site wetlands, streams, and lakes shall be measured. All water levels shall be related to a common USGS datum and elevations shown on a map and in a report table. Water quality parameters shall be collected in accordance with the process outlined in the baseline water quality section below.

iv. Residential wells within a one-mile radius of the site should be inventoried and located on the map. Include all well logs in the report appendix. If the number of water supply wells is exceptionally large, then a sufficient number of well logs may be selected to represent each general group of well logs, considering well depths, stratigraphy and locations.

v. For each aquifer within the extraction zone or potentially affected by the extraction operation, the applicant shall determine the aquifer’s hydraulic conductivity, flow direction, recharge area, interrelationship with other aquifers and surface water bodies, and water quality.

3. Base Line Water Quality.

i. **Groundwater - Monitor Wells.** All monitor wells shall be sampled and analyzed (in accordance with MDEQ sampling and analysis protocols) prior to commencing extraction operations to establish background groundwater quality. A minimum of two (2) sampling events are required (four or more are preferred), one event

during a high groundwater elevation and the other during a low groundwater elevation period. Testing shall include the following indicator parameters:

- static water level elevation;
- groundwater temperature;
- specific conductance;
- pH;
- dissolved oxygen;
- redox potential;
- total dissolved solids (TDS); and
- total petroleum hydrocarbons (TPH). If the TPH exceeds the method detection limit (MDL), VOC, SVOC, and MTBE must also be measured as well.

In addition, for each well, determine the concentration of the following groundwater parameters:

- chloride;
- sodium;
- calcium;
- sulfate;
- bicarbonate;
- magnesium;
- manganese;
- iron;
- potassium;
- phosphorus;
- nitrate nitrogen;
- arsenic; and
- mercury.

All laboratory testing shall be conducted in conformance with current applicable U.S. Environmental Protection Agency Test Methods, and data shall be compared to Michigan Department of Environmental Quality Generic Residential Cleanup and Screening Criteria identified in Part 201 of 1994 PA 451, as amended.

ii. Groundwater - Water Supply Wells. Applicant shall install groundwater monitor wells in sufficient numbers and locations (vertically and horizontally) to provide groundwater monitoring for all portions of the aquifer(s) from which the down gradient water supply wells extract water. However, no monitor well shall be constructed with a screen length greater than ten (10') feet. All of the above monitor well testing requirements apply to these additional monitor wells.

iii. Surface Water. Applicant's consultant and the Township's consultant shall confer, but the Township's consultant shall determine, the number, type and location of surface water samples necessary to identify potential surface water impacts from extraction operations. Each river, stream and other readily flowing body of water shall be sampled in at least three locations [upstream, downstream, and at the anticipated discharge location(s)], unless determined otherwise by the Township's consultant, for the following (at a minimum) parameters:

- water elevation;
- base/bed elevation;
- pH;
- conductivity;

- turbidity;
- total dissolved solids (TDS); and
- total suspended solids (TSS).

Additionally, the applicant's consultant shall demonstrate the hydraulic relationship between each surface water body and the groundwater (e.g., groundwater discharges to surface water or surface water discharges to groundwater).

4. Data Analysis.

i. Prepare a contour map of the water table elevations, including water-level elevation measurements from on site wetlands, streams, and lakes. Show the site boundaries.

ii. Prepare a map showing the location of geologic cross-sections.

iii. Prepare multiple geologic cross-sections passing through the proposed Extraction Operation and all areas of concern (e.g., wetlands, streams, lakes, residential wells, etc.) to a distance of approximately one mile beyond the site boundaries. On these cross-sections, show the following information:

- Vertical and horizontal scale;
- Existing land surface elevations;
- Boundaries and depth of any proposed excavation;
- Well locations and logs used to prepare the cross-sections;
- Thickness and extent of the subsurface geologic strata; and
- Location and depth of all residential wells, wetlands, streams, and lakes falling on and near the cross-section.
- Static water level elevations Water quality data for each water body and monitor well (diagrams, such as Stiff diagrams, may be the most convenient method to depict the data).

iv. For extractions that extend into the groundwater, conduct an analysis of the impact of the Extraction Operation on nearby surface water (including wetlands) and groundwater resources. Discuss the difference between the existing and post-construction conditions. The applicant's consultant should make an assessment of the net change in water loss in the area of the Extraction Operation. If there is a net increase in water loss, this rate should be used as a stress on the aquifer, analogous to a pumping well. A simple well hydraulics or analytical model may be used to approximate the water-level decline at various distances from the center of the Extraction Operation; numerical modeling is not expected to be required.

v. If the Extraction Operation creates or enlarges an excavated lake, potential impacts will be caused by increased evaporation from the new or increased lake surface and by the removal of aquifer material. The evaporation impact shall be analyzed through a water budget analysis using DEQ's applicable guidance for how to perform this analysis, the guidance can be downloaded at:

<http://www.deq.state.mi.us/documents/deqglm-water-waterbudget.pdf>

The amount of water level decline and the associated impacts resulting from removal of the bulk/solid aquifer material must be determined.

vi. If multiple aquifers are encountered during test drilling, and the proposed bottom of the excavation will completely penetrate an intervening confining layer, the analysis becomes more complicated. An examination of groundwater level data from the monitoring well clusters will determine whether there will be a negative impact on either aquifer. The degree and extent of decline in either case will depend upon the hydraulic properties of the aquifers and the rates of groundwater recharge and lateral groundwater inflow from surrounding areas. An analysis of this type of problem would require a numerical model.

vii. Prepare maps and cross-sections showing the nature and extent of the hydrogeologic impact(s), (e.g. water-level decline or increase). Do not simply map the water table elevations.

viii. Graphically depict water quality data (e.g., Stiff diagrams) and appropriately show the depictions on maps and cross-sections.

ix. Show all supporting documentation for sources of data, data analysis calculations, model input data sets, and model output. Do not fill report appendices with arrays of numbers from numerical model input and output data sets. Provide numerical model data sets in digital format.

5. Hydrogeologic Analysis, Summary and Conclusions. This section should document existing site conditions and identify potential short-term and long-term impacts on the Township water resources during and after the proposed Extraction Operation. At a minimum, this section must contain the following elements:

i. Description of present land use and the relationship of the site to surrounding properties. Use either the site location or a topographic map, whichever is more appropriate.

ii. Discussion of the proposed Extraction Operation and schedule, along with the intended future use of site. Use a topographic map showing proposed extent of the Extraction Operation and different phases, if applicable.

iii. Presentation of measured water levels as a contour map of the water table that also shows the groundwater flow directions.

iv. Discussion of groundwater and surface water movement through the area. Use either the site location or a topographic map, whichever is more appropriate.

v. Presentation and discussion of data from test borings and monitoring wells on cross-sections through the proposed Extraction Operation area showing land surface elevation, surface water features (if applicable), the proposed extent of any excavation, and the subsurface sediments encountered in the hydrological study.

vi. Water quality impacts on existing surface - water and groundwater quality.

vii. Provide a conclusion discussing the expected impact to the water quality and elevations of groundwater (e.g. project water level decline/rise in each aquifer) and surface water bodies on and proximate to the site, considering both short-term and long-term potential impacts.

6. Additional Hydrogeological Data. The Planning Commission may require additional data related to the site, including, but not limited to, the following:

i. Surface Water Diversions. Additional investigations may be needed to demonstrate that no diversion of surface water will impact existing surface water bodies or wetlands located on-site or very near the proposed Extraction Operation. Site operation, stockpiling, and reclamation plans must be evaluated for the potential to divert water toward an excavation and away from an existing surface water body or wetland. It may be necessary to modify the design to insure that a topographic divide exists between the Extraction Operation and the surrounding surface water bodies. Similarly, excessive water/runoff from operations could adversely impact wetlands.

ii. Groundwater Diversions. Where multiple aquifers are encountered by the test borings, monitor wells must be screened in each aquifer that is expected to be penetrated by an excavation. Measure hydraulic head (water level elevation) in each well to determine vertical differences in head between aquifers, the direction groundwater will move between aquifers, and to calculate the impacts from lowering the head in one aquifer and raising the head in the other aquifer.

7.09 Other Relevant Information and Documents. As to each section and subsection under Section 7, Base Documents, the Planning Commission may require the applicant to submit such other and further information, data and documents as it deems necessary to define the scope and character of the site, ascertain whether the standards are met, and to ensure that the activities conducted on the site will not be injurious to the public health, safety, welfare, and environment.

7.10 Mining Plan.

A. Plan Preparation, Content, and Detail. The mining plan shall be prepared by a certified professional geologist, or registered professional engineer specializing in mining and shall illustrate the pattern, direction and phasing of earth moving, extraction, land shaping and reclamation activities. The plan shall be of sufficient detail so it can be used to assess the performance of the mine operation during any site inspection. The mining plan shall be reviewed annually by the Township and the permit holder and updated, if necessary.

B. Topographical Map. Applicant shall prepare a topographical map with a scale of one inch equals one hundred feet (1" = 100') or, depending on the size of the site, at a scale no smaller than one inch equals two hundred feet (1" = 200') that depicts the following information:

1. Site boundary lines and setback lines;
2. Location, elevation and area of any proposed processing plant;
3. Location, size and elevation of all structures, including maintenance and storage buildings, office, scale house, and fuel storage facilities, and chemical and oil storage facilities as required by the applicable Washtenaw County Pollution Prevention Regulations and any other applicable ordinances and regulations;
4. Location of outdoor storage areas including materials extracted from the site;
5. Location and size of sediment ponds, drainage diversions and discharge points;
6. Location of fences and gates;
7. Parking location and number of spaces for employees, invitees and equipment stored on site;
8. Location of fuel storage area and requirements;
9. Location of maintenance and storage area and requirements;

10. Location and types of materials for sound and visual screening of site, including location and contour (2-foot contour interval) of proposed berms landscape plan, with typical planting details, identifying: grass seed mix and application rate; fertilizer mix and application rate; name, size, location and quantity of trees and shrubs to be planted; and heights and location of berms;
11. Roadway modifications, such as lane widening on public roads at intersection of drives, and entrance road design, as approved by the Washtenaw County Road Commission;
12. Natural features, such as wooded areas, groundwater recharge areas, drainage courses, and wetlands to be protected; and
13. Location and description of any water supply for human consumption and any sewage disposal system for human waste.

C. Nature of Operations. Describe the nature and type(s) of the following site activities:

1. Methods of excavating, including excavation equipment;
2. Methods of transporting material from mine site to processing plant, including earth handling equipment to be used on-site;
3. Types of processing activities, such as screening, washing, crushing, etc.;
4. Estimated quantity, use and disposal of fines;
5. Estimated number and size of settling ponds;
6. Estimated annual production;
7. Estimated type, size and number of trucks leaving the site daily, during peak season and annually;
8. Other operations proposed on the site, such as concrete/asphalt recycling and/or plants;
9. Road track out control plan to alleviate mud, soils, dust and other materials from the under carriage, and wheels of vehicles resulting from the mining operation, which may include sweeping; paving; spraying the under carriage, wheels and wheel wells; or other best management practices. The plan shall include proposed management practices on both access roads and public roads, beyond normal maintenance of the road commission(s). This plan is to be reviewed annually by the Township;
10. Dust control plan to alleviate dust resulting from mining operations, which may include sweeping, paving, spraying water, windbreaks, strategic placement of stockpiles, or other best management practices. The plan shall include proposed management practices on both access roads and public roads, beyond normal maintenance of the road commission(s). This plan is to be reviewed annually by the Township;
11. Haul route map delineating the haul route to be used for the proposed operation, accompanied by a letter of preliminary comments from the road commission(s) impacted by the haul routes;

12. Noise control plan prepared by a qualified professional estimating the noise levels at the property boundaries containing the extraction operation and at successive stages of the operation. The plan must contain mitigation measures to be implemented when noise levels exceed such standards as established by the Township from time to time. This plan is to be reviewed annually by the Township;
13. Erosion control plan which provides a complete description of all the soil erosion measures, including (but not limited to) all erosion strategies and control measures such as silt fences, vegetation screens, sediment basins, and settling ponds; location of control measures particularly on bare surfaces including steep slopes; time schedule and installation description for each control measure; all temporary and permanent measures and maintenance of each. The plan shall conform to any and all requirements of soil erosion and sedimentation requirements promulgated by Federal, State and County government. The applicant shall submit this plan to the appropriate County agency for approval. The plan approved by the soil conservation department shall be incorporated into the extraction permit issued under this Ordinance.
14. Pollution prevention plan containing a complete description of proposed pollution prevention methods based on National Fire Protection Association, State of Michigan or Washtenaw County pollution prevention laws. The plan must address all sediment, storm water and settling basins, as well as any probable impacts from processor activities or on-site fuel or chemical storage;
15. Complaint processing plan, which describes method by which complaints about any aspect of the facility operation or off-site transportation are to be received and resolved. This plan must set forth the procedures to address complaints regarding adverse impacts, including noise, dust, mud, groundwater charges, and wetland loss;
16. Wetland removal plan, identifying the total amount and types of wetlands that will be destroyed by mining activities and the amount and types of wetland mitigation proposed;
17. Mitigation plan describing actions to mitigate impacts resulting from mineral extraction operations;
18. If the proposed extraction activity includes beneficiation or treatment of the extracted material, the application documents shall include specific plans depicting the methods, techniques, and manufacturer's material safety data sheets on all chemicals, or other additives that are not natural to the site, that will be utilized in the process. The operator shall also obtain all applicable state and federal permits prior to beginning the beneficiation process; and
19. Submit a lighting plan which shows the location of exterior lighting on the site.

D. Fifteen Year Extraction Plan. The applicant shall submit a fifteen (15) year extraction plan that includes the following information:

1. Location and acreage of areas presently being mined and the amount of material being extracted, if applicable;
2. Location and acreage of areas not presently being mined but planned for that purpose and the amount of material planned to be mined;
3. An estimated schedule indicating when the extraction activity will begin in each area and the probable termination date of extraction activities in each area; and
4. Additional information requested by the Township.

7.11 Reclamation Plan: Progressive Cell-Unit Extraction and Reclamation Plan.

A. The Plan. Describe and graphically illustrate the progressive cell-unit extraction and reclamation plan, for both the total Extraction Operation and each cell-unit, including all of the following points:

1. Method and direction of extraction;
2. Surface overburden stripping and stockpiling plans;
3. Depth of excavation and anticipated final grade level over the entire site from which the material will be removed;
4. Provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation, and public safety problems;
5. Location of buildings, equipment, stockpiles, roads, or other features necessary to the extraction activity and provisions for their removal and restoration of the area at Extraction Operation termination;
6. Provisions for buffer areas, landscaping, and screening;
7. The interim use or uses of reclaimed cell-units before the cessation of the entire extraction operation;
8. Interim reclamation if site is to become temporarily inactive (e.g., for the next season or more) at the end of a regular season;
9. A two hundred (200') foot minimum setback distance from the property line to the cell-unit boundary line shall be provided on all cell-unit extraction and reclamation plans, except the Township may approve plans with less than two hundred (200') foot minimum setback distances if the Township determines that the extraction activity is compatible with the adjacent existing land use. Similarly, the Township may approve plans requiring more than the minimum setback to protect public health, safety, welfare, and the natural environment;
10. Maps and other supporting documents required by the Planning Commission;
11. For each cell or group of cells, the applicant must specify verifiable conditions which must exist before excavation of a successive cell or group of cells may commence; and
12. For each cell or group of cells, the applicant must specify verifiable conditions which require reclamation of a cell or group of cells to commence and to be completed.

B. Upland Slope. All upland reclamation grades for extraction operations shall have a slope not steeper than one (1') foot vertical rise in a four (4') foot horizontal plane, except that the Planning Commission may approve plans that allow steeper reclaimed slopes in order to provide a smoother transition to undisturbed topographic features or the protection of existing environmental features.

C. Submerged Slope. All submerged grades established by the excavation of material below the water table and the creation of a water body shall have underwater slopes as follows:

1. For water bodies the submerged grades shall be 1 foot vertical rise in a six (6') foot horizontal plane, or flatter, to a depth of six (6') feet, unless designated for future public access or the future use is not specified.
2. For all water bodies where the future use is not specified or where progressive cell-unit extraction and/or reclamation plan designates a final use after mining as public access, the area designated for public access shall have submerged grades of one (1') foot vertical rise in a ten (10') foot horizontal plane, or flatter, to a depth of six (6') feet as measured from the low water elevation.

D. Wetlands. Wherever wetland loss or alterations affecting the wetland's resource value are anticipated due to proposed extraction operations, mitigation shall be required. Mitigation, however, shall not substitute for pursuing all prudent efforts to avoid wetland loss. Accordingly, prior to considering a proposal for wetland mitigation, the applicant shall provide evidence to demonstrate:

- No reasonable alternatives exist to avoid impact to existing wetlands; and
- The resource value of existing wetlands will be maintained through mitigation.

Such resource value may include flood prevention; wildlife habitat; groundwater resource protection and recharge; pollution treatment; erosion control; nutrient sources; aesthetics; recreation; open space, or other resource value associated with the impacted wetland.

1. **Exception to Mitigation Requirement.** The Planning Commission may waive the mitigation requirement, upon receiving a recommendation from the Township Consultant, and making the finding that the loss of wetland resource value will be so small as to make mitigation infeasible and/or unreasonable. Alternatively, the applicant may submit a wetland mitigation plan for the Planning Commission's review and consideration.
2. **Review of Mitigation Plans.** Mitigation plans shall be submitted to the Township Consultant and reviewed with the Extraction Permit application. The mitigation plan shall be evaluated in accordance with the concepts set forth in State Administrative Rule 281.925 (Rule 5), which generally includes the following criteria:
 - a. Mitigation shall be provided on-site where practical and beneficial to the wetland resources. If mitigation on-site is not practical and beneficial, then mitigation in the immediate vicinity, within the same watershed, of the permitted activity may be considered. Only if all of these options are impractical shall mitigation be considered elsewhere.
 - b. The mitigation plan shall assure that there will be no net loss to the wetland resource values.
 - c. If mitigation involves replacement of lost wetland resources, replacement wetlands (e.g., engineered/constructed wetlands) shall be created at the ratio set forth in Rule 5 identified above (which, at a minimum, shall be 1.5 acres of new wetland for each acre of existing wetland lost, depending on the type of wetland) and the new wetlands shall be of the same type (e.g., bog, fen) and function (e.g., habitat, flood control) as those lost, unless the Planning Commission finds that a wetland with a different resource value will provide greater benefit to the Township.
 - d. The mitigation plan must comply with all applicable federal, state, and local laws.

- e. A plan to monitor preserved and replacement wetlands over a minimum of five (5) years must be included with the mitigation proposal. The monitoring plan shall provide a means (financial and technical) to modify the mitigation plan, where necessary, to preserve the resource value of the wetland.

E. Surface Water. Before disturbing the surface of the site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance approved site reclamation plans. Diverted or channeled runoff resulting from reclamation may not adversely affect neighboring properties. Site reclamation shall be conducted and completed in a manner that assures compliance with the DEQ water quality standards for surface waters.

F. Groundwater. The site shall be reclaimed in a manner that does not cause a permanent lowering of the water table resulting in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater. Site reclamation shall be conducted in a manner which does not cause groundwater quality standards to be degraded.

G. Endangered Species. If threatened or endangered species are identified within the cell-unit boundaries, the cell-unit extraction and reclamation plan shall indicate how the threatened or endangered species shall be protected.

7.12 Environmental Impact Analysis.

A. Applicant shall prepare an environmental impact analysis addressing the impact the operation will have on the site's natural features, flora, fauna, adjacent lands, on the social and economic conditions of the Township, and any mitigation measures needed to eliminate or minimize these impacts. At a minimum the statement should address such aspects as:

- Noise;
- Dust;
- Mud;
- Drainage;
- Erosion;
- Sedimentation;
- Views of the mine site from adjacent roads and properties;
- Wetlands;
- Floodplains;
- Special habitats;
- Areas and features of historic, archeological and natural significance;
- Truck traffic and access to and from the site;
- Compatibility with adjacent land uses;
- Traffic study;
- Impacts to residents;
- Changes in social patterns and/or economic conditions of residents; and
- Any additional items that the applicant or Planning Commission deems significant.

Both short-term and long term impacts must be considered, including impacts associated with the intended future use of the reclaimed site.

[NOTE: This section is intended to provide an environmental impact analysis using the assembled data identified in the previous sections; it is not intended to be a duplication or restatement of the assembled data. The applicant should analyze how the various data interrelate and how the proposed operation will affect the human and natural environments. Environmental impacts identified in the hydrogeological study should be incorporated into the EIS and related to the discussions of other impacts; although the hydrogeological support data does not have to be re-stated, it should be referenced in the environmental impact analysis.]

- B.** In addition to the above items, the ESI shall address the following issues:
- An inventory of the physical environmental elements of the proposed site;
 - A description of the environment as it exists prior to commencement of mining activity;
 - A description of the environment as projected at the end of mining activity;
 - Compatibility of the proposed extraction activity with adjacent existing land uses and future land use plans/Township Master Plan;
 - Impact of the proposed extraction activity on flora and wildlife habitats;
 - Economic impact of the proposed extraction activity on the surrounding area;
 - Effects of the proposed extraction activity on groundwater supply, level, quality, and flow on site and within two thousand (2,000') feet of the proposed extraction activity;
 - Effects of the proposed activity on adjacent surface resources;
 - Effect of the proposed activity on air quality within one thousand (1,000') feet of the proposed extraction;
 - Whether the proposed activity is located within any of the following:
 - 1,000 feet of a residence;
 - 2,000 feet of a school;
 - 500 feet of a commercial development;
 - Alternatives, if any, to the location of the proposed mining activity and the reasons for the choice of the location of the proposed mining activity over those alternatives;
 - Positive impacts / special environments, such as the creation/enhancement of fisheries and/or regulated wetlands; and
 - Impact mitigation measures.

Section 8. Annual Report and Inspections

8.01 Annual Report. Each year at the February meeting of the Township Planning Commission the Applicant/Owner/Operator shall submit a report to the Township Planning Commission. The report shall be submitted to the Planning Commission at least thirty (30) days prior to the February meeting. The report shall include the following information:

- A.** Tonnage and cubic yards of sand, gravel, and other materials removed from the extraction site.
- B.** Description of reclamation activities undertaken during the year.
- C.** Description of landscaping activities undertaken during the year.
- D.** Total acres of disturbed land (not restored) from one annual inspection date to the next, including processing plant area, un-seeded berms and slopes, un-reclaimed areas, un-reclaimed shorelines, areas stripped of topsoil, and water areas where active extraction is occurring.
 - 1.** Total acres of wetlands removed during the year.
 - 2.** Total acres of wetlands removed since operations commenced at the site.
- E.** Total acres of land reclaimed during the year, include amount and types of reclaimed land (e.g., acres of open water, acres of uplands, etc.) and total acres reclaimed since operations began at site.
 - 1.** Total acres of wetlands reclaimed during the year.
 - 2.** Total acres of wetlands reclaimed since operations commenced at the site.

F. Applicant shall provide, as part of the annual report, the results of the following water quality test: The applicant in the presence of the Township's consultant shall collect and split with the Township's consultant surface and groundwater samples. The applicant shall have an analysis of the samples performed at a state-certified water quality laboratory. Tests shall be performed on water supply and monitor wells in accordance with standards and parameters jointly established by the Township's expert and the applicant's expert taking into consideration the type and level of extractive activities which have and/or which will occur on the site. In the event the Township's expert and applicant's expert disagree, then the Township's expert shall make the determination. At a minimum, monitor wells shall be sampled and analyzed annually for the indicator parameters and biannually for the full list of chemical parameters identified in Subsection 7.08(b)(3)(i)(a), and compared to the DEQ Generic Cleanup and Screening Criteria, as well as baseline water quality data for the site, if available. At the option of the Township, annual residential and public water supply well sampling shall commence at a time based on consideration of groundwater flow rate, direction, and distance from the site boundaries. Water supply wells shall be sampled and analyzed for the parameters identified for baseline water quality data. The Township, at the expense of the applicant, may require additional testing frequency and/or analyses for additional parameters to better assess any potential water quality or quantity risks or concerns. The Township, at the expense of the applicant, may cause random tests to be performed on the split samples. Results of such tests shall be provided to the applicant.

G. Statement regarding planned extraction and reclamation activities for the next year.

H. Statement regarding conformance to the approved extraction operations and reclamation plans and compliance with required State and Federal regulations including but not limited to the volume of material excavated and removed from the site, the volume of restoration material stockpiled on site, and the sufficiency of the stockpiled material to restore the then excavated site pursuant to the approved Reclamation Plan.

I. Description of any complaints received during the prior calendar year and procedures used to resolve the complaints.

J. A list of all equipment that is located on and used at the site, whether temporary or permanent.

K. An aerial photograph of the entire site on a scale not smaller than one (1") inch equals two hundred (200') feet, taken after extraction operations for the year have ceased and prior to the date of the Annual Report required under this Ordinance. In addition to the aerial photograph, upon recommendation from the Township Engineer, the Planning Commission may require the submission of an aerial topographic photograph.

L. Written evidence that the financial guaranties and liability insurance required pursuant to the Ordinance are in full force for a period of not less than twelve (12) months from the date of the Annual Report.

M. Applicable permits and/or reports that may be required from other governmental agencies including but not limited to information required within the Washtenaw County Pollution Prevention Regulation Act of 1992.

N. Applicant shall provide a list of fill materials deposited on the site stating: **(i)** the nature of the materials; **(ii)** location from which the materials were imported; **(iii)** quantity of materials deposited from each such location; and **(iv)** the location on the site where the materials were deposited. The Township may perform, at the expense of the applicant, such reasonable tests on the material to ensure that the materials do not pose a threat to health, safety or welfare of the public.

8.02 Additional Meeting(s). Following receipt of the Annual Report, the Freedom Township Planning Commission may require additional reports, presentations and/or meetings with representatives of the Extraction Permit holder to review the Annual Report and to discuss any existing or anticipated issues associated with the extraction operation.

8.03 Inspections.

A. Inspections and Testing. The Township, at the expense of the applicant paid from the escrow account, may conduct such inspections and cause or perform such tests as are reasonable to ensure the activities conducted on the site comply with the Freedom Township Extraction Ordinance, other applicable ordinances, rules and regulations.

B. Annual Inspection.

1. The Planning Commission shall set an annual inspection date for the site. The Planning Commission shall provide the applicant(s) written notice of an annual inspection at least fourteen (14) days before the annual inspection.
2. Representatives from the Township may include (but not limited to) zoning inspector, engineer, hydrogeologist and Township officials shall conduct an annual inspection of the site. A representative from the applicant(s) shall accompany the Township representatives on the annual inspection.
3. The Township shall take photographs of the site to establish a historic record of activities and changes on the site. The photographs shall be submitted to the Planning Commission with a print to be submitted to the applicant. The photographs and prints shall be dated and signed by the person taking the photographs.
4. The Township, at the expense of the applicant to be paid from the escrow account, shall prepare an Annual Report to include the following: **(i)** An evaluation of Annual Report submitted by the applicant, **(ii)** An evaluation of the site and operations in terms of its compliance with the Freedom Township Extraction Ordinance, other applicable ordinances, rules and regulations, the permit to include (but not limited to) conditions, base documents and reclamation plan; **(iii)** An evaluation of the water quality parameters, and **(iv)** Analysis and recommendation as to the appropriateness of the amount of the financial guarantees in light of the present circumstances. The report shall **(i)** set forth any observed deviation from the base documents and non-compliance with a condition set forth in the permit, **(ii)** render an opinion whether the applicant is in compliance with the terms and provisions of the permit, Freedom Township Extraction Ordinance, and other applicable ordinance, and **(iii)** make recommendations as deemed appropriate. The report shall be signed and dated by the person(s) preparing the report and submitted to the Planning Commission, with a copy to the applicant.

Section 9. Access to Site

9.01 The Township, through its agents, shall have the reasonable right to enter any private property, upon notification to the Applicant/Owner/Operator, to conduct the necessary inspections while reviewing the application. The Township shall also have the right to conduct the necessary periodic inspections to determine if any violation of any provisions of this Ordinance or conditions of the permit. Refusal to permit entry shall result in rejection of the Application or automatic revocation of the Extraction Permit as of the date of denial of such access.

Section 10. Financial Guarantee and Indemnity Insurance

10.01 Financial Guarantees.

A. Guarantee Performance. To ensure compliance with the provisions of the Freedom Township Extraction Ordinance and the permit, to include (but not limited to) compliance with the systematic site reclamation, the applicant shall furnish a financial guarantee prior to the commencement of the extraction operation. The guarantee shall be set by the Planning Commission in an amount to cover the contingencies

posed by the permit, but in no event shall the guarantee at any time be less than Two Hundred and Fifty Thousand (\$250,000.00) Dollars. The guarantee may be revised from time to time to reflect the amount necessary to cover the contingencies.

B. Guarantee Wells. To ensure that the quality of the water and the operation of wells are not adversely affected by the activities conducted on the site, the applicant shall furnish a financial guarantee prior to commencement of the extraction operation. The guarantee shall be set by the Planning Commission in an amount to cover those wells likely to be affected by activities on the site.

C. Form. Guarantees shall be in the form of a letter of credit or surety bond payable to Freedom Township executed by the applicant and a reputable surety company. The letter of credit or surety bond must be issued by a corporate surety licensed to do business in the State of Michigan and rated AAA, as provided by the current Best's Key Rating Guide. Freedom Township must be named as obligee. The letter of credit or surety bond must be renewed at least sixty (60) days prior to its expiration. In the event the guarantee is not renewed within sixty (60) days of its expiration, the Township may make a demand on all or some of the guarantee. If a guarantee lapses, all excavation activities on the site shall immediately cease and full reclamation commenced.

10.02 Site Insurance. Applicant shall provide a specific liability insurance policy of not less than Five Million Dollars (\$5,000,000.00) per incident for all liability claims arising out of the site issued by an insurer rated AAA, as provided by the current Best's Key Rating Guide. The adequacy of this amount shall be subject to yearly review by the Freedom Township Planning Commission. The liability insurance is to cover property damage for surface and/or subsurface occurrences and bodily injury in an amount and form approved by the Freedom Township Board of Trustees, naming Freedom Township, its elected officials and appointed officials as additional named insureds and provide a copy of this policy to the Township Clerk. Said insurance shall provide an endorsement that provides that the general aggregate limit of the operations commercial and general liability applies separately to the site, and that Freedom Township shall be sent a notice of intent to cancel the insurance not less than thirty (30) days before the cancellation thereof. Failure of the operator, or any persons, firm or corporation named in the policy to maintain the insurance shall cause immediate suspension of the Extraction Permit.

Section 11. Specific Operating Conditions Applicable to Every Extraction Permit

For any Extraction Permit granted pursuant to this Ordinance, the Applicant/Owner/Operator shall jointly and severally comply with the following regulations.

11.01 Setback. No Excavation, washing, stockpiling of extracted material or other extraction activity of any sort shall be conducted closer than, two hundred (200') feet from the closest boundary of any road right-of-way to the site, five hundred (500') feet from any existing residence. and not less than two hundred (200') feet from any other property boundary of the site, or such other setback as the Planning Commission shall establish for the health and welfare of adjoining property owners and other residents of the Township, whichever is greater. The setback area shall not be used for any use related to the extractive operation, except access roads and public notice signs identifying the use as an excavation. Greenbelt plantings and landscaping shall be provided in the setback area as required by the Freedom Township Planning Commission. Before commencement of extraction operations on the site, 4" x 4" white painted posts, a minimum of five (5') feet in height above grade, shall be placed along the designated setback lines around the site. Such posts shall be separated by a distance not to exceed three hundred (300') feet between each post. The posts shall be placed at intervals so that from the location of any post two additional posts are visible.

11.02 Access. All means of access to the site shall be from major or secondary thoroughfares and shall not be from residential roadways.

- 11.03 Fencing.** Before the commencement of any extraction operations, a 10/47/6 fence (standard farm-type fence) shall be erected around the perimeter of the extraction area and maintained in good condition until excavation and extraction operations have been completed. A lockable gate shall be provided at all access points from the public road to the extraction operation. Said gates shall be closed and locked at all times except during the permitted hours of operation.
- 11.04 Signs.** The Township Planning Commission may require the posting of “Keep Out - Danger” or similar signs, every one hundred (100') feet along the entire perimeter fence.
- 11.05 Noise, Vibration and Air Pollution.** Any noise, odors, smoke, fumes, or dust generated on said site by any digging, excavating, loading or processing operation and borne or apt to be borne by the wind shall be confined so as not to cause a nuisance or hazard on any adjoining property or public road. The noise generated by the operation shall not at any one time exceed the maximum allowable decibel level as established in any applicable Freedom Township ordinance.
- 11.06 Pollution of Waters.** The removing or filling of materials shall not cause pollution of any surface water body or groundwater.
- 11.07 Natural Drainage and Groundwater Recharge.** Extraction operations and related activities shall not adversely affect the natural drainage of the other properties in the area nor adversely affect any pre-existing groundwater recharge area or filtering mechanisms of wetlands in the area or on the extraction site.
- 11.08 Site Access Roads.** Each site shall be limited to one (1) access point and road into the site from public roads as determined by the Freedom Township Planning Commission and the Washtenaw County Road Commission. The access road shall be paved for a minimum of three hundred (300') feet into the site from the closest of the public road and a lockable gate.
- 11.09 Elevation of Plant Site.** Any processing plant shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, to reduce the visual and noise impact of such plant. In any event, the noise from the operation of such plant shall not exceed the noise levels permitted by any other Freedom Township ordinance, or such noise level at the boundaries of the site that the Planning Commission may establish to protect the health, welfare and safety of surrounding property owners and the residents of the Township, whichever is less.
- 11.10 Seeding of Stockpiles.** Stockpiles of stripped top soil and/or overburden shall be seeded with grass or other ground cover materials to prevent erosion.
- 11.11 Domestic Water Supply and Domestic Sewage Disposal Systems.** Before the issuance of the Extraction Permit authorized by this Ordinance and the commencement of any extraction activities on the site, the applicant shall obtain approval, in writing, from the Washtenaw County Health Department or other governmental agency having jurisdiction for any proposed on-site domestic water supply and domestic sewage disposal systems. A copy of this permit with the plans for the system(s) shall be furnished to Freedom Township.
- 11.12 De-watering.** De-watering for extraction or any other processing on site shall not be permitted.
- 11.13 Blasting.** No blasting shall be allowed at any time under any Extraction Permit.
- 11.14 Hours of Operation.**
- A. Extraction Operations.** Extraction and processing operations shall be permitted only between the hours of 7:00 A.M., and 5:00 P.M., Monday through Friday, and between 7:00 A.M., and 12:00 P.M., on Saturday. Unless there is an emergency, in no event shall any noise emanate off the site, including the warming of engines, prior to 7:00 A.M.

B. Transporting. No transporting of aggregates or any materials from the site shall be permitted prior to 7:00 A.M., and after 5:00 P.M., Monday through Friday, and prior to 7:00 A.M., and after 12:00 P.M., on Saturday.

C. Repair of Equipment. Repair of equipment on site shall be permitted as allowed under the terms of Freedom Township Extraction Ordinance. Unless there is an emergency, in no event shall any noise emanate off the site prior to 7:00 A.M.

D. Sunday Operations. There shall be no extraction operations or transporting of aggregates permitted on Saturdays after 12:00 noon nor on Sundays or the official holidays of New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, or Christmas.

E. Emergency Hours. Permission for emergency hours of operation shall be granted only by written agreement of the Township Supervisor and the Planning Commission Chair. Details of the need for emergency hours shall be within the written agreement.

11.15 Dumping of Materials on Site. No material of any kind, including but not limited to soil, sand, clay or gravel shall be brought from elsewhere onto the site unless specific written permission to do so has been obtained from the Planning Commission.

Section 12. Public Roads

12.01 Spillage. The Applicant/Owner/Operator shall clean all spillage and/or trackage of material, dirt, rock, mud or any other debris onto any public roads in the Township by trucks coming to or from the site or by any other equipment. Cleaning shall occur promptly after the spillage or trackage of the material has occurred.

12.02 Haul Route. To the extent permitted by law and as deemed necessary by the Planning Commission for the health, safety and welfare of residents of the Township, the Planning Commission may as a condition of the Extraction Permit designate which public roads within the Township that trucks or any other vehicle accessing the site may utilize.

12.03 The Planning Commission may require appropriate posting of appropriate signage at the pit(s) and posting of signs at the exit points for the site which state the haul routes to be used by all vehicles carrying materials to or from the site.

Section 13. Landscaping

The following are minimum requirements for each approved site plan. The Planning Commission may require additional requirements to protect the health, welfare and safety of Township residents.

13.01 Berm. Prior to the commencement of any extraction operations under any Extraction Permit the Applicant/Owner/Operator shall have completed construction of a berm in accordance with the approved site plan, seeded to prevent erosion around those areas of the site where adjacent properties are exposed to the views and noise of the extraction operation and as provided in the approved site plan. The berm shall be of variable height with the top and outside sides of the berm varying in slope from four (4') feet horizontal to one (1') foot vertical to ten (10') feet horizontal to one (1') foot vertical. The berms shall not be uniform or geometric in shape and shall be blended into the natural landscape. The lower or "valley" parts of the berm shall be heavily planted with a mix of evergreen and deciduous trees and shrubs to create an effective visual screen and as provided in the approved site plan. Each berm shall be constructed so as to prevent surface water running off the berm onto any property adjacent to the site. The location of the berm shall be noted in the approved site plan.

13.02 Unexcavated Areas. Unexcavated areas shall be left in such a condition so as to ensure growth of vegetation, soil stabilization and erosion control.

- 13.03 Seeding and Tree Planting.** On the top and outside slope of the berm and for other areas where seeding is required, the Applicant/Owner/Operator shall engage in fertilizing and sowing seed in a manner as specified in the approved site plan. The trees shall be planted on the berm as shown in the approved site plan. If a tree or other landscaping dies, it shall be promptly replaced by the Applicant/Owner/Operator who shall provide the Township with a maintenance and replacement guaranty satisfactory to the Township. All plants and trees shall be of sufficient size and quantity to assure effective screening as soon as disturbed areas of the site are visible from the surrounding properties and as may be specified on the approved site plan. Smaller plants, including seedlings, may be planted in areas where Operational areas of the site will not be immediately exposed. These plants shall be supplemented with larger plants if the Planning Commission determines that the original plants do not provide effective screens.

Section 14. Variances

- 14.01** The Township Board shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of this Ordinance shall be observed, public health and safety secured and substantial justice done.
- 14.02** Any applicant may apply for a variance from any provision of this Ordinance by filing an application for variance with the Township Clerk. The Township Board shall hold a public hearing upon such application within sixty (60) days from its filing. Not later than seven (7) days before the hearing, the Township Clerk shall publish notice in a local newspaper and mail notice of the hearing to the owners of all property within two thousand (2,000') feet of the subject property. Any party may appear and comment at the hearing in person or by agent or by attorney. The Township shall keep a record of said hearing and shall render a written decision not later than the next regular Township Board meeting after the hearing date. The Township Board may attach reasonable conditions in granting any variance from any provision of this Ordinance, and the breach of any conditions or the failure of any applicant to comply with the conditions shall void the variance. This provision of the Ordinance is intended, in part, to enable variances to be granted and conditions attached to the variances to facilitate the upgrading of prior extraction operations, in a reasonable and practical manner.
- 14.03** In addition to the variance provided for under this Ordinance, the applicant shall be required to obtain any variance required under the Freedom Township Zoning Ordinance.

Section 15. Appeals

- 15.01** Any person aggrieved by a decision of the Planning Commission under the provisions of this Ordinance may appeal that decision to the Freedom Township Board of Trustees within thirty (30) days of the date of decision. "Date of decision" is the date the minutes containing the decision is approved by the Planning Commission.
- A.** The appeal shall be in writing, dated and signed by the appellant. The appeal shall include a copy of the written decision, if any, copy of the minutes in which the decision appears, the "date of decision," and the grounds upon which the appeal is brought.
- B.** The appeal, together with any fee established by resolution of the Township Board of Trustees, shall be filed with the Township Clerk. The Clerk shall stamp date the date the appeal is received.
- C.** The Township Board of Trustees shall given the appellant written notice of a hearing date. The hearing shall be held before the Township Board of Trustees at which the appellant shall be provided an opportunity to address the Board, produce witnesses, and submit exhibits or other relevant materials. The Planning Commission or its representative shall be provided a like opportunity. A recording of the proceeding shall be made and retained by the Township Clerk, together with any exhibits or materials submitted, until such time as the period for appealing the decision of the Township Board of Trustees to circuit court has lapsed, or a decision is entered in circuit court, whichever last occurs.

D. The decision of the Township Board of Trustees shall be in writing and state the facts, analysis and law upon which the decision is based.

15.02 The decision of the Township Board of Trustees may be appeal to the Washtenaw County Circuit Court within thirty (30) days of the date of decision. "Date of decision" is the date the minutes containing the decision is approved by the Township Board.

Section 16. Penalties

16.01 Any violation of this Ordinance or the permit given pursuant to it shall justify revocation of the permit provided that the Township gives the Applicant/Owner/Operator ten (10) days within which to cure the violation. Failure on the part of the Applicant/Owner/Operator to correct the reported violation within ten (10) days after such demand is made shall entitle the Freedom Township Planning Commission to cancel the Permit and demand that all activities cease and that restoration be done and completed as provided for in this Ordinance.

16.02 Additionally, any person, firm, corporation, or any other organization, which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of the Freedom Township Extraction Ordinance or a provision of a permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. The minimum fine for each violation shall be One Hundred (\$100.00) Dollars up to a maximum fine of Five Hundred (\$500.00) Dollars. Each day after a citation has been issued and the violation continues shall be deemed a separate civil infraction.

16.03 Any material misrepresentation in the application or a base document shall be grounds to revoke the permit.

16.04 The above penalties and/or relief are in addition to any other provided by law.

Section 17. Severability

This Ordinance and its various parts, sections, subsections, phrases and clauses are severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance, its parts, sections, subsections, phrases, sentences and clauses are intended to be valid, irrespective of the fact that any one or more parts, sections, subsection, phrases, sentences or clauses be declared invalid.

Section 18. Interpretation

The provisions of this Ordinance shall be held to be minimum requirements for the promotion of public health, moral, safety, comfort, convenience, or welfare. Except as provided in this Ordinance, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, or with any rules, regulations, or permits previously adopted, or issued, or which shall be adopted or issued pursuant to the law relating to the use of premises described herein; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

Section 19. Repealer

Ordinance No. 23 is repealed. This clarifies the intent of Ordinance No. 29 which was intended to repeal Ordinance No. 23. Base documents submitted and approved under Ordinance No. 23 shall carry forward and be the base documents under this Ordinance. Ordinance No. 29 is repealed. Base documents submitted and approved under Ordinance 29 shall carry forward and be the base documents under this Ordinance.

Section 20. Publication and Effective Date

Publication of this Ordinance shall be made within thirty (30) days after passage by publication of a true copy once in a newspaper having general circulation in the Township and shall take effect thirty (30) days after publication. Within one week after publication of the Ordinance the Township Clerk shall record the Ordinance in the Ordinance Book, record the date of passage of the Ordinance, the names of the members of the Township Board voting, and how each member voted.

Date of Passage: June 12, 2007
Date of Publication: June 21, 2007
Effective Date: July 20, 2007
Date Recorded: July 20, 2007

Jennifer Alexa
Freedom Township Clerk
Date: _____, 2007

Robert C. Little
Freedom Township Supervisor
Date: _____, 2007

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Freedom Township Board of Trustees at a Regular Meeting held on the 12th day of June, 2007, at which all Members were present, except: None.

I further certify that the fore-going members voted for adoption of said Ordinance, Horning, Alexa, Little, Weidmayer and Haeussler and that the following Members voted against adoption of said Ordinance None.

I further certify that said ordinance was published in the Manchester Enterprise within thirty (30) days after it was adopted and has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signature of the Supervisor and Township Clerk.

Dated: June 12, 2007

Jennifer Alexa
Freedom Township Clerk