

Proposed Changes to Town Code Ch. 43 – Performance Standards Draft as of 12/5/17

PROPOSED LOCAL LAW NO. ____ OF 2017,
AMENDING CHAPTER 43, §4.1 PERFORMANCE STANDARDS
OF THE ZONING LAW OF THE TOWN OF ORANGETOWN

Be it enacted by the Town Board of the Town of Orangetown as follows:

Section 1: Purpose: The Town Board (“Board”) of the Town of Orangetown, New York (“Town”) hereby finds that there is a critical and compelling need, in the public interests as set forth herein, to protect the health, safety and welfare of its residents to ensure that properties do not emit or cause to be emitted smoke, particulate matter, and odor. The objective of this local law is to clarify Chapter 43 (Zoning) §4.163, §4.164, and §4.182 of the Town Code of the Town of Orangetown, relating to emissions.

Section 2: Therefore, Chapter 43 (Zoning) §4.1 PERFORMANCE STANDARDS shall be amended as follows:

Language to be deleted is ~~struck~~
New language is underlined

4.163. Smoke. There shall be no emission and/or discharge into the atmosphere at any point from any chimney, stack, vent or otherwise, of visible black, gray or white smoke other than that caused by steam, 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, or exhibiting greater than 20 percent opacity (6-minute average) per EPA Method 9.~~

Exceedance during two consecutive days requires the opacity producer to conduct EPA Method 9 analysis within two business days of occurrence – or evaluate Continuous Opacity Monitoring System(s) (COMS) during the same period. - and A facility-responsible person must notify the Town within one business day of receiving the assessment results, as well as provide any other credible evidence. The Town will evaluate compliance and determine further action.

4.164.1 Fly ash, dust, fumes, vapors, gases and other forms of air pollution derived from combustion. There shall be no emission and/or discharge which can ~~any~~ cause damage to the health, to of humans or other animals, or vegetation, buildings or structures, 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.~~

Emissions related to combustion must comply with the standards and regulations set forth in the New York State Department of Environmental Conservation's 6 NYCRR Subpart 227-1, Stationary Combustion Installations, as amended and/or supplemented from time to time, as applicable.

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4.164.2 Ash, dust, fumes, vapors, gases and other forms of air pollution not derived from combustion. There shall be no emission and/or discharge which can cause any damage or injury to the health of humans and other animals, or vegetation, buildings or structures or other forms of property, or which can cause excessive soiling.

Emissions of air contaminants to the outdoor atmosphere from any process emission source or emission point are restricted in accordance with the New York State Department of Environmental Conservation's 6 NYCRR Subpart 212, Process Operations, as amended and/or supplemented from time to time, as applicable.

4.181.

Noise. At the specified points of measurement, The 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, in order to provide an environment free from noise that affects people's well-being and use, enjoyment and value of property, or that interferes with the repose of life, or would unreasonably or unnecessarily interfere with public health, safety, and welfare.

In the event of noise complaints arising from residents, commercial, or other Town inhabitants, the The sound-pressure level shall be measured with a sound-level meter and an octave band analyzer that conforms to specifications published by the equipment manufacturers, and such standards as published by the American National Standards Institute (ANSI), the American Society for Testing and Material, or other contemporary standards-establishing organization accepted in the United States. 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.)

Unless otherwise resolved with the Town, the owner or operator of the location/source of such elevated, complaint-producing noise, shall prepare and provide a Noise Monitoring Plan to the Town within 10-business days of written notice by the Town, and such Plan shall be implemented within 10-business days of Plan approval by the Town, and the written report of such monitoring shall be provided to the Town within 10-business days following completion of noise monitoring. Failure to meet noise compliance will result in cessation of the offending noise source until compliance is met. The Noise Monitoring Plan will employ "A-weighting" unless another weighting scale is more appropriate, and shall address:

i) The number and location of monitoring sites;

ii) The timing and frequency of surveys;

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iii) Methods and standards to be followed. This will include methods used to identify and remove measurement results for time periods affected by sound associated with any temporary events or activities (such as noise from non-related construction or other activities), and during periods where wind speeds exceed 5 m/s or the rainfall rate exceeds 6 mm/hour; and

iv) Timeframes for monitoring and reporting to the Town in the event they are otherwise than stated in this Performance Standard.

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.

<u>Frequency Band Cycles per second</u>	<u>Sound Pressure Level Decibels</u>
	<u>'A-weighted' scale (dBA) *</u> <u>Re. 0.002 dyne/cm.²</u>
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

* 'A-weighted' scale (dBA) is the filtering of sound measurement to account for the perceived loudness of noise not necessarily correlating with sound levels. Sound level meters set to A-weighting minimize low-frequency noise similar to the human ear, Sound intensity is measured in units of decibels, dB.

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*

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TABLE II

Type of Operation of Character of Noise	Correction in Decibels
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5

*** Apply one of these corrections only.**

4.182. 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 involving 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.*

No person, entity or process will emit, or cause or allow to be emitted, There shall be no emission and/or discharge of objectionable odors or other matter present in the ambient air that, by itself or in combination with other odors, gases or vapors is offensive, foul, unpleasant or repulsive to olfactory reception, beyond the property borders of the emitting source.

Odor(s) will be deemed objectionable when documented assessment by the Town shows evidence that the odor likely could, or does, cause injury, detriment, nuisance or annoyance to persons or to the public, based on observations of the odor's nature, intensity, duration, location, and level of complaint.

Upon documented assessment by the Town of the existence of an objectionable odor the Town will notify the odor producing facility and direct that an Odor Control Plan acceptable to the Town be submitted that outlines the operational cause of the violation, chemistry of the offending odor(s), literature evidence of odor thresholds and impacts, methods proposed to mitigate the problem, and the schedule by which the Plan will be implemented and completed.

To enforce this Performance Standard, objectionable odors will be considered detected and a violation of this Section 4.182 when either:

- A Town inspector/code enforcement officer detects an objectionable odor; or
- the Town receives initially five (5) or more complaints from individuals, households or businesses within seven (7) days, or fifteen (15) or more complaints within a 30-day period. The Town's odor complaint records will include:
 - Name, address, email and phone number of complainant.
 - Time and date of call.
 - Description of nuisance odor.
 - Estimated location or source of complaint.
 - If possible, prevailing wind or weather conditions observed
 - If OBZPAE or DEME finds noncompliance, as per above (first bullet), then there shall be deemed noncompliance;

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and

- one (1) volume of the odorous air has been diluted with up to five (5) volumes of odor-free air and the odor is still perceptible, as measured by the Town through the use of reliable olfactometer field instruments, devices, or methods; and

Section 3: This local law shall become effective immediately upon filing with the Secretary of State.