

## Chapter 62

### AIR POLLUTION CONTROL

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[HISTORY: Adopted by the Council of the Borough of Berwick 8-8-1978 by Ord. No. 1126. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction and fire prevention — See Ch. 70.

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#### § 62-1. Policy declared.<sup>1</sup>

Whereas pollution of the air is detrimental to the health, comfort, living conditions, welfare, safety and property of the citizens of Berwick, it is hereby declared to be the policy of the Borough of Berwick to safeguard the citizens and property of the Borough of Berwick from air pollution.

#### § 62-2. Definitions.

The following words, terms and phrases, when used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings respectively ascribed to them:

**AIR CONTAMINANT** — Smoke, dust, fumes, gas, odor, mist, vapor or pollen, or any combination thereof.

**AIR CONTAMINATION** — The presence in the outdoor atmosphere of an air contaminant which contributes to condition of air pollution.

**AIR CONTAMINATION SOURCE** — Any place, source, facility or equipment from or by reason of which there is emitted into the outdoor atmosphere an air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in or on which such source is located or the facility, equipment or other property by which the emission is caused or from which the emission comes.

**COUNCIL** — The Borough Council of Berwick, Pennsylvania.

**FLUE** — Any duct, passage, stack, chimney or conduit permitting air contaminants to be emitted into the open air.

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<sup>1</sup> Editor's Note: Former Section 1, which immediately preceded this section and which related to the short title, was omitted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**FUEL-BURNING EQUIPMENT** — Any furnace or other device, excluding incinerators, in which fuel is burned for the production of steam, hot water or hot air and from which products of combustion are the sole stack effluent.

**GARBAGE** — All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**INCINERATOR** — Any device specifically designed for the destruction by burning of refuse, sewage sludge or other combustible waste material.

**ODOR** — That property of a substance which affects the sense of smell.

**OPEN BURNING** — Any unenclosed fire wherein products of combustion are emitted to the open air and are not directed thereto through a flue.

**PERSON** — Any individual, partnership, association, syndicate, company, firm, trust, corporation or other entity recognized by law as the subject of rights and duties, including any governmental agency.

**REFUSE** — Garbage, rubbish and trade waste.

**RINGELMANN SMOKE CHART** — The Ringelmann scale for grading the density of smoke, as published by the United States Bureau of Mines, or any scale, chart, recorder, indicator or device for the measurement of smoke density, adopted and approved by the Borough of Berwick Council for measurement of smoke density, which is the equivalent of said Ringelmann scale and is approved by the Department of Environmental Resources and the borough as an acceptable smoke opacity (density) reading measure.

**RUBBISH** — Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

**SALVAGE OPERATIONS** — Salvaging or reclaiming of any product or material, including but not limited to metals, chemicals, shipping containers or drums.

**SMOKE** — Extremely small solid particles produced by incomplete combustion of organic substances, including but not limited to fly ash, cinders, tarry matter, unburned gases, soot or carbon and gaseous combustion products.

**TRADE WASTE** — All 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, chemical, cinders and other forms of solid or liquid waste materials; provided, however, that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

### § 62-3. Air Pollution Control Officer.

- A. Appointment. The Berwick Borough Council may appoint or designate the Air Pollution Control Officer, together with such assistants as may be deemed necessary to carry out the provisions of this chapter, and shall provide funds for the salary and expenses of the Air

Pollution Control Officer. Until the Air Pollution Control Officer is appointed, the Fire Chief shall perform all the duties of said officer. When such Air Pollution Control Officer is appointed and qualified, he shall perform all such duties in cooperation with the Fire Chief.

- B. **Qualifications.** Where such competence is required, the Borough of Berwick Air Pollution Control Officer shall be qualified by technical training and practical experience in the theory and practice of the construction and operation of fuel-burning equipment and incinerators. The Air Pollution Control Officer shall be capable of accurately and reliably reading the Ringelmann Smoke Chart or other measuring device adopted by the borough. Other qualifications and experience as established by the Berwick Borough Council shall be based upon the level of experience required to enforce this chapter.
- C. **Duties.** The Berwick Borough Air Pollution Control Officer shall have the powers and duties to:
- (1) Enforce the provisions of this chapter and the rules and regulations contained therein.
  - (2) Receive and initiate complaints of violations of the regulations of this chapter.
  - (3) Enter and inspect any building, property, premises or place for the purpose of investigating an actual or suspected source of air pollution or for the purpose of ascertaining compliance or noncompliance with any regulation of this chapter.
  - (4) Have access to and require information pertinent to any matter under investigation.
  - (5) Send written notice of any violation of this chapter to the person responsible for the violation.
  - (6) File monthly a written report with the Council of activities conducted, including any violations of any regulations of this chapter.
  - (7) Institute prosecution for violation of the regulations of this chapter.
  - (8) Render assistance and technical advice, as needed, to any persons engaged in operations which may cause air pollution.

**§ 62-4. Restricted activities. [Amended 3-20-1995 by Ord. No. 95-4]**

- A. No person shall cause, suffer, allow or permit smoke from any source, including but not limited to fuel-burning equipment or incinerators, the shade or appearance of which is darker than shade No. 2 of the Ringelmann Smoke Chart or which has a density of 20%, to be emitted into the outdoor atmosphere, which smoke is visible at the time it passes outside the person's property, with a density of 20% or more after passing said property line. The following exceptions may be permitted:
- (1) Smoke emitted during the cleaning of a firebox or the building of a new fire may be darker than No. 2 of the Ringelmann Smoke Chart for a period or periods aggregating not more than six minutes in any 60 consecutive minutes.

- (2) Domestic yard cleanup on the owner's property at times designated by the Borough Council and provided that burning is attended and in compliance with conditions and regulations established.
  - (3) Domestic burning of nontoxic trade waste, other than plastics, chemicals and petroleum products, by nonprofit organizations only, with prior written approval of the Borough Manager.
- B. No person shall conduct a salvage operation, destroy refuse, engage in cleanup of property or cause, suffer, allow or permit scrap and junk materials and equipment to be destroyed by open burning.
- C. No person shall cause, suffer, allow or permit the emission of any noxious or offensive odor from an air contamination source.

**§ 62-5. Interference with Air Pollution Control Officer.**

No person shall in any manner hinder, delay, obstruct, resist, prevent or in any way interfere with the Air Pollution Control Officer or his assistants in the performance of their duties hereunder or refuse such personnel, after proper identification, entrance at reasonable hours to any premises.

**§ 62-6. Notice of violation; compliance.**

No person shall fail, neglect or refuse to comply with any written abatement notice served on such person either personally or by registered or certified mail, issued by the Air Pollution Control Officer of the Borough of Berwick. Such notice shall set forth a violation of this chapter and a time within which the violation is to be abated. Any person receiving such abatement notice may obtain an extension of time to comply therewith by making application to and obtaining the approval of the Berwick Borough Council.

**§ 62-7. Violations and penalties.**

- A. Prosecutions under this chapter shall be instituted by the Borough of Berwick Air Pollution Control Officer and shall be prosecuted in the name of the Borough of Berwick, Pennsylvania. Any person violating any of the provisions of this chapter shall, upon conviction thereof by any District Justice, be sentenced to pay a fine of not less than \$100 nor more than \$500, together with the costs, for the first violation, and not less than \$300 nor more than \$1,000, together with the costs, for the second and subsequent violations. Each day that a violation exists shall constitute a separate offense. Upon default in the payment of any fine, the defendant shall be sentenced to jail for a period not exceeding 30 days.
- B. The Air Pollution Control Officer may institute an action in equity for an injunction to restrain continuous violations of this chapter in the event that the Air Pollution Control Officer has issued an abatement notice which is being violated and which is not then the subject of judicial review.

- C. The Air Pollution Control Officer may institute appropriate civil remedies in addition thereto for violations of this chapter or any rules and regulations established hereunder.

