

St. Louis City Ordinance 64749

FLOOR SUBSTITUTE

BOARD BILL NO. [99] 175

INTRODUCED BY ALDERMAN Stephen Gregali, Stephen J. Conway

An Ordinance for regulation and control of air pollution within the City of St. Louis; re-establishing within the Department of Public Safety, the Division of Air Pollution Control; re-establishing the Office of Commissioner of Air Pollution Control, and setting forth the duties of such Commissioner; establishing performance-based fees; providing for the continued employment of all employees of the Division of Air Pollution Control, of the Department of Public Safety; the re-establishment of the Board of Air Pollution Control Appeals and Variance Review and setting forth the duties of such Board; repealing Ordinance No. 50163, approved January 24, 1961; Ordinance No. 55100, approved June 11, 1968; Ordinance No. 55923, approved June 22, 1971; Ordinance No. 58040, approved April 3, 1980; Ordinance No. 59270, approved on October 23, 1984; Ordinance No. 60023, approved August 28, 1986; and Ordinance No. 60629, approved December 24, 1987; and enacting in lieu thereof a new ordinance pertaining to the same subject matter, and containing a severability clause, a penalty clause and an emergency clause.

SECTION ONE: Adoption 4

SECTION TWO: Name 4

SECTION THREE: Policy Statement 4

SECTION FOUR: Statement of Delegated Authority 5

SECTION FIVE: Division Re-established 5

SECTION SIX: Continuation of Existing Actions 5

SECTION SEVEN: Definitions 6

SECTION EIGHT: Commissioner Qualifications 11

SECTION NINE: Commissioner Powers and Duties 11

SECTION TEN: Board of Appeals and Variance Review	14
SECTION ELEVEN: Variances	17
SECTION TWELVE: Commissioner to Approve Construction, Alteration and Demolition Plans	21
SECTION THIRTEEN: Community Alert	21
SECTION FOURTEEN: Source-Specific Emergency Procedures.	29
SECTION FIFTEEN: Air Pollution Nuisance Prohibited	30
SECTION SIXTEEN: Restrictions of Visible Air Emissions	31
SECTION SEVENTEEN: Open Burning Restrictions	33
SECTION EIGHTEEN: Incinerators	33
SECTION NINETEEN: Prevention of Airborne Particulate Matter	42
SECTION TWENTY: Abrasive Blasting	43
SECTION TWENTY ONE: Source Registration Permits Required	45
SECTION TWENTY TWO: Inspection, Disclosure, and Submittal of Requested Information	47
SECTION TWENTY THREE: Cooperation of Local Governmental Agencies Required	49
SECTION TWENTY FOUR: Enforcement	49
SECTION TWENTY FIVE: Upset Conditions, Breakdowns or Scheduled Maintenance	54
SECTION TWENTY SIX: Performance Based Fee Schedule	56
SECTION TWENTY SEVEN: Severability	60
SECTION TWENTY EIGHT: Penalty Clause	60

SECTION TWENTY NINE: Section Sixteen, C. Effective Date 60

SECTION THIRTY: Emergency Clause 60

APPENDIX A 61

APPENDIX B 61

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE: The following ordinances are hereby repealed: Ordinance No. 50163, approved January 24, 1961; Ordinance No. 55100, approved June 11, 1968; Ordinance No. 55923, approved June 22, 1971; Ordinance No. 58040, approved April 3, 1980; Ordinance No. 59270, approved on October 23, 1984; Ordinance No. 60023, approved August 28, 1986; and Ordinance No. 60629, approved December 24, 1987, and in lieu thereof the following Ordinance is hereby adopted.

SECTION TWO: This Ordinance shall be known and may be cited as the St. Louis Air Pollution Control Ordinance, an Ordinance for regulation and control of air pollution within the City of St. Louis.

SECTION THREE: Policy Statement.

It is hereby declared to be the public policy of the City of St. Louis, for the Division of Air Pollution Control, to preserve, protect and improve the air resources of this City, so as to promote health, safety, and welfare; prevent injury to human health, plant, animal life, and property; foster the comfort and convenience of its inhabitants and, to the greatest degree practicable, facilitate the enjoyment of residents and visitors of the attractions of the City.

SECTION FOUR: Statement of Delegated Authority.

In addition to the requirements contained within the Sections of this Ordinance be it hereby known that:

The Commissioner or his authorized Division representatives operating as Delegated Agents of the State of Missouri, Department of Natural Resources, Division of Environmental Quality, Air Program, under authority contained within the Air Conservation Law and granted by the Missouri Air Conservation Commission and conditions contained within the State/Local Agreement, may enforce any provision of State Air Conservation Law so delegated, or specific

rules contained within Chapters 5 and 6 of Division 10 of Title 10 of the Code of State Regulations.

SECTION FIVE: Division Re-established.

There is hereby re-established in the Department of Public Safety a Division of Air Pollution Control. The Division shall be headed by a Commissioner of Air Pollution Control, who shall be appointed by the Director of Public Safety, as prescribed by the provisions of the Charter and Ordinances of the City of St. Louis.

SECTION SIX: Continuation of Existing Actions.

The repeal of any Ordinance or portion thereof by this Ordinance shall not affect or impair any act done, or right vested or accrued, or any proceeding suit or prosecution, had or commenced in any cause before such repeal takes effect; but every such act done, or right vested, or accrued, or proceeding suit or prosecution had or commenced shall remain in full force and effect to all intents and purposes, as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty, or forfeiture, either civilly, or criminally incurred prior to the time when any such ordinance, or part thereof shall be repealed or altered by this Ordinance, shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded within all respects as if such prior Ordinances or part thereof had not been repealed or altered.

SECTION SEVEN: Definitions.

This Section defines key words and expressions used in this Ordinance. The following definitions are in addition to those contained in State Rule 10 CSR 10-6.020, as amended.

1. Abandon- Abandon in the City of St. Louis shall mean the cessation of the use of the equipment, machines, devices, articles, contrivances or facility for a period in excess of one year. If this definition runs contrary to State Rule 10 CSR 10-6.060, as amended, on permitting decisions affected by that rule, the State Rule will take preference.
2. Adjoining- contiguous, lying next to, or in contact with.

3. Adsorption system- A device containing adsorbent material such as: activated carbon, molecular sieves, activated alumina, silica gel; an inlet and outlet for exhaust gases; and a system to regenerate the saturated adsorbent. The adsorption system must provide for the proper disposal or reuse of all VOC adsorbed.
4. Air Pollution Abatement Operation- Any operation which has as its essential purpose a significant reduction in the emission of air contaminants or the effect of such emission.
5. Ash- The incombustible solid matter in coal, wood, oil, refuse or other fuel.
6. Board- The Board of Air Pollution Control Appeals and Variance Review.
7. BTU- British Thermal Unit(s).
8. CFR- Code of Federal Regulations.
9. CSR- Code of State Regulations.
10. Charge Port- Any opening into any vessel or enclosure through which material is charged into a source operation.
11. Charge Rate- The weight of material introduced into a source operation per hour.
12. Charging Operation- The process of introducing materials into a source operation. The material charged can be solid, liquid, or gas or any combination thereof.
13. Commissioner- The Commissioner of Air Pollution Control.
14. Criteria Pollutants- Those pollutants for which National Ambient Air Quality Standards exist.
15. Directly Impinges- As used in this Ordinance, shall pertain to an emission directly impacting on adjoining structures not owned or controlled by the source of the emission.
16. Division- The Division of Air Pollution Control.

17. Dry Basis- The method of reporting coal analysis with moisture eliminated and remaining constituents to be calculated to total one hundred (100%) percent.

18. Elevated Terrain- Terrain which exceeds the elevation of the Good Engineering Practice Stack Height.

19. Facility- All source operations including activities that result in fugitive emissions, that belong to the same industrial grouping (that have the same two (2)-digit code as described in the Standard Industrial Classification Manual, 1987), and any marine vessels while docked at the facility, located on one (1) or more contiguous or adjacent properties and under the control of the same person (or persons under common control).

20. Fly Ash- Particles of ash carried by the products of combustion.

21. Inadequate Dispersion- Shall pertain to the visible plume from any exhaust stack, duct, vent, impinging upon adjoining property in such a manner that it directly affects or has the potential as determined by the Commissioner to adversely affect the health or well being of individuals on that adjoining property.

22. Industrial Process- An independent production area or grouping of equipment used for manufacturing a product or products.

23. Open Burning- The burning of any matter in such manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an approved stack, duct, vent or chimney.

24. Performance Based Cost- The total direct and indirect resources allocated to provide services within the Division of Air Pollution Control.

25. Plume- A sensory detectable column or band of smoke and/or odors.

26. Premises- Land, improvements, or the ambient air above such land or improvements.

27. Reasonable Means- The rational application of emission control technology or methods of operation to reduce otherwise uncontrolled pollutant emissions to the ambient air.

28. Reasonable Time- A period of time to be determined by the Commissioner after reviewing all pertinent information, which does not cause undue harm to any concerned persons constrained by said time frame.

29. Refuse- Any combustible waste material containing carbon in a free or combined state, other than liquids or gases.

30. Salvage Operation- Any business, trade, industry or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material including but not limited to metals or chemicals.

31. Sensory Detectable- The level at which an air contaminant can be perceived by the sense of sight or smell.

32. Significant Number- This shall be a number determined by the Commissioner, based on a case by case basis of those individuals affected by an alleged violating facility, and taking into consideration such facts as geography, population density, location, and any other relevant data.

33. St. Louis Air Quality Control Region- The geographical area composed of St. Louis, St. Charles, Jefferson and Franklin Counties and the City of St. Louis in Missouri, and St. Clair, Madison, and Monroe Counties in Illinois.

34. Trade Waste- Solid, liquid, or gaseous material resulting from construction or the prosecution of any business, trade or industry, or any demolition operation including but not limited to wood, plastics, cartons, grease, oil, chemicals and cinders.

35. Uncombined Water - The visible condensed water which is not bound, physically or chemically, to any air contaminant.

36. Vegetation- Any representative of the plant kingdom including but not limited to trees, shrubs, grasses, or vegetables, and any anatomical part of these plants including but not limited to leaves, stems, roots, flowers or fruits.

37. Vent-Stack-Chimney-Duct- An enclosure containing one or more passageways connected to a source operation or an air pollution abatement operation, for the purpose of removing air contaminants to the ambient air.

SECTION EIGHT: Commissioner of Air Pollution Control Qualifications.

The qualifications for the position of Commissioner of Air Pollution Control shall be prescribed by the Civil Service Commission.

SECTION NINE: Commissioner of Air Pollution Control, Powers and Duties.

In addition to any other powers vested in the Commissioner by law, the Commissioner or his/her authorized Division representatives shall have power to:

A. Exercise general supervision over the Division of Air Pollution Control, and have charge of the enforcement of all ordinances or regulations pertaining to air pollution control and air quality maintenance and initiate prosecutions for the violations thereof.

B. Investigate complaints of air pollution and air quality maintenance, and make inspections and observations of air pollution conditions within the city.

C. Hold hearings related to any aspects of, or matters in the administration of this Ordinance.

D. Issue such orders as may be necessary to implement the purposes of this Ordinance, including but not limited to orders of abatement, stop work orders, and sealing orders, and enforce the same by all appropriate administrative and judicial proceedings.

E. Secure necessary scientific, technical, administrative, and operational supplies, materials, equipment and/or services, by contract or otherwise.

F. Prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution.

G. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this Ordinance.

H. Encourage and conduct studies, investigations and research, relating to air pollution and its prevention, abatement, and control.

I. Collect and disseminate information and conduct educational and training programs relating to air pollution.

J. Advise, consult, and cooperate with other local governmental units, agencies of the state, industries, interstate or regional agencies, and the federal government, and with interested persons and groups.

K. Appoint such engineers, technicians, inspectors, stenographers, clerks, and other employees that shall be necessary to perform the duties of the Commissioner. Such appointments shall be made in accordance with the provisions of the Charter and Ordinances of the City.

L. Accept, receive, and administer grants or other funds or gifts from public and private agencies.

M. Designate testing methods when a particular method is not specified by this Ordinance from among standards of widely recognized methods, including but not limited to methods of the ASTM, ASME, United States Environmental Protection Agency, and any recognized professional publications.

N. Take all possible action to secure a high standard of air quality throughout the entire St. Louis Metropolitan area which action may include promotion of the passage and enforcement of air pollution control laws in other political subdivisions.

O. Whenever the Commissioner may find that sufficient progress is not being made toward abatement or control of a significant source or sources of air pollution located within that portion of the St. Louis Metropolitan area, which lies within the State of Illinois, with the approval of the Director of Public Safety and the Mayor, he shall institute efforts to persuade the Governor of the State of Missouri, or the Missouri Air Conservation Commission, to register a formal complaint with the appropriate federal agency as provided by the laws of the United States.

P. Have a duty with the approval of the Director of Public Safety and the Mayor, to initiate or intervene in proceedings before the Missouri Air Conservation Commission, in order to attain standards of air pollution control throughout the Missouri portion of the St. Louis Metropolitan area, which shall be as comprehensive and as restrictive as those created by this Ordinance.

Q. Unless specifically prohibited by law, the Commissioner may designate a Division representative to carry out any or all of these powers and duties.

SECTION TEN: Board of Air Pollution Control Appeals and Variance Review.

A. The Mayor shall appoint a Board of Air Pollution Control Appeals and Variance Review consisting of three (3) members. At least one member shall be an attorney licensed in the State of Missouri, and one shall be a Professional

Engineer registered in the State of Missouri. The members shall be residents of the City of St. Louis. The members shall be appointed for terms of four (4) years and shall be compensated as prescribed by the Civil Service Commission. To the maximum extent possible, the members should not have a substantial interest in any business either subject to regulation by this Ordinance or engage in the manufacture, sale, or distribution of air pollution control devices.

B. The Mayor shall designate one of the members of the Board to serve as Chairperson. The Commissioner shall serve as Secretary of the Board, but shall have no vote on the Board.

C. The Board shall advise the Commissioner on standards, rules and regulations, and such other matters as are submitted to it by the Commissioner.

D. The Board shall conduct hearings on appeals from actions and orders of the Commissioner and all petitions for variance. A quorum shall consist of at least two (2) members and a quorum shall be required to conduct a hearing. Notice of appeal from an order or decision of the Commissioner shall be filed within ten (10) days from the date of said order or decision. A filing fee of fifty (\$50) dollars shall accompany any notice of appeal or request for variance. Any expenses incurred by the Division of Air Pollution Control as a result of an appeal or request for variance will be paid by the applicant requesting such action.

E. 1. The Board may appoint any member to conduct the hearing, and the Chairperson or the member conducting the hearing shall have the authority to administer oaths and do all other necessary and proper duties.

2. At a Board hearing the parties involved and the Commissioner may appear with counsel, may file written arguments and may make oral arguments, offer testimony or cross examine witnesses, or take any combinations of such actions. The Board shall have authority to make such rules and regulations as are necessary to perform its functions and duties under this Ordinance. A copy of such rules and regulations shall be available to the general public.

3. All testimony taken before the Board shall be under oath and recorded, except that the Board may require the submission of voluminous or detailed or technical testimony in writing under oath. The transcript of records shall be made available to any member of the public or to any party upon payment of the fair charges therefor.

4. Any member conducting the hearing may issue subpoenas requiring the attendance and testimony of witnesses, and the production of books and records, relevant to any matter involved. Every subpoena shall be served by the City Marshal and shall be obeyed.

F. 1. The Board may affirm, modify, or rescind any action of the Commissioner, if it finds that there is error in an order or decision of the Commissioner. It may grant, modify, rescind, deny or approve petitions for variance. The concurrence of a majority of a quorum shall be necessary for the decision described above.

2. The Board shall notify all parties of record and their counsel in writing by certified or registered mail of its decision. The Commissioner may issue appropriate orders requiring compliance with the decision of the Board. Any decision of the Board rendered pursuant to this Section shall be final and any appeal therefrom shall be made pursuant to the Administrative Procedures Act as set out in Chapter 536, Revised Statutes of Missouri 1978, as amended.

SECTION ELEVEN: Variances.

A. Any person who owns or is in control of any plant, building, structure, process, or equipment may submit a petition to the Commissioner for a variance from this Ordinance governing the quality, nature, duration or extent of discharges of air pollutants. The petition shall be accompanied by a fee of fifty (\$50) dollars and shall include the following information:

1. The name, address, and telephone number of the petitioner, or other person authorized to receive service of notices;
2. The type of business or activity involved in the application and the street address at which it is conducted;
3. A complete comprehensive description of the article, machine, equipment or other contrivance, or process involved in the application and the emissions occurring therefrom;
4. A petition signed by the petitioner or by some person on the petitioner's behalf, and where the person signing is not the petitioner, it shall set forth his authority to sign;
5. The Section, rule or order from which a variance is sought;

6. The facts showing why compliance with the Section, rule or order is unreasonable;
7. For what period of time the variance is sought and why;
8. The damage or harm resulting or which would result to petitioner from compliance with such Section, rule or order;
9. The requirements which petitioner can meet and the date when petitioner can comply with such requirements including the emissions which will result;
10. The advantages and disadvantages to the residents of the city resulting from requiring compliance or resulting from granting a variance;
11. Whether operations under such variance, if granted, would constitute a nuisance as defined in Section Fifteen of this Ordinance;
12. Whether any case involving the same identical equipment or process is pending in any court, civil or criminal;
13. Whether the subject equipment or process is covered by a permit issued by the Commissioner; and
14. Such other information and data required by rule or regulation of the Board enacted in conformity with the terms, conditions, and limitations of this Ordinance.

B. The Commissioner or the Commissioner's authorized Division representative shall promptly investigate such petition and submit it with a recommendation to the Board as to the disposition thereof.

C. The Board may grant such variance if it finds that:

1. The emission occurring or proposed to occur, does not constitute a hazard to public health or safety; and
2. Compliance with the terms and limitations of this Ordinance from which variance is sought would result in an arbitrary and unreasonable taking of property, or in the practical closing and eliminating of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people.

D. No variance shall be granted pursuant to this Section except after public hearing on due notice and until the Commissioner has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

1. Notification will be given to the Missouri Department of Natural Resources Air Program as required by RSMO 643.140 - of any variance granted by the Board which will include copies of all relevant materials. The Missouri Air Program Director has thirty (30) days from receipt of said notice to approve or disapprove of the variance or take other action as granted by the Missouri Air Conservation Law. In no case will the variance take effect without the approval of the Missouri Air Program Director.

2. No violation of City Ordinance or State Regulation will be allowed to continue during an appeal from the requirements of that Ordinance or Regulation.

E. Variances may be granted for such period of time and under such terms and conditions as shall be specified by the Board. Variances may be reviewed by the Board upon application made at least sixty (60) days prior to the expiration of the term. Renewal application shall be considered in the same manner as the initial petition for variance was considered by the Board.

F. A variance or renewal thereof shall not be a vested right of the applicant or holder thereof.

G. Such a variance may require gradual decrease of the emission during the variance period and the making of periodic reports of the improvement program and on compliance with the terms and conditions attached to the variance, and such a variance may be revoked or modified for failure to comply with the terms and conditions attached thereto, or with any improvement program, or for failure to make a periodic report, if such is required.

H. Nothing in this Section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency procedures as defined in Section Fourteen of this Ordinance.

SECTION TWELVE: Commissioner to Approve Construction and Alteration Plans as well as Occupancy and Demolition Applications.

The Building Commissioner shall not issue a permit for the demolition, construction, reconstruction, alteration, or occupancy of any building, structure, or business, unless the Commissioner has been given opportunity to review applications to which this Ordinance might apply, and has given its approval.

SECTION THIRTEEN: Community Alert During Periods of High Air Pollution Potential.

A. General Provisions.

1. This section shall apply to all emissions from any source or any premise.
2. The boundaries of the affected area shall be determined at the discretion of the Commissioner in accordance with the nature and magnitude of the pollutant concentrations and meteorological conditions that cause the alert.

B. Air Pollution Alert.

1. Alert levels are stated in terms of the Pollutants Standards Index (PSI) as defined in the Code of Federal Regulations (CFR) part 58, Appendix G, for sulfur dioxide (SO₂), carbon monoxide (CO), ozone (O₃), nitrogen dioxide (NO₂), and particulate matter (PM₁₀). The Concentrations Table shows the relation of the PSI value to equivalent concentrations of air contaminants. All concentrations are measured in micrograms per cubic meter and are averaged over the time period indicated.

Concentrations Table

AlertType	PSIValue	PM1024 hr.	SO224 hr.	CO8 hr.	O31 hr.	NO21 hr.
Watch	100	150	365	10,000	235	N/A
Yellow	200	350	800	17,000	400	1,130
Red	300	420	1,600	34,000	800	2,260
Emergency	400	500	2,100	46,000	1,000	3,000

2. Alert Types and Levels of Initiation.

a. Watch alert PSI value. Any one (1) of the contaminants listed in subsection B.1., reaching a concentration which results in a PSI value of one hundred (100) may initiate the Watch alert.

b. Yellow alert PSI value. Any one (1) of the contaminants listed in subsection B.1., reaching a concentration which results in a PSI value of two hundred (200) may initiate the Yellow alert.

c. Red alert PSI value. Any one (1) of the contaminants listed in subsection B.1., reaching a concentration which results in a PSI value of three hundred (300) may initiate the Red alert.

d. Emergency alert PSI value. Any one (1) of the contaminants listed in subsection B.1., reaching a concentration which results in a PSI value of four hundred (400) may initiate the Emergency alert.

3. The testing references for the St. Louis City ambient air quality data are as specified in the Missouri State Rule 10 CSR 10-6.040 Reference Methods, as amended.

4. A Watch alert, Yellow alert, Red alert, Emergency alert may be declared on the basis of deteriorating air quality.

C. Procedures to Be Followed During Alerts.

1. General Procedures.

a. Whenever the Commissioner has determined that the criteria for issuing an air pollution watch, yellow alert, red alert, or emergency alert, established by this Section have been met at any location within the City of St. Louis, the Commissioner may immediately declare that an air pollution watch, yellow alert, red alert, or emergency exists. The Commissioner shall immediately implement the provisions of the alert plan; may begin operations of the Division on a twenty four hour basis; and do all such other things and take all such actions as the Commissioner feels are reasonably necessary to limit or reduce the concentrations of pollutants in the ambient air of the City of St. Louis.

b. If, despite the Commissioner's actions, levels of pollutants in the City continue to increase at any location to such an extent that more stringent actions are necessary, the Commissioner shall declare the existence of each succeeding alert stage as outlined in this Section and take appropriate action to enforce the limitations on emissions outlined for that stage of the alert.

2. Air Pollution Watch. If the Commissioner issues an Air Pollution Watch, the following procedures shall be initiated:

a. The following persons, facilities, and agencies shall be notified:

1) All employees of the Division of Air Pollution Control including all employees on vacation, compensatory time, or sick leave who are in the St. Louis area

2) St. Louis County Air Program Manager

3) Missouri Air Program Staff Director

4) Illinois Environmental Protection Agency

5) United States Environmental Protection Agency

6) Mayor of the City of St. Louis

7) Director of Public Safety

8) Director of City's Emergency Management Agency

9) News Media

3. Yellow Alert. If the Commissioner issues a yellow alert, the following procedures shall be initiated:

a. Notify the following persons, facilities, and agencies:

1) All persons notified of the Air Pollution Watch

2) Director of Health and Hospitals

3) All hospitals in the City of St. Louis

4) St. Louis Police Chief

5) St. Louis Housing Authority

6) Laclede Gas Company

7) St. Louis Metropolitan Sewer District

8) St. Louis Fire Chief

9) St. Louis Fire Marshal

10) Bi-State Transit

11) Facilities required by the Commissioner to submit alert plans

b. Inform the general public through the news media that a yellow alert exists, the geographical area or areas where the alert is applicable, the emission and type of source or sources that initiated the alert, individual abatement actions which will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.

c. The Commissioner shall request through the news media that all unnecessary use of automobiles be restricted and unnecessary physical activity be curtailed.

d. Emission reductions listed in a Facilities Alert Plan for yellow alerts will be initiated.

4. Red Alert. If the Commissioner issues a red alert, the following procedures shall be initiated:

a. All persons, facilities or agencies who were notified that yellow alert conditions exist shall be notified that red alert conditions exist.

b. Inform the general public through the news media that a red alert exists, the geographical area or areas where the alert is applicable, the emission and type of source or sources that initiated the alert, individual abatement actions which will help alleviate the problems, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.

c. Airlines operating within the red alert area shall be notified that such conditions exist, and that a reduction in flights out of the airport may be required.

d. The aid of law enforcement agencies may be requested to divert traffic around the red alert area depending upon which pollutant or pollutants caused the alert.

e. Local motorists may be asked to avoid certain areas and restrict nonessential trips.

f. Facilities which are sources of air contaminant emissions and are required to file approved alert plans with the Commissioner for red alert conditions shall initiate such plans.

5. Emergency Alert. If the Commissioner issues an emergency alert, the following procedures shall be initiated:

a. All persons or agencies who were notified that red alert conditions exist shall be notified that emergency alert conditions exist.

b. Facilities which were required to submit alert plans will initiate the Emergency Alert portion of their plan.

c. All other manufacturing facilities shall institute such action as will result in maximum reduction of air contaminants from their operations to the extent possible without causing injury to persons or damage to equipment.

d. The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.

e. All airplane flights originating within the area of the air pollution emergency shall be canceled.

f. All incinerators shall cease operations throughout the area.

g. All places of employment described below shall immediately cease operation during the air pollution emergency:

1) mining and quarrying;

2) contract construction work;

3) wholesale trade establishments;

4) schools and libraries;

5) governmental agencies, except those needed to administer the air pollution alert program and other essential agencies determined by the Commissioner to

be vital for public safety and welfare and needed to administer the provisions of this Section;

- 6) retail trade stores except those dealing primarily in sale of food or pharmacies;
- 7) banks, real estate agencies, insurance offices and similar businesses;
- 8) laundries, cleaners and dryers, beauty and barber shops and photographic studios;
- 9) amusement and recreational service establishments such as motion picture theaters;
- 10) automobile repair and automobile service garages;
- 11) advertising offices, consumer credit reporting, adjustment and collection agencies, printing and duplicating services, rental agencies and commercial testing laboratories.

D. Termination of Alerts. Upon determining that pollutant levels at all locations in the St. Louis Air Quality Region have dropped to levels which meet the criteria for a lesser phase of alert, the Commissioner shall declare termination of the higher phase and announce the new phase. Upon determining that levels have dropped below the criteria for an air pollution watch the Commissioner shall declare the episode terminated, return the Division of Air Pollution Control to its normal operations, and advise the public, industry, and other interested parties to return to their normal operations.

SECTION FOURTEEN: Source-Specific Emergency Procedures.

Notwithstanding the provisions of this Ordinance, or any other provisions of law to the contrary, and without necessity of prior administrative procedures or hearings, or at any time during such proceedings, if the Commissioner, after investigation, is of the opinion that any person is discharging or causing to be discharged into the atmosphere any air contaminant, and if the Commissioner determines that the discharge under the atmospheric conditions then prevailing, creates a hazardous emergency which requires immediate action to prevent serious damage to the public health, safety or welfare, and that it therefore appears to be prejudicial to the interests of the people of the City to delay action, the Commissioner, with the written approval of the Mayor, shall order

the person responsible for the emission, in writing, to discontinue immediately the discharge of the contaminants into the atmosphere, whereupon the person shall immediately discontinue the discharge.

In the event that there is a failure to comply with the Commissioner's order, then all affected departments of the City government shall take immediate action necessary to protect and preserve the health and safety of the public. The City Counselor shall be empowered to immediately seek in the Circuit Court equitable relief to immediately halt the further emission of the air contaminants.

SECTION FIFTEEN: Air Pollution Nuisance Prohibited.

The emission or escape into the ambient (outside) air within the City from any source or sources whatsoever of smoke, ashes, dust, soot, cinders, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or elements in such amounts as are detrimental to, or endanger the health, comfort, safety, welfare, property, or the normal conduct of business, or cause severe annoyance or discomfort to, or is offensive and objectionable to a significant number of citizens as determined by the Commissioner, shall constitute a public nuisance, and it is considered unlawful for any person to cause, permit, or maintain any such public nuisance.

SECTION SIXTEEN: Restrictions of Emission of Visible Air Contaminants.

A. Test Method - Visible Emissions shall be determined in accordance with 40 CFR, Part 60, Appendix A - Reference Methods, "Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources."

B. Restrictions Applicable to All Facilities.

No person shall discharge into the atmosphere from any source of emission whatsoever any air contaminant greater than 20% visible opacity as determined by Test Method described in subsection A, for a period in excess of six (6) minutes in any consecutive sixty (60) minute period.

C. Any emissions in excess of 40% opacity, regardless of length of time, are considered excessive emissions.

D. Exceptions to subsection B of this section.

1. Visible emissions from a fire set by or under the supervision of a public officer to prevent or abate a fire hazard.

2. Visible emissions from a fire set for the purpose of instructing persons in fire fighting techniques, as long as the requirements of Article 3, of the BOCA National Fire Code for Open Burning are adhered to.
3. Visible emissions (smoke) generated for the purpose of instructing persons in the proper method for determining the opacity of those emissions.
4. Visible emissions (smoke) emitted by equipment being operated for the control of insects.
5. Visible emissions from residential, organizational, institutional, or commercially operated food preparation is exempt from the opacity requirements of this Section and may only be addressed for enforcement as a nuisance under Section 14.
6. Visible emissions from recreational fires, bonfires, and fires in proper containers for occupational warmth will be exempted from complying with the opacity limitations of this Section as long as the requirements of The Fire Code, as amended, are adhered to.
7. Special Case Exceptions allowing visible emissions in excess of those allowed in this Section may be granted by the Commissioner upon written request, given the determination that the emissions will not substantially affect the ambient air quality and are in the best interest of public health or welfare.
8. Public fireworks displays as permitted by the local authority.
9. When the presence of uncombined water is the only cause for an emission exceeding the requirements of this Section.

SECTION SEVENTEEN: Open Burning Restrictions.

- A. No person shall cause, suffer, allow or permit the open burning of refuse.
- B. No person shall conduct, cause or permit the conduct of a salvage operation by open burning.
- C. No person shall conduct, cause or permit the disposal of trade waste by open burning.
- D. No person shall cause or permit the open burning of leaves, trees or the byproducts therefrom, grass, or other vegetation.

E. It shall be prima-facie evidence that the person who owns or controls property on which open burning occurs, has caused or permitted said open burning.

SECTION EIGHTEEN: Incinerators.

A. Definitions specific to this Section.

Definitions for key words used in this Subsection may be found in Section Seven of this Ordinance and State Rule 10 CSR 10-6.020, as amended. Additional definitions specific to this section are as follows.

1. Ambient Air: All space outside of buildings, stacks or exterior ducts.
2. Batch Incinerator: Is an incinerator designed that neither waste charging nor ash removal can occur during combustion.
3. Best Available Control Technology (BACT): An emission limitation, including a visible emissions limit, based on the maximum degree of reduction for each pollutant which would be emitted from any proposed installation or major modification which the Commissioner on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs determines is achievable for such installation or major modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emission of any pollutant which would exceed the emissions allowed by any applicable emission control regulation, including new source performance standards established in 40 CFR Part 60 and National Emissions Standards for Hazardous Pollutants established in 40 CFR Part 61. If the Commissioner determines that technological or economic limitations on the application of measurement methodology to a particular source operation would make the imposition of an emission limitation infeasible; a design, equipment, work practice, or operational standard, or combination thereof, may be prescribed instead to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

4. Combustion Chamber: The discrete equipment, chamber or space of an incinerator in which the products of pyrolysis are combusted in the presence of excess air so that carbon is burned to carbon dioxide. Combustion chamber does not include breaching or stacks of the incinerator.

5. Human or Animal Crematory: An apparatus of multi-chamber design for the sole purpose of cremating animal or human remains.

6. Incinerator: Any article, machine, equipment, contrivance, structure or part of a structure used to burn refuse or to process refuse material by burning other than by open burning.

7. Maximum Refuse Burning Capacity: Is the sum of the Refuse Burning Capacities of all the incinerator units at the facility subject to this Subsection.

8. Multiple Chamber Incinerator: Any incinerator consisting of three or more refractory-lined combustion furnaces in series, physically separated by refractory walls, interconnected by passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned, the refractories have a pyrometric cone equivalent of 31, tested according to the method described in the ASTM Method C-24-56, or other method approved by the Commissioner.

9. PPMV: Is the abbreviation for parts per million by volume (dry) corrected to seven (7%) percent oxygen.

10. Refuse Burning Capacity: Is the manufacturer's or designer's refuse heat input rate in British Thermal Units (BTUs) per hour.

11. Secondary Combustion Chamber: Means the discrete equipment component chamber or space, in which the products of pyrolysis are combusted in the presence of excess air, so that essentially all carbon is combusted and emitted as carbon dioxide. This component does not include breachings or stacks.

12. Smoke: Small gas-borne particles resulting from combustion, consisting of carbon, ash and other material.

B. NSPS and State Regulations

1. Any incinerator governed under State Rule 10 CSR 10-6.070 New Source Performance Regulations, as amended, shall be required to meet the regulatory

standards contained therein, in addition to meeting standards within this Section. Where standards may conflict, the most restrictive standard shall be utilized.

2. Any incinerator governed specifically under a State Rule, contained in 10 CSR 10 Chapters 5 and 6, as amended, shall be required to meet the regulatory standards contained therein, in addition to meeting standards within this Section. Where standards may conflict, the most restrictive standard shall be utilized.

C. Emission restrictions

1. General provisions

a. Design requirements - No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators shall be altered, modified or rebuilt as may be necessary to meet the requirements of this Section no later than two years from the date of adoption of this Ordinance. The Commissioner may approve any other alteration or modification to an existing incinerator if such be found by the Commissioner to be equally effective for the purpose of air pollution control as would result from the operation of a multiple chamber incinerator. All new incinerators shall be multiple chamber incinerators, provided that the Commissioner may approve any other kind of incinerator if found in advance of construction or installation that such other kind of incinerator is equally effective for purposes of air pollution control as an approved multiple chamber incinerator.

b. Burning Capacity - The burning capacity of individual incinerators shall be the manufacturer's or designer's refuse heat input rate (British Thermal Units (BTUs) per hour) or such other rate as may be determined by the Commissioner in accordance with good engineering practice. In case of conflict, the findings of the Commissioner shall govern.

2. Particulate limitations

No person shall cause or permit the emission of particulate matter from the chimney, stack or vent of any incinerator:

- a. In excess of 0.09 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen for new or modified human and animal crematories and surface coating burn-off ovens;
- b. In excess of 0.08 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen for new or modified sewage sludge incinerators;
- c. In excess of 0.03 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen for new or modified commercial and industrial waste incinerators;
- d. In excess of 0.015 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen for new or modified medical waste incinerators and municipal waste incinerators;
- e. In excess of 0.015 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen for new or modified non-specified incinerators;
- f. In excess of 0.20 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen for existing incinerators, except as otherwise established by permit.

3. Opacity limitations

No person shall cause or permit a discharge from any incinerator of smoke of such opacity as to obscure a certified observer's view to a degree equal to or greater than:

- a. twenty percent for a period in excess of six (6) minutes in any consecutive sixty (60) minute period for sewage sludge incinerators, except as otherwise established by permit;
- b. ten percent for a period in excess of six (6) minutes in any consecutive sixty (60) minute period for all other incinerators, except as otherwise established by permit.

4. Specific pollutant limitations

An owner or operator who submits a complete permit application for a new or modified incinerator after the effective date of this ordinance shall demonstrate that emissions of hydrogen chloride, mercury, dioxins and furans are controlled to a level of stringency at least equal to that which would be achieved through the application of Best Available Control Technology.

5. Odor Control

All incinerators shall be designed and operated so that all gases, vapors and entrained effluents shall, while passing through the final combustion chamber, be maintained at a temperature adequate to prevent the emission of objectionable odors. The Commissioner may approve alternative method(s) of odor control which are determined equally effective.

D. Performance testing

1. When required - A performance test may be required on any incinerator, and shall be required for each new incinerator. The initial performance test shall be performed at the expense of the vendor or operator by an independent testing organization or by any other qualified person subject to approval of the Commissioner. The performance test shall be observed by the Commissioner or authorized representative.
2. Test Schedule - Within 30 days after the date of which installation or construction of an incinerator is completed, the installer shall file a request with the Commissioner to schedule a performance test provided in this Section. If the results of the performance test indicate that the incinerator is not operating in compliance with subsection C of this Section, no person may cause or permit further operation of the incinerator, except for additional testing, until approval is received from the Commissioner.
3. Representative sample - Refuse burned in conjunction with the performance test specified in this subsection shall be a representative sample of the refuse normally generated by the operation which the incinerator is intended to serve.
4. Procedure - Emissions shall be measured when the incinerator is operating at ninety-five percent or greater of the burning capacity as defined in subsection C.1.b, of this Section. Testing methods shall be those outlined in 10 CSR 10-6.030, as amended, or in CFR Chapter 40, Part 60 Appendix A, as amended. If performance testing demonstrates that the refuse charge rate must be less than

the manufacturer's design charge rate to comply with this Section, then the burning capacity also shall be based on the charge rate required to comply.

5. Compliance - A performance test to determine compliance with the particulate matter and/or opacity requirements specified in subsection C.2. and C.3., of this Section, shall be observed by the Commissioner or authorized representative, of each new incinerator and each existing, modified or rebuilt incinerator.

If performance testing demonstrates that the refuse charge rate must be less than the manufacturer's design charge rate to comply with this Section, then the burning capacity also shall be based on the charge rate required to comply.

Other requested performance tests may be required by the Commissioner in order to determine compliance with any part of this Section.

SECTION NINETEEN: Preventing Particulate Matter from Becoming Airborne at Any Industrial and Commercial Facility.

A. No person shall cause or permit the handling, transporting, or storage of any material in exterior or interior locations, in a manner which allows or may allow reasonably preventable amounts of particulate matter to be emitted to the ambient air. Any direct or fugitive emission of visually detectable particulates to the ambient air from any interior or exterior operations at any industrial or commercial facility, may be considered unreasonable and a violation of this Ordinance if our investigation determines that the emission was preventable.

B. No person shall cause or permit a building or its appurtenance, or a road, driveway, or an open area to be constructed, used, repaired or demolished, without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne.

Except for areas whereon motor vehicles are routinely driven, parked or stored, all such reasonable measures shall include, but not be limited to, the application of dust free surfaces; application of effective dust suppressant materials; application of water; planting and maintaining vegetative ground cover, or any other procedure designed for and effective in reducing the airborne particulate matter.

From roadways, driveways, and any area upon which motor vehicles are routinely driven, parked or stored, these measures shall be limited to either:

1. Having the surface paved with concrete, bituminous, or other hard surface which can be swept or flushed clean and free of loose material that can become airborne or,

2. Having the surface treated with a solution containing at least forty (40%) percent emulsifiable asphalt and water, or an equally efficient dust suppressant and repeating such treatment as required to maintain reasonable dust control.

C. Whenever particulate matter escapes from windows, doors, or other openings of a building in such a manner and amount as to violate any provisions of this Ordinance, the Commissioner may order that the building or buildings in which the processing, handling and storage are done, be tightly closed and ventilated in such a way, that all air and air contaminants leaving the building are treated by effective means for removal of these air contaminants before discharge to the ambient air.

SECTION TWENTY: Abrasive Blasting.

No person shall cause or permit the abrasive blasting of the exterior of any building, tank, structure, or part or appurtenance thereof, without first submitting an application for a permit to abrasive blast to the Commissioner. Such application shall include the proposed dates and times when such blasting will be done, the location and description of the surface to be blasted, the reason that abrasive blasting rather than some alternative method of surface preparation is necessary, the method of blasting to be used, the steps that will be taken to limit the amount of particulate matter from becoming airborne, and the steps that will be taken to remove resultant particulate matter from adjacent streets, alleys, and property, to prevent it from being re-entrained in the air. Abrasive blasting may be approved in consideration of the following conditions:

A. Whenever practical, some other method of surface preparation or cleaning, such as steam cleaning, water blasting, or power wire brushing, will be used instead of abrasive blasting;

B. If abrasive blasting is necessary and whenever possible, the wet blasting method, wherein water from a circular nozzle forms a cone of water spray around the abrasive blast stream, will be used;

C. If wet blasting is not possible in a particular application, the area to be dry blasted shall be protected so far as is reasonably practical, to limit the amount of particulates becoming airborne and the distance the particulates travel;

D. Any exterior abrasive blasting in the area of the City between the Mississippi River and Jefferson Avenue, Chouteau Avenue to Cole Street, shall be done at times other than 7:30 to 9:00 A.M., 11:30 A.M. to 1:30 P.M., and 4:00 to 6:00 P.M., Monday through Friday;

E. At the end of each day's operation, all abrasive material and dust resulting from the operations shall be removed from the adjacent streets, sidewalks, alleys, parking lots and other property.

SECTION TWENTY ONE: Source Registration Permits Required.

A. Applicability

1. The installation or modification of an "Emissions Unit," as defined in State Rule 10 CSR 10-6.020, as amended, which results in an actual emissions increase greater than two hundred (200) pounds per year of any regulated air pollutant, at a facility not covered by 10 CSR 10-6.060, as amended, may be governed by the requirements of this Section.

2. The installation or modification of an "Emissions Unit" at a facility covered by State Rule 10 CSR 10-6.060, as amended, for which pollution control measures are not required, may be governed by the requirements of this Section.

3. For public safety reasons, any source operation may be deemed by the Commissioner to be governed by this Section as an emissions unit.

B. General Requirements

1. No emissions unit may be installed or modified at any facility within the City of St. Louis, unless preventive measures are applied to limit the emission of regulated air pollutant(s) to levels which do not endanger the ambient air quality, and the health, safety, welfare or enjoyment of life for our citizens.

2. Conditions shall be included into permits which limit the air pollution from any emissions unit. The conditions shall seek the lowest level consistent with actual operations.

3. In cases where conditions are placed into permits which set limits of any kind on the operation of an emissions unit, appropriate recordkeeping requirements shall also be placed into the permit to allow verification of compliance.

C. Exceptions to subsection A of this Section

The following emission sources are not required to obtain source registration permits:

1. Any combustion equipment using exclusively natural or liquefied petroleum gas or combination of these with a capacity of less than ten (10) million British thermal units (BTUs) per hour heat input, or any other combustion equipment with a capacity of less than one (1) million BTUs per hour heat input.
2. Equipment used for any mode of transportation.
3. Any equipment used in the preparation of food for direct sale to the public or for personal consumption.
4. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only.
5. Wood burning stoves and fireplaces in all locations.

D. Excluded Activities

Activities may be excluded if the activities do not involve the following concerning the emissions of any regulated air pollutant:

1. any appreciable change in the quality or nature, or
2. any increase in the allowable emissions, or
3. a negative effect on air quality, or
4. a negative neighborhood impact.

These activities include:

1. Routine maintenance, parts replacement or relocation of emissions units within the same facility;
2. Changes in a process or process equipment which do not involve installing, constructing or reconstructing an emissions unit or associated air cleaning devices;
3. Replacement of like-kind emissions units;
4. Other similar activities.

SECTION TWENTY TWO: Right of Inspection, Disclosure, and Submittal of Requested Information.

A. In the performance of their duties, the Commissioner or the Commissioner's authorized representative may enter any premises where they have reason to believe that air contaminants have been or are being emitted, or equipment, operations, or processes exist or are being constructed, which they have reason to believe are or will be an air contaminant source, or which are required to be registered as sources of air pollution, or for any facility for which a permit is required. No person shall refuse entry or access to the Commissioner or the Commissioner's authorized representative, nor shall any person obstruct, hamper, or interfere with any such inspection. Should the above right of entry be denied, then the Commissioner or the Commissioner's authorized representative shall apply to the City Counselor for a Search Warrant and the City Counselor may apply for the same from the court of competent jurisdiction. When such search warrant(s) have been issued the Commissioner or the Commissioner's authorized representative may involve the aid of the Police Department to gain entry to make such inspection as authorized herein.

B. Any person responsible for the emission of air contaminants within the City of St. Louis shall when requested by the Commissioner or his authorized representative supply this Division with any requested information in an easily understandable format or on the forms supplied, in any manner or format specifically requested by the Commissioner.

SECTION TWENTY THREE: Cooperation of Local Governmental Agencies Required.

The assistance and cooperation of the St. Louis Metropolitan Police Department, the Division of Fire and Fire Prevention, and the Department of Health and Hospitals, the Building Division, and all other municipal officials shall be available to the Commissioner and the Board as required in the performance of their duties.

SECTION TWENTY FOUR: Enforcement.

A. Whenever the Commissioner determines that any of the terms or conditions of this Ordinance have been or are being violated, the Commissioner may cause to be instituted any or all of the following enforcement actions.

1. Upon becoming aware that an emission is occurring from any facility, emissions unit, emission point, or source operation which is greater than permitted by any provision of this Ordinance, the Commissioner may cause to be issued to the person responsible for the emission a "Notice of Excessive Emissions." This notice may be personally served by a representative of the Commissioner or sent by mail to the last known address of the responsible person. It shall include the Section of the Ordinance, or the Section of the State regulation limiting the emissions, the date and time of the excess emissions, a brief description of the excess emissions and a request that the person responsible answer the notice within ten (10) days. The person responsible for the emission shall answer this notice, in writing, setting forth the reasons for the excessive emissions, and the steps that have been taken or will be taken to abate the excess emissions, and to prevent it from recurring in the future.

In the event the responsible person fails to answer the notice within the prescribed time, or if, in the opinion of the Commissioner, the reasons set forth for the excess emissions having occurred, or the steps that have been taken or will be taken to prevent recurrence of the excess emissions are not adequate, the Commissioner may cause to be issued a "Notice of Violation" as prescribed herein citing the same data and time in this notice as was previously cited in the "Notice of Excessive Emission."

2. As prescribed above, or at any other time that the Commissioner becomes aware that any of the provisions of this Ordinance have been or are being violated, the Commissioner may cause to be issued a "Notice of Violation" to the person responsible for the violation. This notice may be personally served by a representative of the Commissioner or sent by registered or certified mail to the last known address of the responsible person. This notice shall cite the Section of City Ordinance, or Section of State Regulation violated, the date and time the violation occurred, and a brief description of the violation. It shall

require that the responsible person abate the violation by a date specified in the notice. In the event the responsible person fails to abate the violation by the date specified, the Commissioner, or an authorized representative of the Commissioner, may take other enforcement actions as specified within this Section, citing the same date and time of violation in these other actions that were set forth in the "Notice of Violation."

In the event the Commissioner determines that:

- a. The person is taking all reasonable means available to him to comply with the time limitations and that such compliance is not possible;
- b. The delay is caused by conditions beyond the jurisdiction and control of such person; and
- c. The imposition of the time limitation will cause an undue hardship, then the Commissioner may grant such additional extensions of time as determined to be necessary and reasonable to achieve compliance.

3. Whenever the Commissioner becomes aware that a violation of any of the terms or conditions of this Ordinance has occurred, or is occurring, the Commissioner may, with or without the issuance of notices provided for above, present the evidence to the City Counselor and request that the Counselor file a prosecution in the City Courts.

B. In the event that it becomes necessary and is legally proper, the City Counselor is hereby empowered to institute proceedings in the Circuit Court in the name of the City in order to enforce the terms and conditions of this Ordinance.

C. 1. Upon notice of the Commissioner, or his authorized representative, that work on the installation of a machine, contrivance, equipment, device, process or operation that may cause the emission of air contaminants, is being conducted without a permit where such a permit is required, or without having been registered where such registration is required, or not in accordance with plans or specifications or data submitted with the application for such permit or such registration, or is contrary to any order of the Board, such work shall be immediately stopped. The failure of a facility to possess a valid State Operating Permit may subject the entire facility to be ordered to stop work. The stop work order shall be in writing and shall be served to the person responsible for the

premises on which the work is occurring or upon the person doing the work and shall cite the conditions under which the work may be resumed.

2. Any person who shall continue any work in or about such machine, contrivance, device, process, or operation after having been served with a stop order except which work he is directed to perform to remove a violation or unsafe condition, shall be liable to a fine as set forth in the "Penalty Clause" Section of this Ordinance.

D. 1. After any owner, agent, occupant, manager or lessee of any premise containing an emission source has been notified of two or more violations of this Ordinance within any consecutive twelve (12) month period after the effective date of this Ordinance, or at any time the Commissioner has evidence that an emission source is adversely affecting the ambient air quality, the Commissioner may order such person to appear at a hearing, to be held before the Commissioner or his designate not more than ten (10) days after such order and show cause why the equipment causing such violations and/or adversely affecting the ambient air quality should not be sealed.

2. Upon such hearing, unless the Commissioner finds that circumstances beyond the control of the responsible person(s) has caused the violations and/or affected the ambient air quality, the violating emission source(s) will be sealed. If the Commissioner determines that circumstances beyond the control of the responsible person(s) have caused the problems, then a further investigation by Air Pollution Control staff will be ordered before any further action is initiated, and the source(s) in question will be allowed to continue normal operation.

3. The person responsible for the violating equipment may appeal such seal order to the Board of Air Pollution Appeals and Variance Review.

E. It shall be unlawful for any person to break a seal that has been duly affixed by the Commissioner or the Commissioner's authorized representative, unless such breaking is authorized by the Commissioner.

SECTION TWENTY FIVE: Upset Conditions, Breakdowns or Scheduled Maintenance.

A. In the event that there are emissions to the ambient air exceeding any of the limits established by this Ordinance as a direct result of unavoidable upset conditions in the nature of the process, or unavoidable and unforeseeable breakdown of any air pollution equipment or related operating equipment, or as

a direct result of shutdown of such equipment for necessary scheduled maintenance, the Commissioner may withhold enforcement action provided the following requirements are met:

1. Such excess emissions in the case of unavoidable upset in or breakdown of equipment shall have been reported to the Division as soon as reasonably possible, but no later than the next business day after the occurrence. In addition, a full report of the incident, as outlined in subsection B of this Section, must be submitted to this Division within ten (10) days.

2. If the excess emission results from the scheduled maintenance on any component of a production process or associated control equipment during which the process continued operating, a "Notice of Violation" will be issued, unless the Commissioner agreed prior to the maintenance that shutting down the process would be unreasonable. The intention to proceed with on-line maintenance and the possibility of excess emission must be reported to this Division at least forty eight (48) hours in advance. It should be in writing and include the reason that this type of maintenance is necessary. Written approval must be given by the Commissioner before on-line maintenance may begin. If excess emissions occur, the responsible facility person must submit a full report as detailed in subsection B of this Section within ten (10) days.

B. The person responsible for any excess emission shall submit a full report covering:

1. Name and location of facility;
2. Name and telephone number of person responsible for the facility;
3. The identity of the equipment causing the excess emissions;
4. The time and duration of the period of excess emissions;
5. The cause of the excess emissions;
6. The type of air contaminant(s) involved;
7. A best estimate of the magnitude of the excess emissions expressed in the units of any applicable emission control regulation and the operating data and calculations used in estimating the magnitude;

8. The measures taken to mitigate the extent and duration of the excess emissions; and
9. The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

SECTION TWENTY SIX: Performance Based Fee Schedule.

The Air Pollution Control Division of the City of St. Louis is hereby authorized to collect the following fees based on the costs incurred to provide the services of air pollution control in the City of St. Louis.

A. Applications Review and Compliance Inspection of Abrasive Blasting Job Sites.

Fee: \$50 per job site.

B. Inspection of "Asbestos Abatement Project" as defined in State Rule 10 CSR 10-6.020, as amended.

Fee: \$100 per inspection, based on costs enumerated in Appendix A of this Ordinance. Regardless of number of inspections made, the "Division" may only charge for up to (3) individual, separate inspections of the same "Asbestos Abatement Project".

C. Construction Permit Filing Fee for those sources covered by State Rule 10 CSR 10-6.060, as amended, or 10 CSR 10-5.220, as amended.

Fee: \$100 per permit application, based on costs enumerated in Appendix A of this Ordinance. Applications in some cases may cover multiple emission units. The Air Pollution Control Division will make the final decision when separate applications requiring separate Permit Filing Fees are necessary, on a case-by-case basis.

D. The Processing of Permits covered under State Rule 10 CSR 10-6.060, as amended.

Fee: \$50 per hour of logged staff time spent processing the permit, based on costs enumerated in Appendix A of this Ordinance.

This hourly fee based on actual hours of staff time logged will start when the permit filing review is completed, and continue until such time as a completed permit has been issued, the conditions therein are accepted by the permit applicant, and compliance is verified through inspection.

E. The application and processing of Source Registration Permits not covered by State Rule 10 CSR 10-6.060, as amended, but required by Section Twenty One of this Ordinance.

Fee: \$30 per application submitted plus \$25 per emission unit on the same application, plus a processing fee of \$25 per hour of staff time logged, based on costs enumerated in Appendix A of this Ordinance.

However, regardless of staff time logged on any individual Source Registration Permit Application, the processing fee cannot exceed a total of \$250.

F. Stage II Operating Permit Notifications.

Fee: \$100 per each Notification covered by State Rule 10 CSR 10-5.220, as amended, based on costs enumerated in Appendix A of this Ordinance.

G. Original Visible Opacity Certification.

Fee: \$200, which includes Method 9 instructional class time and opacity observation field training, based on costs enumerated in Appendix B of this Ordinance. Government employees are exempt from this fee. This is a non-refundable fee and is charged regardless of whether student passes or fails certification criteria.

H. Visible Opacity Re-Certification.

Fee: \$100, based on costs enumerated in Appendix B of this Ordinance. No instructional class time is included or required. Only opacity observation field training is included. Government employees are exempt from this fee. This is a non-refundable fee which is charged regardless of whether student passes or fails re-certification criteria.

I. Application for Variance and/or Appeal of Commissioner's Action or Order.

Fee: \$50 plus actual cost of all additional expenses incurred except staff salaries of Air Pollution Control Division and Variance Board Members compensation.

J. Request to Amend Final Permits.

1. Changes resulting in increased emissions, air quality impact or increment consumption.

Fee: \$100, additionally, a permit processing fee \$50 per hour of logged staff time.

2. Changes that do not result in increased emissions, air quality impact, or increment consumption. No permit filing fee required. However, a processing fee of \$50 per hour of logged staff time will be charged.

K. Public Notices and Public Hearings.

The expenses incurred in the processing of any type of permit which requires public notice or participation for approval, or the request for a public hearing by a facility under the jurisdiction of the Air Pollution Control Division, will be the responsibility of the applicant. All billings received by the Air Pollution Control Division for all such expenses will be forwarded to the applicant for payment. Final permit issuance is dependent upon the applicants payment in full of all expenses incurred.

L. Penalty Fees.

Any individual or company that has commenced construction of or begun operation of any device, emission unit, source operation, prior to payment of the normal fee as stated in this Section shall have that fee doubled. Processing fees are not subject to Penalty Fee requirement.

SECTION TWENTY SEVEN: Severability.

The Sections of this Ordinance shall be severable. In the event any Section of this Ordinance is found by a Court of competent jurisdiction to be unconstitutional, the remaining Sections of this Ordinance are valid unless the Court finds the valid Sections of this Ordinance so essentially and inseparably connected with, and so dependent upon the void Section, that it cannot presume that the legislature would have enacted the valid Sections without the void ones; or unless the Court finds that the valid Sections, standing alone, are

incomplete and are incapable of being executed in accordance with the legislative intent.

SECTION TWENTY EIGHT: Penalty Clause.

Every person convicted of a violation of any Section of this Ordinance shall be punished by a fine of not less than one (\$1) dollar, nor more than five hundred (\$500) dollars, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each day that any violation shall continue, it shall constitute a separate offense.

SECTION TWENTY NINE: The provisions of Section Sixteen, C. shall be effective on May 1, 2000, notwithstanding to the contrary Section Thirty: Emergency Clause.

SECTION THIRTY: Emergency Clause.

The passage of this Ordinance being deemed necessary for the immediate preservation of the public health and safety, is hereby declared to be an emergency measure and shall become effective immediately upon its passage and approval by the Mayor.

APPENDIX A:

The following are the performance-based costs for Construction Permitting, the direct monitoring to establish the standards, the administrative for both decision-making, transcribing, and meetings, and enforcement, as of 6/30/99, referenced in Section Twenty Six of this Ordinance. It is expected that revenue of \$92,000 for each of the first three years from fees authorized in Section Twenty Six, subsections A through F, and I through L of this Ordinance will not exceed the costs herein itemized.

	Amount	% of Total Category
Budget		
Payroll	\$410,997.00	56% of Division costs
Fringe(FICA,Med. Life Ins.)	\$ 58,383.00	
Supplies, Materials, Equipment, Contracts	\$ 71,014.00	56% of Division costs
Total Direct Costs	\$540,394.00	

APPENDIX B:

The following are the performance-based costs for planning, organizing, implementing, evaluating, and communicating with participants of smoke school, as of 6/30/99, referenced in Section Twenty Six of this Ordinance.

It is expected that revenue of \$40,000 for each of the first three years from fees authorized in Section Twenty Six, subsections A through F, and I through L of this Ordinance will not exceed the costs herein itemized.

	Amount	% of Total Category
Budget		
Payroll	\$ 40,006.00	5.02% of Division costs
Fringe(FICA,Med. Life Ins.)	\$ 6,035.00	
Supplies, Materials, Equipment, Contracts	\$ 35,465.00	4.4% of Division costs
Total Direct Costs	\$ 42,515.00	

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
09/24/99	09/24/99	STR		
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
10/22/99			10/29/99	11/05/99
ORDINANCE	VETOED		VETO OVR	
64749				