

## ARTICLE 22.0 PERFORMANCE STANDARDS

### Section 22.01 Scope.

After the effective date of this Ordinance, any use established or changed to, and any structure or tract of land developed, constructed or used for any permitted principal or accessory use shall conform to the standards of this Article. If any existing use or structure is extended, enlarged, moved, structurally altered or reconstructed, or any existing use of land is enlarged or moved, the standards of this Article shall apply with respect to any extended, enlarged, moved, structurally altered or reconstructed structure or portion thereof, and with respect to land use which is enlarged or moved.

The standards of this Article shall not apply to RURAL USES subject to the Right to Farm Act, or where a higher standard is imposed by an outside agency with jurisdiction.

### Section 22.02 Procedures for Determining Compliance.

In the event that the Township receives complaints or otherwise acquires evidence of possible violation of any of the performance standards set forth in this Section, the following procedures shall be used to investigate, and if necessary, resolve the violation:

1. **Official investigation.** Upon receipt of evidence of possible violation, the Zoning Administrator or designated Township consultant shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the performance standards.

Upon initiation of an official investigation, the Zoning Administrator or designated Township consultant shall be empowered to require the facility owner or operator to submit data and evidence deemed necessary to make an objective determination regarding the possible violation. Failure of the owner or operator to supply requested data shall constitute grounds for legal action to terminate the use or deny or rescind permits required for continued use of the land.

Required data includes, but shall not be limited to plans of existing or proposed facilities, including buildings and equipment; a description of existing or proposed machinery, processes, and products; measurement of the amount or rate of emissions of materials purported to be in violation; and specifications for the mechanisms and techniques used or proposed to be used to control emissions regulated under the provisions of this Section.

2. **Method and cost of determination.** The Zoning Administrator or designated Township consultant shall take measurements, investigate the matter, and make an objective determination about any violations. Where required measurements and investigation can be accurately made using equipment and personnel normally available to the Township without extraordinary expense, such measurements and investigation shall be completed before notice of violation is issued. If necessary, skilled personnel and specialized equipment or instruments shall be secured to make the determination.

If the alleged violation is found to exist in fact, the costs of making such determination shall be charged against those responsible, in addition to such other penalties as may be appropriate. If it is determined that no substantive violation exists then such costs shall be paid by the Township.

3. **Appropriate remedies.** If, after appropriate investigation, the Zoning Administrator or designated Township consultant determines that a violation does exist, written notice of the violation shall be provided to the owners or operators of the facility deemed responsible requesting that the violation be corrected within a specified time limit.
  - a. If the alleged violation is corrected within the specified time limit, the Zoning Administrator or designated Township consultant shall note "violation corrected" on the Township's copy of the notice, which shall be retained on file.
  - b. If there is no reply from the owner or operator within the specified time limits and the alleged violation is not corrected, then the Township shall take such action as may be warranted to correct the violation as authorized by law.
  - c. If a reply is received within the specified time limit indicating that that more time is required to correct an alleged violation, the Township may grant an extension upon determining that the delay will not cause imminent peril to life, health, or property.
  - d. If a reply is received within the specified time limit which requests further review and technical analysis even though the alleged violations continue, then the Township may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.
4. **Costs and penalties incurred.** If expert findings indicate that violations do exist in fact, the costs incurred in making such a determination shall be paid by the persons responsible for the violations in addition to other applicable penalties under this Ordinance. Such costs shall be billed to those owners or operators of the use deemed responsible for the violation. If the bill is not paid within 30 calendar days, the Township may take necessary action to recover such costs, or may charge such costs against the property where the violation occurred.

### **Section 22.03 Appeals.**

The Zoning Administrator's action with respect to the performance standards procedure may be appealed to the Zoning Board of Appeals per Section 23.07 (Administrative Appeals).

### **Section 22.04 Performance Standards.**

No lot, building, or structure in any district shall be used in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition that adversely impacts adjoining premises or the surrounding area. No site plan or other land use or development application shall be approved if it is not in conformity with the requirements of this Section.

**A. Noise.**

Noise which is objectionable due to volume, frequency or beat shall be muffled or otherwise controlled so that there is no production of sound discernible at lot lines in excess of the average intensity of road and traffic noise at the lot lines. The provisions of this subsection shall not apply to the following activities, provided that such activities are conducted in a lawful manner:

1. The emission of sound for the purpose of alerting persons to existence of an emergency, or in the performance of emergency work.
2. Church bells, chimes, and carillons and similar non-verbal musical sounds.
3. Excavation, construction, or repair of bridges, roads, or highways by or on behalf of local, county, or state road authorities.

**B. Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.**

Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Michigan Environmental Protection Act (P.A. 451 of 1994, as amended), or other applicable state or federal regulations. The drifting of air-borne transmission beyond the lot line of dust, particles or debris from any open stockpile shall be prohibited.

**C. Vibration.**

Vibration generated on a lot or within a building that is discernible without instruments from within the boundaries of any adjoining lot shall be prohibited.

**D. Odor.**

Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life.

**E. Glare and Heat.**

Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one (1.0) footcandle when measured at any point along the property line of the site on which the operation is located. Any operation that produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.

**F. Fire and Safety Hazards.**

The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all applicable state, county and local regulations, including the Michigan Fire Prevention Code (P.A. 207 of 1941, as amended). Further, all storage tanks for flammable liquid materials above ground shall be located at least 150 feet from all property lines, and shall be completely surrounded by earth embankments, dikes or other types of retaining wall which will contain the total capacity of all tanks so enclosed. Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greater depth to the bottom of the buried tank.

**G. Sewage Wastes and Water Pollution.**

Sewage disposal (including septic systems) and water pollution shall be subject to the standards and regulations established by federal state, county, and local regulatory agencies with jurisdiction.

**H. Gases.**

The escape of or emission of any gas that is injurious or destructive to life or property, or that is explosive, is prohibited. Gaseous emissions shall be subject to regulations established in conjunction with the Michigan Environmental Protection Act (Public Act 451 of 1994, as amended), federal clean air regulations, and any other applicable state or federal regulations.

**I. Electromagnetic Radiation.**

Electronic equipment required in an industrial, commercial or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.

**J. Surface Water Flow.**

Development or improvement of a lot that includes grading or other topographic alterations or site improvements that would result in ponding of stagnant water or other identifiable disruption to existing or natural flow of water within established or natural drainage patterns, watercourses, ditches, swales or county drains shall be prohibited.

**K. Radioactive Materials.**

Radioactive material wastes and emissions, including electromagnetic radiation, shall not exceed levels established by occupational and health standards and state and federal agencies that have jurisdiction. No operation shall be permitted that causes any individual outside of the lot lines to be exposed to any radiation exceeding the lowest concentration permitted for the general population by federal and state laws and regulations currently in effect.