

§ 4.1. Performance standards.

All references herein contained to certain standards which indicate a publisher and date are hereby deemed to mean the latest revised edition of such standard. Where a state, county or local agency promulgates standards which are inconsistent with or different from those herein enumerated, the more restrictive standards shall control.

4.11. Applicable to all nonresidential uses. No land or building shall be used or occupied for a nonresidential use in any manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; a condition conducive to the breeding of rodents or insects or other substance, condition or element, all referred to herein as "dangerous or objectionable elements," in a manner or amount as to adversely affect the surrounding area. However, any nonresidential use except those expressly prohibited by this code in § 4.4 may be undertaken and maintained if it conforms to the district regulations and the regulations of § 4.1, Performance standards, limiting dangerous and objectionable elements at the point of determination of their existence as provided in this section.

4.12. Performance standards procedure. Only those uses specified in Use Table, Columns 2, 3 and 4, as subject to performance standards procedure, § 4.12, are subject to performance standards procedure requiring the Board of Appeals' approval as specified in § 10.334 in obtaining a building permit or certificate of occupancy, or both, unless the Building Inspector has reasonable grounds to believe that any other proposed use, including any building or use accessory to a use subject to performance standards procedure, is likely to violate performance standards, in which event the applicant shall comply with the procedure in § 10.334 in obtaining a building permit or certificate of occupancy, unless the Board of Appeals finds that compliance therewith is unnecessary. **[Amended 8-15-1988 by L.L. No. 5-1988]**

4.13. Continued enforcement provisions. Whether or not compliance with performance standards procedure in § 10.334 in obtaining a building permit or certificate of occupancy is required for any particular use, initial and continued compliance with performance standards is required of every new nonresidential use or change in such use in all districts as provided in § 10.335. **[Amended 8-15-1988 by L.L. No. 5-1988]**

4.14. Nonconforming uses. No use established before the effective date of this code and nonconforming as to performance standards shall be required to conform therewith, except manufacturing uses in R Districts, as provided in § 9.364. **[Amended 8-15-1988 by L.L. No. 5-1988]**

4.15. Restrictions on creation of dangerous and objectionable elements. Every use subject to performance standards shall conform to the restrictions set forth in §§ 4.16, 4.17 and 4.18.

4.16. Measurement at the point of emission. The existence of the following dangerous and objectionable elements shall be determined at the location of the use creating the same or at any point beyond, and these shall be limited as follows:

4.16~~1~~ Fire and explosion hazards. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices in accordance with the Fire Prevention Code of the Town of Orangetown.¹ Storage of explosives is prohibited except in accord with Article 16 of the Labor Law of the State of New York and regulations established thereunder, and provided that no more than 50,000 pounds be stored in any one magazine. Burning of waste materials other than leaves, brush, cut timber and similar material burned in accord with approved forestry practices, and more than two bushels of dry papers or cardboard burned in open fires in any one day, is hereby prohibited. The relevant provisions of other state and local laws and regulations shall also apply.

4.16~~2~~ Radioactivity or electrical disturbance. There shall be no activities which emit dangerous radioactivity at any point. There shall be no electrical disturbances (except from domestic household appliances and from communications equipment subject to control of the Federal Communications Commission or appropriate federal agencies) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

4.16~~3~~ Smoke. There shall be no emission at any point from any chimney, or otherwise, of visible gray smoke of a shade darker than No. 1 on the Ringelmann Smoke Chart as published by the United States Bureau of Mines (Power's Micro-Ringelmann Chart, McGraw Hill Publishing Company, 1954, may be used), except that visible gray smoke of a shade not darker than No. 2 on said chart may be emitted for not more than four minutes in any 30 minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

4.16~~4~~ Fly ash, dust, fumes, vapors, gases and other forms of air pollution. There shall be no emission which can cause any damage to health, to animals or vegetation or other forms of property or which can cause any excessive soiling of any point and in no event any emission from any chimney or otherwise of any solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at any point. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500° F. and 50% excess air.

4.16~~5~~ Liquid or solid wastes. There shall be no discharge at any point into any private sewage-disposal system or stream or into the ground of any materials

1. Editor's Note: See Ch. 15, Fire Prevention Code.

in such a way or of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the State Department of Health, Water Pollution Control Board or County Health Department. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

4.17.Measurement at the lot line. The existence of the following dangerous and objectionable elements shall be determined at the lot line of the use creating the same or at any point beyond said lot line, and these shall be limited as follows:

4.17IVibration. There shall be no vibration which is discernible to the human sense of feeling for three minutes or more duration in any one hour of the day between the hours of 7:00 a.m. and 7:00 p.m. or of 30 seconds or more duration in any one hour between the hours of 7:00 p.m. and 7:00 a.m. No vibration at any time shall produce an acceleration of more than 0.1 g or shall result in any combination of amplitudes and frequencies beyond the safe range of Table 7, United States Bureau of Mines Bulletin No. 442, Seismic Effects of Quarry Blasting, on any nearby structure. The methods and equations of said Bulletin No. 442 shall be used to compute all values for the enforcement of this section.

4.18.Measurement at other specified points. The existence of the following dangerous and objectionable elements shall be determined at or beyond the different locations in different districts in relation to the establishment under consideration, and these shall be measured as follows: (a) in any R District and CS, CC, CO, OP and MFR Districts, 25 feet from the principal building in any direction or at the lot line if closer; (b) in LO, LIO and LI Districts at the boundary of the R or MFR District nearest the establishment in any direction, provided that such measurement shall not be taken from a point located on any property owned or occupied by the applicant. [For the purpose of investigating any purported violation of §§ 4.181, 4.182 and 4.183, as provided in § 8.335, observations shall be taken on at least three nonconsecutive days at no less than three points along or beyond the lines specified in (a) or (b) above. The angles between the lines connecting any two adjacent points of measurement and the establishment shall be as nearly equal as possible. If only three points of measurement are used, such angles shall be at least 60°. When more than three points are used, such angles shall be reduced proportionately.] The limitations on these elements are as follows: **[Amended 8-15-1988 by L.L. No. 5-1988]**

4.18Noise. At the specified points of measurement, the sound-pressure level of noise radiated continuously from a facility at nighttime shall not exceed the values given in Table I in any octave band of frequency. The sound-pressure level shall be measured with a sound-level meter and an octave band analyzer that conforms to specifications published by the American Standards Association. (American Standard Sound Level Meters for Measurement of

Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, New York, and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used.)

TABLE I

Maximum permissible sound-pressure levels at specified points of measurement for noise radiated continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m.

Frequency Band Cycles per second	Sound Pressure Level Decibels Re. 0.002 dyne/cm.²
20-75	69
75-150	54
150-300	47
300-600	41
600-1200	37
1200-2400	34
2400-4800	31
4800-10,000	28

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table II below shall be added to or subtracted from each of the decibel levels given above in Table I.

TABLE II

Type of Operation of Character of Noise	Correction in Decibels
Daytime operation only	Plus 5
Noise source operates less than 20% of any one hour	Plus 5*
Noise source operates less than 5% of any one-hour period	Plus 10*
Noise source operates less than 1% of any one-hour period	Plus 15*
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5

* Apply one of these corrections only.

- 4.18~~2~~Odors. No emission of odorous gases or other odorous matter in such quantities as to be offensive at the specified points of measurement. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive odors, Table III (Odor Thresholds) in Chapter 5, Air Pollution Abatement Manual, Copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C.
- 4.18~~3~~Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion or welding or otherwise, so as to be visible at the specified points of measurement. This restriction shall not apply to signs otherwise permitted by the regulations.