

Topic: Zoning; Landscaping; Erosion & Sedimentation Control; Local Environmental Law
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Blooming Grove
Year (adopted, written, etc.): Unknown
Community Type - applicable to: Suburban; Rural
Title: Town of Blooming Grove Landscaping & Environmental Requirements; Performance Standards Ordinance
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Abstract

The Landscaping and Environmental Requirements; Performance Standards ordinance requires conformance with standards for noise; vibration; smoke, dust, and other atmospheric pollutants; odors; toxic or noxious matter; radiation and electromagnetic interference; fire, explosive and heat; liquid and solid wastes; traffic and lighting. The planning board may vary or waive minimum landscape requirements and erosion and sedimentation control due to special characteristics of the project or site.

Resource

Town of Blooming Grove NY Landscaping and Environmental Requirements; Performance Standards
Code of the Town of Blooming Grove NY
Chapter 235: Zoning
General Code

ARTICLE XIV Landscaping and Environmental Requirements; Performance Standards

§ 235-63. Planning Board authorized to adopt rules and regulations.

Pursuant to the provisions of § 235-103 of this chapter, the Planning Board is authorized to adopt rules and regulations pertaining to the incorporation of landscape materials in any project requiring site development plan approval and for the environmental control of such projects.

§ 235-64. Landscape requirements and erosion and sediment controls.

The minimum landscape requirements and erosion and sedimentation controls for any use requiring site development plan approval are a general guide only and may be waived or varied by the Planning Board where, due to special characteristics of the project site, the proposed use, surrounding area or buildings and structures, such changes are necessary to ensure compatibility and conformance with other standards or criteria of this chapter.

§ 235-65. Environmental quality review.

The provisions of the State Environmental Quality Review Act (SEQRA) shall be complied with as appropriate. Fees for SEQRA processing are in addition to other fees required by this chapter as set forth in the Standard Schedule of Fees of the Town of Blooming Grove. *Editor's Note: The Standard Schedule of Fees is on file in the Town offices.*

§ 235-66. Performance standards.

A. Conformance required. No use shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards shall be a requirement for the continuance of any certificate of occupancy.

B. Standards.

(1) Noise.

(a) Method of measurement. For the purpose of measuring the intensity and frequencies of sound, sound-level meters and octave-band filters shall be employed. Octave-band analyzers calibrated with pre-1960 octave bands (American Standards Association Z24.10-1953, Octave Band Filter Set) shall be used. Sounds of short duration, which cannot be measured accurately with the sound-level meter, shall be measured with an impact noise filter in order to determine the peak value of the impact.

(b) Maximum permitted sound-pressure level. The decibels resulting from any activity, whether open or enclosed, shall not exceed at any point on or beyond any lot line the maximum decibel level for the designated octave band as set forth in the following table, except that where the lot lies within 200 feet of a residence district, whether within or without the Town, the maximum permitted decibel level at any point on or beyond the district boundary shall be reduced by six decibels from the maximum permitted level set forth in the table, and further, except that such reduction shall also apply to any sound emitted between the hours of 9:00 p.m. and 7:00 a.m.

and all day Sunday.

Octave (cycles per second)	Band Sound Pressure Level (decibels)
0 to 74	66
5 to 149	58
150 to 299	55
300 to 599	50
600 to 1,199	45
1,200 to 2,399	42
2,400 to 4,799	38
4,800 to 20,000	35

(c) Exemptions. The following uses and activities shall be exempt from the noise level regulations:

- [1] Noises not directly under the control of the property user.
- [2] Noises emanating from construction and maintenance activities between 7:00 a.m. and sunset, except that no such activity shall take place on Sundays or holidays.
- [3] The noises of safety signals, warning devices, emergency pressure relief valves or other emergency warning signals.
- [4] Transient noises of moving sources, such as automobiles, trucks, airplanes and railroads.
- [5] Noises from agricultural equipment operated on land used for a permitted agricultural use.

(2) Vibration.

- (a) Method of measurement. For the purposes of measuring vibration, a measuring system approved by the Planning Board shall be employed.
- (b) Maximum permitted steady state and impact vibration displacement. No activity shall cause or create a steady state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of that indicated in the following table:

Vibration Displacement (inches)		
Frequency (cycles per second)	Steady State	Impact
Under 10	.0005	.0010
10 to 19	.0004	.0008
20 to 29	.0003	.0006
30 to 39	.0002	.0004
40 and over	.0001	.0002

(3) Smoke, dust and other atmospheric pollutants.

- (a) General control. The emission of smoke and other particulate matter shall not be permitted, regardless of quantity, if it will be in any way detrimental to the public health, safety, welfare or comfort or a source of damage to the property.
- (b) Method of measurement of smoke. For the purpose of grading the density of smoke, the Ringelmann Smoke Chart shall be used to determine the total smoke units emitted. A reading shall be taken every minute for an hour or, if less than an hour, until the total smoke units emitted exceed the number allowed by these regulations. Each reading shall be multiplied by the number of minutes during which it was observed and the product added.

- (c) Maximum permitted emission of smoke. There shall be no measurable emission of smoke, gas or other atmospheric pollutants. The emission of one smoke unit per hour and smoke with discernible density of No. 1 on the Ringelmann Smoke Chart shall be prohibited.
 - (d) Maximum permitted emission of dust. The emission of dust related to combustion for indirect heating from any source shall not exceed 0.30 pounds of dust per 1,000 pounds of flue gas adjusted to 50% excess air for combustion. There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating. All properties shall be suitably improved and maintained with appropriate landscaping and paving or other type of improvement, so that there will be no measurable windblown dust or other similar types of air pollution created.
- (4) Odorous matter. No land use shall be permitted which emits any discernible odor outside the premises in which the use is conducted.
 - (5) Toxic or noxious matter. No use shall be permitted which will cause any dissemination whatsoever of toxic or noxious matter outside the building in which the use is conducted.
 - (6) Radiation and electromagnetic interference.
 - (a) Radiation. The handling, storage or disposal of radioactive materials or waste by-products shall be prohibited, except when used at a health-related facility in the treatment of patients.
 - (b) Electromagnetic interference. No operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the Town.
 - (7) Fire, explosive hazard and heat.
 - (a) Fire and explosive hazard. No commercial storage or manufacture of explosives or solid materials or solid products which burn actively or which have a low ignition temperature or a high rate of burning or create great heat, under ordinary temperature conditions, shall be permitted.
 - (b) Heat. There shall be no emission of heat which would cause a temperature increase in excess of 1° F. along any adjoining lot line, whether such change

be in the air, in the ground or in any watercourse or water body.

- (8) Liquid or solid wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Orange County Department of Health, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste shall be so located and designed as to be screened from the street or from any adjoining property and so as to discourage the breeding of rodents or insects.
- (9) Vehicular traffic. No business or industrial use shall be permitted where it is determined by the Planning Board that the type and number of vehicle trips it is estimated to generate would be expected to produce unusual traffic hazards or congestion or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or other regulatory agency having jurisdiction, due to the design or capacity of the state or highway system, the relationship of such proposed use to surrounding or nearby industrial, commercial or residential uses or other factors affecting air pollution arising from mobile-source activity.
- (10) Lighting. Any outdoor lighting in any zoning district (residential or commercial) shall be arranged in such a way that no direct glare is cast toward any highway or adjacent property, and luminary devices shall be hooded and/or arranged so that the source of the illumination is not visible from such public rights-of-way or other properties. **[Added 12-27-2005 by L.L. No. 7-2005]**
- (a) Site lighting shall be reduced to a minimum level to maintain site security at the close of business and shall be controlled by motion detectors to minimize light pollution.
- (b) Lighting plan.
- [1] An outdoor lighting plan, including all exterior building-mounted lights, all pole-mounted lights, all sign lights, and all ground-mounted lights, shall be submitted to the Planning Board as part of site plan review. Any modification to an approved lighting plan, whether or not other modifications to the approved site plan are being considered, requires review and approval by the Planning Board.
- [2] The lighting plan shall include, at a minimum:

- [a] Safety or functional justification for all proposed outdoor lighting fixtures, whether on buildings, poles, or any other structure.
 - [b] How the proposed fixtures will minimize off-site light spillage.
 - [c] Hours of operation of individual lighting fixtures or systems.
 - [d] Analysis of light spillage viewsheds from all surrounding developed and undeveloped property.
 - [e] Specifications of all proposed fixtures, including light intensity ratings and coverage ratings.
 - [f] Illuminance values for all developed portions of the site in footcandles (Fc), including the following calculated values: average, maximum, minimum, average:minimum ratio, maximum:minimum ratio. Average illuminance values shall only be calculated for developed portions of the property. Any portion of the property to remain undeveloped shall not be illuminated,
 - [g] An estimate of annual energy savings in kilowatt-hours (kWh) and dollars resulting from the use of timing systems and lower-intensity fixtures.
- [3] Lighting plans shall be prepared in accordance with the guidelines established in the most recent edition of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.
- [4] The lighting plan shall account for all off-site lighting (e.g., adjacent properties, street lighting) that may increase minimum, maximum, or average values.
- [5] The lighting plan shall be prepared in coordination with the site plan and landscaping plan to take into account any structures or landscaping that may affect light distribution across the site.