

Article 11

PERFORMANCE STANDARDS

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ARTICLE 11: PERFORMANCE STANDARDS

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ARTICLE 11: PERFORMANCE STANDARDS

SECTION 1 - PURPOSE

11.1.1 The purpose of this Article is to set forth regulations to enhance the health, safety and convenience of the public and to protect the public from the potential negative effects of industrial and intense commercial development by regulating smoke and particulate matter, odorous matter, fire or explosive materials, toxic and noxious matter, vibration, open storage, glare, and fuel supply in the vicinity of such sites.

SECTION 2 - APPLICABILITY

11.2.1 All permitted uses as indicated in this Article shall conform in operation, location, and construction to the performance standards as specified in this Article. In addition, such standards or some portion of them may reasonably be appended to certain other Specific Use Permits as may be determined to have intensive commercial uses that require these protective standards.

SECTION 3 - NOISE

11.3.1 At no point at the *boundary property line (as defined in [Article 11 "Performance Standards"](#), [Section 15 "Definitions"](#)) of any use shall the sound pressure level of any operation of the facility exceed the limits specified in Chapter 13 of the Code of Ordinances.

11.3.2 Measurement of noise shall be made with a sound level meter that has a calibration certificate meeting with standards prescribed by the American National Standards Institute.

SECTION 4 - SMOKE AND PARTICULATE MATTER

11.4.1 No industrial operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

- A. In violation of the standards specified by the Texas Air Control Board Regulations for the Control of Air Pollution as published by the Texas Air Control Board or the Texas State Department of Health.
- B. Of such capacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in (1) above except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the outside atmosphere, performance shall be considered to comply with this section.

11.4.2 The emission of particulate matter from all sources in a district subject to this Article shall not exceed the level specified by the Texas Air Control Board Regulations published by the Air Control Board or the regulations published by Texas State Department of Health.

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11.4.3 Open storage and open processing operations, including on-site transportation movements which are the source of wind or airborne dust or other particulate matter; or which involve dust or other particulate air contaminant generating equipment including but not limited to paint spraying, grain handling, sand or gravel processing or storage or sand blasting shall be so conducted such that dust and other particulate matter so generated are not transported across the bounding property line or the tract on which the use is located in concentrations exceeding standards set by the Texas Air Control Board.

SECTION 5 - ODOROUS MATTER

11.5.1 No industrial use shall be located or operated within a district subject to this Article, which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located.

11.5.2 The odor threshold as herein set forth shall be determined by Texas Air Control Board Regulations on Odor.

SECTION 6 - FIRE OR EXPLOSIVE HAZARD MATERIAL

11.6.1 No industrial use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted in districts subject to this Article, except that chlorates, per chlorates, phosphorous, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists, or wholesalers may be permitted when approved by the Fire Department of the City of Grand Prairie.

11.6.2 The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film solvents and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Fire Department of the City of Grand Prairie, as well as Water Pollution Control standards and regulations.

SECTION 7 - TOXIC AND NOXIOUS MATTER

11.7.1 No industrial operation or use permitted in districts subject to this Article shall emit toxic or noxious matter in concentrations across the bounding property line of the tract on which operation or use is located.

SECTION 8 - VIBRATION

11.8.1 No use in districts subject to this Article shall at any time create earthborn vibration at the bounding property line of the source.

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SECTION 9 - OPEN STORAGE

- 11.9.1 No open storage of materials or commodities shall be permitted for any use, except as an accessory use to a main use located in a building.
- 11.9.2 No open storage operation shall be located in front of the main building and no storage shall constitute a wrecking, junk, or salvage yard.
- 11.9.3 No open storage shall be used for any other use than what is allowable by right except as stated in the Use Charts, [Article 4 "Permissible Uses"](#).
- 11.9.4 Outside storage or sale of all new or used furniture, appliances and/or secondhand merchandise regulated by this ordinance shall be prohibited: provided however, that such goods and merchandise may be placed outside for temporary display only under the following conditions:
- A. An area equal to not more than five (5) percent of the total interior floor display area may be used for outside display.

Outside storage, display or sale of landscape and plant materials shall be permitted as allowed in [Article 4, "Permissible Uses,"](#) for a "*Plant Nursery (Outside Storage)*" use when such storage or display is not located in a required parking area. Such storage or display must be one foot below the screening fence and may be allowed in a required parking area on a seasonal basis upon approval by the Director of Planning and Development after consideration of seasonal parking demands.
 - B. The display of goods and merchandise must be directly abutting the store front or the service island in a gasoline service station, shall not infringe upon required parking spaces, shall not extend beyond the sides of the store front, and must be located on an improved surface meeting the minimum paving requirements of the Unified Development Code for paved parking areas or sidewalks.
 - C. Exterior display of such goods and merchandise shall be allowed only during regular business hours and must be stored inside at all other times.
 - D. Such displays shall be maintained in a neat and orderly manner and comply with all other applicable City ordinances.
- 11.9.5 For additional open storage requirements, reference [Article 11 "Performance Standards", Section 6 "Fire or Explosive Hazard Material"](#).

SECTION 10 - GLARE

- 11.10.1 No use or operation shall be located or conducted so as to produce intense glare or direct illumination across the bounding property line from a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. Reference [Article 10 "Parking and Loading", Section 15 "Glare and Lighting Standards"](#).

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SECTION 11 - AIR AND WATER OUTLETS AT GASOLINE SERVICE STATIONS

11.11.1 All locations and uses in the City of Grand Prairie where gasoline is dispensed, whether self-service or full-service, shall provide pneumatic air pumps and water hoses for the use of any customer. All such air and water outlets shall be kept and maintained in operable condition. Any such air and water service found to be damaged, out of service, or inoperable for more than seven (7) days shall be considered a violation of this Code.

SECTION 12 - REQUIREMENTS FOR ON-PREMISE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES

11.12.1 Standards

Alcoholic beverages, as defined in the Alcoholic Beverage Code of the State of Texas, may be sold or for on-premise consumption in restaurants facilities, certain facilities owned by the City of Grand Prairie or hotels, motels, theaters, and brewpubs only in accordance with the following standards. On-premise consumption of alcoholic beverages shall be:

- A. Allowed for full service restaurants (as defined in **Article 30 "Restaurant – Full Service"**) with a gross floor area of 5,000 square feet or more; provided that at least ten percent (10%) of the total floor area shall be used as a kitchen, that not more than twenty percent (20%) of the total floor area shall be used as a bar/holding area, and that at least seventy (70%) percent of gross restaurant revenues shall be from the sale of food prepared on-premise (reference **Article 4, Section 4.8.5** for proximity requirements).
- B. Allowed for full service restaurants (as defined in **Article 30 "Restaurant – Full Service"**) with a gross floor area of less than 5,000 square feet, but exceeding 2,499 square feet; provided that at least ten percent (10%) of the total floor area shall be used as a kitchen, that not more than ten percent (10%) of the total floor area shall be used as a bar/holding area, and that at least seventy percent (70%) of gross restaurant revenues shall be from the sale of food prepared on-premise (reference **Article 4, Section 4.8.5** for proximity requirements).
 - 1. A bar/holding area, and the sale of mixed alcoholic beverages, shall be prohibited for restaurants containing less than 2,500 square feet. At least seventy percent (70%) of gross restaurant revenues shall be from the sale of food prepared on-premise (reference **Article 4, Section 4.8.5** for proximity requirements).
- C. Allowed for walk-up service only restaurants (as defined in **Article 30 "Restaurant – Walk-Up Service Only"**) with a gross floor area of 5,000 square feet or more; provided that at least ten percent (10%) of the total floor area shall be used as a kitchen, that not more than twenty percent (20%) of the total floor area shall be used as a bar/holding area, and that at least seventy percent (70%) of gross restaurant revenues shall be from the sale of food prepared on-premise (reference **Article 4, Section 4.8.5** for proximity requirements).

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- D. Allowed for walk-up service only restaurants (as defined in **Article 30 “Restaurant – Walk-Up Service Only”**) with a gross floor area of less than 5,000 square feet, but exceeding 2,499 square feet; provided that at least ten percent (10%) of the total floor area shall be used as a kitchen, that not more than ten percent (10%) of the total floor area shall be used as a bar/holding area, and that at least seventy percent (70%) of gross restaurant revenues shall be from the sale of food prepared on-premise (reference **Article 4, Section 4.8.5** for proximity requirements).
1. A bar/holding area, and the sale of mixed alcoholic beverages, shall be prohibited for restaurants containing less than 2,500 square feet. At least seventy percent (70%) of gross restaurant revenues shall be from the sale of food prepared on-premise (reference Article 4, Section 4.8.5 for proximity requirements).
- E. Allowed as an incidental use in hotels, resort casino hotels and motels equipped with meeting and conference facilities and a full-service, on-site restaurant (as defined in **Article 30 “Restaurant – Full Service”**), which meets the requirements of **Article 11.12.1.A or B** above. Delivery and/or service of alcoholic beverages by hotel, motel or restaurant employees to individual rooms or meeting areas or outdoor reception areas designated as such on the interior design plan required in **Article 11.12.3.A** below for on-premise consumption only shall be allowed. Delivery of alcoholic beverages to individual rooms or meeting areas by an off-premise provider is not allowed. For purposes of this Section, employees of a hotel, motel or restaurant shall include persons paid directly by the hotel, motel or restaurant, and persons paid directly by a company or firm under contract to hotel, motel or restaurant to provide food-catering services.
- F. Alcoholic beverage service at no charge to guests of a hotel or motel with a minimum of 70 rooms shall be allowed as an incidental use in hotels and motels not equipped with a full-service, on-site restaurant (as defined in **Article 30 “Restaurant – Full Service”**) for no more than 4 hours in a 24-hour period in a designated common area such as a lobby or pool area. Delivery of alcoholic beverages to individual rooms or meeting areas by an off-premise provider is not allowed. Alcohol sales on the premise shall be prohibited.
- G. Allowed as an incidental use in a Class 1 Horse Race Track facility, a performance hall, an exhibition hall or a convention center with a maximum design capacity of over 3,000 patrons when equipped with a full-service kitchen and restaurant. Sales of alcoholic beverages for on-premise consumption only may be conducted from the restaurant or from food and beverage concession areas designated as such on the interior design plan required in **Article 11.12.3.A** below. For the purpose of this Section, “*Horse Race Track Facility*” shall mean all the property and structures for which a license has been granted to operate a Class 1 horse race track by the Texas Racing Commission and for which an alcoholic beverage license has been issued by the State of Texas and the City of Grand Prairie pursuant to Chapter 3 of the Code of Ordinances. The sale of alcoholic beverages shall not be allowed in the non-public-access areas of the racetrack, as defined in the Texas Racing Commission Rules of Racing.
- H. Allowed as an incidental use within a golf course (SIC codes 7992 and 7997) equipped with a clubhouse which includes a full-service, on-site restaurant meeting the requirements of **Article 11.12.1.A or B** above, except that the 70% food sales ratio described in **Article 11.12.1.B** above and the auditing requirements of **Article 11.12.2**, below shall not apply.

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- I. Allowed as an incidental use at the following City of Grand Prairie parks, recreation, entertainment and conference center facilities except that the 70% food sales ratio described in [Article 11.12.1.B](#) above and the auditing requirements of [Article 11.12.2](#) below shall not apply:
 1. The Uptown Theater complex, 120 E. Main Street
 2. The Farmers Market in downtown Grand Prairie's Market Square, 120 W. Main Street
 3. The Ruthie Jackson Center, 3113 S. Carrier Parkway.
 4. Minor league baseball stadium, 1600 Lone Star Parkway.
 5. Lynn Creek Park, 5700 Lakeridge Parkway. (All grounds and facilities)
 6. Loyd Park, 3401 Ragland Road. (All grounds and facilities)
 7. Mike Lewis Park, 2600 block of North Carrier Parkway. (All grounds and facilities)
 8. Turner Park, 600 N. Belt Line Road. (All grounds and facilities)
 9. Waggoner Park, 2122 N. Carrier Parkway. (All grounds and facilities)
 10. The Summit at Central Park, 2975 Esplanade.
 11. Central Park, 2955 Esplanade. (All grounds and facilities)
 12. Former Fire Station No. 1, 317 and 321 W. Main Street.

- J. Allowed as an incidental use within a theater, except there shall be no bar holding area allowed.

- K. Allowed by right at brewpubs or distilleries in the Downtown Study Area which meet the definition found in Article 30 "Brewpub".
 1. A Specific Use Permit is required for the operation of a brewpub or distillery having at least one of the following characteristics:
 - i. The physical size of all operations within a single building exceeds 20,000 square feet or the cumulative physical size of operations within multiple buildings exceeds 20,000 square feet, including brewery rooms, tasting rooms, commercial kitchens, and dining areas;
 - ii. The property or properties on which operations are proposed exceeds 1 total acre;
 - iii. Any uses, other than food service meeting the definition of a restaurant, are requested concurrently with the brewpub which share a demised space with the brewpub or whose business operates as an integral part with the brewpub, including live entertainment, event space, hotel, or retail space when the retail area exceeds 1,000 gross square feet;
 - iv. Thirty percent (30%) or more of alcohol sales come from alcoholic beverages, liquor, beer, wine, or spirits produced outside the Downtown Study Area;
 - v. The operator is required by TABC to obtain a mixed-beverage license and/or late hours permit, or for any operation associated with a brewpub with business hours which extend beyond midnight;
 - vi. More than 10,000 barrels of liquor, beer, or distilled spirits in any combination are produced annually at the location;
 - vii. Sales or consumption of liquor, beer, or distilled spirits occur within 300 feet of uses listed in Section 4.8.6.
 2. If the proposed brewpub or distillery exhibits more than one of the above characteristics upon submission of the SUP application, only one SUP will be required for the approval and operation of multiple functions under i through vii above. If, after approval of the

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SUP, one or more of the functions or characteristics ceases, it will not automatically invalidate other functions approved under the SUP or the SUP itself; however, additional SUP approval may be necessary to reestablish a function or characteristic once it has ceased.

11.12.1 Auditing Requirements

Full service restaurants with a gross floor area of less than 5,000 square feet, but exceeding 2,499 square feet that serve alcoholic beverages and full service restaurants with 75% or more alcoholic beverage sales as a percentage of gross revenues shall be subject to the following auditing requirements:

- A. No later than on the last day of the month following each quarter, the operator shall file an affidavit on an officially approved form with the City Secretary that reflects gross sales for the preceding three (3) month and twelve (12) month periods, or since the restaurant began operation, whichever is shorter, breaking down sales between food and alcoholic beverages or, if requested, sales between on-site service and take-out service.
- B. The operator must also file, at the same time as the gross sales report, a copy of the filings supplied to the State of Texas for Sales Tax and Mixed Beverages Tax purposes. The operator shall be required to submit an annual audit of gross sales broken down between food and alcoholic beverage sales at the operator's expense. All filings shall remain confidential.
- C. The operator shall permit the City Finance Director or designee to view the books, records and receipts relative to the sale of food and alcoholic beverages at any time after four (4) hour's notice. The City Manager, City Attorney or City Secretary may also examine said records. Said records may be introduced in court for the purpose of showing the operator is in violation of this Ordinance.

11.12.2 Additional Requirements

In addition to the above, all applications for building permits, certificates of occupancy, or Specific Use Permits (if required) which include the on-premise consumption of alcoholic beverages shall be subject to the following:

- A. An interior design plan shall be submitted showing the amount and arrangement of floor space and tables within the structure and any outdoor covered or uncovered deck, porch or other area with all areas clearly labeled as to their usage. Such plan shall become a part of and a condition of the building permit and/or Certificate of Occupancy.
- B. No indecent exposure, as defined in Section 42.01 of the Texas Penal Code, shall be permitted nor shall the exposure of any portion of the male or female breast below the top of the nipple be permitted.
- C. All required off-street parking spaces shall be illuminated with a minimum of 2.5 foot-candles per square foot. Such lighting shall be installed in conformance with applicable City Codes.

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- D. All structures shall comply with all applicable City Codes and ordinances, including the building, plumbing, electrical and fire codes.
- E. All rules and regulations of the Texas Alcoholic Beverage Commission shall be complied with.
- F. Operators of establishments selling alcoholic beverages shall notify the City immediately upon the establishment ceasing operations.

11.12.3 Enforcement

Should any business establishment fail to meet the minimum guidelines set forth hereinabove, it shall be subject to a fine of \$2,000 per offense, with each day constituting a separate offense.

11.12.4 Compliance

In any event, all persons, firms and corporations presently engaging in the sale and distribution and on-premise consumption of alcoholic beverages shall comply with all the requirements of this Ordinance and any amendments thereto and all applicable City Codes. Any premise utilized for the sale or distribution and on-premise consumption of alcoholic beverages not in compliance with the Ordinance after passage thereof shall be subject to abatement under proceedings before the Zoning Board of Adjustments and Appeals. The City, the property owner, or any interested property owner in the area may initiate abatement proceedings before the Zoning Board of Adjustments and Appeals. The City may elect to discontinue any licenses concerning the sale, distribution or consumption of alcoholic beverages required by law, or may impose the criminal penalties set forth herein against the property owner. Each business establishment, whether tenant or landowner, shall obtain a Certificate of Occupancy for the particular business establishment. Succeeding similar establishments must obtain an occupancy permit in accordance with applicable City Codes and must at all times conform with the minimum guidelines set forth herein.

SECTION 13 - DEFINITIONS

11.15.1 The following terms are defined as to their intended use and meaning in the context of this Article:

A-Weighted Sound Pressure Level: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read shall be designated dB(A) or dBA.

Boundary Property Line: The near side of any street, alley, stream, or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be interpreted as the boundary property line.

Daytime: The hours between sunrise and sunset on any given day.

Decibel: A unit measurement of sound pressure.

Frequency: The number of times per second a vibration or sound wave oscillates.

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Octave Band: A portion of the audible sound spectrum. An Octave Band Analyzer divides the audible sound spectrum into eight (8) octave bands.

Odor Threshold: The concentration of odorous matter in the matter in the atmosphere necessary to be perceptible to the olfactory nerve. Determination of the Odor Threshold is prescribed by ASTM D 1391-57, Standard Method for Measuring Odor in Atmosphere.

Particulate Matter: Finely divided solid or liquid matter, other than water, which is released into the atmosphere.

Smoke: The visible discharge of particulate matter from a chimney, vent, or combustion process.

Toxic and Noxious Matter: Any solid, liquid, or gaseous matter which is present in sufficient quantities to endanger the health, safety, and comfort of persons in the vicinity or which may cause injury or damage to property or as defined by the Environmental Protection Agency (EPA).

Vibration: A temporal and spatial oscillation of displacement, velocity or acceleration in a solid material.

Vibration Perception Threshold: The minimum ground or structure-borne vibrational motion necessary to cause a person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.