

**BOARD BILL NO. 44                    INTRODUCED BY: ALDERMAN GREGORY CARTER**

1    An Ordinance for regulation and control of Air Pollution within the City of St. Louis: repealing  
2    Ordinance 65442, approved March 18, 2002; and Ordinance 65645 approved October 15, 2002,  
3    pertaining to the regulation and control of air pollution and enacting in lieu thereof a new  
4    ordinance pertaining to the same subject matter, and containing a severability clause, a penalty  
5    clause and an emergency clause.

6

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

17 **SECTION ONE:** Adoption.

18 The following Ordinances are hereby repealed: Ordinance No. 65442, approved March 18,

19 2002; and Ordinance 65645 approved October 15, 2002; and in lieu thereof the following

20 Ordinance is hereby adopted.

21 **SECTION TWO:** Name

22 This Ordinance shall be known and may be cited as the Air Pollution Control Ordinance, an

23 Ordinance for regulation and control of air pollution within the City of St. Louis.

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1 **SECTION THREE:** Policy Statement.

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

7 **SECTION FOUR:** Statement of Delegated Authority.

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

10 The Commissioner of Health and or his or her designee operating Delegated Agents of the State of  
11 Missouri, Department of Natural Resources, Division of Environmental Quality, Air Pollution Control  
12 Program, under authority contained within the Air Conservation Law and granted by the Missouri Air  
13 Conservation Commission and conditions contained within the State/Local Agreement, may enforce  
14 any provision of State Air Conservation Law so delegated, or specific rules contained within  
15 Chapters 5 and 6 of Division 10 of Title 10 of the Code of State Regulations.

16 **SECTION FIVE:** Continuation of Existing Actions.

17 The repeal of any Ordinance or portion thereof by this Ordinance shall not affect or impair any  
18 act done, or right vested or accrued, or any proceeding suit or prosecution, had or commenced  
19 in any cause before such repeal takes effect; but every such act done, or right vested, or  
20 accrued, or proceeding suit or prosecution had or commenced shall remain in full force and  
21 effect to all intents and purposes, as if such ordinance or part thereof so repealed had remained  
22 in force. No offense committed and no liability, penalty, or forfeiture, either civilly, or criminally  
23 incurred prior to the time when any such ordinance, or part thereof shall be repealed or altered

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1 by this Ordinance, shall be discharged or affected by such repeal or alteration; but prosecutions  
2 and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded  
3 within all respects as if such prior Ordinances or part thereof had not been repealed or altered.

4 **SECTION SIX:** Definitions.

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

- 7 1. Abandon- shall mean the cessation of the use of the equipment, machines, devices,  
8 articles, contrivances or facility for a period in excess of one year. If this definition runs  
9 contrary to State Rule 10 CSR 10-6.060, as amended, on permitting decisions affected  
10 by that rule, the State Rule will take preference.
- 11 2. Adjoining- contiguous, lying next to, or in contact with.
- 12 3. Adsorption system- A device containing adsorbent material such as: activated carbon,  
13 molecular sieves, activated alumina, silica gel; an inlet and outlet for exhaust gases; and  
14 a system to regenerate the saturated adsorbent. The adsorption system must provide  
15 for the proper disposal or reuse of all VOC adsorbed.
- 16 4. Air Pollution Abatement Operation- Any operation which has as its essential purpose a  
17 significant reduction in the emission of air contaminants or the effect of such emission.
- 18 5. Ash- The incombustible solid matter in coal, wood, oil, refuse or other fuel.
- 19 6. BTU- British Thermal Unit(s).
- 20 7. CFR- Code of Federal Regulations.
- 21 8. CSR- Code of State Regulations.
- 22 9. Charge Port- Any opening into any vessel or enclosure through which material is  
23 charged into a source operation.

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- 1 10. Charge Rate- The weight of material introduced into a source operation per hour.
- 2 11. Charging Operation- The process of introducing materials into a source operation. The  
3 material charged can be solid, liquid, or gas or any combination thereof.
- 4 12. Commissioner- The Commissioner of Health and or his or her designee of the City of St.  
5 Louis.
- 6 13. Construction Project - The installation or modification of an "Emissions Unit" as defined  
7 in 10 CSR 10-6.020, as amended at any facility within the City of St. Louis.
- 8 14. Criteria Pollutants- Those pollutants for which National Ambient Air Quality Standards  
9 exist.
- 10 15. Directly Impinges- As used in this Ordinance shall pertain to an emission directly  
11 impacting on adjoining structures not owned or controlled by the source of the emission.
- 12 16. Dry Basis- The method of reporting coal analysis with moisture eliminated and remaining  
13 constituents to be calculated to total one hundred (100%) percent.
- 14 17. Elevated Terrain- Terrain which exceeds the elevation of the Good Engineering Practice  
15 Stack Height.
- 16 18. Facility- All source operations including activities that result in fugitive emissions, that  
17 belong to the same industrial grouping (that have the same two (2)-digit code as  
18 described in the Standard Industrial Classification Manual, 1987), and any marine  
19 vessels while docked at the facility, located on one (1) or more contiguous or adjacent  
20 properties and under the control of the same person (or persons under common control).
- 21 19. Fly Ash- Particles of ash carried by the products of combustion.
- 22 20. Inadequate Dispersion- Shall pertain to the visible plume from any exhaust stack, duct,  
23 vent, impinging upon adjoining property in such a manner that it directly affects or has

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- 1           the potential as determined by the Commissioner to adversely affect the health or well  
2           being of individuals on adjoining property.
- 3           21. Industrial Process- An independent method or grouping of equipment used for  
4           manufacturing a product or products.
- 5           22. Like-Kind Replacement- Replacement of equipment with equipment of the same rating  
6           or capacity that does not result in an increase of emissions. This definition only applies  
7           to the City of St. Louis Ordinances.
- 8           23. Open Burning- The burning of any matter in such manner that the products of  
9           combustion resulting from the burning are emitted directly into the ambient air without  
10          passing through an approved stack, duct, vent or chimney.
- 11          24. Performance Based Cost- The total direct and indirect resources allocated to provide  
12          services within the Commissioner's Office.
- 13          25. Plume- A sensory detectable column or band of smoke and/or odors.
- 14          26. Premises- Land, improvements, or the ambient air above such land or improvements.
- 15          27. Reasonable Means- The rational application of emission control technology or methods  
16          of operation to reduce otherwise uncontrolled pollutant emissions to the ambient air.
- 17          28. Reasonable Time- A period of time to be determined by the Commissioner of Health and  
18          or his or her designee after reviewing all pertinent information, which does not cause  
19          undue harm to any concerned persons constrained by said time frame.
- 20          29. Refuse- Any combustible waste material containing carbon in a free or combined state,  
21          other than liquids or gases.

- 1 30. Salvage Operation- Any business, trade, industry or other activity conducted in whole or  
2 in part for the purpose of salvaging or reclaiming any product or material including but  
3 not limited to metals or chemicals.
- 4 31. Sensory Detectable- The level at which an air contaminant can be perceived by the  
5 sense of sight or smell.
- 6 32. Significant Number- This shall be a number determined by the Commissioner of Health  
7 and or his or her designee, based on a case by case basis of those individuals affected  
8 by an alleged violating facility, and taking into consideration such facts as geography,  
9 population density, location, and any other relevant data.
- 10 33. Soil Vapor Extraction (Vacuum Extraction)-An *in situ* remedial technology that reduces  
11 concentrations of volatile constituents in petroleum products absorbed into the soil. In  
12 this technology, a vacuum is applied through wells near the source of contamination in  
13 the soil.
- 14 34. St. Louis Air Quality Control Region- The geographical area composed of St. Louis, St.  
15 Charles, Jefferson and Franklin Counties and the City of St. Louis in Missouri, and St.  
16 Clair, Madison, and Monroe Counties in Illinois including any counties added herein by  
17 Federal and or State government.
- 18 35. Trade Waste- Solid, liquid, or gaseous material resulting from construction or the  
19 prosecution of any business, trade or industry, or any demolition operation including but  
20 not limited to wood, plastics, cartons, grease, oil, chemicals and cinders.
- 21 36. Uncombined Water - The visible condensed water which is not bound, physically or  
22 chemically, to any air contaminant.

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

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

7 **SECTION SEVEN: Powers and Duties.**

8 In addition to any other powers vested in the Commissioner by law, the Commissioner of Health  
9 and or his/her designee shall have power to:

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

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

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

17 D. Issue such orders as may be necessary to implement the purposes of this Ordinance,  
18 including but not limited to orders of abatement, stop work orders, and sealing orders.

19 If deemed necessary, can order the facility to set up monitoring and testing at specific  
20 locations and enforce the same by all appropriate administrative and judicial  
21 proceedings.

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

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- 1 F. Prepare and develop a comprehensive plan or plans for the prevention, abatement, and  
2 control of air pollution.
- 3 G. Encourage voluntary cooperation by persons or affected groups to achieve the  
4 purposes of this Ordinance.
- 5 H. Encourage and conduct studies, investigations and research, relating to air pollution  
6 and its prevention, abatement, and control.
- 7 I. Collect and disseminate information and conduct educational and training programs  
8 relating to air pollution.
- 9 J. Advise, consult, and cooperate with other local governmental units, agencies of the  
10 state, industries, interstate or regional agencies, and the federal government, and with  
11 interested persons and groups.
- 12 K. Appoint such engineers, specialists, technicians, inspectors, stenographers, clerks, and  
13 other employees that shall be necessary to perform the duties of the Commissioner of  
14 Health and or his or her designee. Such appointments shall be made in accordance  
15 with the provisions of the Charter and Ordinances of the City.
- 16 L. Accept, receive, and administer grants or other funds or gifts from public and private  
17 agencies.
- 18 M. Designate testing methods when a particular method is not specified by this Ordinance  
19 from among standards of widely recognized methods, including but not limited to  
20 methods of the ASTM, ASME, United States Environmental Protection Agency, and any  
21 recognized professional publications.

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

4 O. Whenever the Commissioner of Health and or his or her designee may find that  
5 sufficient progress is not being made toward abatement or control of a significant  
6 source or sources of air pollution located within that portion of the Air Quality Control  
7 Region, with the approval of the Director of Health and the Mayor, the Commissioner  
8 of Health and or his or her designee shall institute efforts to persuade the Governor of  
9 the State of Missouri, or the Missouri Air Conservation Commission, to register a formal  
10 complaint with the appropriate federal agency as provided by the laws of the United  
11 States.

12 P. Have a duty with the approval of the Mayor, to initiate or intervene in proceedings  
13 before the Missouri Air Conservation Commission, in order to attain standards of air  
14 pollution control throughout the Missouri portion of the Air Quality Control Region, which  
15 shall be as comprehensive and as restrictive as those created by this Ordinance.

16 Q. Unless specifically prohibited by law, the Commissioner may designate department  
17 representatives to carry out any or all of these powers and duties.

18 R. The Department of Health is encouraged and authorized to carry out these powers and  
19 duties of the ordinance set forth herein with the County of St. Louis

20 **SECTION EIGHT:** Administrative Hearings.

21 A. Any recipient of a notice of violation (NOV) may contest that there was a violation  
22 of the code or that he or she is the responsible party by completing a Request for  
23 Administrative Hearing petition and returning it to the Department of Health, Air

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1 Pollution Control Division, along with a non-refundable filing fee established by  
2 Section Twenty-Five of this Ordinance, within thirty (30) days from the date of  
3 violation.

- 4 B. 1. A Request for Administrative Hearing petition may be obtained from the  
5 Department of Health, Air Pollution Control.
- 6 2. The person requesting the hearing shall be notified of the time and place set for  
7 the hearing at least ten (10) working days prior to the date of the hearing.
- 8 3. If the Commissioner of Health and or his or her designee or the submits an  
9 additional written report concerning the violation to the hearing officer for  
10 consideration at the hearing, then a copy of the this report shall also be served  
11 on the person requesting the hearing at least five (5) working days prior to the  
12 date of the hearing.
- 13 C. 1. The Commissioner of Health and or his or her designee shall act as the  
14 hearing officer for the administrative hearing.
- 15 2. The administrative hearing shall be set for a date that is not less than fifteen  
16 (15) calendar days and not more than ninety (90) calendar days from the date  
17 that the request for hearing is filed in accordance with the provisions of this  
18 ordinance.
- 19 3. At the hearing, the party contesting the violation shall be given the opportunity  
20 to testify and to present evidence concerning the violation.
- 21 4. The failure of any recipient of a violation to appear at the administrative  
22 hearing shall constitute failure to exhaust their administrative remedies.

- 1                   5. The notice of violation and related documentation in the proper form, or a copy  
2                   thereof, shall be prima facie evidence of the violation. The Air Pollution  
3                   Control representative who issued the notice of violation need not be present.
- 4                   6. The hearing officer may continue the hearing and request additional  
5                   information from the Air Pollution Control representative or the recipient of the  
6                   violation prior to issuing a written decision.
- 7           D.    1. After considering all of the testimony and evidence submitted at the hearing,  
8                   the hearing officer shall issue a written decision to uphold or cancel the  
9                   violation and shall list in the decision the reasons for that decision. The  
10                  decision of the hearing officer shall be final.
- 11               2. If the hearing officer determines that the violation should be upheld, the  
12                  hearing officer shall set forth in the decision a payment schedule for the fine.
- 13               3. If the hearing officer determines that the violation should be canceled and the  
14                  fine was deposited with the city, then the city shall promptly refund the amount  
15                  of the deposited fine.
- 16               4. The recipient of the violation shall be served with a copy of the hearing  
17                  officer's written decision.
- 18           E.    Any final decision or disposition of a violation by a hearing officer shall constitute a  
19                  final determination for purposes of judicial review, subject to review under chapter  
20                  536, RSMo. After expiration of the judicial review period under chapter 536,  
21                  RSMo, unless stayed by a court of competent jurisdiction, the administrative  
22                  tribunal's decisions, findings, rules, and orders may be enforced in the same  
23                  manner as judgment entered by a court of competent jurisdiction. Upon being

1 recorded in the manner required by state law or the Uniform Commercial Code, a  
2 lien may be imposed on the real or personal property of any defendant entering a  
3 plea of *nolo contendere*, pleading guilty to, or found guilty of a violation in the  
4 amount of any debt due the city under this section and enforced in the same  
5 manner as a judgment lien under a judgment of a court of competent jurisdiction.

6 **SECTION NINE:** Variances.

7 A. Any person or organization who owns or is in control of any plant, building, structure,  
8 process, or equipment may submit a petition to the Commissioner of Health and or  
9 his or her designee for a variance from this Ordinance governing the quality, nature,  
10 duration or extent of discharges of air pollutants. The petition shall be accompanied  
11 by a fee of two-hundred (\$200) dollars and shall include the following information:

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

- 1           6. The facts showing why compliance with the Section, rule or order is  
2           unreasonable;
- 3           7. For what period of time the variance is sought and why;
- 4           8. The damage or harm resulting or which would result to petitioner from  
5           compliance with such Section, rule or order;
- 6           9. The requirements which petitioner can meet and the date when petitioner can  
7           comply with such requirements including the emissions which will result;
- 8           10. The advantages and disadvantages to the residents of the city resulting from  
9           requiring compliance or resulting from granting a variance;
- 10          11. Whether operations under such variance, if granted, would constitute a nuisance  
11          as defined in Section Thirteen of this Ordinance;
- 12          12. Whether any case involving the same identical equipment or process is pending  
13          in any court, civil or criminal;
- 14          13. Whether the subject equipment or process is covered by a permit issued by the  
15          Commissioner and or his or her designee; and
- 16          14. Such other information and data required by rule or regulation of the  
17          Commissioner of Health and or his or her designee enacted in conformity with  
18          the terms, conditions, and limitations of this Ordinance.
- 19          B. The Commissioner of Health and or his or her designee shall promptly investigate  
20          such petition.
- 21          C. The Commissioner of Health and or his or her designee may grant such variance if  
22          he/she finds that:

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

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

- 12          1. Notification will be given to the Missouri Department of Natural Resources Air  
13          Pollution Control as required by RSMO 643.140 - of any variance granted by the  
14          Commissioner of Health and or his or her designee\_will include copies of all  
15          relevant materials. The Missouri Air Pollution Control has thirty (30) days from  
16          receipt of said notice to approve or disapprove of the variance or take other action  
17          as granted by the Missouri Air Conservation Law. In no case will the variance  
18          take effect without the approval of the Missouri Air Pollution Control.

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

21          E. Variances may be granted for such period of time and under such terms and  
22          conditions as shall be specified by the Commissioner of Health and or his or her  
23          designee. Variances may be reviewed by the Commissioner of Health and or his or

1 her designee upon application made at least sixty (60) days prior to the expiration of  
2 the term. Renewal application shall be considered in the same manner as the initial  
3 petition for variance was considered by the Commissioner of Health and or his or her  
4 designee.

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

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

13 **SECTION TEN:** Commissioner of Health and or his or her designee to Approve  
14 Construction and Alteration Plans as well as Occupancy and Demolition  
15 Applications.

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

20 **SECTION ELEVEN:** Source-Specific Emergency Procedures.

21 Notwithstanding the provisions of this Ordinance, or any other provisions of law to the contrary,  
22 and without necessity of prior administrative procedures or hearings, or at any time during such  
23 proceedings, if the Commissioner of Health and or his or her designee, after investigation, is of

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1 the opinion that any person is discharging or causing to be discharged into the atmosphere any  
2 air contaminant, and if the Commissioner of Health and or his or her designee determines that  
3 the discharge under the atmospheric conditions then prevailing, creates a hazardous  
4 emergency which requires immediate action to prevent serious damage to the public health,  
5 safety or welfare, and that it therefore appears to be prejudicial to the interests of the people of  
6 the City to delay action, the Commissioner and or his or her designee, with the written approval  
7 of the Mayor, shall order the person responsible for the emission, in writing, to discontinue  
8 immediately the discharge of the contaminants into the atmosphere, whereupon the person  
9 shall immediately discontinue the discharge.

10 In the event that there is a failure to comply with the Commissioner of Health and or his or her  
11 designee's order, then all affected departments of the City government shall take immediate  
12 action necessary to protect and preserve the health, safety and welfare of the public. The City  
13 Counselor shall be empowered to immediately seek in the Circuit Court or U. S District Court  
14 equitable relief to immediately halt the further emission of the air contaminants.

15 **SECTION TWELVE:** Asbestos:

16 A. Asbestos Definitions - For purposes of this SECTION the following words and  
17 definitions shall apply.

18 1. Adequately wet - Sufficiently mix or penetrate with liquid to prevent the  
19 release of particles. If visible emissions are observed coming from  
20 asbestos-containing material, then that material has not been adequately  
21 wetted. However, the absence of visible emissions is not sufficient evidence  
22 of being adequately wet.

- 1                   2. Air Pollution Control (APC) – Air Pollution Control
- 2                   3. Air sampling technician – An individual who has been trained by an air
- 3                         sampling professional to do air monitoring. That individual conducts air
- 4                         monitoring of an asbestos abatement project before, during and after the
- 5                         project has been completed.
- 6                   4. Asbestos – The asbestiform varieties of chrysotile, crocidolite, amosite,
- 7                         anthophyllite, tremolite and actinolite.
- 8                   5. Asbestos abatement – The encapsulation, enclosure or removal of asbestos-
- 9                         containing materials, in or from a building, or air contaminant source; or
- 10                        preparation of friable asbestos-containing material prior to demolition.
- 11                   6. Asbestos abatement contactor – Any person, registered with the Missouri
- 12                        Department of Natural Resources (MODNR), who by agreement, contractual
- 13                        or otherwise, conducts asbestos abatement projects at a location other than
- 14                        his/her own place of business.
- 15                   7. Asbestos abatement project - An activity undertaken to encapsulate, enclose,
- 16                        or remove 10 square ft and/or 16 linear ft or more of friable asbestos
- 17                        containing materials from buildings and other air contaminant sources
- 18                        containing 10 square ft and/or 16 linear ft or more.
- 19                   8. Asbestos abatement supervisor – An individual, certified by MODNR, who
- 20                        directs, controls or supervises others in asbestos abatement projects.
- 21                   9. Asbestos-containing material (ACM) – Any material or product which contains
- 22                        more than one percent (1%) asbestos, by weight.

- 1                   10. Asbestos project - An activity undertaken to remove or encapsulate 160  
2                   square ft and/or 260 linear ft or more of friable asbestos containing materials  
3                   or demolition of any structure or building or a part of it containing the  
4                   previously mentioned quantities of asbestos-containing materials.
- 5                   11. Asbestos removal project – An asbestos abatement project consisting of  
6                   activities that involve, and are required, to take out friable asbestos-  
7                   containing materials from any facility. This definition includes, but is not  
8                   limited to, activities associated with the cleanup of loose friable asbestos-  
9                   containing debris or refuse, or both, from floors and other surfaces.
- 10                  12. Building – Any structure excluding single-family, owner-occupied dwellings,  
11                  and vacant public or privately owned residential structures of four (4)  
12                  dwelling units or less being demolished for the sole purpose of public health,  
13                  safety or welfare. Excluded structures must be geographically dispersed,  
14                  demolished pursuant to a public safety determination, and must pose a  
15                  threat to public safety.
- 16                  13. Category I non-friable asbestos-containing material (ACM) - Asbestos-  
17                  containing packing, gaskets, resilient floor covering, and asphalt roofing  
18                  products containing more than 1% asbestos by weight.
- 19                  14. Category II non-friable ACM - Any material, excluding Category I non-friable  
20                  ACM, containing more than 1% asbestos by weight, that when dry, cannot  
21                  be crumbled, pulverized, or reduced to powder by hand pressure.

- 1                   15. Commercial or public project - The demolition of one or more houses as part  
2                   of an urban renewal project, a highway construction project, or a project to  
3                   develop a shopping mall, industrial facility, or other private development.
- 4                   16. Containment – The area where an asbestos abatement project is conducted.  
5                   The area must be enclosed either by a glove bag or plastic sheeting  
6                   barriers.
- 7                   17. Demolition - The wrecking, razing, burning or removing of any load-  
8                   supporting structural member or portion of a structure together with any  
9                   related handling operation.
- 10                  18. Emergency asbestos abatement project – An asbestos abatement project  
11                  that must be undertaken immediately to prevent imminent severe human  
12                  exposure or to restore essential facility operation.
- 13                  19. Facility - Any institutional, commercial, public, industrial, or residential  
14                  structure, installation, or building (including any structure, installation, or  
15                  building containing condominiums or individual dwelling units operated as a  
16                  residential cooperative, but excluding individual residential buildings having  
17                  four or fewer dwelling units that do not meet the requirement of an  
18                  installation and are not part of a commercial or public project); any ship; and  
19                  any active or inactive waste disposal site. For purposes of this definition,  
20                  any building, structure, or installation that contains a loft used as a dwelling  
21                  is not considered a residential structure, installation, or building. Any

- 1 structure, installation or building that was previously subject to this Section is  
2 not excluded, regardless of its current use or function.
- 3 20. Friable ACM - Any material containing more than 1% asbestos by weight,  
4 that when dry can be crumbled, pulverized, or reduced to powder by hand  
5 pressure.
- 6 21. Glove Bag – A manufactured or fabricated device, typically constructed of six  
7 (6) mil transparent polyethylene or polyvinyl chloride plastic. This device  
8 consists of two (2) inward projecting long sleeves, an internal tool pouch and  
9 an attached, labeled receptacle for asbestos waste. The bags are especially  
10 designed to contain sections of pipe for the purpose of removing a short  
11 length of damaged asbestos containing material without releasing fibers into  
12 the air.
- 13 22. Installation - Any building or structure or multiple (more than one) buildings  
14 or structures at a single demolition or renovation site under the control of the  
15 same owner or operator (or owner or operator under common control) that is  
16 demolished or renovated within a 12-month period.
- 17 23. Inspector – An individual, under AHERA, who collects and assimilates  
18 information used to determine whether asbestos-containing material is  
19 present in a building or other air contaminant sources.
- 20 24. Leak-tight - Solids or liquids cannot escape or spill out. It also means dust-  
21 tight.

- 1                   25. Non-friable ACM - Any material containing more than 1% asbestos that  
2                   when dry, cannot be crumpled, pulverized, or reduced to powder by hand  
3                   pressure.
- 4                   26. Owner or operator of a demolition or renovation activity - Any person, who  
5                   owns, leases, operates, controls, or supervises ~~the~~ a facility being  
6                   demolished or renovated, or any person who owns, leases, operates,  
7                   controls, or supervises ~~the~~ a demolition or renovation operation, or both.
- 8                   27. Regulated asbestos-containing material (RACM) - (a) friable asbestos  
9                   containing material; (b) category I non-friable ACM that has become friable;  
10                  (c) category I non-friable ACM that will be or has been subjected to sanding,  
11                  grinding, cutting, or abrading; or (d) Category II non-friable ACM that has a  
12                  high probability of becoming or has become crumbled, pulverized, or  
13                  reduced to powder by the forces expected to act on the material in the  
14                  course of demolition or renovation operations regulated by this rule.
- 15                  28. Site - A site is generally expected to be a city block.
- 16                  B.    Application - This Rule shall apply to:
- 17                   1.    All persons that authorize, design, conduct and work in asbestos abatement  
18                   projects and asbestos removal projects;
- 19                   2.    All persons that monitor air-borne asbestos or dispose of asbestos waste as  
20                   a result of asbestos abatement projects;
- 21                   3.    All persons who inspect buildings to determine the presence or absence of  
22                   ACM;

- 1           4. All owners or operators of a demolition or renovation activity; and
- 2           5. Business entities that qualify for exemption status are not subject to the
- 3           notification requirements for asbestos abatement projects of a size less than
- 4           160 square feet, 260 linear feet, or 35 cubic feet. These business entities
- 5           are exempt from post-notification requirements, but shall keep records of
- 6           waste disposal for department inspection.

7           C. Asbestos Abatement Procedures and Practices

- 8           1. All asbestos abatement contractors prior to engaging in asbestos abatement
- 9           projects and asbestos removal projects shall:
- 10          a. Use only those individuals that have been certified or trained in
- 11           accordance with sections 643.225 to 643.250 of the Revised Statutes
- 12           of Missouri, and
- 13          b. Comply with Asbestos, NESHAP, and AHERA rules in (Code of
- 14           Federal Regulations) 29 CFR 1926.1101, 40 CFR Part 61, and 40
- 15           CFR Part 763; the standards for worker protection promulgated by the
- 16           United States Occupational Safety and Health Administration (OSHA)
- 17           in 29 CFR 1910.1001, 1910.1200, and 1926.58; the provisions of
- 18           section 643.225 to 643.250, RSMO (as amended); the Ordinance of
- 19           the City; rules and regulations and orders of the Commissioner of
- 20           Health and or his or her designee by and for the implementation of
- 21           this Ordinance.

- 1                   2. At each asbestos abatement project and asbestos removal project site, the
- 2                   person shall provide the following information for inspection by APC:
- 3                   a. Proof of current departmental registration;
- 4                   b. Proof of current departmental occupational certification for those
- 5                   individuals on the project;
- 6                   c. Most recent available air sampling results;
- 7                   d. Current photo identification for all applicable individuals engaged in
- 8                   the project; and
- 9                   e. Proof of passage of the training course for the air sampling
- 10                  technicians and photo identifications for air sampling technicians.

11           D. Notification Requirements

- 12           1a. Any person undertaking a demolition project shall submit a notification to
- 13           APC for review at least ten (10) working days prior to the start of the project.
- 14           1b. Any person undertaking an asbestos abatement project or asbestos removal
- 15           project shall submit a notification to APC for review at least ten (10) working
- 16           days prior to the start of the project. Business entities with state-approved
- 17           exemption status are exempt from notification except for those projects for
- 18           which notification is required by the EPA's National Emission Standard for
- 19           Hazardous Air Pollutants (NESHAP). APC may waive the ten (10) working
- 20           day review period upon request for good cause. To apply for this waiver, the
- 21           person shall complete the appropriate sections of the notification form

1 provided by APC. The person who applies for the ten (10) working day  
2 waiver must obtain approval from APC before the project can begin.

- 3 2. The person shall submit the notification form provided by APC.
- 4 3. If an amendment to the abatement project notification is necessary, the  
5 person shall notify APC immediately by telephone or fax. APC must receive  
6 the written amendment within five (5) working days following the verbal or  
7 fax agreement.
- 8 4. Asbestos abatement project notifications shall state actual dates and times  
9 of the project, the on-site asbestos abatement supervisor and a description  
10 of work practices. If the person must revise the dates and times of the  
11 project, the person shall notify our office at least twenty-four (24) hours in  
12 advance of the change by telephone or fax and then immediately follow-up  
13 with a written amendment stating the change. APC must receive the written  
14 amendment within five (5) working days of the phone or fax message.
- 15 5. An inspector shall thoroughly inspect the facility or part of the facility where  
16 the demolition or renovation operation will occur for the presence of  
17 asbestos, including Category I and Category II non-friable ACM. This  
18 includes garages and add-on structures.
- 19 6. A representative number of samples must be taken of all suspect ACM  
20 before ~~you~~ an inspector can report ~~state~~ "no ACM present". All sampling  
21 should be done in accordance with AHERA requirements. If the facility  
22 contains no RACM or the facility contains RACM, but in an amount less than

1                   10 square feet and/or 16 linear feet, a demolition/renovation notification form  
2                   must be submitted to APC with the Building Division demolition application  
3                   ten working days prior to demolition. APC will approve the demolition after  
4                   verification.

5                   7. A complete inspection report, including samples and results, must be  
6                   submitted to APC.

7                   a. If the inspection determines that there are amounts of RACM in excess of  
8                   10 square feet and/or 16 linear feet, but less than 160 square feet, 260  
9                   linear feet, and/or 35 cubic feet, an asbestos abatement contractor must  
10                  submit a notification to APC ten (10) working days prior to the date  
11                  asbestos abatement activity is scheduled to begin.

12                  b. If the inspection determines that there are amounts of RACM equal to or  
13                  in excess of 160 square feet, 260 linear feet, and/or 35 cubic feet, an  
14                  asbestos abatement contractor must submit a notification to APC, along  
15                  with the applicable notification fee, ten (10) working days prior to the  
16                  date asbestos abatement activity is scheduled to begin.

17                  c. Work practices and procedures must be fully described, including but not  
18                  limited to the methods of removal and containment.

19                  d. Asbestos abatement contractors shall not begin any asbestos abatement  
20                  activity without an approval letter from APC. When notification is  
21                  approved, the asbestos abatement contractor must remove all RACM

1 from the facility in accordance with the notification and asbestos rules  
2 and regulations.

3 e. If the structure will be demolished following asbestos abatement, a  
4 completion letter or post-notification must be submitted to APC prior to  
5 receiving a demolition sign-off from APC. (A COMPLETION LETTER IS  
6 NOT A POST-NOTIFICATION). A post-notification must still be  
7 submitted within 60 days of project completion.

8 8. If the facilities meet the definition of an installation and/or a commercial or  
9 public project, notifications may be submitted in groups by city block when  
10 the structures combined contain RACM equal to or in excess of 160 square  
11 feet, 260 linear feet, and/or 35 cubic feet. Any single structure that has  
12 RACM equal to or in excess of 160 square feet, 260 linear feet and/or 35  
13 cubic feet shall be notified separately.

14 9. Only a certified asbestos inspector can deem a structure unsafe to enter. If  
15 it is unsafe to make an inspection prior to demolition, and the facility's  
16 regulated asbestos content cannot be determined, the presence of asbestos  
17 must be assumed unless sampling proves to be negative. If the asbestos  
18 abatement contractor wants to segregate ACM from general debris, an  
19 inspector must be on site until the structure has been made safe enough to  
20 conduct a thorough inspection. An asbestos abatement supervisor must be  
21 on site during the demolition and proof of hire must be submitted with the  
22 demolition notification.

1           10. If the facility is being demolished under an order of a state or local  
2           government agency, issued because the facility is structurally unsound and  
3           in danger of imminent collapse, ~~submit~~ a notification shall be submitted to  
4           APC as early as possible before, but not later than the following work day  
5           after demolition has begun. The name, title, and authority of the state or  
6           local government representative who has ordered the demolition, the date  
7           that the order was issued, and the date on which the demolition was ordered  
8           to begin shall be attached to the notification. APC will sign-off on the  
9           demolition notification when all notification requirements have been satisfied.  
10          An inspector must be on site during the demolition to observe for suspect  
11          materials that were not accessible in collapsed or unsafe buildings. An  
12          asbestos abatement supervisor must be on site at all times and proof of hire  
13          must be submitted with notification. Destructive sampling should be  
14          conducted in areas such as pipe chases. All interior spaces should be  
15          inspected.

16          E. Emergency Project

17          Any person undertaking an emergency asbestos abatement project shall notify APC  
18          by telephone and must receive approval of emergency status. The person must  
19          notify APC within twenty-four (24) hours of the onset of the emergency. Business  
20          entities with state-approved exemption status are exempt from emergency  
21          notification for state-approved projects that are part of a NESHAPS planned  
22          renovation annual notification. If the emergency occurs after normal working hours

1 or weekend, the person shall contact APC on the following work day. The notice  
2 shall provide:

- 3 1. A description of the nature and scope of the emergency;
- 4 2. A description of the measures immediately used to mitigate the emergency;
- 5 and
- 6 3. A schedule for removal. Following the emergency notice, the person shall  
7 provide APC a notification on the form provided by APC and the person shall  
8 submit it within seven (7) days of the onset of the emergency. The  
9 amendment requirements for notification found in subsection D, 3 and 4 of this  
10 section are applicable to emergency projects.

11 F. Procedures for Asbestos Emission Control

12 Each owner or operator of a demolition or renovation that contains regulated  
13 asbestos in excess of 10 square feet and/or 16 linear feet shall comply with the  
14 following procedures:

- 15 1. Remove all RACM from a facility being demolished or renovated before any  
16 activity begins that would break up, dislodge, or similarly disturb the material  
17 or preclude access to the material for subsequent removal. RACM does not  
18 have to be removed before demolition if:
  - 19 a. It is Category I non-friable ACM that is not in poor condition and is not  
20 friable.
  - 21 b. It is a facility component that is encased in concrete or other similarly  
22 hard material and is adequately wet whenever exposed during demolition.

- 1 c. It is not accessible for testing and was, therefore, not discovered until  
2 after demolition began and, as a result of the demolition, the material  
3 cannot be safely removed. If not removed for safety reasons, the  
4 exposed RACM and any asbestos-contaminated debris must be treated  
5 as asbestos-containing waste material and remain adequately wet at all  
6 times until disposed of.
- 7 d. It is Category II non-friable asbestos containing material and the probability  
8 is low that the materials will become crumbled, pulverized, or reduced to  
9 powder during demolition.
- 10 2. When a facility component that contains, is covered with, or is coated with  
11 RACM is being taken out of the facility as a unit or in sections:
- 12 a. Adequately wet all RACM exposed during cutting or disjoining operations.  
13 b. Carefully lower each unit or section to the floor and to ground level, not  
14 dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.
- 15 3. When RACM is stripped from a facility component while it remains in place in  
16 the facility, adequately wet the RACM during the stripping operation.
- 17 a. In renovation operations, wetting is not required if a local exhaust  
18 ventilation and collection system is used, a glove-bag system is used, or  
19 a leak-tight wrapping system is used.
- 20 4. After a facility component covered with, coated with, or containing RACM has  
21 been taken out of the facility as a unit or in sections, it shall be contained in  
22 leak-tight wrapping.

- 1           5. For large facility components such as reactor vessels, large tanks, and steam  
2           generators, the RACM is not required to be stripped if the following  
3           requirements are met:
  - 4           a. The component is removed, transported, stored, disposed of, or reused  
5           without disturbing or damaging the RACM;
  - 6           b. The component is encased in a leak-tight wrapping; and
  - 7           c. The leak tight wrapping is labeled during all loading and unloading  
8           operations and during storage.
- 9           6. For all RACM, including material that has been removed or stripped:
  - 10          a. Adequately wet the material and ensure that it remains wet until collected  
11          and contained or treated in preparation for disposal.
  - 12          b. Carefully lower the material to the ground and floor, not dropping,  
13          throwing, sliding, or otherwise damaging or disturbing the material.
  - 14          c. Transport the material to the ground via leak-tight chutes or containers if it  
15          has been removed or stripped more than 50 feet above ground level and  
16          was not removed as units or in sections.
- 17          7. Third party continuous monitoring is required during removal of all ACM if the  
18          building is occupied. (Monitoring is not required for demolitions). Final air  
19          clearance is required after ACM removal if the building is occupied or will be  
20          occupied at a later date. (Final air clearance is not required for demolitions).
- 21          8. The person who conducts the demolition of unsafe buildings or parts of  
22          buildings containing asbestos may proceed with the demolition until it is safe

1 for the asbestos abatement contractor to take representative samples of  
2 debris. It must be assumed that the debris contains regulated asbestos  
3 unless it can be proven through sampling that the debris or parts of the debris  
4 have asbestos content of 1% by weight or less. If parts of the debris contain  
5 1% or less, and other parts contain greater than 1%, and the various debris  
6 can be safely separated, then only those area of debris which contain greater  
7 than 1% regulated asbestos must be specially handled. The following  
8 procedures on those portions of the buildings that pose imminent danger to  
9 public health or safety, or both, may be used:

- 10 a. The person shall ensure that the debris is wet at all times and stays wet  
11 until disposed. The person shall ensure that the project activities  
12 generate no visible emissions.
- 13 b. The person shall ensure that on site at all times during the demolition is  
14 an individual who is trained in asbestos removal techniques and who is  
15 certified as an asbestos abatement supervisor.

16 9. For emergency demolitions being conducted under an order of a state or  
17 local government agency:

- 18 a. Adequately wet the portion of the facility that contains RACM during the  
19 wrecking operation.
- 20 b. In all such cases where there is uncertainty as to the regulated asbestos  
21 in the facility, it should be assumed that it contains regulated asbestos

1                   until such time that representative samples can be taken of the debris to  
2                   ascertain if greater than 1% regulated asbestos content is present.

3                   c. An asbestos abatement supervisor must be on site at all times.

4                   G. Post Notification

5                   1. Any person undertaking an asbestos abatement project or asbestos removal  
6                   project that requires notification according to subsection D of this section shall, on  
7                   the APC provided form, notify APC within sixty (60) days of the completion of the  
8                   project. This notice shall include a signed and dated receipt for the asbestos  
9                   waste generated by the project issued by the landfill named on the notification.

10                  This notice shall include any final clearance air monitoring results. The air  
11                  sampling technician performing the analysis shall sign and date all reports of  
12                  analysis.

13                  2. Business entities that qualify for exemption status are exempt from post-notification  
14                  requirement, but shall keep records of waste disposal for department inspection.

15                  **SECTION THIRTEEN:** Air Pollution Nuisance Prohibited.

16                  The emission or escape into the ambient (outside) air within the City from any source or sources  
17                  whatsoever of smoke, ashes, dust, soot, cinders, dirt, grime, acids, fumes, gases, vapors,  
18                  odors, or any other substances or elements in such amounts as are detrimental to, or endanger  
19                  the health, comfort, safety, welfare, property, or the normal conduct of business shall constitute  
20                  a public nuisance, and it is considered unlawful for any person to cause, permit, or maintain any  
21                  such public nuisance. The Commissioner of Health and or his or her designee may give  
22                  additional consideration to the presence of emissions that cause severe annoyance or

1 discomfort, or are offensive and objectionable to a significant number of citizens as determined  
2 by the Commissioner of Health and or his or her designee.

3 **SECTION FOURTEEN:** Motor Vehicle Idling Prohibited.

4 A. No person shall cause or permit the engine of a motor vehicle to operate in idle for  
5 longer than five (5) minutes in any hour while parking, standing or stopped as  
6 defined by St. Louis City Revised Code Title 17, Vehicles and Traffic. When ambient  
7 temperatures are below thirty-two (32) degrees Fahrenheit, a motor vehicle may not  
8 operate in idle for longer than ten (10) minutes in any hour.

9 B. Exceptions

- 10 1. Emergency vehicles.  
11 2. Vehicles transporting disabled or special needs persons.  
12 3. Vehicles that provide power for auxiliary purposes.  
13 4. When operators of a motor vehicle are forced to remain motionless because of  
14 traffic or adverse weather conditions affecting the safe operation of the vehicle.  
15 5. Vehicles that are being repaired or undergoing diagnostics tests.  
16 6. Vehicles engaged in the delivery of goods, wares, or merchandise.

17 C. Enforcement

18 Section Fourteen, Subsection A of this ordinance and Ordinance 68137 shall be  
19 enforced by a police officer or any law enforcement officer who is authorized to  
20 enforce traffic laws as a non-moving violation.

21 D. Penalty for violation

1 Any person who violates the provisions in Section Fourteen, Subsection A of this  
2 ordinance and Section Two, Subsection D of Ordinance 68137 shall be subject to a  
3 fine as established by Section Four of Ordinance 68137.

4 **SECTION FIFTEEN:** Restrictions of Emission of Visible Air Contaminants.

5 A. Test Method - Visible Emissions shall be determined in accordance with 40 CFR,  
6 Part 60, Appendix A - Reference Methods, "Method 9 - Visual Determination of the  
7 Opacity of Emissions from Stationary Sources." Any facility required to use this test  
8 method to demonstrate compliance shall utilize a Qualified Observer of Visible  
9 Opacity (QOVO) certified according to the requirements in 40 CFR Part 60 Appendix

10 A. The QOVO may be an employee of the facility or a contractor/consultant.

11 Alternatively, a facility may use a continuous emissions monitoring system (CEMS)  
12 to demonstrate compliance with opacity limits if approved by the Commissioner and  
13 required by air pollution control regulations or permits. The CEMS must be operated  
14 and tested for accuracy in accordance with good engineering practices and any  
15 regulatory or permit requirements.

16 B. Restrictions Applicable to All Facilities.

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

21 D. Any emissions from portable, stationary, or motor vehicle sources in excess of 40%  
22 opacity, regardless of length of time, are considered excessive emissions.

1 E. Exceptions to Subsection B of this Section of this Ordinance.

- 2 1. Visible emissions from a fire set by or under the supervision of a public officer to  
3 prevent or abate a fire hazard.
- 4 2. Visible emissions from a fire set for the purpose of instructing persons in fire  
5 fighting techniques, as long as the requirements of Article 3, of the BOCA  
6 National Fire Code for Open Burning are adhered to.
- 7 3. Visible emissions (smoke) generated for the purpose of instructing persons in the  
8 proper method for determining the opacity of those emissions.
- 9 4. Visible emissions (smoke) emitted by equipment being operated for the control of  
10 insects.
- 11 5. Visible emissions from residential, organizational, institutional, or commercially  
12 operated food preparation is exempt from the opacity requirements of this  
13 Section and may only be addressed for enforcement as a nuisance under  
14 Section 13.
- 15 6. Visible emissions from recreational fires, and fires in proper containers for  
16 occupational warmth using only untreated wood, charcoal, propane or natural  
17 gas as fuel, will be exempt from complying with the opacity limitations of this  
18 Section as long as the requirements of The Fire Code, as amended, are adhered  
19 to.
- 20 7. Special Case Exceptions allowing visible emissions in excess of those allowed in  
21 this Section may be granted by the Commissioner of Health and or his or her  
22 designee upon written request, given the determination that the emissions will

1 not substantially affect the ambient air quality and are in the best interest of  
2 public health or welfare.

3 8. Public fireworks displays as permitted by the local authority.

4 9. When the presence of uncombined water is the only cause for an emission  
5 exceeding the requirements of this Section.

6 10. The start-up of internal combustion engines.

7 11. Natural gas fired boilers rated less than 10MMBtu/hr or subject to 10CSR10-  
8 6.070 New Source Performance Standards.

9 12. Internal combustion engines used for electric generator sets, used only for  
10 emergency services, provided that the maximum annual operating hours shall  
11 not exceed five hundred (500) hours. Emergency generators are exempt only if  
12 their sole function is to provide back-up power when electric power from the local  
13 utility is interrupted. This exemption only applies if the emergency generators are  
14 operated only during emergency situations and for short periods of time to  
15 perform maintenance and operational readiness testing.

16 **SECTION SIXTEEN:** Open Burning Restrictions.

17 A. No person shall cause, suffer, allow or permit the open burning of refuse.

18 B. No person shall conduct, cause or permit the conduct of a salvage operation by open  
19 burning.

20 C. No person shall conduct, cause or permit the disposal of trade waste by open  
21 burning.

1 D. No person shall cause or permit the open burning of leaves, trees or the byproducts  
2 therefrom, grass, or other vegetation.

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

5 **SECTION SEVENTEEN:** Incinerators.

6 A. Definitions specific to this Section.

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

- 10 1. Ambient Air: All space outside of buildings, stacks or exterior ducts.
- 11 2. Batch Incinerator: Is an incinerator designed that neither waste charging nor  
12 ash removal can occur during combustion.
- 13 3. Best Available Control Technology (BACT): An emission limitation, including  
14 a visible emissions limit, based on the maximum degree of reduction for each  
15 pollutant which would be emitted from any proposed installation or major  
16 modification which the Commissioner of Health and or his or her designee on  
17 a case-by-case basis, taking into account energy, environmental and  
18 economic impacts and other costs, determines is achievable for such  
19 installation or major modification through application of production processes  
20 or available methods, systems and techniques, including fuel cleaning or  
21 treatment or innovative fuel combustion techniques for control of the  
22 pollutant. In no event shall application of best available control technology

1 result in emission of any pollutant which would exceed the emissions allowed  
2 by any applicable emission control regulation, including new source  
3 performance standards established in 40 CFR Part 60 and National  
4 Emissions Standards for Hazardous Pollutants established in 40 CFR Part  
5 61. If the Commissioner of Health and or his or her designee determines  
6 that technological or economic limitations on the application of measurement  
7 methodology to a particular source operation would make the imposition of  
8 an emission limitation infeasible, a design, equipment, work practice, or  
9 operational standard, or combination thereof, may be prescribed instead to  
10 require the application of best available control technology. Such standard  
11 shall, to the degree possible, set forth the emission reduction achievable by  
12 implementation of such design, equipment, work practice or operation, and  
13 shall provide for compliance by means which achieve equivalent results.

- 14 4. Combustion Chamber: The discrete equipment, chamber or space of an  
15 incinerator in which the products of pyrolysis are combusted in the presence  
16 of excess air so that carbon is burned to carbon dioxide. Combustion  
17 chamber does not include breaching or stacks of the incinerator.
- 18 5. Human or Animal Crematory: An apparatus of multi-chamber design for the  
19 sole purpose of cremating human or animal remains.
- 20 6. Incinerator: Any article, machine, equipment, contrivance, structure or part of  
21 a structure used to burn refuse or to process refuse material by burning other  
22 than by open burning.

- 1 7. Maximum Refuse Burning Capacity: Is the sum of the Refuse Burning  
2 Capacities of all the incinerator units at the facility subject to this Subsection.
- 3 8. Multiple Chamber Incinerator: Any incinerator consisting of three or more  
4 refractory-lined combustion furnaces in series, physically separated by  
5 refractory walls, interconnected by passage ports or ducts and employing  
6 adequate design parameters necessary for maximum combustion of the  
7 material to be burned, the refractories have a pyrometric cone equivalent of  
8 31, tested according to the method described in the ASTM Method C-24-56,  
9 or other method approved by the Commissioner of Health and or his or her  
10 designee.
- 11 9. PPMV: Is the abbreviation for parts per million by volume (dry) corrected to  
12 seven (7%) percent oxygen.
- 13 10. Refuse Burning Capacity: Is the manufacturer's or designer's refuse heat  
14 input rate in British Thermal Units (BTUs) per hour.
- 15 11. Secondary Combustion Chamber: Means the discrete equipment component  
16 chamber or space, in which the products of pyrolysis are combusted in the  
17 presence of excess air, so that essentially all carbon is combusted and  
18 emitted as carbon dioxide. This component does not include breaches or  
19 stacks.
- 20 12. Smoke: Small gas-borne particles resulting from combustion, consisting of  
21 carbon, ash and other material.
- 22 B. NSPS and State Regulations

1 1. Any incinerator governed under State Rule 10 CSR 10-6.070 New Source  
2 Performance Regulations, as amended, shall be required to meet the  
3 regulatory standards contained therein, in addition to meeting standards  
4 within this Section. Where standards may conflict, the most restrictive  
5 standard shall be utilized.

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

11 C. Emission restrictions

12 1. General provisions

13 a. Design requirements - No incinerator shall be used for the burning of  
14 refuse unless such incinerator is a multiple chamber incinerator. The  
15 Commissioner of Health and or his or her designee may approve any  
16 alteration or modification to an existing incinerator if such be found by the  
17 Commissioner of Health and or his or her designee to be equally  
18 effective for the purpose of air pollution control as would result from the  
19 operation of a multiple chamber incinerator. All new incinerators shall be  
20 multiple chamber incinerators, provided that the Commissioner of Health  
21 and or his or her designee may approve any other kind of incinerator if  
22 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. Exception: Human or animal crematories, or surface coating burn-off ovens, are not subject to the Design Requirements provided the owner or operator submits test results showing compliance with the Particulate Limitations set forth in this Section.

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 of Health and or his or her designee in accordance with good engineering practice. In case of conflict, the findings of the Commissioner of Health and or his or her designee shall govern.

2. Limitations

No person shall cause or permit emissions from the chimney, stack or vent of any incinerator to exceed limitations established in Table B:

Table B. Limitations

| Particulate Limit grains/dscf* | Opacity Limit (%)    | Specific Pollutant Limit | Source   |
|--------------------------------|----------------------|--------------------------|--|
| ≤0.09                          | <10%                 | **                       | new or modified human and animal crematories and surface coating burn-off ovens; |
| ≤0.08                          | <20% or permit level | **                       | new or modified sewage sludge incinerators;                                      |
| ≤0.03                          | <10%                 | **                       | new or modified commercial and industrial waste incinerators;                    |

|        |      |    |  |
|--------|------|----|--|
| ≤0.015 | <10% | ** | new or modified medical waste incinerators and municipal waste incinerators; |
| ≤0.015 | <10% | ** | new or modified non-specified incinerators;                                  |
| ≤0.20  | <10% | ** | existing incinerators, except as otherwise established by permit             |

1 \* dscf = Dry Standard Cubic Foot

2 \*\*A source of a new or modified incinerator shall demonstrate that emissions by hydrogen  
3 chloride, mercury, dioxins, and furans are controlled to a level of stringency at least equal to  
4 the application of Best Available Control Technology (BACT).

5  
6

7 3. Odor Control

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

14 D. Performance testing

15 1. When required - A performance test may be required on any incinerator, and  
16 shall be required for each new incinerator. The initial performance test shall  
17 be performed at the expense of the vendor or operator by an independent  
18 testing organization or by any other qualified person subject to approval of

1 the Commissioner of Health and or his or her designee. The performance  
2 test shall be observed by the Commissioner of Health and or his or her  
3 designee.

4 2. Test Schedule - Within 30 days after the date of which installation or  
5 construction of an incinerator is completed, the installer shall file a request  
6 with the Commissioner of Health and or his or her designee to schedule a  
7 performance test provided in this Section. If the results of the performance  
8 test indicate that the incinerator is not operating in compliance with  
9 subsection C of this Section, no person may cause or permit further operation  
10 of the incinerator, except for additional testing, until approval is received from  
11 the Commissioner of Health and or his or her designee.

12 3. Representative sample - Refuse burned in conjunction with the performance  
13 test specified in this subsection shall be a representative sample of the refuse  
14 normally generated by the operation which the incinerator is intended to  
15 serve.

16 4. Procedure - Emissions shall be measured when the incinerator is operating  
17 at ninety-five percent or greater of the burning capacity as defined in  
18 subsection C.1.b, of this Section. Testing methods shall be those outlined in  
19 10 CSR 10-6.030, as amended, or in CFR Chapter 40, Part 60 Appendix A,  
20 as amended. If performance testing demonstrates that the refuse charge  
21 rate must be less than the manufacturer's design charge rate to comply with

1 this Section, then the burning capacity also shall be based on the charge rate  
2 required to comply.

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

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

12 7. Other performance tests may be required by the Commissioner of Health and  
13 or his or her designee in order to determine compliance with any part of this  
14 Section.

15 **SECTION EIGHTEEN:** Preventing Particulate Matter from Becoming Airborne at Any Premises  
16 or Any Industrial or Commercial Facility.

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

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

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

10  
11 From roadways, driveways, and any area upon which motor vehicles are routinely  
12 driven, parked or stored, these measures shall be limited to either:

- 13 1. Having the surface paved with concrete, bituminous, or other hard surface which  
14 can be swept, flushed, or otherwise cleaned as needed and free of loose material to  
15 prevent accumulated particulate matter from becoming airborne or,
- 16 2. Having the unpaved surface treated with a solution containing at least forty (40%)  
17 percent emulsifiable asphalt and water, or an equally efficient dust suppressant and  
18 repeating such treatment as required to maintain reasonable dust control.

19 C. Whenever particulate matter escapes from windows, doors, or other openings of a  
20 building in such a manner and amount as to violate any provisions of this Ordinance,  
21 the Commissioner of Health and or his or her designee may order that the building or  
22 buildings in which the processing, handling and storage are done, be tightly closed and

1 ventilated in such a way, that all air and air contaminants leaving the building are  
2 treated by effective means for removal of these air contaminants before discharge to  
3 the ambient air. Particulate emissions, resulting from any activity, that have been  
4 deposited outside the building in which the activity occurred, shall be removed from the  
5 adjacent streets, sidewalks, alleys, parking lots, and other property.

6 D. The following activities are exemptions to Subsection A of this Section of this  
7 Ordinance.

- 8 1. A fire set by or under the supervision of a public officer to prevent or abate a fire  
9 hazard.
- 10 2. A fire set for the purpose of instructing persons in fire fighting techniques, as long  
11 as the requirements of Article 3, of the BOCA National Fire Code for Open Burning  
12 are adhered to.
- 13 3. Instructing persons in the proper method for determining the opacity of emissions.
- 14 4. The operation of equipment for the control of insects.
- 15 5. The preparation of food for residential, organizational, institutional, or commercial  
16 use.
- 17 6. Recreational fires and fires in proper containers for occupational warmth using only  
18 untreated wood, charcoal, propane or natural gas as fuel.
- 19 7. Public fireworks displays as permitted by the local authority.

20 **SECTION NINETEEN:** Abrasive Blasting.

- 21 A. No person shall cause or permit the abrasive blasting of the interior of any building  
22 without first submitting an application for a permit to abrasive blast to the Commissioner.

1 Such application shall include the building address and location within the building  
2 where such blasting will be done, the date and expected duration of such blasting, and  
3 what measures will be taken to ensure particulate matter does not escape from the  
4 interior of the building. The application must be submitted at least twenty-one (21) days  
5 prior to the planned start of the abrasive blasting activities. Please refer to Subsection D  
6 of this Section for special application requirements for abrasive blasting of surfaces  
7 contaminated with lead.

8 B. No person shall cause or permit the abrasive blasting of the exterior of any building,  
9 tank, structure, or part or appurtenance thereof, without first submitting an application for  
10 a permit to abrasive blast to the Commissioner of Health and or his or her designee.

11 Such application shall include the proposed dates and times when such blasting will be  
12 done, the location and description of the surface to be blasted, the reason that abrasive  
13 blasting rather than some alternative method of surface preparation is necessary, the  
14 method of blasting to be used, the steps that will be taken to limit the amount of  
15 particulate matter becoming airborne, and the steps that will be taken to remove  
16 resultant particulate matter from adjacent streets, alleys, and property, to prevent it from  
17 being re-entrained in the air. The application must be submitted at least twenty-one (21)  
18 days prior to the planned start of the abrasive blasting activities. Please refer to  
19 Subsection D of this Section for special application requirements for abrasive blasting of  
20 surfaces contaminated with lead.

21 C. Abrasive blasting may be approved in consideration of the following conditions:

- 1           1. Whenever practical, some other method of surface preparation or cleaning, such as  
2           steam cleaning, water blasting, or power wire brushing, will be used instead of  
3           abrasive blasting;
- 4           2. If abrasive blasting is necessary and whenever possible, the wet blasting method,  
5           wherein water from a circular nozzle forms a cone of water spray around the  
6           abrasive blast stream, will be used;
- 7           3. If wet blasting is not possible in a particular application, the area to be dry blasted  
8           shall be protected so far as is reasonably practical, to limit the amount of particulates  
9           becoming airborne and the distance the particulates travel;
- 10          4. Any exterior abrasive blasting in the area of the City between the Mississippi River  
11          and Jefferson Avenue, Chouteau Avenue to Cole Street, shall be done at times other  
12          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  
13          through Friday;
- 14          5. At the end of each day's operation, all abrasive material and dust resulting from the  
15          operations shall be removed from the adjacent streets, sidewalks, alleys, parking lots  
16          and other property.

17 **D.** Abrasive blasting of surfaces coated with paints contaminated with lead will not be approved  
18 unless it is demonstrated that no other option is feasible and all available control techniques  
19 will be employed to prevent emission of lead dust to the ambient air. Any person or  
20 organization intending to abrasive blast surfaces contaminated with lead must submit an  
21 application for a permit to abrasive blast at least ninety (90) days prior to the intended start

1 of blasting activities. The Commissioner of Health and or his or her designee reserves the  
2 right to deny any application to abrasive blast any surface contaminated with lead.

3 **SECTION TWENTY: Source Registration Permits Required.**

4 A. Applicability

5 1. A construction project, which results in an actual emissions increase greater  
6 than two hundred (200) pounds per year of any regulated air pollutant, not  
7 subject to 10 CSR 10-6.060, as amended, is required to obtain a source  
8 registration permit. Once a source is determined to be applicable to this  
9 Subsection (20.A.1.), it shall remain subject to this section even if actual  
10 emissions drop below the applicability level.

11 2. All parts washers using a nonaqueous solvent to clean and remove soils from  
12 metal parts, and subject to 10 CSR 10-5.300 *Control of Emissions from*  
13 *Solvent Metal Cleaning*, are required to obtain a source registration permit.

14 3. Abrasive Blasting: All exterior abrasive blasting operations are required to  
15 obtain a source registration permit. All interior abrasive blasting operations  
16 that are not conducted inside a sealed blast cabinet with filtered exhaust are  
17 required to obtain a source registration permit. Blast cabinets and other  
18 surface preparation equipment are subject to the actual emissions  
19 applicability threshold in Subsection A.1. of this section.

20 4. A construction project, for which air pollution control measures are not  
21 required, may require a source registration permit.

- 1           5. No person shall operate any equipment or process that has been idle for 5  
2           years or longer, and would be subject to Section 21. A. of this ordinance if  
3           installed new, without obtaining a new source registration permit.
- 4           6. Construction must commence on any project within two (2) years of the  
5           effective date of a source registration permit issued for the project. If  
6           construction on a permitted project does not commence within two (2) years,  
7           the permit expires and a new permit application must be submitted.
- 8           7. Notwithstanding any exceptions or exclusions mentioned in this section, the  
9           Commissioner of Health and or his or her designee may determine that the  
10          requirements of this section apply to any activities that involve the following  
11          concerning the emission of any regulated air pollutant:
  - 12          a. Any appreciable change in the quality or nature, or
  - 13          b. Any increase in the allowable emissions, or
  - 14          c. A negative effect on air quality, or
  - 15          d. A negative neighborhood impact.
- 16          8. For public safety reasons, any source operation may be deemed by the  
17          Commissioner of Health and or his or her designee to be governed by this  
18          Section as an emissions unit, and may be required to obtain a source  
19          registration permit.

20          B. General Requirements

- 21          1. No construction project shall commence unless preventive measures are  
22          applied to limit the emission of regulated air pollutant(s) to levels which do not

1                   endanger the ambient air quality, and the health, safety, welfare or enjoyment  
2                   of life for our citizens.

- 3                   2. Permits shall contain conditions which limit the air pollution from any  
4                   emissions unit. The conditions shall seek the lowest level consistent with  
5                   actual operations.
- 6                   3. In cases where conditions are placed into permits which set limits of any kind  
7                   on the operation of an emissions unit, appropriate monitoring and record  
8                   keeping requirements shall also be placed into the permit to allow verification  
9                   of compliance.
- 10                  4. Permit applications must be submitted at least thirty (30) days prior to the  
11                  planned start of construction for any project subject to this Section.

12                  C. Exceptions to Subsection A of this Section

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

- 15                  1. Any combustion equipment using exclusively natural or liquefied petroleum  
16                  gas or combination of these with a capacity of less than ten (10) million  
17                  British thermal units (BTUs) per hour heat input, or any other combustion  
18                  equipment with a capacity of less than one (1) million BTUs per hour heat  
19                  input.
- 20                  2. Equipment used for any mode of transportation.
- 21                  3. Any equipment used in the preparation of food for direct sale to the public or  
22                  for personal consumption.

- 1           4. Stacks or vents to prevent the escape of sewer gases through plumbing traps
- 2           for systems handling domestic sewage only.
- 3           5. Wood burning stoves and fireplaces in all locations.
- 4           6. Surface coating operations that are a part of janitorial, building and facility
- 5           maintenance operations; or non-commercial surface coating operations that
- 6           occur at hobby shops and residential properties.
- 7           7. Surface coating operations using exclusively aerosol cans.
- 8           8. Laboratory equipment used exclusively for chemical and physical analysis or
- 9           experimentation, except equipment used for controlling radioactive air
- 10          contaminants.
- 11          9. Emergency generators installed at residential properties containing four (4) or
- 12          fewer separate residential units with no commercial activity on site. The
- 13          generator must serve only a single residential property including the
- 14          residences and attached or separate garages, storage buildings and outdoor
- 15          fixtures on the same property.

16          D. Excluded Activities

17                The requirements of this Section do not apply to the following activities:

- 18           1. Routine maintenance, parts replacement or relocation of sources of
- 19           emissions within the same facility; or
- 20           2. Changes in a process or process equipment which do not involve installing,
- 21           constructing or reconstructing a source of emissions or associated air
- 22           cleaning devices; or

- 1                   3. Replacement of like-kind emissions units; or
- 2                   4. A project that does not require a permit for a reason other than the emission
- 3                   of air pollutants that are regulated as Greenhouse Gases by the U.S.
- 4                   Environmental Protection Agency (EPA); or
- 5                   5. Other similar activities.

6   **SECTION TWENTY-ONE:** Right of Inspection, Disclosure, and Submittal of Requested  
7                   Information.

- 8    A. In the performance of their duties, the Commissioner of Health and or his or her  
9                   designee may enter any premises where they have reason to believe that air  
10                  contaminants have been or are being emitted, or equipment operations, or processes  
11                  exist or are being constructed, which they have reason to believe are or will be an air  
12                  contaminant source, or which are required to be registered as sources of air pollution, or  
13                  for any facility for which a permit is required.

14  
15                No person shall refuse entry or access to the Commissioner of Health and or his or her  
16                designee, nor shall any person obstruct, hamper, or interfere with any such inspection.

17                Should the above right of entry be denied, then the Commissioner of Health and or his or  
18                her designee may present the evidence to the City Counselor and request that the  
19                Counselor prosecute sad action in Municipal Court or present evidence to the Circuit  
20                Attorney for prosecution in Circuit Court\_ Anytime entry is sought using a search warrant  
21                the Commissioner of Health and or his or her designee may involve the aid of the Police  
22                Department to gain entry to make such inspection as authorized herein.

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

**SECTION TWENTY-TWO:** Cooperation of Local Governmental Agencies Required.

The assistance and cooperation of the St. Louis Metropolitan Police Department, the Division of Fire and Fire Prevention, the Building Division and all other Municipal Officials shall be available to the Commissioner of Health and or his or her designee\_as required in the performance of their duties.

**SECTION TWENTY-THREE:** Enforcement.

A. Whenever the Commissioner of Health and or his or her designee determines that any of the terms or conditions of this Ordinance have been or are being violated, the Commissioner of Health and or his or her designee 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, premises, emissions unit, emission point, or source operation which is greater than permitted by any provision of this Ordinance, the Commissioner of Health and or his or her designee may cause to be issued to the person responsible for the emission a "Notice of Excessive Emissions." This notice

1 may be personally served by the Commissioner of Health and or his or her  
2 designee sent by registered or certified mail to the last known address of the  
3 responsible person. It shall include a reference to the section of the permit,  
4 the Section of the Ordinance, or the Section of the State or Federal  
5 Regulation limiting the emissions, the date and time of the excessive  
6 emissions, a brief description of the excessive emissions and a request that  
7 the person responsible answer the notice within ten (10) working days. The  
8 person responsible for the emission shall answer this notice, in writing,  
9 setting forth the reasons for the excessive emissions, and the steps that have  
10 been taken or will be taken to abate the excessive emissions, and to prevent  
11 it from recurring in the future.

12 In the event the responsible person fails to answer the notice within the  
13 prescribed time, or if, in the opinion of the Commissioner of Health and or his  
14 or her designee, the reasons set forth for the excessive emissions having  
15 occurred, or the steps that have been taken or will be taken to prevent  
16 recurrence of the excessive emissions are not adequate, the Commissioner  
17 of Health and or his or her designee may cause to be issued a "Notice of  
18 Violation" as prescribed herein citing the same date and time in this notice as  
19 was previously cited in the "Notice of Excessive Emissions."

- 20 2. As prescribed above, or at any other time that the Commissioner of Health  
21 and or his or her designee becomes aware that any of the provisions of this  
22 Ordinance have been or are being violated, the Commissioner of Health and

1 or his or her designee may cause to be issued a "Notice of Violation" to the  
2 person responsible for the violation. This notice may be personally served by  
3 a representative of the Commissioner of Health and or his or her designee  
4 sent by registered or certified mail to the last known address of the  
5 responsible person. This notice shall cite the section of the permit, Section of  
6 City Ordinance, or Section of State or Federal Regulation violated, the date  
7 and time the violation occurred, and a brief description of the violation. It  
8 shall require that the responsible person abate the violation by a date  
9 specified in the notice. Within 14 calendar days of the date of abatement  
10 specified in the notice, the Commissioner of Health and or his or her  
11 designee shall re-inspect the premise and/or file to determine compliance  
12 with the permit, regulation, or Ordinance, of which this is a part. This re-  
13 inspection shall be known as a "NOV Inspection." If no abatement date is  
14 specified in the NOV, the responsible person who has received the NOV shall  
15 be exempt from the "NOV Inspection" process. If the NOV is not complied  
16 with, the Commissioner of Health and or his or her designee shall have the  
17 authority to issue an administrative citation to any person responsible for the  
18 violation.

19 3. Administrative Citation Fine

- 20 a. The administrative citation fine amount for a first violation shall be  
21 established under the provisions of this Ordinance in Section Twenty-  
22 Five.

- 1                   b. The administrative citation fine for repeat violations of the same  
2                   Ordinance provision and/or state regulation by the same person at the  
3                   same property within twelve (12) months from the date of the first  
4                   administrative citation shall be established under the provisions of this  
5                   Ordinance in Section Twenty-Five.
- 6                   c. Any administrative citation fine which is not paid on or before its due date  
7                   shall be liable for the payment of any applicable late payment charges  
8                   set forth in the schedule of late payment filing fees.
- 9                   d. The fine shall be paid to the city within thirty (30) days from the date of  
10                  the administrative citation.
- 11                  e. Any administrative citation fine paid pursuant to Subsection 3 of this  
12                  Section shall be refunded if it is determined, after a hearing, that the  
13                  person charged in the administrative citation was not responsible for the  
14                  violation or that there was no violation as charged in the administrative  
15                  citation.
- 16                  4. In the event the responsible person fails to abate the violation by the date  
17                  specified, the Commissioner of Health and or his or her designee, may take  
18                  other enforcement actions as specified within this Section, citing the same  
19                  date and time of violation in these other actions that were set forth in the  
20                  "Notice of Violation."
- 21                  5. In the event the Commissioner of Health and or his or her designee  
22                  determines that:

- 1                   a. The person is taking all reasonable means available to him to comply
- 2                   with the time limitations and that such compliance is not possible;
- 3                   b. The delay is caused by conditions beyond the jurisdiction and control of
- 4                   such person; and
- 5                   c. The imposition of the time limitation will cause an undue hardship, then
- 6                   the Commissioner of Health and or his or her designee may grant such
- 7                   additional extensions of time as determined to be necessary and
- 8                   reasonable to achieve compliance.
  
- 9            B. In the event that it becomes necessary and is legally proper, the City Counselor is
- 10           hereby empowered to institute proceedings in the Circuit Court in the name of the
- 11           City in order to enforce the terms and conditions of this Ordinance.
  
- 12           C. 1. Upon notice of the Commissioner of Health and or his or her designee, that work
- 13           on the installation of a machine, contrivance, equipment, device, process, or
- 14           operation that may cause the emission of air contaminants, is being conducted
- 15           without a permit where such a permit is required, or without having been
- 16           registered where such registration is required, or not in accordance with plans or
- 17           specifications or data submitted with the application for such permit or such
- 18           registration, or is contrary to any order of the Commissioner of Health and or his
- 19           or her designee, such work shall be immediately stopped. The failure of a facility
- 20           to possess a valid State Operating Permit may subject the entire facility to be
- 21           ordered to stop work. The stop work order shall be in writing and shall be served
- 22           to the person responsible for the premises on which the work is occurring or

1           upon the person doing the work and shall cite the conditions under which the  
2           work may be resumed.

- 3           2. Any person who shall continue any work in or about such machine, contrivance,  
4           device, process, or operation after having been served with a stop order except  
5           which work he is directed to perform to remove a violation or unsafe condition,  
6           shall be liable to a fine as set forth in Section 27 (Penalty Clause)\_of this  
7           Ordinance.

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

- 18          2. Upon such hearing, unless the Commissioner of Health and or his or her  
19          designee finds that circumstances beyond the control of the responsible  
20          person(s) has caused the violations and/or affected the ambient air quality, the  
21          violating emission source(s) will be sealed. If the Commissioner of Health and or  
22          his or her designee determines that circumstances beyond the control of the

1 responsible person(s) have caused the problems, then a further investigation by  
2 the Commissioner of Health and or his or her designee will be ordered before  
3 any further action is initiated, and the source(s) in question will be allowed to  
4 continue normal operation.

5 3. The person responsible for the violating equipment may appeal such seal order  
6 to the Air Pollution Control by requesting an Administrative Hearing

7 E. It shall be unlawful for any person to break a seal that has been duly affixed by the  
8 Commissioner of Health and or his or her designee, unless such breaking is  
9 authorized by the Commissioner of Health and or his or her designee.

10 **SECTION TWENTY-FOUR:** Upset Conditions, Breakdowns or Scheduled Maintenance.

11 A. In the event that there are emissions to the ambient air exceeding any of the limits  
12 established by this Ordinance as a direct result of unavoidable upset conditions in  
13 the nature of the process, or unavoidable and unforeseeable breakdown of any air  
14 pollution equipment or related operating equipment, or as a direct result of  
15 shutdown of such equipment for necessary scheduled maintenance, the  
16 Commissioner of Health and or his or her designee may withhold enforcement  
17 action provided the following requirements are met:

18 1. Such excess emissions in the case of unavoidable upset in or breakdown of  
19 equipment shall have been reported to the Commissioner of Health and or his  
20 or her designee as soon as reasonably possible, but no later than the next  
21 business day after the occurrence. In addition, a full report of the incident, as  
22 outlined in subsection B of this Section, must be submitted to this

1 Commissioner of Health and or his or her designee within ten (10) working  
2 days.

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

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

- 18 1. Name and location of facility;  
19 2. Name and telephone number of person responsible for the facility;  
20 3. The identity of the equipment causing the excess emissions;  
21 4. The time and duration of the period of excess emissions;  
22 5. The cause of the excess emissions;

- 1           6. The type of air contaminant(s) involved;
- 2           7. A best estimate of the magnitude of the excess emissions expressed in the
- 3                 units of any applicable emission control regulation and the operating data and
- 4                 calculations used in estimating the magnitude;
- 5           8. The measures taken to mitigate the extent and duration of the excess
- 6                 emissions; and
- 7           9. The measures taken to remedy the situation which caused the excess
- 8                 emissions and the measures taken or planned to prevent the recurrence of
- 9                 such situations.

10

11

12 **SECTION TWENTY-FIVE: Performance-Based Fee Schedule.**

13           A. Authorization.

14           The Commissioner of Health and or his or her designee agreed is hereby authorized

15           to collect the following fees based on the costs incurred to provide the services of air

16           pollution control. Said fees are the maximum allowable under this ordinance. Said

17           fees shall be calculated in whole or in part and based on the yearly contractual

18           amount by the Federal and or State funding authority. All references to actual

19           emissions are based upon emissions reported in an annual emissions inventory

20           questionnaire (EIQ) when received by the Missouri Department of Natural Resources

21           for the facility's previous calendar year of operations. For a new facility, the

22           Commissioner shall determine the potential to emit in lieu of the actual EIQ emissions

1 for any construction project occurring within the first year of operations to use for this  
2 fee schedule. Any facility not required to submit an EIQ by 10 CSR 10-6.110 may be  
3 considered a de minimis source for the purposes of this section.

4 B. Definitions.

5 For the purposes of this section, the following definitions apply:

- 6 1. A “subject source” is any source subject to the provisions of Section 21 of this  
7 ordinance not otherwise classified below.
- 8 2. An “EIQ source” is any source required to file an EIQ per 10 CSR 10-6.110  
9 Submission of Emission Data, Emission Fees and Process Information.
- 10 3. A “de minimis source” is a source with actual emissions of regulated pollutants  
11 less than the levels listed in Table 1 of 10 CSR 10-6.020 (3)(A).
- 12 4. A “minor source” means any source with actual emissions greater than a de  
13 minimis source but less than 100 tons per year of criteria pollutants, 10 tons per  
14 year of a single hazardous air pollutant (HAP) and 25 tons per year of all HAP  
15 combined.
- 16 5. A “major source” is any source with emissions greater than a minor source.
- 17 6. A “special project” is a construction or modification project at a major source  
18 where:
  - 19 a. the project will increase the installation’s potential to emit one or more  
20 pollutants that contribute to atmospheric levels of pollution for which the St.  
21 Louis Metropolitan Area is classified as non-attainment at rates above the  
22 insignificance levels listed in 10 CSR 10-6.061 Construction Permit

- 1 Exemptions section (3)(A)3.A. Table 1,
- 2 b. the project will construct or modify equipment that is subject to 10 CSR 10-
- 3 6.070 New Source Performance Regulations (NSPS),
- 4 c. the project will construct or modify equipment that is subject to 10 CSR 10-
- 5 6.075 Maximum Achievable Control Technology Regulations (MACT),
- 6 d. the project will construct or modify equipment that is subject to 10 CSR 10-
- 7 6.080 Emission Standards for Hazardous Air Pollutants, or
- 8 e. the project is subject to 10 CSR 10-6.060 Section (7), (8) or (9).
- 9 7. An “emissions unit” is any activity, equipment, process or part of an installation
- 10 that emits or has the potential to emit any regulated air pollutant or any pollutant
- 11 listed under section 112(b) of the Clean Air Act.
- 12 8. An “insignificant source” is any emission point with actual emissions below
- 13 reporting thresholds for the Emission Inventory Questionnaire.
- 14 9. An “emission point” is an emissions unit or group of emissions units that will be
- 15 used to determine the compliance inspection fee.
- 16 a. For installations required to submit an Emission Inventory Questionnaire,
- 17 emissions units may be grouped and considered a single emission point for
- 18 the purposes of determining inspection fees if the group of emissions units,
- 19 source activities or equipment are reported as a single emission point on the
- 20 installation’s Emission Inventory Questionnaire (i.e. all emissions are
- 21 reported in aggregate) AND one or more of the following applies:

1 i. the emissions units are connected to a single stack or air pollution  
2 control device,

3 ii. the emissions units are sources that are similar in nature and all are  
4 contained within, and vented within, a single building (such as groups  
5 of process tanks, grinders, flour mills, etc.)

6 iii. the emissions units are fugitive emission sources that are similar in  
7 nature and exposed to the ambient air (such as groups of material  
8 storage piles, haul roads, liquid storage tanks, etc.)

9 b. For installations not required to submit an Emission Inventory Questionnaire,  
10 emissions units may be grouped as described in the list above.

11 c. Emissions units that are listed as “emission units without limitations” on an  
12 installation’s Intermediate or Part 70 Operating Permit AND are considered  
13 insignificant sources shall not be included when determining the number of  
14 emission points for the purposes of determining inspection fees.

15 C. Fees Non-Refundable.

16 All fees described in this section are non-refundable. Even if the project is cancelled  
17 by the facility, it is determined that a permit is not required, or if a permit is denied or  
18 issued with undesirable conditions the fees will not be refunded.

19 D. Fee Descriptions.

20 1. Asbestos Fees:

21 a. Asbestos Abatement Project Notification Fees. Fees for notification of  
22 “Asbestos Projects” as defined in Section 12.A of this ordinance.

1 Fee: \$320 per notification of asbestos projects with 160-1,000 square  
2 feet or 260-1,500 linear feet.

3 Fee: \$480 per notification of asbestos projects with 1,001-5,000 square  
4 feet or 1,501-5,500 linear feet.

5 Fee: \$640 per notification of asbestos projects with >5,000 square feet or  
6 5,500 linear feet.

7 b. Asbestos Abatement Project Inspection Fee. A fee for inspection of an  
8 "Asbestos Abatement Project" as defined in Section 12.A of this  
9 ordinance.

10 Fee: \$100 per inspection. Regardless of the number of inspections  
11 made, the Commissioner of Health and or his or her designee may  
12 only charge for up to (3) individual, separate inspections of the  
13 same "Asbestos Abatement Project."

14 2. Vapor Recovery Fees:

15 a. Stage II Construction Permit Notifications.

16 Fee: \$1965 per facility, per notification covered by 10 CSR 10-5.220, as  
17 amended

18 b. Stage II Operating Permit Notifications.

19 Fee: \$300 per emission point (per nozzle and tank) per notification  
20 covered by 10 CSR 10-5.220, as amended

21 c. Vapor Recovery Notice of Violation (NOV) Fee.

22 Fee: \$300 shall be assessed on each hose, line, pump, equipage and

1 device that is found to be in substandard condition and emitting  
2 pollutants.

3 3. Compliance Inspection Fees:

4 a. Fees for inspection of facilities subject to 10 CSR 10-6.060 or 10 CSR 10-  
5 6.065 shall be as follows:

6 De Minimis Source Inspection Fee: \$345

7 Minor Source Inspection Fee: \$3415

8 Major Source Inspection Fee: \$10245

9 Dry Cleaner Inspection Fee: \$70 per dry cleaning machine

10 The fees listed as “per emission point” for each facility shall apply to at  
11 least one (1) emission point and no more than thirty (30) emission points  
12 for each compliance inspection. No installation shall be required to pay  
13 the emission point fee for greater than thirty (30) emission points for a  
14 single compliance inspection.

15 b. NOV Inspection Fee.

16 Fee: \$450 for each NOV inspection.

17 4. Permit and Source Registration Filing and Processing Fees:

18 a. Abrasive Blasting Source Registration Permit Fee.

19 Fee: \$300 for each exterior abrasive blasting job site subject to Section  
20 20. A. 3.

21 b. Construction Permit Filing Fees.

22 The fee that shall accompany an application for authority to construct for

1 projects subject to 10 CSR 10-6.060 shall be as follows:

|   |                                |         |
|---|--------------------------------|---------|
| 2 | De minimis source              | \$1965  |
| 3 | Minor source                   | \$4500  |
| 4 | Major Source                   | \$6550  |
| 5 | Major source (special project) | \$16380 |

6 If a process is to be installed or altered which has a number of emission  
7 points, a separate filing fee shall be paid for each emission point. The  
8 Commissioner will make the final decision when separate permit filing  
9 fees are necessary, on a case-by-case basis.

10 c. Construction Permit Amendment Fees.

11 Requests to amend final construction permits issued in accordance with  
12 10 CSR 10-6.060, as amended:

- 13 i. If the changes result in increased emissions, air quality impact or  
14 increment consumption, the fee shall be equivalent to the appropriate  
15 construction permit filing fee (Section 26 D.4.b. above) for the  
16 equipment that will undergo modification or a change in the method of  
17 operation.
- 18 ii. If the changes do not result in increased emissions, air quality impact,  
19 or increment consumption, an administrative processing fee of \$1000  
20 must be submitted with the request.

21 d. Source Registration Permit Filing Fees.

22 The fee that shall accompany an application for a Source Registration

1 Permit for projects subject to Section 20 of this ordinance but not subject  
2 to 10 CSR 10-6.060 shall be as follows:

3 Subject Source Fee \$300

4 EIQ Source Fee \$800

5 If a process is to be installed or altered which has a number of emission  
6 points, a separate fee shall be paid for each emission point. The  
7 Commissioner of Health and or his or her designee will make the final  
8 decision when separate permit filing fees are necessary, on a case-by-  
9 case basis.

10 e. Source Registration Permit Amendment Fees.

11 Fees for requests to amend a final source registration permit issued  
12 under Section 20 of this Ordinance:

13 i. If the changes result in increased emissions, air quality impact or  
14 increment consumption, the fee shall be equivalent to the appropriate  
15 source registration permit filing fee (Section 26 D. 4.d. above) for the  
16 equipment that will undergo modification or a change in the method of  
17 operation.

18 ii. If the changes do not result in increased emissions, air quality impact,  
19 or increment consumption, an administrative processing fee of \$150  
20 must be submitted with the request.

21 f. Permit Penalty Fees.

22 Any individual or company that has commenced construction of or begun

1 operation of any device, emission unit, or source operation, prior to  
2 payment of the normal fee as stated in this Section shall pay a penalty fee  
3 as follows:

4 Subject source \$300

5 EIQ source \$800

6 Commencing construction or operation of any source equipment prior  
7 to payment of actual fees and receipt of a final permit could be a  
8 violation of applicable laws and subject to enforcement action  
9 including civil and/or criminal penalties.

10 5. Source Test Oversight Fees:

11 a. Filing Fee: \$800 per emission point tested.

12 For each source test proposal, an initial, non-refundable filing fee must  
13 accompany the source test proposal. For source tests scheduled for two  
14 or more emission points with one test proposal, a separate filing fee shall  
15 be paid for each emission point tested.

16 b. Review Fee: \$500 per test method performed during the test.

17 Upon submission of the source test report for review, an additional review  
18 fee must be submitted.

19 6. Visible Opacity Certification:

20 a. Visible Opacity Certification (Original).

21 Fee: \$750

22 Includes EPA Test Method 9 instructional class time and opacity

1 observation field training. Government employees are exempt from  
2 this fee. This is a non-refundable fee and is charged regardless of  
3 whether the student passes or fails certification criteria.

4 b. Visible Opacity Re-Certification.

5 Fee: \$250

6 No instructional class time is included or required. Only opacity  
7 observation field training is included. Government employees are  
8 exempt from this fee. This is a non-refundable fee and is charged  
9 regardless of whether the student passes or fails re-certification  
10 criteria.

11 7. Administrative Fines and Fees:

12 a. Administrative Citation Fines.

13 For an administrative citation imposed as a result of the recipient of a  
14 Notice of Violation (NOV) not abating the violation, as described in  
15 Section Twenty-three of this Ordinance:

16 First Violation: The administrative citation fine amount for a first violation  
17 under the provisions of this ordinance shall be \$25.00. Repeat  
18 Violations: The administrative citation fine for repeat violations of  
19 the same ordinance provision and/or state regulation by the same  
20 person at the same property within twelve (12) months from the  
21 date of the first administrative citation shall be \$50.00.

1 b. Application for Variance and Request for Administrative Hearing petition.

2 Variance Fee: \$200

3 Administrative Hearing Fee: \$150

4 Record request pursuant to Chapter 610 R.S. MO

5 Fee retrieval as allowable under chapter 610 R.S. MO

6 Fee: as allowable under Chapter 610 R.S. MO per page copied

7 c. Late Payment Fees.

8 All fees incurred based on the provisions of this Ordinance must be  
9 submitted to the Commissioner of Health and or his or her designee agreed  
10 on or before the due date specified on the invoice. Any person, company,  
11 installation, or other organization that fails to submit payment in full by the  
12 due date shall be subject to the following late fees in addition to the initial  
13 fee:

14 Fee: 5% of original fee if 30-60 days late

15 10% of original fee if 61-90 days late

16 20% of original fee if more than 90 days late

17 The expenses incurred in the processing of any type of permit which  
18 requires public notice or participation for approval, or the request for a  
19 public hearing by a facility under the jurisdiction of the Commissioner, will  
20 be the responsibility of the applicant. All billings received by the  
21 Commissioner of Health and or his or her designee agreed for all such  
22 expenses will be forwarded to the applicant for payment. Final permit

1 issuance is dependent upon the applicant's payment in full of all  
2 expenses incurred.

3 **SECTION TWENTY-SIX:** Severability.

4 The Sections of this Ordinance shall be severable. In the event any Section of this Ordinance is  
5 found by a Court of competent jurisdiction to be unconstitutional, the remaining Sections of this  
6 Ordinance are valid unless the Court finds the valid Sections of this Ordinance are so  
7 essentially and inseparably connected with and so dependent upon the void Section that it  
8 cannot presume that the Aldermen would have enacted the valid Sections without the void  
9 ones; or unless the Court finds that the valid Sections, standing alone, are incomplete and are  
10 incapable of being executed in accordance with the legislative intent.

11 **SECTION TWENTY-SEVEN:** Penalty Clause.

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

16 **SECTION TWENTY-EIGHT:** Emergency Clause.

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