

ARTICLE XI - PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

SECTION 11.0 - APPLICATION OF PERFORMANCE STANDARDS: After the effective date of this Ordinance, any *use* established or changed, and any *building, structure,* or tract of land developed, constructed or used for any permitted or permissible principal or *accessory use* in the *industrial zone* 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, or reconstructed, the *performance standards* for the *district* involved shall apply with respect to such extended, enlarged, or reconstructed portion or portions of such *use* or *building* or other *structure*.

SECTION 11.1 - TIME SCHEDULE FOR COMPLIANCE OF PERFORMANCE STANDARDS: Except for standards regulated and enforced by the Commonwealth of Kentucky, compliance with the provisions of this article of the Ordinance shall be according to the following time schedule:

- A. All new installations shall comply as of going into operation.

- B. All existing installations not in compliance as of the effective date of the Ordinance shall be in compliance within one (1) calendar year of the effective date of this Ordinance unless the owner or person responsible for the operation of the installation shall have submitted to the *Zoning Administrator* a program and schedule for achieving compliance, such program and schedule to contain a date on or before which full compliance will be attained and such other information as the *Zoning Administrator* may require. If approved by the *Zoning Administrator*, such date will be the date on which the person shall comply.

The *Zoning Administrator* may require persons submitting such program to submit subsequent periodic reports on progress in achieving compliance.

SECTION 11.2 - PERFORMANCE STANDARDS:

- A. **BUILDING ENCLOSURES:** In the I-1 *industrial district*, *permitted uses* shall be operated either within a *completely enclosed building* or within an area screened from view at the nearest *district* boundary, according to Section 9.17 and article XIV of this ordinance.

- B. **LANDSCAPING:** In all *industrial districts*, all required yards shall either be open landscaped and grassed areas or be left in a natural state if acceptable to the *Planning Commission*. If said area is to be landscaped, it shall be landscaped attractively with lawn, trees, shrubs, etc., according to the initially submitted plans which were first approved for the development of such tract as a *permitted use*.

In areas to be used for *off-street parking*, the parking arrangement and surfacing must likewise have been approved for the development of such tract as a *permitted use*. Any landscaped areas shall be properly maintained thereafter in a well-kept condition. Parking areas shall likewise be maintained in good condition. Any areas left in a natural state shall be properly maintained in a well-kept condition.

- C. **NOISE:** For the purpose of measuring the intensity and frequencies of a sound, a type 1 or type 2 *sound level meter* shall be employed that conforms to specifications published by the American National Standards Institute (specifications for Sound Level Meters S1.4 - 1971, or the latest edition of such standards, shall be used). In the enforcement of the regulation, noises produced by the operation of *motor vehicles* or other transportation facilities shall not be included in determining the maximum permitted

decibel level. The sound pressure of noise radiated continuously from any activity shall not exceed the value given in Tables 11-1 and 11-2 of this section, at the location of any receiving land *use*. If the noise is not smooth and continuous, one or more of the corrections in Table 11-2 of this section may be added or subtracted from each of the *decibel* levels given in Table 11-1 of this Ordinance.

In all *districts*, *industrial* noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, or shrillness.

- D. ODOROUS MATTER: No emission of *odorous matter* shall be allowed in excess of ambient air quality standards as set forth by regulations adopted by the Kentucky Natural Resources Cabinet, Division of Air Pollution, Cincinnati Air Quality Region.
- E. HUMIDITY, HEAT OR GLARE: In the I-1 District, any activity producing humidity, in the form of steam or moist air or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat or glare is not perceptible at any *lot* line. Detailed plans for the elimination of humidity, heat or glare may be required before the issuance of a *building permit*.
- F. EXTERIOR LIGHTING: Any lights used for illumination, except for overhead street lighting and warning, or traffic signals shall direct light away from the adjoining zones.
- G. VIBRATION: Vibrations shall be measured at the *lot* line in the I-1 Districts. No vibration is permitted which is discernible to the human sense of feeling for three minutes or more duration in any one hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No.442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any *building permit*.
- H. EMISSIONS AND OPEN BURNING: No emission of *particulate matter*, sulfur compound, carbon monoxide, hydro-carbon, nitrogen oxide, and open burning shall be allowed in all *industrial zones* in excess of regulations adopted by the Kentucky Natural Resources Cabinet, Division of Air Pollution, Cincinnati Air Quality Region.
- I. RADIATION: In all *industrial zones*, all sources of ionizing radiation shall be registered or licensed by the Kentucky Department of Health and operated in accordance with their regulation.
- J. ELECTRICAL RADIATION: In all *industrial zones*, any electrical radiation shall not adversely affect, at any point on or beyond the *lot* line, any operation or equipment other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
- K. STORAGE: In the I-1 Zone, storage of materials, supplies, and products on the property outside the *building*, constructed thereon is permitted to the side and rear of the property providing that the storage of materials, supplies, and products are within an area screened from view at the nearest *district* boundary, in accordance with Section 9.17 and Article X.

- L. FIRE AND EXPLOSIVE HAZARDS: In the I-1 Zone, storage, utilization, or manufacture of solid materials that require free burning and intense burning shall not be allowed. In the I-1 Zone, the storage, utilization, or manufacture of flammable liquids, or materials that produce flammable or explosive vapors or gases shall not be allowed.
 - M. WASTE: In the I-1 Zone, all waste shall be disposed of in accordance with the Solid Waste Regulations of the Kentucky Cabinet for Natural Resources.
 - N. BLASTING AND EXPLOSIVES: All blasting and the use of explosives must be conducted in accordance with the regulations set forth by the Department of Mines and Minerals Division of Explosives and Blasting (pursuant to the authority of KRS 351.310 to 351.340 and 351.990) and in accordance with the Standards of Safety for Explosives, for the Commonwealth of Kentucky, prepared by the Department of Public Safety, Division of Fire Prevention (pursuant to the authority of KRS 227.300).
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SECTION 11.3 - INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS:

It is the intent of this ordinance that:

- A. Where investigation can be made by the *Zoning Administrator* or other designated employee, using equipment normally available to the legislative body, such investigation shall be so made before notice of violation is issued.
- B. Where technical complexity, nonavailability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the *Zoning Administrator*, for the legislative body to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:
 - 1. Causing corrections in apparent violations of *performance standards*.
 - 2. For protecting individuals from arbitrary, capricious and unreasonable administration and enforcement of performance standard regulations.
 - 3. For protecting the general public from unnecessary costs for administration and enforcement.
- C. If the *Zoning Administrator* finds, after investigations have been made by qualified experts, that there is a violation of the *performance standards*, the administrator shall take or cause to be taken lawful action to cause correction to, within limits set by such *performance standards*.

SECTION 11.4 - DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE

STANDARDS: If, in the judgement of the *Zoning Administrator*, there is probable violation of the *performance standards* as set forth, the following procedures shall be followed:

- A. The *Zoning Administrator* shall give written notice, by registered mail or certified mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the *Zoning Administrator* believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the *Zoning Administrator* within thirty (30) consecutive calendar days of receipt of such notification. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the *Zoning Administrator* within thirty (30) consecutive calendar days of receipt of said notice constitutes admission of violation of the terms of this ordinance.
- B. The notice shall further state that, upon request of those to whom said notice is directed, a technical investigation will be made by a qualified expert or experts and that, if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the legislative body.
- C. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice, but the alleged violation is corrected to the satisfaction of the *Zoning Administrator*, the *Zoning Administrator* shall note "violation corrected" on their copy of the notice, and shall retain it among their official records, taking such other action as may be warranted.
- D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the *Zoning Administrator* within the established time limit, the *Zoning Administrator* shall proceed to take or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.
- E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the *Zoning Administrator*, but requesting additional time, the *Zoning Administrator* may grant an extension as they deem warranted in the circumstances of the case and if the extension will not, in their opinion, cause imminent peril to life, health, or property.
- F. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice requesting technical determination as provided in this ordinance, and if the alleged violations continue, the *Zoning Administrator* shall call in properly qualified experts to investigate and determine whether violations exist.

If expert findings indicate violations of the *performance standards*, the costs of the investigations shall be assessed against the properties or persons responsible for the violations in addition to such other penalties as may be appropriate under the terms of Section 16.10 of this ordinance.

If no violation is found, the costs of the investigations shall be paid by the legislative body without assessment against the properties of persons involved.