

**120.250 “I-3” Industrial District, Heavy.**

**A. Description of District:**

This district is designed to provide land for activities of a heavy industrial nature, placing emphasis on heavy manufacturing as opposed to service type of industry. Because of the nature of the district, it should be located as to be least objectionable to adjoining commercial or residential uses.

**B. Permitted Uses:**

1. Grain and equipment processing.
2. Outdoor storage and warehousing.
3. Public utility buildings and storage yards.
4. Truck terminals, maintenance and service yards.
5. Signs when in accordance with the provisions of Section 120.320.
6. Accessory uses or buildings when in accordance with the provisions of Section 120.410.
7. Public utility buildings and structures in accordance with Section 120.110 C.4. (1, 4, 5a, 9).
8. Essential services.
9. Private Solar Energy Systems when in accordance with Section 120.470.

**C. Conditions and Limitations:**

1. All operations must be carried on within fully enclosed buildings except for the following:
  - a. Outdoor storage of product or material shall be subject to approval of a special exception use.

- b. Delivery operations which must not involve excessive noise, excessive fumes or any excessive nuisance to adjacent premises.
2. No buildings shall be located within 150 feet from the boundaries of any residential district classification and where property adjoins non-residential district classification, 75 feet of the property line abutting any public street and 15 feet of the interior, side or rear line. Any building or structure which exceeds 25 feet in height as measured from the lowest abutting grade level shall be set back an additional foot for each foot of height in excess of 25 feet from all boundary lines of the site.
3. Adequate off-street parking shall be maintained in accordance with Section 120.310.
4. All land of any individual site in use hereunder, not occupied by buildings, structures, improved parking areas or storage areas, shall be maintained in a neat and attractive manner, free of junk and debris and excessive uncontrolled growth. All land areas abutting a public or private street shall be landscaped and maintained in a neat and attractive manner, with grass, shrubbery, or other comparable attractive growth or materials.
5. Streets and drives servicing the buildings must have a right-of-way width of 66 feet where said street or drive connects or is intended to connect to adjoining property. All other streets and drives may be constructed of 24 feet of traveled area upon a 30-foot right-of-way. All streets and drives shall be constructed and maintained so as to be dust free.
6. Lighting of all types shall be so arranged that it does not produce unreasonable glare upon adjoining premises.
7. No exposed or outdoor loading and unloading docks or areas shall face any adjoining residential zone unless the same are screened therefrom by other buildings, structures or natural screening adequate to obscure the view thereof from such adjoining residential area.

8. Water and sanitary sewer shall be utilized if available within 300 feet of any portion of the site and the user of the site uses or reasonably anticipates using more than 1,000 gallons of water per 24-hour period. Surface drainage shall be through storm sewers or shall be disposed of upon the site. Leaching basins shall be fenced so as to prevent danger to the general public.
9. No use shall be allowed which shall emanate noise or glare to such an extent as will be a nuisance or annoyance to owners or occupants of surrounding premises, nor which violates the "air quality standard" established by the Michigan Air Pollution Control Commission.

**D. Special Exception Uses:**

All Special Exception Uses are subject to the provisions of Section 120.420.

1. Slaughter house and packing plant (2, 4, 5f).
2. Junk yards, building material salvage yard (2, 4, 5f, 9).
3. Mining, excavation and/or removal, by transporting same off the premises, of earth or any earth minerals (including gravel) and temporary on-site processing of such earth or earth minerals, in accordance with the provisions of Section 120.110 C.6.
4. Mining, excavation, quarrying, removal of earth or earth minerals (including gravel), on-site processing and related businesses, subject to the following conditions and limitations:
  - a. Location:
    - (1) All such operations shall be located on a primary road, as defined by the County of Kalamazoo, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.

- (2) Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation business shall be permitted closer than 150 feet to interior boundary lines of the property; provided, however, that such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Planning Commission and adequate lateral support as above set forth is at all times maintained.
- (3) No such excavation business shall be permitted within 75 feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
- (4) The permanent processing plant and its accessory structures shall not be located closer than 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall not apply to the digging or excavating apparatus nor the stockpiling or loading and transportation equipment.
- (5) No such excavation businesses shall be located within 100 feet of the margin of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission or such other State Commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

b. Sight Barriers and Fencing:

Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:

- (1) Earth berms constructed to a height of six feet above the mean elevation of the center line of the adjacent public highway or six feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to four feet horizontal and shall be planted with grass, trees or shrubs.
- (2) Plantings of evergreen trees or shrubbery in three staggered rows parallel to the boundaries of the property, which shall be at least two-year transplants at the time of planting and which grow to not less than six feet in height at maturity and sufficiently spaced to provide effective sight barriers when six feet in height. Trees which die must be replaced.

c. Nuisance Abatement:

- (1) Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls and natural planting screens. All equipment shall be maintained and operated in such a manner as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
- (2) Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.

d. Reclamation of Mined Areas:

- (1) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. Substantial completion of reclamation and rehabilitation shall be effected within two years after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
- (2) The following standards shall control reclamation and rehabilitation:
  - (a) All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation or shall be graded or back-filled with nonnoxious, non-inflammable and non-combustible solids to insure:
    - i. That the excavated area shall not collect stagnant water and not permit the same to remain therein; or,
    - ii. That the surface of such area which is not permanently submerged is graded or backfilled as necessary to provide a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
  - (b) The banks of all excavations shall be sloped to the waterline in a water-producing excavation and to the pit floor in a dry operation at a slope which shall not be steeper than one (1) foot vertical to four (4) feet horizontal.

- (c) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are desired. Where used, top soil shall be applied to a minimum depth of 2 inches sufficient to support vegetation.
- (d) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (e) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, buildings, stockpiles and equipment; provided, that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.

(3) Financial guarantees shall be furnished the Township insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$3,000.00 per acre, proposed to be mined or excavated in the following 12-month period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this Ordinance and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shore line thereof and to the extent of the shore line where the same has been sloped to a grade of not more than 1 vertical to 4 horizontal, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually, on or about the anniversary date of the excavation permit, for adjustment and compliance with the foregoing requirements by the zoning inspector of the Township or such other official as may be designated by the Township Board. Such financial guarantee may be in any one of the following forms: Cash, certified check, irrevocable bank letter of credit, or corporate surety bond of a licensed insurance company. In no event shall such financial guarantee be less than \$9,000 in amount.

e. Submission of Operational and Reclamation Plans:

No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of the within Ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:



- (1) A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
- (2) The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
- (3) The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
- (4) The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
- (5) The type of soil around the perimeter of the site as shown by soil boring tests in the event excavation or activities are to be conducted closer than 150 feet from the boundaries of the site, disclosing conditions satisfactory for lateral support of adjacent premises or, in lieu thereof, the written consent of the owners of adjoining premises to mining operations closer than specified in the within Ordinance to the boundaries of the site.
- (6) A map or plan disclosing the approximate final grades and levels to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

f. Hearing:

- (1) After receiving an application for the grant of a permit for an earth removal, quarrying, gravel processing, mining and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application, preceded by not less than 10 days' notice of the time, place and purpose of such hearing to each owner of property adjoining the proposed site as shown on the last tax roll of the Township, as corrected by known transfers since the preparation of the same, by First Class Mail, and such other notice as may be deemed appropriate by said Board.
- (2) Following such hearing, said Board shall grant or deny the application and set forth its reasons for its decision. Such decision shall be based upon the criterion set forth in the within Ordinance and shall be based, in addition, on a consideration of the following:
  - (a) The most advantageous use of the land, resources and property.
  - (b) The character of the area in question and its peculiar suitability, if any, for particular uses.
  - (c) Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
  - (d) The protection and preservation of the general health, safety and welfare of the Township.
  - (e) The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.

(f) In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend a permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area.

g. Fencing:

Any dangerous excavations, dangerous pits, dangerous pond areas, dangerous banks or dangerous slopes shall be adequately guarded or fenced and posted with signs around the perimeter thereof to prevent injury to children or others, and such dangerous conditions shall be eliminated as expeditiously as possible.

h. Liability Insurance:

All operators shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists in the amount of not less than \$100,000.00 for each person or property injured or damaged and not less than \$300,000.00 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations, as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. Such policy shall be filed with the Township Clerk.

i. Variances:

The Zoning Board of Appeals shall have the right and authority to grant variances from the foregoing conditions and limitations where peculiar circumstances or hardship may exist, the spirit and intent of the provisions to protect the neighborhood from devastation are still complied with and substantial justice would thereby be effected.

5. Any industrial use which meets the intent and purpose of this district which does not emanate noise, vibration, odor, smoke, liquid wastes or light to such an extent as to be objectionable to surrounding properties.

A determination of the Planning Commission established under State Statute and this Ordinance shall be conclusive on any question of nuisance, or objectionableness of any business or operation under the terms of this section.

6. Public utility buildings including gas and electric substations.
7. Mining, excavation and/or removal, by transporting same off the premises, of earth or any earth minerals (including gravel) exceeding 250 cubic yards in amount, and temporary on-site processing of such earth or earth minerals, in accordance with the provisions of Section 120.110 C.6.
8. Composting, Non-agricultural or residential, subject to the following:
- a. All such facilities shall comply with applicable statutes, administrative rules or similar regulations. Copies of any licensing, reporting or communications between the operator and those agencies shall be forwarded on to the Township for its records. In addition to the application requirements for a special exception use (Section 120.420) and the requirements for site plan review (Section 120.430), the following information requirements and conditions shall be imposed:

(1) Additional Information: The applicant shall identify the nature of the composting business, including the hours of operation, a complete list of material that is proposed for composting, the method of controlling any nuisance concerns (including, but not limited to, vectors, dust, odor, noise, vibration, light and litter), natural timeline for the process (from material transport, sorting and handling, to removal as compost), the intended capacity of the site (in cubic yards) and access and circulation for vehicular movement and emergency access. A daily operational plan shall be submitted, identifying the methods for extinguishing fire, odor mitigation, or similar issues related to resolving problems before Township services and enforcement measures are required. The daily operational plan shall detail, in addition to the above, on-site staffing and security to prevent illegal dumping, the steps to be taken should anaerobic conditions occur and a description of daily cleanup procedures. The applicant shall supply proof of insurance for personal injury and property damage for not less than \$1,000,000 for each occurrence.

b. Acreage, Location, Setback/Separation Requirements: The minimum parcel size for the operation shall be 20 contiguous acres in area. The location of the site (pad) utilized for the actual compost storage area shall not exceed ten acres. This site, defined as the area of active composting operations, including storage areas for raw or finished materials, shall be set back at least 100 feet from the boundary of the parcel utilized for the operation, 1,000 feet from any non-participating parcel boundary and 2,000 feet from any non-participating residential dwelling, private well or public wellfield, the 100-year floodplain or the road right-of-way. The Township shall require screening (fencing, berms, landscaping or some combination) of the site where such site location is deemed detrimental to an adjoining property, with this determination based upon the sole reasonable direction of the Planning Commission.

- c. **Water Quality Study Requirement:** The applicant shall present a study establishing a baseline for existing groundwater and surface water conditions in the area of the site as part of the initial application. This baseline study shall also include soil conditions and identify at least three locations on the proposed site where test wells, which shall be grouted and locked, shall be located. Well testing logs shall be maintained, and samples shall be drawn, tested and analyzed by an independent laboratory on a quarterly basis, with results forwarded to the Township for review by the Township Engineer. The cost of such testing and analysis shall be borne by the applicant.
  
- d. The site plan shall indemnify the nature of the liner to be utilized on the site, whether clay or man-made material, manufacturer's warranty, the thickness of the liner and the location of the site (pad) and the parcel as it relates to any surface water within one mile of the pad location. The site plan application shall include calculations of storm water flow and the location of on-site retention.
  
- e. **Transportation/Type of Organic Material:** The applicant shall provide a truck route for the transport of material to and from the site and the internal circulation around the site. This material shall be covered during transport, and the route shall be maintained in a manner to control dust, litter, odor or other nuisance associated with such operations. A truck cleaning station shall be located along the internal route prior to exiting only any County road, with the expectation that no mud or material shall be tracked onto the road.

The type of organic material allowed shall be limited to grass clippings, twigs and organic wood waste, including sawdust and wood chips, USDA organic fruit and vegetable scraps, nut shells and coffee grounds. No hazardous or solid waste, human waste, industrial, municipal or processing waste or animal waste shall be permitted. The applicant shall present, and the Planning Commission may approve, any other additive, other than water, that is proposed for either improving the compost or reducing the odor associated with the process.

- f. Site specifications/Noise standards: The site (pad) shall be arranged to allow for access to all portions of the compost pile, wind row or tunnel. Any storage area for materials not yet added to the compost must be indicated, which such height to be no greater than six feet to allow for visual inspection.

A baseline noise study shall be submitted, with this to include readings along all adjoining property lines. This baseline shall then be used to determine conditions related to maximum decibel readings at those boundaries. The Planning Commission may base their requirements for screening (berms, landscaping, etc.) on the need to minimize such noise concerns in certain locations. Readings along such parcel boundary shall not exceed 65 decibels during the day (7 a.m. to 7 p.m.) or 55 decibels at night.

- g. Annual Review/Complaints: The Planning Commission shall conduct an annual review of the approved operation. Such review will include all quarterly reports of water testing, a listing of complaints received directly by the operator, the results of their steps to resolve the complaint and a list of complaints received by the Township and those results following contact. A complaint log shall be maintained by the Township. The annual review shall detail any changes to the daily operational plan allowed by the Zoning Administrator or minor modifications or administrative amendments to the site plan. No changes in conditions associated with the special exception use approval are allowed unless such change in condition is submitted as an application for review, complying with the public hearing requirements for any special exception use application.

Once a complaint is directed to and received by the Township Supervisor or Code Enforcement Officer, he/she shall make immediate contact with the operator, who shall resolve the problem and report back to the Township as to such resolution. If the Township believes no resolution of the matter has taken place within 12 hours of the contact, it may then initiate violation action against the operator.

h. Closure/Reclamation Plan: The applicant shall submit a closure and reclamation plan with the application. It shall post a cash bond as part of the approval that can be utilized by the Township to ensure compliance with the Plan. The Plan shall require notice to the Township within 30 days of business interruption that the operator either seeks to discontinue such operation or has a plan to remove and dispose of any existing material before restarting the operation. Should the applicant fail to submit this notice or cease operation of the site for more than a three-month period (excluding any seasonal fluctuations identified with the Plan), such bond may be utilized by the Township to dispose of material and reclaim the site in the approved condition. The Township Engineer shall determine the cost estimate associated with closure and reclamation and establish the cash bond at 150% of the estimated cost, which may be reviewed periodically and may be increased or decreased in the Township's discretion based in whole or part upon the Township Engineer's determination.

9. Outdoor Storage subject to Sections 120.350 and 120.420.

10. Commercial Solar Energy Systems when in accordance with Section 120.470.

**E. Screening:**

Screening shall be provided in accordance with Section 120.350.

**F. Lot, Parcel or Building Site, Yard and Area Requirements:**

Except as elsewhere specified herein, the lot, yard, and area requirements shall be as specified in Section 120.600.



**G. Related Principal Structure or Building:**

Principal building or structure shall be defined as a building which is primarily occupied or devoted to the principal use of the lot parcel or building site and is owned and occupied by the title holder of the lot parcel or building site or a legal business entity principally owned by the title holder of the lot parcel or building site and operated on an integrated single industrial operation. Any principal building or structure leased or any necessary building or structure subleased to any person or legal business entity other than that owned by the title holder of the lot parcel or building site shall constitute a separate principal building for purposes of this section.

**H. Principal Buildings or Structures Allowed:**

Not more than one (1) unrelated principal building or structure may be constructed on a lot, parcel, or building site.

[Ord. No. 239, eff 9/27/2016]

[Ord. No. 245, eff 11/26/2017]