

155.160 Article 8 Performance Standards

155.161 Intent

This article intends to establish controls and limitations to prevent unreasonable negative impact that might interfere with another person's use of his or her own property, or that might cause harm to the public health, safety and welfare.

155.162 Scope of Application

After the effective date of this ordinance, no structure or tract of land shall hereafter be used or occupied, and no structure, or part thereof, shall be erected, altered, reconstructed, or moved, except in conformity with all applicable performance standards set forth in this article. No site plan shall be approved unless evidence is presented to indicate conformity with the requirements of this article.

155.163 Submission of Additional Data

Nothing in this article 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 article, provided that the Planning Commission finds that no harm to the public health, safety and welfare will result and that the intent of this ordinance will be upheld.

155.164 Performance Standards

No activity, operation or use of land, buildings, or equipment shall be permitted if such activity, operation, or use produces an environmental impact or irritant to sensory perception which exceeds the standards set forth in this section.

(A) Airborne Emissions

- (1) It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of applicable air quality standards adopted by the Federal Clean Air Act and the Michigan Department of Environmental Quality.
- (2) Odors. Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. Such odors shall be prohibited when perceptible at any point along the property line.
- (3) Gases. The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

(B) Noise and Vibration

- (1) Noise which is objectionable as determined by the City due to intensity, frequency, or duration shall be muffled, attenuated, or otherwise controlled. subject to the following provisions:
 - (a) Objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, shall be controlled so as not to become a nuisance to adjacent uses.

- (b) Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.
- (c) Noise levels shall not exceed 75 decibels between the hours of 6:00 a.m. and 10:00 p.m. and shall not exceed 60 decibels between the hours of 10:00 p.m. and 6:00 a.m., and must comply with the levels set forth in the following table:

Table 6-1 Sound Levels

Sound Levels in Decibels at Property Lines		
Octave Band Cycles per Second	Adjacent to All Residential Districts	Adjacent to All Commercial, Office & Industrial Districts
0 to 75	58	73
75 to 150	54	69
150 to 300	50	65
300 to 600	46	61
600 to 1200	40	55
1200 to 2400	33	43
2400 to 4800	26	41
Over 4800	20	35

- (2) No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

Table 6-2 Vibration Levels

Particle Velocity in Inches-Per-Second	
Frequency in Cycles per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0006
30 to 40	0.0004
40 and over	0.0002

- (3) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this Section.
- (C) **Electrical Disturbance, Electromagnetic, or Radio Frequency Interference**
 No use shall create an electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(D) **Glare and Exterior Lighting**

- (1) Light and Glare from Indirect Source
 - (a) Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner so as not to be seen from any point beyond the property line, and so as not to create a public nuisance or hazard along lot lines.
 - (b) The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property.
 - (c) Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.
- (2) Exterior Lighting from Direct Sources
 - (a) Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.
 - (b) Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which created a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. These provisions are not intended to apply to public street lighting.
 - (c) Only white, non-glare lighting such as metal halide, color-corrected high-pressure sodium, or other types of lighting which achieve the same effect shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.
 - (d) Lights shall be recessed into the fixture so that bulbs or elements are not visible from adjoining properties.
 - (e) Lighting for uses adjacent to residentially zoned or used property shall be designed and maintained such that illumination levels do not exceed 0.1 foot-candles along property lines. Lighting for uses adjacent to non-residential properties shall be designed and maintained such that illumination levels do not exceed 0.3 foot-candles along property lines. Light intensity shall not exceed a maximum of 20 foot-candles in any given area. The Planning Commission, upon City Planner's recommendation, may allow for an increased level of lighting above maximum permissible levels when it can be demonstrated that such lighting is necessary for safety and security purposes.

- (f) Lighting fixtures shall not exceed a height of 25 feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of 20 feet.
- (g) All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, and traffic safety. Building or roof-mounted lighting intended to attract attention to the building and/or use and not strictly designed for security purposes is not permitted. Temporary holiday lighting is exempt from the aforementioned provision.

(E) Use, Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Waste

- (1) It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the City of Inkster through the use, storage and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous and/or sanitary wastes.
- (2) Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall obtain the necessary permits and/or licenses from the appropriate Federal, State or local authority having jurisdiction. The City shall be informed of any and all inspections conducted by a Federal, State or local authority in connection with a permit and/or license.
- (3) Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances and/or hazardous waste shall complete and file a Material Safety Data Sheet (MSDS,) as provided by the Federal Occupational Safety and Health Administration (OSHA) in conjunction with the following:
 - (a) Upon submission of a site plan.
 - (b) Upon any change of use or occupancy of a structure or premise.
 - (c) Upon any change of the manner in which such substances are used, handled, or stored, and/or in the event of a change in the type of substances to be used, handled, or stored.
- (4) All business and facilities which use, store, or generate hazardous substances in quantities greater than 100 kilograms per month (equal to or greater than 25 gallons or 220 pounds shall comply with the following standards:
 - (a) Above Ground Storage, Use and Handling Areas for Hazardous Substances.
 - (i) Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

- (ii) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism. Containers shall not be stacked more than 2 high, shall be orderly, not less than 30 feet from the lot line, and shall not obstruct ingress or egress.
- (iii) Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains. Materials shall be kept in an orderly fashion, shall not be stacked within 4 feet of the ceiling and stored in a manner which shall not obstruct access.
- (iv) Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are stored, handled and used, shall be designed and constructed to prevent discharge or runoff.
- (b) **Underground Storage Tanks.** Existing and new underground storage tanks shall be registered, installed, operated, maintained, and removed in accordance with requirements of the appropriate Federal, State or local authority having jurisdiction and shall not contaminate the sanitary sewer system, storm drains, surface water, groundwater, or soils.
- (c) **Loading and Unloading Areas.** Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled, or leaked, or vented.
- (5) All site plans for businesses or facilities which use, store or generate hazardous substances shall be reviewed by the Fire Department, City Engineer, Community Development Department and any other appropriate experts determined necessary by the Community Development Department prior to approval by the Planning Commission.
- (F) **Fire Hazard**
Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. All fire prevention tools shall comply with applicable state rules and regulations, and shall be approved by the Fire Department in accordance with the Inkster Fire Prevention Code, as amended.
- (G) **Safety**
Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, demolition sites, unused basements, abandoned wells or cisterns are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety and welfare. Compliance is required with all applicable State rules and regulations and the Inkster Fire Prevention Code, as amended.
- (H) **Building Grades**

Any building requiring a greenbelt or setback shall be located at an elevation to provide a sloping grade which shall cause the flow of surface water to run away from the building. A sloping grade shall begin at the sidewalk level, as determined by the City Engineer, and shall be established from the center of the front property line, extending to the finished grade line at the front of the building. The rear and side yards shall also be sloped to cause the flow of surface water to run away from the building, but without creating a nuisance on the adjacent properties. However, this shall not exclude the opportunity to provide sunken or terraced areas, providing the construction does not cause a nuisance on the adjacent properties from the runoff of surface water.

When a new building is constructed on a vacant lot located between 2 existing buildings or adjacent to an existing building, the reference level shall be used to determine the building grade. In addition, the yard around the new building shall be graded to comply with the existing grades and shall not create the runoff of surface water onto the adjacent properties.

The Building Official or his designee or the City Engineer shall approve final grades. Written approval upon a form provided by the City may be required to ensure compliance with the approved grading plan on file with the Building Department, and shall be completed and certified by a registered civil engineer or land surveyor.

(I) **Accumulation of Waste**

Accumulations of waste paper, wood, hay, straw, weeds, litter, or combustible or flammable waste or rubbish of any kind shall not be permitted to remain upon any roof or in any court, yard, vacant lot, alley, parking lot or open space. All weeds, grass, vines or other growth, when same endangers or threatens to endanger property, or is liable to be fired, shall be cut down and removed by the owner or occupant of the property. All combustible rubbish, oily rags or waste material when kept within a building, shall be stored in approved metal containers. Storage shall not produce conditions which in the opinion and judgment of the fire official will tend to create a nuisance or a hazard to the public health, safety, or welfare.

155.165 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 Article, the following procedures shall be used to investigate, and if necessary, resolve the violation:

(A) **Official Investigation**

Upon receipt of evidence of possible violation, the Building Official or other official responsible for code enforcement shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the performance standards as defined in this Article. The Building Official or other official responsible for code enforcement may initiate an official investigation in order to make such a determination.

Upon initiation of an official investigation, the Building Official or other official responsible for code enforcement 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 denial or cancellation of any permits required for continued use of the land. Data which may be required includes, but is not limited to the following:

- (1) Plans of the existing or proposed facilities, including buildings and equipment.
- (2) A description of the existing or proposed machinery, process, and products.
- (3) Specifications for the mechanisms and techniques used or proposed to be used to control emissions regulated under the provisions of this article.
- (4) Measurement of the amount or rate of emissions of the material purported to be in violation.

(B) **Method and Cost of Determination**

The Building Official or other official responsible for code enforcement shall take measurements and complete investigation necessary to make an objective determination concerning the purported violation. Where required measurements and investigation can be accurately made by the Building Official or other official responsible for code enforcement 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 professional and specialized equipment or instruments shall be secured in order 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.

(C) **Appropriate Remedies**

If after appropriate investigation, the Building Official or other official responsible for code enforcement determines that a violation does exist, the Building Official or other official responsible for code enforcement shall take or cause to be taken lawful action as provided by this Code to eliminate such violation. The owners or operators of the facility deemed responsible shall be given written notice of the violation. The Building Official or other official responsible for code enforcement shall take appropriate action in accordance with the owner or operator's response to the notice of violation. Appropriate action includes the following:

- (1) **Correction of the Violation within Time Limit:** If the alleged violation is corrected within the specified time limit, even if there is no reply to the notice, the Building Official or other official responsible for code enforcement shall note "Violation Corrected" on the City's copy of the notice, and the notice shall be retained on file. If necessary, the Building Official or other official responsible for code enforcement may take other action as may be warranted by the circumstances of the case, pursuant to the regulations in this or any other ordinances.
- (2) **Violation not corrected and owner or Operator fails to reply:** If there is no reply from the owner or operator within the specified time limits, and the alleged violation is not corrected in accordance with the regulations set forth in this article, then the Building Official or other official

responsible for code enforcement shall take such action as may be warranted to correct the violation.

- (3) Reply Requesting Extension of Time: If a reply is received within the specified time limit indicating that an alleged violation will be corrected in accordance with the regulations set forth in the Zoning Code, but that more time is required than was granted by the original notice, the Building Official or other official responsible for code enforcement may grant an extension if:
 - (a) The Building Official or other official responsible for code enforcement deems that such extension is warranted because of circumstances in the case, and
 - (b) The Building Official or other official responsible for code enforcement determines that such extension will not cause imminent peril to life, health, or property.
- (4) Reply Requesting Technical Determination: If a reply is received within the specified time limit requesting further review and technical analysis even though the alleged violations continue, then the Building Official or other official responsible for code enforcement may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.

If expert findings indicate that violations of the performance standards 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 such other penalties as may be appropriate under the terms of this ordinance. Such costs shall be billed to those owners or operators of the subject use who are deemed responsible for the violation.

If the bill is not paid within 30 days, the City shall take whatever appropriate action is necessary to recover such costs, or alternately, the cost shall be charged against the property where the violation occurred. If no substantial violation is found, cost of determination shall be paid by the City.

155.166 Continued Violation

If, after the conclusion of the time period granted for compliance, the Building Official or other official responsible for code enforcement finds that the violation still exists, any permits previously issued shall be void and the City shall initiate appropriate legal action, including possibly pursuit of remedies in Circuit Court

155.167 Appeals

Actions taken by the Building Official or other official responsible for code enforcement pursuant to the procedures outlined in this section may be appealed to the Zoning Board of Appeals within 30 days following said action. In the absence of such appeal, the Building Official or other official responsible for code enforcement's determination shall be final.

155.168 – 155.179 Reserved