

ARTICLE 11

SPECIAL DEVELOPMENT PROVISIONS

Section 11.01 Approval of Land Divisions.

All land divisions created after the effective date of this Ordinance shall comply with all requirements of the Land Division Act (P.A. 288 of 1967, as amended); and any City subdivision regulations; and shall conform to the dimensional requirements of this Ordinance as specified in Article 4 (Dimensional Standards) for the zoning district where such land is located.

Section 11.02 Protection of Wetlands and Bodies of Water.

An undisturbed open space setback of not less than 50 feet shall be maintained from the edge of any stream, pond, lake or other body of water. An undisturbed open space setback of not less than 25 feet shall be maintained from the edge of any wetland or open drain. Such setbacks shall be measured from the top of the bank or other defined edge, and shall not be subject to topography.

1. Trails, boardwalks, observation platforms or similar passive recreational improvements may be provided within the required setback.
2. Detention basins and similar stormwater management facilities may be constructed within the required setback, provided that appropriate replacement plantings are provided and maintained.

Section 11.03 Water Supply and Sanitary Sewers.

All principal buildings shall be connected to publicly owned and operated water and sanitary sewer service systems at the time of construction or expansion.

Section 11.04 Sidewalks

A. Purpose and Scope.

To provide for a continuous network of sidewalks and pedestrian paths; ensure safe and convenient pedestrian and non-motorized travel; and improve barrier-free access to sites in the City of Sandusky, it shall be the policy of the City to require installation, extension or modification of public sidewalks and sidewalk connectors to primary building entrances to serve uses and developments subject to site plan approval per Section 12.01 (Site Plan Review), condominium site plan approval per Article 13 (Condominium Regulations) or planned unit development approval per Article 14 (Planned Unit Developments).

B. Standards.

Installation, extension or modification of public sidewalks and sidewalk connectors shall be subject to the following:

1. **Location and width.** Required public sidewalks shall be a minimum of five (5) feet in width and shall be located one (1) foot off the property line in the street right-of-way.
 - a. Where the planned future right-of-way is greater in width than the existing right-of-way, the sidewalk may be located one (1) foot inside the planned right-of-way, provided that an easement is obtained from the lot owner.
 - b. The Planning Commission may modify this requirement in consideration of the location of utilities, vegetation or other site improvements.
2. **Design standards.** Sidewalks shall be constructed of concrete in accordance with established engineering standards for the City, and shall be subject to City Engineer inspection and approval.
3. **Alignment with adjacent sidewalks.** Sidewalks shall be aligned horizontally and vertically with public sidewalks abutting adjacent lots. The Planning Commission may modify this requirement if the abutting sidewalk location or design does not conform to current City standards.
4. **Permits.** It shall be the responsibility of the owner or developer to secure any required permits from the Sanilac County Road Commission or Michigan Department of Transportation to permit sidewalk construction in county or state road rights-of-way.

Section 11.05 Residential Open Space Preservation Option.

This Section establishes provisions under which a landowner may develop land for single-family dwellings and uses with open space preservation. The purpose of this Section is to promote the following objectives:

1. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills, and similar natural assets.
2. Encourage developers to use a more creative approach in the development of residential areas.
3. Encourage a more efficient, aesthetic, and desirable use of open area while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.
4. Encourage the provision of open space and recreational facilities within reasonable distance to all RESIDENTIAL USES in the neighborhood.

A. Scope.

Land in the R (Single Family Residential) District may be developed according to the standard conditions and requirements of this Ordinance, or in accordance with the open space preservation option of this Section.

1. No portion of the development site shall have previously been part of an open space preservation option development.

2. If the open space preservation option is selected, such land shall be developed in accordance with the conditions and requirements of this Section, and other applicable standards of this Ordinance.

B. Development Review.

Applications for residential development approval under the open space preservation option of this Section shall be reviewed following the same procedures used for review and approval of a subdivision plat under the provisions of the Land Division Act (P.A. 288 of 1967, as amended) and any City subdivision regulations, or a condominium subdivision (site condominium) development under Article 13 (Condominium Regulations) and the Condominium Act (P.A. 59 of 1978, as amended).

C. Required Information.

Applications for approval of a residential development under this open space preservation option shall be filed with the Zoning Administrator. Incomplete or inaccurate applications shall not be accepted for review, and shall be returned to the applicant. At a minimum, such applications shall include the following:

1. **Fees.** Appropriate fees, as set by the City Council, for review of the proposed development plans.
2. **Project narrative.** The applicant shall provide a written narrative that explains the project and its benefits. The narrative should specifically address all elements of the project that would not comply with the underlying zoning district regulations as applied to the open space development plan.
3. **Parallel plan.** The number of dwelling units permitted within a residential development under this open space preservation option shall be determined through review of a parallel plan prepared by the applicant. The parallel plan for the project shall be consistent with the standards of this Ordinance, including minimum lot area, lot width, and setbacks. The parallel plan layout shall conform to all county and state requirements, and shall not impact regulated wetlands.
4. **Conservation easement.** Documentation of the proposed conservation easement(s), or similar irrevocable legal instrument that runs with the land, to be used to ensure that the open space will be maintained in an open and undeveloped state in perpetuity.
5. **Development plan.** The development plan shall include all information required for subdivision plat approval in conformance with the Land Division Act (P.A. 288 of 1967, as amended) and any City subdivision regulations, or condominium subdivision plan approval in conformance with Article 13 (Condominium Regulations) and the Condominium Act (P.A. 59 of 1978, as amended). The development plan shall further include the following:
 - a. A site features inventory identifying active agriculture areas, topography at two (2) foot contour intervals, water courses, drainage patterns, wildlife habitats, roads and road rights-of-way, easements, soils based upon U.S. Soil Conservation Survey, regulated wetlands, floodplains, woodlands, and any additional features uniquely affecting the site.

- b. Any additional information requested by the Zoning Administrator or Planning Commission to demonstrate compliance with the development standards of this Section, and the applicable requirements of this Ordinance.

D. Development Standards.

Every lot developed or to be developed with the open space preservation option shall comply fully with all of the following requirements:

1. **Permitted residential density.** The overall residential density of the open space development shall not exceed the number of dwellings shown on the approved parallel plan, nor that allowed in the zoning district per Article 4 (Dimensional Standards).
2. **Minimum lot size.** The minimum required lot area may be reduced by up to twenty percent (20%). This reduction may be accomplished in part by reducing the minimum required lot width by up to ten (10) feet. Lot size reductions shall be subject to the following:
 - a. **Minimum yard setbacks.** The minimum yard setback standards of the zoning district, as specified in Article 4 (Dimensional Standards), shall apply to lots created under this open space preservation option.
 - b. **Adequate lot area.** The applicant shall demonstrate to the Planning Commission's satisfaction that all lots created under this option contain adequate lot area to provide for development of a principal dwelling and customary accessory structures without need for a variance.
 - c. **Rear yard reduction.** Rear yards may be reduced to a minimum of 20 feet where the rear yard abuts dedicated open space areas with a minimum width of 100 feet, as measured at the point abutting the lot.

E. Open Space Standards.

For each square foot of land gained within a residential development through permitted reductions in lot size under this open space option, at least an equal area of land shall be permanently dedicated as open space for the common use of the lot owners of the development in a manner approved by the Planning Commission or, in the instance where land shall be dedicated to the public, in a manner accepted by the City Council. Such dedicated open space areas shall be subject to the following:

1. The total area to be dedicated for open space purposes shall in no instance be less than five (5) acres.
2. The land area necessary to meet the minimum open space requirements of this Section may include land within a 100 year floodplain, but shall not include bodies of water, regulated wetlands, required stormwater retention or detention basins or land with excessive grades making it unsuitable for recreation.
3. The location(s) and shape(s) of individual open space areas within the development shall be subject to Planning Commission approval.

F. Conservation Standards.

The conservation easement(s), or similar legal instrument to be used to ensure that the open space will be maintained in an open and undeveloped state in perpetuity shall be subject to review and approval by the City Attorney. At a minimum, the instrument shall be irrevocable, shall run with the land, and shall convey all rights to develop the land to a land conservation organization or other public body with authority and ability to ensure that the open space will remain undeveloped.

After approval by the City, the applicant shall record the conservation easement(s) or similar legal instrument with the Sanilac County Register of Deeds office, and shall provide proof of recording and a copy of the recorded documents to the City.

Section 11.06 Wireless Communication Facilities.

A. Purpose.

The purpose of this Article is to:

1. Carry out the will of the United States Congress by permitting facilities within the City that are necessary for the operation of wireless communications systems, facilitating adequate and efficient provisions for wireless communications facility sites, and encouraging co-location of multiple antennae on a single tower.
2. Consider public health and safety in the location and operation of wireless communications facilities, and protect residential areas, community facilities, historic sites and landmarks from potential adverse impacts of towers and antennae.
3. Limit visual impacts by promoting the use of screening and innovative designs for such facilities, prevent potential damage to adjacent properties from tower failure, and promote the timely removal of facilities upon the discontinuance of use.

B. Application.

The following information shall be provided with any application for approval of a wireless communications facility:

1. **Applicant information.** The name, address, and telephone numbers for the applicant, property owner, tower operator, and installation contractor; and the address, parcel identification number or location of the property on which the facility is to be located.
2. **Site plan.** A site plan, on 11 inch by 17 inch paper, which identifies the type of wireless communications facility, as defined in this Ordinance, and includes the following:
 - a. A parcel survey, with easements, setback dimensions, and the location of all existing and proposed structures and facilities on the zoning lot upon which the facility will be located, and all existing structures and uses within 300 feet of the boundaries of the zoning lot.

- b. A screening plan, with details of proposed fencing and screening materials.
 - c. Elevation drawings of all proposed towers and other structures on the site.
 - d. A location map for the proposed wireless communications facility, along with the location, height, type, and owner or operator of all existing facilities within five (5) miles of the proposed location.
3. **Service area coverage maps.** A map of the area served by the provider's existing wireless communications facilities shall be provided, along with a map of the same area showing the additional service area coverage of proposed facilities.
 4. **Construction drawings.** Construction drawings shall be provided that include plans, specifications, materials, designs, dimensions, structural supports, heights, electrical components, methods of construction, and type of illumination for each wireless communications facility.
 5. **Permission to locate.** The applicant shall submit copies of a signed lease or other proof, satisfactory to the City Attorney, of permission to locate a wireless communications facility on the site.
 6. **Co-location agreement.** The applicant for a new or altered tower shall submit a written agreement, transferable to all successors and assigns, stating that the tower operator shall make space available on the tower for co-location. Proposed antenna and equipment locations shall be indicated on the site plan and elevation drawings.
 7. **Insurance certificate.** The applicant shall submit a valid certificate of insurance, to be renewed annually, listing the City of Sandusky as the certificate holder and naming the City of Sandusky, its past, present, and future elected officials, representatives, employees, boards, commissions, and agents as additional named insured. The certificate shall also state that if any of the described policies are to be canceled before the expiration date thereof, the issuing company will mail 30 days written notice to the City as certificate holder. The City may require the applicant to supply a \$1,000.00 cash bond to the City, which shall be used to reimburse administrative expenses in the event the certificate is allowed to lapse.
 8. **Maintenance agreement.** The applicant shall submit a plan for the long-term maintenance of the facility that identifies who will be responsible for maintenance of the facility, access, easements, and required landscaping. The plan shall include a method of notifying the City if maintenance responsibilities change.
 9. **Removal agreement.** The applicant shall submit a signed removal agreement and a security bond or letter of credit, satisfactory to the City Attorney, for the removal of towers or antennae as applicable. The applicant shall demonstrate that adequate funds will be available to the City for the removal of such towers or antennae, restoration of the site, and associated administrative costs incurred by the City in the event that the applicant, property owner or their successors fail to remove the tower or antenna in a timely manner as required by this Section.

10. **Tax-related information.** The applicant shall supply to the City Assessor all tax-related information as requested for appraisal purposes. Upon receipt of requested information, the Assessor shall provide notice to the Zoning Administrator that this condition has been satisfied.
11. **Engineering certification.** Stress sheets and calculations showing that the structure is designed in accordance with applicable dead load and wind pressure standards shall be submitted, along with signed certification by a professional engineer licensed by the State of Michigan, specifying the manner in which the tower or antenna structure will fall in the event of accident, damage or failure, and verifying that the setback area would accommodate the structure and provide a reasonable buffer from adjacent parcels.

C. Type of Review Required.

The purpose of this Section is to establish consistent review procedures that ensure full compliance with the standards of this Article, and to ensure that the type and intensity of review and amount of required information is in direct proportion to the scale of the project and the intensity of the use. Wireless communications facilities shall be reviewed in accordance with the following table:

| SITUATION or USE | Required Review and Approval | | |
|--|------------------------------|---------------|----------|
| | Planning Commission | Zoning Permit | Exempt |
| NEW TOWERS AND ANTENNAE | | | |
| Construction, alteration or enlargement of wireless communications facilities, including cell towers, AM antennae arrays, television or radio towers, and microwave or public utility transmission towers. | X | | |
| Installation of an antenna on an existing building or structure. | X | | |
| COLOCATION ON EXISTING TOWERS | | | |
| Co-location of an antenna on an existing approved tower. | X | X | |
| SATELLITE DISH ANTENNAE | | | |
| Installation of a satellite dish antenna with a diameter of less than 1.5 meters. | | | X |

| | | | |
|---|--|---|---|
| Installation of a satellite dish antenna with a diameter 1.5 meters or larger. | | X | |
| AMATEUR RADIO ANTENNAE | | | |
| Installation of an amateur radio transmission and reception antenna. | | X | |
| Installation of citizen band radio facilities, short wave facilities, an amateur radio reception-only antenna or governmental facilities subject to federal or state laws or regulations that preempt local regulatory authority. | | | X |
| OTHER PROJECTS | | | |
| Repair, service or maintenance of an existing approved wireless communications facility, provided that all work is in compliance with approved plans, permits, and applicable codes. | | | X |
| Telecommunication facilities as defined by the METRO Act (P.A. 48 of 2002, as amended). | | | X |

1. **Exempt facilities.** Activities listed as exempt from review shall be permitted by right, subject to the applicable standards of this Section.
2. **Facilities subject to zoning permit approval.** Such facilities shall be subject to review and approval by the Zoning Administrator in accordance with the applicable standards of this Section and Section 1.06 (Zoning Permits).
3. **Facilities subject to Planning Commission approval.** Such facilities shall be subject to a public hearing, review, and approval by the Planning Commission in accordance with the applicable standards of this Section and the review procedures specified in Section 11.06D (Review Procedure).

D. Review Procedure.

Construction, installation, replacement, co-location, alteration or enlargement of wireless communications facilities shall be reviewed in accordance with the following procedures:

1. **Procedure.** After a complete and accurate application has been received and review fees paid, wireless communications facilities subject to Planning Commission review shall be reviewed in accordance with the following procedure:
 - a. **Application submittal.** Application materials shall be submitted in accordance with the requirements of Section 11.06B (Application).

- b. **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to appropriate City officials and staff for review and comment. The Zoning Administrator may also submit the plans to applicable outside agencies and designated City consultants for review and comment.
 - c. **Public hearing.** A public hearing shall be scheduled and held before the Planning Commission for all wireless communications facilities subject to Planning Commission review, in accordance with the City and Village Zoning Act (P.A. 207 of 1921, as amended) and Section 12.03 (Public Hearing Procedures).
 - d. **Planning Commission action.** Subsequent to the hearing, the Planning Commission shall review the proposed wireless communications facility, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments.
 - (1) The Planning Commission shall verify whether the facility is in compliance with the requirements of this Section and Ordinance.
 - (2) The Planning Commission shall verify whether the facility satisfies the criteria for approval listed in Section 11.06I (Criteria for Approval).
 - (3) The Planning Commission shall then consider its findings, shall take action to approve, approve with conditions or deny the wireless communications facility, and shall set forth the reasons for their action.
2. **Effect of action.** Approval of the wireless communications facility by the Planning Commission shall allow the Zoning Administrator to review and issue a permit for the work associated with the application. No work may take place on the site except in accordance with an approved permit and the design and plans approved by the Planning Commission. If the Planning Commission denies the wireless communications facility, the applicant may submit a new wireless communications facility application that corrects any deficiencies in the denied application materials, facility design or location.
3. **Expiration of approval.** Approval of a wireless communications facility shall expire 365 days after the date of approval, unless a permit has been issued or construction has commenced. Upon written request received by the City prior to the expiration date, the Planning Commission may grant an extension of up to 180 days, provided that site conditions have not changed in a way that would affect the character, design or use of the site, and that the approved wireless communications facility plans remains in conformance with the purpose and provisions of this Article.

E. General Requirements.

The following regulations shall apply to all wireless communications facilities:

1. **Federal, state and local standards.** Wireless communication facilities shall meet or exceed current standards of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Michigan Aeronautics Commission, and any other agency of the state or federal government with regulatory authority, and shall further comply with applicable building, electrical, and fire codes.
2. **Public safety.** Wireless communication facilities shall comply with applicable federal and state standards relative to radio frequency emissions, and shall be designed, constructed, operated, and maintained in a structurally sound condition, using the best available technology to minimize any threat to public safety.
3. **Access.** Unobstructed permanent access to the facility shall be provided for operation, maintenance, repair, and inspection purposes. Access may be provided by an easement.
4. **Lighting.** Wireless communications facilities shall not be illuminated, unless required by the FAA or Michigan Aeronautics Commission.
5. **Colors.** Towers, and antennae located on towers, shall be painted white. Antennae on buildings shall be painted to match or blend in with the building façade. The Planning Commission may modify this requirement upon finding that other colors or treatments would be more appropriate for the location.

F. Standards for Wireless Communications Towers.

The following shall apply to all wireless communications towers, microwave transmission towers, AM antenna arrays, and similar tower structures; in addition to the provisions of Section 11.06E (General Requirements):

1. **Location.** Wireless communications towers shall be limited to lots in the I-2 (General Industrial) and PSP (Public/Semi-Public Services) Districts that have sufficient lot area to accommodate the minimum setback requirements of this Section.
2. **Height.** Towers shall not exceed 195 feet in height as measured from certified grade to the highest point of the tower, including antennae attached to the tower. The Planning Commission may waive this height limitation, subject to the following:
 - a. Determination that the additional height is necessary to permit reasonable use of the tower and antennae, based upon documentation submitted by the applicant.
 - b. Determination that the additional height will not adversely impact abutting lots and uses to an extent greater than a tower that conforms to the maximum height standard of this subsection.
3. **Setbacks.** Towers shall be set back from the boundaries of adjacent lots, districts, and uses as follows:

- a. **From lot boundaries.** A minimum distance equal to one hundred percent (100%) of the height of the tower. Anchoring cables, equipment enclosures, and accessory structures shall satisfy minimum zoning district setback requirements, with a minimum required setback of 50 feet.
 - b. **From adjacent districts and uses.** A minimum of 200 feet from the boundary of a residential zoning district or lot occupied by a residential use.
 - c. **Between towers.** New wireless communication towers shall be set back a minimum of 1,320 feet from all existing towers. The Planning Commission may approve a lesser separation distance upon determining that the tower location is necessary to satisfy reasonable operating requirements.
4. **Ground equipment enclosure.** All wireless communications towers, accessory structures, and equipment enclosures shall be completely enclosed by an eight (8) foot high fence with a lockable gate to prevent unauthorized access. Screening shall be provided on all sides of the ground equipment enclosure in accordance with Section 8.04 (Methods of Screening and Buffering).
 5. **Co-location.** Wireless communications facilities shall be designed, constructed, and maintained to accommodate co-location of multiple antennae on a single tower.
 6. **Tower address.** Each wireless communications tower shall be designated with a specific and unique mailing address.

G. Standards for Antennae Located on Structures.

The following shall apply to antennae located on principal or accessory structures, in addition to the provisions of Section 11.06E (General Requirements):

1. Such antennae shall be limited to structures in any zoning district that have a minimum height of 50 feet.
2. The antenna and support structure shall be permanently secured to the structure, and shall not exceed the structure height by more than 10 feet.
3. The antennae shall be designed and arranged to minimize visibility and to blend with the primary building materials and colors.

H. Standards for Amateur Radio Antennae:

The following shall apply to all amateur radio antennae, in addition to the provisions of Section 11.06E (General Requirements).

1. Amateur radio antennae shall be limited to lots in any zoning district that have sufficient lot area to accommodate the minimum setback requirements of this Section.

2. A maximum of one (1) such antenna shall be permitted per zoning lot, with a maximum height of 60 feet and a minimum setback from all lot boundaries equal to one hundred percent (100%) of its height.
3. Such antennae shall be accessory to a principal building on the same lot, and shall be located in the rear yard area.

I. Criteria for Approval.

Construction, installation, replacement, co-location, alteration or enlargement of wireless communication facilities shall only be approved upon determination that all of the following conditions have been satisfied:

1. **Operating requirements.** The applicant shall demonstrate that operating requirements necessitate locating within the City and the general area and shall provide evidence that existing towers, structures or alternative technologies cannot accommodate these requirements.
2. **Engineering requirements.** The applicant shall demonstrate that existing towers or structures are not of sufficient height or structural strength to meet engineering requirements, or are not located in a geographic area that meets these requirements.
3. **Impact on adjacent uses.** Nearby residential districts and uses, community facilities, historic sites and landmarks, natural beauty areas, and street rights-of-way will not be adversely impacted by the location of the wireless communications facility.
4. **Site characteristics.** Topography, vegetation, surrounding land uses, zoning, adjacent existing structures, and other inherent site characteristics are compatible with the installation of wireless communications facilities.
5. **Site design.** The design, lighting, color, construction materials, landscaping, fencing, screening, and other design elements are in compliance with applicable provisions of this Section and Ordinance.

J. Existing Towers and Antennae.

Wireless communications facilities for which building permits have been issued prior to the effective date of this Ordinance shall be allowed to continue, provided that such facilities are maintained in accordance with Section 11.06E (General Requirements) and all approved plans, permits, and conditions of approval.

K. Rescinding Approval of Wireless Communications Facilities.

Failure of the owner, operator or leaseholder of an approved wireless communications facility to renew or replace any required bonds or insurance certificates, provide information to the City about the facility as required by this Section or maintain and operate the facility in compliance with the provisions of this Section shall be grounds for the City to rescind any previous approval to construct or operate the facility. Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held by the Planning Commission in accordance with the procedures set forth in Section 12.03 (Public Hearing Procedures), at which time the operator of the use or owner of an interest in the wireless communications facility for which approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescinding of approval shall be made and written notification provided to said owner, operator or designated agent.

L. Removal of Wireless Communications Facilities.

Wireless communications facilities for which approval has been rescinded, or that have ceased operation for more than 365 contiguous days, shall be removed by the owner or operator within 90 days of receipt of notice from the City requesting such removal. Failure by the owner to remove such facilities upon request shall be grounds for the City to seek court approval for such removal at the expense of the facility owner or operator.

M. METRO Act Telecommunication Facilities.

Nothing in this Ordinance shall be construed in such a manner to conflict with the regulatory process established for telecommunication facilities as defined and regulated by the METRO Act (P.A. 48 of 2002, as amended).

Section 11.07 Performance Standards.

No activity, operation or use of land, structures or equipment shall be permitted where such activity, operation or use produces an environmental impact or irritant to sensory perception that exceeds the standards of this Section.

A. Purpose and Scope.

The purpose of this Section is to establish controls on the impacts generated by permitted uses so as to prevent an unreasonable negative impact that might interfere with another person's use of his or her property, or that might cause harm to the public health safety, and welfare.

1. **Scope.** No structure or land shall hereafter be used or occupied, and no structure or part thereof shall be erected, altered, reconstructed or moved after the effective date of this Ordinance, except in conformity with all applicable performance standards set forth in this Section. No site plan or other land use or development application shall be approved that is not in conformity with the requirements of this Section.
2. **Submission of additional data.** Nothing in this Section shall preclude the applicant or other interested party from submitting additional data or evidence related to a specific case. In consideration of such data or evidence, the Planning Commission may waive or modify the regulations set forth in this Section, provided that the Planning Commission finds that no harm to the public health, safety or welfare will result, and that the intent of this Ordinance will be upheld.

B. Noise.

No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance.

1. **Noise disturbance examples.** Examples of noise disturbances include, but are not limited to:
 - a. **Sounds that exceed Ordinance limits.** Any sound that exceeds the specific limits set forth in this Section shall be deemed a noise disturbance.
 - b. **Loading and unloading.** Loading and unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects shall be prohibited between the hours of 8:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential district boundary or within a noise sensitive zone.
 - c. **Construction.** Operation of any tools or equipment used in construction, drilling, or demolition work shall be prohibited where the sound would create a noise disturbance across a residential district boundary or within a noise sensitive zone. This provision shall apply between the hours of 8:00 p.m. and 7:00 a.m. on Monday through Saturday, or any time on Sundays or holidays, but shall not apply to emergency work or public service utilities.
 - d. **Vibration.** Operating of any device that creates vibration that is above the vibration perception threshold of an individual at or beyond the property of the source shall be prohibited. For the purposes of this Section, vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or observation of moving objects.
 - e. **Noise sensitive zones.** Creating of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone shall be prohibited, even if the average A-weighted sound level is lower than the specific limits set forth in this Section, provided that conspicuous signs are displayed indicating the presence of the zone.
2. **Exceptions.** The provisions in this Section shall not apply to the following uses and circumstances:
 - a. **Emergency exceptions.** The emission of sound for the purpose of alerting persons to existence of an emergency, or in the performance of emergency work shall be exempt from the provisions of this Section.
 - b. **Additional exceptions.** The provisions in this Section shall not apply to the following activities, provided that such activities are conducted in a legally-accepted manner:
 - (1) Snow plowing and other public works activities.

- (2) ANIMAL AND AGRICULTURAL USES.
- (3) Church bells, chimes, and carillons.
- (4) Lawncare and house maintenance that occurs between 8:00 a.m. and 9:00 p.m.
- (5) Licensed vehicles being operated on a street.
- (6) Nighttime excavation, construction, or repair of bridges, streets, or highways by or on behalf of local, county, or state road authorities, where necessary to preserve the public safety or welfare.
- (7) The reasonable use of stationary amplifiers or loudspeakers in the course of non-commercial public addresses or festivals.

3. **Maximum permitted sound levels by receiving zoning district.** Sound emitted by any source is considered a noise disturbance when its average A-weighted sound level exceeds the limit set forth for the receiving zoning district in the following table, when measured at or within the property boundary of the receiving district. All measurements and designations of sound levels shall be expressed in day-night average sound levels.

| Receiving Zoning District | Time | Average Sound Level |
|----------------------------------|-------------------------|---------------------|
| Residential Districts | 7:00 a.m. to 10:00 p.m. | 55 dB(A) |
| | 10:00 p.m. to 7:00 a.m. | 50 dB(A) |
| Non-Residential Districts | 7:00 a.m. to 6:00 p.m. | 62 dB(A) |
| | 6:00 p.m. to 7:00 a.m. | 55 dB(A) |

Notes related to table:

- a. **Correction for tonal sounds.** For any source of sound that emits a pure tone sound, the maximum sound level limits of this table shall be reduced by 5 dB(A) where the receiving district is residential or commercial-noise sensitive.
- b. **Correction for impulsive or impact-type sounds.** For any source of sound that emits an atypical impulsive or impact-type sound, the maximum sound level limits of this table shall be reduced by 5 dB(A) where the receiving district is residential or commercial-noise sensitive.
- c. **Planned development.** Where the receiving district is a Planned Unit Development (PUD) District, the applicable standards of this table shall be based on the types of uses within the planned development.

C. Surface Water Flow.

No site plan review application and no proposal for division of land shall be approved if subsequent development within the required setbacks would result in identifiable disruption to the existing or natural flow of water within drainage ditches, natural water courses, or drains having a recorded easement.

D. 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. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.

The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Emission of particulate matter from material products, or surfaces subject to wind erosion shall be controlled by paving, oiling, wetting, covering, landscaping, fencing, or other means.

E. 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.

F. 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-half ($\frac{1}{2}$) 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.

G. 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).

1. **Storage Tanks.** 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 another type of approved retaining wall capable of containing one and one half (1.5) times the capacity of the largest tank so enclosed. The floor of the retention area shall be impervious to and non-reactive with the contents of the tank. These provisions shall not apply to approved tanks that hold propane or other fuel used for heating a dwelling or other building on the site.

Belowground bulk storage tanks that contain flammable material shall be located no closer to lot lines than the distance to the bottom of the buried tank, measured at the point of greatest depth. All underground tanks shall be registered with the State of Michigan in accordance with applicable state laws and regulations. The location and contents of all such tanks shall be indicated on the site plan.

2. **Detonable Materials.** The storage, utilization, or manufacture of the following detonable materials shall be subject to approval as hazardous materials storage, subject to the standards of Section 5.401 (Hazardous Materials Storage).
- a. All primary explosives such as lead azide, lead styphnate, fulminates or tetracene.
 - b. All high explosives such as TNT, RDX, HMX, PETN or picric acid.
 - c. Propellants and components thereof such as dry nitrocellulose, black powder, boron hydrides or hydrazine and its derivatives.
 - d. Pyrotechnics and fireworks such as magnesium powder, potassium chlorate or potassium nitrate.
 - e. Blasting explosives such as dynamite or nitroglycerin.
 - f. Unstable organic compounds such as acetylides, tetrazoles or ozonides.
 - g. Strong unstable oxidizing agents such as perchloric acid, perchlorates and hydrogen peroxide in concentrations greater than 35 percent.
 - h. Nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

H. 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, including the Michigan Department of Health, the Michigan Department of Environmental Quality, the Sanilac County Health Department, and the U.S. Environmental Protection Agency.

I. 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 Acts, as amended, and any other applicable state or federal regulations. Accordingly, gaseous emissions measured at the property line at ground level shall not exceed the levels indicated in the following chart that is based on the *National Ambient Air Quality Standards*, unless a higher standard is imposed by a federal state, county or local regulatory agency with jurisdiction:

| Gas | Maximum Emissions Level | Sampling Period |
|------------------------|-------------------------|-----------------|
| Sulfur dioxide | 0.14 ppm | 24 hours |
| Hydrocarbons | 0.24 ppm | 3 hours |
| Photochemical oxidants | 0.12 ppm | 1 hours |
| Nitrogen dioxide | 0.05 ppm | Annual |
| Carbon monoxide | 9.0 ppm | 8 hours |
| | 35.0 ppm | 1 hours |
| Lead | 1.5 μ g/cubic meter | 3 months |
| Mercury | 0.01 mg/cubic meter | 10 hours |
| Beryllium | 2.0 μ g/cubic meter | 8 hours |
| Asbestos | 0.5 fibers/cc | 8 hours |

Notes Related to Table:

- a. ppm = parts per million
- b. μ g = micrograms
- c. mg = milligrams
- d. cc = cubic centimeters

J. Electromagnetic Radiation and Radio Transmission

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.

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.

L. Procedures for Determining Compliance.

In the event that the City 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 City consultant shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the

performance standards. The Zoning Administrator may initiate an official investigation in order to make such a determination.

Upon initiation of an official investigation, the Zoning Administrator is empowered to require the owner or operator of the facility in question 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 taking legal action to terminate the use or deny or rescind any permits required for continued use of the land. Data which may be required includes, but is not limited to the following:

- a. Plans for existing/proposed facilities, buildings, and equipment.
- b. Descriptions of existing/proposed machinery, processes, and products.
- c. Specifications for mechanisms and techniques used or proposed to control emissions regulated under the provisions of this Section.
- d. Measurement of the amount or rate of emissions of materials purported to be in violation.

2. **Method and cost of determination.** The Zoning Administrator or designated City consultant shall take measurements and complete investigation necessary to make an objective determination concerning the purported violation. Where required measurements and investigation can be accurately using equipment and personnel normally available to the City without extraordinary expense, such measurements and investigation shall be completed before notice of violation is issued. If necessary, skilled personnel and spec equipment or instruments shall be secured to make the required 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 City.

3. **Appropriate remedies.** If, after appropriate investigation, the Zoning Administrator or designated City consultant determines that a violation does exist, the Zoning Administrator shall provide written notice of the violation to the owners or operators of the facility deemed responsible and shall request that the violation be corrected within a specified time limit.

- a. **Correction of violation within time limit.** If the alleged violation is corrected within the specified time limit, the Zoning Administrator shall note "violation corrected" on the City's copy of the notice, which shall be retained on file.
- b. **Violation not corrected and no reply from owner or operator.** If there is no reply from the owner or operator within the specified time limits and the alleged violation is not corrected, then the Zoning Administrator shall take such action as may be warranted to correct the violation, in accordance with the regulations set forth in this Section.

- c. **Reply requesting time extension.** If a reply is received within the specified time limit indicating that an alleged violation will be corrected, but that more time is required, the Zoning Administrator may grant an extension upon determining that the extension is warranted because of the circumstances in the case and will not cause imminent peril to life, health or property.
 - d. **Reply requesting technical determination.** If a reply is received within the specified time limit request further review and technical analysis even though the alleged violations continue, then the Zoning Administrator 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 days, the City may take necessary action to recover such costs or may charge such costs against the property where the violation occurred.