

**ARTICLE 29.00
PERFORMANCE STANDARDS**

Section 29.01 SCOPE

After the effective date of this Ordinance, any use established or changed to, and any building, structure, or tract of land developed, constructed or used for, any permitted or permissible principal or accessory use shall comply with all of the performance standards herein set forth for the district involved. If any existing use or building or other structure is extended, enlarged, moved, structurally altered or reconstructed, or any existing use of land is enlarged or moved, the performance standards for the district involved shall apply with respect to such extended, enlarged, moved, structurally altered or reconstructed building or other structure or portion thereof, and with respect to land use which is enlarged or moved.

Section 29.02 PROCEDURE FOR DETERMINATION OF COMPLIANCE

The purpose of these performance standards procedures is to insure that an objective, unbiased determination is made in those cases where there may be substantial doubt as to whether an individual use or group of uses complies with the Performance Standards Article of this Ordinance, and to formulate practical ways for the alleviation of such non-compliance.

Section 29.02.1 Subsequent to a preliminary study of the performance characteristics of an existing or proposed use, the Building Official shall make a determination as to whether there exist reasonable grounds to believe that the use in question may violate the performance standards set forth in this Article and may initiate an official investigation.

Following the initiation of an official investigation, the Building Official is hereby empowered to require the owner or operator of the use in question to submit such data and evidence as he may deem essential to his making an objective determination. The evidence may include, but is not limited to, the following items:

Section 29.02.1(a) Plans of the existing or proposed construction and development.

Section 29.02.1(b) A description of the existing or proposed machinery, process and products.

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Section 29.02.1(c) Specifications for the mechanisms and techniques used or proposed to be used in restricting the possible emission of any of the dangerous and objectionable elements as set forth in the Article.

Section 29.02.1(d) Measurements of the amount or rate of emission of said objectionable elements.

Failure to submit data required by the Building Official shall constitute grounds for denying a zoning permit for that use of land.

Section 29.02.2 Where determinations can reasonably be made by the Building Official or other Township official, using equipment and personnel normally available to the Township or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued.

Where determination of a violation is made, the Building Official shall take or cause to be taken lawful action as provided by this Ordinance to eliminate such violation. Failure to obey lawful orders concerning cessation of the violation shall be punishable as provided in this Ordinance.

Section 29.02.3 Where determination of violation of performance standards will likely entail the use of highly skilled personnel and expensive or unusual instrumentation not ordinarily available to the Township and when, in the considered judgment of the Building Official a violation exists, the procedure will be as follows:

Section 29.02.3(a) NOTICE. The Building Official shall give written notice, by certified mail (return receipt requested or other means insuring a signed receipt for such notice) to those owners or operators of subject use deemed responsible for the alleged violations. Such notice shall describe the particulars of the alleged violation and the reasons why the Building Official believes there is a violation in fact, and shall require an answer or a correction of the alleged violation to his satisfaction within a reasonable time limit set by him. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Building Official within the time limit set constitutes admission of violation. The notice shall further state that upon request of those to whom it is directed, technical determinations as described in the appropriate portions of the Ordinance will be made, and that if the violation as alleged is found to exist in fact, costs of the determinations

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will be charged against those responsible in addition to such other penalties as may be appropriate. It is determined that no substantive violation exists, then the costs of this determination will be paid by the Township.

Section 29.02.3(b) CORRECTION OF VIOLATION WITHIN TIME LIMIT. If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the Building Official, he shall note "Violation Corrected" on his copy of the notice and shall retain it among his records, taking such other action as may be warranted by the circumstances of the case.

Section 29.02.3(c) NO CORRECTION; NO REPLY. If there is no reply within the time limits set (thus establishing admission of violation as provided in "a" above), and the alleged violation is not corrected to the satisfaction of the Building Official within the time limit set, he shall take or cause to be taken such action as warranted by continuation of an admitted violation after notice to cease.

Section 29.02.3(d) REPLY REQUESTING EXTENSION OF TIME. If a reply is received within the time limit set indicating that an alleged violation will be corrected to the satisfaction of the administrative official, but that more time is required than was granted by the original notice, the Building Official may grant an extension of time, if he deems such extension is warranted in the circumstances in the case, and if such extension will not, in his opinion, cause imminent peril to life, health, or property. In acting on such requests for extension of time, he shall in writing state his reasons for granting or refusing to grant the extension and shall transmit the same by certified mail (return receipt requested or other means insuring a signed receipt) as provided in subsection "a" above, to those to whom the original notice was sent.

Section 29.02.3(e) REPLY REQUESTING TECHNICAL DETERMINATION. If a reply is received within the time limit set requesting technical determinations as described in the appropriate provisions of this Ordinance and if the alleged violations continue, the Building Official may call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards do exist in fact, the costs of the determinations shall be paid by the persons responsible for the violations,

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in addition to such other penalties as may be appropriate under the terms of the Ordinance. If no substantive violation is found, costs of the determination shall be paid by the Township.

Section 29.02.4. If, after the conclusion of the time granted for compliance with the performance standards, the Building Official finds the violation is still in existence, any permits previously issued shall be void and the operator shall be required to cease operation until the violation is remedied.

Section 29.03 APPEALS

The Building Official's action with respect to the performance standards procedure may be appealed to the Planning Commission within sixty (60) days following said action. In the absence of such appeal, the Building Official's determination shall be final.

Section 29.04 PERFORMANCE STANDARDS

Any use established in a Commercial or Manufacturing District shall not be permitted to carry out any activity or operation or use of land, building or equipment that produces an irritant to the sensory perceptions greater than the standard measures for safeguarding human safety and welfare.

Section 29.04.1 NOISE.

No operation or activity shall be carried out in a Commercial or Manufacturing District which cause or create measurable noise levels exceeding the maximum sound pressure levels prescribed below, as measured on or beyond the boundary lines of said Districts.

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TABLE C

**MAXIMUM PERMITTED SOUND
PRESSURE LEVELS IN DECIBELS
(Pre-1960 Octave Bands -- American
Standards Association, Z24)**

Octave Band (Cycles Per Second)*	LM		GM	
	Day	Night	Day	Night
00 to 74	76	70	84	76
75 to 149	70	62	78	70
150 to 299	64	56	72	64
300 to 599	57	49	65	57
600 to 1,199	51	44	59	51
1,200 to 2,399	45	39	53	45
2,400 to 4,799	38	33	46	38
4,800 and above	36	31	44	36

*Sound level meter set on the "C" or "flat" scale, slow response.

A sound level meter and an octave band analyzer shall be used to measure the level and frequency of the sound or noise during the day and/or the night. The measuring equipment and measurement procedures shall conform to the latest ANSI specifications on acoustics. The sound level meter and octave band analyzer shall be calibrated before and after the measurements. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer; and the measurements so obtained may be permitted to exceed the maximum levels provided in Tables C or D by no more than five (5) decibels. For purposes of this Ordinance, impact noises shall be considered to be those noises whose peak values are more than seven (7) decibels higher than the values indicated on the sound level meter.

For some post-1960 manufactured instruments, the octave bands mentioned above have been converted to the new Preferred Frequencies as established by the American Standards Association. To accommodate the possible use of either type of instrumentation, the preceding table is repeated below, again in decibels, with the conversion to Preferred Frequencies already accomplished. Care must be exercised to assure the proper correlation between instruments and tables used in measuring performance.

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TABLE D

**MAXIMUM PERMITTED SOUND
PRESSURE LEVELS IN DECIBELS
(Post-1960 Preferred Frequencies)**

Octave Band (Cycles Per Second)*	LM		GM	
	Day	Night	Day	Night
31.5	77	72	85	77
63	73	68	80	73
125	67	62	75	67
250	62	57	70	62
500	55	50	65	55
1,000	51	46	60	51
2,000	44	39	50	44
4,000	37	32	45	37
8,000	33	28	40	33

*Sound level meter set on the "C" or "flat" scale, slow response.

Where street traffic noises directly adjacent to the boundary line exceed these maximum permitted levels, the intensity levels permitted may then exceed those levels specified in the tables but may not exceed the level of the subject adjacent street traffic noises. For those areas in which the existing background noise levels exceed the maximum permitted levels, the noise levels at the boundary line may not exceed the background noise levels. In such cases, a study shall be made to determine the character of the background noise to include sources, levels and duration.

Sounds of an intermittent nature or characterized by pure tones may be a source of complaints even if the measured level does not exceed that specified. In such cases, the complaints shall be investigated to determine the nature of and justification for the complaint and possible corrective action., If the complaints are not resolved within sixty (60) days, the Building Official may then proceed to take steps to enforce the terms of the Zoning Ordinance in accordance with the remedies provided herein.

Application for variance from the sound level provisions may be submitted to the Board of Appeals. In such cases, the owner or operator of equipment on the property in the specific district shall submit a statement regarding the effects of noise from his equipment on the noise levels in the surrounding area. This statement will include a study of background noise levels, predicted levels at the boundary lines due to equipment operation and justification for the variance. The requests for variance will be reviewed by the Board of Appeals and granted where unnecessary hardship would otherwise be

imposed upon the applicant and where no basic injury to the surrounding area will result. The Board of Appeals may impose conditions of operation in granting a variance.

Section 29.04.2 **DUST, SOOT, FLY ASH AND PRODUCTS OF WIND
 EROSION**

The regulation of smoke, dust, soot, dirt, fly ash and products of wind erosion will be subject in all respects to the State of Michigan Air Pollution Control Act.

Section 29.04.3 **VIBRATION**

Machines or operations which cause vibration shall be permitted, but no operation shall be permitted to produce ground transmitted oscillation which cause a displacement exceeding that specified in the following Tables E and/or F as measured at the property line. These vibrations shall be measured with a seismograph or accelerometer; preferably the former.

For purposes of this Ordinance, steady state vibrations are vibrations which are continuous, or vibrations in discrete impulses more frequent than sixty (60) per minute. Discrete impulses which do not exceed (60) per minute shall be considered impact vibrations.

Between the hours of 8:00 p.m. and 6:00 a.m., all of the above maximum vibration levels, as measured on or beyond the boundary line of residentially used areas adjacent to a Commercial or Manufacturing District, shall be reduced to one-half (1/2) the indicated permissible values.

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**TABLE E
MAXIMUM PERMITTED STEADY
STATE VIBRATION IN INCHES**

**Frequency
(Cycles Per Second)**

10 and below	0.001
10 to 19	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

**TABLE F
MAXIMUM PERMITTED IMPACT
VIBRATION IN INCHES**

**Frequency
(Cycles Per Second)**

10 and below	0.002
10 to 19	0.0015
20 to 29	0.001
30 to 39	0.0005
40 and above	0.0002

Section 29.04.4 **ODOR**

The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.

Section 29.04.5 **GLARE AND HEAT**

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines, except during the period of construction of the facilities to be used and occupied.

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Section 29.04.6 FIRE AND SAFETY HAZARDS

The transportation, storage, use and handling of flammable liquids, and gases, shall comply with all State rules and regulations and the provisions of the current edition of the uniform Fire Code adopted by Frenchtown Charter Township. Further, all storage tanks for flammable liquid materials above ground shall be located at least one hundred and fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes or other types of retaining wall which will contain the total capacity of all tanks so enclosed.

Bulk storage tanks or flammable liquids below ground shall be located no closer to the property line than the greater depth to the bottom of the buried tank.

Section 29.04.7 SEWAGE WASTES

No industrial sewage wastes shall be discharged into sewers that will cause chemical reaction, either directly or indirectly, with the materials of such pipe or other structure construction to impair the strength or durability of sewer structures; cause mechanical action that will destroy or damage the sewer structures; cause restriction of the hydraulic capacity of sewer structures; cause placing of unusual demands on the sewage treatment equipment or process; cause limitation of the effectiveness of the sewage treatment process; cause danger to public health and safety; or cause obnoxious conditions inimical to the public interest.

Specific conditions controlling sewage wastes are as follows:

Section 29.04.7(a) The acidity or alkalinity shall be neutralized within an average PH range of between five and one-half (5 1/2) to seven and one (7 1/2) as a daily average on a volumetric basis, with a permissible temporary variation in PH of 4.50 to 10.0.

Section 29.04.7(b) The wastes shall contain no Cyanides. Wastes shall contain no Chlorinated solvents in excess of 0.1 p.p.m.; no Fluorides in excess of 10 p.p.m.; no more than 5 p.p.m. of Hydrogen Sulfide; and shall contain no more than 10 p.p.m. of Chromates.

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- Section 29.04.7(c) The wastes shall not contain any insoluble substance in excess of 10,000 p.p.m.; exceed a daily average of 500 p.p.m.; fail to pass a No. 8 Standard Sieve; or have a dimension greater than one-half (1/2) inch.
- Section 29.04.7(d) The wastes shall not have a Chlorine demand greater than 15 p.p.m.
- Section 29.04.7(e) The wastes shall not contain Phenols in excess of 0.05 p.p.m.
- Section 29.04.7(f) The wastes shall not contain any grease or oil or any oily substance in excess of 100 p.p.m. or a daily average of 25 p.p.m.
- Section 29.04.7(g) The discharge of Mercury from any single source shall be prohibited.

Section 29.04.8 LIGHT

Exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to reflect light away from any residential use. In no case shall more than one(1) foot-candle power of light cross a lot line five (5) feet above the ground into a Residential District.

Illumination levels shall be measured with a foot-candle meter or sensitive photometer and expressed foot-candles.

Section 29.04.9 GASES

The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated. SO₂ gas, as measured at the property line at ground elevation, shall not exceed an average of 0.3 p.p.m., H₂S likewise shall not exceed 1 p.p.m., Fluorine shall not exceed 0.1 p.p.m., Nitrous fumes shall not exceed 5 p.p.m., and Carbon Monoxide shall not exceed 15 p.p.m.; all as measured as the average intensity during any 24-hour sampling period.

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Section 29.04.10 ELECTROMAGNETIC RADIATION

Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this Ordinance.

Section 29.04.11 DRIFTED AND AIR-BORNE MATTER, GENERAL

The drifting of air-borne transmission beyond the lot line of dust, particles of debris from any open stock pile shall be unlawful and shall be summarily caused to be abated.