

COMPLIANCE WITH SECTION 21-5120. PERFORMANCE STANDARDS

Commerce City requested the Applicant, A-1 Organics, review and address Section 21-5120. Performance Standards as part of their application for a PUD by Commerce City Staff. A-1 Organics has been in operations on the property for several years now and has an established history of running a business that is in conformance with all applicable requirements as set forth by the City, State, and Federal government. The following narrative responds individually to those Performance Standards specifically identified by Commerce City.

Section 21-5120. Performance Standards

1. Vibration. Uses that generate vibration in violation of this section shall be cushioned or isolated to prevent generation of vibrations. Uses shall be operated in compliance with the following provisions:

- a) Uses shall not generation ground vibration that is perceptible without instruments by the average person at any point along or beyond the property line of the parcel containing activities;
- b) Uses shall not generate vibrations that cause discomfort or annoyance to reasonable persons of normal sensitivity or which endangers that comfort, repose, health or peace of residents whose property abuts the property line of the parcel; and
- c) Uses shall not generate ground vibration that interferes with the operation of equipment and facilities of adjoining parcels.
- d) Vibrations from temporary construction/demolition and vehicles that leave the subject parcel (e.g. trucks, trains, and aircraft) are exempt from the provisions of this section.

Response: There are no uses on the site that generate vibration in violation of this section of Commerce City Code. The user of the site utilizes standard heavy equipment typically associated with industrial sites and no extraneous or overt vibrations are created.

Additionally, specialty equipment, such as for grinding, painting, and materials screening utilized by the A-1 Organics operation, is located central to the site and away from adjacent non-industrial uses, further negating any potential vibration impacts. To-date, A-1 is unaware of any concerns related to vibrations produced by operations on the property.

2. Noise. Uses and activities shall be conducted so that any noise generated on the property will not violate the noise regulations contained in the municipal code.

Response: There are no uses on the site that generate noise in violation of this section of Commerce City Code. A-1 Organics operates from 7:00 am to 4:40 pm Monday through Friday and seasonally on Saturday from 8:00 am to noon to limit the time that noise generating activities take place. Even so, operations, while industrial in nature, do not generate any more noise than a typical outdoor industrial use that utilizes heavy equipment in its daily operations. To-date, A-1, is unaware of any concerns related to noises produced by operations on the property.

3. Air Pollution. Activities in all zone districts shall conform to applicable federal, state, and local air pollution standards. The applicant may be required to provide proper document justifying that all operations will be in compliance with federal, state, and local air pollution standards.

Response: A-1 Organics' operations conform to all applicable federal, state, and local air pollution standards. All mechanical equipment used for the operation meets federal guidelines for emissions. A-1 Organics operations, outside of the mechanical equipment used, utilize natural materials (wood, etc.) and the use of non-hazardous dyes, neither of which cause any air pollution. To-date, A-1 has not received any citations for noncompliance with federal, state, or local air pollution standards. Although neighbors who attended the public meeting held on April 30, 2018, reported health issues perceived to be related to A-1 operations, no employees have voiced similar concerns.

4. Odor.

- a) Uses shall not result in the creation of odors of such intensity and character either on or off property as to be detrimental to the health and welfare of the public or that interferes unreasonably with the comfort of neighboring property owners. Without limiting the foregoing, odorous emissions shall comply with the applicable provisions of the federal, state, and local requirements.
- b) Agricultural operations conducted in compliance with this land development code shall be exempt from this paragraph, unless the odor created constitutes a health hazard.

Response: A-1 Organics is in the business of repurposing natural materials (wood, etc.). These materials by themselves do not emit any offensive odor and are not on-site long enough to allow for decay or rot to set in and allow offensive odors to be generated. Additionally, the dyes used for the materials are nearly odorless. To-date, A-1 Organics, is unaware of any concerns related to odor produced by operations on the property.

5. Dust. No dust or particulate matter shall be emitted that is detectable by a reasonable person without instruments. Nonresidential exhaust air ducts shall be located or directed away from the abutting residentially zoned property.

Response: A-1 Organics is an outdoor business that handles tons of natural material every day. Combined with Colorado's ever-changing weather, creating dust in such an environment is unavoidable. However, A-1 goes to extensive lengths to ensure that dust creation is mitigated to the extent possible, and within the limits permitted. The following steps are taken to ensure compliance with all applicable Commerce City standards:

- **Compact Piles** – By permitting the higher pile height of 25', (as opposed to 8'), materials are permitted to be stacked much more efficiently, keeping them moister, and creating less surface area that is exposed to the elements.
- **Weather Monitoring** – An onsite weather station is continually monitored. If sustained winds reach 15 mph or higher for 10 minutes or more, operations are shut down. By not working the materials during these conditions, negative impacts of materials blowing around are mitigated.
- **Site watering for dust control** – When the site is operating on hot or dusty days, the roads that run throughout the site are watered down, with special attention given to the east side of the site that is adjacent to existing residential uses. They have also treated the roads for dust suppression with Magnesium Chloride to keep the dust down year around. This is the same product the CDOT uses on road surfaces.
- **Dust Skirts** -- All Stacker Conveyors are equipped with "dust skirts" which direct the product exiting the final belt down towards the stockpile as opposed to out which also helps in maintaining the most direct line from belt to pile thus mitigating the opportunity for dust to separate from the product as it transfers from the belt to the pile.
- **Operational Steps:**
 - **Delivery:** Raw, unground material is received at the site and unloaded from transport vehicle. The material is "pushed up" with wheel loaders into the like material pile staying within pile size requirements. Minimal dust is generated by the loaders' wheel to ground contact, which is mitigated by road watering/maintenance.
 - **Grinding Operations:** The frequency of grinding operations is seasonal. From April to July, grinding occurs on the site twice per month and the duration can be 3-5 days depending on material receipts. From August to March, the site usually requires grinding services once every 4-6 weeks depending on material receipts and the duration is the same 3-5 days. After the ground material is stockpiled in the

appropriate storage pile, depending on intended use, the material's next step is one of three options which are determined by need and material type. In the current ground condition, the material may be screened, colored, or loaded out and transported to a customer as is.

Whenever grinding operations occur, additional dust mitigation practices are utilized, including road spray and watering to mitigate dust generated by wheel to ground contact by loaders. There is also a direct water connection to the grinder that emits a constant spray of water over the material as it is put into the grinder and on the material during the grinding process. Exceptions to this are when we are grinding in subfreezing temperatures which restricts the use of water and sprays. In these situations, grinding operations are suspended if fugitive dust is exiting the facility boundaries. All grinding operations are on the west side of the site, completely away from the adjacent residential uses. The grinder is off site at other locations when not scheduled to grind at this location.

- Screening Operations: Screening separates product material size for different specification requirements. Water spray directly on to material during the screening process will cause "blinding" of the screens by "caking" the material. Screening operations are also located away from the adjacent residential uses. Dust mitigation practices include the use of road spray/water for wheel to ground contact during this process. Screening operations are suspended if the process is or can allow for fugitive dust to leave the facility boundaries.
A-1 does not want any unpainted material from the screening operations to contaminate already colored material, so, as stated before they don't operate in high winds. Additionally, shields have been welded on the stackers to further reduce any material from blowing away. These shields force the material to drop directly into the storage piles from all operations on site by helping block out the wind from blowing material from the end of the stackers.
- Painting Operation: All material that is put into the painting operations has water injected into the material as it is dropped into the painting machine. This material comes out of the machine wet and falls directly into the appropriate pile. This material will remain damp for several days, and even after it is dry, because of the nature of the material. Only in very high winds does it ever blow away from the main pile, even then, typically it will blow only a few feet. As can be seen during site visits, the colored piles are very close together and the wind does not cross contaminate colored piles, which is something they obviously do not want to happen. Colored material remains in the original pile created as it exits the coloring operation for 24+ hours before loading out to allow the product to dry. Dust mitigation during loadout operations include road spray/water for wheel to ground mitigation. Very little dust is generated from the transfer of colored material from the wheel loader bucket into the transport trailer
- Site maintenance and clean up: A-1 Organics regularly has "People Ready" contractors on site picking up all trash from the hills that outline the Monaco site. This is for multiple reasons, including they want the site to be clean and have a nice appearance and they don't want any trash to blow into the colored or retail material and end up at a customer's property. In addition, they want to be sensitive to their neighbors and want to make sure they are being good neighbors themselves.

It is in the best interest of A-1 Organics to keep materials on site and dust down. Materials blowing off-site loses money for the business, creates inefficiencies, mixes colored varieties, and causes issues for neighbors.

Additionally, over the course of time, several different entities have visited and inspected the site to ensure that the business is operating in conformance with the required standards. Below are those recent visits and their outcomes:

- **Commerce City Inspector –John Palmer (~January 19, 2018)**
 - “He told Kyle the site looks great, and meets the code of being under 25’ in pile height as far as he is concerned.”
- **Tri-County Health – Lisa Oliveto (March 27, 2018)**
 - “I agree, from the site visit today, A-1 Organics located at 9109 Monaco St. is in compliance”
- **Commerce City Inspector – David Ferguson (June 27, 2018)**
 - “Everything appeared in order and no problems. Ms. Holly was most helpful on my visit and answered my questions.”
- **CDPHE Environmental Protection Specialist – Thomas Lovell (July 12, 2018)**
 - At approximately 10 am in the morning the site was visited by the Air Pollution Control Division of CDPHE by Environmental Protection Specialist Thomas E. Lovell. He informed the operators on site that the division received a complaint that morning that A-1 Organics had a grinder on site that was “creating a dust storm and blowing dust all over the neighboring homes in the area.” The site employees informed him that they did not have a grinder on site that day or any recent days leading up to Wednesday morning and took the gentleman on a tour of the site to show there was not a grinder or grinding activities occurring on site. Additionally, the screen plant was not in operation that morning nor were they running coloring operations that morning. The only site activity from a production standpoint that had been performed that morning was the standard truck loading operations and pile maintenance operations. Mr. Lovell told that employees that this did not surprise him as the division receives multiple false claim calls but is required to follow up on each of them. He told the employees this was a “non-event”.

6. **Electromagnetic Radiation.** It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communications, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes except in compliance with the FCC regulations, or in the case of governmental agencies and government-owned plants, the regulations of the interdepartmental radio advisory committee. Any application for a proposed use or activity emitting electromagnetic radiation shall include an expert report that demonstrates conformance with the applicable regulations of the FCC, or interdepartmental radio advisory committee, as applicable.

Response: To the best of A-1 Organics knowledge, no intentional source of electromagnetic radiation is operated on the property. To-date, A-1 Organics, is unaware of any concerns related to electromagnetic radiation produced by operations on the property.

7. **Hazardous Materials.** All activities and all storage of hazardous materials shall comply with all federal and state regulations as well as any applicable safety, fire and building codes adopted by the city for the use and storage of the hazardous materials involved. Adequate precautions shall be taken to protect against negative off-site impacts of a hazardous materials release, using the best available technology.

Response: All activities and all storage of hazardous materials comply with all federal and state regulations as well as any applicable safety, fire, and building codes adopted by the City. The only hazardous materials stored on site are 2 fuel tanks, one 500 gallons and one 2,000 gallons. These tanks store fuel for use by the on-site operations equipment. Both tanks also have a containment tank. On November 2, 2016, the South Adams County Fire Protection District, granted A-1 Organics a permit for the tanks.

There has been discussion and concern raised about the dye used for dyeing applications. The dye use has been deemed non-hazardous. The manufacturer, BASF, states the following:

“BASF/Colorbiotics is the only company in this industry that has done extensive independent laboratory testing to ensure this colorant is safe for the plant, animals, humans and environment it is used in. The colorant is rated non-hazardous. The colorant is not toxic, non-reactive, non-flammable and environmentally friendly. The main ingredient is an iron oxide pigment. Iron oxide pigments are commonly used in cosmetics, due to their inert behavior. In the case of black mulch, the source of pigmentation is carbon black.”

Additionally:

“(This) product line was given a classification rating of Category IV. Table salt has a classification of Category IV. This is the lowest possible risk assessment achievable.”

In April of 2016, there was a dye spill of between 25-100 gallons of water containing dye. The water flowed into the adjacent on-site stormwater detention pond. This incident was immediately reported to Tri-County Health. A-1 Organics removed the dyed water from the pond and added filtration socks to ensure that any remnants were properly filtered out. A follow up water test by an independent consultant found that *“None of the reported concentrations of constituents were above or near concentrations that would be considered elevated or exceed Colorado standards. Iron and sulfate concentrations were relatively low.”* Since this incident there have been no other spills of dyed materials.

All other materials used in the operations are all-natural materials (wood and other natural items) that purposely do not include pesticides, chemicals or any other hazardous materials. They vet suppliers of all the materials they use in order to provide the highest quality materials they can. A-1 Organics produces landscape materials used at homes, businesses, schools and other applications where contact with people is a common occurrence and providing unsafe product would not be beneficial for their business.

8. Glare and Heat. No direct or sky-reflected glare, whether from lights or from high temperature mechanical or chemical processes such as combustion or welding, shall be permitted to unreasonably interfere with the use and enjoyment of adjacent properties. These regulations shall not apply to signs or floodlighting or parking areas otherwise permitted by this land development code. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

Response: There are no direct or sky-reflected glare that interferes with the use and enjoyment of adjacent properties. To-date, A-1 Organics, is unaware of any concerns related to glare and heat produced by operations on the property.

9. Materials and Waste Handling
 - a) No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground.

- b) All materials or wastes that might cause fumes or dust, or that constitute a fire hazard or may be edible by or otherwise be attractive to rodents or insects, shall be stored outdoors only in enclosed, permeable trash containers that are screened in accordance with this code
- c) Toxic and hazardous materials and chemicals shall be stored, secured, and maintained so that there is no contamination of ground, air, or water sources at or adjacent to the site.
- d) Notwithstanding anything contained herein, all treatment, storage, disposal, or transportation of hazardous waste shall be in conformance with all federal and statutes, codes, and regulations.
- e) Provisions shall be made so that all lubrication and fuel substances shall be prevented from leaking and draining onto the property.
- f) Non-radioactive liquid or solid wastes. There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the Tri-County Health Department and the South Adams County Water and Sanitation District.

Response: As stated previously, all materials and waste handling is performed in a manner as such to be in compliance with all applicable standards and requirements. All required permits and standards for the safe treatment and handling of materials and waste have been obtained and followed. Subsequent inspections by City Staff, Tri-County Health, and the State of Colorado have determined that A-1 Organics is following all required standards and practices.