

## Chapter 37

### AIR QUALITY CONTROL

[HISTORY: Adopted by the Board of Commissioners 4-4-1973. Readopted as revised 1-8-1986 by Res. No. 85-6. Subsequent amendments noted where applicable.]

#### § 37-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**AIR POLLUTION** -- The presence in the outdoor atmosphere of substances in quantities, having characteristics and being of a duration which, from any single source or in combination with other sources, are or may be predicted with reasonable certainty to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the proper enjoyment of the property of others by reason of the emission of odor, solids, vapors, liquids or gases, throughout the Town of Thurmont, Maryland.

**CONTROL OFFICERS** -- Any official appointed by the Commissioners of Thurmont such as the Thurmont Police Department, the Guardian Hose Company, the Frederick County Health Department and/or a designated inspector of the Town of Thurmont, Maryland.

**DEPARTMENT** -- The Commissioners of Thurmont, Maryland.

**EMERGENCY** -- Any sudden, unexpected and unforeseen condition of such public gravity and exigency as to require immediate action, or a condition which is predicted with reasonable certainty to require immediate action to carry out the purposes of this chapter.

**EMISSIONS** -- Any substance, other than water in an uncombined form, discharged directly or indirectly into the atmosphere, including but not limited to odors, particulate matter, vapors or gases or any combination thereof.

**INCINERATORS** -- Any equipment, device or contrivance used for the destruction of garbage, rubbish or other wastes by burning.

**INSTALLATION** -- Any article, machine, equipment or other contrivance, including but not limited to emission control equipment, processing equipment, manufacturing equipment, fuel-burning equipment, incinerators, or any equipment or construction capable of generating, causing or reducing emission.

**INSTALLATION, EXISTING** -- Those erected prior to January 17, 1972.

**INSTALLATION, MODIFIED** -- Those altered, changed or added to on or after January 17, 1972.

**NEW PLANT** -- Any installation for which the major proportion the fuel-burning, incineration, processing or manufacturing equipment in the installation is erected on or after January 17, 1972. This definition is not intended to apply to a modified installation where new control equipment is added to an existing installation. In questionable cases, the determination of "new plant" shall be made by the Department.

**ODOR** -- That property of an emission which stimulates the sense of smell.

OPEN FIRE -- A fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or other equipment connected to a stack or chimney.

ORIGINATING or ORIGINATED ON THE PREMISES -- Materials or items on the premises when they are to be disposed of and not brought to the premises by other persons for disposal.

PARTICULATE MATTER -- Any material, except water in uncombined form, that is or has been airborne, and exists as a liquid or a solid at a temperature of 70° F. and a pressure of 29.92 inches of mercury.

PERSON -- Any individual, group of individuals, firm, partnership, voluntary association or private, public or municipal corporation, or political subdivision of the town responsible for the use of the property.

RINGELMANN SMOKE CHART -- The chart published and described in the latest applicable United States Bureau of Mines Information Circular, used in estimating the light obscuring power of smoke. Any other method for grading smoke which is approved by the State Department of Health and Mental Hygiene as the equivalent of the "Ringelmann Smoke Chart" may be substituted therefor.

SOURCE -- Any property, real or personal, or person contributing to air pollution.

§ 37-2. Open fire restrictions.

A. General. No person shall cause, suffer, allow or permit an open fire except as provided in Subsection B.

B. Exceptions.

(1) The Control Officer may, upon receipt of an application made on forms provided by the Department or local fire control agency, issue or approve a permit in writing allowing an open fire, provided that all of the following conditions are met:

(a) The Control Officer is satisfied that there is no practical alternate method to dispose of the material to be burned or to conduct the desired activity.

(b) No hazardous condition or air pollution or nuisance will be created.

(c) Fire control laws or regulations of other governmental agencies will not be violated.

(d) No materials which produce dense smoke when burned, including but not limited to tires and roofing material, will be burned.

(e) The material to be burned shall have originated on the premises on which it is to be burned.

(f) The Control Officer may impose other conditions to minimize creation of smoke, to prevent nuisance and air pollution and to protect the health, safety, comfort and property of any persons.

(2) Public officers, in the performance of their official duties, may set an open fire or give permission for an open fire, with concurrence of the Control Officer, provided that all

reasonable means are employed to minimize smoke and the fire is necessary for one or more of the following reasons or purposes:

- (a) For the prevention of a fire hazard that cannot be abated by other means.
  - (b) For the instruction of public fire fighters or industrial employees under supervision of the appropriate fire control official.
  - (c) For the protection of public health or safety when other means for disposing of hazardous materials are not available.
- (3) Open fires otherwise in conformance with other governmental fire control ordinances, provided that no nuisance or air pollution is created, are without permission as follows:
- (a) In those areas where no provision is made for public collection of leaves, the open burning of leaves originating on the premises by householders is permitted on and after July 1, 1973; however, no leaves shall be burned at locations closer than 200 feet from any neighboring habitable dwelling or place where people work or congregate.
  - (b) In those areas where no provision is made for public collection of refuse, burning of ordinary household trash, paper, tree limbs and dried weeds originating on the premises, excluding commercial establishments, by householders is permitted, provided that:
    - [1] Garbage or other materials are not to be burned which create unpleasant odors or dense smoke (emissions of an opacity or darkness greater than No. 2 on the Ringelmann Smoke Chart).
    - [2] On and after July 1, 1973, no refuse shall be burned at locations closer than 200 feet from any neighboring habitable dwelling or place where people work or congregate.
  - (c) Cooking of food.
  - (d) Fires set in the course of agricultural operations in growing crops or raising fowl or animals or in accepted forestry practice. In no case shall this provision be construed as allowing the burning of materials which produce dense smoke, such as tires, oil, etc.
  - (e) Recreational purposes, such as campfires.
  - (f) Oil- or gas-fired salamanders or similar devices designated specifically for space heating or warming of outdoor workers, etc., provided that no visible emissions are created.
  - (g) Warming fires for outdoor workers, provided that smoke emissions are not darker than No. 2 on the Ringelmann Smoke Chart, and the fires are located no closer than 200 feet from any neighboring habitable buildings.

A. New plants. No person shall cause, suffer, allow or permit the discharge of emissions from any new plant or building, other than water in an uncombined form, which are visible to human observers.

B. Existing and modified installations.

(1) Existing and modified bituminous concrete manufacturing plants. No person shall cause, suffer, allow or permit the discharge of emissions from any existing or modified bituminous concrete manufacturing installation, other than water in an uncombined form, which are visible to human observers.

(2) Other existing and modified installations. No person shall cause, suffer, allow or permit emissions from any other existing installation, modified installation or building that are darker in shade or appearance than that designated as No. 1 on the Ringelmann Smoke Chart; or of such opacity as to obscure an observer's view to a degree greater than does smoke designated as No. 1 on the Ringelmann Smoke Chart.

C. Exceptions.

(1) Sections 37-1 and 37-2 shall not apply to emissions during the building of a new fire, cleaning of fires, soot blowing, start-up and process modification or adjustment, or occasional cleaning of control equipment, the shade or appearance of which is not darker than No. 2 on the Ringelmann Smoke Chart for a period or periods aggregating no more than four minutes in any 60 minutes.

(2) The provisions of § 37-1 shall not apply to emissions of the following:

(a) From the burning of wood in fireplaces on premises used for residential or recreational purposes.

(b) From open fires (except salamanders) permitted under provisions of § 37-2 of this chapter.

(3) The Control Officer may grant exceptions to § 37-2 above under the following conditions:

(a) When the application of § 37-2 to a residential building housing two or less families creates undue economic hardship on individuals residing therein.

D. Beyond the property line. No person shall cause, suffer, allow or permit visible emissions beyond the lot line of the property on which emissions originate.

#### § 37-4. Particulate matter emissions.

A. Particulate matter from materials handling and construction and other acts. No person shall cause, suffer, allow or permit any material to be handled, transported or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, when appropriate as determined by the Control Officer, but not limited to the following:

(1) Use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land.

(2) Application of asphalt, oil, water or suitable chemicals on dirt roads, materials, stockpiles and other surfaces which can create airborne dusts.

(3) Installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sand blasting or building or other similar operations.

(4) Covering, at all times when in motion, open-bodied vehicles transporting materials likely to create air pollution. Alternate means may be employed to achieve the same results as would covering.

(5) The paving of roadways and their maintenance in a clean condition.

(6) The prompt removal from paved streets of earth or other material which has been transported thereto by trucks or earth-moving equipment or erosion by water.

§ 37-5. Gas, vapor and odor emissions.

No person shall cause, suffer, allow or permit the discharge into the atmosphere of gases, vapors or odors beyond the property line in such a manner that a nuisance or air pollution is created.

§ 37-6. Installations and operations.

No installation or premise shall be operated or maintained in such a manner that a nuisance or air pollution is created. Nothing in this chapter shall in any manner be construed as authorizing or permitting the creation or maintenance of a nuisance or air pollution.

A. Circumvention. No person shall install or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total weight of emissions, conceals or dilutes an emission which would otherwise constitute a violation of any applicable air pollution control regulation.

B. Malfunction of an installation; requirement for notification. When a malfunction in any installation occurs that can be expected to increase the emissions and to continue for a period greater than four hours, the person shall notify the Control Officer by telephone. On receipt of this notification, the Control Officer may permit the continuance of the operation for a period not to exceed 10 days, provided that written application is made to the Control Officer. Such application shall be made within 24 hours of the malfunction or within such other time period as the Control Officer may specify.

C. Refuse burning prohibited in certain installations. No person shall burn refuse in any plant, installation or equipment not specifically designed, constructed or modified for that purpose.

D. Prohibition of certain new fuel-burning plants.

(1) No person shall construct a new fuel-burning plant designed for use of residual fuel oil in which any individual furnace has a rated heat input of less than 5,000,000 BTU's per hour nor shall residual fuel oil be used at any time in any new fuel-burning plant having a rated heat input of less than 5,000,000 BTU's per hour.

(2) No person shall construct a new fuel-burning plant designed for use of coal in which any individual furnace has a rated heat input of less than 250,000,000 BTU's per hour nor shall coal be used at any time in any new fuel-burning plant having a rated heat input of less than 250,000,000 BTU's per hour.

§ 37-7. Reporting information.

Persons responsible for installations which may result in air pollution shall, if so requested by the Department, file with the Department reports containing information which shall include the following:

- A. Description of the installation.
- B. Design capacity of the process equipment, including process weight and process weight per hour.
- C. Expected physical and chemical composition of the emission, and pertinent design criteria such as discharge rate, concentration, volume and temperature.
- D. Type and general characteristics of the control equipment.
- E. Description and evaluation of the location of the discharge point and other factors relating to description and diffusion in the atmosphere.
- F. Information on the relation of the discharge point to nearby structures and topography necessary to appraise the possible effects of the emissions.
- G. Such other information as the Department may require.

§ 37-8. Inspections; right of entry.

Any duly authorized officer, employee or representative of the Department may enter and inspect any property, premise or place at any reasonable time for the purpose of investigation or testing either an actual or suspected source of air pollution, or of ascertaining the state of compliance with this chapter. No person shall refuse entry or access to any authorized representative of the Department who requests entry for the aforementioned purposes, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection.

§ 37-9. Confidentiality of records.

Information relating to secret processes or methods of manufacture or production may be withheld by any person from disclosure at a public hearing before the Department, but shall be furnished to the Department under conditions which will prevent its public disclosure, and any such information which may be required, ascertained or discovered by any inspector or other employee of the Department shall be kept confidential.

§ 37-10. Enforcement.

The Attorney for the Town of Thurmont and/or the Attorney for Frederick County shall enforce compliance with requirements of this chapter through any appropriate legal remedies, and shall prosecute violations in accordance with the provisions of this chapter.

§ 37-11. Exemptions.

Any person who, pursuant to Article 43, Section 703(a) of the Annotated Code of Maryland, Revised 1957; 1971 Replacement Volume, has submitted a plan for compliance and who has had that plan approved by the Secretary of Health and Mental Hygiene, or any person who has submitted such a plan for

compliance and whom the Maryland State Department of Health and Mental Hygiene as certified is actively engaged in good faith negotiation of such a plan for compliance shall not be considered to be in violation of this chapter as long as he acts in accordance with an approved plan for compliance or so long as said State Department certifies active good faith negotiations are being carried on.

§ 37-12. Construction; 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 or government except to the extent expressly set forth herein.

B. If any section, subsection, paragraph, sentence, clause, phrase or portion of this chapter shall be adjudged invalid for any reason whatsoever, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof which shall remain in full force and effect.

§ 37-13. Violations and penalties.

Violation of any provision of this chapter is declared to be a municipal infraction. A warning citation will be issued before any penalty is imposed. The penalty for any violation after a warning citation is issued shall be the sum of \$25.