

ORDINANCE #65701
Board Bill No. 279
Committee Substitute

An ordinance adopting regulations for the operation of Hospital/Medical/Infectious Waste Incinerators (HMIWIs) within the City of St. Louis containing definitions, a penalty clause, a severability clause, and an emergency clause.

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

SECTION ONE. Policy Statement.

It is hereby declared to be the public policy of the City of St. Louis, for the Department of Health, that because Hospital/Medical/Infectious Waste Incinerators are a source of a number of hazardous pollutants, including mercury and dioxins, to ensure the safe and effective operation of such incinerators and to provide adequate information related to their operation to the public.

SECTION TWO. Adoption.

This Ordinance addressing Hospital/Medical/Infectious Waste Incinerators is in addition to the provisions of Ordinance 65645 and Ordinance 64749.

SECTION THREE. Name.

This Ordinance shall be known and may be cited as the City of St. Louis Medical Waste Incinerator Ordinance.

SECTION FOUR. Definitions.

Definitions for key words used in this Ordinance may be found in St. Louis City Revised Code Sections 11.34.060 and 11.34.170, as amended, and in State Rules 10 CSR 10-6.020(2) and 10 CSR 10-6.200(2). Additional definitions specific to this Ordinance are as follows:

- a. "Board" means the Board of Air Pollution Control Appeals and Variance Review.
- b. "Commissioner" means the Health Commissioner for the City of St. Louis.
- c. "Continuous emission monitoring system," or "CEMS" means the total equipment used to continuously sample, analyze, and provide a record of emissions.
- d. "Continuous opacity monitoring system," or "COMS" means a continuous monitoring system that measures the opacity of emissions.
- e. "Malfunction" means any sudden, infrequent, and not preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal and usual manner. During periods of malfunction, the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first. Failure of air pollution control equipment, process equipment, or processes due to power failure shall not be deemed a malfunction unless an emergency power generator is utilized within sixty (60) seconds of initial power failure.

SECTION FIVE. Application of Regulations.

- (a) The provisions of this Ordinance shall apply to all HMIWIs in St. Louis, Missouri, except HMIWIs used exclusively for the cremation of human and animal bodies and body parts.
- (b) In the event that standards within this Ordinance conflict with one another, the more stringent requirement shall apply.

- (c) Where a HMIWI is regulated by this Ordinance and applicable State Statute or Regulation, the more stringent requirements of each shall apply.
- (d) Where a HMIWI is regulated by this Ordinance and Ordinance 65645, the more stringent requirements of each shall apply.

SECTION SIX. Prohibition against Incineration.

It is unlawful to incinerate any medical, hospital, or infectious waste which can be treated through non-incineration waste treatment methods, unless the treatment of such waste by non-incineration waste treatment methods is specifically prohibited by state or federal law.

SECTION SEVEN. Non-bypass Stack Use.

- (a) The owner or operator of a HMIWI shall install CEMS on the non-bypass stacks, unless not technically feasible, to measure specific emissions for which there are limitations.
- (b) Specific emissions for which there are limitations include, but are not limited to:
 - (1) Particulate matter;
 - (2) Carbon monoxide;
 - (3) Dioxin/furans;
 - (4) Hydrogen chloride;
 - (5) Sulfur dioxide;
 - (6) Nitrogen oxides;
 - (7) Lead;
 - (8) Cadmium; and
 - (9) Mercury.
- (c) The burden of proof that CEMS is not technically feasible for a particular facility rests with the owner or operator of a HMIWI. Economic considerations shall not be taken into account. If a HMIWI requests the Commissioner to determine that the use of CEMS at a facility is not technically feasible, the Commissioner shall notify the public of the request and allow for a public comment period of no shorter than sixty (60) days prior to making a decision.
- (d) The owner or operator of a HMIWI shall install COMS on all non-bypass stacks to measure opacity.
- (e) Records from CEMS and COMS shall be stored on the HMIWI premises for ten (10) years and shall be submitted on a monthly basis to the Commissioner.
- (f) Tampering with CEMS, COMS, or records therefrom shall result in the imposition of a fine assessed at the maximum allowed by law. Such evidence shall also be transmitted to the permit and enforcement divisions of the Missouri Department of Natural Resources and the United States Environmental Protection Agency.

SECTION EIGHT. Bypass Stack Use.

- (a) Any use of a bypass stack shall be deemed a violation of emission limitations applicable to the facility unless such use occurs exclusively during a scheduled startup or shutdown, or during a malfunction.

- (b) The owner or operator of a HMIWI shall install a volumetric flow meter to record any flow from the bypass stack.
- (c) Data from the volumetric flow meter shall be used in conjunction with additional necessary information to calculate maximum potential emissions from the bypass stack.
- (d) Records from the volumetric flow meter, including data and emissions calculations, shall be stored on the HMIWI premises for ten (10) years and shall be available for inspection by the Commissioner, or other interested party, upon request.
- (e) Tampering with the volumetric flow meter or records therefrom shall result in the imposition of a fine assessed at the maximum allowed by law. Such evidence shall also be transmitted to the permit and enforcement divisions of the Missouri Department of Natural Resources and the United States Environmental Protection Agency.
- (f) In the event of an emission from the bypass stack, the operator shall immediately shut down the HMIWI. The HMIWI shall not be operated after use of the bypass stack until the Commissioner is satisfied that the condition which caused such use is corrected.
- (g) The HMIWI operator shall immediately notify the Commissioner of each use of the bypass stack. This notification shall consist of a full report of the event, including volumetric flow rate and maximum emissions calculations associated with such use of the bypass stack. The report shall also include a statement of all known causes of the event and a detailed statement of the actions that will be taken to minimize or eliminate future occurrences. This statement shall include, but is not limited to, actions planned to achieve the following: correction of the conditions causing such use, reduction of the frequency of occurrence of such conditions, minimization of the amount by which emission limits are exceeded, and reduction of the length of time for which emission limits are exceeded.
- (h) Public notice. In the event that emissions released from the bypass vent violate the terms of this Ordinance, state law or regulations, or federal law or regulations, the operator of the HMIWI shall provide conspicuous and prominently published public notice of such use through public advertisement, but not in the form of a legal notice, setting forth the date, time, cause, and contents of such emission. The notice shall be published in a newspaper of general circulation within the City of St. Louis. The notice shall be published in one or more additional newspapers serving the community (or communities) within a one-mile radius of the HMIWI.

SECTION NINE. Record Keeping.

- (a) The owner or operator of a HMIWI shall keep complete records of the following: results of any performance or other emissions tests performed; all maintenance records; and any additional information required by the City of St. Louis Health Department, the Department of Natural Resources, and the Environmental Protection Agency.
- (b) Records of all required information shall be kept for at least ten (10) years, and shall be made available to the Commissioner immediately upon request.

SECTION TEN. Prevention of Equipment Failure.

- (a) The owner or operator of an HMIWI shall develop and follow a written schedule for inspecting air pollution control equipment, process equipment, or processes. The owner or operator shall keep this schedule at the facility.
- (b) The schedule shall identify the types of problems (e.g. malfunctions or deterioration) which are to be looked for during the inspection process.
- (c) The frequency of the inspection process shall be based on the rate of deterioration of equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. However, the frequency of the inspection process shall be, at a minimum, once per week.

- (d) The owner or operator of a HMIWI shall file the schedule with the Commissioner on an annual basis. The Commissioner may modify or amend the schedule as appropriate.
- (e) The owner or operator shall remedy any deterioration or malfunction of air pollution control equipment, process equipment or processes which the inspection process reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.
- (f) The owner or operator shall record inspections in an inspection log or summary in compliance with Section Nine. At a minimum, these records shall include the date and time of inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

SECTION ELEVEN. Compliance Dates.

- (a) All HMIWIs shall meet the requirements of this ordinance no later than two (2) months after this ordinance becomes effective, except that the provisions of Section Six of this Ordinance become effective immediately.
- (b) All HMIWIs that commence operation after the effective date of this Ordinance shall meet the requirements of this Ordinance upon startup.

SECTION TWELVE. Enforcement.

- (a) The Commissioner shall enforce the provisions of this ordinance.
- (b) The Commissioner shall have the authority to inspect any HMIWI facility or records and may demand proof of compliance of HMIWI operators with this Ordinance.
- (c) The Commissioner shall conduct at least two (2) unannounced inspections per year at each HMIWI.
- (d) Upon a finding that any provisions of this Ordinance have been violated, the Commissioner may suspend or revoke any permit, license, or grant contained within this ordinance after opportunity for hearing by the Board.
 - (1) At a Board hearing on enforcement of the provisions of this Ordinance, the Commissioner shall make a recommendation for enforcement action as to the offending non-compliance.
 - (2) The parties involved and the Commissioner may appear at the hearing with counsel, may file written arguments and may make oral arguments, offer testimony or cross examine witnesses, or take any combinations of such actions.
 - (3) All testimony taken before the Board shall be under oath and recorded stenographically, except that the Board may require the submission of voluminous or detailed or technical testimony in writing be given 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) Upon the request of any parties, or on the motion of any member of the Board, the Board shall 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.
 - (5) The Board may affirm, modify, or rescind any recommendation for enforcement action given by the Commissioner.

SECTION THIRTEEN. Preservation of City's Rights of Alternate Remedies.

Nothing in this Ordinance shall abandon, abridge, or limit the City's rights to pursue the enforcement of and compliance with the provisions of this ordinance through administrative or judicial action.

SECTION FOURTEEN. Penalties for Violation.

- (a) In addition to any penalties set forth in Section Twelve of this ordinance, any person violating, failing to comply with, or committing any act prohibited by any provision of this Ordinance shall be fined the maximum amount allowable by the law and charter of the City of St. Louis.
- (b) In the event that there is a failure to comply with this Ordinance, or order of the Commissioner or Board, the Department of Health shall take immediate action against the owners and operators of the non-compliant facility. The City Counselor shall be empowered to immediately seek in the Circuit Court injunctive, declaratory, and equitable relief against the owners and operators of the non-compliant air facility.
- (c) Each separate violation of any provision of this Ordinance shall constitute a separate offense.
- (d) Each day upon which any violation of this Ordinance takes place shall constitute a separate offense.

SECTION FIFTEEN. Severability Clause.

The provisions of this Ordinance shall be severable. In the event that any provision of this Ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this ordinance are valid unless the court finds the valid provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Board of Aldermen would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION SIXTEEN. Emergency Clause.

This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

Approved: December 2, 2002