

St. Louis City Ordinance 65108

FLOOR SUBSTITUTE
BOARD BILL NO. 196 [00]

INTRODUCED BY ALDERMAN Stephen J. Conway

An ordinance to amend Ordinance 64749, approved November 5, 1999, by repealing Section 16 relating to restrictions of emission of visible air contaminants, Section 24 relating to enforcement and Section 26 relating to a performance based fee schedule and enacting three new Sections relating to the same subject matter, and including a severability clause, a penalty clause, and an emergency clause.

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

SECTION ONE: Section 16, Section 24, and Section 26 of Ordinance 64749 are hereby repealed and in lieu thereof the following new Sections 16, 24 and 26 of Ordinance 64749 are enacted.

SECTION TWO: SECTION 16 OF ORDINANCE 64749 SHALL READ AS FOLLOWS:

SECTION SIXTEEN: Restrictions of Emission of Visible Air Contaminants
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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 from portable, stationary, or motor vehicle sources in excess of 40% opacity, regardless of length of time, are considered excessive emissions.

D. Motor vehicles, except for emergency vehicles, shall not operate in idle for more than ten (10) consecutive minutes.

E. Exceptions to subsection B of section 16 of Ordinance 64749.

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 exempt 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 THREE: SECTION 24 OF ORDINANCE 64749 SHALL READ AS FOLLOWS:

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 excessive emissions, a brief description of the excessive 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 excessive 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 excessive emissions having occurred, or the steps that have been taken or will be taken to prevent recurrence of the excessive 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. Within 14 days of the date of abatement specified in the notice, the Commissioner or his representative shall re-inspect the premise to determine compliance with the permit, regulation, or Ordinance, of which this is a part. This re-inspection shall be known as a "NOV Inspection." If no abatement date is specified in the NOV, the responsible person who has received the NOV shall be exempt from the "NOV Inspection" process. If the responsible person is not exempt and not in compliance with any of the above abatement requirements, the Commissioner or his representative shall perform another NOV Inspection. If the responsible person is not in compliance, the Commissioner may revoke the permit and cause the source to be removed from the property.

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 FOUR: SECTION 26 OF ORDINANCE 64749 SHALL READ AS FOLLOWS:

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.

M. NOV Inspection Fee

Fee: \$100.00 for each NOV Inspection. It is estimated that revenue from this source will be approximately \$15,000 for each of the first three years.

SECTION FIVE: SeverabilitySECTION TWENTY SEVEN:
SeverabilitySECTION 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 SIX: Penalty ClauseSECTION TWENTY EIGHT: Penalty
ClauseSECTION TWENTY EIGHT: Penalty Clause.

Every person convicted of a violation 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 SEVEN: Emergency ClauseSECTION 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 ClauseSECTION 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.

Clarence
Harmon,
Mayor

CITY OF SAINT LOUIS
DEPARTMENT OF PUBLIC SAFETY

Timothy J. Dee,
Ph.D.Commissioner

Martie
Aboussie,
Director

DIVISION OF AIR POLLUTION CONTROL
1415 North Thirteenth Street
St. Louis, Missouri 63106
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May 5, 2000

**Thomas Ray
City Counselor
Room 314, City Hall
Saint Louis, Missouri 63103**

Dear Mr. Ray:

**Attached is a proposed Board Bill, which has been reviewed by Paul Diekoff of
your staff as to form.**

**This proposed Board Bill to amend Ordinance 64749 changes parts of Sections
16, 24, and 26. On page 3 of the proposed Bill, Section 16 of Ordinance 64749,
subsection C is amended to add the words "from portable, stationary, or motor
vehicle sources" after the words "Any emissions," and subsection D is added to
read "D. Motor vehicles, except for emergency vehicles, shall not operate in idle
for more than ten (10) consecutive minutes." On page 4 of the proposed Bill,
Section 24 of Ordinance 64749, subsection A.2. is amended starting in line 17**

"Within..." and ending with line 5 on page 5 On page 11 of the proposed Bill, Section 26 of Ordinance 64749, subsection M is added to read, "M. NOV Inspection Fee__ Fee: \$100.00 for each NOV Inspection. It is estimated that revenue from this source will be approximately \$15,000 for each of the first three years.

Please provide your opinion whether this proposed Board Bill is approved as to form. Thank you for your attention to this matter.

Sincerely,

**Timothy J. Dee, Ph.D.
Commissioner**

cc: Martie Aboussie, Director, Dept. of Public Safety

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
10/27/00	10/27/00	PS		
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
11/17/00			12/01/00	12/01/00
ORDINANCE	VETOED	VETO OVR	SIGNED BY MAYOR	
65108			12/20/00	