

Chapter 606 – Odor Nuisances

Section 606.1 – Intent

The intent of this Ordinance is to provide for the regulation of odorous nuisances in order to promote the health, safety, and welfare of Lenox Township, to provide for exceptions to enforcement, and to set objective criteria for measurement of odors, and prescribe penalties for violation of this Ordinance.

Section 606.2 – Definitions

A. As used in this Ordinance, unless the context otherwise indicates the following terms shall have the meanings ascribed to them:

1. **Authorized Official** – Any police officer or deputy sheriff, Fire Department officers, Township Building Inspector, Township Code/Ordinance Enforcement Officer.
2. **DT** – Is an abbreviation for dilution to the threshold, which is an odor quantification unit.
3. **Hedonic Tone** – The offensiveness of a particular odor.
4. **Nasal Ranger®** - A manufactured product used to quantify the odor by diluting the air stream and categorizing the odor by dilutions to a threshold.
5. **Odor** – The perceived experience when one or more chemicals encounter and stimulate the olfactory nerve.
6. **Odor Episode** – The occurrence and perception of odor that may constitute an odor nuisance under this Chapter.
7. **Odor Intensity** – The overall strength of an odor.
8. **Odor Nuisance** – An odor that is injurious to health, offensive to the senses of a reasonable person, or an obstruction to the free use of property, to interfere with the comfortable enjoyment of life or property.
9. **Odorant** – Any chemical in the air that is part of the perception of odor.
10. **Olfactometer** – A device used in the field to measure or quantify odor or odor intensity, including a scentometer or Nasal Ranger®.

11. **Ppbv** – Parts per billion by volume, a common gas phase compound quantitative unit.
12. **Ppmv** – Parts per million by volume, a common gas phase compound quantitative unit.
13. **Scentometer** – A measurement device used to quantify odor intensity using a calibration standard.

Section 606.4 – Odor Nuisances Prohibited

- A. Except as otherwise provided in this Ordinance, no person shall cause or knowingly allow to be caused an odor nuisance.
- B. When a complaint regarding an odor episode is received, an authorized official may contact the complainant, gather specific information regarding the odor episode, and investigate accordingly. An authorized official may also investigate a case where he or she independently perceives the existence of an odor that might constitute an odor nuisance. As part of the investigation, the official may attempt to identify and quantify the odor intensity using an olfactometer and may also define or describe the hedonic tone of the odor associated with the odor episode.
- C. As an alternative to, or in advance of, formal enforcement proceedings, an authorized official may work with an owner, operator, or another person responsible for an odor episode to mitigate the odor.
- D. An authorized official may process an odor episode as a public nuisance pursuant to Lenox Township Ordinances and the Michigan common law if, on a parcel or road adjacent to or nearby the parcel that is the source of the odor, objective measurement is made as follows:
 1. The ambient odor has a persistent odor intensity measured at seven (7) DT or greater and measured as such at least three (3) times in a forty-eight (48) hour period; or
 2. The existence of hydrogen sulfide or ammonia is measured as follows:
 - a. Hydrogen sulfide: One hundred (100) ppbv (instantaneous), thirty (30) ppbv (thirty-minute average), ten (10) ppbv (one hour average); or
 - b. Ammonia: Ten (10) ppmv (instantaneous), three (3) ppmv (thirty-minute average), one (1) ppbv (one hour average).
- E. An objective measurement that qualifies under Section 606.4(D) shall be based on appropriate technology, including without limitation the use of olfactometers, instruments

that measure the presence of specific chemicals or odorants (such as color-changing tubes and Jerome analyzers), and air monitoring equipment for compounds emitted into the air. An objective measurement that qualifies under Section 606.4(D) establishes the existence of an odor nuisance.

- F. If multiple complaints are made regarding the same odor episode, but a presumptive odor nuisance cannot be established under the objective criteria described in Section 606.4(D) above, an authorized official may contact an owner, operator, or another person responsible for the odor to discuss odor mitigation measures to eliminate or reduce the ambient odor.

Section 606.5 – Applicability - Exceptions

- A. Except as otherwise provided in Section 606.5(B) of this Section, this Ordinance applies to all locations and operations within the Township, including residential and non-residential operations.
- B. This Ordinance does not apply to:
 - 1. Any operations or activities excepted from regulation and public/private nuisance laws Under the Michigan Right to Farm Act, 1981 PA 93: MCL 286.471 et seq.
 - 2. The food preparation operation of restaurants (but only those operations).
 - 3. Regulated natural gas utility operations, including odorized natural gas and the chemicals or products, used to achieve the required odorization of natural gas.
 - 4. Activities exempted under other provisions of the Lenox Township Code of Ordinances.

Section 606.6 – Medical Marijuana Odor Nuisances

In the case of an odor episode that qualifies under Section 606.4(D) of this Ordinance, where the source of the odor is a medical marijuana establishment licensed pursuant to the Michigan Medical Marijuana Facilities Ordinance Act (MMFLA) and of the Lenox Township Code of Ordinances, those laws shall control to the extent of any conflict with this Ordinance.

Section 606.7 – Penalties

Any violation of this Ordinance shall be a municipal civil infraction.

