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Underscored text is proposed to be added. [Bracketed] text is proposed for deletion.

[ARTICLE III. AIR POLLUTION CONTROL¹

Sec. 11-31. Definitions.

As used in this article, the following terms shall have the meanings indicated, unless the context clearly indicates otherwise:

Air pollution means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in such quantities and of such characteristics and duration as is, or is likely 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.

Emission means a release into the outdoor atmosphere of air contaminants.

(Code 1960, § 50-1; Ord. of 3-10-72)

Cross reference(s)—Rules of construction and definitions generally, § 1-3Cross reference(s)—.

Sec. 11-32. Statement of purposes.

The purposes for the adoption of this article are as follows:

- (1) Recognizing the direct relationship between polluted air and an unhealthful environment; recognizing further that air pollution is presently affecting the lives and health of the citizens of the city and damaging or destroying their property; it is hereby declared to be the public policy of the city to preserve, protect and improve the air resources of the city so as to promote the health, safety and welfare of the city's inhabitants and to the greatest degree practicable, facilitate the enjoyment of the natural attractions of the city;
- (2) To provide a comprehensive program for the prevention and control of air pollution in the city;
- (3) To aid in promoting the health, safety and welfare of the city's inhabitants; and
- (4) To facilitate the enjoyment of the natural attractions of the community.

(Code 1960, § 50-1; Ord. of 3-10-72)

¹Cross reference(s)—Water pollution control, § 22-94Cross reference(s)—.

State law reference(s)—Authority to adopt rules and regulations for air pollution control, G.S. § 19-520a.

Sec. 11-33. Director of health's powers and duties.

The director of health of the city, in addition to any other powers vested in him by law, shall have and may exercise the following powers and duties in accordance with the provisions of this article and pursuant to rules and regulations adopted hereunder:

- (1) Develop a comprehensive program for the prevention and control of air pollution in the city;
- (2) Pursuant to rules and regulations adopted by the board of health, subject to section 11-34 of this article, require any person to submit to him for approval (and/or a permit) any plans, specifications and other data related to construction, modification or use of any article, machine, equipment, facility or installation which has caused, may cause, or is intended primarily to prevent or control the emission of air pollutants. Should such approval (and/or permit) be denied, the director of health may prohibit the installation, alteration or use of such article, machine, equipment, facility or installation;
- (3) Issue, modify, revoke or enforce orders requiring compliance with this article or rules or regulations promulgated hereunder, subject to section 11-34 of this article, by the board of health;
- (4) Enforce compliance with the laws of the state and rules or regulations promulgated thereunder related to air pollution;
- (5) Advise, consult and cooperate with other agencies of the city, political subdivisions of the state, industries, agencies of the state, the federal government and affected groups and persons in furtherance of the purposes of this article;
- (6) Encourage and conduct studies and research relating to air pollution and conservation of the air resources of the city;
- (7) Investigate complaints about air pollution and secure abatement of the cause thereof;
- (8) Collect and disseminate information relating to air pollution; and
- (9) Encourage voluntary cooperation by people, industries, other agencies of the city and others in preventing and controlling air pollution in the city;
- (10) In the event of any written complaints or upon his own initiative, the authority to enter and inspect any building or place, except a private residence, for the purpose of investigating conditions relating to air pollution and ascertain compliance with the provisions of the laws of the state and rules and regulations promulgated thereunder related to air pollution, and to investigate compliance with this article, and rules and regulations adopted hereunder. He and/or his deputies shall have the authority to inspect such premises to determine compliance with the provisions of the laws of the state and rules and regulations promulgated thereunder related to air pollution and compliance with the provisions of this article, and rules and regulations adopted hereunder by the board of health. All information gained by such inspection shall be kept confidential except as it relates directly to air pollution;

- (11) Accept, receive and administer funds, grants or gifts from public or private agencies, including the federal government, for the purpose of carrying out any of the functions provided in this article. Such funds received by the director of health shall be deposited with the comptroller of the city and held in a special account established for air pollution control activities of the department of health;
- (12) Represent the city in any and all matters relating to air pollution;
- (13) Appoint, convene and dissolve special advisory groups to consider and report on any matters relating to air pollution;
- (14) Employ personnel, purchase equipment, supplies and materials and enter into contracts to carry out the purposes of this article in conformance with any practices of the city applicable to the department of health;
- (15) Carry out all other activities as may be necessary to enforce this article and the rules and regulations promulgated hereunder by the board of health;
- (16) Designate a member or members of his staff to inspect, investigate, prepare reports and perform any other duties required to carry out the purpose of this article or to enforce the rules and regulations of the board of health adopted pursuant to the authority herein granted.

(Code 1960, § 50-2; Ord. of 3-10-72)

Cross reference(s)—Director of health generally, § 11-18.

Sec. 11-34. Board of health's powers and duties.

In addition to any other duties and powers vested in it by law, the board of health shall have the following powers and duties:

- (1) To adopt, promulgate, amend and repeal all rules and regulations for the prevention, control and abatement of air pollution subject to approval by the city council of the board's recommendations for such regulations. Any such regulations enacted under this subparagraph, as well as any changes, shall be consistent with state and federal air pollution control statutes, rules and regulations.
- (2) To promulgate a system of alerts to prevent and reduce the risk of situations in which there may be imminent and serious danger to the public health and welfare of the community from air pollution.
- (3) To adopt rules and regulations whereby the director of health shall be empowered to provide for the issuance, suspension and revocation and renewal of any permits that it may require pursuant to this article, and rules and regulations adopted hereunder, subject to approval by the city council of its recommendations for such rules and regulations.

(Code 1960, § 50-3; Ord. of 3-10-72)

Cross reference(s)—Board of health generally, § 11-17.

Sec. 11-35. Public hearings on proposed rules; notice of adoption.

The city council shall hold a public hearing with respect to the adoption, repeal or amendment of any rule or regulation relating to the control of air pollution, notice of which hearing shall be published in a newspaper having a general circulation in the city at least seven (7) days before such hearing. A copy of the proposed rules and regulations shall be filed with the town clerk not less than seven (7) days prior to the date of such public hearing. Such rules and regulations shall become effective on such day as the board of health shall prescribe provided that a notice setting forth the fact of their adoption and their effective date shall have been published twice consecutively in a newspaper having a general circulation in the city at least two (2) weeks prior to the effective date and provided, further, that a copy of such rules and regulations as adopted shall have been filed with the town clerk prior to their effective date and that such filing shall have been noted in such notice.

(Code 1960, § 50-3; Ord. of 3-10-72)

Sec. 11-36. Appeal from orders of director of health.

- (a) Any person who is aggrieved by an order of the director of health issued in connection with any alleged violation of this article or of applicable rules and regulations issued pursuant hereto may apply to the board of health in writing for a reconsideration and review of such order within ten (10) days after issuance on forms supplied by the director of health.
- (b) The completed form shall state the name and address of the aggrieved party and shall set forth in brief the reasons for objecting to the action of the director of health, and such other pertinent information as may be required by the board.
- (c) Upon receipt of an appeal from any action of the director of health as provided in subsection (b) of this section, the board of health shall set the time and date for a hearing on such appeal. This hearing shall be held within ten (10) days of the receipt of such an appeal by the board of health; provided, until such time as a decision is rendered by the board of health, the appellant shall not be compelled to comply with the order appealed from; provided, further, that the chairman of the board of health may, without such an appeal and hearing, require the immediate compliance with such order upon the certification of the director of health that continuance of the activity referred to in such order will or may result in great harm to the public health, safety or welfare.
- (d) At such hearing the appellant shall be given an opportunity to be heard in person and/or with counsel and to show why such notice ought to be modified or withdrawn.
- (e) After such hearing the board of health may affirm the decision or action of the director of health and order immediate compliance with his order, or it may modify or revoke the same, or allow additional time for compliance therewith.
- (f) Any person who fails to appeal from a legally issued order of the director of health, issued in connection with any alleged violations of this article or applicable rules

and regulations issued pursuant thereto, will be said to have waived his right to appeal, and the board of health will then order immediate compliance with the order of the director of health.

- (g) Any person aggrieved by the final decision of the board of health may seek review thereof by an appeal to the proper state court having jurisdiction to review such decisions; provided, the filing of such an appeal shall not act as a stay of the order unless and until specifically decreed by the court appealed to. Any person who violates any order which has been confirmed by the board of health before any such stay is granted will be subject to the penalties of section 11-37.

(Code 1960, § 50-4; Ord. of 3-10-72)

Sec. 11-37. Penalty.

Any person who willfully violates an order of the director of health, legally issued in accordance with this article or rules and regulations issued pursuant thereto, shall be subject to a fine not in excess of one thousand dollars (\$1,000.00), or imprisonment of not more than six (6) months, or both. Intentional violation of a legally issued order of the director of health that has been confirmed by the board of health shall be deemed a misdemeanor.

(Code 1960, § 50-5; Ord. of 3-10-72)]