

## **ARTICLE 8 GENERAL PROVISIONS**

### **SECTION 8.100 LAND AND ENVIRONMENT**

#### **Section 8.101 Approval of Land Divisions.**

All land divisions created after the effective date of this Ordinance shall comply with Chapter 82 (Subdivisions) of the City of Richmond Code of Ordinances, the Land Division Act (P.A. 288 of 1967, as amended), and the lot requirements for the zoning district where such land is located, as specified in Article 5 (Dimensional Standards).

#### **Section 8.102 Reserved.**

#### **Section 8.103 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 8.104 Grading, Removal and Filling of Land.**

Any excavation, filling or grading of land that would alter the established site elevations or drainage patterns, or the use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish or other wastes or by-products, shall not be permitted in any zoning district except in accordance with an approved site plan.

1. This provision shall not apply to common household gardening, farming, general ground care of a residential or agricultural character or normal soil removal for basement or foundation construction.
2. All excavated overburden or other materials extending above the natural grade shall be leveled or removed, and the surface of the entire tract shall be restored to usable condition for development or agriculture. The excavated area shall be graded so that no gradient of the disturbed area has a slope greater than 1:3 [one (1) foot rise in three (3)

feet of horizontal distance]. The graded area shall be seeded with an appropriate groundcover, and a vegetative cover shall be established to minimize soil erosion.

3. Open excavations, holes, pits or wells shall be protected against unauthorized access by a fence or other suitable means. All open and unprotected excavations, holes, pits or wells that constitute a danger or menace to the public health, safety, or welfare are hereby declared a public nuisance and a violation of this Ordinance.

### **Section 8.105 Outdoor Storage and Waste Disposal.**

All uses established or placed in operation in any zoning district after the effective date of this Ordinance shall comply with the following:

1. No materials or wastes shall be placed on the premises in such a form or manner that the materials may be carried off the property by natural causes or forces, such as by wind or water.
2. All materials or equipment shall not be allowed to accumulate on any property in such a manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.

### **Section 8.106 Outhouses, Privies, and Outside Toilets.**

Outhouses, privies, and pit toilets shall be prohibited in any residential zoning district, except within an approved and lawfully established campground licensed under the Michigan Public Health Code (P.A. 368 of 1978, as amended). These provisions shall not prohibit the use of outside toilets accessory to construction sites, permitted ANIMAL AND AGRICULTURAL USES or temporary uses as permitted by this Ordinance.

## SECTION 8.200 PERFORMANCE STANDARDS

### Section 8.201 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) Agricultural uses.
    - (3) Church bells, chimes, and carillons.
    - (4) Lawn care and house maintenance that occurs between 8:00 a.m. and 9:00 p.m.
    - (5) Licensed vehicles being operated on a road.
    - (6) Nighttime excavation, construction, or repair of bridges, roads, or highways by or on behalf of local, county, or state road authorities, where necessary to preserve the public safety, welfare, or convenience.
    - (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) overlay district, the applicable standards of this table shall be based on the types of uses within the PUD.

**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. 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.

**C. 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.

**D. 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 (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.

**E. 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.

Below-ground bulk storage tanks that contain flammable material shall be located no closer to the property line 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 review and approval as hazardous materials storage, subject to the standards of Section 6.601 (Hazardous Materials Storage).
  - a. All primary explosives such as lead azide, lead styphnate, fulminates, and tetracene.
  - b. All high explosives such as TNT, RDX, HMX, PETN, and picric acid
  - c. Propellants and components thereof such as dry nitrocellulose, black powder, boron hydrides, and hydrazine and its derivatives.
  - d. Pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate.
  - e. Blasting explosives such as dynamite and nitroglycerin.
  - f. Unstable organic compounds such as acetylides, tetrazoles, and 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.

**F. 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 µg/cubic meter	3 months
Mercury	0.01 mg/cubic meter	10 hours
Beryllium	2.0 µg/cubic meter	8 hours
Asbestos	0.5 fibers/cc	8 hours

**Notes Related to Table:**

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

**G. 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.

**H. 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.

## **Section 8.202 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 Section 8.201 (Performance Standards), 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 City Planner 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 City Planner may initiate an official investigation in order to make such a determination.

Upon initiation of an official investigation, the City Planner 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:

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

### **B. Method and Cost of Determination.**

The City Planner 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.

### **C. Appropriate Remedies.**

If, after appropriate investigation, the City Planner or designated City consultant determines that a violation does exist, the City Planner 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.

1. **Correction of violation within time limit.** If the alleged violation is corrected within the specified time limit, the City Planner shall note “violation corrected” on the City’s copy of the notice, which shall be retained on file.



2. **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 City Planner shall take such action as may be warranted to correct the violation. in accordance with the regulations set forth in this Section
3. **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 City Planner 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.
4. **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 City Planner may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.

**D. 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.



## **SECTION 8.300 OTHER PROVISIONS**

### **Section 8.301 Scope.**

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

### **Section 8.302 Required access.**

No dwelling shall be built on a lot unless that lot is fronting upon an approved street.

### **Section 8.303 Property Maintenance.**

Each property owner shall be responsible for keeping their lot and buildings clean and free of any accumulation or infestation of dirt, filth, rubbish, garbage, vermin or other matter. Any hazardous places on a lot shall be fenced and secured.

### **Section 8.304 Property Between the Lot Line and Road.**

The area between the lot line and edge of road pavement shall be maintained with grass or other suitable groundcover. Property owners shall be responsible for the condition, cleanliness and maintenance of the areas within the road right-of-way in front of their lot between their lot lines and the pavement edge.

### **Section 8.305 Voting Place.**

The provisions of this Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a City, school or other public election.

### **Section 8.306 Essential Public Services and Required Utilities.**

Essential services buildings and structures shall be permitted as authorized under any franchise in effect within the City. Such essential services shall be subject to federal, state, county, and local regulations, and shall be consistent with the list of uses permitted in each zoning district. It is the intent of this Section to ensure conformity of all structures, uses, and storage yards to the requirements of this Ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation or City Ordinance.

### **Section 8.307 Water Supply and Sanitary Sewers.**

Where public water or sanitary sewer service is available, all principal buildings shall be connected to such systems at the time of construction or expansion.

