

Ord. No. 1452-16.

By Council Members Cummins and Kelley (by departmental request).

An emergency ordinance to repeal all sections in Chapters 251 through and including Chapter 291 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted and amended by various ordinances, relating to Air Pollution Control; and to enact new Chapters 251 to 299 relating to Air Quality.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the following sections of Codified Ordinances of Cleveland, Ohio, 1976:

Sections 251.01 to 251.71, 253.01, 255.01 to 255.07, 257.01 to 257.11, 259.01 to 259.10, 261.01, and 261.02, as enacted by Ordinance No. 857-A-76, passed June 27, 1977,

Section 263.01, as amended by Ordinance No. 2393.02, passed February 3, 2003,

Sections 263.02, 263.03, and 263.04, as enacted by Ordinance No. 857-A-76, passed June 27, 1977,

Section 265.01, as amended by Ordinance No. 141.79, passed December 17, 1977,

Sections 265.02, 265.03, 265.04, 267.01, 267.02, 267.03, 269.01, 269.02, 269.03, 271.01, 271.02, 273.01, 275.01, 277.01 to 277.12, 279.01 to 279.05, 281.01 to 281.05, 283.01 to 283.06, 285.01 to 285.04, 287.01, 287.02, 287.03, 289.01, and 291.01, as enacted by Ordinance No. 857-A-76, passed June 27, 1977, are repealed.

Section 2. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 251.01 to 251.77, 253.01, 255.01 to 255.06, 259.01 to 259.08, 261.01, 261.02, 263.01 to 263.07, 265.01 to 265.03, 266.01 to 266.06, 267.01, 267.02, 269.01 to 269.03, 271.01, 271.02, 277.01 to 277.05, 279.01 to 279.03, 281.01 to 281.04, 283.01 to 283.07, 285.01 to 285.05, 289.01, 291.01, 297.01 to 297.10 and 299.01 to 299.03 and 299.99 to read as follows:

Chapter 251
Definitions

Section 251.01 Title and Distribution

This part of the Codified Ordinances shall be known as the "Air Quality Code" and may be printed, distributed and made available in electronic format for electronic download via computer network connection, separately from other parts of the Codified Ordinances of the City of Cleveland. The term "this Code" wherever used in this Title V means the Air Quality Code of the City of Cleveland.

Section 251.02 Abrasive Blasting

"Abrasive blasting" means the cleaning, polishing, texturizing, conditioning, removing or preparing of a surface by forcibly propelling a stream of abrasive material with pressurized liquid or compressed air against the surface.

Section 251.03 Abrasive Material

"Abrasive material" means any material used in abrasive blasting operation including but not limited to sand, coal slag, smelter slag, mineral abrasives, metallic abrasives, synthetic abrasives or naturally occurring abrasives.

Section 251.04 Acetylene Torch

"Acetylene torch" means any device that uses a fuel containing acetylene as at least one constituent for the purpose of generating a flame capable of altering the physical state of another material.

Section 251.05 Air Cleaning Equipment

"Air cleaning equipment" means any control equipment which removes, reduces or renders less noxious the air contaminants that are discharged into the atmosphere.

Section 251.06 Air Contaminant

"Air contaminant" means any particulate matter, dust, soot, grime, fumes, gas, mist, except uncombined water, radionuclides, smoke, vapor, except water vapor, charred paper, odorous material, radioactive materials, noxious chemicals, any other material, or any combination thereof which is discharged directly or indirectly into the atmosphere.

Section 251.07 Air Contaminant Source

"Air contaminant source" means any building, structure, facility, operation, installation, other physical facility or real or personal property that emits or may emit any air contaminant. Air contaminant source may also be referred to by the single word "source". Control equipment associated with an air contaminant source is considered to be part of such source and does not require a separate permit to operate.

Section 251.08 Air Pollution

"Air pollution" means the presence in ambient air of one (1) or more air contaminants, or any combination thereof, in sufficient quantities, and of such characteristics and duration as is or threatens to be injurious to human health or welfare, plant or animal life or property, or which unreasonably interferes with the comfortable enjoyment of life and property or the conduct of business.

Section 251.09 Air Pollution Episode

"Air pollution episode" means the occurrence of conditions as set forth in Chapter 283.

Section 251.10 Ambient Air

"Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks or ducts which surrounds human, plant or animal life or property.

Section 251.11 Ambient Air Quality Standards

"Ambient air quality standards" mean ambient air quality goals expressed numerically and intended to be attained and maintained in a stated time through the application of appropriate preventive or control measures. Primary ambient air quality standards define levels of air quality which are necessary, with an adequate margin of safety, to protect the public health. Secondary ambient air quality standards define levels of air quality which are necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

Section 251.12 ASME

"ASME" means the American Society of Mechanical Engineers.

Section 251.13 ASTM

"ASTM" means the American Society for Testing Materials.

Section 251.14 Appeals Board

"Appeals board" means the Board of Building Standards and Building Appeals or such other successor appeals board as shall be established by law and vested with jurisdiction in matters relating to the Air Quality Code.

Section 251.15 Architectural Coating

"Architectural coating" means a coating applied to stationary structures and their appurtenances, to mobile homes and other mobile buildings, to pavements, or to curbs.

Section 251.16 Asbestos

"Asbestos" means the asbestiform varieties of serpentinite (chrysotile) riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite; includes forms within the varieties specified (e.g. amosite) or any mixture containing any of these minerals.

Section 251.17 Atmosphere

"Atmosphere" means the air that envelops or surrounds the earth. The atmosphere includes air inside of buildings, but not inside operating process equipment, tanks, or other spaces where access is typically restricted due to the nature of the structure or physical conditions therein.

Section 251.18 Blast Furnace

"Blast furnace" means the furnace and equipment used in the smelting process in which primarily oxygen is removed from metal oxides and molten metal produced. The furnace and equipment consist of, but are not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust catcher, gas-cleaning devices and other auxiliaries pertinent to the process. Blast furnace emissions are regulated under the Ohio Administrative Code 3745-18 for sulfur compounds, and 3745-21 for Carbon Monoxide, Photochemically Reactive Materials, and Hydrocarbons.

Section 251.19 Boiler and Electric Boiler

"Boiler" means combustion equipment fired with fossil fuels used to transfer heat from combustion gases to water or other fluids, consisting essentially of burner, firebox, heat exchanger and a means of creating and directing a flow of gases through the unit.

An "Electric Boiler" heats water or other fluids with heat generated electrically instead of by fossil fuel combustion.

Section 251.20 British Thermal Unit or Btu

"British Thermal Unit or Btu" means the amount of heat required to raise one (1) pound of water from fifty-nine degrees Fahrenheit (59°F) to sixty degrees Fahrenheit (60°F) at a constant pressure of one atmosphere.

Section 251.21 By-Product Coke Plant

"By-product coke plant" means a plant used in connection with the distillation process to produce coke in which the volatile matter in coal is expelled, collected and recovered. Such plant consists of, but is not limited to, coal and coke handling equipment, by-product chemical plant and other equipment associated with and attendant to the coking chambers or ovens making up a single battery operated and controlled as a unit.

Section 251.22 Clean Air Act or CAA

"Clean Air Act" or "CAA" means the federal Clean Air Act as amended November 15, 1990; 42 USC 7401 to 7671q, and any subsequent amendments.

Section 251.23 Commenced

"Commenced" means an owner or operator has undertaken a continuous program of construction, installation or modification or has entered into a binding contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, installation or modification.

Section 251.24 Commissioner

"Commissioner" means: (1) the Commissioner of the Division of Air Quality of the City of Cleveland or his or her appointee in his absence; or (2) anyone appointed by the Mayor or the Director of the Department of Public Health in an acting or interim capacity.

Section 251.25 Compliance Schedule

"Compliance schedule" means a plan of corrective action to achieve full compliance with the provisions of this Code. This schedule may include the following milestones, each to be achieved at the earliest possible date:

- (a) Submission of final control plans for source;
- (b) Awarding of contracts for emission control systems or issuing of purchase orders for component parts to accomplish emission control or process modification;
- (c) Initiation of on-site construction or installation of emission control equipment or process modification;
- (d) Completion of on-site construction or installation of emission control equipment or process modification;
- (e) Achievement of final compliance with all provisions of the Air Quality Code of the City of Cleveland.

Section 251.26 Control Equipment

"Control equipment" means any device, contrivance, or action which prevents, removes, reduces or renders less noxious air contaminants discharged into the atmosphere. Control equipment associated with an air contaminant source is considered to be part of such source and does not require a separate permit to operate.

Section 251.27 Criteria Pollutant

“Criteria pollutant” means particulate matter (PM_{2.5} and PM₁₀), nitrogen oxides, VOCs, sulfur dioxide, carbon monoxide, lead or any other air pollutant and/or air contaminant for which a national ambient air quality standard has been promulgated under Section 109 of the Clean Air Act.

Section 251.28 Emission or Emit

“Emission” or “Emit” means the act of releasing or discharging any air contaminant or contaminants directly or indirectly into the atmosphere from any source. “Emission” also means the air contaminant or contaminants directly or indirectly released or discharged into the atmosphere from any source.

Section 251.29 Emission Limitation and Emission Standard

“Emission limitation and emission standard” mean a requirement that limits the quantity, rate or concentration of emissions of air contaminants, including any requirement relating to the operation or maintenance of an air contaminant source.

Section 251.30 Existing Source

“Existing source” means any source which has been constructed or installed or of which construction, installation or modification was commenced prior to the effective date of this Code.

Section 251.31 Facility

“Facility” means any building, structure, installation, operation, or combination thereof which contains one (1) or more stationary source or sources of air contaminants.

Section 251.32 Fiberated Cementitious Product

“Fiberated cementitious product” means material that contains mineral fibers and cement or material that acts like cement.

Section 251.33 Fuel

“Fuel” means any form of combustible matter whether solid, liquid or gas but does not include refuse other than refuse derived fuel.

Section 251.34 Fuel-Burning Equipment

“Fuel-burning equipment” means any furnace, boiler, apparatus, stack and all appurtenances thereto used in the process of burning fuel for the primary purpose of producing heat or power.

Section 251.35 Fuel-Burning Equipment Input Capacity

“Fuel-burning equipment input capacity” means the maximum heat input rate of any fuel-burning equipment. This maximum heat input rate shall be the manufacturer’s or designer’s guaranteed maximum heat input rate or such other rate as may be determined by the Commissioner in accordance with good engineering practices. In case of conflict the Commissioner’s determination shall govern.

Section 251.36 Fugitive Emissions

“Fugitive emissions” means air contaminants that are not captured or conveyed at the point of origin and emitted into the atmosphere from any source by means other than a stack, chimney, vent or other functionally equivalent conveyance during the processing, transmission, storage, or transportation of fossil fuels or other materials.

Section 251.37 Gasoline Dispensing Equipment

“Gasoline dispensing equipment” means any tanks, pumps, or other equipment utilized to dispense gasoline from stationary storage tanks into motor vehicle gasoline tanks. This includes gasoline dispensing equipment located at a site where fueling vehicles is not the primary function performed at that site.

Section 251.38 Hazardous Air Pollutant

“Hazardous air pollutant” means any air contaminant(s) which may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness to the public and has been so designated as a hazardous air pollutant as defined in Section 112 of the Clean Air Act, by this Code, or by the Commissioner by rule and regulation.

Section 251.39 Incinerator

“Incinerator” means any equipment, machine, device, article, contrivance, structure or part thereof used to burn refuse or to process salvageable material by burning other than by open burning as defined herein.

Section 251.40 Install or Installation

“Install or installation” means to construct, erect, locate or affix any source of air contaminant or contaminants, including related control equipment.

Section 251.41 Liquid Organic Material

“Liquid organic material” means any organic material which is a liquid at standard conditions.

Section 251.42 Mobile Source

“Mobile source” means any vehicular source, including, but not limited to, automobiles, trucks, tractors, buses and other motor vehicles, powered aircraft, railroad locomotives, ships, boats and other waterborne craft, but not including any source mounted on a vehicle whether such mount is temporary or permanent, which source is not used to power the vehicle.

Section 251.43 Modify or Modification

“Modify or modification” means any physical change in, or change in the method of operation of, an existing source or a new source of air contaminants that:

- (a) Increases or decreases the amount of any air contaminant(s) emitted by such source; or
- (b) Results in the emission of any air contaminant(s) not previously emitted from such source.

Section 251.44 New Source

"New source" means any source the construction, installation, or modification of which is commenced on or after the effective date of this Code, except a modification that causes a decrease in the amount of air contaminants emitted.

Section 251.45 Objectionable Odor

"Objectionable odor" means any odor in the atmosphere that, by itself or in combination with other odors, gases, or vapors, is offensive, foul, unpleasant, or repulsive, or tends to injure, endanger, or unreasonably interfere with the health, safety, comfort, or repose of a person. An odor is objectionable when documented investigation includes observations on the odor's nature, intensity, duration, location, and evidence the odor causes or tends to cause injury, detriment, nuisance, or annoyance to persons or to the public.

Section 251.46 Odor

"Odor" means the property of an air contaminant that affects the sense of smell.

Section 251.47 Odorous Material

"Odorous material" means material that has, produces, or emits a distinctive odor.

Section 251.48 Ohio EPA

"Ohio EPA" means the Ohio Environmental Protection Agency.

Section 251.49 Opacity

"Opacity" means the degree to which emissions reduce the transmission of light and partially or wholly obscure the view of the background.

Section 251.50 Open Burning

"Open burning" means the burning of any material or materials wherein air contaminants resulting from combustion are emitted directly into the ambient air, without passing through a stack or chimney from an enclosed chamber. For purposes of this definition, a chamber is regarded as enclosed, when during the time combustion takes place, only such apertures, ducts, stacks, flues, or chimneys are open as are necessary to provide combustion air and to permit the escape of exhaust gas.

Section 251.51 Organic Material

"Organic material" means any chemical compound containing carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

Section 251.52 Organic Solvent

"Organic solvent" means any organic material, liquid at standard conditions, which is used as a diluent, thinner, dissolver, viscosity reducer, or cleaning agent.

Section 251.53 Outdoor Wood Burning Boiler

"Outdoor wood-burning boiler" means a fuel burning device that is: (1) designed to burn, or is capable of burning, clean wood or other approved solid fuels; (2) designed for outdoor installation or installation in structures not normally occupied by humans (e.g., garages or sheds); and (3) designated to heat building space or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/anti-freeze mixture. An outdoor wood-burning boiler may also be known as an: (1) outdoor wood-fired furnace; (2) outdoor wood-burning appliance; (3) outdoor hydronic heater; or (4) outdoor water stove.

Section 251.54 Owner or Operator

"Owner or operator" means any person who owns, leases, controls, operates, or supervises a facility, an air contaminant source, or control equipment.

Section 251.55 Particulate Matter

"Particulate matter" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

Section 251.56 Person

"Person" means any individual, partnership, partner, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns.

Section 251.57 Photochemically Reactive Material

"Photochemically reactive material" means any liquid organic material with an aggregate of more than twenty percent (20%) of its total volume composed of the chemical compounds classified below, or which exceeds any of the following individual percentage composition limitations, referred to the total volume of liquid:

- (a) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation, excluding perchloroethylene: five percent (5%);
- (b) A combination of aromatic hydrocarbons with eight (8) or more carbon atoms to the molecule except ethyl benzene: eight percent (8%); or
- (c) A combination of ethyl benzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: twenty percent (20%).

Wherever any organic material or any constituent of an organic material may be classified from its chemical structure into more than one (1) of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group having the least allowable percent of total volume of liquid.

Section 251.58 Process Equipment

"Process equipment" means any equipment, device, or contrivance used to change, store, or handle any material or materials, and all appurtenances thereto, including ducts and stacks, the use of which may cause discharge of an air contaminant into the atmosphere, but not including any fuel-burning equipment or incinerator as defined in this Code.

Section 251.59 Process Weight

"Process weight" means the total weight of all materials introduced into a unit operation or unit process, including solid fuels, but excluding gaseous fuels and liquid fuels when they are used solely as fuels, and excluding air introduced for the purpose of combustion.

Section 251.60 Process Weight Per Hour

"Process weight per hour" means a rate established as follows:

(a) For continuous or long-run steady-state unit operation or unit process, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; or

(b) For cyclical or batch unit operation or batch unit process, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

Where the nature of any process or operation or the design of any equipment permits more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

Section 251.61 Refuse

"Refuse" means any discarded matter or any matter which is to be reduced in volume or otherwise changed in chemical or physical properties in order to facilitate its discard, removal, disposal, or reuse, including garbage, rubbish, trade wastes, leaves, salvageable material, agricultural wastes, human or animal remains, and other wastes.

Section 251.62 Refuse Derived Fuel

"Refuse derived fuel" means refuse which has been processed to separate the non-combustible portion from the combustible portion, and where the combustible portion has been prepared into a form that can be effectively utilized in fuel burning equipment in compliance with permit and rule-based emission limitations.

Section 251.63 Rendering Plant

"Rendering plant" means the land, building or buildings, machinery, apparatus, or fixture(s) employed in a process by which animal, poultry, or fish, which is unsalable, spoiled, contaminated, or otherwise unfit for human consumption, is treated, through the use of heat or other methods, so as to convert into fats and oils, food for poultry, livestock or pets, fertilizer, or other products.

Section 251.64 Salvageable Material

"Salvageable material" means any material which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its reuse.

Section 251.65 Seal

"Seal" means any device, tag, or marking placed or affixed by the Commissioner of Air Quality or by his or her agents or representatives so as to prohibit use of any process, fuel-burning or control equipment, or any incinerator, premise, or source causing a violation, or from which violations of this Code originate. Sealing may also be accomplished by means of a written order by the Commissioner directed to the owner or operator of such equipment, premise, or source instructing such owner or operator that the process, fuel-burning or control equipment, or incinerator, premise, or source causing a violation shall not be operated until the Commissioner authorizes such use in writing.

Section 251.66 Smoke

"Smoke" means the mixture of gases and fine particles produced from the combustion or incomplete combustion of organic matter.

Section 251.67 Source (see Air Contaminant Source)

"Source" when used by itself in this Code means an air contaminant source as defined in this Chapter

Section 251.68 Source Operation

"Source operation" means the last operation preceding emission, which: (a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion-fuel; and (b) is not an air pollution abatement operation.

Section 251.69 Stack

"Stack" means a duct, chimney, flue, or conduit designed or arranged to capture or conduct air contaminant emissions into the ambient air.

Section 251.70 Standard Conditions

"Standard conditions" means a dry gas temperature of seventy degrees Fahrenheit (70°F) (twenty-one and one-tenth degrees Celsius (21.1°C)), and a gas pressure of fourteen and seven-tenths (14.7) pounds per square inch (seven hundred sixty (760) millimeters of mercury) absolute dry air.

Section 251.71 Stationary Source

"Stationary source" means an air contaminant source which does not move from place to place in its day to day operation.

Section 251.72 Transfer Operation

"Transfer operation" means the loading or unloading of any liquid material into or from any tank, truck, trailer, or railroad tank car at a facility.

Section 251.73 Uncontrolled Mass Rate of Emission

"Uncontrolled mass rate of emission" means the total weight rate at which an air contaminant is, or in the absence of control equipment would be, emitted from an air contaminant source when such source is operated at its maximum rated capacity.

Section 251.74 Unit Operation

"Unit operation" means a method where raw materials undergo physical change or methods by which raw materials may be altered into different states, such as vapor, liquid or solid, without changing into a new substance with different properties or composition.

Section 251.75 Unit Process

"Unit process" means a reaction where raw materials undergo chemical change or where one or more raw materials are combined and changed into a new substance with different properties or composition.

Section 251.76 Visible Emission

"Visible emission" means an emission of air contaminants of such quantity or quality as to be seen in contrast with background. Visible emissions are quantified by their opacity, as defined in this Chapter.

Section 251.77 Volatile Photochemically Reactive Material

"Volatile photochemically reactive material" means any photochemically reactive material which has a vapor pressure of one and one-half (1.5) pounds per square inch absolute or greater under actual storage conditions.

**Chapter 253
Ambient Air Quality Standards****Section 253.01 Maximum Concentrations, Non-Degradation**

(a) Concentrations in the ambient air of any contaminant(s) set forth in OAC 3745:25-02, at the effective date of the OAC and as subsequently revised, apply in all areas of the City. Standards are to be attained at the earliest possible date but in no event later than that date established by regulation of the Director of the Ohio Environmental Protection Agency. All measurements of ambient air quality are corrected to standard conditions. Concentrations of any contaminant(s) in the ambient air in excess of the concentrations and time durations set forth in OAC 3745:25-02, or as subsequently amended, shall constitute a condition of undesirable air quality.

(b) Non-Degradation Policy. The significant and avoidable deterioration of air quality in any part of the City where presently existing air quality is equal to or better than that required by the adopted standards is prohibited.

**Chapter 255
Administrative****Section 255.01 Air Quality Personnel**

(a) The Division of Air Quality shall employ and qualify personnel as needed to ensure the successful administration of this Code.

(b) Such personnel of the Division shall: (1) carry out the directions of the Commissioner in all matters, consistent with duties of their respective job descriptions, qualifications and assignments, relating to enforcement of this Code, including the signing of complaints and summons sought for violations; and (2) aid and assist the Commissioner in the efficient discharge of his duties.

(c) No person employed in the Division shall be directly or indirectly interested in sales of service or goods or in any matter in conflict with his employment.

Section 255.02 Notices of Violation; Orders to Abate

(a) Upon discovery of any violation of this Code, the Commissioner or his or her designee shall serve a written notice of violation or violations upon the owner, operator or person in control of the property or operation in violation. The notice of violation or violations shall identify the specific violation or violations of this Code. The notice may include the possible penalties for noncompliance and a recommendation for remedial action.

(b) In addition to or in lieu of a notice, the Commissioner or his or her designee may issue a written order to immediately abate any condition, action, or emission that affects or endangers the public health.

(c) The Commissioner or his or her designee shall send the written notice and/or order to the last known address of the owner, operator, or person in control of the property or operation in violation, and identify the specific violation or violations of this Code. The notice shall state a reasonable period for compliance.

(d) No person or entity shall fail to correct any violation or to comply with any notice or order issued by the Commissioner or his or her designee within the time period stated on the notice or order.

(e) If any person or entity fails to correct any violation or to comply with any notice or order issued under this section, the City may pursue any criminal, administrative or civil remedy authorized by law. In addition, the City may revoke any existing permit to operate and/or seal such source or facility. The Commissioner may issue a remedial order and/or enter into a consent agreement, as part of a remedy required as a result of a violation or failure to comply with an order of the Commissioner or his or her designee. The Commissioner may implement any other actions specified in Chapter 299 of this Code, "Penalties."

Section 255.03 Appeals

(a) Any person, property owner, or member of the general public adversely affected by any order, requirement, decision, or determination by the Commissioner may appeal within thirty (30) days of the issuance of such order, requirement, decision, or determination to the Appeals Board. An appeal stays the effect of the order, requirement, decision, or determination being appealed.

(b) The Commissioner may apply to the Appeals Board to lift the stay.

(c) Any person, property owner, or member of the general public claiming an interest or whose ability to protect an interest may be impaired or impeded by any consent agreement or variance issued by the Commissioner, or by any new air contaminant limitations or visible emission limitations established by the Commissioner, in accordance with the applicable provisions of this Code, may appeal an agreement, variance, or limitations to the Appeals Board within thirty (30) days after the date of publication of such consent agreement or variance by the Commissioner in the *City Record*.

(d) Unless otherwise prohibited in the interests of justice, any person, property owner, or member of the general public is permitted to intervene in a matter before the Appeals Board when such intervention is timely and the person claims an interest relating to the matter and/or the person is so situated that the disposition of the matter by the Appeals Board may impair or impede his ability to protect an interest. For the purpose of this subsection, "timely" means prior to the commencement of a hearing by the Appeals Board on the merits of a matter before the Appeals Board.

(e) The Commissioner shall be a party to any and all appeals brought under this Code and shall be required to file the record of the matter at issue with the Appeals Board within fourteen (14) days of the receipt of the notice of appeal. The Commissioner shall include in the record facts and findings pertinent to his decision. The Appeals Board may also require any other party or intervenor to file a summary of his position prior to the hearing. The Appeals Board shall give public notice of any hearing on an appeal in the *City Record*.

Section 255.04 Records to be Available for Public Inspection; Exception

(a) Any records, reports or information obtained under the applicable provisions of this Code shall be available for public inspection, during regular business hours, except that upon showing to the satisfaction of the Commissioner by any person that such records, reports or information or any particular part thereof other than emission data, to which the Commissioner has access, if made public, would divulge methods or processes entitled to protection as trade secrets of such person. The Commissioner shall consider such record, report or information or particular part thereof confidential, except that such record, report or information or particular part thereof may be disclosed when necessary to sustain an action brought under the applicable provisions of this Code on emission limitations or during a denial or revocation of a permit to operate or variance. For any records that are also subject to State of Ohio Sunshine Laws, the Division will ensure that release or redaction of such records is in compliance with State law.

(b) Nothing in this division shall be construed to prevent the Commissioner from compiling or publishing analyses or summaries relating to the general condition of the atmosphere, provided that such records, reports or information or particular part thereof do not reveal any information otherwise confidential under this section.

Section 255.05 Consent Agreements for Modifications of Equipment or Emission Standards

(a) Whenever any source or source operation is found to be in violation of this Code and the Commissioner determines that compliance with the emission limitations requires the installation of control equipment of complex design or operational change of a complex nature involving technological ingenuity or advances of considerable magnitude, the Commissioner may, upon the approval of the Director of the Department of Public Health, revise any of the emission limitations. In such case, the Commissioner shall enter into a consent agreement with the person owning, operating or in charge of such source or source operation to bring about compliance with the emission limitations or such revisions thereto, at the earliest possible date, based upon technical feasibility and economical reasonableness and their relation to the benefits to the people of the City to be derived from such compliance. The Commissioner may also enter into a consent agreement with the person owning, operating, or in charge of any source or source operation to bring about compliance with the emission limitations, as established in the applicable provisions of this Code, in lieu of or in resolution of any violation of an abatement order. No modification will be allowed that would conflict with an Ohio EPA Air Pollution Permit or rule.

(b) No person entering into such a consent agreement with the Commissioner shall fail to comply with the terms and conditions of the consent agreement without prior written approval of the Commissioner.

(c) The Commissioner shall give public notice of any consent agreement entered into with any person owning, operating, or in charge of, any source or source operation.

Section 255.06 Rules and Regulations

(a) The Commissioner may adopt, amend or alter written rules and regulations of this Code. Such rules and regulations shall neither conflict with nor waive any provision of this Code nor any other section of the Codified Ordinances.

(b) General notice of proposed rules and regulations shall be published in the *City Record*, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include:

- (1) A statement of the time, place and nature of public proceedings to accept comments on any proposed rules or regulations, or on any amendments or alterations to existing rules or regulations;
- (2) Reference to the legal authority under which a rule or regulation is proposed; and
- (3) The proposed rules or regulations, or the amendments or alterations to existing rules or regulations, or a summary of the proposal.

(c) After notice required by this section, the Commissioner shall give interested persons, within a reasonable time period to be determined by the Commissioner, an opportunity to submit written comments and any written data, views, or arguments in support of such comments, and/or to present a verbal statement.

(d) Upon adoption, under the procedure set forth in this section, rules or regulations and amendments thereto and alterations thereof shall become effective after two (2) successive publications in the *City Record*.

(e) Any interested person may petition the Commissioner for the issuance, amendment or repeal of a rule or regulation.

(f) Violation of rules or regulations of the Commissioner shall not constitute the basis for criminal prosecutions, provided, however, that an administrative order of the Commissioner based on such rules and regulations shall be enforceable in accordance with the provisions of this Code, whether administrative or criminal in nature.

(g) On a biannual basis, beginning two years after the date of enactment of this Code, the Commissioner shall determine if any part of this Code should be reviewed. A review may be initiated based on changes to state or federal laws, previously unforeseen air pollution concerns; on recommendation of the Cleveland Industrial Air Pollution Advisory Committee; or other circumstances indicating that such review would be for the betterment of the health and well-being of the Citizens of the City of Cleveland.

Chapter 259 Operation Permits and Variances

Section 259.01 Notification of Installation or Modification; Permit to Operate; Variance Prerequisite for Operation

(a) Except as otherwise provided in this Code, no person shall cause or allow the operation or other use of any air contaminant source or control equipment unless the Commissioner has granted a permit to operate or variance. No person

shall cause or allow the operation or other use of any air contaminant source or control equipment when such permit to operate or variance has been denied or revoked or becomes void. Control equipment only requires a separate permit to operate or variance if emissions from such control equipment are not accounted for in a source's permit to operate or variance.

(b) No person shall cause or allow the operation of any air contaminant source or control equipment for any other purpose or in any other manner than that for which the permit to operate has been issued unless otherwise authorized in writing by the Commissioner.

(c) Subject to the receipt of permit fees and an affirmation of operation signed by the responsible official of the facility, all City Permits to Operate shall renew on a single date each year to be specified by the Commissioner.

Section 259.02 Application for Permit to Operate

(a) Except as otherwise provided in this Code, the owner or operator of an air contaminant source seeking to obtain a permit to operate shall submit an application for permit to operate ("PTO") to the Commissioner as follows:

(1) Applications for permits to operate shall be made on forms prepared by the Commissioner and shall include any reasonable and pertinent information that may be required by the Commissioner. This may include plans and or specifications and or a description adequately detailed to demonstrate awareness of pollution control requirements and compliance therewith.

(2) Failure to comply with any request for information made by the Commissioner shall be cause for rejection of an application, and may constitute grounds for the denial of a permit to operate.

(b) Applications for permits to operate that comply with the requirements of this section and any request for information made by the Commissioner, shall be signed:

(1) By the corporate president or vice president reporting directly to the president, or highest ranking corporate officer with offices located in Cuyahoga County; or

(2) By an equally responsible officer or official in the case of organizations other than corporations; or

(3) By the source owner or operator in all other cases.

(c) The applicant's signature shall constitute personal affirmation that the statements made in the application are true and complete, comply fully with applicable City requirements, and shall subject the responsible official to liability under applicable City laws forbidding false and misleading statements.

(d) The applicant's signature shall constitute an agreement that the applicant assumes responsibility for the operation and location of such source or facility in accordance with this Code and with all other applicable rules and regulations, and terms and conditions.

(e) The owner or operator of a new or modified air contaminant source that requires a Permit to Install ("PTI") or a Permit to Install and Operate ("PTIO") from the Ohio Environmental Protection Agency, or has submitted a notification to operate under the Ohio air pollution Permit by Rule program shall not be required to separately apply for a Permit to Operate from the City of Cleveland for the initial installation, construction, or subsequent modification of the source. Issuance of a City Permit to Operate is contingent upon the facility complying with State requirements, and issuance of the initial City Permit to Operate will occur upon issuance of the initial or modified State PTI or PTIO.

(f) The owner or operator of a new or modified air contaminant source that does not require an Air Permit or Permit by Rule from the Ohio Environmental Protection Agency shall notify the Division of Air Quality of their intent to construct, install, or modify a source prior to commencement of these actions by submitting a signed application for a City Permit to Operate.

(1) Applications shall include any reasonable and pertinent information that may be required by the Commissioner. This may include plans and or specifications and or a description adequately detailed to demonstrate awareness of pollution control requirements and compliance therewith.

(2) The Commissioner will acknowledge receipt of the notification within sixty (60) days but shall not issue a permit to operate until the requirements of Section 259.03 are met. Installation or operation of the air contaminant source may commence immediately, but the owner or operator assumes all risk if the design is unacceptable to the Commissioner.

(3) The owner or operator who submits a timely application for a City Permit to Operate for a new or modified source shall not be in violation of Section 259.01 until the Commissioner takes final action on the permit application.

Section 259.03 Criteria for Granting of Permits to Operate

(a) No permit to operate an existing air contaminant source or control equipment shall be granted until the applicant demonstrates to the satisfaction of the Commissioner that:

(1) The operation of such air contaminant source or control equipment will not result in the discharge of air contaminants in excess of the limitations established by this Code;

(2) The operation of such air contaminant source or control equipment will not create a nuisance or otherwise violate any other provision of this Code or the rules and regulations promulgated therein; and

(3) The information required by the Commissioner in the application has been supplied and has been determined to be adequate for the evaluation of the application for permit to operate.

(b) The Commissioner may require emissions tests before issuing a permit to operate.

(c) The Commissioner shall collect the prescribed permit fee prior to issuing or renewing a permit.

Section 259.04 Action on Application for Permit to Operate

Approval of the application for a permit to operate may, at the discretion of the Commissioner, include a condition requiring emissions tests to be conducted within a reasonable period of time, as determined by the Commissioner, and other special terms and conditions, to establish compliance with the emissions limitations of this ordinance. The Commissioner shall notify the person applying for the permit to operate of his or her approval or reasons for rejection of the application in writing. Upon the approval of the application, the Commissioner shall issue a permit to operate such air contaminant source or control equipment.

Section 259.05 Renewal of Permits to Operate

Permits to operate air contaminant sources or control equipment shall be renewed as follows:

(a) Prior to the expiration of the permit, a written request for renewal of permit or permits to operate must be filed in the office of the Division of Air Quality; and

(b) The request for renewal must list each air contaminant source at the facility and note any changes to the air contaminant source or sources at the facility.

As a courtesy to the regulated facilities, the Commissioner may issue invoices to permitted facilities listing the air contaminant sources believed to require permits at the facilities, and the associated fees for such sources. The responsible party at the facility may, at their option, use the information contained on the invoice to develop their request for renewal of permit or permits to operate and to calculate fees owed for permit renewal.

The request for renewal shall be signed:

(1) By the corporate president or vice president reporting directly to the president, or highest ranking corporate officer with offices located in Cuyahoga County; or

(2) By an equally responsible officer in the case of organizations other than corporations; or

(3) By the source owner or operator in all other cases.

(c) The requestor's signature shall constitute personal affirmation that the statements made in the request are true and complete, complying fully with applicable City requirements, that all judgments and estimates provided have been made in good faith, and shall subject the responsible official to liability under applicable City laws forbidding false and misleading statements.

(d) The requestor's signature shall constitute an agreement that the requestor assumes responsibility for the operation and location of such source or facility in accordance with this Code and with all other applicable rules and regulations, and terms and conditions. Such signature further attests to the requestor's understanding that the data provided in the request for renewal will be used by the City of Cleveland to calculate a fee which the facility is required to pay under Chapter 263 of the Code.

(e) Upon approval of the request for renewal and upon payment of the prescribed permit fees, the Commissioner shall issue a renewal of the permit to operate the source or sources or control equipment contained therein.

Section 259.06 Denial or Revocation of Permits to Operate

(a) A permit to operate may be denied or, once granted, may be revoked:

(1) Incident to any discontinuance and seal order; or

(2) In an emergency where operation of the subject air contaminant source or control equipment may be dangerous to persons or property; or

(3) Where no air pollution control equipment or modification, if required, has been installed to enable operation in accordance with the provisions of this Code; or

(4) Where the air contaminant source or control equipment is of such condition or so installed that it cannot be, or is not being, operated in accordance with the provisions of this Code; or

(5) Upon failure or refusal of the person responsible to submit information required by the Code; or

(6) Upon failure or refusal of the person responsible to comply with an abatement order issued under the provisions of Chapter 255; or

(7) Upon failure or refusal of the person responsible to comply with the terms and conditions of any permit granted by the Commissioner under provisions of this Code; or

(8) Upon failure or refusal of the person responsible to comply with the provisions of Chapter 283.

(b) Prior to the revocation of an existing permit to operate, notice in writing shall be sent by the Commissioner to responsible persons at facilities where violations of this section are known to exist, demanding compliance within a time limit set forth therein, or within a time limit extension granted by the Commissioner.

(c) Denial or revocation of a permit to operate will not bar prosecution for violation of any of the provisions of this Code.

Section 259.07 Prima Facie Evidence of Unlawful Emission

In any hearing of the Municipal Court or any court of competent jurisdiction, the fact of operation without a valid permit to operate or variance, together with testimony as to ownership or responsibility from the records of the Division of Air Quality, shall be prima-facie evidence of unlawful emissions and that the air contaminant source or control equipment for which the permit to operate or variance is not in effect is being operated in violation of the provisions of this Code.

Section 259.08 Variances

(a) The owner or operator of any plant, building structure, process, equipment, or source may apply to the Commissioner for a variance from the provisions of this Code. A variance is a temporary instrument; it does not modify or replace a permit to operate. Any application for a variance must include, at a minimum:

(1) The name, mailing address, phone number, and email for the applicant.

(2) The location of the facility for which a variance is being sought.

(3) A description of the source or sources for which a variance is being sought.

(4) The pollutants, potential pollutants, quantities of emissions, and quantities of potential emissions of the source for which a variance is being sought.

(5) The duration of the variance being requested, and a description of the control strategies employed or methodology for minimizing emissions during the duration of the variance being requested.

(b) The Commissioner shall give public notice of any request for a variance from the provisions of this Code. Public notice shall at a minimum consist of publication in the *City Record* and a daily newspaper of general circulation in the metropolitan area and shall contain the name and location of the facility, a description of the source, the pollutants emitted, the quantities of pollutants emitted the control strategies employed, and the duration of the variance being requested. Additional options for public notice are City of Cleveland Websites and common social media sites. These electronic resources, if used, will be in addition to the *City Record* and daily newspaper.

(c) The Commissioner may grant a variance under this section only after due consideration of the relative interests of the applicant, other owners of property likely to be affected by the discharge of emissions, and the general public. Interested persons may submit written comments on the variance request to the Commissioner. The Commissioner will consider all relevant comments received within thirty (30) days after the latest date of publication of the public notice of the variance request in the *City Record* or daily newspaper of general circulation in the metropolitan area.

(d) The Commissioner shall not grant a variance under this section until the applicant shows to the satisfaction of the Commissioner that:

(1) Such source is not a new source or modification; and

(2) The Commissioner has approved a compliance schedule for such source.

(e) The Commissioner shall approve a compliance schedule where it shows to the satisfaction of the Commissioner that:

(1) The plan and schedule provide for the earliest possible compliance by the source;

(2) Any available alternative operating procedure and interim control measures have reduced or will reduce the impact of such source on the public health;

(3) Good faith efforts have been and will be made to reduce emissions or otherwise comply with this Code or the rules and regulations promulgated therein;

(4) The proposed control strategy will bring the source into compliance with this Code or the rules and regulations promulgated therein; and

(5) The compliance schedule contains a date on or before which the source shall be operated in compliance with this Code or the rules and regulations promulgated therein.

(f) The Commissioner shall act upon a variance request within ninety (90) days after receipt in the office of the Commissioner. The Commissioner shall notify the person applying for the variance of the approval or reasons for rejection of the variance request in writing.

(g) The Commissioner shall give public notice of his decision on all requests for variances. Public notice shall consist of publication in the *City Record* and a daily newspaper of general circulation in the metropolitan area.

(h) If granted, a variance must be effective for the period of time the Commissioner deems appropriate. A variance shall not be a right of the applicant or holder thereof but shall be in the discretion of the Commissioner, as provided in this section.

(i) The Commissioner may require the variance holder, as part of the terms of the variance, to maintain such monitoring equipment and to make a file of such information, records and reports as he deems necessary to ensure compliance with the terms of the variance and to evaluate the effect of the emission upon the ambient air.

(j) No person shall fail to comply with any condition of a variance granted by the Commissioner without prior written approval of the Commissioner. This section has no effect upon the date of final compliance as set forth in the variance as granted.

(k) Once the Commissioner grants a variance, he or she may revoke such variance:

(1) Upon failure or refusal of the variance holder to maintain monitoring equipment and to make and file information, records, and reports as required by the Commissioner; or

(2) Upon failure of the variance holder to meet, or to show good faith effort in meeting, any of the conditions of the variance; or

(3) If during the period of the variance the source operation becomes unsafe and endangers the public health.

(l) Nothing in this section and no variance granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of this Code to any person or his property.

(m) The Commissioner may not grant a variance that conflicts with the air pollution regulations of the Ohio Environmental Protection Agency or the United States Environmental Protection Agency.

(n) Denial or revocation of a variance by the Commissioner shall not bar prosecution for violation of any other applicable provision of this Code.

(o) Any request for renewal of a variance shall be acted upon and treated as an original variance application.

Chapter 261 Exemptions

Section 261.01 Exemptions, Specified; Compliance

(a) The provisions of this Code shall not apply to the following classes of sources:

(1) Systems used exclusively for comfort ventilation;

(2) Fuel-burning equipment using natural gas, or No. 1 or No. 2 fuel oil at rates of less than one million (1,000,000) Btu per hour when operated at the maximum rated capacities and, from which, products of combustion are the sole emissions;

(3) Boilers installed in any residential buildings up to four (4) dwelling units; or

(4) Warm air furnaces, any unit heater, direct-fired unit heater or ceiling-type unit heater fired with natural gas, or No. 1 or No. 2 fuel oil, where equipment is used exclusively for space or comfort heating, or installed in any residential buildings up to four (4) dwelling units.

(b) Exemption under this section shall not relieve any owner or operator of an air contaminant source or control equipment of the responsibility to comply with the provisions of Sections 265.01, 267.01 and 277.01, and Chapters 281 and 283. If the operation of any such air contaminant source or control equipment violates any of the provisions of Sections 265.01, 267.01 and 277.01, and Chapters 281 and 283, the Commissioner must take appropriate action, under the applicable provisions of this Code, to compel abatement of the violation.

Section 261.02 Limited Exemptions

(a) The provisions of Chapter 259 shall not apply to the following classes of sources:

(1) Mobile sources; or

(2) Authorized open burning, abrasive blasting and/or building cleaning, and spray applications of fiberated non-asbestos cementitious products. Permits may be required for such operations under the provisions of Chapters 266, 277 and 281; or

(3) Other sources of small emission significance as the Commissioner may exempt by rules and regulation.

(b) Exemption under this section shall not relieve any owner or operator of an air contaminant source or control equipment of the responsibility to comply with the provisions of other applicable sections of this Code, including, but not limited to, emission standards and limitations, submission of data, reporting requirements, and emergency orders.

Chapter 263 Fees for Permits and Variances

Section 263.01 Fees for Permits and Variances

(a) Fees for the issuance of permits to operate any air contaminant source within the jurisdiction of this code, variances, and renewal of permits to operate shall be as follows:

(1) *Fuel Burning Equipment For Each Unit.* The fee shall be based upon the maximum designed heat input capacity:

Description	Fee
A. Of a heat input capacity of less than 2,500,000 Btu/hr	\$100.00
B. Of a heat input capacity of at least 2,500,000 Btu/hr and less than 10,000,000 Btu/hr	\$200.00
C. Of a heat input capacity of at least 10,000,000 Btu/hr and less than 25,000,000 Btu/hr	\$500.00
D. Of a heat input capacity of at least 25,000,000 Btu/hr and less than 50,000,000 Btu/hr	\$1,500.00
E. Of a heat input capacity of at least 50,000,000 Btu/hr and less than 100,000,000 Btu/hr	\$2,000.00
F. Of a heat input capacity of 100,000,000 Btu/hr or more	\$2,500.00

(2) *Incinerators For Each Unit.* The fee shall be based upon the primary furnace volume of each incinerator:

Description	Fee
A. Having a primary furnace volume of less than 50 cubic feet	\$250.00
B. Having a primary furnace volume of at least 50 cubic feet and less than 100 cubic feet	\$400.00
C. Having a primary furnace volume of at least 100 cubic feet and less than 200 cubic feet	\$1,500.00
D. Having a primary furnace volume of 200 cubic feet or more	\$2,500.00

(3) *Process Equipment.* The fee shall be based upon the value of X as determined from the following equation:

$X = \text{Process Weight in pounds per hour} + \text{Exhaust Air Ventilation in actual cubic feet per minute.}$

Description	Fee
A. For values of X less than 1,000	\$100.00
B. For values of X of at least 1,000 and less than 10,000	\$250.00
C. For values of X of at least 10,000 and less than 50,000	\$500.00
D. For values of X of at least 50,000 and less than 100,000	\$1,000.00
E. For values of X of at least 100,000 and less than 500,000	\$1,500.00
F. For values of X of at least 500,000 and less than 1,000,000	\$2,000.00
G. For values of X of 1,000,000 or more	\$2,500.00

(4) *Process and Fuel Burning Equipment.* The fee for equipment that can be categorized as either "Fuel Burning" or "Process" shall be the higher of the two amounts as calculated above. For the purpose of these calculations, combustion exhaust is not included in exhaust air ventilation. Total fees for all process and fuel burning equipment in each work room, shall not exceed two thousand five hundred dollars (\$2,500).

(5) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of the value of X in this section, the interpretation that results in the highest fee shall apply.

(6) *Gasoline Dispensing Equipment.* One fee shall cover all pumps, tanks, and other gasoline dispensing equipment at the facility. The fee shall be one hundred dollars (\$100.00).

(7) *Any Other Air Contaminant Source.* The fee for any other air contaminant source not included in the above schedule shall be one hundred dollars (\$100.00).

(8) The minimum fee for a permit to operate, renewal permit to operate, or variance for any single facility shall be fifty dollars (\$50.00).

(b) The fees for the examination of applications and issuance of other permits required by this Code, shall be determined for each site or occurrence and shall be as follows:

(1) For each occurrence of open burning	\$50.00
(2) For abrasive blasting of buildings and or other structures, at a single site and performed as part of a single project	\$50.00

Section 263.02 Fees for Notifications

(a) The Commissioner shall determine fees for the examination of initial notifications, and incremental fees for examination of revisions to notifications.

(b) The fees for reviewing notifications for the demolition or renovation of any building or structure, or parts thereof, as required under Section 281.02 of this Code, shall be as follows:

(1) A fee of one hundred dollars (\$100.00) must accompany the original notification; this fee covers review of the original notification and as many as three (3) revisions to the original notification; and

(2) If more than three revisions are required, one additional payment of one hundred dollars (\$100.00) must accompany the fourth revision.

Section 263.03 Fees for Witnessing Emissions and Compliance Tests and Retests

(a) The fee for witnessing the first emissions test or compliance test of a given air contaminant source in a calendar year is included in the fee paid for the permit to operate that air contaminant source; and

(b) The fee for witnessing any subsequent emissions test or compliance test of a given air contaminant source within the same calendar year shall be one hundred dollars (\$100.00), and shall be submitted with an intent to test plan or test notification.

Section 263.04 Fee Reduction

If the Ohio EPA air pollution regulations demand a fee for a permit to operate the same air contaminant source, the fee demanded in Section 263.01 shall be reduced by seventy-five percent (75%) unless the resultant fee would be less than fifty dollars (\$50.00). The fee will not be reduced below the minimum fee of fifty dollars (\$50.00).

Section 263.05 Application to Governmental Units

The provisions of this chapter shall apply within the City to all governmental units unless the imposition and collection of fees are prohibited by law.

Section 263.06 Schools and Churches Exempted

The Commissioner shall neither demand nor collect fees under the provision of this Chapter for the required permits to operate, renewal of permits to operate, or variances for fuel-burning equipment or incinerators installed in any public or parochial school from kindergarten through grade 12, or any church in the City. The Commissioner shall neither demand nor collect fees under the provision of this Chapter for the required permits for open burning, abrasive blasting and/or building cleaning, or for notifications for operations under Chapter 281 at any public or parochial school from kindergarten through grade 12, or any church in the City. Structures owned by a church are included in the fee exemption. Exemption from the fee does not exempt a facility from any emission limitations, permit requirements, reporting requirements, pollution control measures, notification requirements, or any other requirements applicable to non-exempt facilities.

Section 263.07 Fee Increase for Late Payment

The fees required in this Chapter shall be increased by fifty percent (50%) if not paid within ninety (90) days of their due date. At least 30 days prior to demanding the additional fifty percent (50%), the Commissioner shall notify the owner or operator of the overdue status of the fee. If a fee has been reduced or adjusted to the minimum fee under Section 263.04, the fifty percent (50%) increase will be based on the reduced or adjusted fee amount.

Chapter 265

Visible Air Contaminant Limitations

Section 265.01 Visible Emission Limitations from Any Single Source of Emission

(a) No person shall discharge into the ambient air from any single source of emission any air contaminant of a shade or density equal to or darker than twenty percent (20%) opacity, except as set forth in the applicable provisions of this chapter and Chapter 277 of this Code.

(b) A person may discharge into the ambient air from any single source of emission for a period or periods aggregating not more than six (6) minutes in any sixty (60) minutes air contaminants of a shade or density equal to or darker than twenty percent (20%) opacity but not darker than sixty percent (60%) opacity.

(c) Visible emissions from fugitive emissions sources are further regulated under Section 266.03. The more stringent requirement shall apply.

Section 265.02 Authority to Establish New Visible Emission Limitations

(a) The Commissioner is hereby authorized to establish new visible emission limitations for any air contaminant source equipped with control equipment if upon emission tests he finds that such source is in compliance with all other applicable emission limitations, as established in this Code, but during the time such emission tests are being conducted the source fails to meet the requirements of Section 265.01.

(b) The Commissioner shall not establish new visible emission limitations that are less stringent than have been established in a U.S. EPA or Ohio EPA Air Pollution Permit or rule. Further, the Commissioner shall not establish new visible emission limitations, under this section, unless the owner or operator of the affected air contaminant source and associated control equipment petitions the Commissioner and proves to the satisfaction of the Commissioner that:

(1) The affected air contaminant source and associated control equipment were operated and maintained in a manner to minimize the opacity or degree of emissions during the emission tests;

(2) The emission tests were performed under the conditions established and monitored by the Commissioner or his or her representative; and

(3) The affected air contaminant source and associated control equipment were incapable of being adjusted or operated to meet the applicable visible emission standard.

(c) Upon establishment by the Commissioner, under this section, of new visible emission limitations for any air contaminant source equipped with control equipment, such new visible emission limitations shall become effective after two (2) successive publications in the *City Record*.

(d) No person, owner, or operator shall discharge into the ambient air from any single source of emission for which new visible emission limitations were established by the Commissioner, air contaminants of a shade or density in excess of the new visible emission limitations as established by the Commissioner, under the requirements of this section.

Section 265.03 Exceptions

(a) Where the presence of uncombined water is the only reason for failure of an emission to meet the limitations established under this chapter, the limitations set forth in such sections shall not apply.

(b) The limitations on visible air contaminants established by Section 265.01 shall not apply to open burning when a permit to open burn has been granted by the Commissioner under authority of Section 277.03.

(c) The Commissioner is hereby authorized to exempt any source from compliance with the limitations of Sections 265.01 and 265.02 for periods of startup and shutdown. The Commissioner may grant such exemption upon request of the owner or operator of any source and proof to the satisfaction of the Commissioner that such exemption is necessary. Such exemption shall be incorporated into the terms and conditions of permits to operate, variances, consent agreements or by written permission of the Commissioner.

(d) The Commissioner shall not exempt any source from any requirement that has been established in a U.S. EPA or Ohio EPA Air Pollution Permit or rule.

Chapter 266 Fugitive Emissions

Section 266.01 General Provisions

(a) No person shall cause or allow any materials to be handled, transported or stored, or a building, its appurtenances or a road to be used, constructed, altered, repaired, renovated, or demolished without taking all necessary and reasonable precautions to prevent particulate matter from becoming airborne, unless exempted from these provisions by Section 266.02 of this Code. Such precautions shall include but not be limited to the following:

(1) Use, where possible, and as weather conditions allow, of water or fugitive emissions suppression chemicals for the control of fugitive emissions in the demolition or renovation of existing buildings or structures, construction operations, the grading of roads or parking areas, or the clearing of land;

(2) Application of asphalt, water or suitable chemicals for the suppression of fugitive emissions on unpaved roadways, parking areas, materials stockpiles and other surfaces which can create fugitive emissions;

(3) Installation and use of hoods, fans and control equipment to enclose, contain, capture and vent the handling of dusty materials;

(4) Use of adequate containment methods during operations where material is applied to a surface at high velocities for the use in abrading the surface, such as abrasive blasting or other similar activities;

(5) Covering at all times when in motion on public roadways open-bodied vehicles transporting materials likely to create fugitive emissions;

(6) Conduct of agricultural practices such as the tilling of land or application of fertilizers, in such a manner as to minimize the fugitive emissions produced;

(7) The paving of unpaved roadways and parking areas;

(8) The maintenance and cleaning of unpaved roadways and parking areas to remove buildup of materials that cause fugitive emissions;

(9) The prompt removal of earth or other material from paved streets and parking areas onto which earth or other material has been deposited by trucking or earth moving equipment or erosion by water or other means;

(10) Application of water or other suitable chemicals for the suppression of fugitive emissions, installation of storage silos, bins or other enclosed structures, or the use of canvas or other suitable coverings, for all materials, stockpiles and stockpiling operations; or

(11) Application of water, or other suitable chemicals for the suppression of fugitive emissions, adequate enclosures, and/or minimization of the height materials are dropped for the transfer of any materials that are formed into or increase material stockpiles.

(b) Fugitive emissions suppression chemicals cannot include any used oil as defined in OAC 3745:279-01(A) (12), or as subsequently amended. Compliance with the provisions of this section shall be determined according to Chapter 266 of this Code.

Section 266.02 Exemptions

The requirements of Sections 266.01 and 266.03 shall not apply to sources of fugitive emissions exempted from the requirements of this Code by Chapter 261 of this Code.

Section 266.03 Visible Emissions from Fugitive Emission Sources

No person shall cause or allow the discharge into the atmosphere of any visible air contaminant resulting from a fugitive emission source in excess of the limitations set forth in Section 265.01 of this Code, or beyond the property line of the property on which the emissions originate. The observations required by Section 265.01 shall be conducted upon the area where the fugitive emissions enter the ambient air and conducted in accordance with the applicable regulations regarding the conducting of visible emissions observations contained within Title 40 of the Code of Federal Regulations, Part 60, Appendix on Test Methods and OAC Rule 3745-17-03, or as subsequently amended.

Section 266.04 Emission of Air Contaminants from Buildings, Equipment, Storage Areas or Material Handling Operations

When dust, fumes, gases, mist, odorous material, vapors, smoke or other particulate matter or any combination thereof escape from a building, equipment, storage area or material handling operation in such a manner and amount as to cause a nuisance or to violate any provision of this Code, the Commissioner may issue a written order in accordance with Chapter 255. The order shall require that the building, equipment, storage area or material handling operation, in which processing, handling and storage are done, be tightly closed, ventilated, hooded or controlled in such a way that all air and gases and air- or gas-borne material leaving the building, equipment, storage area or material handling operation are treated by removal or destruction of air contaminants before discharge into the ambient air.

Section 266.05 Abrasive Blasting and/or Building Cleaning

(a) No person shall cause or allow the abrasive blasting and/or cleaning of a building, structure, or architectural surface without obtaining a permit to blast and/or clean from the Commissioner. The permit fee shall be based on the cost basis set forth in Section 263.01. A permit shall not be required for abrasive blasting or cleaning performed inside equipment designed for that function (e.g. abrasive blasting chambers) or inside confined spaces (e.g. tanks) where access to the public is restricted and the structure itself provides containment. However, escape of particulate matter from the blasting operation must be prevented.

(b) Application for a permit to blast and/or clean shall be made on forms prepared by the Commissioner, shall include reasonable and pertinent information that may be required by the Commissioner, and shall be submitted at least ten (10) working days prior to starting the operation unless emergency conditions necessitate an earlier start. "Working days" include the period of Mondays through Fridays, including any holidays occurring therein. If an applicant claims an emergency condition exists, the application must be submitted no later than the next working day after the activity starts, and shall include the date and hour that the emergency occurred, a description of the sudden unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or would pose an unreasonable financial burden if not immediately corrected. The Commissioner is not required to accept the explanation as constituting an emergency, but shall evaluate the facts provided.

(c) No permit for the abrasive blasting and/or cleaning operation shall be granted unless the applicant demonstrates to the satisfaction of the Commissioner that:

(1) Adequate containment on site of particulate matter, dust, and water droplets, generated by the activity, shall be furnished;

(2) Provisions for a complete clean up after blasting and/or cleaning shall be provided, including steps to remove particulate matter from adjacent streets, alleys and property to prevent it from being re-entrained in the air;

(3) Full time supervisory authority for all aspects of the operation shall be assigned to one (1) person; and

(4) Appropriate measures will be taken to comply with any additional requirements of the Division of Air Quality.

(d) A permit shall expire on either the operation completion date identified in the application, any expiration date identified on the issued permit, or three hundred sixty-five (365) days after the date of issuance, whichever is sooner. If the abrasive blasting and/or cleaning operation lasts longer than one (1) year, the owner or operator must reapply for the permit.

(e) Each person causing or allowing abrasive blasting and/or cleaning operation shall satisfy the notification requirements specified in this section.

(1) General notice shall be submitted to all owners and occupants of the building, structure or architectural surface where the abrasive blasting and/or cleaning will occur, and to all owners and occupants of buildings adjacent to the work site or within a distance likely to be impacted should an uncontrolled released of particulate matter occur from the activity.

(2) Delivery of notice is to occur:

A. At least five (5) working days before the beginning of any abrasive blasting and/or cleaning operation; or

B. As early as possible before, but not later than, the following working day if the operation is an emergency.

(3) General notice shall include:

A. The name and telephone number of the person responsible for supervising the activity;

B. Type of operation: abrasive blasting or cleaning;

C. The location and street address, including building number or name and floor or room number, if appropriate, where abrasive blasting and/or cleaning will occur. If necessary to identify the location of the activity, attach to the notification any site plans, floor plans or other pertinent information;

D. Scheduled starting and completion dates of operation or any other activity, such as site preparation. Planned operations involving individual nonscheduled operations shall only include the beginning and ending dates of the report period; and

E. Description of the blasting and/or cleaning to be performed and method or methods to be employed including techniques to be used and a description of affected facility components.

(f) Each person submitting an application shall identify his name and title, and shall sign and date the appropriate form. The signature shall constitute an agreement that the person assumes responsibility for the abrasive blasting and/or cleaning operation in accordance with this Code and with all other applicable rules and regulations, and terms and conditions.

(g) In addition to the requirements of this section, the Commissioner may require any additional control methods deemed necessary to adequately control excessive particulate matter and other air contaminants during abrasive blasting and/or cleaning operations.

(h) The Commissioner has authority to regulate, at his discretion, the times and hours of blasting and/or cleaning operations as requirements of the permit.

(i) All painted surfaces to be blasted and/or cleaned for the removal of paint shall be tested for lead prior to abrasive blasting and/or cleaning. The sampling and analysis of paint shall be conducted in accordance with methods approved in advance by the Commissioner to indicate the lead content, if any, of the paint to be removed. Documents of lead test results shall be submitted with the application for a permit to blast and/or clean.

(j) If the activity will occur at a home, childcare facility, or kindergarten built before 1978, U.S. EPA's Lead Renovation, Repair, and Painting Rule may apply. In such case, Applicant must comply with all requirements of the U.S. EPA rule as well as City of Cleveland requirements.

(k) The abrasive blasting of buildings and/or structures shall be of "wet-method" application wherein water is entrained with the cleaning medium to prevent dust during cleaning operations, except as provided in this section.

(l) No person shall cause or allow any dry blasting methods to be utilized unless such methods permit the nozzle to be operated within a tarpaulin enclosure equipped with suitable means of funneling the dispersed abrasive material and debris into a suitable container to prevent the waste materials from becoming airborne.

(m) Where abrasive blasting and/or cleaning occurs, adequate protection to prevent injurious exposures shall be taken in compliance with OAC 4123:1-7-12, or as subsequently amended.

(n) Failure to comply with any request for information made by the Commissioner or any requirements in Section 266.05 shall be cause for rejection of an application, and may constitute grounds for the denial or revocation of a permit for abrasive blasting and/or cleaning operations.

(o) The Commissioner shall notify the person applying for the permit of his approval or reasons for rejection of the application in writing. Upon approval of the application, the Commissioner shall issue a permit for abrasive blasting and/or cleaning operations.

(p) The following events require the owner/operator or responsible party to notify the Commissioner as soon as possible, but no later than the next working day:

(1) Any change in the abrasive blasting and/or cleaning operation schedule; or

(2) Any change in the method or methods to be used; or

(3) Any change in the owner or operator.

The notification may be made in writing, by telephone, via facsimile, or e-mail which is preferred. The Commissioner has the discretion to request a new or revised application, or to revoke the permit, based on the magnitude of the changes.

Section 266.06 Spray Application of Non-Asbestos Fiberated Cementitious Products

(a) Spray application of non-asbestos fiberated cementitious products may require a permit from the Department of Building and Housing. In such case, no person shall cause or allow the use of a cementitious product or compounds containing mineral fibers, whenever such product or compounds are applied to a surface utilizing a spray or pneumatic means of application, excluding the spraying or other use of refractory materials in ovens, furnaces, ladles or other metallurgical process equipment, without obtaining a permit for the spraying of such product or compounds from the Department of Building and Housing. The person receiving such permit shall forward to the Commissioner of Air Quality a copy of each permit for the spraying of such product or compounds.

(b) Regardless of whether a permit is required from the Department of Building and Housing, no person shall cause or allow the spraying of fiberated cementitious products or compounds unless the following procedures are taken:

- (1) Provisions are made for adequate containment of dust and overspray;
- (2) Provisions are made for complete cleanup after spraying;
- (3) All workers and other persons present are provided with, and use appropriately, approved respiratory devices and clothing; and

(4) Any additional requirement stipulated by the Commissioner in the issued permit.

(c) A person shall be assigned supervisory authority for all aspects of the spraying operation and shall be available at the spraying site at all times during the operation.

(d) Failure of any person to comply with any of the requirements of subsections (b) and (c) hereof shall be sufficient grounds for the Department of Building and Housing to revoke any permit or deny any permit application.

(e) This section does not apply to the spraying of cementitious products or compounds containing mineral fibers that are subject to Section 281.02 of this Code.

Chapter 267
Odors

Section 267.01 Emission into Ambient Air

(a) No person shall cause or allow an emission into the ambient air from any air contaminant source or control equipment that will cause the outdoor air to become odorous to the extent specified herein.

(b) Measurements of odor emissions are performed with a portable olfactometer, Nasal Ranger or equivalent, by personnel trained in its operation.

(1) On or adjacent to residential, recreational, institutional, retail sales, hotel, educational or other non-industrial premises when the odorous air has a dilution to threshold (D/T) value of seven (7) or greater and is detectable for two (2) or more measurements, at intervals of not less than fifteen (15) minutes, within the time periods as follows:

If the D/T values = 7 or the lower of the D/T values = 7: 1 hour

If the D/T values = 15 or the lower of the D/T values = 15: 8 hours

If the D/T values = 30 or the lower of the D/T values = 30: 16 hours

If the D/T values = 60 or the lower of the D/T values = 60: 32 hours

(2) On or adjacent to industrial premises when the odorous air has a dilution to threshold (D/T) value of fifteen (15) or greater and is detectable for two (2) or more measurements, at intervals of not less than fifteen (15) minutes, within the time periods as follows:

If the D/T values = 15 or the lower of the D/T values = 15: 8 hours

If the D/T values = 30 or the lower of the D/T values = 30: 16 hours

If the D/T values = 60 or the lower of the D/T values = 60: 32 hours

(c) Dilution to Threshold (D/T) shall mean the highest number of dilutions of the odorous air with non-odorous air at which the odor is detected. When using the Nasal Ranger olfactometer, the D/T value is read directly from the dilution to threshold dial.

(d) The owner or operator of any source or control equipment that emits or may foreseeably emit into ambient air any odor shall notify the Commissioner of such source or control equipment and provide, properly install and maintain in good working order and in operation control devices or procedures approved by the Commissioner.

(e) Abatement and control procedures include but are not limited to the following:

(1) The use of air cleaning equipment, afterburners, scrubbers, absorbers and other methods approved by the Commissioner to remove, dispose of, or recycle odorous materials;

(2) The confinement of odorous materials at the point of origin to prevent emission or escape of any odorous material into ambient air; or

(3) The use of methods in handling, transporting and storing odorous materials to prevent accumulation and spillage or other escape of odorous materials.

(f) An owner or operator of any source or control equipment under these regulations shall provide, properly install and maintain in good working order and in operation devices and measures, approved by the Commissioner, that determine temperatures, pressures and other operating conditions to control odorous materials and minimize emissions. These devices and measures shall prevent the emission of odorous materials through pipes, exhausts or vents into ambient air.

(g) A building which processes, handles or stores any odorous materials shall be tightly closed and ventilated, in a timely fashion, so that odorous materials exiting the building are treated for removal or destruction before discharge into ambient air. Doors and windows shall be tightly closed to prevent the emission or escape of odorous materials into ambient air.

(h) The owner or operator shall report to the Commissioner within one (1) hour of discharge any accidental emissions that cause or contribute to odorous material into ambient air.

Section 267.02 Industrial Sources

(a) Emissions from any of the sources or processes listed in the applicable sections of Chapter 297 shall be treated with air cleaning equipment for the control of odorous material to maintain compliance with Section 267.01.

(b) Sources and Processes to be equipped with Air Cleaning Equipment for the Control of Odorous Material.

Chapter 269
Particulate Limitations

Section 269.01 Emission from Fuel-Burning Equipment

(a) Except as provided in division (a) (1) or (2) of Section 269.01, no person shall cause or allow to be emitted into the atmosphere, from any fuel-burning equipment or premises or to pass a convenient measuring point near the stack outlet,

particulate matter in the gases to exceed four-tenths (0.4) lb. per one million (1,000,000) Btu heat input for installations using less than ten million (10,000,000) Btu per hour total input. Applicable sections of Chapter 297 shall be used to determine the allowable particulate emission limitation for sources with a rated heat input equal to or greater than ten million (10,000,000) Btu per hour.

(1) The maximum allowable amount of particulate emissions for any new or existing fuel burning equipment which is fired only with gaseous fuels, excluding blast furnace gas, and/or number two fuel oil shall be 0.020 pound per million Btu of heat input.

(2) The maximum allowable amount of particulate emissions for any new or existing fuel burning equipment which is fired only with blast furnace gas or any mixture of blast furnace gas with other gaseous fuels and/or number two fuel oil shall be 0.040 pound per million Btu of heat input.

This subsection applies unless the State of Ohio requires a more stringent standard.

(b) The "heat input" shall be the aggregate heat content of all fuels whose products of combustion emanate from a single fuel-burning unit. The heat input-value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel-burning units on a plant or premises which are united either physically or operationally, shall be used to determine the maximum allowable amount of particulate matter which may be emitted from any single fuel-burning unit. The total of the capacities of all operable fuel-burning units within one (1) system constitutes the capacity of the system.

(c) No person shall cause or allow the burning of refuse, garbage or other debris in any boiler or any other device which has not been specifically designed to burn such refuse, garbage or other debris and for which an effective permit to operate has not been issued by the Commissioner.

Section 269.02 Emission from Incinerators

(a) This section applies to any incinerator used to dispose of refuse or other wastes by burning and to the processing of salvageable material by burning.

(b) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as the Commissioner may determine in accordance with good engineering practices. In case of conflict, the Commissioner's determination shall govern.

(c) For purposes of this section, the total of the capacities of all operable furnaces within one (1) system constitutes the incinerator capacity.

(d) No person shall cause or allow to be emitted into the atmosphere, from any incinerator or premises or to pass a convenient measuring point near the stack outlet, particulate matter in the exhaust gases to exceed:

(1) One-tenth (0.10) pound of particulate matter per one hundred (100) pounds of combustible refuse including its ash and water content charged for incinerators having capacities equal to or greater than one hundred (100) pounds per hour; or

(2) Two-tenths (0.20) pounds of particulate matter per one hundred (100) pounds of combustible refuse (including its ash and water content) charged for incinerators having capacities less than one hundred (100) pounds per hour.

(e) No person shall cause or allow the installation or construction of a flue fed, single flue, single chamber incinerator unless such incinerator is equipped with air cleaning equipment to maintain compliance with the emission limitations as established in this Code.

(f) No person shall cause or allow the operation of a flue fed, single flue, single chamber incinerator after the effective date of this code unless such incinerator is equipped with air cleaning equipment to maintain compliance with the emission limitations as established in this Code.

(g) No person shall cause or allow the operation of a residential incinerator in the City of Cleveland unless such incinerator was installed before the effective date of this Code, is in compliance with Section 3131.13 and does not present a public nuisance.

(h) Incinerators, including all associated equipment and grounds, shall be designed, operated, and maintained so as to prevent the emission of objectionable odors.

Section 269.03 Emission from Process Equipment

(a) No person shall cause or allow the emission of any particulate matter from any process equipment in excess of the maximum allowable emissions as provided for in the applicable sections of Chapter 297.

(b) Table III in Chapter 297 relates process weight rate to maximum allowable mass rate of emission. Table III in Chapter 297 is shown in graphical form in Figure II in Chapter 297. Figure III in Chapter 297 relates uncontrolled mass rate of emission (abscissa) to maximum allowable mass rate of emission (ordinate). Figure III in Chapter 297 shall apply where the uncontrolled mass rate of emission can be determined by an acceptable method, such as a stack test, material balance, application of an emission factor characterization from a reference such as U.S. EPA Publication AP-42, Compilation of Air Pollutant Emission Factors, 5th Edition, January, 1995 and subsequent revisions, or other methods approved by the Commissioner as conforming to good engineering practices. When both the process weight rate and the uncontrolled mass rate of emission can be determined for a source, the more stringent of the applicable values from Table III or Figure III in Chapter 297 shall govern the source.

If two or more process units connect to a single stack or chimney, each unit must be considered a separate entity for the purpose of computing the maximum allowable emission rate using the applicable sections of Chapter 297.

(c) For process equipment of a size smaller than included in the applicable section of Chapter 297: No person shall cause or allow the operation of any process equipment having a process weight rate of less than one hundred (100) pounds per hour or an uncontrolled mass rate of emissions of less than ten (10) pounds per hour unless such process equipment is equipped with control equipment or is installed in accordance with acceptable engineering practices common to the particular industry and as approved by the Commissioner to control the emission of particulate matter.

Chapter 271 Sulfur Compounds Limitations

Section 271.01 Emission of Sulfur Oxides from Fuel-Burning Equipment

No person shall cause or allow the emission of sulfur dioxide from any stack in excess of the rates specified in OAC 3745-18-24 for listed facilities or OAC 3745-18-06 for other facilities.

Section 271.02 Emission of Sulfur Compounds from Process Equipment

No person shall cause or allow the emission of sulfur dioxide from any stack in excess of the rates specified in OAC 3745-18-24 for listed facilities or OAC 3745-18-06 for other facilities.

Chapter 277
Miscellaneous Limitations

Section 277.01 Nuisance

(a) No person shall cause, allow or maintain any public nuisance as defined in this section.

(b) The emission of air contaminants into the ambient air from any air contaminant source or control equipment constitutes a public nuisance where the emission does one (1) or more of the following:

(1) Injures, endangers or has the tendency to injure or endanger the comfort, health, repose, safety or welfare of the public, or is reasonably offensive and objectionable to the public;

(2) Threatens or causes unreasonable injury or damage to property, substantially decreases the value of property, or interferes with the comfortable use and enjoyment of property or normal conduct of business; or

(3) Injures, endangers or has the tendency to injure or endanger any trees, shrubs, crops, plants, or other forms of vegetation.

(c) To determine whether an emission creates a public nuisance, the Division of Air Quality may consider but is not limited to the following factors:

(1) Proximity of the emission to the nearest point of habitation or public exposure;

(2) Extent and duration of the emission;

(3) Nature of the harm;

(4) Whether the emission is recurrent, intermittent or constant;

(5) Whether the emission abatement measures are possible and whether they are used to reduce the emission; and

(6) The quality or state of the ambient air.

(d) The Commissioner may order the air contaminant source or control equipment to be tightly closed and ventilated so any air contaminant or air contaminants leaving the air contaminant source or control equipment shall be treated by the removal or destruction of the air contaminant or air contaminants before discharge into the ambient air. The owner or operator of an air contaminant source or control equipment may implement the abatement and control methods as set forth in Sections 266.01 and 267.01 of this Code.

Section 277.02 Open Burning

(a) No person shall cause, allow or maintain opening burning within the City without first obtaining a permit to open burn from the Commissioner, except as set forth in division (b) of this section. The permit fee shall be determined on the cost basis as set forth in Section 263.01.

(b) The Commissioner shall not require any person to obtain a permit or pay a fee for open burning of the following nature:

(1) Heating tar, performing welding, utilizing acetylene torches, or deploying highway safety flares.

(2) Burning clean and non-contaminated smokeless fuels for warmth of outdoor workers and similar occupational or recreational needs.

(3) Noncommercial cooking of foods for human consumption using campfires, grills, and outdoor fireplace equipment that satisfy the requirements of Section 381.101 of the Fire Prevention Code and the requirements set forth below.

A. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of clean seasoned firewood; and

B. They are not used for waste disposal purposes; and

C. They have a total fuel limited to the purpose for which the open burning is intended, or a maximum of three (3) feet or less in diameter and two (2) feet or less in height, whichever is smaller.

(4) Recognized methods of fire training.

Training in the use of fire extinguishing equipment for commercial or industrial fire prevention that satisfies the requirements set forth in Chapter 389 of the Fire Prevention Code and OAC 3745-19-03(B) (4), or as subsequently amended.

(5) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health and welfare, public safety, property or the environment, and that are excluded from the requirement to obtain a hazardous waste permit under OAC 3745:50-45(D) (1) (d), or as subsequently amended, and as listed in Chapter 387 of the Fire Prevention Code.

(c) The Commissioner shall not issue a permit to open burn except for the following purposes:

(1) Prevention or control of disease or pests, with written or oral verification from the Ohio Department of Health, the Centers for Disease Control and Prevention, cooperative extension service, Ohio Department of Agriculture, or United States Department of Agriculture, that open burning is the only appropriate disposal method.

(2) Bonfires that are used for ceremonial purposes and are of the following nature:

A. They have a total fuel area no greater than five (5) feet in diameter by five (5) feet in height and burn no longer than three (3) hours;

B. They are not to be used for waste disposal purposes; and

C. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of clean seasoned firewood.

(3) Instruction in the methods of firefighting, other than fire extinguisher training, or for research in the control of fire as set forth in the Ohio Fire Code.

The burning of any structure is subject to the Asbestos National Emission Standard for Hazardous Air Pollutants. As such it is further subject to the requirements of Section 281.02. A permit to open burn a structure for fire training will not be issued unless the applicant has demonstrated to the satisfaction of the Commissioner that all requirements of the asbestos rules are being complied with. These include but are not limited to:

1. Inspection by an Ohio Department of Health Certified asbestos specialist; and

2. Submittal of Ohio EPA Notification of Demolition and Renovation; and

3. Proper removal and disposal of all asbestos containing material.

(4) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in this division;

(5) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Commissioner. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Division of Air Quality;

(6) Recognized horticultural, silvicultural, range or wildlife management practices; and

(7) Fires and/or pyrotechnic effects, for the purpose other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(d) An application for a permit to open burn shall be submitted in writing at least ten (10) working days before open burning is to be conducted and shall be made on forms prepared by, or acceptable to, the Commissioner.

(e) Except as provided in this section, the application shall contain, as a minimum, information regarding:

(1) The purpose of the proposed burning;

(2) The nature and quantities of material to be burned;

(3) The dates or dates when such burning will take place;

(4) The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields and other pertinent landmarks, transportation facilities, or commercial/shopping areas;

(5) The methods or actions which will be taken to reduce the emission of air contaminants;

(6) Any such additional information the Commissioner may deem necessary; and

(7) Any additional requirements for an application as set forth in OAC 3745-19, or as subsequently amended.

(f) The permit to open burn shall set forth requirements for the open burning as the Commissioner deems necessary to minimize production of smoke and particulate matter and any requirements set forth in OAC 3745-19, or as subsequently amended. The issuance of an open burn permit is not approval that the open burning is being conducted in a safe manner consistent with the requirements of the National Fire Protection Association; however, the Division of Fire may provide comments that can be included in a permit issued under this Section.

(g) The Commissioner shall not grant permission to open burn unless the applicant demonstrates to his satisfaction that:

(1) Open burning is necessary to the public interest;

(2) Open burning will be conducted in a time, place, and manner as to minimize the emission of air contaminants; and

(3) Opening burning will have no serious detrimental effect upon adjacent properties or the occupants thereof.

(h) Except as provided in this section, permission to open burn must be obtained for each specific project.

(i) Violation or violations of any of the conditions set forth in this section in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.

(j) The Division of Air Quality, the Commissioner, and any agents or representatives of the same, shall not be held liable for any damage to property, harm to an individual or loss of life resulting from any open burning conducted.

(k) It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or allowed such open burning. When open burning prohibited by this section is discovered, the person responsible for the property on which burning occurs shall immediately extinguish or cause the extinguishment of such burning.

(l) All open burning shall comply with any other applicable requirements set forth in Section 3704.11 of the Revised Code, or as subsequently amended, and OAC 3745-19, or as subsequently amended.

Section 277.03 Rendering Plants

No person shall operate or cause to be operated a rendering plant unless:

(a) All vents to ambient air from such rendering plant are substantially free of any odor causing air contaminants;

(b) Appropriate and suitable air cleaning equipment is so placed and operated and air pollution control measures are so instituted that air contaminants are removed or recycled to the process in such manner that the effluent air will not create air pollution;

(c) Odorous materials are confined, processed, stored, handled and disposed of in such a manner that odors produced within or outside the rendering plant from this source can be controlled;

(d) Excessive accumulations of odorous materials resulting from spillage or escape do not occur;

(e) Air contaminant emissions arising from unit operations or unit processes, as well as from the handling of general materials, are confined at the point of origin; and

(f) All finished products, by-products and waste materials are either odor free or so treated as to eliminate or prevent air pollution.

Section 277.04 Outdoor Wood Burning Boilers

No person shall operate or cause to be operated an outdoor wood-burning boiler. See definition of "Outdoor Wood-Burning Boiler" in Chapter 251 for other names of these devices.

Section 277.05 Other Emissions

Any air contaminant or contaminants not specifically covered by provisions of this Code may be the subject of tests, studies and orders of abatement by the Commissioner in accordance with Chapter 255 of this Code.

Chapter 279 Procedures and Other Requirements

Section 279.01 Circumvention

No person shall cause or allow the installation, modification or use of any air contaminant source or control equipment or any equipment pertaining thereto for the purpose of diluting or concealing an emission without resulting in a reduction in the total release of air contaminants to the atmosphere nor shall a person do anything or commit any act with the intent to distort stack test emission results or visible emission opacity readings.

Section 279.02 Data Registration

(a) The Commissioner may require a periodic data registration and shall prepare appropriate forms for such purpose. The data to be registered shall include plans and specifications for any air contaminant source or control equipment and the submission required under this section is in addition to the submission of plans and specifications under Chapter 259 of this Code. The Commissioner may use such information to prepare emission inventories.

Plans and specifications for an air contaminant source or control equipment shall show type of installation, the form and dimension of such equipment, the location of sources of emissions, dimensions of the building or part thereof in which equipment is located, amount of work to be accomplished by such equipment, type of fuel used, means of limiting emissions to conform to limitations set forth in this Code. Written evidence shall be included to substantiate required information, such as test data, calculated values, material balance, maximum quantity of fuel to be burned per hour,

operating requirements, purpose and use of equipment, means of ventilating the room in which equipment is located, raw material used, products produced, operating schedules and such other information as may be required by the Commissioner.

(b) No person shall fail to timely supply the Commissioner with required information, data, reports or other documentation as and when required.

Section 279.03 Right of Entry

The Commissioner or his or her authorized representative may, upon presentation of proper credentials, enter upon private or public property, including improvements thereon, at any reasonable time or when a source is being operated or when a violation of the applicable provisions of this Code has occurred or may occur. Entry shall be for the purpose of making inspections, conducting tests and examining records or reports pertaining to any emission of air contaminants and of determining if there are any actual or potential emissions from such premises, and if so, to determine the sources, amounts, contents and extent of such emissions or to ascertain compliance with provisions of this Code, any orders or regulations adopted thereunder or any other determination of the Commissioner. Inspections may include taking photographic and video-graphic representations of the operation, effects of, outlet of, and/or the actual air contaminant source or control equipment regulated by this Code. If entry or inspection authorized by this section is refused, hindered or thwarted, the Commissioner or his or her authorized representative may by affidavit apply for, and any judge of a court of record may issue, an appropriate inspection warrant necessary to achieve the purposes of this Code within the court's territorial jurisdiction.

**Chapter 281
Hazardous Air Pollutants**

Section 281.01 Designation

Asbestos, beryllium and mercury are hereby designated as hazardous air pollutants.

Section 281.02 Asbestos Emission Standard

(a) No person shall cause or allow the discharge into the atmosphere of any visible emission from any air contaminant source or control equipment engaged in the processing or manufacturing of any asbestos-containing product.

(b) *Demolition or Renovation of Buildings*

(1) No person shall cause or allow the demolition or renovation of any existing building, structure or portion thereof within the City without obtaining a permit to demolish or renovate from the Department of Building and Housing of the City of Cleveland. Application for permit to demolish or renovate shall be made on forms prepared by the Department of Building and Housing and shall include such information as the Department of Building and Housing and the Commissioner of Air Quality deem necessary. Persons receiving a permit from the Department of Building and Housing shall forward a copy of such permit to the Commissioner of Air Quality.

(2) Any person who causes or allows a demolition or renovation shall take adequate precautions as prescribed in Chapter 266 to prevent or reduce asbestos dust emissions.

(3) Any person who causes or allows a demolition or renovation shall determine if such operation is regulated under the Asbestos National Emission Standard for Hazardous Air Pollutants ("Asbestos NESHAP"), and OAC 3745-20.

(4) No person shall cause or allow a demolition or renovation regulated under the Asbestos NESHAP until demonstrating to the satisfaction of the Commissioner of Air Quality that the operation will comply with all applicable Federal and State asbestos regulations.

(5) Any person causing or allowing a demolition or renovation regulated under the Asbestos NESHAP within the City shall submit to the Commissioner of Air Quality a written notification that complies with the requirements as set forth in the Asbestos NESHAP and OAC 3745-20-03, or as subsequently amended.

(6) Notification shall be made using the Ohio EPA "Notification of Demolition and Renovation" form, most recent update, available from Ohio EPA or the Division of Air Quality. Division (b)(11) of this section specifies information required for completion of the Ohio EPA notification form.

(7) The "Notification of Demolition and Renovation" must be submitted no less than ten (10) working days prior to starting the operation, unless the operation meets the criteria of an ordered demolition or emergency renovation contained in the Asbestos NESHAP 40 CFR 61.145. Such operations may begin immediately, but notification must be submitted by the next working day.

(8) Upon receipt of an original "Notification of Demolition and Renovation" the Commissioner or his or her representative shall perform a review of every section of the notification to determine if it has been completely and correctly filled out, and shall maintain a written or electronic copy of the review. Subsequently, the Commissioner or his or her representative shall:

A. For a deficient notification, inform the submitter of the deficiencies requiring correction, and any mandated changes to the starting date, or

B. For a satisfactory notification, inform the submitter that the operation may begin on the specified starting date.

(9) When circumstances require a revised notification to be submitted, per OAC or NESHAP, such notification must explicitly indicate each section of the notification that is being revised, and shall be submitted by hard copy, fax, e-mail, or other means prescribed by Ohio EPA.

(10) The fee for review of original and revised notifications shall be on the cost basis established at Section 263.02.

(11) Information not required by the Ohio EPA for a particular demolition or renovation is not required for notification to the Division of Air Quality. The Commissioner may require such information as part of the notification review. Unless excluded by Ohio EPA, a notification shall contain, at a minimum, the following information, and any additional information deemed necessary by the Commissioner of Air Quality, OAC, or the Asbestos NESHAP:

A. An indication of whether the notice is the original or a revised notification; and

B. Location and street address, including building number or name and floor or room number, if appropriate, city, county, and state, of the facility being demolished or renovated; and

C. Description of the facility or affected part of the facility including the size in square meters or square feet and number of floors, age, and present and prior use of the facility; and

D. Type of operation: Demolition, Ordered Demolition, Renovation, Emergency Renovation, or Fire Training; and

E. An indication of whether asbestos is present; and

F. Name, address, and telephone number of both the facility owner and operator and the asbestos removal contractor owner or operator; and

G. Procedure, including analytical methods, employed to detect the presence of regulated asbestos containing material ("RACM") and Category I and Category II non-friable asbestos containing material ("ACM"); Name and certification number of the Asbestos Hazard Evaluation Specialist certified by the Ohio Department of Health who performed the sampling and evaluation; and

H. The approximate amounts of regulated ACM (RACM), Category I non-friable ACM, and Category II non-friable ACM to be removed from the facility in terms of length of pipe in linear meters (linear feet), surface area in square meters or square feet on other facility components, or volume in cubic meters or cubic feet if off the facility components. Also, an estimate of the approximate amount of Category I and Category II non-friable ACM in the affected part of the facility that will not be removed before demolition; and

I. Scheduled starting and completion dates of demolition or renovation; and

J. Scheduled starting and completion dates of asbestos removal work or any other activity, such as site preparation that would break up, dislodge, or similarly disturb asbestos material in a demolition or renovation; planned renovation operations involving individual nonscheduled operations shall only include the beginning and ending dates of the report period, typically a calendar year; and

K. Description of planned demolition or renovation work to be performed and method or methods to be employed, including demolition or renovation techniques to be used and description of affected facility components; and

L. Description of work practices and engineering controls to be used to comply with the requirements of this subpart, including asbestos removal and waste-handling emission control procedures; and

M. Name, address, and contact information for the waste transporter or transporters; and

N. Name, address, and contact information for the waste disposal site where the asbestos-containing waste material will be deposited; and

O. For ordered demolitions, the name, title, and authority of the State or local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification; and

P. For emergency renovations, the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden; and

Q. Description of procedures to be followed in the event that unexpected RACM is found or non-friable ACM becomes crumbled, pulverized, or reduced to powder; and

R. A certification by signature of a responsible party that at least one person trained as required by paragraph §61.145 (c) (8) of the Asbestos NESHAP will supervise the stripping and removal described by the notification; and

S. A certification by signature of a responsible party that acknowledges the existence of laws prohibiting the submission of false or misleading statements, and certifies that facts contained in the notification are true, accurate, and complete.

(c) *Spraying of Asbestos Containing Products.*

(1) No person shall cause or allow the spraying of asbestos containing products within the City of Cleveland without complying in full with the requirements of the Ohio Administrative Code 3745-20-15 "Standard for Spraying."

(2) Any person intending to cause or allow the spraying of asbestos containing products within the City of Cleveland shall notify the Commissioner concurrently with the notification that must be provided to the Director of the Ohio EPA. A copy of such notification is sufficient.

(3) The Commissioner shall neither demand nor collect a fee for receiving a notification of spraying of asbestos containing products.

Section 281.03 Beryllium

This section shall apply only to those sources whose Beryllium emissions are not regulated by a U.S. EPA or Ohio EPA air pollution permit or applicable rule.

(a) Except as set forth in this section, no person shall cause or allow the discharge into the atmosphere from any air contaminant source or control equipment the emission of Beryllium that will result in an ambient air Beryllium concentration in excess of the Maximum Allowable Ground Level Concentration ("MAGLC") calculated as:

MAGLC = (4) x (TLV) / (X) x (Y), where

(TLV) = Threshold Limit Value for Beryllium established by the American Council of Governmental Industrial Hygienists ("ACGIH").

(X) = Hours of operation per day.

(Y) = Days of operation per week.

The Beryllium TLV as of enactment date of this Code was 0.002 milligrams Beryllium per cubic meter (0.002 mg Be/m³) averaged over an 8 hour workshift, but ACGIH was considering a lower value. When calculating the MAGLC, the most up to date TLV shall be used.

(b) From sources located within 1,500 feet of a school, child care facility, or playground, no person shall cause or allow the discharge into the atmosphere of Beryllium that will result in an ambient air Beryllium concentration in excess of 80% of the MAGLC as calculated above.

Section 281.04 Mercury Emission Standard

This section shall apply only to those sources whose Mercury emissions are not regulated by a U.S. EPA or Ohio EPA air pollution permit or applicable rule.

(a) Except as set forth in this section, no person shall cause or allow the discharge into the atmosphere from any air contaminant source or control equipment the emission of Mercury that will result in an ambient air Mercury concentration in excess of the Maximum Allowable Ground Level Concentration ("MAGLC") calculated as:

MAGLC = (4) x (TLV) / (X) x (Y), where

(TLV) = Threshold Limit Value for Mercury established by the American Council of Governmental Industrial Hygienists ("ACGIH").

(X) = Hours of operation per day.

(Y) = Days of operation per week.

The Mercury TLV as of enactment date of this Code was 0.025 milligrams Mercury per cubic meter (0.025 mg Hg/m³) averaged over an 8 hour workshift. When calculating the MAGLC, the most up to date TLV shall be used.

(b) From sources located within 1,500 feet of a school, child care facility, or playground, no person shall cause or allow the discharge into the atmosphere of Mercury that will result in an ambient air Mercury concentration in excess of 80% of the MAGLC as calculated above.

Chapter 283 Emergency Episodes

Section 283.01 Episode Prevention

This chapter is designed to prevent the excessive buildup of air contaminants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these air contaminants on the health of persons.

Section 283.02 Declaration of an Air Pollution Episode

(a) Under Section 3704.032 of the Revised Code, or as subsequently amended, and under regulations issued thereunder, the Governor of the State of Ohio may declare that an air pollution alert, air pollution warning or air pollution emergency exists affecting any or all sources within the City of Cleveland.

(b) Orders under the declaration of an air pollution alert, air pollution warning or air pollution emergency shall take effect upon issuance. No person to whom an order is directed shall fail to initiate compliance measures immediately upon receiving notice.

Section 283.03 Air Pollution Emergencies and Episodes Criteria

(a) Conditions that justify the proclamation and declaration of an air pollution "Alert", air pollution "Warning" or air pollution "Emergency" shall be deemed to exist whenever the Commissioner determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Commissioner will be guided by the episode stage criteria in this section, and as tabulated here:

Pollutant	Alert Criteria	Warning Criteria	Emergency Criteria
Sulfur Dioxide	800 micrograms per cubic meter (0.3 ppmv), 24 hour average.	1,600 micrograms per cubic meter (0.6 ppmv), 24 hour average.	2,100 micrograms per cubic meter (0.8 ppmv), 24 hour average.
PM10	350 micrograms per cubic meter, 24 hour average.	420 micrograms per cubic meter, 24 hour average.	500 micrograms per cubic meter, 24 hour average.
Carbon Monoxide	17 milligrams per cubic meter (15 ppmv), 8 hour average.	34 milligrams per cubic meter (30 ppmv), 8 hour average.	46 milligrams per cubic meter (40 ppmv), 8 hour average.
Photochemical Oxidants Measured as Ozone	400 micrograms per cubic meter (0.2 ppmv), 1 hour average.	800 micrograms per cubic meter (0.4 ppmv), 1 hour average.	1,000 micrograms per cubic meter (0.5 ppmv), 1 hour average.
Nitrogen Dioxide	1,030 micrograms per cubic meter (0.6 ppmv), 1 hour average. 282 micrograms per cubic meter (0.15 ppmv), 24 hour average.	2,260 micrograms per cubic meter (1.2 ppmv), 1 hour average. 565 micrograms per cubic meter (0.3 ppmv), 24 hour average.	3,000 micrograms per cubic meter (1.6 ppmv), 1 hour average. 750 micrograms per cubic meter (0.4 ppmv), 24 hour average.

Table based on Ohio Administrative Code 3745-25-03, effective December 1st, 2014. If OAC 3745-25-03 is subsequently amended, the criteria above are superseded by the most up to date revision.

(b) "Air pollution forecast": An internal watch by the Ohio Environmental Protection Agency shall be actuated by a national weather service advisory that an "Atmospheric Stagnation Advisory" is in effect or the equivalent local forecast of stagnant atmospheric condition. The air pollution forecast for photochemical oxidants shall take into consideration, but not be limited to, ambient temperatures, surface winds, and ultra-violet solar radiation levels.

(c) "Alert": The "Alert" level is that concentration of air contaminants at which first stage control actions are to begin. An "Alert" will be declared when any one (1) of the levels specified in paragraphs (C) (1) to (C) (5) in OAC 3745-25-03, or as subsequently amended, is reached at any monitoring site and meteorological conditions are such that the air contaminant concentrations can be expected to remain at the specified level or reoccur during the next twenty-four (24) hours unless control actions are taken.

(d) "Warning": The "Warning" level indicates that air quality is continuing to degrade and additional control measures are necessary. A "Warning" will be declared when any one (1) of the levels specified in paragraphs (D) (1) to (D) (5) in OAC 3745-25-03, or as subsequently amended, is reached at any monitoring site and meteorological conditions are such that the air contaminant concentrations can be expected to remain at the specified levels or reoccur during the next twenty-four (24) hours unless control actions are taken.

(e) "Emergency": The "Emergency" level indicates air quality is continuing to degrade to a level that should never be reached and that most stringent control actions are necessary. An "Emergency" will be declared when any one (1) of the levels specified in paragraphs (E) (1) to (E) (5) in OAC 3745-25-03, or as subsequently amended, is reached at any monitoring site.

(f) "Termination": Once declared, any episode stage reached by application of these criteria will remain in effect until the criteria for that episode stage are no longer met. At such time, the next lower episode stage will be assumed or the episode may be terminated completely if no episode stage criteria are met.

Section 283.04 Emission Control Action Programs

(a) Any person responsible for the operation of an air contaminant source which emits twenty-five hundredths (0.25) tons per day or more of air contaminants for which air quality standards have been adopted shall prepare emission control action programs consistent with good industrial practice and safe operating procedures for reducing the emission of air contaminants into the outdoor atmosphere during periods of an air pollution Alert, air pollution Warning and air pollution Emergency. Emission control action programs shall be designed to reduce or eliminate emissions of air contaminants into the outdoor atmosphere in accordance with the objectives set forth in Chapter 297 which are made a part of this section.

(b) Emission control action programs as required under this section shall be in writing and show the source of air contamination, the approximate amount of reduction of contaminants, the approximate time required to effect the program, a brief description of the manner in which the reduction will be achieved during each stage of an air pollution episode and such other information as the Commissioner deems pertinent.

(c) Emission control action programs shall be filed with the Commissioner at the following times:

- (1) Existing sources: not later than ninety (90) days after adoption of this Code;
- (2) New sources: with application for permit to operate.

(3) The provisions of this section shall not apply if an emission control action program was filed with the Division of Air Quality, as agent for the Ohio Environmental Protection Agency in Cuyahoga County, prior to the adoption of this Code.

(d) During a condition of air pollution Alert, air pollution Warning and air pollution Emergency, emission control action programs as required by this section shall be made available on the premises to the Commissioner or his or her authorized representative.

(e) Emission control action programs shall be subject to review and approval by the Commissioner. If, in the opinion of the Commissioner, such emission control action programs do not effectively carry out the objectives as set forth in Chapter 297, the Commissioner may disapprove such emission control action programs, state his reasons for disapproval and order the preparation of amended emission control action programs within the time period specified in the order.

Section 283.05 Emergency Orders

When the Governor declares an air pollution Alert, air pollution Warning or air pollution Emergency, the following procedures shall immediately be put into effect:

(a) *Air Pollution Alert.*

(1) Any person responsible for the operation of a source of air contamination shall take all air pollution Alert actions as required for such source of air contamination and shall particularly put into effect the emission control action programs for an air pollution Alert.

(2) There shall be no open burning by any person of tree waste, vegetation, refuse or debris in any form.

(3) The use of incinerators for the disposal of any form of solid waste will be limited to the hours between 12:00 noon and 4:00 p.m.

(4) Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 noon and 4:00 p.m.

(5) Persons operating motor vehicles shall be strongly encouraged to eliminate the unnecessary use of automobiles, motorcycles, light-duty trucks and vans, and recreational vehicles.

(b) *Air Pollution Warning.*

(1) Any person responsible for the operation of a source of air contamination shall take all air pollution Warning actions as required for such source of air contamination and shall particularly put into effect the emission control action programs for an air pollution Warning.

(2) Any person responsible for the operation of a source of air contamination shall satisfy the requirements set forth in this section.

(3) Citizens who travel to and from work between the hours of six a.m. and six p.m. are urged to carpool or utilize public transportation.

(4) For carbon monoxide "Warnings", persons operating motor vehicles shall be encouraged to avoid the air pollution "Warning" area.

(c) *Air Pollution Emergency.*

(1) Any person responsible for the operation of a source of air contamination shall take all air pollution Emergency actions as listed as required for such source of air contamination and shall particularly put into effect the emission control action programs for an air pollution Emergency.

(2) All manufacturing establishments will institute such action as will result in maximum reduction of air contaminants from their operations by ceasing, curtailing or postponing operations which emit air contaminants to the extent possible without causing injury to persons or damage to equipment.

(3) Any person responsible for the operation of a source of air contamination shall satisfy the requirements set forth in division (a) (2) to (5) and (b) (3) to (4) of this section.

(4) All places of employment described below shall immediately cease operations:

A. Mining and quarrying of non-metallic minerals.

B. Contract construction work except that which must proceed to avoid physical harm.

C. Wholesale trade establishments, i.e., places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional users or to other wholesalers or acting as agents in buying merchandise for or selling merchandise to such persons or companies.

D. Offices of local, County and State government including authorities, joint meetings and any other public body, except to the extent that such offices must continue to operate in order to enforce the requirements of this order or are vitally essential to the preservation of order, safety, health, utility services, and other related services, under City ordinance or State statute.

E. Retail trade establishments, except pharmacies and stores, primarily engaged in the sale of food.

F. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services, offices of insurance carriers, agents and brokers, real estate offices.

G. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments, photographic studios, beauty shops, barber shops, shoe repair shops.

H. Advertising offices, consumer credit reporting, adjustment and collection agencies, duplicating, addressing, blue-printing, photocopying, mailing, mailing list and stenographic services, equipment rental services, commercial testing laboratories.

I. Automobile repair, automobile services, garages, body shops, and automobile painting operations.

J. Establishments rendering amusement and recreation services, including motion picture theaters.

K. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools and public and private libraries.

(5) The use of motor vehicles is prohibited except in emergencies with the approval of City or State police.

Section 283.06 Breakdowns or Malfunctions During an Episode

(a) Under the declaration of an air pollution Alert, air pollution Warning or air pollution Emergency by the Governor of the State of Ohio, if emissions exceeding any of the limits established under this Code are being discharged into the atmosphere as a direct result of breakdown of any emission source or control equipment, the Commissioner may order the owner or operator of such a source or control equipment to immediately discontinue operation of such source or control equipment or to substantially reduce emissions for the duration of the air pollution episode.

(b) No person shall fail to comply with any order issued by the Commissioner in accordance with this section without prior written approval of the Commissioner.

Section 283.07 Scheduled Maintenance of Control Equipment During an Episode

(a) Under the declaration of an air pollution Alert, air pollution Warning or air pollution Emergency by the Governor of the State of Ohio, the Commissioner may order temporary suspension of any approved proffered planned maintenance schedule that necessitates the shutdown of any control equipment unaccompanied by the shutdown of the emission source. In the event that it would be impossible to restore such control equipment to immediate operation, the Commissioner may, at his or her discretion, order the owner or operator of the emission source to immediately discontinue operation of such source or to substantially reduce emissions for the duration of the air pollution episode.

(b) No person shall fail to comply with any order issued by the Commissioner in accordance with this section without prior written approval of the Commissioner.

Chapter 285

Testing and Monitoring Equipment

Section 285.01 Emission Test Methods

Emission tests shall be undertaken by standard methods as published and prescribed in the Ohio Administrative Code 3745-21-10 "Compliance Test Methods and Procedures", effective August 25, 2008, or as amended or modified. The above specifications may be modified or adjusted by the Commissioner to suit specific sampling conditions or needs based upon practice, judgment or experience. Updating of these standards and modifications thereof shall be published in rules and regulations of the Commissioner.

Section 285.02 Sampling and Testing

(a) The Commissioner is hereby authorized to conduct, or cause to be conducted, at the expense of any person owning, operating or in charge of any source or control equipment, any test or tests of any new or existing source or control equipment which in his judgment may result in emissions in excess of the limitations contained in this Code or when the emissions from any such source or control equipment may exceed the limits of emissions provided for herein. All tests shall be conducted in a manner approved by the Commissioner and a complete detailed test report of such test or tests shall be submitted to him. When tests are taken by the owner or independent testers employed by the owner, the Commissioner shall require that the tests be conducted by reputable, qualified personnel and shall stipulate that a qualified representative or representatives of the Division of Air Quality be allowed to observe the conduct of such tests. The Commissioner may stipulate a reasonable time limit for the completion of such test and submission of test reports.

(b) Nothing in this section concerning tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Commissioner or his or her representatives to conduct separate or additional tests of any source or control equipment on behalf of the City, whether or not such tests relate to emissions controlled by specific limitations under this Code.

Section 285.03 Test Facilities and Access

(a) It shall be the responsibility of the owner or operator of the air contaminant source or control equipment tested to provide, at his expense, utilities, facilities, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit samples and measurements to be taken.

(b) The Commissioner may require all new air contaminant sources installed or constructed after the effective date of this Code to provide utilities, facilities and reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit samples and measurements to be taken.

Section 285.04 Source Monitoring and Recording Equipment

(a) When a source has on two (2) or more occasions violated any section of this Code, the Commissioner may require that the source be equipped with monitoring and recording devices within a reasonable period of time that will provide a satisfactory measure of performance. Monitoring programs or devices for parameters that control a specific emission may be used in lieu of direct monitoring of the specific air contaminant with the consent of the Commissioner. Monitoring records so required shall be retained for a minimum of three (3) years and shall be made available to the Commissioner or his or her authorized representative upon request. At such time that the source demonstrates reliable performance, the owner or operator of such source may petition the Commissioner to have this requirement lifted.

(b) All new air contaminant sources installed or constructed after the effective date of this Code, may be required to install monitoring and recording devices that will provide a satisfactory measure of performance. Monitoring programs or devices for parameters that control a specific emission may be used in lieu of direct monitoring of the specific air contaminant with the consent of the Commissioner. Monitoring records so required shall be retained for three (3) years and shall be made available to the Commissioner or his or her authorized representative upon request. At such time as this source demonstrates continuing compliance with emission limitation, the owner or operator of such source may petition the Commissioner to have this requirement lifted.

(c) When requiring monitoring and recording devices, the Commissioner shall consider technical feasibility and economic reasonableness.

Section 285.05 Compliance Testing

(a) The Commissioner is hereby authorized to determine and preserve the option to witness any emissions and compliance tests of any new or existing source or control equipment before he issues a permit to operate under Chapter 259 of this Code.

(b) No person shall fail to submit a timely, appropriate and complete written notification of intent to test or retest a source. Delivery shall occur no less than thirty (30) days prior to the scheduled test date, except as provided herein:

(1) When a retest is scheduled for a mutually agreeable date less than thirty (30) days in the future, notification shall be submitted as soon as the date has been determined.

(2) When a retest is an emergency, delivery of notification shall occur as early as possible before, but not later than the first working day following the start of the retest.

(c) The intent to test notification shall include:

(1) A statement indicating the purpose of the proposed compliance test. If being performed as an Ohio EPA requirement, state the applicable Ohio EPA permit number that requires the compliance test;

(2) A detailed description of the source to be tested;

(3) A detailed description of the test procedures, equipment and sampling sites;

(4) A timetable, setting forth the dates on which:

A. The testing will be conducted; and

B. The final test report will be submitted, not later than thirty days after completion of on-site sampling; and

(5) Any reasonable and pertinent information that may be required by the Commissioner.

(d) Fees for the witnessing of all initial emissions and compliance tests are included as part of the fee required for the issuance of permits to operate under Chapter 259 of this Code. Individual tests conducted on different parts of one (1) source or control equipment unit constitute different parts of one (1) initial test.

(e) The witnessing of any emissions or compliance retest requires an additional fee per Section 263.03 of this Code. If a retest is conducted either the day of or following day of the initial test on the same equipment, an additional fee is not required but the retest shall be categorized as a retest on the equipment.

(f) The following tests, when required by Ohio EPA to be performed at a gasoline dispensing facility, are included in the category of compliance tests and are subject to the notification retest fee requirements:

(1) Static Leak Test;

(2) Dynamic Pressure Test; and

(3) Air-to-Liquid Ratio Test.

**Chapter 289
Constitutionality****Section 289.01 Severability**

If any clause, sentence, paragraph or part of this Code or the application thereof to any person or circumstances shall for any reason be judged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Code and the application of such provisions to other persons or circumstances, but shall be confined in its operation to the controversy in which such judgment shall have been rendered and to the person, firm, corporation or circumstances involved. It is hereby declared to be the legislative intent of Council that this ordinance would have been adopted had such invalid provisions not been included.

**Chapter 291
Advisory Committee****Section 291.01 Establishment; Members, Term, Vacancy and Duties**

(a) There is established the Cleveland Industrial Air Pollution Advisory Committee to be composed of not more than ten (10) members.

(b) The purpose of such Committee shall be to meet, discuss, make recommendations and issue advisory opinions regarding matters relating to the Air Quality Code of the City of Cleveland, State of Ohio or Federal Codes, or any rules and regulations adopted pursuant thereto, as they affect industrial and commercial enterprises in the City.

(c) The Committee shall meet at least once every three (3) months or more often at the call of the chairperson.

(d) Two (2) members of the Committee shall be appointed by Council; three (3) members shall be appointed by the Mayor, and the remaining five (5) members shall be representatives from business, industrial and commercial enterprises or associations and citizens groups operating in the City. These five (5) members shall be appointed by the Mayor, with the approval of Council.

(e) All members shall serve for a term of two (2) years and may be reappointed at the end of their respective terms. Members shall serve without compensation. If any member resigns, or otherwise is unable to continue to serve as a member of the Committee, such vacancy shall be filled in the same manner as the original appointment for the unexpired term thereof.

(f) The Committee may, at any time, report to Council any matters or suggested changes relating to the Air Quality Code of the City or the rules and regulations adopted pursuant thereto.

(g) The Committee shall issue an annual report no later than January 31 of the following year. Such report shall include any recommendations regarding the Air Quality Code of the City or any other law, rule or regulation affecting air pollution in the City, and in addition may advise the Mayor or Council, upon their request, concerning any matter involving air pollution in the City, and shall include any other information discussed by and deemed pertinent by the committee.

(h) A majority of all the members of such Committee shall constitute a quorum to transact business and to issue any report, recommendation or advisory opinion. A chairperson shall be selected by a majority of the members of such Committee, and shall serve for two (2) years, or until cessation of the chairperson's membership on the committee, whichever occurs sooner. The number of consecutive terms the chairperson may serve shall not be limited.

(i) A member whose term of service has expired, and whose reappointment or replacement is pending, may continue to serve as if formally reappointed.

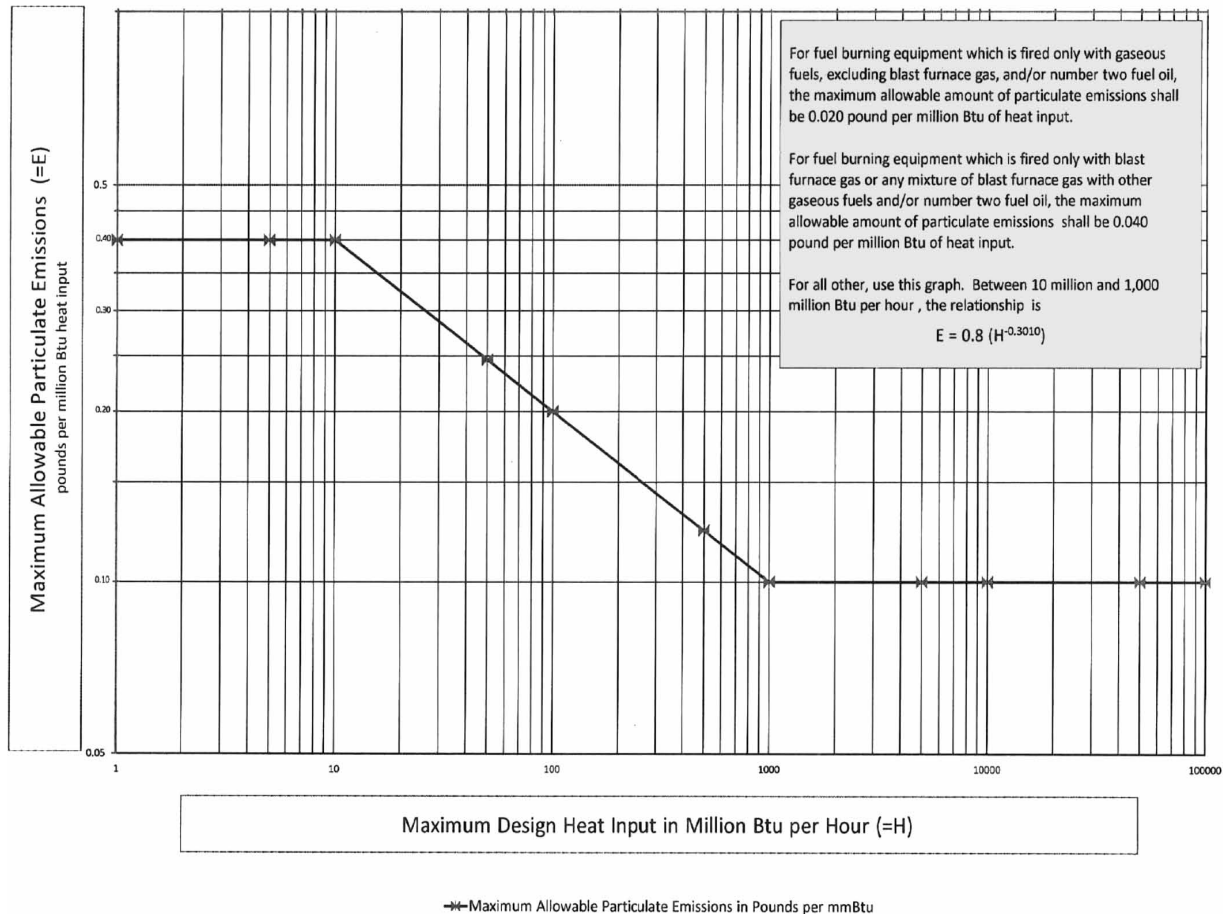
**Chapter 297
Tables and Charts**

Section 297.01 Appendix A - Table I

Sources and Processes to be equipped with Air Cleaning Equipment for the Control of Odorous Material

1. Rendering Cookers
2. Animal Blood Dryers
3. Asphalt Oxidation
4. Asphalt Roofing Manufacture
5. Brake Shoe Debonding
6. Varnish Cookers
7. Paint Drying or Baking Ovens
8. Meat Smokehouses
9. Coffee Roasting
10. Fabric Backing and Fabric Coating Baking Ovens
11. Ovens for Curing of Binders in Mineral and Wool Production
12. Tear Gas Manufacture
13. Sources of Hydrogen Sulfide or Mercaptans excluding the water or air quenching of slag
14. Manufacture of Rubber or Rubber Products
15. Refining of Crude Oil and Manufacture and Storage of Petroleum Products
16. Decomposition of Waste
17. Sewage and Waste Treatment
18. Printing and other Graphics Arts Processes
19. Foundry Operations including Core Ovens
20. Paper and Pulp Processing
21. Textile, Fibers, and associated Processes
22. Soap Detergents and Kindred Products
23. Scrap Processing
24. Waste processing for recovery, reuse, or conversion of material or energy
25. Other sources that emit or may foreseeably emit odorous material into the atmosphere or ambient air

Appendix B - Figure I: Allowable Emissions of Particulate Matter from Fuel Burning Installations



Section 297.02 Appendix B - Figure I: Allowable Emissions of Particulate Matter from Fuel Burning Installations

Section 297.03 Appendix B - Table II

Appendix B - Table II: Allowable Emissions of Particulate Matter from Fuel Burning Installations	
Maximum Design Heat (H) Input in Million Btu per Hour	Maximum Allowable Particulate Emissions (E) in Pounds per Million Btu Heat Input
1 to 10	0.40
15	0.35
30	0.29
50	0.24
70	0.22
100	0.20
500	0.12
1,000 and Greater	0.10

Interpolation of the data in this table for values of H between 10 and 1,000 million Btu not given shall be accomplished by use of the formula

$$E = 0.8(H^{0.3010})$$

where E = maximum allowable particulate emissions rate in pounds per million Btu, and H = maximum design heat input in million Btu per hour.

Section 297.04 Appendix C - Table III

Appendix C - Table III: Allowable Rate of Emissions Based on Process Weight Rate					
Process Weight Rate (= P)		Rate of Emissions (= E)	Process Weight Rate (= P)		Rate of Emissions (= E)
Pounds per Hour	Tons per Hour	Pounds per Hour	Pounds per Hour	Tons per Hour	Pounds per Hour
100	0.05	0.55	16,000	8	16.5
200	0.10	0.88	18,000	9	17.9
400	0.20	1.39	20,000	10	19.2
600	0.30	1.83	30,000	15	25.2
800	0.40	2.22	40,000	20	30.5
1,000	0.50	2.58	50,000	25	35.4
1,500	0.75	3.38	60,000	30	40.0
2,000	1.00	4.10	70,000	35	41.3
2,500	1.25	4.76	80,000	40	42.5
3,000	1.50	5.38	90,000	45	43.6
3,500	1.75	5.97	100,000	50	44.6
4,000	2.00	6.52	120,000	60	46.3
5,000	2.50	7.58	140,000	70	47.8
6,000	3.00	8.56	160,000	80	49.1
7,000	3.50	9.49	200,000	100	51.3
8,000	4.00	10.38	1,000,000	500	69.0
9,000	4.50	11.23	2,000,000	1,000	77.6
10,000	5.00	12.05	6,000,000	3,000	92.7
12,000	6.00	13.62			

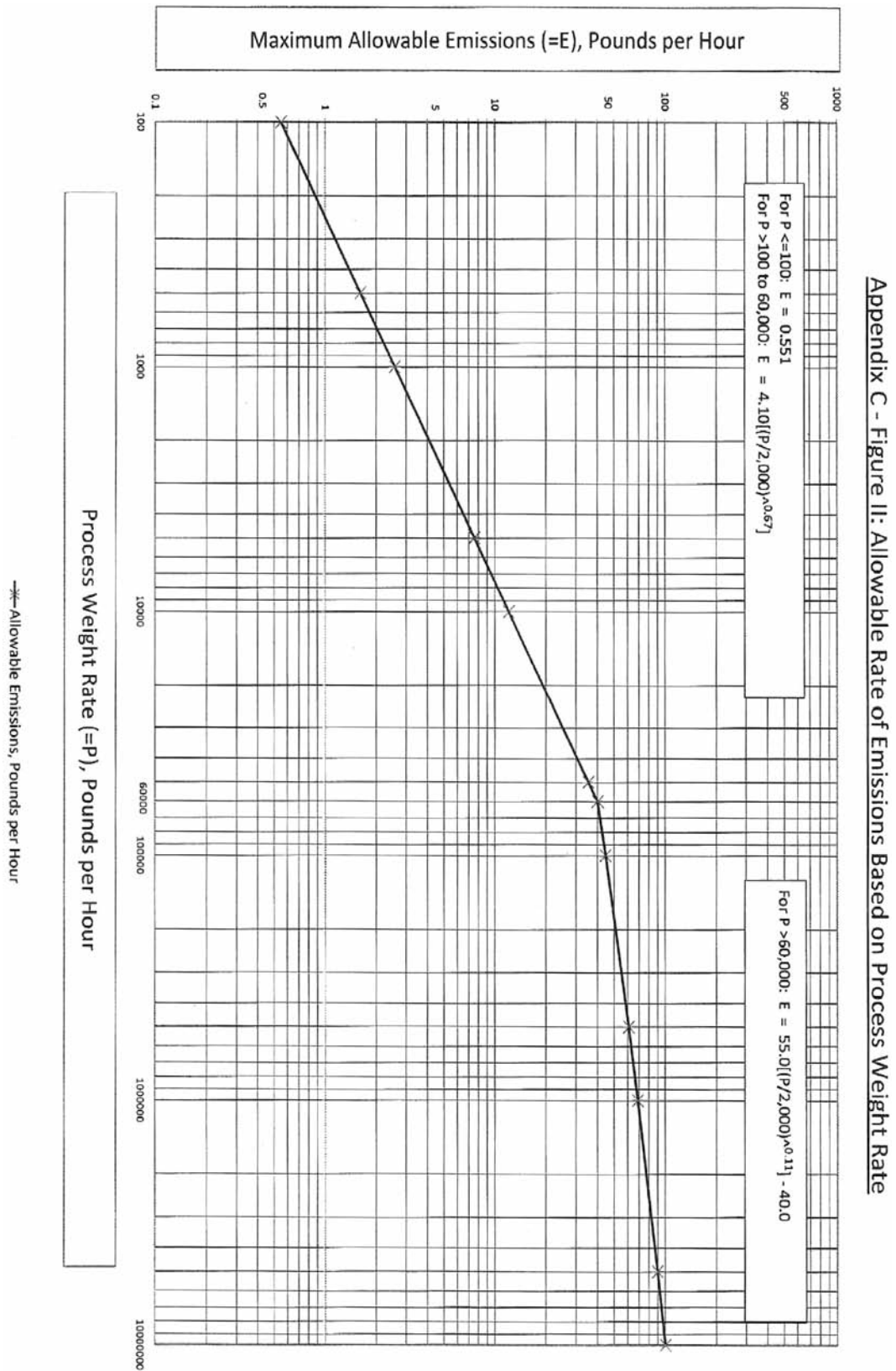
Interpolation of data in this above table shall be accomplished by use of the following formulas:

For P <= 100, E = 0.55

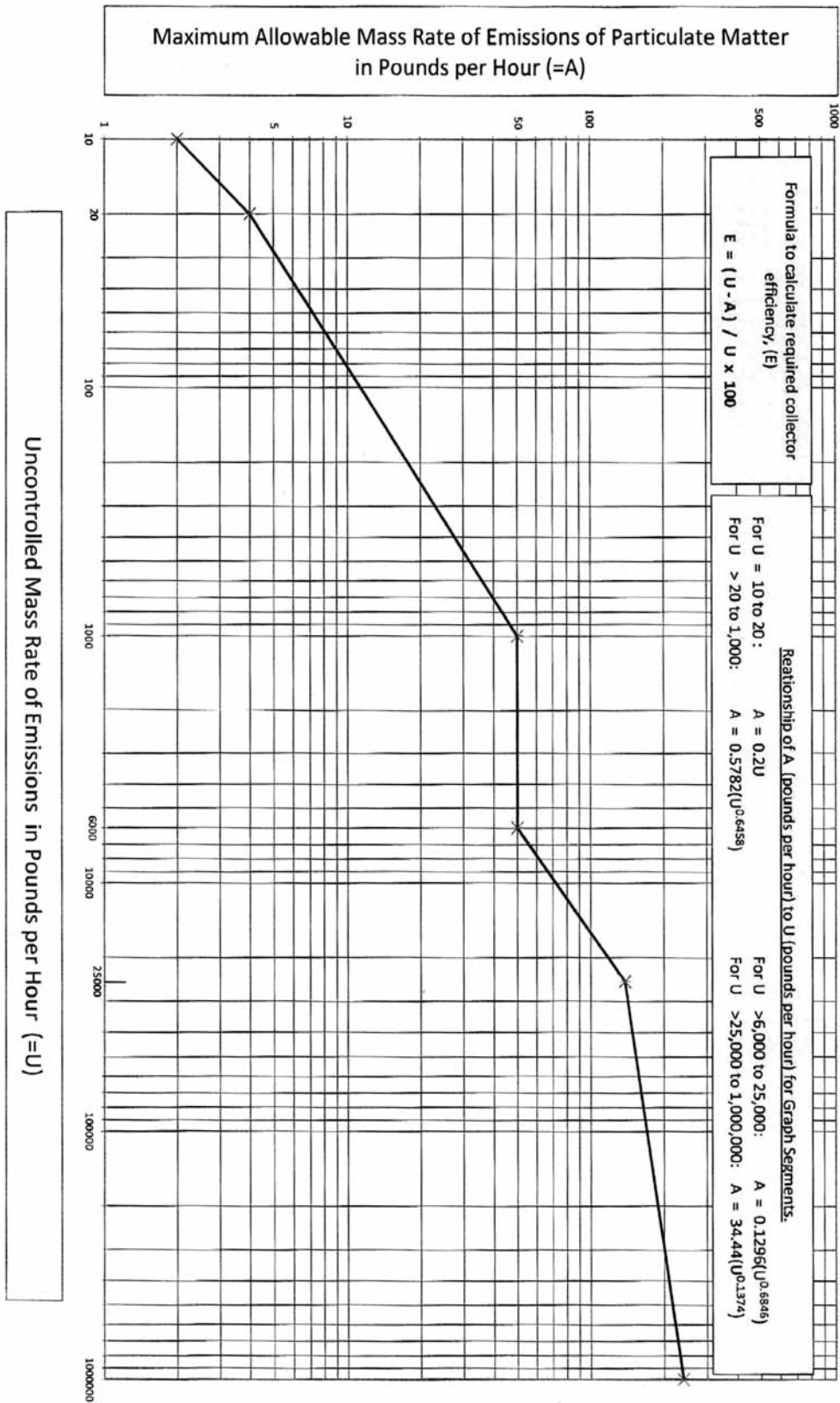
For P > 100 to P = 60,000, E = 4.1 * (P/2,000)^{0.67}

For P > 60,000, E = 55.0 * (P/2,000)^{-0.0}

Section 297.05 Appendix C - Figure II: Allowable Rate of Emissions Based on Process Weight Rate



Section 297.06 Appendix C - Figure III: Allowable Rate of Emissions Based on Uncontrolled Mass Rate of Emissions



Appendix C - Figure III: Allowable Rate of Emissions Based on Uncontrolled Mass Rate of Emissions

Section 297.07 Appendix D – Table IV

Appendix D - Table IV Emission Reduction Objectives for Particulate Matter			
Source of Air Contamination	Air Pollution Alert	Air Pollution Warning	Air Pollution Emergency
1. Coal or oil-fired electric power generating facilities	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.
	b. Maximum utilization of midday (12:00 Noon to 4:00 pm.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area	c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by reducing heat and steam necessities consistent with demands to absolute preventing equipment damage
	b. Maximum utilization of midday (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Reduction of steam load demands consistent with continuing plant operations.	c. Reduction of steam load demands consistent with continuing plant operations.	c. Taking the action called for in the emergency plan.
		d. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing, processing, and mining industries AND 3. B - Other persons required by the Commissioner to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4. Refuse disposal operations. <i>(continued on next page)</i>	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.

4. Refuse disposal operations.	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 Noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.
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Section 297.08 Appendix D – Table V

Appendix D - Table V Emission Reduction Objectives for Sulfur Oxides			
Source of Air Contamination	Air Pollution Alert	Air Pollution Warning	Air Pollution Emergency
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having the lowest available sulfur content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	b. Taking the action called for in the emergency plan.
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing and processing industries AND 3. B - Other persons required by the Commissioner to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.

Section 297.09 Appendix D – Table VI

Appendix D - Table VI Emission Reduction Objectives for Nitrogen Oxides			
Source of Air Contamination	Air Pollution Alert	Air Pollution Warning	Air Pollution Emergency
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminants.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminants.	a. Maximum reduction by diverting electric power generation to facilities outside of emergency Area.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminants.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminants.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing and processing industries AND 3. B - Other persons required by the Commissioner to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases vapors or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands for pumping consistent with continuing operations	a. Reduction of power demands for pumping consistent with continuing operations	a. Maximum reduction by reducing power demands to absolute necessities consistent with personnel safety and preventing equipment damage
		b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.

5. Refuse disposal operations.	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 Noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.
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Section 297.10 Appendix D – Table VII and Table VIII

Appendix D - Table VII Emission Reduction Objectives for Hydrocarbons			
Source of Air Contamination	Air Pollution Alert	Air Pollution Warning	Air Pollution Emergency
1. Petroleum products storage and distribution.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
2. Surface coating and preparation.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
3. A - Manufacturing and processing industries AND 3. B - Other persons required by the Commissioner to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

Appendix D - Table VIII

Emission Reduction Objectives for Carbon Monoxide			
Source of Air Contamination	Air Pollution Alert	Air Pollution Warning	Air Pollution Emergency
3. A - Manufacturing industries AND 3. B - Other persons required by the Commissioner to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production allied operation	a. Maximum reduction of air contaminants from operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
2. Refuse disposal operations	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.

**Chapter 299
Penalties**

Section 299.01 Sealing

(a) Any person who violates any provision(s) of this Code three (3) or more times within a twelve (12) month period shall, within ten (10) calendar days from the date written notification arrives at its intended location, show cause before

the Commissioner as to why the offending source, equipment, or premise should not be sealed. The notice shall be sent by registered or certified mail, directed to the last known address of the person to be notified. If the person or his whereabouts is unknown, the notice shall be posted on or reasonably near the premises at which the violation or violations occurred. If upon the hearing, at which the violator or his agent or attorney may appear and be heard, the Commissioner finds that adequate corrective measures have not been taken, the Commissioner may seal the source, equipment, or premise until such time as corrective measures have been taken.

(b) Sealing may also be ordered by the Commissioner and effected after reasonable notice under the following circumstances:

(1) Any air contaminant source or control equipment is being operated without a permit to operate or variance as required by this Code;

(2) Any necessary repair or alteration is not accomplished within the specified time limit;

(3) In case of an emergency, the operation of any air contaminant source or control equipment is or may reasonably be dangerous to the health, safety or general welfare. Such operation shall be sealed without notice;

(4) Control equipment has been installed to enable an operation or process to meet the conditions of a permit to operate, and such control equipment is not being operated;

(5) Test facilities and access required under Section 285.03 are not provided;

(6) Source monitoring and/or recording equipment required under Section 285.04 has not been provided; or

(7) Any information, data, reports or programs required under provisions of this Code or by the Commissioner have not been provided.

(c) Under Section 259.07, prima-facie evidence of any violation(s) will support the action of the Commissioner in sealing certain source, equipment, or premise as provided therein.

(d) Sealing of equipment shall not bar other legal action against the owner or operator thereof.

(e) No person shall tamper with a seal or operate any air contaminant source or control equipment sealed by the Commissioner, or enter any premise that has been sealed by the Commissioner, unless such action or operation is authorized in writing by the Commissioner.

Section 299.02 Citations

Violations of this Code may be cited at the time and place of observation of violations by the Commissioner or his or her designee. Upon failure of the person cited to accept such waiver ticket, the Commissioner or his or her designee shall note such refusal and proceed as in other violations to cause a complaint and summons to issue.

Section 299.03 Written Warnings

(a) For residential violations of Sections 266.03, 266.04, 266.05, 267.01, 277.02, 277.03, and 277.05 of this Code, at least one written warning will be given to the owner, agent, or occupant prior to issuance of a violation. If the violations for which a written warning was issued continue, or a new violation occurs within twelve (12) months subsequent to the written warning, residential violations of the above sections are subject to a citation under Section 299.02.

(b) For commercial, industrial, or any other non-residential violations of the above sections, a written warning is not required prior to issuing a citation.

Section 299.99 Penalties

(a) No person shall violate any provision of this Code nor participate in the violation of its provisions.

(b) Whoever violates Sections 266.03, 266.04, 266.05, 267.01, 267.02, 277.02, 277.03, or 277.05 shall be guilty of a minor misdemeanor. Whoever violates any other provision of this Code shall be guilty of a misdemeanor of the first degree.

(c) Each day of any violation shall constitute a separate offense and shall be subject to the penalties set forth in this section.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Public Health, Finance, Law; Committees on Health and Human Services, Finance.