

**ARTICLE 13  
ENVIRONMENTAL PROTECTION REGULATIONS**

**Sec. 13.01 CLEARING OF WOODLANDS AND EARTH CHANGES PRIOR TO DEVELOPMENT**

Any property owner or their representative proposing to clear more than twenty-five percent (25%) of the trees of eight (8) inch caliper or larger on a site or any cut, fill or grading that would change the topography of the site by more than three (3) feet on average over the site shall first notify the Zoning Administrator of the intent of such clearing and/or earth change. The Zoning Administrator may require submittal of a proposed site plan for review and approval by the Planning Commission in accordance with the terms of this Ordinance. This section shall not prevent tree clearing or site grading for building envelopes, swimming pools, decks, utility lines or construction drives, provided necessary land use permits have been obtained; nor shall this ordinance prohibit site changes for farming purposes. This section shall not require Planning Commission approval for grading on an established residential lot; provided the area of disturbance is less than one (1) acre. The Zoning Administrator may waive this section for select clearing of lower quality species including Ash, Box Elder, Elms, Poplars, Willows and Cottonwoods. (as amended 12/31/06)

**Sec. 13.02 WETLAND PROTECTION STANDARDS**

The standards of this section are intended to protect the valuable wetlands in Genoa Township. Under the authority of Part 303, Wetlands Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, Michigan Zoning Enabling Act, 2006 PA 110, and through coordination with the Michigan Department of Environmental, Great Lakes and Energy (EGLE) wetland protection and permit program. The standards of this section exceed EGLE regulations by requiring a setback from EGLE regulated wetlands and encouraging the placement of buildings to protect non-EGLE regulated wetlands between two acres and less than five acres in size.

The standards of this section acknowledge the unique and valuable attributes of wetlands as a stormwater retention area to control runoff, improve groundwater quality and provide erosion control; for their visual assets as open space; and for their value as habitat for plants, fish and wildlife. The standards of this section strive to preserve these valuable resources while protecting the property owners' right to develop their property.

**13.02.01 Applicability**

- (a) No permit shall be issued for any construction, reconstruction, erection, expansion and/or change in use requiring site plan or plat approval except in accordance with the standards of this Section. Any state or federal legislation, policies, standards or procedures which are more stringent than the standards of this section shall supersede the appropriate provisions of this Section.
- (b) The following activities are specifically exempt from the standards of this Section, consistent with the exemptions provided under Part 303, MCL 324.30305. Wetlands altered or used pursuant to any exemption shall not be used for purposes other than those described in the applicable exemption without first obtaining all required permits from EGLE and the Township:

- (1) Fishing, trapping, or hunting.
- (2) Swimming or boating.
- (3) Hiking.
- (4) Grazing of animals, including fencing and post placement if the fence is designed to control livestock, does not exceed 11 feet in height, and utilizes an amount of material that does not exceed that of a woven wire fence utilizing 6-inch vertical spacing and posts.
- (5) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. All of the following apply for the purposes of this subdivision:
  - a. Beginning October 1, 2013, to be allowed in a wetland without a permit, these activities shall be part of an established ongoing farming, ranching, horticultural, or silvicultural operation. Farming and silvicultural activities on areas lying fallow as part of a conventional rotational cycle are part of an established ongoing operation, unless modifications to the hydrological regime or mechanized land clearing are necessary to resume operation. Activities that bring into farming, ranching, horticultural, or silvicultural use an area not in any of these uses, or that convert an area from a forested or silvicultural use to a farming, ranching, or horticultural use, are not part of an established ongoing operation.
  - b. Minor drainage does not include drainage associated with the immediate or gradual conversion of a wetland to a non-wetland, or conversion from wetland use to another. Minor drainage does not include the construction of a canal, ditch, dike, or other waterway or structure that drains or otherwise significantly modifies a stream, lake, or wetland.
  - c. Wetland altered under this subdivision shall not be used for a purpose other than a purpose described in this section without a permit from the department.
- (6) Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to this part or former 1979 PA 203.4.
- (7) Construction or maintenance of farm or stock ponds.
- (8) Maintenance of an agricultural drain, regardless of outlet, if all of the following requirements are met:
  - a. The maintenance includes only activities that maintain the location, depth, and bottom width of the drain as constructed or modified at any time before July 1, 2014.

- b. The maintenance is performed by the landowner or pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.
  - c. The maintenance does not include any modification that results in additional wetland drainage or conversion of a wetland to a use to which it was not previously subject.
- (9) Maintenance of a drain that was legally established and constructed pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, if the drain was constructed before January 1, 1973 or under a permit issued pursuant to this part. As used in this subdivision, “maintenance of a drain” means the physical preservation of the location, depth, and bottom width of a drain and appurtenant structures to restore the function and approximate capacity of the drain as constructed or modified at any time before July 1, 2014, including the placement of spoils removed from the drain in locations along that drain where spoils have been previously placed. Maintenance of a drain under this section does not include any modification that results in additional wetland drainage or conversion of a wetland to a use to which it was not previously subject.
- (10) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to ensure that any adverse effect on the wetland will be minimized. Borrow material for road construction or maintenance shall be taken from upland sources if feasible. In determining whether an alternative will minimize any adverse effect on the wetland, the department shall consider cost, existing technology, and logistics in light of overall project purposes.
- (11) Maintenance of public streets, highways, or roads that meets all of the following requirements:
- a. Does not include any modification that changes the original location or footprint.
  - b. Is done in a manner that minimizes any adverse effect on the wetland.
- (12) Maintenance or repair of utility lines and associated support structures that meets all of the following requirements:
- a. Is done in a manner that minimizes any adverse effect on the wetland.
  - b. Does not include any modification to the character, scope, or size of the originally constructed design.
  - c. Does not convert a wetland area to a use to which it was not previously subject.

For the purposes of this section, “utility line” means any pipe or pipeline used for the transportation of any gaseous, liquid, liqescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone or telegraph messages, or radio or television communication.

- (13) Installation of utility lines having a diameter of 6 inches or less using directional drilling or boring, or knifing-in, and the placement of poles with minimal (less than 1 cubic yard) structure support, if the utility lines and poles are installed in a manner that minimizes any adverse effect on the wetland. Directional drilling or boring under this subdivision shall meet all of the following requirements:
  - a. The top of the utility line is at least 4 feet below the soil surface of the wetland. However, if the presence of rock prevents the placement of the utility line at the depth otherwise required by this subparagraph, the bottom of the utility line is not placed higher than the top of the rock.
  - b. The entry and exit holes are located a sufficient distance from the wetland to ensure that disturbance of the wetland does not occur.
  - c. The operation does not result in the eruption or release of any drilling fluids up through the ground and into the wetland and there is an adequate plan to respond to any release of drilling mud or other fill material.
- (14) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to this part or former 1979 PA 203.
- (15) Placement of biological residuals from activities, including the cutting of woody vegetation or the in-place grinding of tree stumps, performed under this section within a wetland, if all the biological residuals originate within that wetland.
- (16) An activity in a wetland that was effectively drained for farming before October 1, 1980 and that on and after October 1, 1980 has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this part.
- (17) A wetland that is incidentally created as a result of 1 or more of the following activities is not subject to regulation under this part:
  - a. Excavation as part of commercial sand, gravel, or mineral mining, if the area was not a wetland before excavation. This exemption from regulation applies until the property on which the wetland is located meets both of the following requirements:
    - 1. Is no longer used for excavation as part of commercial sand, gravel, or mineral mining.
    - 2. Is being used for another purpose unrelated to excavation as part of commercial sand, gravel, or mineral mining.
  - b. Construction and operation of a water treatment pond, lagoon, or storm water facility in compliance with the requirements of state or federal water pollution control laws.
  - c. A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

- d. Construction of drains in upland for the sole purpose of removing excess soil moisture from upland areas that are primarily in agricultural use.
  - e. Construction of roadside ditches in upland for the sole purpose of removing excess soil moisture from upland.
  - f. An agricultural soil and water conservation practice designed, constructed, and maintained for the purpose of enhancing water quality.
- (18) An area that becomes contiguous to a water body created as a result of commercial excavation for sand, gravel, or mineral mining is not subject to regulation under this part solely because it is contiguous to the created water body. This exemption from regulation applies until the property on which the wetland is located meets both of the following requirements:
- a. Is no longer used for excavation as part of commercial sand, gravel, or mineral mining.
  - b. Is being used for another purpose unrelated to excavation as part of commercial sand, gravel, or mineral mining.
- (19) The following activities are not subject to regulation under this part:
- a. Leveling of sand, removal of vegetation, grooming of soil, or removal of debris, in an area of unconsolidated material predominantly composed of sand, rock, or pebbles, located between the ordinary high-water mark and the water's edge.
  - b. Mowing of vegetation between the ordinary high-water mark and the water's edge.
- (20) As used in this part, "agricultural drain" means a human-made conveyance of water that meets all of the following requirements:
- a. Does not have continuous flow.
  - b. Flows primarily as a result of precipitation-induced surface runoff or groundwater drained through subsurface drainage systems.
  - c. Serves agricultural production.
  - d. Was constructed before January 1, 1973, or was constructed in compliance with this part or former 1979 PA 20

**13.02.02 Applicant Responsibility for Compliance/Definition of a Wetland**

The applicant is responsible for the accurate delineation/determination of the wetland area, as defined. The petitioner or his/her agent shall supply the following information:

- (a) The name, address and telephone number of the petitioner.

- (b) The name, address and telephone number of the petitioner's agent or the individual responsible for making the wetland determination.
- (c) The owner of the property if different from the petitioner, and the petitioner's interest in the property.
- (d) A legal description of the property, including the total area, exclusive of public road right-of-way, accurate to the nearest hundredths of an acre.
- (e) An accurate graphic description of the wetlands complete with:
  - (1) a written summary of how and when the wetland was delineated,
  - (2) what major plant species and animal breeding habitat are present and an estimation of how the wetland functions or relates to its general environment,
  - (3) the presence of any hills or springs,
  - (4) an accurate measurement of the wetland area to the nearest hundredth of an acre,
  - (5) depiction of the Township setback line as described in Section 13.02.04,
  - (6) any proposed remedial or mitigating actions to be completed as part of the activity proposed in the land use request.
  - (7) For any alteration of filling of, discharge into, or any other proposed activity impacting a regulated wetland that is proposed and that will require an EGLE permit, a copy of EGLE required Wetland Delineation Report shall also be submitted to the Township as part of the Site Plan review process. The report and proof of permit application shall be submitted prior to Site Plan approval. EGLE permit approval shall become a condition of Site Plan approval and once the EGLE permit is secured, a copy of the executed permit shall also be submitted to the Township for Township records, prior to issuance of Land Use permit.

The study shall be prepared by an experienced consultant in the delineation and composition of wetlands. EGLE shall review all wetlands found to be greater than five (5) acres or other regulated wetlands according to their wetland determination and permit procedures. EGLE findings will be an integral part of the Township review.

**13.02.03 Compliance with State and Federal Wetland Protection Acts**

- (a) Should available sources of wetland information, consultants report or EGLE determine potential or known presence of a wetland, the township may require a wetland determination by a recognized expert prior to approving a site plan. Upon finding site development is likely to disturb an EGLE regulated wetland, includes a stormwater outfall structure or catch basin in a regulated wetland or includes use of a regulated wetland as a retention basin, the Planning Commission may condition approval on submittal of an EGLE permit, including any attached conditions and mitigation plan, prior to the issuance of a land use permit.

- (b) Genoa Township may not issue a permit for activity (such as dredging or filling) or a land use permit where wetlands are believed to exist that may be regulated by EGLE unless sufficient wetlands information is provided by the applicant.
- (c) Should EGLE deny an application for permit which is necessary to develop the site plan, the site plan shall be resubmitted according to the standards of this Section. (as amended 12/31/06)

**13.02.04 Genoa Township Wetland Protection Standards**

- (a) Limits on site activity: Any disturbance of soils, removal of stumps, trees, grading, alteration of water flowing into or from an EGLE regulated wetland, or any prohibited activity as listed in Part 303, Wetlands Protection Act, without a permit from the EGLE, will result in a stop work order issued by Genoa Township and/or require restoration of the wetland in accordance with EGLE standards.
- (b) Buildable area calculations: Twenty five percent (25%) of wetland acreage shall be credited toward buildable acreage for purposes of determining maximum density for residential developments as a means of encouraging their preservation. The Planned Unit Development Districts are further intended to preserve large and small wetlands by offering flexibility in site design, such as open space/cluster housing developments.
- (c) Required 25-foot wetland protection setback: An undisturbed natural setback shall be maintained twenty-five (25) feet from an EGLE determined/regulated wetland. Trails may be allowed in the natural setback in accordance with Section 13.02.04 (f) (3).
  - (1) Any proposed site grading or storage within the wetland protection setback area shall require a Special Land Use Permit according to Article 19; provided that no such activity shall be allowed within ten (10) feet of a regulated wetland unless specifically approved by the Planning Commission.
- (d) Restrictions on land divisions: Article 20 stipulates land shall not be divided in a manner creating parcels or lots which cannot be used based on zoning district area, setback and dimensional requirements and in conformance with the requirements of this Section or EGLE regulations. Land divisions or developments that create a parcel containing regulated wetlands, shall install demarcation signs to ensure that no encroachment is allowed into the wetland protection setback.
  - (1) Wetland buffer demarcation signs shall be placed along the wetland protection setback boundary at intervals not exceeding fifty (50) feet, or at such reduced spacing as determined necessary by Township.
  - (2) Signs shall face outward toward areas of potential public or private access.
  - (3) Demarcation signs shall be mounted on posts with a minimum overall height of four (4) feet above finished grade.
  - (4) Each sign panel shall measure approximately twelve (12) inches in width by nine (9) inches in height.

- (5) Signs shall be constructed of durable, weather-resistant materials suitable for long-term outdoor exposure.
  - (6) Lettering shall be clearly legible and of sufficient size and contrast to be visible from a distance of at least twenty-five (25) feet.
  - (7) The sign shall contain the following language “Protected Wetland Buffer, This area is protected by ordinance”.
  - (8) The Sign shall be installed on a metal or wood post and maintained in legible condition at all times, including replacement if damaged, defaced, or missing. If the sign is located within designated open space, the homeowners’ association shall be responsible for maintenance and replacement. If the sign is located on private property, the property owner shall be responsible for maintenance and replacement.
- (e) Buildings and structures shall be setback thirty-five (35) feet from an EGLE determined regulated wetland to ensure that there is no encroachment into the wetland protection setback during construction.
- (f) Within an established wetland protection setback there shall be no construction, deposit of any material, including structures; removal of any soils, minerals and or vegetation; dredging, filling and land balancing; constructing or undertaking seasonal or permanent operations except as authorized pursuant below:
- (1) Any proposed site grading or storm-water storage within the wetland protection setback area shall require a Special Land Use Permit according to Article 19; provided that no such activity shall be allowed within ten (10) feet of a regulated wetland unless specifically approved by the Planning Commission.
  - (2) Culvert discharge pipes including associated flared end sections and rip-rap aprons discharging into a wetland shall be allowed only in association with permitted stormwater management.
  - (3) Walking trails may be allowed in the wetland protection setback. Trails shall be a maximum of seven (7) feet in width, with associated cutting of vegetation minimized. No machinery is allowed. Hand held implements shall only be allowed during associated cutting of vegetation. Trail shall only contain natural organic material such as mulch excluding any hardscape materials such as stone and brick pavers, concrete, pavers, wood or metal. A land use permit is required.
  - (4) After obtaining approval, best management practices shall be employed so as to minimize disturbance of the natural terrain and vegetation during construction and/or grading. After construction, the areas outside of the constructed elements within the wetland protection setback shall be restored to its prior conditions to the extent possible.
- (g) Preservation of nonregulated wetlands: Judicious effort shall be made through site plan design to preserve non-EGLE regulated wetlands which exceed two (2) acres in size.

Use of non-EGLE regulated wetlands as detention or retention ponds may be allowed, following review of such plans by the Township Engineer.

13.02.05 **Variances from the Wetland Setback Requirement**

In considering a variance for the wetland setback, the applicant must demonstrate to the Board of Appeals:

- (a) the setback is not necessary to preserve the wetland's ecological and aesthetic value.
- (b) the natural drainage pattern to the wetland will not be significantly affected;
- (c) the variance will not increase the potential for erosion, either during or after construction;
- (d) no feasible or prudent alternative exists and the variance distance is the minimum necessary to allow the project to proceed; or
- (e) EGLE permit requirements have been met and all possible avoidable impacts to wetlands have been addressed.

Sec. 13.03 **RIPARIAN LOT COMMON USE (KEYHOLE)**

13.03.01 **Intent:** The purpose of these regulations is to protect the public health safety and welfare which could be threatened by the over usage of inland lakes, and avoid situations which may create a nuisance, impair important irreparable natural resources and destroy property values. These regulations are intended to reinforce the implementation of the Michigan Inland Lakes and Streams Act (Public Act 346 of 1972).

13.03.02 **Applicability:** The regulations shall apply to the following lots, parcels, sites and easements to be held in common by a subdivision, condominium, association, similar agency, or group of individuals (i.e. more than one individual or family):

- (a) Lots created after the effective date of this section (4/15/95).
- (b) Lots of record existing prior to the effective date of this section (4/15/95) that did not provide common use access to a water body (riparian rights to non-riparian land owners) prior to the effective date of this ordinance.
- (c) These regulations shall apply to the establishment of a dockominium.

13.03.03 **Existing Keyholes:** Lots of record which existed prior to the effective date of this section (4/15/95) that provided common use access to a water body may continue to provide riparian rights subject to the marina operating permit requirements of the Michigan Department of Environmental, Great Lakes and Energy (EGLE) under the Michigan Inland Lakes and Streams Act (Public Act 346 of 1972).

13.03.04 **Easements:** An easement over a residential riparian lot shall not be utilized to provide boat access or docking for an individual who is not a resident of such residential riparian lot.

- 13.03.05 **Special Land Use Approval:** Boat launching sites and boat docks within a common use riparian lot shall be permitted in any district as a Special Land Use upon review and approval in accordance with the general standards of Article 19.
- 13.03.06 **Standards:** Waterfront sites dedicated to common use for boat launching and docking shall conform in all respects to the area and bulk requirements of the districts which they are located. In addition, common use riparian lots shall have the following minimum lot dimensions:
- (a) Such riparian lot shall have a minimum of fifty (50) feet of riparian frontage for each non-riparian lot served. Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.
  - (b) Such riparian lot or parcel shall have a minimum lot depth of 100 feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge.
  - (c) The deed to such lot or parcel shall specify the non-riparian lots or parcels which shall have rights to its use.
  - (d) All structures and appurtenances shall comply with the requirements of Section 11.04.05.
- 13.03.07 **Developments:** For condominiums, site condominiums, multiple family residential or Planned Unit Developments where there are common areas with riparian frontage, there shall be a minimum of fifty (50) feet of riparian frontage for each boat docked within the common area. The Planning Commission has the discretion to modify this standard within Planned Unit Developments provided that the overall number of boats from the PUD accessing the lake remains constant. This shall be determined based upon the total number of boats with access to the lake from both private and common use sites, and the Planned Unit Development's overall riparian frontage.
- 13.03.08 **Marina Operating Permit:** Any boat dock facility within a common use riparian lot must obtain a permit for marina operation from the EGLE in accordance with Administrative Rules of the Michigan Inland Lakes and Streams Act (P.A. 346 of 1972, as amended). Design for a boat dock facility shall meet all of the EGLE standards for marinas. Public access sites owned and operated by the State of Michigan are exempt from Township Common Use/Keyhole regulations.
- 13.03.09 **Dockominiums:** The establishment of a dockominium shall comply with the standards of this section and the condominium requirements of Section 12.07.

**Sec. 13.04 SEWER AND SEPTIC SYSTEMS**

- 13.04.01 **Requirement for Water and Sanitary Facilities:** No permit shall be issued for the construction of a building that is to have drinking water and sanitary facilities unless such facility is connected to a public sanitary sewer system approved by the Township, a septic system approved by the County Health Department or a common community sanitary drainfield approved under this section.

13.04.02 **Community Sanitary Drainfield:** Any form of common community sanitary drainfield or similar common system that serves more than two (2) dwelling units shall be granted final approval by the Township Board, following the approval of the County Health Department and/or the Michigan Department of Environmental, Great Lakes and Energy (EGLE), as applicable prior to any land use permits being issued for any building. Any common community sanitary drainfield or similar commons system shall meet the following minimum requirements:

- (a) The system shall be designed to meet all requirements of the County Health Department, the Michigan Department of Environmental, Great Lakes and Energy (EGLE) and Township Engineering Standards.
- (b) Common sanitary treatment systems shall only be allowed where connection to a public sanitary sewer system is not possible and soil conditions preclude the use of individual sewage treatment systems.
- (c) All systems shall be located and installed so that the systems function in a sanitary manner, are capable of accommodating the wastewater flow, and contaminant load, do not create sanitary nuisances, or health hazards and do not endanger the safety of any water supply, ground water, or surface waters.
- (d) A maintenance agreement shall be prepared assigning responsibility of maintaining the private system with the owners of the development. The following requirements shall apply:
  - (1) The petitioner shall submit a recordable private system maintenance agreement as part of the site plan. The private system maintenance agreement shall detail the operating requirements, maintenance procedures, a schedule for routine maintenance and monitoring requirements. The private system maintenance agreement shall meet the requirements of the Township engineer.
  - (2) The owners shall have a written contract with a licensed maintenance provider to inspect and maintain the treatment system. The wastewater system shall be maintained in accordance with the approved management plan and permits, with periodic inspections of the system.
  - (3) The private system maintenance agreement shall be in the form approved by the Township Board and shall be recorded at the office of the County Register of Deeds after approval by the Township. The maintenance agreement shall not be changed without Township approval and shall contain language to that effect.
  - (4) The agreement shall provide that expenses incurred for inspection and maintenance shall be paid by the petitioner or the homeowner's association, as applicable and that the petitioner or association shall be responsible to pay for any damages or losses occurring to neighboring properties resulting from a failure of the private system.
  - (5) The provisions of the maintenance agreement shall be included in a separate disclosure document and shall be delivered to the prospective purchaser of a unit or lot served by a private system prior to the execution of a purchase agreement.

- (e) A perpetual fund shall be established with sufficient cash for the long-term maintenance and replacement of the system. The fund shall be provided in a form approved by the Township Board in an amount sufficient to replace the system.
- (f) The Township may require the applicant to petition the Township Board to establish a special assessment district for the development prior to granting final approval. The purpose of the special assessment district would be to provide for assessment of the units or lots for the costs of inspection, maintenance or repair of the private system in the event the developer or homeowner's association, as applicable fails to properly perform such work or the cost of connection to a public system should the private system fail. However, the responsibility for maintaining the system shall be the responsibility of the developer or homeowner's association, as applicable and nothing therein shall obligate the Township to conduct any inspection, monitoring, maintenance, repair, operation or replacement of the private system.
- (g) The Township may require that the community system be dedicated to the County or other public agency for operation and maintenance. (as amended 3/5/10)

13.04.03 **Reservation of Alternative Drainfield:** For sites with individual septic systems or community sanitary drainfields, an area of land shall be designated on the site plan as reserved as an alternate location for a septic disposal system to provide for the possible failure of a septic disposal system.

**Sec. 13.05. PERFORMANCE STANDARDS**

No use otherwise allowed within any use district shall be permitted which does not conform to the following standards of use, occupancy, and operation.

- 13.05.01 **Smoke:** It shall be unlawful for any person, firm or corporation to permit the emission of smoke from any source in an amount which shall be injurious or substantially annoying to persons in the affected area.
- 13.05.02 **Airborne Solids:** It shall be unlawful for any person, firm or corporation to operate and maintain, or cause to be operated and maintained, any process or activity which shall be productive of dust, dirt, fly ash or other airborne matter which shall be injurious or substantially annoying to persons in the vicinity of such activity or process, or which shall cause injury to neighboring business or property.
- 13.05.03 **Odor:** The emission of odors which shall be found to be obnoxious to any considerable number of persons in the area shall be prohibited.
- 13.05.04 **Gases:** The emission or release of corrosive or toxic gases, in amounts which are injurious or substantially annoying to persons living or working in the affected area, shall be prohibited.
- 13.05.05 **Vibration:** Machines or operations which cause vibration shall be permitted in Industrial Districts, provided vibrations emanating there from shall not be discernable and substantially annoying or injurious to property beyond the lot lines of the affected premises.
- 13.05.06 **Noise:** The noise permitted under any use of land shall be no greater than the normal level of traffic noise existing in the area at the time of such emission, when determined at the boundary of the property. Industrial districts may have higher levels of noise within their industrial

premises, provided berms, walls or other sound barriers of equal effect shall prevent their being substantially annoying to adjacent areas.

- 13.05.07 **Glare and Radioactive Materials:** Glare from any process or operation shall be shielded to be invisible beyond the property lines of the premises on which the process is performed. Radiation, including radioactive materials and electro-magnetic radiation such as that emitted by the x-ray process or diathermy, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards when measured at the property line.
- 13.05.08 **Fire and Safety Hazards:** The storage and handling of flammable liquids, liquefied petroleum gases and explosives shall comply with all regulations of the Township and with all state rules and regulations. 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.
- 13.05.09 **Underground Storage Tanks:** Storage of flammable liquids below ground shall be located not closer to a lot line than the greater depth to the bottom of the buried tank, and shall be enclosed by an impervious envelope adequate to prevent a liquid from contaminating the groundwater in an event of a rupture of the tank.
- 13.05.10 **Above Ground Storage of Toxic and Hazardous Material:** The above ground storage of toxic and hazardous material must comply with section 13.07 Hazardous Materials and Fuel Storage.
- 13.05.11 **Violations:** The violation of any of these standards constitutes a public nuisance, and as such, may be abated by court action to be undertaken by the injured party or parties and/or by the Township.

#### **Sec. 13.06 FLOOR DRAINS**

General purpose floor drains in work and storage areas of commercial or industrial facilities are prohibited except in facilities which do not store or use flammable or combustible materials and under one of the following conditions:

- 13.06.01 **Holding Tank.** The drain(s) are connected to a holding tank or sump which is pump out and hauled away for proper disposal.
- 13.06.02 **Permit from Township.** A permit is obtained from the Township to permit the drain(s) to be connected to the sanitary sewer system.
- 13.06.03 **Permit from State.** A state ground water discharge permit is obtained.

#### **Sec. 13.07 HAZARDOUS MATERIALS AND FUEL STORAGE**

Any use that involves fuel services and use or storage of large quantities of hazardous materials shall comply with the following requirements:

- (a) Fire Department, County, State and Federal Requirements: At a minimum, Fire Department, State and Federal requirements for storage, leak detection, recordkeeping, spill prevention, emergency responses, transport and disposal of hazardous substances

must be met. It is the responsibility of the business facility owner to obtain any applicable County, State, or Federal permits or approvals which shall be submitted to the Township.

- (b) Handling Requirements: At a minimum, Fire Department, State and Federal requirements for storage, leak detection, recordkeeping, spill prevention, emergency responses, transport and disposal of hazardous substances must be met and shall be designed to prevent discharge of hazardous substances to floor drains, rivers, lakes, wetlands, or storm drains.

13.07.01 **Above Ground Storage Tanks:** Above ground storage tanks shall be limited to not more than two (2) five hundred (500) gallon capacity, shall not be located in the front yard. The above ground storage tanks shall be required within the building envelope when located adjacent to a non-residential zoning district. Tanks must be setback one hundred and fifty (150) feet from a residential zoned district and two hundred (200) feet from any watercourse or wetland and shall be mounted on a solid concrete slab to prevent overturn and spilling.

13.07.02 Temporary Above Ground Storage Tanks: Above ground storage tanks for temporary use may only be used in conjunction with an approved construction project on the same lot, for a period not to exceed twelve (12) months with a valid land use permit in conjunction with a project subject to the restrictions in this section.

- (a) A land use permit for such temporary above ground fuel storage is required prior to installation.
- (b) Tanks shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Building Department for the permanent structure on such lot, or within fifteen (15) days after the expiration of a land use permit issued for construction on such lot. Tanks shall be completely emptied prior to removal by a licensed and insured contractor in accordance with all applicable federal, state and local regulations.

13.07.03 Below Ground Fuel Storage Tanks: Below ground fuel storage tanks shall adhere to State of Michigan requirements.

13.07.04 **Secondary Containment:** Uses utilizing, storing or handling hazardous material have provided secondary containment facilities and provide documentation of compliance with state and federal regulations, as required.

13.07.05 **Pollution Incident Prevention Plan:** A Pollution Incident Prevention Plan (PIPP) shall be submitted that provides documentation for the following, with appropriate correspondence from the EGLE, Michigan State Police Fire Marshall, local fire department, and Livingston County Health Department:

- (a) Description of any discharge of any type of wastewater to a storm sewer, drain, lake, stream, wetland, other surface water body or into the groundwater;
- (b) Description of storage of any salt, oil or other potentially hazardous materials including common name, name of chemical components, location, maximum quantity expected on hand at any time, type of storage containers or base material, and anticipated procedure for use and handling;

- (c) Description of any transportation, on-site treatment, storage or disposal of hazardous waste generated in quantities of 250 gallons or 2200 pounds per month;
- (d) Description of any secondary containment measures proposed including design, construction materials and specifications, volume and security measures;
- (e) Name and phone number(s) of person(s) responsible for materials and available 24 hours, in case of detected spill.

13.07.06 **Permits:** Any discharge of wastewater to a storm sewer, drain, lake, stream or other surface water shall be documented and appropriate permits obtained from the EGLE, Surface Water Quality Division. Any discharge of liquids, sludge, wastewater and/or wastewater residuals into or onto the ground shall be documented and appropriate permits obtained from the EGLE, Waste Management Division. If flammable or combustible liquids are to be stored in fixed aboveground storage containers with a capacity greater than 1,100 gallons, this shall be documented and appropriate permits obtained from the State Police Fire Marshal Division. Storage of pesticide or fertilizer in quantities greater than 55 gallons or 100 pounds shall be documented and appropriate permits obtained from the Michigan Department of Agriculture, Pesticide and Plant Pest Division.

13.07.07 **Performance Guarantee:** To ensure compliance with the provisions of this Ordinance and any conditions imposed by the Township Board, Zoning Board of Appeals, Planning Commission or Zoning Administrator, the Township may require that a performance guarantee be deposited with the Township to ensure faithful completion of improvements in accordance with Article 21, Section 21.03 entitled "Performance Guarantee".

## Sec. 13.08 STORMWATER MANAGEMENT

13.08.01 **Engineering Standards.** All site plans shall provide for stormwater management meeting the requirement of the Genoa Township Engineering Standards. Where possible, and upon recommendation by the Township Engineer and approval by the Planning Commission, the Township encourages the implementation of Low Impact Development (LID) tools and techniques. (as amended 3/5/10)

13.08.02 **Underground Stormwater Detention.** The Planning Commission may permit underground stormwater detention systems as an alternative to surface detention for stormwater control, based upon the recommendation of the Township engineer, in the Town Center District or for space-limited sites where there is not adequate land for surface detention areas, such as infill development or redevelopment of existing developed lots.

- (a) Underground stormwater detention systems must be used in conjunction with other water quality control structures as required by the Township Engineering Standards.
- (b) The petitioner shall be responsible for removal of any trash/debris and sediment buildup in the underground vaults or tanks on no less than an annual basis and perform structural repairs to inlet and outlets as needed based on inspection. The petitioner shall submit an annual maintenance plan for the Township engineer's approval during the site plan review process.

- (c) The petitioner shall be required to submit a recordable development agreement as part of the site plan that outlines requirements for periodic inspection and maintenance. The development agreement shall meet the requirements of the Township engineer.
- (d) The agreement shall provide that expenses incurred for inspection and maintenance shall be paid by the petitioner and that the petitioner shall be responsible to pay for any damages or losses occurring to neighboring properties resulting from a failure of the underground stormwater detention system. (as amended 12/31/06, 3/5/10 and 6/17/26)