

ORDINANCE NO. 1999-07

AN ORDINANCE PROVIDING FOR PERFORMANCE STANDARDS BY WHICH APPLICATIONS FOR DEVELOPMENT WILL BE EVALUATED, AND BY WHICH THE ACTUAL PERFORMANCE OF THOSE OPERATIONS WILL BE MONITORED; COMMONLY KNOWN AS “GOOD NEIGHBOR STANDARDS.”

1. **Purposes**

The purposes of this Ordinance are to provide a number of performance standards by which applications for development will be evaluated by the Village and by which the actual performance of new and existing operations and uses will be monitored by the Village for compliance. The purposes of these performance standards are to protect the Village in general, and abutting and neighboring landowners in particular, from any potential negative impacts that uses may have on the physical environment and the quality of life currently enjoyed by Gambier.

2. **Applicability**

The good neighbor standards shall be met by all new and existing uses introduced into the Village. At the same time as any application is made for any permits or approvals from the zoning inspector or the Planning Commission or Council, the developer shall include a statement indicating compliance with these standards. The Village zoning inspector, Planning Commission, and council must consider the degree to which a new development will or will not comply with these standards before rendering a decision on the application. Failure to meet the good neighbor standards may be grounds for delaying or rejecting an application.

3. **Water Quality**

Objective:

Development or use of land within the Village of Gambier should not result in harm, pollution, or reduction of ground water.

Standards:

3.1 All outdoor storage facilities for fuel, chemicals, or industrial wastes, and potentially harmful raw materials, must be located on impervious pavement, and shall be completely enclosed by an impervious dike high enough to contain the total volume of liquid kept in the storage area, plus the accumulated rainfall of a fifty (50) year storm. This requirement is intended to prevent harmful materials from spilling and seeping into the ground, contaminating the ground water.

3.2 Storage tanks for residential fuels, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement provided that there is no seasonal high water table within four (4) feet of the surface, and that no rapidly permeable sandy soils are located on the land.

4. **Dust, Fumes, Vapors, Gases and Odors**

Objective:

Development or use of land within the Village of Gambier should not result in excessive airborne nuisances such as dust, fumes, vapors, gases, and odors.

Standards:

4.1 Emission of smoke, dust, dirt, fly ash or other particulate matter, or of noxious, toxic, or corrosive fumes, vapors or gases in such quantities as to be evident or perceptible at the property line of any lot on which a use is conducted, or which could be injurious to human health, animals or vegetation; detrimental to the enjoyment of adjoining or nearby properties; or which could soil or stain persons or property, at any point beyond the lot line of the property creating that emission shall not be permitted.

4.2 No land use or establishment shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas, (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, food sales, rendering, fermentation processes, decaying organic matter, and/or incinerators) perceptible beyond that use's lot line, either at ground or other habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be indicated on all plans for new development or uses including a description of the source of such and the anticipated frequency and/or duration thereof.

5. Glare

Objective:

Development or use of land in the Village of Gambier should not significantly increase or create glare caused by exterior lighting.

Standards:

5.1 All provisions of Section 14.5 of the Zoning Ordinance of the Village of Gambier shall be complied with. The provisions of the Zoning Ordinance shall be used in determining compliance with these Good Neighbor Standards, however, a violation of the provisions of the Zoning Ordinance shall be cited solely under the Zoning Ordinance.

5.2 Outdoor lighting shall be controlled in both height and intensity to maintain the Village's rural character. Therefore, no land-use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any village road or state highway so as to impair the vision of the driver of any vehicle upon that town way. To achieve this, luminaries shall be shielded to prevent light shining beyond the lot lines into neighboring properties or public ways.

5.3 In the mixed use, I2 and I3 zones all outdoor lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m.. Exceptions will be

granted for businesses operating during those hours.

6. Heat, Radiation, Electrical or Magnetic Interference, and Explosive Hazard

Objective:

Development or use of land in the Village of Gambier shall not result in the creation of heat, radiation, electrical interference, magnetic interference, or hazards of explosion or fire.

Standard:

6.1 No use shall cause perceptible heat or radiation beyond the property line of the use, nor shall it pose danger to surrounding areas by reason of a fire, explosion, or other safety hazard. No use shall cause electrical, magnetic, or other interference with any use, process, equipment, appliance, or device located beyond the property line of the property on which the use is located.

7. Refuse Disposal

Objective:

Development or use of land in the Village of Gambier should not create excessive refuse, by-products, or other waste; recycling of materials used in construction and/or materials used by the use permitted on the property is encouraged.

Standard:

7.1 All refuse containers shall have tight-fitting lids and shall be enclosed or screened so as to not be visible at property lines. Operator of uses shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. Upon request by the Planning Commission, the Village Council may consider the impact of a particular waste or by-products upon the Village's disposal methods and/or disposal areas (as to volume, flammability or toxicity) and may require the user to dispose of such wastes at non-village sites, in conformance with all applicable State or Federal regulations. The Village Council may also require the user to specify the amount and exact nature of all wastes to be generated by the proposed operation.

8. Storm Water Run-Off

Objective:

Development or land use in the Village of Gambier should not produce excessive increase in ground water.

Standard:

8.1 Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by such project. The natural state of watercourses, swales, floodways, or rights-of-way shall be maintained as nearly as possible. The design period is the 50-year storm.

9. Erosion Control

Objective:

Development or land use in the Village of Gambier should not increase or create additional erosion hazard areas; development or land use in the Village should effectively control erosion hazards.

Standards:

9.1 To minimize erosion of soil and sedimentation of watercourses and waterbodies the following practices should be implemented:

- a.** Stripping of vegetation, soil removal, and regrading or other development should minimize loss of soil whether caused by rainfall or contact with other bodies of water.
- b.** The duration of exposure of the disturbed area shall be kept to the practical minimum of time required for the development.
- c.** Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- d.** Permanent (final) vegetation and any necessary mechanical erosion control measures shall be installed as soon as practical and contemporaneously with construction whenever possible.
- e.** Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods.
- f.** The top of a cut or bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Commission.
- g.** During grading operations, effective methods of dust control shall be used.

10. Noise

Objective:

Development or use of land in the Village of Gambier should not produce disruptive or objectionable noise on a regular or periodic basis.

Standards:

10.1 Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

10.2 The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this Ordinance shall be established by the time period and type of land use district listed below. Sound pressure levels shall be measured at all major lot lines, at a height of at least four (4) feet above the ground surface.

10.3 Sound from any source controlled by this ordinance shall not exceed the following limits at the property line of said source.

	Sound Pressure Limits			
	<u>7a.m. - 10 p.m.</u>		<u>10 p.m. - 7 a.m.</u>	
	dB(A)	dB(C)	dB(A)	dB(C)
Mixed -use	55	67	50	62
Institutional	55	67	50	62
Residential	50	62	45	57

- a.** Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.
- b.** The levels specified may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes in any one day.
- c.** Both the dB(C) and dB(A) scales shall be used, and a violation of either standard shall be deemed to constitute a violation of this Ordinance.

10.4 Exclusions

These levels shall not apply to intermittent noise emitted by or related to:

- a.** Natural phenomena.
- b.** Church bells rung as part of any official church ceremony or service, and tower clock bells.
- c.** Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation.
- d.** Warning devices required by OSHA or other State or Federal safety regulations.
- e.** Noise from domestic power equipment such as, but not limited to, lawn and yard tools or similar devices operated during daytime hours.
- f.** Felling trees and removing logs, during daytime hours.
- g.** Noise generated by any construction or demolition equipment which is operated during daytime hours. Emergency construction or repair work by public utilities at any hour shall also be exempted.
- h.** Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.
- i.** Noise created by any recreational activities which are permitted by law and/or for which a license or permit has been granted by the Village, including, but not limited to, parades, sporting events, concerts, and firework displays.

10.5 Specific Prohibitions

- a.** The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, to wit:
- b.** Owning, possessing or harboring any animal or bird which frequently or for continued duration makes sounds which create a noise disturbance across a residential real property boundary. For the purpose of this Ordinance, a barking dog shall mean a dog that barks, bays, cries, howls, or makes other noise continuously and/or incessantly for a period of more than ten (10) minutes or barks intermittently for one-half hour or more to the disturbance of any person at any time of the day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a “barking dog” for purposes of this Article, if, at the time the dog is barking or making other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which teased or provoked the dog.
- c.** The using, operating or permitting to be played, used or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- d.** The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- e.** No person shall operate an engine or any standing motor vehicle with a weight in excess of 10,000 pounds Manufacturer’s Gross Vehicle Weight (GVW) for a period in excess of ten (10) minutes within any eight (8) hour period during nighttime hours, when such vehicle is parked on or adjacent to a residential premises or on a public road next to a residential premises.

11. Manner of Enforcement

11.1 The Village Administrator is directed to enforce the provisions of this Ordinance.

11.2 No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this Ordinance while such person is

engaged in the performance of his duty.

11.3 Violations of this Ordinance shall be prosecuted in the same manner as other criminal violations, provided, however, that in the event of an initial violation of the provisions of this Ordinance, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed, the condition abated or fully corrected within the time period specified in the written notice. The notice shall state that unless corrections are made within the allocated time, the violator is subject to prosecution pursuant to the provisions of this Ordinance.

11.4 In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail, return receipt requested, to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a criminal complaint.

12. Penalties

Any person in violation of any of the standards of this Ordinance shall be deemed guilty of a minor misdemeanor and upon conviction thereof shall be fined in the amount not to exceed One Hundred Dollars (\$100.00). Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a separate violation.

13. Severability

Any provisions of the Zoning Ordinance of the Village of Gambier which are more stringent than those set forth herein shall remain in force. If, for any reason, any word, clause, paragraph, or section of this Ordinance shall be deemed unconstitutional, this Ordinance shall not hereby be invalidated and the remainder of the Ordinance shall continue in effect.

14. Effective Date

This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: This 6th Day of September 1999

S/Jennifer Farmer, Mayor

S/Mary Samuell, Clerk/Treasurer

