

**Chapter 3. AIR POLLUTION CONTROL.
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Article 1. TITLE AND POLICY.

3-1. Title.

This chapter shall be known and cited as the Air Pollution Control Code of the City of Englewood.

3-2. Policy Statement.

Air pollution is a menace to the health, welfare and comfort of the residents of the City of Englewood and a cause of substantial damage to property. For the purpose of preventing and reducing atmospheric pollution, it is hereby declared to be the policy of the City of Englewood to minimize air pollution as herein defined and to establish standards governing the installation, maintenance and operation of equipment and appurtenances relating to combustion, which is a source or potential source of air pollution.

Article 2. DEFINITIONS.

3-3. Definitions.

The following terms wherever used herein or referred to in this Chapter shall have the respective meanings assigned to them unless a different meaning clearly appears from the context.

Air Contaminant—Solid particles, liquid particles, vapors or gases which are discharged into the outdoor atmosphere.

Air Pollution—The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property.

Asbestos—Means actinolite, amosite, anthophyllite, chrysolite, crocidolite, termolite.

Direct Heat Exchanger—Equipment in which heat from the combustion of fuel is transferred to a substance being heated so that the latter is contacted by the products of combustion and may contribute to the total effluent.

Economic Poisons—Those chemicals used as insecticides, rodenticides, fungicides, herbicides, nematocides or defoliantes.

Friable Material—Means any material which can be crumbled, pulverized, or reduced to powder by hand pressure.

Fuel—Solid, liquid or gaseous materials used to produce useful heat by burning.

Garbage—Waste animal or vegetable matter from houses, kitchens, restaurants, hotels, produce markets or any other source, or food of any kind to be thrown away.

Incinerator—Any device, apparatus, equipment or structure used for destroying, reducing or salvaging by fire any material or substance including but not limited to refuse, rubbish, garbage, trade waste, debris or scrap; or a facility for cremating human or animal remains.

Indirect Heating Exchanger—Equipment in which heat from the combustion of fuel is transferred by conduction through a heat conducting material to a substance being heated, so that the latter is not contacted by and adds nothing to the products of combustion.

Internal Cross-Sectional Dimension—Any maximum linear perpendicular distance from an inside wall of a stack or chimney to the inside of an opposite wall such as the diameter of a circular cross-section or the length or width of a rectangular cross-section.

Liquid Particles—Particles which have volume but are not of rigid shape and which, upon collection, tend to coalesce and create uniform homogeneous films upon the surface of the collecting media.

Manufacturing Process—Any action, operation or treatment embracing chemical, industrial, manufacturing or processing factors, methods or forms including but not limited to furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

Motor Vehicles—Includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

Odor—The property of a substance which affects the sense of smell.

Opacity—The property of a substance which renders it partially or wholly obstructive to the transmission of visible light expressed as the percentage to which the light is obstructed.

Open Burning—Any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney of an incinerator.

Operator—Any person who has care, custody or control of a building or premises, or a portion thereof, whether with or without knowledge of the owner thereof.

Outdoor atmosphere—Air space outside buildings, stacks, or exterior ducts.

Owner—Any person who alone or jointly, or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling or dwelling unit, as owner or agent of the owner, or as fiduciary including but not limited to executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate; or as a mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling unit shall be deemed to be a co-owner with the lessor and shall have a joint responsibility over the portion of the premises sublet or assigned by said lessee.

Particles—Any material, except uncombined water, which exists in finely divided form as liquid particles or solid particles at standard conditions.

Person—The word “Person” means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

Plant Life—Vegetation including but not limited to trees, tree branches, leaves, yard trimmings, shrubbery, grass, weeds and crops.

Refuse—Rubbish, garbage, trade waste, and plant life.

Ringlemann Smoke Chart—Ringlemann’s Scale for Grading the Density of Smoke, as published by the United States Bureau of Mines, or any chart, recorder, indicator or device which is approved by the New Jersey Department of Environmental Protection as the equivalent of said Ringlemann’s Scale or for the measurement of smoke density.

Rubbish—Waste solids not considered to be highly flammable, or explosive including but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, papers, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials.

Salvage Operation—Any operation or activity from which is salvaged or reclaimed any product or materials including but not limited to metals, chemicals or shipping containers.

Smoke—Small gasborne or airborne particles, exclusive of water vapor, arising from a process of combustion in sufficient number to be observable.

Solid Particles—Particles of rigid shape and definite volume.

Source Operation—Any manufacturing process or any identifiable part thereof emitting an air contaminant into the outdoor atmosphere through one or more stacks or chimneys.

Stack or Chimney—A flue, conduit or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

Standard Conditions—Shall be 70 degrees F. and one atmosphere pressure (14.7 psia or 760 mm Hg.).

Trade Waste—All waste solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including but not limited to plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders, and other forms of solid or liquid waste material.

Visible Smoke—Smoke which obscures light to a degree readily discernible by visual observation.

Article 3. PROHIBITION OF AIR POLLUTION, OPEN BURNING AND SMOKE.

3-4. Prohibition of air pollution.

No person or owner of property, or person or persons having possession or control thereof, shall cause, suffer, allow or permit to be emitted into the open air substances in such quantities as shall result in air pollution. The provisions of this section shall not apply to the use of economic poisons which are registered by the federal government or the State of New Jersey.

3-5. Prohibition of open burning.

(a) No person shall cause, suffer, allow or permit a salvage operation by open burning.

(b) No person shall cause, suffer, allow or permit the disposal of rubbish, garbage or trade waste, or buildings or structures, by open burning.

(c) No person shall cause, suffer, allow or permit the disposal of any type of plant life by open burning.

(d) The provisions of this section shall not apply to:

(1) Variances approved and issued by the New Jersey Department of Environmental Protection in accordance with Subchapter 2.5 of the New Jersey Administrative Code.

(2) Open burning of refuse for training or research exercises when conducted at a permanent facility or training center designed to be used solely for such purposes on a continuing basis.

3-6. Prohibition of smoke from combustion of fuel.

(a) No person shall cause, suffer, allow or permit visible smoke to be emitted into the outdoor air from combustion of fuel in any stationary indirect heat exchanger except as provided in this section.

(b) No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than No. 1 on the Ringlemann Smoke Chart, or greater than 20 percent opacity, exclusive of water vapor, to be emitted into the outdoor air from the combustion of fuel in any stationary indirect heat exchanger having a rated hourly capacity of 200 million BUT or greater gross heat input, and discharging through a stack or chimney having all internal cross-sectional dimensions of 60 inches or greater.

(c) The provisions of this section shall not apply to smoke which is visible for a period of not longer than three minutes in any consecutive 30-minute period.

(d) The provisions of this section shall not apply to direct heat exchangers or manufacturing processes, or any motor vehicle while operating on the public highway.

(e) Any person responsible for the construction, installation, alteration or use of an indirect heat exchanger shall, when requested by the Health Officer, provide the facilities and necessary equipment for determining the density or opacity of smoke being discharged into the open air.

Article 4. STANDARDS AND REGULATIONS.

3-7. Standards for the emission of solid particles.

(a) No person shall cause, suffer, allow or permit particles to be emitted from any stack or chimney into the outdoor air the shade or appearance of which is greater than 20 percent opacity, exclusive of water vapor.

(b) The provisions of this section shall not apply:

(1) to particles the shade or appearance of which is greater than 20 percent opacity, exclusive of water vapor, for a period of not longer than three minutes in any consecutive 30 minute period;

(2) to source operations issued a variance by the New Jersey Department of Environmental Protection in accordance with 7:27-6.5 of the New Jersey Administrative Code;

(3) to indirect heat exchangers;

(4) to incinerators.

3-8. Regulation of stack and chimneys.

(a) Except as herein provided, persons burning solid or liquid fuel whose products of combustion are discharged into the open air from a stack or chimney shall submit to the Health Officer information for each stack or chimney relating to place, type of fuel burned, heat content in fuel burned, quantity of fuel burned per hour and year or per hour or year, description of combustion equipment, usual period of operation, height and size of outlet, and description of air pollution control equipment, and such other pertinent information as may be requested on forms provided for that purpose by the Health Officer. The application forms shall also require submission of name, address and telephone number of the person or persons responsible for day-to-day operation and, also of the person or persons responsible for maintenance of any such equipment. Any change in the name, address or telephone number of such person or persons shall be reported within ten (10) days of the occurrence of such change to the Health Officer.

(b) Such information shall be submitted to the Health Officer within ninety (90) days after either new installations are placed into service or existing installations are altered. Nothing herein shall be construed as relieving any person from the requirements of the Building Code of the City of Englewood. Additional reports concerning these items may be requested by the Health Officer.

(c) The provisions of this Section shall not apply to equipment designed or used for heat input rate of not more than one million British Thermal Units (BTU) per hour unless the equipment is designed for or actually using #4, #5, or #6 fuel oil or coal.

3-9. Regulation of operation and installation of incinerators.

(a) No person shall operate or permit the operation of an incinerator in the City of Englewood without securing the necessary permits and operating certificates from the State Department of Environmental Protection.

(b) No person shall operate or permit the operation of an incinerator in the City of Englewood before 9:00 a.m. or after 5:00 p.m., and all operation shall be completely terminated by 5:00 p.m., including complete extinction of the fire and removal of materials from the firebox to a noncombustible container and in a safe manner, provided, however, that the Health officer may, by Special Permit, because of exceptional circumstances, permit different hours of operation under such conditions as he shall deem necessary for the health, safety and welfare of the public or of persons in the vicinity.

(c) Where the operation of an incinerator constitutes an immediate and substantial menace to public health and safety, or is a substantial source of air pollution causing irritation and discomfort to persons in the vicinity, and the owner or operator fails upon written or oral notice to take immediate corrective measures, the Health Officer may take all necessary measures to abate the condition including but not limited to ordering the cessation of use of the equipment and sealing the same, pending a hearing in the Municipal Court.

(d) No person shall cause, suffer, allow or permit smoke from any incinerator the shade or appearance of which is darker than No. 1 of the Ringlemann Smoke Chart to be emitted into the open air; or emissions of such opacity within a stack or chimney, or exclusive of water vapor, of such opacity leaving a stack or chimney to a degree greater than the emission designated as No. 1 of the Ringlemann Smoke Chart.

(e) The provisions of Section 3-9(d) shall not apply to smoke emitted during the building of a new fire, the shade or appearance of which is not greater than No. 2 of the Ringlemann Smoke Chart for a period of three consecutive minutes or emissions of such opacity within a stack or chimney, exclusive of water vapor, of such opacity leaving a stack or chimney to a degree greater than the emission designated as No. 2 of the Ringlemann Smoke Chart, for a period of no greater than three consecutive minutes.

(f) No person shall cause, suffer, allow or permit the emission from any incinerator of particles of unburned waste or ash which are individually large enough to be visible while suspended in the atmosphere.

(g) No person shall construct, install, use or cause to be used any incinerator which will result in odors being detectable by sense of smell in any area of human use or occupancy.

Article 5. CONTROL AND PROHIBITION OF AIR POLLUTION FROM ASBESTOS SURFACE COATINGS.

3-10. Control and prohibition of air pollution from asbestos surface coatings.

No person shall cause, suffer, allow or permit surface coating by spraying on any building, structure, facility, installation or internal or external portion thereof, asbestos or friable material containing in excess of 0.25% (by weight) asbestos.

3-11. Tests.

(a) Any person responsible for the manufacture, application or use of any coating, which the Health Officer, or any agent thereof, has reason to believe contains asbestos, shall, when requested by the Health officer, conduct such tests as are necessary in the opinion of the Health Officer to determine the presence, the amount and the kinds of asbestos in the coating. Such tests shall be conducted in a manner approved by the Health Officer and shall be made at the expense of the person responsible.

(b) The Health Officer may waive the testing requirements of sub-section (a) of this Section upon receipt of a materials specifications report from the material manufacturer certifying that the asbestos content of the surface coating for which testing is required complies with the provisions of this Section.

Article 6. INSPECTIONS, RIGHT OF ENTRY AND WARRANTS.

3-12. Inspections.

(a) Emergency inspections may be authorized without warrant if the Health Officer has reason to believe that a condition exists which poses an immediate threat to life, health or safety. Such procedure shall only take place where the time taken to apply for and secure the issuance of a warrant would render ineffective the immediate action necessary to abate the condition.

(b) Emergency inspections may also be authorized by the Governor in times of air pollution emergencies in accordance with N.J.S.A. 26:2C-26 et seq.

3-13. Right of Entry.

Where the Health Officer or his agent is refused entry or access, or is otherwise impeded or prevented by the owner, occupant or operator from conducting an inspection of the premises, such person shall be in violation of this Code and subject to the penalties hereunder.

3-14. Search warrant or access warrant.

The Health Officer may, upon affidavit, apply to the Judge of the Englewood Municipal Court for a search warrant setting forth factually the actual conditions and circumstances that indicate the violations of the Code may exist on the premises. If the Judge of the Englewood Municipal Court is satisfied as to the matter set forth in said affidavit, the judge shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

Article 7. PENALTIES.

3-15. Penalties.

(a) Any person who shall violate any of the provisions of this Code, or who shall fail to comply therewith or with any of the requirements, shall be punishable by a fine not to exceed \$500 or imprisonment for a term not to exceed ninety (90) days, or both, for each violation. Each day that such violation shall continue shall constitute a separate offense.

(b) The violation of any section or subsection of this Code shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Code.

Article 8. CONSTRUCTION AND SEVERABILITY.

3-16. Construction and severability.

(a) This Chapter is to be liberally construed to effectuate the purpose herein described. Nothing herein is to be construed as repealing or abridging the emergency powers of any agency of government except to the extent expressly set forth herein.

(b) This Chapter is promulgated and adopted in accordance with Section 26:2C-8 of P.L. 1954, C.212 (Title 26:2C-1 to 2C-23), amended by P.L. 1962, C.215; P.L. 1967, C.105; and P.L. 1967, C.106; and nothing contained herein or any action taken hereunder is to be interpreted as being in conflict with the New Jersey Air Pollution Control Act and the New Jersey Administrative Code.

~~2019 Supplement to the City of Chicago Health Code~~
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