§ 170-1. Legislative declaration.

It is hereby declared that air pollution is a menace to the health, welfare and comfort of the residents of the Township of East Hanover 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 Township of East Hanover Board of Health 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.

§ 170-2. 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 (1) 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 — Actinolite, amosite, anthophyllite, chrysotile, crocidolite, tremolite.

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.

DIRECTOR OF AIR POLLUTION CONTROL or DIRECTOR — The person or persons who are
authorized by this chapter to exercise the power prescribed by this chapter, who shall be the Health Administrator or Health Officer of the Township of East Hanover, or Sanitarian.

ECONOMIC POISONS — Those chemicals used as insecticides, rodenticides, fungicides, herbicides, nematocides or defoliants.

INTERNAL CROSS-SECTIONAL DIMENSION — Any maximum linear perpendicular distance from an inside wall of a stack or chimney to the inside of the on-site 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, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers separators filters reboilers, columns, classifiers, screens.

FRIABLE MATERIAL — 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 or energy 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 HEAT EXCHANGER — Equipment in which heat from the combustion of fuel is transferred by conduction or radiation 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.

MOTOR VEHICLE — 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 of 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, care or control of any dwelling, dwelling unit or structure as owner or agent of the owner or as fiduciary, including but not limited to 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, dwelling unit or structure shall be deemed to be a co-owner with the lessor and shall have 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 — Includes corporations, companies, associations, societies, firms, partnerships and joint-stock companies as well as individuals, and also includes 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.

RINGELMANN SMOKE CHART — Ringelmann’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 Ringelmann’s Scale 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 material, 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 (1) 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 seventy degrees Fahrenheit (70° F.) and one (1) atmosphere of pressure [fourteen and seven-tenths (14.7) pounds per square inch absolute or seven hundred sixty (760) millimeters of mercury].

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 materials.

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

§ 170-3. 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.

§ 170-4. Prohibition of open burning; exceptions.

A. Prohibited operations

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

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

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

B. The above-mentioned limitations in Subsection A(1), (2) and (3) are further defined in N.J.A.C. 7:27-2, Control & Prohibition of Open Burning, of the New Jersey Administrative Code.

C. 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 N.J.A.C. 7:27-2 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.

§ 170-5. Prohibition of smoke from combustion of fuel; exceptions

A. Prohibited emission of smoke.

(1) 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 Subsection A(2) hereof.

(2) No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than No. 1 on the Ringelmann Smoke Chart or greater than twenty-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 two hundred million (200,000,000) Btu’s or greater gross heat input or discharging through a stack or chimney having all internal cross-sectional dimensions of sixty (60) inches or greater.

B. The provisions of Subsection A(1) and (2) shall not apply to smoke which is visible for a period of not longer than three (3) minutes in any consecutive thirty-minute period.
C. The provisions of this section shall not apply to home fireplaces, barbeque-type cooking, direct heat exchangers or manufacturing processes or any motor vehicle while operating on the public highways.

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

§ 170-6. Standards for 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 twenty-percent opacity, exclusive of visible condensed water vapor.

B. The provisions of this section shall not apply to:

1. Particles the shade or appearance of which is greater than twenty-percent opacity, exclusive of visible condensed water vapor, for a period of not longer than three (3) minutes in any consecutive thirty-minute period.

2. Source operations issued a variance by the New Jersey Department of Environmental Protection in accordance with Subchapter 6.5 of the New Jersey Administrative Code.

3. Indirect heat exchangers.

4. Incinerators.

5. Home fireplaces and barbeque-type cooking.

§ 170-7. Regulation of stacks 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 Director information for each such stack or chimney relating to place, type of fuel burned per hour and/or year, description of combustion equipment, usual period of operation, height and size of outlet, description of air pollution control equipment and such other and pertinent information as may be requested on forms provided for that purpose by the Director. The application forms shall also require submission of name, address and telephone number of person or persons responsible for day-to-day operation and, also, of 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 Director.

B. Such information shall be submitted to the Director at least sixty (60) days before 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 Township of East Hanover. Additional reports concerning these items may be requested by the Director.

1 Editor’s Note: Currently, see Ch. 75, Construction Codes, Uniform.
C. The provisions of this section shall not apply to equipment designed or used for a heat input rate of not more than one million (1,000,000) Btu’s per hour unless the equipment is designed for or actually using No. 4, No. 5 or No. 6 fuel oil or coal.

§ 170-8. Regulation of incinerators.

No person shall operate or permit the operation of an incinerator in the Township of East Hanover.

§ 170-9. Regulation of asbestos surface coating.

A. 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 twenty-five hundredths percent (0.25%) (by weight) of asbestos.

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

C. The Director may waive the testing requirements of Subsection B hereof upon receipt of a materials specification report from the material manufacturer certifying that the asbestos content of the surface coating for which testing is required complies with the provisions of Subsection A hereof.

§ 170-10. Director of Air Pollution Control.

The Health Officer or Health Administrator of the Township of East Hanover shall, in addition to his other duties, enforce and administer the provisions of this chapter, and, in exercising his powers and duties hereunder, shall be known as the “Director of Air Pollution Control.” The Director may appoint or designate other employees or officers of the East Hanover Board of Health to perform duties necessary for the enforcement of this chapter.

§ 170-11. Emergency inspections; right of entry.

A. Emergency inspections may be authorized without warrant if the Director 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 any 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-32.

C. Where the Director 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 chapter and subject to the penalties hereunder.

§ 170-12. Search warrant; right to inspect.

A. The Director may, upon affidavit, apply to the Judge of the Township of East Hanover for a search warrant, setting forth factually the actual conditions and circumstances that provide a reasonable
basis for believing that a violation of the chapter may exist on the premises, including one (1) or more of the following:

1. The premises require inspection according to the cycle established by the township for periodic inspections of premises of the type involved.

2. Observation of external conditions (smoke ash, soot, odors) of the premises and its public areas has resulted in the belief that violations of this chapter exist.

3. Circumstances such as age and design of fuel-burning equipment and/or system, type of incinerator, particular use of premises or other factors render systematic inspections of such buildings necessary in the interest of public health and safety.

B. If the Judge of the Township of East Hanover is satisfied as to the matter set forth in the said affidavit, he 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.

C. All buildings and premises subject to this chapter are subject to inspection from time to time by the Director of Air Pollution Control or his duly authorized representatives. All rooms and areas in the building shall be available and accessible for such inspection, which shall be made during usual business hours if the premises are used for nonresidential purposes; provided, however, that inspections may be made at other times if:

1. The premises are not available during the foregoing hours for inspection.

2. There is reason to believe that violations are occurring on the premises which can be determined and proved by inspection only during other than the prescribed hours.

3. There is reason to believe a violation exists of a character which is an immediate threat to health or safety, requiring inspection and abatement without delay.


Any person who shall violate any of the provisions of this chapter shall, upon conviction, be subject to the penalties provided in § 164-14 of Chapter 164, General Provisions, Board of Health.


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 L. 1954, c. 212 (Title 26:2C-1 to 2C-23), amended by L. 1962, c. 215; L. 1967, c. 105; and 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.