

PART TWO: HEALTH CODE

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CHAPTER 201 – ENFORCEMENT AND PENALTY

201.01	Enforcement and Inspections; Right of Entry
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201.99	Penalty

Cross-reference:

Appeals from Air Pollution Code decisions, CO 255.03
Bureau of Environmental Health, CO 141.20
Investigations of nuisances, CO 203.01

§ 201.01 Enforcement and Inspections; Right of Entry

The Commissioner of Environmental Health and any officer or employee designated for that purpose by the enforcement of this Health Code, and any such person shall have the right upon presentation of proper credentials to enter and inspect any building or premises for enforcement purposes at all reasonable times, or at such times as may be necessary in an existing emergency. No person shall refuse, obstruct or delay any inspection or fail to answer all reasonable questions relative to the purpose of the inspection.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 201.02 License Suspension or Revocation

Except as otherwise provided for, the Commissioner of Licenses and Assessments shall suspend or revoke any permit or license issued pursuant to this Health Code, upon the recommendation and order of the Commissioner of Environmental Health for violation or failure to comply with any State statute, City ordinance or regulation applicable to the conduct or maintenance of the operation, business or premises for which the permit or license is issued, or when material information in the application is found to be false or misleading.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 201.03 Appeal

Except as otherwise provided, any person may appeal the denial, suspension or revocation of any permit or license issued pursuant to this Health Code to the Board of Zoning Appeals, established pursuant to Charter section 76-6, provided that written appeal is filed with the Board Secretary within ten (10) days of the date the decision being appealed was made. The Board shall conduct a hearing and render a decision in accord with City ordinances and regulations governing its conduct and procedure.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 201.99 Penalty

(a) Whoever violates any provision of this Health Code, where another penalty is not otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred fifty dollars (\$150.00); on a second or subsequent offense, such person is guilty of a misdemeanor of the first

degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both. Each day of a continuing violation or non-compliance constitutes a separate offense.

(b) Whoever violates Sections 203.07, 203.08, 203.09, 205.02, 209.01, 209.02, 211.01 or 211.02 shall be fined not more than one hundred fifty dollars (\$150.00). In addition to any other method of enforcement provided for in this chapter, the above listed minor misdemeanors may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure.

(Ord. No. 486-04. Passed 10-11-04, eff. 10-13-04)

CHAPTER 203 – NUISANCE ABATEMENT

- 203.01 Investigations; Remedial Measures
- 203.02 Notice to Abate; Exception
- 203.03 Compliance; Abatement by City; Costs a Lien
- 203.04 Destruction of Unsanitary Articles
- 203.05 Other Legal or Equitable Relief
- 203.06 Lot Drainage; Stagnant Water
- 203.07 Accumulations of Garbage, Refuse and Waste
- 203.08 Parking Waste Collection Vehicles
- 203.09 Heating Business Buildings
- 203.10 Illegal Distribution of Cigarettes

Cross-reference:

Cleanliness and ventilation of public laundries, CO 223.05

Drifting debris prohibited on City waters, CO 483.03

Food shop sanitation, CO 241.08

Nuisances in City waters; abatement, CO 483.05

Right of entry to enforce Health Code, CO 201.01

Sanitary rules and regulations for barber shops, CO 225.06

Sanitation of day nurseries, CO 227.15, 227.23

Vacant lot nuisances, CO 209.02

Statutory reference:

Powers of Board of Health to abate nuisances, RC 3707.01 et seq.

Prohibitions against nuisances, RC 3767.13 et seq.

§ 203.01 Investigations; Remedial Measures

The Commissioner of Environmental Health or any authorized City officer or employee, upon complaint or information of the existence of any condition or thing which amounts to a nuisance which may affect or endanger the life, health or senses of the inhabitants of the City, shall investigate and take such measures as may be necessary to cause the abatement of any nuisance found to exist, by or at the expense of the person in charge or responsible therefor, or otherwise if circumstances so require.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.02 Notice to Abate; Exception

Whenever the Commissioner of Environment or any authorized City officer or employee ascertains, either upon information or by observation or inspection, that any condition amounting to a nuisance or defined by law or ordinance as a nuisance exists on any premises, which nuisance affects or endangers the public health, either of them shall, in writing, notify the owner or person in charge of the premises, requiring the abatement or removal of the nuisance within a reasonable time, unless no such owner or person in charge can be found, or unless the circumstances are such, in their opinion, as to require the immediate abatement or removal of the nuisance, without waiting to give notification.

In the case of a vacant lot or a lot on which the main building or structure is vacant, either of which lot contains a nuisance as described in 209.01, the procedures outlined in Chapter 209 may be followed.

(Ord. No. 318-06. Passed 3-20-06, eff. 3-24-06)

§ 203.03 Compliance; Abatement by City; Costs a Lien

(a) No person shall fail or refuse to comply with any lawful order issued by the Commissioner of Environmental Health or any authorized City officer or employee in the enforcement of this Health Code.

(b) In addition to any penalty for a violation of this Health Code, the Commissioner or any authorized City officer or employee may, by their authorized representatives, remove, abate, suspend, alter or otherwise improve or purify such nuisance and certify, as allowed by law, the costs and expense thereof to the County Auditor, to be assessed against the property and thereby made a lien upon it and collected as other taxes.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.04 Destruction of Unsanitary Articles

The Commissioner of Environmental Health may, with the consent of the Director of Public Health and Welfare and the Director of Law, order any furniture, clothing or other property to be destroyed, removed or disinfected, whenever he or she deems it necessary for the health of the City.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.05 Other Legal or Equitable Relief

In the event of any actual or threatened violation of this chapter or an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute proper suit in equity or at law to prevent or terminate such violation or remedy such situation.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.06 Lot Drainage; Stagnant Water

(a) Every person owning or having possession, charge or control of any cellar, excavation, yard, court, lot or area where water stands or accumulates shall drain the same or cause the same to be drained. Whenever the premises containing such cellar, excavation, yard, court, lot or area abuts upon a street containing a public sewer, such water shall be conducted into such sewer. Nothing herein shall prevent the construction or maintenance of a pool or fountain if such is constructed and provided with drainage in accordance with law, and if the water in such pool or fountain does not become stagnant.

(b) No person shall allow any water from any well, spring, fire plug, hydrant or other place over which he or she has control, to run so that it forms a stagnant pool or mud hole, on his or her premises or on land under his or her control, or in any street or other public grounds or abutting lands.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.07 Accumulations of Garbage, Refuse and Waste

The owner, occupant or person in charge of any property within the City shall maintain such property free from any accumulation of garbage, rubbish, refuse or other waste which is not confined in approved receptacles for collection or so as to prevent rodent infestation. The permitting of any premises within the City to be littered with garbage, rubbish, refuse or other waste is hereby declared to be a nuisance and unlawful.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.08 Parking Waste Collection Vehicles

No person shall park a truck or motor vehicle whether loaded or unloaded, which is used for the collection and transportation of garbage, trash, rubbish or the contents of private sewage tanks, on any public street, alley or other public place except for loading purposes or emergency repairs.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.09 Heating Business Buildings

(a) Every person who has contracted or undertaken, or is bound to heat or to furnish heat for any building or portion thereof, occupied as a business establishment where one (1) or more persons are employed, shall heat or furnish heat for every occupied room in such building or portion thereof, so that a minimum temperature of seventy degrees Fahrenheit (70°F) may be maintained therein at all occupied times.

(b) Whenever a building is heated by means of a furnace, boiler or other apparatus under the control of the owner, agent or lessee of such building, such owner, agent or lessee, in the absence of a written or verbal contract or agreement to the contrary, shall be deemed to have contracted, undertaken or bound himself or herself to furnish heat in accordance with the provisions of this section.

(c) As used in this section, "at all occupied times" means all times at which a building or a portion thereof is occupied during the usual working hours established or maintained for such business establishment, of each day whenever the outer or street temperature falls below fifty degrees Fahrenheit (50°F).

(d) Nothing herein shall apply to buildings or portions thereof, used and occupied by trades, business or occupations where high or low temperatures are essential and unavoidable.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 203.10 Illegal Distribution of Cigarettes

The sale or distribution of cigarettes and other tobacco products in a smaller quantity than that placed in the pack or other container by the manufacturer is hereby declared to be a nuisance which affects and endangers the public health. The Commissioner of Environmental Health or any authorized City officer or employee who, upon information or by observation ascertains a violation of this section, may impose the penalties set forth in this chapter and in Section 201.99. Enforcement of this section is in addition to any other method of enforcement provided in these Codified Ordinances.
(Ord. No. 1512-10. Passed 12-6-10, eff. 12-6-10)

CHAPTER 204 – NUCLEAR MATERIALS

- 204.01 Definitions
- 204.02 Storing Nuclear Materials in or Under Lake Erie
- 204.03 Feasibility Tests
- 204.04 Nuisance Abatement
- 204.99 Penalty

Statutory reference:

Notice to State and local officials prior to shipments of nuclear materials into or through Ohio, RC 4163.01, 4163.07, 4163.99

§ 204.01 Definitions

As used in this chapter:

- (a) “Byproduct material” means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the process of producing or utilizing special nuclear material.
 - (b) “Special nuclear material” means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Nuclear Regulatory Commission, pursuant to law, determines to be special nuclear material. “Special nuclear material” does not include source material.
 - (c) “Spent fuel” means irradiated nuclear fuel that has undergone at least one (1) year’s decay since being used as a source of energy in a power reactor. “Spent fuel” includes special nuclear fuel material, byproduct material, source material and other radioactive material associated with fuel assemblies.
- (Ord. No. 394-82. Passed 2-22-82, eff. 2-25-82)

§ 204.02 Storing Nuclear Materials in or Under Lake Erie

- (a) No person shall store or dispose of any byproduct material, special nuclear material or spent fuel, in, on or under the lake bed of Lake Erie lying within the prolongation of the boundaries of the City.
 - (b) No person shall ship or transport any byproduct material, special nuclear material or spent fuel into or within the City for the purpose of storing or disposing of the same in, on or under the lake bed of Lake Erie.
- (Ord. No. 394-82. Passed 2-22-82, eff. 2-25-82)

§ 204.03 Feasibility Tests

No person shall conduct any test or demonstration project, with or without using any byproduct material, special nuclear material or spent fuel, which test or demonstration project is intended to or conducted to determine the feasibility of storing or disposing of such materials in, on or under the lake bed of Lake Erie lying within the prolongation of the boundaries of the City.

(Ord. No. 394-82. Passed 2-22-82, eff. 2-25-82)

§ 204.04 Nuisance Abatement

Any violation of Section 204.02 or 204.03 shall constitute a nuisance within the meaning of Chapter 203, and the Commissioner of Environmental Health is hereby charged with the duty of taking immediate steps to abate such nuisance.

(Ord. No. 394-82. Passed 2-22-82, eff. 2-25-82)

§ 204.99 Penalty

Whoever violates Section 204.02 or 204.03 is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. No. 394-82. Passed 2-22-82, eff. 2-25-82)

CHAPTER 205 – ANIMALS AND FOWL

- 205.01 Animal Bites; Report and Quarantine
- 205.02 Nuisance Conditions
- 205.03 Regulation of Carrier Pigeons; Fee
- 205.04 Restrictions on the Keeping of Farm Animals and Bees

Cross-reference:

Dog nuisances, CO 603.04

Statutory reference:

§ 205.01 Animal Bites; Report and Quarantine

Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Commissioner of Environmental Health within twenty-four (24) hours. At the direction of the Commissioner, the dog or other animal shall either be confined by its owner or harborer to his or her premises away from the public at large, or be placed under supervision of a veterinarian at the owner's or harborer's expense. The isolation or observation period shall not be less than ten (10) days from the date the person was bitten, at which time report of the condition of the animal shall be made to the Commissioner.

No person shall fail to comply with the requirements of this section or with any order of the Commissioner made pursuant thereto, nor fail to immediately report to the Commissioner any symptom or behavior suggestive of rabies.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 205.02 Nuisance Conditions

No person shall keep or harbor any animal or fowl in the City so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 205.03 Regulation of Carrier Pigeons; Fee

(a) As used in this section "carrier pigeons" include homing and racing pigeons and shall be limited to pigeons which have the name of the owner stamped upon the wing or tail or banded on the leg with the name or initials of the owner, or with an identification or registration number stamped on the band.

(b) When a permit has been issued by the Commissioner of Environmental Health or his or her authorized representative, the owner or person in charge or possession of not more than twenty-five (25) pairs of carrier pigeons shall be allowed to fly the pigeons for necessary exercise and training under the restraint and control of the owner or other person.

(c) Permits for carrier pigeons shall be issued only on compliance with the following requirements:

(1) The identification mark or marks to be stamped on each pigeon or band shall be recorded with the Commissioner;

(2) Upon inspection, the structure in which the pigeons are housed is found to be in compliance with regulations prescribed by the Commissioner and is maintained in a clean, sanitary condition and in good repair; and

(3) The payment of an annual inspection fee of thirty dollars (\$30.00).

(d) The keeping of carrier pigeons under a City permit shall not constitute a violation of permitting fowl at large within the City.

(e) The requirements of the zoning regulations relating to restrictions on location of stables and poultry enclosures shall not apply to the structure in which carrier pigeons are housed, when a permit has been issued as provided in this section.

(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

§ 205.04 Restrictions on the Keeping of Farm Animals and Bees

Anyone proposing to keep farm animals or bees on a property in the City of Cleveland shall apply for a two (2) year license from the City of Cleveland through its Department of Public Health on a form provided by that office, with payment of a fee set by the Board of Control.

(a) *Application Contents.* The application for such license shall include, at a minimum, the following information.

(1) The name, phone, phone number and address of the applicant;

(2) The location of the subject property;

(3) The size of the property;

(4) The number of animals or bee hives to be kept on the property;

(5) A description of any proposed cages, coops, beehives, fences or enclosures;

(6) A scaled drawing showing the precise location of cages, coops, enclosures, beehives, stables and fences in relation to property lines and to houses on adjacent properties;

(7) A description of the manner by which feces and other waste materials will be removed from the property or will be treated so as not to result in unsanitary conditions or in the attraction of insects or rodents;

(8) In the case of a lot that is vacant or has no occupied residence, documentation demonstrating that the use will be managed in a manner that prevents the creation of nuisances or unsanitary or unsafe conditions;

(9) A signed statement from the property owner, if the applicant is not the property owner, granting the applicant permission to engage in the keeping of farm animals or bees as described in the registration; and

(10) The addresses of all properties directly adjoining the subject property.

(b) *License Approval.* The Director of Public Health shall take action on a license application for the keeping of farm animals or bees in accordance with the following provisions:

(1) *Approval Standards.* In evaluating an application for an initial license or a license renewal, the Public Health Director shall consider any evidence ascertained through inspections of the property or through the submission of evidence regarding nuisances or conditions that are unsafe or unsanitary relative to the subject property and, in particular, any recorded violations. The Director of Public Health may deny a license on consideration of such evidence.

(2) *Notification in Residential Districts.* Upon receipt of an initial license application for a property located in a Residential zoning district, the

Department of Public Health shall send a copy of the license application, along with a comment form, to the owner of each property directly adjoining the property that is the subject of the license application. A copy of these notifications shall be transmitted to the City Councilmember in whose ward the subject property is located. In reviewing the license application, the Director shall consider any evidence submitted by neighbors regarding issues pertinent to the regulations and approval standards for issuance of the license. The Director shall not take action on such license application prior to twenty-one (21) days from the date on which the notice was mailed to the owners of adjoining properties.

- (3) *Building and Housing Approval.* The Public Health Director shall not approve any initial license application for the keeping of farm animals or bees prior to approval of the site plan by the Department of Building and Housing in accordance with the provisions of Section 347.02 of the Zoning Code.
- (c) *License Expiration.* Such license shall expire at the end of a calendar year and shall be renewed once every two (2) years during November or December before the end of the calendar year. The application for renewal of a license need not include drawings and other information regarding conditions that have not changed since submission of such information in a prior license application.
- (d) *Lots Without a Residence.* In the case of an application to keep farm animals or bees on a lot that is vacant or has no occupied residence, a License shall be granted only if the applicant submits written documentation satisfactory to the Public Health Director demonstrating that the use will be managed in a manner that prevents the creation of nuisances or unsanitary or unsafe conditions. Where the applicant is not the property owner, a license shall be granted only where the application is accompanied by a signed statement from the property owner granting the applicant permission to engage in the keeping of farm animals or bees.
- (e) *Enforcement.* The Director of the Department of Public Health or any authorized City employee shall have the authority to inspect any property to determine compliance with the regulations of Section 347.02 of the Zoning Code regarding sanitation and nuisances and operational practices in the keeping of farm animals or bees and shall have the authority to enforce the regulations of that Section as they apply to such matters.

(f) *Penalties.* If the Director of Public Health determines that an individual is in violation of the provisions of this section or Section 347.02 with respect to the enforcement responsibilities of the Department of Public Health, the Director shall issue a violation notice to the individual, noting the nature of the violation(s). If the violation is not corrected within seven (7) days of issuance of the violation notice, the recipient of the notice shall be subject to the following penalties and enforcement actions.

- (1) For a first offense, a fine of fifty dollars (\$50.00);
 - (2) For a second offense occurring within four (4) months of the first offense, a fine of seventy- five dollars (\$75.00);
 - (3) For a third and any subsequent offense occurring within the period of the current two (2) year license, any farm animals or bee hives associated with the violation shall be removed from the property by the individual or shall be removed and impounded by the Department of Public Health.
- (Ord. No. 1562-08. Passed 2-2-09, eff. 2-5-09)

CHAPTER 207 – MARINAS

207.01 License and Fee
Statutory reference:
Marinas, RC 3733.21 et seq.

§ 207.01 License and Fee

- (a) Each owner, operator or other responsible person before beginning and during operation of a marina shall make an application for and receive approval of a license under the requirements of RC 3733.24 to the Commissioner of Assessments and Licenses.
- (b) Each application for a marina license shall be accompanied by a license fee according to the following schedule:

Number of Docks or Moorings	Fee
7 - 24	\$122.00
25 - 59	\$167.00
60 - 149	\$192.00
150 - 299	\$262.00
300 - 499	\$314.00
500 or more	\$377.00

- (c) The Commissioner shall submit all applications for a license required under RC Chapter 3733 to the Director of Public Health for approval or disapproval of the application.
 - (d) The Commissioner is authorized to collect license fees and deposit the fees into the Marina Fund created under RC 3733.25.
 - (e) The Commissioner shall transmit the appropriate amount of each license fee collected under this section to the Director of Health for the State of Ohio for deposit in the General Operations Fund created by RC 3701.83, under the requirements of RC Section 3733.25.
- (Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

CHAPTER 209 – PROPERTY NUISANCE

209.01 Nuisance Plants, Refuse, and Surface Water
 209.02 Notice Regarding Care of Vacant Lots and Lots with Vacant Building
 209.03 Powers of the Commissioner Regarding Vacant Lots

- 209.04 Powers of the Commissioner Regarding All Other Property
- 209.05 Costs of Abatement; Liens on Property
- 209.06 Appeals
- 209.99 Enforcement; Penalties

Cross-reference:

- Destruction of unsanitary articles, CO 203.04*
- Garbage, refuse and waste accumulations, CO 203.07*
- Litter on vacant lands, CO 613.15*
- Lot drainage; stagnant water, CO 203.06*

Statutory reference:

- Destruction of weeds, RC 971.33 et seq.*
- Notice to cut noxious weeds or remove litter, RC 731.51 et seq.*

§ 209.01 Nuisance Plants, Refuse, and Surface Water

(a) The following conditions provide harborage and breeding grounds for pests or are otherwise conducive to the creation of human health problems, and are therefore declared to be nuisances which shall be removed or abated from any property on which they are found:

- (1) Grass over eight (8) inches in height;
- (2) Noxious weeds including Russian, Canadian, or common thistle; wild lettuce; wild mustard; wild parsley; ragweed; milk weed; iron weed; wild plants capable of causing skin reaction upon contact or of producing or aggravating hay fever, asthma, allergic respiratory reaction, or similar conditions; and all other noxious weeds;
- (3) Refuse including trash, junk, garbage and food waste, offal, animal wastes, tires, and all other waste materials;
- (4) Stagnant surface water.

(b) The owner, operator, or person in possession or control of the property shall remove or otherwise abate any nuisance described in this section.

(c) Noxious weeds shall be abated by removal, by turning under the soil, by destruction through the use of herbicides, or by any other means approved by the Commissioner of Environment.

(Ord. No. 1017-97. Passed 6-16-97, eff. 6-24-97)

§ 209.02 Notice Regarding Care of Vacant Lots and Lots with Vacant Building

(a) At least annually, the Commissioner of Environment shall cause a notice to be mailed to the last known address of the owner of each vacant parcel of land, or shall publish a notice in a newspaper of general circulation, advising owners, operators, and persons in possession or control of vacant parcels of the requirements of this chapter regarding the care of property.

(b) The Commissioner of Environment may cause a notice to be mailed to the last known address of the owner of each parcel of land on which the main building or structure is vacant, or may publish a notice in a newspaper of general circulation, advising owners, operators and persons in possession or control of parcels of land on which the main building or structure is vacant, of the requirements of this chapter regarding the care of the property. Vacant means that no person actually and legally resides in any part of the building or that no person conducts a lawful business in any part of the building.

(c) The notice shall describe each of the nuisances described in Section 209.01 and shall state that one (1) or more of the following may occur beginning thirty (30) days after the notice is mailed or published:

- (1) That, if any nuisances exist and are not removed or otherwise abated, the Department of Parks, Recreation, and Properties, or its designee, may take any action necessary to abate the nuisance, and that the owner will be billed for all costs of the abatement;
- (2) That property nuisances may be ticketed and that the violation is a minor misdemeanor;
- (3) That other civil or criminal legal actions may be filed by the Commissioner of Environment to enforce nuisance violations, without additional notice.

(d) The above-described notice may be appealed to the Commissioner of Environment.

(Ord. No. 318-06. Passed 3-20-06, eff. 3-24-06)

§ 209.03 Powers of the Commissioner Regarding Vacant Lots

Upon the finding of any nuisance described in this chapter on a vacant parcel of land, the Commissioner of Environment may do one (1) or more of the following:

(a) If the nuisance presents an imminent threat to public health, request that the Department of Parks, Recreation, and Properties immediately abate the nuisance without notice, and bill the owner for the costs of any abatement;

(b) If it is thirty (30) days after the notice described in Section 209.02 is mailed or published, request that the Department of Parks, Recreation, and Properties abate the nuisance without further notice, and bill the owner for the costs of any abatement;

(c) Order the owner, operator, or person in possession or control of the property to abate the nuisance, giving a time frame for compliance. If the abatement does not occur within the stated time frame or if the action taken does not completely abate the nuisance, the Commissioner may request the Department of Parks, Recreation, and Properties, or its designee, to abate the nuisance and bill the owner for the costs of any abatement;

(d) Order the owner, operator, or person in possession or control of the property to install and maintain fencing or another similar barrier, in such a manner that the nuisance will be abated or will be kept from re-occurring;

(e) Issue a citation for the violation, under Rule 4.1 of the Ohio Rules of Criminal Procedure;

(f) Pursue any civil or criminal legal actions that may be necessary for the protection of the public health, safety, or welfare.

(Ord. No. 318-06. Passed 3-20-06, eff. 3-24-06)

§ 209.04 Powers of the Commissioner Regarding All Other Property

Upon the finding of any nuisance described in this chapter on a parcel of land that has a building or other structure on it, the Commissioner of Environment may do one (1) or more of the following:

- (a) If the nuisance represents an imminent threat to the public health, request that the Department of Parks, Recreation, and Properties immediately abate the nuisance without notice, and bill the owner for the costs of any abatement;
- (b) If it is thirty (30) days after the notice described in Section 209.02 is mailed or published, request that the Department of Parks, Recreation, and Properties abate the nuisance without further notice, and bill the owner for the costs of any abatement;
- (c) Order the owner, operator, or person in possession or control of the property to abate the nuisance, giving a time frame for compliance. If the abatement does not occur within the stated time frame or if the action taken does not completely abate the nuisance, the Commissioner may request the Department of Parks, Recreation, and Properties, or its designee, to abate the nuisance and bill the owner for the costs of any abatement;
- (d) Order the owner, operator, or person in possession or control of the property to install and maintain fencing or another similar barrier, in such a manner that the nuisance will be abated or will be kept from re-occurring;
- (e) Issue a citation for the violation, under Rule 4.1 of the Ohio Rules of Criminal Procedure;
- (f) Pursue any civil or criminal legal actions that may be necessary for the protection of the public health, safety, or welfare.

(Ord. No. 318-06. Passed 3-20-06, eff. 3-24-06)

§ 209.05 Costs of Abatement; Liens on Property

- (a) The Director of Parks, Recreation, and Properties, or his or her designee, after abating a nuisance under this chapter shall bill the owner of the property for reimbursement of the costs of abatement. The bill shall be mailed to the owner's last known address, when the name and address of the owner are known.
- (b) Costs that may be billed include inspection, records research, notification, collection agency fees, if any, and billing. A schedule of the costs shall be on file in the office of the Director of Parks, Recreation, and Properties, open for public inspection, and shall be published at least once in the *City Record*.
- (c) If a bill is not paid within thirty (30) days, or if the name or address of the owner is not known, the Director of Parks, Recreation, and Properties may certify that fact to the Commissioner of Assessments and Licenses. The Commissioner may make a written return to the County Auditor of the action under this chapter, including a statement of the costs of the abatement services and a description of the property sufficient to allow the costs to become a lien on the property. If the Commissioner makes a return to the County Auditors, then the lien on the property shall be collected in the same manner as other taxes and returned to the City general fund in accordance with RC Chapter 731.
- (d) Nothing in this section shall prevent the Director of Law from taking any other action necessary to collect the costs of abatement described by this section.

(Ord. No. 903-06. Passed 5-22-06, eff. 5-26-06)

§ 209.06 Appeals

- (a) A notice or order issued by the Commissioner of Environment may be appealed to the Commissioner within ten (10) days after receipt of the notice or order. The Commissioner shall grant the appeal or conduct a hearing within thirty (30) days. The Commissioner shall have jurisdiction to affirm, reverse or modify the notice or order. A person aggrieved by a final decision of the Commissioner may further appeal to the Board of Zoning Appeals within thirty (30) days after the Commissioner's decision.
- (b) A bill received from the Department of Parks, Recreation, and Properties may be appealed to the Director of the Department of Parks, Recreation, and Properties within ten (10) days after receipt of the bill. The Director shall grant the appeal or conduct a hearing within thirty (30) days. The Director shall have jurisdiction to affirm, reverse or modify the bill. A person aggrieved by a final decision of the Director may further appeal the decision to the Board of Zoning Appeals within thirty (30) days after the Director's decision.

(Ord. No. 1017-97. Passed 6-16-97, eff. 6-24-97)

§ 209.99 Enforcement; Penalties

- (a) This Chapter may be enforced through civil or criminal legal proceedings. These remedies are in addition to any right the City may have under this chapter to abate a nuisance and to recover the costs of the abatement.
- (b) No person shall fail to abate a nuisance described in this chapter.
- (c) A violation of this chapter shall be a minor misdemeanor.
- (d) In addition to any other method of enforcement provided in this chapter, this chapter may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure.

(Ord. No. 318-06. Passed 3-20-06, eff. 3-24-06)

CHAPTER 211 – VERMIN AND RODENT INFESTATION

- 211.01 Declaration of Nuisance
- 211.02 Prevention and Eradication Order
- 211.03 Abatement by City Forces; Cost Recovery
- 211.04 Rules and Regulations

Cross-reference:

Food handling premises to be free of insects and rodents, CO 241.09
Garbage, refuse, waste accumulations prevented from causing rodent infestation, CO 203.07

§ 211.01 Declaration of Nuisance

The permitting of any premises or place to become vermin or rodent infested is hereby declared a nuisance and unlawful.
 (Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 211.02 Prevention and Eradication Order

- (a) All building materials, lumber, boxes, machinery, containers, raw material, junk and any other substance which may provide harborage for insects or rodents shall be kept, stored or handled in a manner acceptable to the Commissioner of Environmental Health.
- (b) When any area, building, lot, premises or other place is infected by insects or rodents, the Commissioner shall issue a written order requiring the owner, agent, or lessee or person in control of such building or premises to take such measures as the Commissioner deems necessary to eradicate and prevent such infestation.
 (Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 211.03 Abatement by City Forces; Cost Recovery

If the owner, agent, lessee or person in control of such building or premises fails, neglects or refuses to comply with the order of the Commissioner of Environmental Health to abate such nuisance, the Commissioner may cause the abatement of such nuisance. In addition to any penalty provided by law, the costs incurred by the City in the abatement of such nuisance shall be recoverable in appropriate legal action instituted by the Director of Law.
 (Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 211.04 Rules and Regulations

The Commissioner of Environmental Health, with the approval of the Director of Public Health and Welfare, is hereby authorized to adopt such rules and regulations as may be necessary for the proper interpretation and enforcement of this chapter. Such rules and regulations, upon adoption, shall be published in the *City Record* for two (2) consecutive weeks and shall be in effect on and after fifteen (15) days from the second publication therein. Such rules and regulations shall have the force and effect of this chapter and continue in effect until revoked by the Commissioner, the Director or by ordinance of Council.
 (Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

CHAPTER 213 – SWIMMING POOLS, SPAS AND SPECIAL USE POOLS

- 213.01 Public Swimming Pools, Public Spas and Special Use Pools; License and Fee
- 213.02 Private Residential Swimming Pools and Private Residential Spas
- 213.03 License Application and Fee – Repealed

§ 213.01 Public Swimming Pools, Public Spas and Special Use Pools; License and Fee

- (a) Every person who intends to operate or maintain a new or existing public swimming pool, public spa, or special-use pool, as defined in OAC 3701-31-01, shall, during the month of April of each year, apply for, and receive, a license, in accordance with requirements of the OAC Chapter 3701-31 and RC Chapter 3749. The application shall be made to the Commissioner of Assessments and Licenses.
- (b) No person shall operate or maintain a public swimming pool, public spa, or special-use pool without a license issued by the Director of Public Health.
- (c) In addition to the license fee required under RC 3749.04 for public swimming pools, public spas, and special-use pools, each application for a license shall be accompanied by a local combined license and inspection fee as follows:
 - (1) For an individual public swimming pool, individual public spa, or individual special use pool, the local fee shall be one hundred ninety-five dollars (\$195.00).
 - (2) For a public swimming pool, public spa, or special use pool, that is owned or operated by a governmental agency or tax-supported primary or secondary public school, the local fee shall be forty dollars (\$40.00).
- (d) The Commissioner shall submit all applications for a license required under RC Chapter 3749 and under this chapter to the Director of Public Health for approval or disapproval of the application.
- (e) The Commissioner is authorized to collect license fees under this chapter and under RC 3749.04 and deposit such fees collected under RC 3749.04

into the Swimming Pool Fund created under division (E) of RC 3749.04.

(f) The Commissioner shall transmit the appropriate amount of each license fee collected under RC 3749.04 to the Treasurer of the State of Ohio under the requirements of the Ohio Revised Code for deposit in the General Operations Fund created by RC 3701.83, under the requirements of RC 3749.04. (Ord. No. 1234-12. Passed 12-3-12, eff. 12-6-12)

§ 213.02 Private Residential Swimming Pools and Private Residential Spas

Any application for the construction, installation or alteration and maintenance of a private residential swimming pool or private residential spa shall be made to the Director of Building and Housing under Section 3117.02 of the Codified Ordinances, and shall also be reviewed by the Commissioner of Environment. No permit shall be issued unless the method of disinfection and bactericidal treatment to be used and the type and range of water testing equipment have first been approved by the Commissioner of Environment. (Ord. No. 1234-12. Passed 12-3-12, eff. 12-6-12)

§ 213.03 License Application and Fee – Repealed

(Ord. No. 1234-12. Passed 12-3-12, eff. 12-6-12)

CHAPTER 215 – TRANSIENT RESIDENTIAL BUILDINGS

- 215.01 Definition
- 215.02 License Required; Term and Transfer
- 215.03 License Application and Fee
- 215.04 Inspection Prior to License Issuance
- 215.05 License Issuance
- 215.06 Posting License
- 215.07 Register of Guests

Cross-reference:
Heating business buildings, CO 203.09
Statutory reference:
Hotel license, RC 3731.03
Hotel sanitation, RC 3731.09 et seq.

§ 215.01 Definition

As used in this chapter, “transient residential building” means any building or structure kept, used or maintained as a place where sleeping accommodations are offered for pay to transient guests and the general public. The term includes all buildings known as hotels, motels or motor hotels, and also includes industrial camps where people are temporarily lodged by their employer. (Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 215.02 License Required; Term and Transfer

No transient residential building shall be occupied or permitted to be occupied unless the owner, lessee or person in charge has first applied for and obtained the required license. A license issued for a transient residential building shall expire not later than the calendar year for which issued, irrespective of the date of its issuance, and shall not be transferable. Whenever the interest of a licensee in a transient residential building ceases, the license shall immediately become void. However, upon the death of a licensee, the license shall be valid for thirty (30) days from the date of death in favor of the legal representatives of the licensee, or of the person to whom such transient residential building passed by law, but in no case shall such days extend beyond the end of the calendar year for which the license was issued. (Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 215.03 License Application and Fee

Every application for a transient residential building license shall be on a City form and shall state the name and address of the applicant; the nature and extent of his or her interest and, if the applicant is not the proprietor, then the application shall also state the name and address of the proprietor. The application shall further contain an accurate description of the transient residential building, its location, the number of rooms, the maximum number of guests to be accommodated at any one time and any other information as may be required by the Commissioner of Assessments and Licenses. The application shall be accompanied by fees for each transient residential building under the following schedule:

Number of Rooms	Fee
0 - 50	\$60.00

51 - 100	\$115.00
101 - 200	\$220.00
over 200	\$310.00

(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

§ 215.04 Inspection Prior to License Issuance

The Commissioner of Environmental Health shall authorize the Commissioner of Assessments and Licenses to grant to the applicant an operating license for the transient residential building, provided it has been found, after a thorough inspection, to comply in all respects with the provisions of this chapter, and of all state laws and City ordinances applicable to the operation thereof.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 215.05 License Issuance

The Commissioner of Assessments and Licenses shall grant to the applicant therefor, an operating license, which license shall clearly specify the name and address of the person to whom it is issued, and in addition, if such person is other than the owner, the name and address of such owner, the location of such transient residential building, the maximum number of guests permitted therein at any one time, the date of expiration of such license and such other information as the Commissioner shall prescribe.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 215.06 Posting License

The transient residential building license shall be affixed to a wall of such building in a conspicuous place, so that it may be seen by persons entering such building.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 215.07 Register of Guests

The owner, lessee and person in charge of any transient residential building, except an industrial camp, shall keep a register or record containing the name and place of residence of all guests, date of arrival and departure and room occupied, along with the signature of all guests. Such register or record shall always be open for inspection to police officers and other authorized City officials.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

CHAPTER 217 – TRAILER PARKS

217.01 License Required; Compliance

217.02 License and Fee

Statutory reference:

State license plate fee, RC 4503.04(C)

Tax levy on house trailers, RC 4503.06 et seq.

Trailer parks and ports, RC Ch. 3733

§ 217.01 License Required; Compliance

No person, firm or corporation shall maintain or operate a house trailer or travel trailer park or travel trailer overnight port in the City without first making application for a license to the Commissioner of Assessments and Licenses, nor fail to comply with RC Chapter 3733, any City ordinance or the Ohio Sanitary Code Chapter HE-27.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 217.02 License and Fee

(a) Each owner, operator or other responsible person before beginning and during operation of a manufactured home park shall make an application for and receive approval of a license under the requirements of RC 3733.03 to the Commissioner of Assessments and Licenses.

(b) Each application for a license shall be accompanied by a combined license and inspection fee as follows:

Trailer Park Capacity	Fee

50 and under	\$350.00
51 and more	\$350.00, plus an additional \$2.00 for each individual lot in excess of 50

The Commissioner may also collect a fee for the collection and bacteriological examination of any water samples taken from a manufactured home park in an amount equal to the cost of the collection and examinations as determined by the Commissioner of Environment but in no event greater than five dollars (\$5.00). The license term shall be for a period of one (1) year from January 1 to December 31 of each year, and the fee shall not be prorated for any lesser period than one (1) year.

(c) The Commissioner shall submit all applications for a license required under RC 3733.03 to the Director of Public Health for approval or disapproval of such application.

(d) The Commissioner is authorized to collect fees and deposit the fees into the Manufactured Home Park Fund created under RC 3733.04.

(e) The Commissioner shall transmit the appropriate amount of each license fee collected under this section to the Treasurer of the State of Ohio for deposit in the General Operations Fund in accordance with the requirements of RC 3733.04.

(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

CHAPTER 219 – PEST CONTROL OPERATORS

219.01 to 219.09 Pest Control Operators – Repealed

§§ 219.01 to 219.09 Pest Control Operators – Repealed

(Ord. 2530-77. Passed 12-19-77, eff. 12-21-77)

CHAPTER 221 – FOOD RENDERING ESTABLISHMENTS

221.01 License Required; Term

221.02 License Application, Fee and Record

221.03 Transportation of Rendering Material

Cross-reference:

Parking waste collection vehicles to prevent leakage, CO 203.08

Truck loads causing litter, CO 613.07

§ 221.01 License Required; Term

(a) No person, firm or corporation shall engage in the business of operating any process, apparatus or device for the reduction of animal or vegetable products, tankage or fertilizers, or in rendering grease or fats, or manufacturing glue from animal or vegetable matter or in the business of collecting butcher offal or inedible fats within the City, unless the owner or person having control thereof or operating the same has first applied for and obtained a license from the Commissioner of Assessments and Licenses. Such license shall cover the period from July 1 until June 30 or any portion of such period, shall expire on June 30 of such period for which it was issued, irrespective of the date of its issuance and shall not be transferable. Whenever the interest of such licensee ceases, the license immediately becomes void. However, upon the death of a licensee, the license shall be valid for thirty (30) days from the date of death in favor of the legal representatives of the licensee, provided that such thirty (30) days do not extend beyond June 30 of the period for which such license was issued.

(b) This section does not apply to any person, firm or corporation rendering the products of animals slaughtered or processed in their own establishment.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 221.02 License Application, Fee and Record

Every application for a license required by Section 221.01 shall be on a form approved by the City, and shall state the name and address of the applicant, the nature and extent of his or her interest in the business for which the license is desired, and if the applicant is not the owner of such business, then the applicant shall also state the name and address of the owner. The application shall further state the location of the business, and the nature of the business for which such license is desired, together with such other information as may be required by the Commissioner of Assessments and Licenses. The application must also be approved by the Commissioner and shall be accompanied by a fee of three hundred dollars (\$300.00) for each business establishment for which a license is desired. The license, when granted, shall be conspicuously posted in the principal office or business room in the plant or building wherein such business is conducted. The Commissioner of Assessments and Licenses shall keep a record of all licenses issued under this section and shall, immediately upon the issuing of a license, furnish the Commissioner of Environmental Health with all the information contained in the license.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 221.03 Transportation of Rendering Material

No raw rendering material shall be conveyed unless the means of conveyance is so constructed that no drippings or seepings can escape, and the raw rendering material is covered.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

CHAPTER 223 – PUBLIC LAUNDRIES

- 223.01 Definition
- 223.02 License Required; Fee and Term
- 223.03 License Application
- 223.04 Investigation; License Issuance and Posting
- 223.05 Cleanliness, Ventilation and Plumbing
- 223.06 Hours of Self-Service Laundries

Cross-reference:

Venting of heaters and burners, CO 629.01

§ 223.01 Definition

As used in this chapter, “public laundry” means any building, structure, place, premises or establishment which is used for the purpose of laundering wearing apparel, table linen or bed linen, curtains, rugs, towels or any or all such articles for the general public or for business establishments for pay.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 223.02 License Required; Fee and Term

No person, firm or corporation shall establish, maintain, or operate any public laundry without first obtaining a license from the Commissioner of Assessments and Licenses. Every applicant shall, upon being licensed, pay a fee of fifty dollars (\$50.00) for each year or fraction of a year. All licenses shall expire on June 30 next following the date of issue.

(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

§ 223.03 License Application

Any applicant for a public laundry license shall make application in writing to the Commissioner of Assessments and Licenses upon City forms. The application shall set forth the name of the applicant, and if a corporation, the name and residence of the principal officers, and the location for which the license is desired. The applicant shall also state such other information as the Commissioner may require. Upon the filing of such application with the Commissioner of Assessments and Licenses, he or she shall transmit the same to the Commissioner of Environmental Health for investigation and report.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 223.04 Investigation; License Issuance and Posting

Upon receipt of an application, the Commissioner of Environmental Health shall make an examination of the premises described in the application. If the Commissioner finds upon examination that the proposed laundry is so constructed and located that it can be operated and maintained in accordance with the provisions of this chapter, he or she shall endorse his or her approval on such application, and a license shall be issued to the applicant upon payment of the license fee. Every license granted shall be posted in a conspicuous place in the laundry for which issued.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 223.05 Cleanliness, Ventilation and Plumbing

Every laundry shall be kept in a reasonably clean and sanitary condition as to its floors, side walls, ceilings, woodworks, fixtures, tools, machinery and utensils. All rooms used in connection with such laundry shall be provided with adequate ventilation by means of windows, air shafts, air ducts or other mechanical apparatus, so as at all times to insure a free circulation of fresh air in such laundry. The laundry shall be arranged so that all water upon the floor of any washroom will immediately run into drains or gutters, to be connected with City sewers. Every laundry shall be provided with adequate plumbing and drainage facilities, including suitable wash sinks and water closets.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 223.06 Hours of Self-Service Laundries

Any establishment which offers any self-service dry cleaning or laundering equipment for use by the public shall not be open for business earlier than 6:00 a.m. nor later than 12:00 midnight, unless there is an attendant on duty during these hours. However, this section does not apply to equipment installed in a residential

building offered for use to only residents of such building.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

CHAPTER 225 – BARBER SHOPS

- 225.01 Definition
- 225.02 License Required
- 225.03 Application for License; Inspection and Issuance
- 225.04 Annual License Fees
- 225.05 Unobstructed View of Interior
- 225.06 Sanitary Rules and Regulations
- 225.07 Tattooing Prohibited; Exceptions – Repealed
- 225.08 Body Piercing Establishments

Statutory reference:

General provisions for barbers, RC Ch. 4709

§ 225.01 Definition

- (a) As used in this chapter, “barber shop” means any building, room, place or establishment occupied, maintained or conducted as a barber shop, tonsorial parlor, barber school or where shaving, hair cutting or any other tonsorial work is carried on for revenue, pay, free or otherwise.
- (b) Nothing in this chapter shall be construed to apply to any establishment occupied, maintained or conducted as a beauty parlor, the operators or employees of which are licensed to engage in the practice of cosmetology as defined by RC 4713.01.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 225.02 License Required

No person shall establish, maintain or operate a barber shop without first having obtained a license as hereinafter provided.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 225.03 Application for License; Inspection and Issuance

- (a) Any person desiring a license to establish, maintain or operate a barber shop shall make written application for a license to the Commissioner of Environmental Health, which shall set forth a description of the premises as well as the location of the same.
- (b) The application for a license shall contain the following information:
 - (1) The exact location, including street and number where the barber shop is to be opened, conducted, maintained or operated;
 - (2) The name and the address of the owner of the premises in which such barber shop is to be located;
 - (3) The name under which the barber shop will be opened, maintained, operated or conducted;
 - (4) Such additional information as the Commissioner may require.
- (c) The Commissioner shall then make or cause to be made an investigation of the premises named in such application for the purpose of determining the fitness and suitability of the premises for the conduct of such business from a sanitary standpoint. He or she shall also cause an investigation to be made to determine if all City ordinances and State law’s relative to the operation and maintenance of barber shops have been complied with, and if all necessary precautions are and will be taken to prevent the spread of contagious and communicable diseases. The Commissioner upon completion of such investigation shall transmit the application to the Commissioner of Assessments and Licenses, together with a recommendation for or against the issuance of such a license.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 225.04 Annual License Fees

The annual license fee shall be fifty dollars (\$50.00) for a barber shop and one hundred seventy dollars (\$170.00) for a barber school. All licenses shall expire on December 31 following the date of issuance, and no license shall be issued except for the full license period and for the full license fee. Licenses shall not be transferable but shall be renewable under the same terms and conditions as required for the original issuance.
(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

§ 225.05 Unobstructed View of Interior

No person shall operate, maintain or conduct a barber shop in which the view to the interior is obstructed by the use of blinds, shades, screens, painted or frosted glass or any other device to prevent a free and unobstructed view from the outside of such barber shop.
(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 225.06 Sanitary Rules and Regulations

No place shall be used, maintained or permitted to be used or maintained as a place where barbering, manicuring or hair dressing is done for pay unless all of the following requirements are complied with:

- (a) *Local Provisions.*
 - (1) Every such place shall be supplied with running hot and cold water;
 - (2) No vessel, utensil, instrument, towel, cloth or other article coming in contact with the skin of any person in the process of barbering, manicuring or hair dressing shall be used until after it has been sterilized, and no sponge, powder puff or other articles that are not so sterilized shall be used in any such process. No alum or other material for stopping the flow of blood shall be used, except in powdered or liquid form in any such process;
 - (3) No room where barbering, manicuring or hair dressing is done shall be used for sleeping purposes, and no furniture adapted for sleeping room purposes shall be in any such room;
 - (4) Every such place and all furniture, fixtures and equipment in such place shall be maintained in a clean condition at all times;
 - (5) No person having any communicable disease shall engage in any of the processes of barbering, manicuring or hair dressing. No proprietor, manager or person in charge of any place where barbering, manicuring or hair dressing is done for pay, shall permit a person so infected to be engaged in any such process. Such proprietor or manager shall, within twelve (12) hours after the discovery that any person engaged in any of the processes above referred to has any communicable disease, report such fact to the Department of Health.
- (b) *State Provisions.*
 - (1) All barber shops shall be open for inspection during business hours to the members of the State Board of Barber Examiners or their inspectors and authorized representatives of the State or City Departments of Health;
 - (2) The holder of a certificate of registration or permit shall post the same, together with his or her photograph, in a conspicuous place adjacent to or near his or her work chair, where it may readily be seen;
 - (3) No barber, apprentice or student shall continue the practice of barbering in a barber shop while such person has an infectious or communicable disease;
 - (4) Only a water supply approved by the Ohio or City Department of Health shall be used in any barber shop. Both hot and cold water shall be piped under pressure to a water basin. The waste water shall be discharged into an approved sanitary sewage system or otherwise disposed of in a manner approved by the Ohio or City Department of Health;
 - (5) Every barber shop shall be provided with toilet facilities, including hot and cold running water and a water flushed toilet approved by the Ohio or City Department of Health;
 - (6) The hands of the barber shall be thoroughly washed with soap and water and dried on a clean, freshly laundered towel or paper towel, immediately before serving each patron;
 - (7) All instruments shall be kept in a closed compartment and shall be disinfected before each use on a patron by immersion in a five percent (5%) solution of carbolic acid for not less than five (5) minutes, or by other methods of disinfection which shall be equivalent to this standard.
A dip disinfectant solution container, not less than eight (8) inches tall and three (3) inches in diameter, shall be kept for each chair in operation. Such container shall be kept filled at all times, and it shall be completely emptied, cleaned and refilled with fresh solution at least once a week.
Since disinfecting solutions may injure the skin, instruments immersed in these solutions shall be carefully rinsed in warm, running water before use;
 - (8) All laundered linen shall be kept in a closed compartment at all times;
 - (9) All linen used on a patron shall be freshly laundered, including dry and steam towels, before using;
 - (10) The head rest of a barber chair shall be covered with a freshly laundered towel or fresh paper for each patron;
 - (11) In cutting the hair of any patron, a newly-laundered towel or paper shall be placed about the neck to prevent the hair cloth from touching the skin;
 - (12) All towels used on each patron shall be deposited in an enclosed towel receptacle. Towels shall not be left lying on work bench or wash bowl. Soiled or used towels found on work bench, barber chair or wash bowl constitute prima-facie evidence that the same are being used without being relaundered;
 - (13) Nothing but powdered or liquid astringents, applied in each case on a clean towel, shall be used to check bleeding. The possession of styptic or astringent pencils, lump alum, finger bowls or sponges is prima-facie evidence that the same are being used in that practice of barbering and are unlawful;
 - (14) No barber or other person in charge of any barber shop shall undertake to treat any disease of the skin;
 - (15) No patron showing evidence of disease of the face or scalp shall be served in any barber shop until he or she presents a statement from a physician that the infection is not communicable;
 - (16) The use of a neck duster or hair brush from one (1) patron to another is prohibited;
 - (17) The use of any room or place for barbering which is also used for residential business purposes, except the sale of hair tonics, lotions, creams, toilet articles, cigars, tobacco, confectionery, laundry and such other commodities as are used and sold in barber shops, is prohibited by law, unless a substantial partition of ceiling height separates the portion used for residential or business purposes;
 - (18) All barber shop equipment, furniture, floors, walls, ceilings, windows, bathrooms, toilets, adjoining rooms and all articles within the immediate environment of a barber shop shall be kept clean and orderly at all times. Cuspidors and waste paper baskets must be emptied and cleaned at least every twenty-four (24) hours;
 - (19) Performing any of the services constituting barbering for pay, free or otherwise on Sunday is expressly prohibited;
 - (20) No barber shop shall be opened for the business of barbering until a certificate of approval is given by the State Board of Barber Examiners. Any person or persons proposing to open a barber shop in a new location or to change locations shall first make application to the State Board of Barber Examiners for an inspection and approval of the premises.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

§ 225.07 Tattooing Prohibited; Exceptions – Repealed

(Ord. No. 737-01. Passed 5-20-02, eff. 5-22-02)

§ 225.08 Body Piercing Establishments

- (a) The Department of Public Health is hereby authorized to assess the following license fees, for licenses issued under RC Chapter 3730:

Body Piercing Establishment only	\$250.00
Temporary Body Piercing Establishment only, under Section 225.07	\$50.00, per day

These fees will not apply to body piercing establishments that are combined with tattoo establishments. Separate license fees, established by the Director of Public Health, apply.

All licenses issued for body piercing establishments shall expire on December 31st of the year in which the license is issued except those licenses issued to temporary body piercing establishments which shall expire on the fifth day following issuance.

(b) RC Chapter 3730 is incorporated by reference, as it now exists and as it may be amended in the future, and any violation of those state statutes or of rules promulgated under those statutes shall also be violations of these Codified Ordinances, and may be prosecuted by the Director of Law. The penalty for such violations shall be as established in RC 3730.99.

(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

CHAPTER 227 – DAY CARE CENTERS

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Cross-reference:

Venting heaters and burners, CO 629.01

Statutory reference:

Building, fire prevention and food service requirements, RC 5104.05
Inspections, RC 5104.04

§ 227.01 Definition

As used in this chapter, “Day Care Center” means an institution or place in which seven (7) or more children not of common parentage, are received for periods of not less than four (4) hours, nor more than twenty-four (24) hours at one time, for care apart from their parents, whether for compensation, reward or otherwise.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.02 Permit Required

No day care center shall be opened, maintained or conducted in the City of Cleveland without a written permit having been first issued by the Commissioner of Assessments and Licenses. No person, firm or corporation shall open, maintain, conduct or assist in the opening, maintenance or conduct of a day care center in the City, except after a permit has been issued, and then only in full compliance with all the provisions of this chapter.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.03 Permit Application

(a) Any person, firm, association or corporation desiring a permit to open, maintain and conduct a day care center shall make written application to the Commissioner of Assessments and Licenses, and that application shall state the name and residence of the applicant, and if the applicant is a corporation or association, the name and residence of all the officers; the present or proposed location of the day care center; the purpose for which it is to be opened, maintained or conducted; the accommodations provided for the children to be admitted to the day care center; the name and address of the superintendent or of the person or persons to be in charge; and other information as the Commissioner may request.

(b) Permits for the calendar year following the year in which the application is being made shall be accepted no earlier than November 1.

(Ord. No. 1642-12. Passed 12-3-12, eff. 12-6-12; Ord. No. 20-13. Passed 1-7-13, eff. 1-8-13)

§ 227.04 Inquiry Preliminary to Granting Permit

The Director of Public Health, after a day care application is made, shall make or cause to be made a strict investigation of the statements and information contained in the application, and a thorough inspection of the premises intended to be used for the day care center.

(Ord. No. 1642-12. Passed 12-3-12, eff. 12-6-12; Ord. No. 20-13. Passed 1-7-13, eff. 1-8-13)

§ 227.05 Conditions on Which Permit is Granted; Fee

(a) If the Director of Public Health finds that the statements in the application are correct; that the premises intended to be used as a day care center are suitably located for a day care center and adequately equipped with all necessary heating, ventilating and sanitary devices to ensure the health and well-being of the children to be admitted to the day care center; that the application is made in good faith for the care and betterment of the children; that the superintendent or person to be in charge of the day care center is of good moral character and of sufficient knowledge, experience and ability to properly conduct, manage and maintain the day care center; that the proposed day care center and the premises occupied by the same comply in all respects with the requirements of this chapter; then, but not otherwise, the Director of Public Health shall recommend to the Commissioner of Assessments and Licenses in writing, that a license be issued. The Commissioner of Assessments and Licenses shall issue or cause to be issued a permit authorizing the applicant or applicants in question to open and conduct a day care center at the place specified, which permit shall state the maximum number of children that may be admitted to or cared for in the day care center at one (1) time. The fee to be paid annually to the City Treasurer for the permit shall be fifty dollars (\$50.00) and no permit shall be issued except upon payment of the fee. Every permit issued under this section shall expire on December 31 of the year in which it is issued, and no second or succeeding permit shall be issued to any person, firm, association, or corporation, except after a reinspection of the premises, as provided for in the case of the issuance of an original permit.

(b) Upon full payment of a day care permit to the City Treasurer, the City's Building Department shall verify through its records, that the location has a valid certificate of occupancy. The Division of Fire and the Division of Health shall also conduct an annual inspection after payment is received by the City Treasurer. Upon certification that the day care center is in full compliance by the City's Building Department, the Division of Fire and the Division of Health, the Commissioner of Assessments and Licenses shall issue a permit to operate.

(Ord. No. 1642-12. Passed 12-3-12, eff. 12-6-12; Ord. No. 20-13. Passed 1-7-13, eff. 1-8-13)

§ 227.06 Posting of Valid State and City Licenses; Change of Ownership or Change of Address

Each day care center shall post in a public area a valid state and city license to operate a day care facility. Both licenses shall be located in an area that is easily noticed upon inspection. Upon change of ownership or upon change of address, day care centers must reapply to the Commissioner of Assessments and Licenses for a new city license in order to maintain the validity of the license.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.07 Right of Entry; Revocation of Permit

The Commissioner of Health or his or her designee shall inspect, or cause to be inspected all day care centers in the City, whenever and as often as shall be necessary for the adequate supervision, control and regulation of the same. Whenever the Commissioner receives a written or verbal complaint to the effect that any day care center in the City is not managed, maintained, operated or conducted in compliance with the provisions of this chapter, or that the physical or moral well-being of any child or children cared for in any day care center is not being adequately and properly provided for, the Commissioner shall, within ten (10) days after the written complaint has been delivered to him or her, cause an investigation of the day care center complained of to be made, and shall make or cause to be made a written report of the result of the investigation. The Commissioner is authorized and empowered either by himself or herself, or any representative designated by him or her for that purpose, to enter any day care center in the City and the premises on which the same is conducted, for the purpose of making full inspection. If upon any inspection the Commissioner finds that any of the provisions of this chapter are being violated in connection with the conduct and operation of any day care center, or that the physical and moral well-being of any child or children cared for is not being adequately provided for, then and in such event he or she may revoke the permit issued for the operation of the day care center, and the operation of the day care center shall become unlawful.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.08 Staff Requirements

(a) All employees must be subject to a medical exam before being hired. All employees must have updated tuberculosis vaccinations before being hired and updated according to medical standards. The medical records and tuberculosis vaccination records must be kept in the employees' personnel files and are subject to inspection by the Commissioner of Health or his or her designee.

(b) All employees must subject themselves to a criminal records check in accordance with RC Chapter 5104 and OAC Chapter 5101:2-12; the results of which must be kept in the employees' personnel files. Those persons found to have a criminal record shall not be employed in any capacity in or own or operate a school child day care center, unless permitted by RC Chapter 5104 or OAC Chapter 5101:2-12.

(c) No employee shall abuse or neglect children and all employees shall protect children from abuse and neglect while in the center's care. All employees have a legal duty to immediately report any act or suspected act of child abuse or neglect to the local public children's service agency as provided for in RC Chapter 5104 or OAC Chapter 5101:2-12.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.09 Admission Policies and Procedures

(a) Parents and Guardians of children at day care centers shall be provided with written information concerning the program and activities of the center. The information shall include the following:

- (1) The center's name, address and telephone number;
- (2) That the center is licensed to operate legally and the number of children and the age categories the center is licensed to serve;
- (3) That the state department of Job and Family services issues the center a license which is posted in a conspicuous place for review;
- (4) That the law and rules governing child day care are available at the center for review upon request;
- (5) That the department of Job and Family Services' toll-free number is available, and any person may use it to report a suspected violation by the center;
- (6) That the administrator and each employee of the center are required under Ohio law to report their suspicions of child abuse or child neglect;
- (7) That any custodial parent, custodian, or guardian of a child enrolled in a center shall be permitted unlimited access to the center during its hours of operation for the purpose of contacting their children, evaluating the care provided by the center or evaluating the premises. Upon entering the premises, the custodial parent, custodian, or guardian shall notify the administrator of his or her presence;
- (8) That rosters of names and telephone numbers of parents, custodians, or guardians of children attending the center are available on request. Parents shall be notified that the rosters shall not include the name or telephone number of any parent, custodian, or guardian who requests the administrator not include his or her name or telephone number;
- (9) That the center's licensing record including, but not limited to, compliance report forms from the department and evaluation forms from the health, building, and fire departments that inspected the center, is available on request from the department;
- (10) That it is unlawful to discriminate in the enrollment of children upon the basis of race, color, religion, sex, or national origin;
- (11) That it is unlawful to smoke on the premises during the Center's hours of operation and all Centers shall comply with Ohio laws and regulations regarding smoking.

(b) Parents and Guardians of children at day care centers shall be provided with written information concerning the center's program including, at a minimum:

- (1) Day and hours of operation;
- (2) The maximum number of children per staff member allowed;
- (3) A sample of the daily program schedule for the group of children in which the child will receive care.

(c) Parents and Guardians of children at day care centers shall be provided with written information concerning the center's policies concerning:

- (1) Discipline and safety;
- (2) The serving of meals and snacks;
- (3) Emergencies, accidents, management of communicable illnesses and administration of medications;
- (4) Fees, registration, rebates, overtime charges, and permanent withdrawals;
- (5) The release of the child from the center to any other person other than the custodial parent or guardian;
- (6) The transportation of children including, but not limited to, transportation of a child to the source of emergency medical care or emergency dental care and transportation for routine trips, field trips, or special outings;

- (7) The center's plan for parental participation;
- (8) The center's plan for the supervision of children.

(d) A copy of the policies stated above must be kept on file at the day care center and is subject to inspection by the City of Cleveland.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.10 Parental or Guardian Access

(a) The residential parent, custodian, or guardian of a child enrolled in a day care center shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting the child, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. Upon entering the premises, the residential parent, custodian, or guardian shall notify the administrator or his or her designee of his or her presence.

(b) A parent of a child enrolled in a day care center that is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for those purposes and conditions under which the residential parent of that child is permitted access to the center. However, the access of the parent who is not the residential parent is subject to and limited by any agreement between parents and, to the extent described in RC Chapter 5104, is subject to and limited by any terms or conditions limiting the right of access of the parent who is not the residential parent, as described in RC 3109.051, that are contained in a visitation order or decree issued under that section, RC 3109.11 or RC 3109.12, or any other provision of the Ohio Revised Code.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.11 Ventilation, Light, Heat and Screening

(a) All rooms in a day care center shall be adequately heated and ventilated, and no room shall be used for day care center purposes unless the same has windows opening on a public thoroughfare, or a yard or court not less than ten (10) feet wide, which windows shall have a total glass and sash area equivalent to one-eighth (1/8) of the total floor area of the room.

(b) Each room used for day care center purposes shall be properly ventilated and no day care center shall be operated or conducted unless it is provided with a heating apparatus approved by the Commissioner of Health and installed in conformity with law and ordinance, sufficient to maintain a temperature of not less than sixty-eight degrees Fahrenheit (68°F), at all times in all parts of the day care center to which children are admitted.

(c) All doors, windows and other outside openings of any day care center shall be adequately provided with screens from May 15 to November 15 of each year while the day care center is in operation, so as to prevent the entrance of flies into the day care center. Each day care center shall be kept and maintained free from flies and other insects.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.12 Floor Space

(a) The day care center shall have, for each child for whom the center is licensed, at least thirty-five (35) square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards.

(b) Each bed or crib shall be so placed at all times as to provide a space of not less than one (1) foot on all sides around such bed or crib, except where the bed or crib may be in contact with a wall. Nothing contained in this chapter, however, shall prevent the installation of sectional metal beds of the type and construction approved by the Commissioner of Health.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.13 Rooms Above Ground Level

No room shall be used for day care center purposes unless the floor is above ground level, except if the Commissioner of Health and the Division of Fire shall upon a full examination of such room pronounce the same safe, healthful and sanitary.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.14 Outdoor Play Space and Playgrounds

(a) Each day care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty (60) square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The Commissioner of Health may exempt a center from the requirement if an outdoor play space is not available and if all of the following are met:

(1) The center provides an indoor recreation area that has not less than sixty (60) square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty (1,440) square feet of space, and that is separate from the indoor space required under Section 227.12 of this section;

(2) The Commissioner of Health has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation;

(3) The children are closely supervised during play and while traveling to and from the area.

(b) Stationary outdoor equipment such as, but not limited to, climbing gyms, swings or slides, shall be placed out of the path of the main traffic pattern in the yard and shall be securely anchored unless portable by design.

(c) Outdoor play surfaces shall be maintained daily and shall be kept free of hazards and debris.

(d) Wading pools shall be filtered, emptied, or drained daily. When not in use, the pools shall be stored or otherwise made inaccessible to children.
(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.15 Premises to be Kept Clean

Each day care center, every part of a day care center, and all areas appurtenant to a day care center, shall be kept in a clean, sanitary and healthful condition, free from dangerous or noxious substances of any kind, or any conditions that may, in the judgment of the Commissioner of Health, tend to injure the physical or moral well-being of the children admitted or cared for in the day care center. No dry dusting or sweeping shall be done in any day care center while children are cared for in the day care center. No spraying of pesticides shall be done in any day care center while children are cared for in the day care center.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.16 Bedding

(a) Each center shall provide a quiet space for children who want to rest, nap, or sleep. The center or parent shall provide a clean and washable pad, mat, or comfortable furniture for children to use to rest, nap or sleep. No child shall be permitted to rest, nap, or sleep on the floor without a mat, pad, cot or comfortable furniture.

(b) When children rest, nap, or sleep on mats or pads, floors shall be clean, warm, dry, and draft free.

(c) Evacuation routes shall not be blocked by resting children. Each child shall have a free and direct means of escape, and the child care staff members shall have a clear path to each child.

(d) Children not of common parents may not occupy the same sleeping space at the same time.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.17 Care of Children's Clothing and Diapering

(a) All children's clothing must be kept clean and dry throughout the time at the day care center.

(b) Changing of diapers for all non-toilet trained school children shall be handled in conformity with the following methods:

(1) Changing of diapers for all non-toilet trained school children shall occur in a space that contains a hand-washing facility.

(2) Hands of the adult caring for the child shall be washed with soap and water after each diaper change.

(3) If a central diaper changing station is to be used, there shall be a separation material placed between the child and the changing surface. The separation material shall be replaced after each diaper change with a clean separation material.

(4) The central diaper changing station shall be disinfected after each diaper change with an appropriate germicidal agent. If the diaper changing station is soiled after the diaper change, it shall be cleaned with soap and water and then disinfected with an appropriate germicidal agent.

(5) Any product used during diaper changing which is used on more than one (1) child shall be used in a way that the container does not touch the child. Any product obtained from a common container and applied to a child shall be applied in a manner that does not contaminate the product or its container. Common containers shall be cleaned and disinfected with an appropriate germicidal agent when soiled.

(c) Storing of clean diapers and clothing shall be handled under the following methods:

(1) A clean supply of diapers and clothing shall be available at all times and shall be stored in a specifically designated area.

(2) Diapers and clothing used during diaper changing brought from the child's home shall be stored in a space assigned exclusively for each school children's belongings.

(d) Storage and laundering of soiled diapers and clothing shall be handled under the following methods:

(1) Diapers and clothing soiled with fecal matter and sent home with a child need not be rinsed at the center, but may be placed directly into a plastic container or bag, sealed tightly, and stored away from the rest of the child's belongings and out of reach of children.

(2) Soiled diapers to be disposed of or cleaned by the center shall be placed in common plastic-lined, covered container which shall be emptied, cleaned, and disinfected with an appropriate germicidal agent daily or more frequently as needed. Diapers to be laundered at the center should be stored in an appropriate germicidal solution until laundered.

(3) Soiled diapers to be commercially laundered shall be held for pickup for laundering for no longer than seven (7) days.

(4) Diapers to be laundered at home or by the center shall be held for no longer than one (1) day.

(5) Soiled disposable diapers shall be discarded daily.

(6) Disposable materials are recommended for diaper changing, and if used, shall be used once and discarded. If washcloths or other washable materials are used, they shall be used once and stored in an appropriate germicidal solution until laundered.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.18 Use of Common Items Prohibited

The common use of washcloths, towels, bed linen, combs, tooth brushes, hair brushes and drinking cups, and other personal affects is prohibited.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.19 Toilet Facilities

Each day care center shall be adequately supplied with hot and cold water and toilet facilities within the building or part of the building used as the day care

center. The hot water shall not go above one hundred twenty degrees Fahrenheit (120°F). Scald controls shall be placed on all hot water dispensers to which children have access. There shall be separate toilets for boys and girls of school age and sinks and toilets shall be of a suitable height for the age and size of the children. If toilets and sinks are not of a suitable height for children, the center shall provide a sturdy portable platform on which the children may stand. All toilet facilities shall be equipped with adequate toilet tissue, soap and hand-drying mechanisms, including towels or air driers. Each day care center that uses a toilet training apparatus must clean the apparatus after each individual use and the apparatus must be stored in an appropriate place after use. Toilet facilities shall be cleaned on a regular basis using germicidal substances, but cleaning must not take place while the children are in attendance.
(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.20 Isolation Room or Area

Each day care center shall be provided with an isolation room/area of adequate size to provide for the isolation and care of any child having or suspected of having any contagious, infectious, parasitic or communicable disease, pending the examination of such child, and its removal from the day care center. Such isolation room/area shall be completely separated from all other parts of the day care center, and shall be so situated, maintained and equipped as to prevent the communication or spread of any disease from any occupant of such isolation room to other children admitted to or cared for in such day care center. The isolation room shall be equipped with a cot, at a minimum, for children to lie down and rest while being isolated.
(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.21 Communicable Disease

- (a) Each day care center shall have a written policy concerning the management of communicable disease for both attendees and staff. This policy shall be available to all parents and guardians of children at the center, each employee of the center and to the director on request. The policy shall include, at a minimum:
 - (1) The center’s means of training all staff on signs and symptoms of illness and in hand washing and disinfection procedures;
 - (2) The center’s policy regarding the management of communicable disease among the center’s employees;
 - (3) The list of symptoms for which a child shall be discharged from the center;
 - (4) Procedures for isolating and discharging an ill child and policy for readmitting a child;
 - (5) Location of Ohio department of health “Child Day Care Communicable Disease Chart” which shall be posted in each center;
 - (6) Procedure for immediate notification of the parent or guardian when a child is exhibiting signs or symptoms of illness or has been exposed to a communicable disease;
 - (7) The center’s policy for administration of medications to any child at the center;
 - (8) The center’s policy regarding the care of a mildly ill child.
- (b) A daily health check shall be conducted every day to recognize the signs of communicable disease and all results shall be documented and kept on file.
- (c) Day care centers shall follow the Ohio Department of Health “Child Day Care Communicable Disease Chart” for appropriate management of suspected illnesses. This chart shall be posted in the day care center.
- (d) Any child absent from any day care center for more than three (3) days shall be subjected to a medical examination and proper documentation of said exam shall be presented to the day care center to indicate permission to return to the day care center.
(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.22 Care and Selection of Food

- (a) Each day care center that prepares and/or serves food must post food licenses issued by the Department of Public Health or exemption thereof in a conspicuous place, easily noticed by all who enter the day care center. Current menus for the entire week shall be posted in a conspicuous place and shall reflect all meals, including breakfast, lunch, dinner or supper, and snacks to be served by the center; any substitute foods served shall be from the basic food groups and shall be recorded on the posted menu on the day the substitute food is served. Special efforts should be made to serve healthy food and beverage options to the children.
- (b) All food used by the day care center or food provided by the parents of the children shall be stored safely and in a sanitary way. Storage of foods shall meet the requirements of RC Chapter 3732 and any relevant regulations adopted by the public health council. Refrigerators shall be set to hold food at a temperature below forty-one degrees Fahrenheit (41°F). The thermostat shall be in good working condition and accurate.
- (c) Fluid milk shall be vitamin D fortified. Low- fat, skim, or dry powdered skim milk shall be vitamin A and D fortified. Prepared baby formula may also be used to feed infants. Breast milk must be labeled with name and date of issue. Refrigerated breast milk must not be kept for more than twenty-four (24) hours. Frozen breast milk may be stored for up to three (3) months. All nipples, bottles and containers of food and drink used in any day care center shall be kept thoroughly clean and capped with plastic tops and labeled with the child’s name at all times.
- (d) Parents may provide food for their children at the day care center if the center secures a proper valid food license, the center has a policy which addresses the center’s procedures for providing a meal or snack to a child who comes to the center without food from home, and the center provides parents with nutritional guidelines of what foods must be provided for their children. Parents need to check with the day care center to find out if there are foods or products that are disallowed because a particular child or children at the center may be allergic to that food or product.
(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.23 Sanitary Condition of Day Care Centers

- (a) Each day care center and all of the rooms, walls, floors, ceilings, closets, cupboards, stoves, refrigerators, furniture and other appurtenances, shall be kept in a thoroughly clean and sanitary condition at all times, and free from any dangerous, noxious or deleterious substances or conditions.

(b) Furniture, equipment, and materials which are not usable due to breakage or hazards shall be removed immediately and either repaired or discontinued from use.

(c) Washable equipment and furniture shall be cleaned with soap and water at least two (2) times each year. Additionally, any item soiled during daily use by, but not limited to, blood, vomitus, toileting accidents and spills shall immediately be cleaned with soap and water and then disinfected with a germicidal agent. Toys and other items placed in children's mouths shall be cleaned thoroughly and disinfected with an appropriate germicidal solution and rinsed with water daily and immediately if soiled with blood, feces, urine or vomitus.

(d) All electrical outlets shall be covered to prevent accidents.

(e) If electrical fans are used, they shall have protective coverings, shall not be easily tipped over, and shall be placed so that they are not hazardous to children.

(f) Cleaning equipment shall be stored in a space that is inaccessible to children. Cleaning agents, aerosol cans, or other chemical substances shall be stored in their original containers and/or clearly labeled, and stored in a space that is designated for the storage of such items and that is inaccessible to children.

(g) Blankets and/or sheets belonging to the center used by the children shall be laundered at least every week or more often if soiled. If a blanket and/or sheet is used by a different child, it shall be laundered between uses.

(h) Accumulated trash and garbage shall be stored outside of the outdoor or indoor play area and shall not be accessible to the children.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.24 First Aid Supplies

First Aid supplies shall be readily available at all times the day care center is in operation. First Aid supplies shall be organized and easily accessible and shall include: one (1) roll of one-half (0.5) inch non- allergenic adhesive tape, one (1) roll of two (2) inch gauze roller bandage, ten (10) individual wrapped sterile gauze squares in various sizes, twenty-five (25) adhesive compresses (band aids), three (3) cotton towels or sheeting, one (1) pair of scissors, assorted sizes of safety pins, one (1) flashlight, one (1) thermometer, one (1) measuring spoon or dosing spoon, tweezers, and one-third (1/3) of a cup of powdered milk for dental first aid. Supplies shall be replaced as they are used, become damaged, or are sterile no longer.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.25 Program and Equipment

(a) Each center shall provide each day a balance of both quiet and active play suitable to the age and abilities of the children in care and shall include, but not be limited to:

(1) Homework or individual, small group activities;

(2) Developmentally appropriate enrichment activities;

(3) Child initiated activities and unstructured time periods;

(4) Large muscle and outdoor play activities. In extremely inclement weather, the center shall provide an opportunity for indoor gross motor play such as, but not limited to climbing, jumping, running, or riding wheel toys.

(b) Each center shall make available to the children play materials and equipment for the purpose of implementing program goals and activities. Play materials and equipment shall be suitable to the age levels and abilities of the children attending the center.

(c) Play materials to be used in the center's program shall be arranged in an orderly manner so that children may select, remove, and replace play materials with a minimum of assistance during appropriate times throughout the daily program.

(d) Each center shall provide durable furniture, such as tables and chairs, for purposes of implementing the program. The furniture shall be child sized or appropriately adapted for use by children.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.26 Medical Examination Before Admission; Contagious Disease

No child shall be admitted to the day care center unless the child has been given a thorough and complete medical examination by a licensed examining physician. Such examination shall include all laboratory tests necessary to indicate the physical condition of the child examined, including a recent blood lead test for children under six (6) years of age, and shall provide to the child all necessary immunizations that are required by law. The result of such examination shall be reduced to writing and preserved in the permanent files kept at the day care center. No child may be admitted to any day care center unless the examination indicated by the record shows that such child is free from any contagious, infectious, communicable or parasitic disease, and duly protected against contagion or infection. No examining physician shall make any untrue or incorrect statement in any report provided for in this section.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.27 Overcrowding and Children per Staff Member Ratio

(a) No room in any day care center shall be overcrowded. Any room shall be deemed overcrowded for the purposes of this chapter if there is less than three hundred (300) cubic feet of air space per child at any time.

(b) Each day care-center shall have at least two (2) responsible adults, including one (1) staff member, available on the premises at all times when seven (7) or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision of the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. The following ratios of children per child-care staff member are to be followed:

[]

Infants	
Less than 12 months old	5:1 or 12:2 with 2 staff members in the room
12 to 18 months old	6:1
Toddlers	
18 to less than 30 months old	7:1
At least 30 months to less than 3 years	8:1
Preschool	
3 years old	12:1
4 and 5 year olds	14:1
School Children	
Children enrolled in, or eligible to be enrolled in kindergarten or above, but less than 11 years old	18:1
11 through 14 years old	20:1

(c) When children are combined with other age groups, the ratio must conform to the youngest child in the group.

(d) Each day care center must have an administrator on site for minimum of at least half of the operating hours. This presence must be documented and available for inspection.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.28 Discipline of Children

Each day care center shall have a written discipline policy which describes the center's philosophy of discipline and the specific methods of discipline used at the center. The policy shall follow the State's guidelines as set forth in OAC 5101:2-17-42. The parent or guardian of a child enrolled in a center shall receive a copy of the written discipline policy and a copy of the policy shall be on file at the day care center and ready for inspection.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.29 Safety Policies

Each day care center shall have written policies for different safety issues including, but not limited to not leaving children unattended, arrival and departure policies, immediate telephone access, fire and weather alert plans, incident report procedures, monthly fire drills, field trip safety plans, and the no spraying of aerosols while children are present. These written policies shall be on file at the day care center and ready for inspection.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.30 Child Enrollment, Attendance and Medical Records

(a) The administrator of each day care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential except as otherwise exempt by law.

(b) Enrollment records shall include:

(1) The name, address, and birth date of each child;

(2) The date of admission of each child;

(3) The names, home addresses, home telephone numbers of each parent or guardian;

(4) The names, work addresses, work telephone numbers, or name and address of location and telephone number where each parent or guardian may be reached during the hours the child attends the center;

(5) The names, addresses, telephone numbers and relationships to each child of at least two (2) local persons who can be contacted by the center in the event of an emergency if the parent or guardian cannot be reached.

(c) Attendance records shall be kept by the staff member responsible for the child. Records shall be kept for at least three (3) months and shall include the names of the other children in the group, the name of the staff member in charge of that group, the designated space used by the group, and the schedule of each child in the group, including the days and hours of attendance.

(d) Health records shall be secured from the parent on or before the first day of attendance. The health record shall be kept on file and shall include:

(1) A list of medications, food supplements, modified diets, or fluoride supplements currently being administered to the child;

(2) Written, signed and dated instructions from a licensed physician or licensed dentist to administer medications, food supplements, modified diets or fluoride supplements;

(3) A list of all allergies and any special precautions or treatment indicated for these allergies;

(4) A list of all physical problems, health problems, and any history of hospitalization;

(5) A list of diseases the child has had;

(6) The name, address, and telephone number of the child's physician or clinic;

(7) An emergency transportation authorization as required in the Ohio Administrative Code.

(e) The center shall require that parents or guardians review and update information as needed or at least annually.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.31 Administration of Medications and Supplements

(a) Each center shall have a written policy on file and given to parents and guardians that governs whether and how a center administers medications, food supplements, modified diets or fluoride supplements.

(b) Each center shall secure the written instructions of a licensed physician or licensed dentist for the administration of the medication, food supplement, modified diet, or fluoride supplement and secure the written, signed and dated instructions of the parent or guardian on the form provided by the director for the administration of the medication, food supplement, modified diet, or fluoride supplement.

(c) Prescription labels on medications to be administered must be clearly labeled, with a current date, an exact dosage and the specific number of dosages to be given daily, and the route of administration.

(d) Exceptions:

(1) In cases of extreme emergency, center personnel may administer syrup of Ipecac to a child without written instructions from a physician if following verbal instructions of the poison control center or a licensed physician.

(2) Nonprescription fever-reducing medications that do not contain aspirin, or nonprescription cough or cold medications that do not contain codeine may be administered by the center without written instructions from a licensed physician if the child's parent or guardian have provided an authorization, the medication is in its original container, and medication is properly labeled with dosages based on the child's age or weight.

(e) Medications, food supplements, and fluoride supplements shall be kept in a safe location where children cannot reach it. A medication requiring refrigeration shall be refrigerated on arrival at the center and shall be stored so as not to contaminate foodstuffs.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.32 Medical and Dental Emergency Procedures

(a) The day care center shall have a written plan for medical and dental emergencies. The emergency plan shall require immediate notification of the parent or guardian in the event of any accident, injury, or illness and shall include plans for transportation of the child to the source of medical or dental care treatment, if necessary.

(b) The medical and dental emergency plan shall be posted by each telephone used by the center and in each classroom used by the children at the center. The emergency plan shall state, at a minimum, the following information:

(1) The center's name, address, and telephone number;

(2) The location of the first aid kit;

(3) The current emergency telephone numbers for the emergency squad, the fire department, the hospital, the poison control center, the local public children's services agency, and the police department;

(4) The names of the staff trained to administer first aid;

(5) The location of children's records;

(6) General instructions to staff in case of emergency, including the supervision of children during the emergency;

(7) General instructions to staff in case of illness of children;

(8) The location of the Ohio department of health dental first aid chart.

(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

§ 227.33 Reports to the Director of Public Health

(a) Every person, firm, association or corporation conducting, managing or maintaining a day care center shall report to the Director of Public Health within timelines specified in OAC 3701-3-05. Every person, firm, association or corporation conducting, managing or maintaining a day care center shall report to the Director of Public Health, all cases and suspected cases of contagious diseases, such as smallpox, chickenpox, diphtheria, scarlet fever, mumps, measles, whooping cough, impetigo contagiosa, typhoid fever, tuberculosis, hand, foot and mouth disease, meningitis (bacterial, viral/aseptic), flu, diarrheal diseases, and any other disease classified as communicable in accordance with OAC 3701-3-02. The report shall give the names and addresses of persons so afflicted and all other known facts relating to the case or incident in accordance with OAC 3701-3-03, which may aid in eradicating such diseases.

(b) Every person, firm, association or corporation conducting a day care center shall also make out a Monthly Illness Report Form in writing on or before the fifth day of each calendar month, giving a complete record of the operation of the center during the preceding calendar month, showing the number of children admitted, all relevant illnesses, all accidental injuries and deaths, the cause of the same and other information as may be necessary to an intelligent supervision of the center. This report shall be kept in the permanent records of the day care center.

(c) All reports required in this section shall be made upon blanks approved by the Director of Public Health and shall be signed by the superintendent or the official in charge. All records placed in permanent files under the requirements of this chapter shall be open to inspection by the Director of Public Health or any officer or employee of the Division of Health designated by the Director of Public Health at any time.

(Ord. No. 1642-12. Passed 12-3-12, eff. 12-6-12; Ord. No. 20-13. Passed 1-7-13, eff. 1-8-13)

§ 227.34 Appeal

A day care center's license may be suspended or revoked at any time by the Director of Public Health on his or her own initiative. Before suspending or revoking the license the Director of Public Health shall afford the licensee the opportunity of a hearing on the charges. The licensee may appeal from the order in

the manner provided by Section 201.03. A second suspension for the same reason or, in any case a third suspension of a day care center's license shall operate as a revocation of such license. No day care center's owner or administrator whose license has been revoked shall again be licensed as a day care provider in the City unless on presentation of reasons satisfactory to the Director of Public Health. The Director of Public Health shall notify the Building Department, the Division of Fire and the Commissioner of Assessments and Licenses of all suspensions or revocations of day care licenses.
(Ord. No. 1642-12. Passed 12-3-12, eff. 12-6-12; Ord. No. 20-13. Passed 1-7-13, eff. 1-8-13)

§ 227.35 Violations

(a) If any person, firm, association or corporation conducting a day care center violates any of the provisions of this chapter relating to the safety of, or the accommodations for the children, the Director of Public Health is authorized to issue an order to close the day care center and keep it closed until such repairs or alterations have been made as will comply with the provisions of this chapter.

(b) No person shall fail to comply with a lawful order issued by the Director of Public Health under this section.
(Ord. No. 1642-12. Passed 12-3-12, eff. 12-6-12; Ord. No. 20-13. Passed 1-7-13, eff. 1-8-13)

§ 227.99 Penalty

(a) Any person, firm, association or corporation who opens, maintains or conducts a day care center without first having been granted a permit, or after the due revocation of the permit, or in violation of any of the provisions of this chapter, shall be fined not less than three hundred dollars (\$300.00), nor more than one thousand dollars (\$1,000.00) for each offense.

(b) Whoever fails to comply with the lawful order issued under division (a) of Section 227.35 is guilty of a misdemeanor of the first degree. Each day during which noncompliance or a violation continues shall constitute a separate offense.

(c) In the event of any actual or threatened violation of this chapter or an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute proper suit in equity or at law to prevent or terminate the violation or remedy the situation.
(Ord. No. 924-09. Passed 8-5-09, eff. 8-13-09)

CHAPTER 229 – NURSING AND REST HOMES

- 229.01 License Required; Inspection
- 229.02 Prohibited Acts
- 229.99 Penalty

Note: The City enforces the provisions of RC Chapter 3721 relative to nursing and rest homes, OAC Chapter 3701-17, which are the rules and regulations of the Public Health Council promulgated pursuant to RC 3721.04, and OAC Chapter 4101:2-90, which are the rules and regulations for existing nursing and rest homes promulgated by the Ohio Board of Building Standards. License and inspection fees are charges by the Ohio Director of Health pursuant to RC 3721.04(F) and OAC 3701-17-03.

Cross-reference:

Conveying intoxicating liquors or drugs into hospital, sanitarium, CO 617.10

Statutory reference:

Licensing residential care facilities for mentally retarded, RC 5123.18

Nursing and rest homes, RC 3721

State regulations, OAC Ch. 3701-17, Ch. 4101:2-90

§ 229.01 License Required; Inspection

The Director of Public Health and Welfare shall take appropriate action through the employees of his or her Department or such members of the Division of Police as may be assigned to his or her assistance, to ascertain that all nursing and rest homes as defined in RC 3721.01, within the City are duly licensed and operating in compliance with applicable provisions of law and ordinance.
(Ord. No. 725-A-44. Passed 10-8-45)

§ 229.02 Prohibited Acts

No person, firm, association or corporation shall open, conduct, manage or maintain a nursing and rest home as defined in RC 3721.01, less adequately equipped or with a personnel fewer in number and training than has been determined by the proper officials of the State at the time of the issuance of the license for such home or renewal thereof, to be adequate and sufficient properly to care for the inmates of such home; nor shall any person fail to display the license certificate issued by the State prominently in the hall or in the main entrance into such home or refuse admittance to, or obstruct the entrance of any City officer duly authorized to make inspection of such home or hinder such officer in the performance of his or her duty.
(Ord. No. 725-A-44. Passed 10-8-45)

§ 229.99 Penalty

Any person, firm or corporation which violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and fined not more than twenty-

five dollars (\$25.00) for each offense. A separate offense shall be deemed committed each day during or on which such violation occurs or continues.
(Ord. No. 725-A-44. Passed 10-8-45)

CHAPTER 231 – ABORTIONS

- 231.01 Definitions
- 231.02 Abortion Performed During First Trimester of Pregnancy
- 231.03 Abortion Performed During Second Trimester of Pregnancy
- 231.04 Purposeful Taking of a Fetal Life; Refusals to Perform Abortions
- 231.05 Experimentation upon a Fetus
- 231.06 License Required; Application
- 231.07 Inspection Required for Licensing
- 231.08 License Fee
- 231.09 Prohibition Against Issuing Abortion Service License in Local Retail District
- 231.99 Penalty

Cross-reference:

Unlawful promotion of abortion, CO 609.02

Statutory reference:

Abortion manslaughter, RC 2919.13

Abortion trafficking, RC 2919.14

Abortion without informed consent prohibited, RC 2919.12

§ 231.01 Definitions

As used in this chapter:

- (a) “Physician” means a doctor licensed to practice medicine by the State of Ohio, whether practicing within or outside a hospital.
- (b) “Counselor” means an individual trained in abortion counseling, and who is certified for that purpose by the Director of Public Health and Welfare.
- (c) “Abortion” means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.
- (d) “Abortion service” means an individual physician, group practice of physicians, clinic, hospital or other firm, agency, institution or organization by whom or under whose auspices and control abortions are performed, whether as a primary service or as an integral part of a broader practice or group of medical services, and his, her or their physical facilities used in the performance of an abortion.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.02 Abortion Performed During First Trimester of Pregnancy

In all cases where termination of a pregnancy is performed by an abortion service during the first trimester of the woman’s pregnancy, the following standards, facilities and procedures must be met, provided and adhered to:

- (a) Abortions may only be performed by a physician licensed to practice medicine by the State of Ohio;
- (b) Written verification by the attending physician of the diagnosis and duration of pregnancy, indicating the methods used to determine diagnosis and duration of pregnancy;
- (c) Availability of pre-operative instructions and counseling by a certified counselor or attending physician;
- (d) Recorded pre-operative history and physical examination, particularly directed to identification of pre-existing illnesses or drug sensitivities that may have a bearing on the operative procedures or the anesthesia. Permanent post-operative records shall also be maintained by the physician;
- (e) Laboratory procedures including blood type and RH factor and those procedures usually required as a prerequisite for the performance of surgery;
- (f) Availability of procedures for prevention of RH sensitization if indicated by blood test;
- (g) A receiving facility where the patient may be prepared and receive necessary pre-operative medication and observation prior to the procedure;
- (h) Availability on the premises of adequate oxygen, parenteral fluids, anesthesia and resuscitation equipment. There shall also be a written procedure approved by the Director of Public Health and Welfare to deal with emergency situations including transportation to a hospital;
- (i) A recovery facility in which the patient can be observed until she has sufficiently recovered from the procedure and anesthesia and can be safely discharged by the physician;
- (j) Post-operative instructions and available post-operative counseling;
- (k) Examinations by a pathologist of all pathological specimens, and the disposal of human remains in a legal, humanitarian and dignified manner;
- (l) The physician performing the abortion must report to the Director or his or her designate, on an abortion report form available from the Director. These forms shall be used for statistical purposes by the Department of Public Health and Welfare and shall not be matters of public record. The name of any specific patient will not be required in the report;
- (m) The usual informed consent including the operative permit signed by the pregnant woman indicating her understanding of the availability of pre-operative and post-operative counseling either through the attending physician or, without cost, through the Department.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.03 Abortion Performed During Second Trimester of Pregnancy

In all cases where termination of pregnancy is performed by an individual during the second trimester of the woman's pregnancy the following standards and procedures must be met and adhered to:

- (a) Abortions may only be performed by a physician licensed by the State of Ohio and only in an in-patient medical care facility;
- (b) Written verification by the attending physician of the diagnosis and duration of pregnancy indicating the method or methods used to determine diagnosis and duration of pregnancy in the physician's best medical judgment;
- (c) Mandatory pre-operative instructions and counseling by the attending physician or a counselor certified by the Director of Public Health and Welfare;
- (d) Recorded pre-operative history and physical examination particularly directed to identification of pre-existing or concurrent illnesses or drug sensitivities that may have a bearing on the operative procedure or the anesthesia. Permanent post-operative records shall also be maintained by the physician;
- (e) Laboratory procedures as usually required for a hospital admission, including but not limited to blood typing, RH testing, urinalysis (specific gravity, sugar and microscopic examination of sediment) and blood drawn for cross matching;
- (f) Availability of procedures for prevention of RH sensitization if indicated by blood test;
- (g) A receiving facility where the patient may be prepared and receive necessary pre-operative medication and observation prior to the procedure;
- (h) Availability on the premises of adequate parenteral fluids, oxygen, anesthesia and resuscitation equipment. There shall also be a written procedure approved by the Director to deal with any possible emergency situation;
- (i) A recovery facility in which the patient can be observed until she has sufficiently recovered from the procedure and the anesthesia, and can be safely discharged by the physician. Adequate blood transfusion facilities must also be available so that an emergency transfusion can be given within thirty (30) minutes;
- (j) Post-operative instructions and arrangements for follow-up visits by the woman and available post-operative counseling;
- (k) Examination by a pathologist of all pathological specimens, and the disposal of human remains in a legal, humanitarian and dignified manner;
- (l) The physician performing the abortion must report to the Director or his or her designate, on an abortion report form available from the Director. These forms shall be used for statistical purposes by the Department of Public Health and Welfare and shall not be matters of public record. The name of any specific person will not be required in the report;
- (m) The usual informed consent, including the operative permit signed by the pregnant woman.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.04 Purposeful Taking of a Fetal Life; Refusals to Perform Abortions

- (a) There shall be no abortions performed subsequent to viability except where it is necessary in appropriate medical judgment for the preservation of the life or health of the woman.
- (b) No person shall purposely take the life of the fetus born alive.
- (c) No physician, nurse or other health care personnel shall be required, against his or her conscience, to perform, assist or participate in medical procedures which result in the termination of a pregnancy. The refusal of any person to perform, assist or participate in such medical procedures shall not be a basis for any disciplinary or other recriminatory action against him or her, nor shall he or she be liable to any other person for damages, allegedly arising from such refusal. No hospital, hospital director or governing board of any hospital shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit such procedures shall not be grounds for civil liability to any person, nor a basis for any disciplinary or other recriminatory action against it.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.05 Experimentation upon a Fetus

No person shall experiment upon or sell the product of human conception which is aborted, irrespective of the duration of the pregnancy.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.06 License Required; Application

No person, firm or corporation shall engage in, carry on or operate an abortion service in the City unless and until he or she has first obtained a license to engage in, carry on and operate an abortion service. Every applicant for a license shall make an application in writing to the Commissioner of Assessments and Licenses, which application shall set forth and name under which the abortion service is to be operated and the name of every person, firm or corporation having an interest in the license, and the location where the abortion service is to be carried on, and if a corporation, the names and addresses of all corporate officers, and if a partnership, the names and addresses of all partners. Such application shall also cite that all standards, facilities and procedures required by this chapter are in the location stated in the application and ready for use.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.07 Inspection Required for Licensing

The Commissioner of Assessments and Licenses shall refer each application for a license hereunder to the Director of Public Health and Welfare, who shall forthwith make or cause to be made an on-site inspection of the premises, personnel and facilities where the proposed abortion service is to operate. After completing such inspection the Director shall return the application to the Commissioner with his or her approval or disapproval thereon. No license shall be granted by the Commissioner on disapproval of the Director.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

§ 231.08 License Fee

The license fee for each abortion service location shall be two hundred dollars (\$200.00).

All applications shall be originally accompanied by a fee of sixty dollars (\$60.00), which in no event shall be refunded. After the Director of Public Health approves the application, the Commissioner of Assessments and Licenses shall issue a license upon the payment of the balance of the two hundred dollar (\$200.00) fee. All licenses shall be for a period of one (1) year and expire on December 31 next following the date of issuance. There shall be no rebate for any lesser time. The license required shall be conspicuously displayed on the premises.

(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

§ 231.09 Prohibition Against Issuing Abortion Service License in Local Retail District

Notwithstanding any other provision of the Codified Ordinances, no license, required under the provisions of Section 231.06, shall be issued for an abortion service to be located in a Local Retail Business District as set forth in Section 343.01 of the Codified Ordinances, and no abortion service shall operate in a Local Retail Business District.

(Ord. No. 2048-77. Passed 7-18-77, eff. 7-18-77)

§ 231.99 Penalty

Any individual, firm, corporation, association or partnership which violates any provision of this chapter shall be guilty of a misdemeanor and fined not more than one thousand dollars (\$1,000.00), and, if an individual, shall be imprisoned not more than six (6) months for each violation. Every violation shall be considered an individual offense subject to the full penalty of this section. The Director of Public Health and Welfare is hereby authorized to seal the operation, as it relates to the termination of pregnancies, of any office, clinic, medical center or hospital found to be in violation of any of the provisions of this chapter.

(Ord. No. 1861-A-73. Passed 12-10-73, eff. 12-10-73)

CHAPTER 233 – DEATHS

233.01 Certification of Death

Cross-reference:

Corpse abuse, CO 621.13

Failure to report a crime or knowledge of death, CO 615.04

§ 233.01 Certification of Death

The death of any person within the City shall be officially certified by the Cuyahoga County Coroner or a physician. No person shall bury, cremate or dispose of any human corpse which has not been officially certified dead, but shall report such fact immediately to the Commissioner of Health, the Chief of the Bureau of Vital Statistics or the Cuyahoga County Coroner.

(Ord. No. 511-76. Passed 6-14-76, eff. 6-18-76)

CHAPTER 234 – CONSTRUCTION AND DEMOLITION DEBRIS FACILITY TIPPING FEES

234.01 Definitions

234.02 Fee

234.99 Penalty

§ 234.01 Definitions

(a) “Construction and Demolition Debris Facility,” means a construction and demolition debris facility licensed under RC 3714.06.

(Ord. No. 946-06. Passed 6-12-06, eff. 6-16-06)

§ 234.02 Fee

(a) Each Construction and Demolition Debris Facility owner or operator shall pay a fee of thirty cents (\$0.30) for each cubic yard of construction and demolition debris disposed of within the City.

(b) Each Construction and Demolition Debris Facility operator shall record each load of construction and demolition debris material disposed of at their facility on an Ohio Environmental Protection Agency daily log form. The amount of material shall be recorded in either yards or tons. Any material recycled from

the construction and demolition debris loads shall not be assessed the tipping fee provided that the Construction and Demolition Debris Facility operator maintains documentation on the amount of recycled material.

(c) Each Construction and Demolition Debris Facility operator shall make monthly payment to the Director of Public Health, or his or her designee, based on the amount of material in yards disposed of during the month multiplied by the current tipping fee. If construction and demolition debris is recorded in tons, a conversion factor of two (2) yards equals one ton shall be used to determine the yardage. Payment shall be made to the Director of Public Health within thirty (30) days of the end of each month.

(d) Tipping fees collected under this section shall be deposited in a fund and sub-fund designated by the Director of Finance for the purpose of administering the Department of Public Health’s construction and demolition debris landfill regulatory program. The funds are appropriated for that purpose. (Ord. No. 946-06. Passed 6-12-06, eff. 6-16-06)

§ 234.99 Penalty

No Construction and Demolition Debris Facility owner or operator shall fail to comply with any of the provisions in this chapter. Any Construction and Demolition Debris Facility owner or operator who fails to comply with any provision of this chapter is guilty of a misdemeanor of the first degree each day of violation is a separate offense. (Ord. No. 946-06. Passed 6-12-06, eff. 6-16-06)

CHAPTER 235 – SMOKING BAN – CITY PROPERTY

- 235.01 Declaration of Nonsmoking Places, Prohibition
- 235.02 No Smoking in Areas Within 150 Feet of Entrances and Exits of City Places of Employment
- 235.03 Restrictions on Smoking in Places of Employment – Repealed
- 235.04 Exemptions – Repealed
- 235.05 Designation of Smoking Areas – Repealed
- 235.06 Enforcement – Repealed
- 235.07 Education – Repealed
- 235.08 Governmental Agency Cooperation – Repealed
- 235.09 Relation to Other Law – Repealed
- 235.99 Declaration of a Nuisance; Enforcement and Penalties

Note: Pursuant to Section 2 of Ord. No. 473-11, Sections 235.01, 235.02, and 235.99 shall take effect on June 24, 2011.

§ 235.01 Declaration of Nonsmoking Places, Prohibition

(a) Pursuant to RC 3794.05, the City hereby declares any outdoor area owned and/or controlled by the City and not otherwise qualifying as a nonsmoking place under RC Chapter 3794, to be a nonsmoking place, except areas specifically designated by the Director of Public Works as a designated smoking area.

(b) No person shall refuse to immediately discontinue smoking in the outdoor areas declared nonsmoking places by this section when requested to do so by the Director of Public Health or his or her designee or any authorized City officer or employee.

(c) The Director of Public Health or Director of Public Works shall post “No Smoking” signs conspicuously at the ingresses and egresses of all outdoor areas declared nonsmoking places and shall post signs to designate smoking areas where appropriate.

(d) “Outdoor Area” means city-owned public parks, City-owned outdoor public recreation areas and City-owned swimming pools, and includes picnic shelters within City-owned parks and recreation areas; Public Square and all downtown Malls open to the public; and other City-owned areas adjacent to City-owned and occupied buildings that are used by the public not including the public right-of-way. “Outdoor Area” does not include the City-owned golf courses, North Coast Harbor, Voinovich Park, and 9th Street Pier, and City-owned fishing piers and breakwalls, City-owned cemeteries; and designated smoking areas at City airports as designated by the Director of Port Control and City buildings, as designated by the Director of Public Works.

(Ord. No. 473-11. Passed 4-25-11, eff. 6-24-11)

§ 235.02 No Smoking in Areas Within 150 Feet of Entrances and Exits of City Places of Employment

(a) Smoking is prohibited within one hundred fifty (150) feet of any entrance or exit of a City place of employment except as it affects real property not owned by the City or is otherwise permitted under RC Chapter 3794. A smoking area within the restricted zone at City airports as designated by the Director of Port Control, and City buildings, as designated by the Director of Public Works, are not included in this prohibition. No person shall refuse to immediately discontinue smoking if smoking within one hundred fifty (150) feet of any entrance or exit of a City place of employment, when requested to do so by the Director of Public Health or his or her designee, or any authorized City officer or employee.

(b) The Director of Public Health shall post the prohibition set forth in division (a) on all “No Smoking” signs posted at any entrance and exit of City places of employment.

(c) “City place of employment” means an enclosed area under the direct or indirect control of the City that the City’s employees use for work or any other purpose, and that may also be open to the public.

(Ord. No. 473-11. Passed 4-25-11, eff. 6-24-11)

§ 235.03 Restrictions on Smoking in Places of Employment – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.04 Exemptions – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.05 Designation of Smoking Areas – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.06 Enforcement – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.07 Education – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.08 Governmental Agency Cooperation – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.09 Relation to Other Law – Repealed

(Ord. No. 473-11. Passed 4-25-11, eff. 4-25-11)

§ 235.99 Declaration of a Nuisance; Enforcement and Penalties

(a) Any violation of this chapter is declared to be a nuisance which affects and endangers the public health. The Director of Public Health and any authorized City officer or employee who, upon information or by observation ascertains a violation of this chapter, may impose the penalties set forth in this section. Enforcement of this chapter is in addition to any other method of enforcement provided in these Codified Ordinances and state law.

(b) Whoever violates Sections 235.01(a) or 235.02(b) is liable to the City of Cleveland for a civil offense and shall receive a warning on the first offense; on the second offense, shall be fined one hundred fifty dollars (\$150.00); on a third offense shall be fined two hundred fifty dollars (\$250.00); and beginning with the fourth offense, shall be fined three hundred fifty dollars (\$350.00) and each day a violation occurs shall be a separate offense. Any person charged with the commission of a civil offense under this section may appeal to the Director of Public Health, or his or her designee. The appeal shall be taken not later than twenty (20) days from the date of the civil charge. Failure to file an appeal or pay the costs imposed within this time period shall constitute a waiver of the right to contest the charge and shall be considered an admission.

(c) The Director of Public Health may issue rules and regulations to carry out the provisions of these sections which shall be effective thirty (30) days after their publication in the *City Record*.

(Ord. No. 473-11. Passed 4-25-11, eff. 6-24-11)

CHAPTER 237 – ADULT VIDEO ARCADES AND ADULT LIVE ENTERTAINMENT ARCADES

- 237.01 Purpose and Findings
- 237.02 Definitions
- 237.03 Configuration
- 237.04 Minors Prohibited; When
- 237.05 Responsibility of the Operator
- 237.06 Applicability of Chapter
- 237.07 Nuisance
- 237.08 Severability
- 237.99 Penalties

Note: Ordinance No. 1520-03, passed January 26, 2004, repealed Chapter 699 and enacted this chapter relating to Adult Video Arcades and Adult Live Entertainment Arcades. Sections 2 and 3 of Ordinance No. 1520-03, passed January 26, 2004, effective March 6, 2004 read as follows:

Section 2. That within ten (10) days of the passage of this legislation, the Director of Public Health shall send a notice, by certified and regular mail, to all Adult Video Arcades and

Adult Live Entertainment Arcades located in the City of Cleveland, informing them of the passage of this legislation and providing them with a copy of this legislation.

Section 3. That lawfully established Adult Video Arcades and Adult Live Entertainment Arcades in existence on the date of the passage of this legislation will have until August 1, 2004, to come into compliance with the law. All other businesses must be in compliance from the effective date of this legislation.

§ 237.01 Purpose and Findings

Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health and general welfare of the citizens of the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. It is neither the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

(Ord. No. 650-05. Passed 6-6-05, eff. 6-15-05)

§ 237.02 Definitions

- (a) The words in this chapter shall have the meaning given to them in 347.07 of the Cleveland Codified Ordinances.
- (b) "Operator" means a person who owns, controls, operates, or maintains a Adult Video Arcade or Adult Live Entertainment Arcade.
- (c) "Manager's station" means the area where the owner, operator, or employee keeps the cash register. This must be an open, conspicuous area accessible to the patrons.

(Ord. No. 650-05. Passed 6-6-05, eff. 6-15-05)

§ 237.03 Configuration

No person shall operate an Adult Video Arcade or an Adult Live Entertainment Arcade unless the Arcade complies with the following requirements:

- (a) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and can see the monitor located at the manager's station at all times that any patron is present inside the premises;
- (b) The premises' owner or operator installs a camera system in the video booths that complies with the following requirements:
 - (1) The owner or operator operates the camera system when any of the booths are available for viewing videos;
 - (2) The owner or operator numbers all the booths in the store with an individual number so that the booth is identified on the monitor, the digital recording, and the maintenance log;
 - (3) The camera system includes an individual camera in each video booth;
 - (4) The individual cameras are placed in the booths in a way that shows the people inside the booths from at least the knees to the shoulders;
 - (5) Each Video Arcade will ensure that nothing obstructs the camera from showing the people inside the booths from at least the knees to the shoulders;
 - (6) Each Video Arcade will immediately remove anything that obstructs the camera from showing the people inside the booths from at least the knees to the shoulders;
 - (7) The camera system has a monitor at the manager's station so that the owner, operator, or employee who is present in the store can view it;
 - (8) The monitor faces into the store's public area so that it is visible from the public area;
 - (9) The monitor's screen is not obstructed from view from the public area at any time that the store is open to the public;
 - (10) The monitoring system operates on a switcher system so that the monitor switches sequentially and continuously from one (1) camera to another. The continuous switching process will be timed to allow an adequate view of each area surveyed by each camera. The view inside each booth must be at least four (4) seconds, but not more than six (6) seconds. Once the camera system completes a circuit showing the inside of all the booths, the system must immediately start a new circuit showing inside all the booths;
 - (11) The monitor and the recording identify the booth number for the booth that is being shown on the monitor;
 - (12) The camera system records the view required in division (b)(10) of this section in digital format on a minimum five (5) consecutive days recording loop. The owner or operator must maintain at least the most recent five (5) day period's recordings at all times;
 - (13) The camera system records the date and time for the recorded images;
 - (14) The owner or operator places a sign that is at least five (5) inches by seven (7) inches in a conspicuous place in each booth stating words to the effect: "This arcade installed a video-camera-monitoring-and-recording system in this booth. The arcade monitors and records activity in this booth;"
 - (15) If anyone removes or defaces the sign required by division (b)(14) of Section 237.03, then the owner or operator will replace the sign with a new one as soon as store personnel find that the sign has been removed or defaced. The owner or operator must keep enough extra signs in supply at the store to be able to replace any sign as needed;
 - (16) If a camera is not operating in any booth, the store must close that booth until the camera is repaired. "Not operating" means that the camera does not transmit images showing the booth's interior so that the image is shown on the monitor and recorded by the recording device;
 - (17) If the entire camera system is not operating, then the Video Arcade may not operate any video booths until the system is repaired;
 - (18) Each Video Arcade will keep a log for every time the camera system or an individual camera is not working. The log also must note any time that the sign required by division (b)(14) of Section 237.03 is defaced or removed. The log should show the date and time the camera or camera system stopped working, the date and time a repair company fixed it, and the repair company's contact information. The owner or operator must immediately provide a copy of this log to City officials on request.
- (c) Restrooms may not contain video- reproduction equipment and shall not be used for viewing videos.
- (d) No owner or operator, and no person who is the owner's or operator's agent or employee, shall fail to ensure that the requirements of division (b) of this section are met at all times.

(e) Except inside the video booths, the owner or operator will provide artificial light at the premises in all areas where the public is permitted at a level that provides an average illumination of ten (10) foot candles (one hundred seven (107) lux) over the area at a height of thirty (30) inches above the floor level. Inside the video booths, the owner or operator will provide artificial light at a level that allows the activities inside the booth to be clearly visible on the camera system's monitor and recordings. If City officials cannot clearly see activities inside the booths either on the camera system's monitor or recordings, then the Video Arcades must raise the light level inside the booths to the point where the activities are clearly visible.

(f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(g) No viewing room or booth may be occupied by more than one (1) person at any time.

(h) No opening of any kind shall exist between viewing rooms or booths.

(i) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one (1) person at a time occupies a viewing booth or room, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(j) The operator of the sexually oriented business, either personally or through an agent or employee, shall regularly during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(k) The operator of the sexually oriented business, either personally or through an agent or employee, shall regularly during each business day clean the viewing booths.

(l) The operator of the sexually oriented business, either personally or through an agent or employee, shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(m) The operator of the sexually oriented business, either personally or through an agent or employee, shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

(Ord. No. 2163-05. Passed 3-20-06, eff. 3-24-06)

§ 237.04 Minors Prohibited; When

(a) No unmarried person under eighteen (18) years of age shall enter any part of an Arcade in that all of the booths are used to present filmed, taped, or live entertainment which is characterized by its emphasis on specified sexual activities or specified anatomical areas.

(b) If any of the booths in an Arcade are used to present filmed, taped, or live entertainment that is characterized by its emphasis on specified sexual activities or specified anatomical areas, no unmarried person under eighteen (18) years of age shall enter any of the booths that are used in this way.

(c) No operator, either personally or through an agent or employee, shall permit any unmarried person under eighteen (18) years of age to enter a picture arcade in violation of division (a) of this section or a booth in violation of division (b) of this section.

(Ord. No. 650-05. Passed 6-6-05, eff. 6-15-05)

§ 237.05 Responsibility of the Operator

Every act or omission of an agent or employee that constitutes a violation of any provision of this chapter shall be deemed the act or omission of the operator if such act or omission occurs with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the agent's or employee's conduct. The operator shall also be punished for such act or omission in the same manner as if the operator committed the act or caused the omission.

(Ord. No. 1520-03. Passed 1-26-04, eff. 3-6-04)

§ 237.06 Applicability of Chapter

The applicability of this chapter shall not be avoided by the Arcade's use or maintenance of a membership or club format or of any similar form of doing business.

(Ord. No. 1520-03. Passed 1-26-04, eff. 3-6-04)

§ 237.07 Nuisance

Any Adult Video Arcade or Adult Live Entertainment Arcade or any part of any Adult Video Arcade or Adult Live Entertainment Arcade that is operated in violation of the provisions of this chapter is declared to be a nuisance and the City shall be authorized to seek an injunction to prohibit it from maintaining the nuisance.

(Ord. No. 1520-03. Passed 1-26-04, eff. 3-6-04)

§ 237.08 Severability

If any provision of this chapter is held unconstitutional, invalid, or unenforceable, the unconstitutional, invalid, or unenforceable provision shall be considered severable from the remainder of this chapter. It is declared that each division, sentence, clause, phrase, or portion of a division, sentence, clause, or phrase would have been adopted notwithstanding the unconstitutionality, invalidity, or unenforceability of any other portion of this chapter.

(Ord. No. 1520-03. Passed 1-26-04, eff. 3-6-04)

§ 237.99 Penalties

Any person who violates any of the provisions of this chapter, other than division (c) of Section 237.04, shall be guilty of a misdemeanor of the fourth degree. Any operator who, personally or through an agent or employee, permits a minor to enter an Adult Video Arcade or an Adult Live Entertainment Arcade or booth in violation of division (c) of Section 237.04 shall be guilty of a misdemeanor of the first degree. Each day upon which any violation occurs or continues shall constitute a separate offense.

(Ord. No. 1520-03. Passed 1-26-04, eff. 3-6-04)

CHAPTER 239 – POSTING OF SIGNS WARNING AGAINST CONSUMING ALCOHOLIC BEVERAGES DURING PREGNANCY

- 239.01 Definitions
- 239.02 Sign Posting; Requirements
- 239.03 Sign Distribution
- 239.04 Rules and Regulations
- 239.99 Penalty

Note: Pursuant to Section 2 of Ord. No. 3046-88, the requirements of Sections 239.01 through 239.04 and 239.99, as enacted by Ord. No. 3046-88, are not intended to either create a cause of action against vendors brought by their customers or relieve vendors from any potential liability to their customers arising out of the sale of alcoholic beverages.

§ 239.01 Definitions

As used in this chapter:

- (a) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be and includes synthetic denatured alcohol. Such terms excludes denatured alcohol, and wood alcohol.
- (b) "Alcoholic beverage" means any liquid or compound containing alcohol which is fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called and whether or not the same is medicated, proprietary or patented. Such phrase includes liquor, beer, wine, mixed beverages and spiritous liquor, all as defined in RC 4301.01.
- (c) "At retail" means for use or consumption by the purchaser and not for resale.
- (d) "Person" means any individual, firm, partnership, association, corporation, organization or legal entity of any kind.
- (e) "Vendor" means any person who owns or operates a business establishment which sells at retail alcoholic beverages, excluding state liquor stores.

(Ord. No. 3046-88. Passed 2-27-89, eff. 4-8-89)

§ 239.02 Sign Posting; Requirements

All vendors shall post, in a conspicuous place within their business establishment a sign, measuring at least eight and one-half (8.5) by eleven (11) in size and containing the following message in legible, English lettering with black letters on a white background: "Warning: Drinking Alcoholic Beverages During Pregnancy Can Cause Birth Defects."

(Ord. No. 3046-88. Passed 2-27-89, eff. 4-8-89)

§ 239.03 Sign Distribution

The Department of Public Health and Welfare shall have signs printed meeting the requirements contained in Section 239.02 and shall make them available to vendors upon request. The Director of Public Health and Welfare shall request of the State of Ohio that state liquor stores within the City voluntarily comply with the requirements of this chapter.

(Ord. No. 3046-88. Passed 2-27-89, eff. 4-8-89)

§ 239.04 Rules and Regulations

The Director of Public Health and Welfare shall promulgate rules and regulations for the posting of signs by vendors as required by Section 239.02.

(Ord. No. 3046-88. Passed 2-27-89, eff. 4-8-89)

§ 239.99 Penalty

Any vendor who fails to post signs in accordance with the requirements of Section 239.02 is guilty of a minor misdemeanor. Each day said offense continues shall be deemed a separate and distinct offense.

(Ord. No. 3046-88. Passed 2-27-89, eff. 4-8-89)

CHAPTER 240 – LEAD HAZARDS

240.01	Definitions
240.02	Lead Hazards Are A Nuisance
240.03	Prohibitions
240.04	Secondary Prevention
240.05	Lead Abatement and Lead-Paint Removal Permit Required; Application; Fees; Permit Suspension or Revocation
240.06	Disclosures In Sale or Lease of Target Housing Regarding Lead Hazards
240.07	Pre-Renovation Lead Information Rule; Paint Outlet Information Rule
240.08	Lead-Based Paint Free Certificates and Lead Maintenance Certificates; Fee
240.09	Enforcement
240.99	Penalties

§ 240.01 Definitions

The definitions contained in RC 3742.01, and OAC 3701-30-01 and 3701-32-01 shall be applicable to this chapter, except as supplemented or otherwise provided as follows:

- (a) “Lead-Based Paint Free Certificate” means a certificate issued under this chapter that the property has been found to be lead-based paint free. In order to obtain the certificate, the owner shall meet the requirements of this chapter for a Lead-Based Paint Free Certificate.
- (b) “Lead Maintenance Certificate” means a certificate that entitles a property to the legal presumption in RC 3742.41 that it does not contain a lead hazard and is not the source of the lead poisoning of an individual who resides or receives care there. In order to obtain the certificate, the owner or manager shall meet the requirements of this chapter for a Lead Maintenance Certificate.
- (c) “Commissioner” means the Commissioner of the Division of the Environment of the City of Cleveland unless otherwise expressly specified.
- (d) “Department” means the City of Cleveland Department of Public Health unless otherwise expressly specified.
- (e) “Landlord” has the meaning described in division (b) of Section 375.01 of the Codified Ordinances.
- (f) “Lead Abatement” means a measure or a set of measures, designed for the single purpose of permanently eliminating lead hazards. “Lead abatement” includes all of the following:

- (1) Removal of lead-based paint and lead- contaminated dust;
- (2) Permanent enclosure or encapsulation of lead-based paint;
- (3) Replacement of surfaces or fixtures painted with lead-based paint;
- (4) Removal or permanent covering of lead- contaminated soil;
- (5) Preparation, cleanup, and disposal activities associated with lead abatement.

“Lead abatement” does not include any of the following:

- (1) Preventive treatments performed under RC 3742.41;
- (2) Implementation of interim controls;
- (3) Activities performed by a property owner on a residential unit to which both of the following apply:
 - A. It is a freestanding single-family home used as the property owner’s private residence;
 - B. No child under six (6) years of age who has had lead poisoning resides in the unit.
- (4) Renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate lead-based paint hazards,

but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. This definition shall not be interpreted to exempt any person from any requirement under State or federal law regarding lead abatement, including lead hazard control orders or requirements for full abatement of lead-based paint in certain federally-funded projects.

- (g) “Lead hazard” means the presence of lead- based paint or lead-contaminated dust or lead- contaminated soil or lead-contaminated water pipes at levels described as hazardous in Ohio Administrative Rule 3701-32-19 as that rule exists at the time of passage of this section or as it may be amended.
- (h) “Rental agreement” has the meaning described in division (c) of Section 375.01 of the Codified Ordinances.
- (i) “Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero (0) bedroom dwelling.
- (j) “Tenant” has the meaning described in division (c) of Section 375.01 of the Codified Ordinances.
- (k) “Zero (0) bedroom dwelling” means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

(Ord. No. 736-06. Passed 8-9-06, eff. 8-16-06)

Note: Former Section 240.01 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.02 Lead Hazards Are A Nuisance

- (a) This Council finds that lead hazards constitute a nuisance.
 - (b) The Commissioner may determine that a nuisance is required to be immediately controlled under this section if, in the Commissioner’s opinion, failure to immediately control the hazard may cause a serious risk to the health of the occupants of the property. In such a case, the Commissioner may require the owner or manager of the property to immediately control the nuisance or the Commissioner may, by his or her authorized representative, immediately control such nuisance.
- (Ord. No. 1027-04. Passed 8-11-04, eff. 8-17-04)

Note: Former Section 240.02 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.03 Prohibitions

- (a) No person shall do any of the following:
 - (1) Violate any provision of RC 3742.02 or the rules adopted under it;
 - (2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child day-care facility, or school, unless the Ohio public health council has determined by rule under RC 3742.50 that no suitable substitute exists;
 - (3) Interfere with an investigation conducted by the Commissioner, any person delegated by the Commissioner, any lead inspector or risk assessor.
- (b) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child day-care facility, or school unless the individual who will perform the lead abatement holds a valid license issued under RC 3742.05.
- (c) No person shall do any of the following when a residential unit, child day-care facility, or school is involved:
 - (1) Perform a lead inspection without a valid lead inspector license issued under RC 3742.05;
 - (2) Perform a lead risk assessment or provide professional advice regarding lead abatement without a valid lead risk assessor license issued under RC 3742.05;
 - (3) Act as a lead abatement contractor without a valid lead abatement contractor’s license issued under RC 3742.05;
 - (4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under RC 3742.05;
 - (5) Perform lead abatement without a valid lead abatement worker license issued under RC 3742.05;
 - (6) Perform a clearance examination without a valid clearance technician license issued under RC 3742.05, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;
 - (7) Perform lead training for the licensing purposes of this chapter without a valid approval from the director of health under RC 3742.08;
 - (8) Perform interim controls without complying with 24 C.F.R. Part 35.
- (d) No person shall manufacture children’s toys or children’s furniture that has paint containing lead equal to or in excess of one (1.0) mg/cm² (milligram per square centimeter), one-half of one percent (0.5%) by weight, or five thousand (5,000) parts per million (ppm) by weight.
- (e) No person shall sell or hold for sale a children’s toy or children’s furniture that has paint containing lead equal to or in excess of one (1.0) mg/cm² (milligram per square centimeter), one-half of one percent (0.5%) by weight, or five thousand (5,000) parts per million (ppm) by weight.
- (f) No person shall perform lead abatement, or any exterior power-assisted and/or manual lead-based paint removal, on any target housing located in the City without first obtaining a permit from the Commissioner of Licenses and Assessments as described in Section 240.05 of the Codified Ordinances.
- (g) No person shall sell or lease target housing in the City of Cleveland unless the owner, lessor, and agent of the target housing meets all applicable requirements of Section 240.06 of the Codified Ordinances regarding disclosures of lead hazards.
- (h) No person renovating target housing in the City of Cleveland shall fail to comply with the Pre- Renovation Lead Information Rule in Section 240.07 of the Codified Ordinances.
- (i) No owner or manager of a retail or wholesale outlet of paint and paint-removal products shall violate division (b) of Section 240.07 by failing to provide an EPA-approved Lead Hazard Information Pamphlet or Fact Sheet.
- (j) All power-assisted methods of lead-based paint removal are hereby prohibited, unless the method is such that all dust and debris is immediately captured within a closed container which prevents lead- contaminated debris from escaping into the environment. No lead-based paint removal shall be conducted whereby the method of collection of dust and debris is captured solely by ground tarpaulins, draped scaffolding and other types of barriers after the dust and debris has been released into the environment. Open flame burning is prohibited under any circumstances. Persons performing interim controls shall comply division (c)(8) of Section 240.03 of these Codified Ordinances.
- (k) No power-assisted lead-based paint removal shall be performed, unless:
 - (1) The area from which the lead-based paint is to be removed is first shielded with tarpaulins or other screening to prevent vapor, water, dust and debris from escaping into the environment; and
 - (2) Plastic disposable cloths are first spread at least ten (10) feet from the foundation below the surface upon which the lead-based paint removal is being performed and on sides adjacent to said surface. The drop cloths shall be attached, when possible, to the foundation of the residential structure in order to collect any debris and residue; and
 - (3) All vents, windows and other areas through which air may enter the residential structure upon which the lead-based paint is being removed, shall be closed to prevent infiltration of any dust or debris.
- (l) No manual exterior lead-based paint removal shall be performed unless plastic disposable cloths are first spread at least ten (10) feet from the foundation below the surface upon which the lead-based paint removal is being performed and on sides adjacent to said surface. The drop cloths shall be attached, when possible, to the foundation of the residential structure in order to collect any debris and residue.
- (m) No interior lead-based paint removal shall be performed without first spreading plastic disposable drop cloths on the floor in an area sufficiently large to collect all debris and residue.
- (n) Following the completion of each day’s lead- based paint removal:
 - (1) All drop cloths shall be carefully wet wiped, rolled up and disposed of; and
 - (2) All paint or paint dust shall be removed from the premises, adjacent property and public rights of way, and whenever possible, through the use of wet methods.

(Ord. No. 1027-04. Passed 8-11-04, eff. 8-17-04)

Note: Former Section 240.03 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.04 Secondary Prevention

- (a) When the Commissioner becomes aware that an individual under six (6) years of age has lead poisoning, the Commissioner is authorized to conduct an investigation or lead risk assessment in accordance with the requirements of OAC Chapter 3701.
- (b) In conducting the investigation, the Commissioner may request permission to enter, or for a lead inspector or risk assessor to enter, the residential unit,

child day-care facility, or school that the Commissioner suspects to be the sources of the lead poisoning. If the Commissioner or delegated lead inspector or risk assessor is unable to obtain permission to enter the property, either may apply for an order of court to enter the property.

(c) As part of the investigation, the Commissioner may review the records and reports, if any, maintained by a lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, or clearance technician.

(d) When the Commissioner determines, as a result of an investigation and/or risk assessment conducted under division (a) of this section, that a residential unit, child day-care facility, or school are contributing to a child's lead poisoning, the Commissioner is authorized to issue an order, in accordance with OAC Chapter 3701, to have each lead hazard controlled.

(e) No person shall fail to comply with an order issued by the Commissioner under division (d).

(Ord. No. 1027-04. Passed 8-11-04, eff. 8-17-04)

Note: Former Section 240.04 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.05 Lead Abatement and Lead-Paint Removal Permit Required; Application; Fees; Permit Suspension or Revocation

(a) The Commissioner of Environment is authorized to establish a program for the loaning of equipment, at no cost, for the removal of lead hazards in the City of Cleveland and is authorized to enter into contracts, as approved by the Director of Law, for the purpose of loaning the equipment.

(b) No person shall perform any lead hazard abatement or any exterior power-assisted and/or manual lead-based paint removal on target housing located in the City without first obtaining a permit from the Commissioner of Assessments and Licenses. For purposes of section, 'target housing' includes all secondary or appurtenant structures that were constructed prior to 1978 and are on the parcel upon which the target housing is located. A permit is not required under this section if all of the following apply: (1) the person uses the target housing as their personal residence; (2) the person personally performs, or performs with the assistance of only members of his or her family or household, only manual exterior lead-based paint removal on the structure on the property; (3) no child under six (6) years of age who has lead poisoning resides in the structure.

(c) The commissioners and inspectors of the Division of Environment and Department of Building and Housing are authorized to issue an order to immediately stop working to any person performing work that requires a permit that has not obtained a permit or to any person performing work in violation of any prohibition in RC Chapter 3742 or this chapter of the Codified Ordinances.

(d) A person shall immediately stop performing lead hazard abatement or reduction activities when ordered to do so under subsection (c). A person shall not resume such activities except in accordance with all terms and conditions of a valid permit for paint removal and until their practices conform to all applicable standards and methods prescribed in RC Chapter 3742.

(e) *Permit Application; Fees.*

(1) Every person who is required to obtain a permit under this section shall make application to the Commissioner of Assessments and Licenses upon forms to be prescribed by the Commissioner of Environment. The forms shall include:

A. The name and address of each applicant, and if the applicant is a partnership, the principle address of the partnership, and the name and address of each partner, and if the applicant is a corporation, the principle address of the corporation, the state of incorporation, the corporate federal identification number and the name and address of the corporation's statutory agent;

B. The address of the residential unit where the lead-hazard will be removed;

C. A description of the method by which the lead-hazard will be removed;

D. Any other information required by the Commissioner.

E. An applicant may file a single permit application for more than one (1) residential unit if the application contains all of the information required by division (e)(1) of this section with respect to each separate residential unit.

F. The permit fee is fifteen dollars (\$15.00) for each separate residential structure from which lead-contaminated paint is to be removed.

G. Upon receipt of a completed application and permit fee, the Commissioner of Assessments and Licenses shall issue the permit and a copy of the application and permit shall be provided to the Commissioner of the Environment.

H. A permit, issued under this section, shall expire six (6) months from the date that it is issued. An applicant may apply for an extension that may be granted.

(2) The Commissioner of Licenses and Assessments shall notify the Director of Building and Housing of any permits issued under this section.

(f) *Permit Suspension or Revocation.*

(1) The Commissioner of Licenses and Assessments shall suspend or revoke any permit issued under this chapter, upon the recommendation and order of the Commissioner, for violation or failure to comply with the provisions of this chapter, or the Ohio Revised Code.

(2) Any person may appeal the denial, suspension or revocation of a permit for the removal of lead-based paint to the Board of Zoning Appeals, established under Charter Section 76-6, provided that written appeal is filed with the Board Secretary within ten (10) days of the date the decision being appealed was made.

(3) If a person appeals in accordance with subsection (2), the Board shall conduct a hearing and render a decision in accordance with City ordinances and regulations described in this chapter and those governing its conduct and procedure.

(g) For work requiring a permit under this chapter, each permittee shall provide seven (7) days advance written notice to all occupants of residential structures on which lead-based paint is to be removed, and to all occupants of residential structures which are within thirty (30) feet of the residential structure on which the lead-based paint is to be removed. The notice shall be as prescribed by the Commissioner and shall include, at a minimum, the address at which the lead-based paint will be removed, the date of commencement of the lead-based paint removal, the anticipated length of the removal, and the method by which the lead-based paint will be removed. The notice shall include a copy of the Lead-Based Paint Hazards Health and Safety Fact Sheet as prescribed by the Commissioner.

(h) All contractors, on the signing of a contract for the removal of lead-based paint from a residential structure shall provide, with the contract, a Lead-Based Paint Hazards Health and Safety Fact Sheet.

(i) Owners of occupied residential structures and/or contractors planning any construction, repair, rehabilitation, renovation, or maintenance work that involves the disturbance of lead-based paint in any occupied residential structure shall, seven (7) days prior to the work's initiation, distribute the Lead-Based Paint Hazards Health and Safety Fact Sheet to all affected occupants.

(j) The notice required under this section does not relieve any person from compliance with any other notice requirements under State or federal law,

including when notice is required in a hazard control order.

(Ord. No. 1027-04. Passed 8-11-04, eff. 8-17-04)

Note: Former Section 240.05 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.06 Disclosures In Sale or Lease of Target Housing Regarding Lead Hazards

(a) *Disclosure in Purchase or Lease of Target Housing.*

(1) To ensure the application of their requirements to the sale or lease of target housing in the City limits, the rules and regulations that are promulgated by the Secretary and the Administrator of the Environmental Protection Agency under the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d, and their successor regulations, are adopted and incorporated into this code as these rules and regulations exist at the time of passage of this chapter or as they may be amended. Before a purchaser or tenant is obligated under any contract to purchase or rental agreement to lease the target housing, the seller or lessor shall perform the activities and provide the disclosures described in this section.

A. Provide the purchaser or tenant with an EPA-approved lead hazard information pamphlet;

B. Disclose to the purchaser in writing in the sales contract, or tenant, both orally and in writing in the rental agreement, all of the following: (i) the presence of any known lead-based paint, or any known lead hazards, in the housing; (ii) any additional information available concerning the location of the lead-based paint and/or lead hazards, and the condition of the painted services; (iii) whether the property owner has a current Lead Maintenance Certificate or Lead-Based Paint Free Certificate and the length of time of its coverage; (iv) provide to the purchaser or tenant any records or reports (including notices or letters of violation) available pertaining to lead-based paint hazards or lead hazards in the target housing, including regarding common areas; and (v) records or reports regarding other residential dwellings in multi-family target housing, provided that the information is part of an evaluation or reduction of lead-based paint and/or lead hazards in the target housing;

C. Permit the purchaser a ten (10) day period (unless the parties mutually agree in writing upon a different period of time or to waive this requirement) to conduct a lead risk assessment or lead inspection for the presence of lead paint or lead hazards;

D. Include in the contract for sale or rental agreement for lease the Lead Warning Statement prescribed in 40 C.F.R. 745.113;

E. Include in the contract for sale or rental agreement for lease acknowledgments that the pamphlet, disclosures, ten (10) day period (if required) and warning required were provided.

(2) *Discovery of Lead Hazard Prior to the Expiration of a Lease.* If the owner of a residential unit learns of the presence of lead paint prior to the expiration of a lease, the owner shall notify each tenant of the presence of lead paint within ten (10) days of discovering its presence. In addition, the owner shall provide each tenant with a Lead Warning Statement and the lead hazard information pamphlet, as prescribed by 42 U.S.C. 4852d.

(3) *Compliance Assurance.* The rules and regulations requiring the agent, on behalf of the seller or lessor, to assure compliance with the requirements issued under the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d, and their successor regulations, are adopted and incorporated into this code as these rules and regulations exist at the time of passage of this chapter or as they may be amended, and apply to an agent whenever a seller or lessor has entered into a contract with the agent for the purpose of selling or leasing a unit of target housing in the City limit. An agent is defined as any party who enters into a contract with a seller or lessor, for the purpose of selling or leasing pre-1978 housing.

(b) *Penalties for Violations.*

(1) *Criminal Penalty.* Any person who knowingly fails to comply with a provision of this section shall be subject to the penalties provided in Section 240.99 of the Codified Ordinances.

(2) The Director of Public Health or Commissioner is authorized to take lawful action as may be necessary to enforce this section or to enjoin any violation of it.

(3) *Civil Liability.* As provided in the Federal Residential Hazard Reduction Act at 42 U.S.C. 4852d(b), any person who violates any provision of this section will be jointly and severally liable to the purchaser or lessee in an amount equal to three (3) times the amount of damages incurred by the individual.

(4) In any action brought for damages under this section, the appropriate court may award court costs to the party commencing the action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) A non-profit environmental health or housing rights organization is authorized to bring an action under division (b)(3) of this section on behalf of an aggrieved individual or individual(s) for violations of this section. Such organization may recover its costs under the remedies provided in divisions (b)(3) and (b)(4) of this section if the organization demonstrates that it has exerted organizational resources, including staff time, to investigate the alleged non-compliance with this section.

(c) Validity of contracts for purchase and sale and liens. Nothing in this section may affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor may anything in this section create a defect in title.

(Ord. No. 736-06. Passed 8-9-06, eff. 8-16-06)

Note: Former Section 240.06 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.07 Pre-Renovation Lead Information Rule; Paint Outlet Information Rule

(a) To ensure the application of the requirement of the federal Pre-Renovation Lead Information Rule to the renovation of pre-1978 housing in the City limits, the rules and regulations promulgated under that rule and found at 40 C.F.R. Part 745, *Lead; Requirements for Hazard Education Before Renovation of Target Housing*, are adopted and incorporated into this Health Code as they exist at the time of passage of this chapter or as they may be amended.

(b) All retail and wholesale outlets of paint and paint removal products shall distribute an EPA- approved lead hazard information pamphlet or Lead- Based Paint Hazards Health and Safety Fact Sheet approved by the City of Cleveland Department of Public Health to each purchaser of said products.

(Ord. No. 1027-04. Passed 8-11-04, eff. 8-17-04)

Note: Former Section 240.07 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

§ 240.08 Lead-Based Paint Free Certificates and Lead Maintenance Certificates; Fee

(a) The owner of a property constructed before 1978, which is used as a residential unit, child day-care facility, or school may obtain a Lead-Based Paint Free Certificate for that property. The certificate entitles the owner, manager, or agent of the property to a legal presumption that the property is lead based-paint and lead-based paint hazard free. The owner of the property shall comply with the provisions of this section applicable to obtaining a Lead-Based Paint Free Certificate to be entitled to that presumption. The legal presumption established under this section applies to any enforcement action under this Code and is rebuttable in a court of law only on a showing of clear and convincing evidence to the contrary.

(b) The owner of a property constructed before 1978, which is used as a residential unit, child day-care facility, or school may obtain a Lead Maintenance Certificate. The certificate entitles the owner, manager, or agent of the property to a legal presumption that the property does not contain a lead-based paint hazard and is not the source of the lead poisoning of an individual who resides in the unit or receives child-care or education at the facility or school. The owner of the property shall comply with the provisions of this section applicable to obtaining a Lead Maintenance Certificate to be entitled to that presumption. The legal presumption established under this section applies to any enforcement action under this Code and is rebuttable in a court of law only on a showing of clear and convincing evidence to the contrary.

(c) To obtain a Lead-Based Paint Free Certificate, the owner of the property shall comply with the following provisions:

(1) A licensed lead inspector shall inspect the property for which the owner is seeking a Lead- Based Paint Free Certificate. The licensed lead inspector shall be certified under the Federal certification program or under a federally accredited State or tribal certification program and shall issue a report. The inspector shall certify in the report that the property is free of lead-based paint.

(2) The owner or manager of the unit, facility, or school shall submit an application for a Lead-Based Paint Free Certificate, with the City Division of Licenses and Assessments that contains a copy of the report described in division (c)(1) of Section 240.08 and pay a filing of ten dollars (\$10.00) per unit to the City Division of Licenses and Assessments.

(3) To maintain the Lead-Based Paint Free Certificate, a seller, lessor, or agent of a property that is being sold or leased, shall continue to meet the disclosure requirements of Section 240.06 of the Codified Ordinances and, as part of that sections disclosure requirements in divisions (a)(1), (b)(2), (b)(3) and (b)(5) of Section 240.06, disclose whether a certificate covers the property.

(4) *Conflict of Interest.* A Lead-Based Paint Free Certificate and a Lead Maintenance Certificate is not valid unless the inspector certifying that the property that is certified meets the following criteria:

- A. The inspector is not the property owner or an immediate family member, agent or employee of the property owner;
- B. The inspector is not part of a company or associated with a company that is directly or beneficially owned, controlled or managed by the property owner, or by an immediate family member, agent or employee of the property owner;
- C. The inspector is not a person hired by or under contract with the property owner to manage or maintain the property owner’s real property as directed by the property owner;
- D. The inspector is not a person who has been authorized by the property owner to manage or maintain the property owner’s real property on the property owner’s behalf;
- E. The inspector is not a person who has a financial interest in the laboratory results of the sampling or testing or in the determination of whether the property meets the applicable property standards.

(5) If the owner or manager of a residential unit uses the unit as a rental dwelling, then a copy of the Lead-Based Paint Free Certificate, shall be submitted with the application for a certificate of rental registration that is required by Section 365.02 of the Codified Ordinances.

(d) To obtain a Lead Maintenance Certificate, the owner of the property shall comply with the following provisions:

(1) The owner or manager of the unit, facility, or school shall successfully complete both of the preventive treatments described in divisions (A)(1) and (2) of RC 3742.41. If the lead hazards are in historic property, the owner or manager may meet the requirements of division (B) of RC 3742.41 instead;

(2) The owner or manager of the unit, facility, or school shall file annually with the City Division of Licenses and Assessments an application for a Lead Maintenance Certificate with an notarized affidavit by an owner or manager of the property certifying that that owner or manager has successfully completed the requirements in division (d)(1) of Section 240.08. In addition, the owner or manger shall pay a filing fee of ten dollars (\$10.00) per unit to the City Division of Licenses and Assessments;

(3) To maintain the Lead Maintenance Certificate, a seller, lessor, or agent of a property that is being sold or leased, shall continue to meet the disclosure requirements of Section 240.06 of the Codified Ordinances and, as part of that section’s disclosure requirements in divisions (a)(1), (b)(2), (b)(3) and (b)(5) of Section 240.06, disclose whether a certificate covers the property;

(4) If the owner or manager of a residential unit uses the unit as a rental dwelling, then a copy of the Lead Maintenance Certificate shall be submitted with the application for a certificate of rental registration that is required by Section 365.02 of the Codified Ordinances.

(e) *Information Required in Application.* The application for a Lead Maintenance Certificate shall contain the following information:

- (1) The street address or other identifying characteristics of the building or other structure;
- (2) The name, address, and telephone number of the owner or owners of the premises. In the case of a partnership, the names of all general partners;
- (3) If the record owner is a corporation, the names, addresses and telephone numbers of the current statutory agent and all corporate officers of that corporation;
- (4) The name, address, and telephone number of the managing agent of the premises, if any;
- (5) The name, address of the residential unit (including apartment or room number), residential structure, child day-care facility, or school, and telephone number of the superintendent, custodian or other individual employed by the owner or managing agent to provide regular maintenance services, if any;
- (6) The use district, ward, and census tract, in which the structure is located;
- (7) The use and occupancy authorized;
- (8) The appropriate designation as lead-safe maintained or lead free, and the effective and expiration dates.

(f) *Transfer of Certificate.* When a person obtains both equitable title and legal possession of a property covered by a Lead Maintenance Certificate any certificate issued to the previous property owner is no longer in effect unless the following requirements are met:

(1) The new property owner submits a signed and dated written notice of the change in ownership of the property to the Department of Building and Housing within sixty (60) days after the date on which the new property owner obtains both equitable title and legal possession of property covered by the

certificate. The property owner's name and mailing address shall be provided in the notice;

- (2) The property owner pays the fee of twenty-five dollars (\$25.00) for an amended certificate;
- (3) The new property owner complies with the conditions for maintaining the certificate under this chapter.

(g) *Expiration Dates of Certificates.* A Lead- Based Paint Free Certificate is valid until revoked, which shall be stated on each Lead-Based Paint Free Certificate. A Lead Maintenance Certificate is valid for a period of one (1) year from the date that it is issued, which shall be stated on each Lead Maintenance Certificate.

(h) *Conditions for Maintaining a Lead Maintenance Certificate.* To maintain a Lead Maintenance Certificate, a property owner shall maintain compliance with all standards for obtaining that certificate and all laws applicable to lead hazards described in this chapter. Failure to maintain compliance will result in the revocation of the Lead Maintenance Certificate by the Director of the Department of Building and Housing or the Director of the Department of Public Health.

(i) The City of Cleveland is enacting and enforcing the provisions of this chapter only to promote the public health, safety and welfare and for obligations imposed upon it by the State of Ohio under delegation by the Ohio Department of Health. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that the breach proximately caused injury. In addition, nothing in this chapter may be interpreted to limit the City of Cleveland's statutory immunity afforded by RC Chapter 2744.

(Ord. No. 736-06. Passed 8-9-06, eff. 8-16-06)

§ 240.09 Enforcement

(a) Whenever the Commissioner of Environment or Director of Building and Housing or any authorized City officer or employee ascertains either upon information or by observation or lead inspection, that any provision of this chapter is being or has been violated, that official may, in writing, notify the owner, manager, or person in charge that the violation shall be corrected.

(b) In addition to the penalty for a violation of this chapter, whenever the Commissioner of Environment or Director of Building and Housing or any authorized City officer or employee ascertains either upon information or by observation or lead inspection, that the provisions of this chapter are being or have been violated, and the violation creates a nuisance, which may endanger the health and/or safety of persons, that official may, in writing, notify the owner or person in charge, that the nuisance shall be immediately abated. They may also apply any and all remedies found in Chapter 203 to prevent, terminate or abate the nuisance.

(c) In addition to any penalty for a violation of this chapter, the Commissioner of Environment or Director of Building and Housing or any authorized officer or employee they delegate may control such nuisance. The costs and expense of controlling a nuisance by the Commissioner, or their authorized representative, under this chapter, may be recovered as provided in RC 715.261, including certifying the costs and expenses to the County Auditor, to be assessed against the property and made a lien upon it and collected as other taxes.

(d) The authority described in division (c) to control such nuisance, includes the authority to order the owner or manager to relocate the occupants of a residential unit, day-care facility, or school, until the property passes a clearance examination, if the Commissioner of Environment determines that the health of the occupants may be at risk during the lead hazard control work. The Commissioner of Environment may relocate the occupants until the residential unit, child day-care facility, or school passes a clearance examination. The costs and expense of the relocation may be recovered by certifying them to the County Auditor, to be assessed against the property and made a lien upon it and collected as other taxes.

(e) In the event of an actual or threatened violation of this chapter or an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute a proper suit in equity or at law to prevent or terminate the violation or remedy the situation.

(f) In the event of any actual or threatened violations of this chapter, the Director of Law, in addition to other remedies provided by law, may institute proper suit in equity or by law to prevent or terminate such violation or to remedy such situation.

(g) In addition to all other penalties and remedies provided by law, any person damaged by a nuisance caused by a violation of this chapter may institute a proper action in equity or by law to prevent or terminate such violation or remedy such situation.

(h) The City of Cleveland is enacting and enforcing the provisions of this chapter only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Ord. No. 1027-04. Passed 8-11-04, eff. 8-17-04)

§ 240.99 Penalties

(a) Whoever violates division (f) of Section 240.03 is guilty of a minor misdemeanor.

(b) Whoever violates any provision of Chapter 240 for which no other penalty is provided or rule or regulation or order under this chapter is guilty of a misdemeanor of the first degree. Except for a violation of division (f) of Section 240.03, each day during which noncompliance or a violation continues shall constitute a separate offense.

(c) As provided by RC 2901.23 and 2929.31, organizations convicted of an offense are guilty of a misdemeanor of the first degree.

(Ord. No. 736-06. Passed 8-9-06, eff. 8-16-06)

Note: Former Section 240.99 was repealed by Ord. No. 1027-04, passed 8-11-04, eff. 8-17-04.

TITLE III: FOOD AND FOOD PRODUCTS

- Chapter 241 Food Shops
- Chapter 243 Ohio Uniform Food Safety Code
- Chapter 245 Frozen Desserts

CHAPTER 241 – FOOD SHOPS

- 241.01 Rules and Regulations
- 241.02 Enforcement and Inspection
- 241.03 Definitions
- 241.04 Quality and Labeling Standards
- 241.041 Safe Food Sanitation Standards
- 241.05 Food Shop Licenses and Fees
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- 241.06 License or Permit Disapproval; Revocation; Suspension; Appeals
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- 241.11 Walls, Ceilings, Floors; Light and Ventilation
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- 241.21 Licensing Outdoor Restaurants: Procedure and Fee
- 241.22 Adulterated or Misbranded Food
- 241.23 Cleanliness of Food Handlers
- 241.231 Sale of Irradiated Foods – Repealed
- 241.232 Perishable food labeling – Repealed
- 241.24 Adulterated or Misbranded Drugs or Cosmetics
- 241.25 Vending Machines
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- 241.29 Standards for Hamburg or Hamburger
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- 241.31 Standards for Pork Sausage and Breakfast Sausage
- 241.32 Enforcement Requiring Extra Services; Costs
- 241.33 Perishable Food Labeling
- 241.34 Safe Food Sanitation Standards
- 241.35 Categories and Fees
- 241.36 Mobile Food Shops – Location Permits; Fee
- 241.37 Mobile Food Shops – Location Restrictions
- 241.38 Mobile Food Shops – Regulations
- 241.39 Standards for Pork Sausage and Breakfast Sausage – Repealed
- 241.40 Enforcement Requiring Extra Services; Costs – Repealed
- 241.42 Foods Containing Industrially-Produced Trans Fat Restricted
- 241.99 Penalty

Cross-reference:

- Adulterated food, candy, CO 629.03*
- Coloring, sale or display of rabbits, poultry, CO 603.10*
- Defrauding restaurants, CO 625.25*
- Meat packing standards, CO 651.01*
- Vermin and rodent infestation, CO Ch. 211*

Statutory reference:

- Adulterated, misbranded and unsafe food, RC 3715.59 et seq.*
- Food processing places to be kept sanitary, RC 913.41 et seq.*
- Marketing standards, RC Ch. 925*
- Pure Food and Drug Law, RC Ch. 3715*

§ 241.01 Rules and Regulations

The Directors of Public Health and Capital Projects are authorized to adopt rules and regulations as may be necessary for the proper interpretation and

enforcement of this chapter. Such rules and regulations shall be published in the *City Record* for two (2) consecutive weeks and shall be effective after fifteen (15) days from the second publication thereof. Such rules and regulations shall have the force and effect of this chapter and continue in effect until revoked by the respective Director or by resolution of Council.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.02 Enforcement and Inspection

The Director of Public Health, and authorized employees who are registered sanitarians or sanitarians- in-training, are charged with the enforcement of this chapter. Any such person shall have the right to enter and inspect any place where the business of food is engaged in. No person shall refuse or hinder inspection, or fail to answer all reasonable questions relative to handling food or fail to furnish, upon request, any records deemed necessary for the enforcement of this chapter. If the Director of Public Health and/or authorized employees find, or have cause to believe, that within a retail food establishment or food service operation in their jurisdiction food is adulterated, or so misbranded as to be dangerous or fraudulent, said food may be embargoed in accordance with OAC 901:3-4-15 and may be taken for examination, free of charge. Whenever the Director of Public Health and/or authorized employees find in any food shop, any meat, seafood, poultry, vegetable, fruit, or other perishable foods that are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the foods are declared to be a nuisance, and shall forthwith be condemned or destroyed, or in any other manner rendering the items unsalable as human food. The Director of Capital Projects shall have concurrent authority to enforce the provisions of this chapter not specifically delegated to the Director of Public Health.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.03 Definitions

(a) As used in this chapter:

- (1) “Food shop” applies to “retail food establishment” and “food service operation”, as those terms are defined in RC Chapter 3717.
- (2) “Mobile food shop” means a “mobile retail food establishment” or “mobile food service operation”, as those terms are defined in RC Chapter 3717.
- (3) “Vendor” means a mobile food shop or a person operating a mobile food shop.
- (4) “Food item” means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption. Food includes ice, water or any other beverage, food ingredients, and chewing gum.
- (5) “Street” means street, alley, highway, roadway, or avenue.
- (6) “Vending device” means a container for the sale, display or transport of food items by a vendor.
- (7) “Mobile food shop manager” means the individual or individuals with primary responsibility and authority for operating a mobile food shop.
- (8) “Trailer” means an unpowered flatbed vehicle towed by another.
- (9) “Central Business District” means the area defined in Section 325.10.
- (10) “Community event” or “special event” means a community based organization event specifically granted use of streets and sidewalks within a specifically defined area for a period of time not exceeding ten (10) days.
- (11) “Sidewalk” means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line.
- (12) “Street” means street, alley, highway, roadway, or avenue.
- (13) “Unobstructed walk” means a clear, continuous paved surface free of tree grates, elevator grates and all vertical obstructions.
- (14) “Operator” means a vendor.

(b) The definitions contained in RC Chapters 3715 and 3717 pertaining to the administration and enforcement of food safety programs are adopted and incorporated by the City of Cleveland as if set forth herein.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.04 Quality and Labeling Standards

(a) The definitions and standards of identity, the standard of quality, the standard of fill of container and the labeling requirements for any food sold or manufactured in the City shall be those established for interstate commerce by the United States Food and Drug Administration and Ohio Department of Agriculture.

(b) Unless otherwise specified in this chapter, the definitions and standards of identity and the labeling requirements for meat, meat by-products and meat food products sold or manufactured in the City shall be those of the Ohio Department of Agriculture.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.041 Safe Food Sanitation Standards

The definitions and standards for safe sanitation in retail food establishments and food service operations shall be any established as the Ohio Uniform Food Safety Code, promulgated by The Ohio Director of Agriculture and Ohio Public Health Council pursuant to RC 3717.05.

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 241.05 Food Shop Licenses and Fees

(a) No food shop shall be operated without the person, firm, association, or corporation conducting the business first applying for and obtaining an annual license. All fees and charges assessed under this section shall be paid to the Commissioner of Assessments and Licenses.

(b) The provisions of RC Chapters 3715 and 3717 pertaining to the licensing, administration and enforcement of food safety programs by the local licensing authority are adopted and incorporated herein by the City of Cleveland.

(c) The holder of a food service operation license as defined by state law shall not be required to obtain a retail food establishment license except when the activities of a retail food establishment and a food service operation are carried on within the same facility by the same person or entity, then the determination of what license applies shall be made according to the primary business of the person or entity as determined by the licensor, the City of Cleveland Director of Public Health, as described in RC 3717.44.

(d) For a mobile food service operation or mobile retail food establishment, the annual fee shall be two hundred sixty-three dollars and forty-four cents (\$263.44).

(e) For a vending food service operation, the annual fee shall be twenty-nine dollars and sixty-five cents (\$29.65).

(f) For a temporary commercial food service operation and temporary retail food establishments, the fee shall be forty dollars (\$40.00) per five (5) day event. For a temporary non-commercial food service operation and temporary retail food establishments, the fee shall be twenty dollars (\$20.00) per five (5) day event.

(g) The Commissioner of Assessments and Licenses may also collect fees for collection and bacteriological examination of samples taken from a food shop in an amount equal to the cost of such collection and examination as determined by the Director of Public Health.

(h) Except for plans pertaining to mobile or temporary food service operations or vending devices, the Commissioner of Assessments and Licenses shall collect fees in the amounts stated below, for plan reviews of food shops prior to submission of plans to the Department of Public Health:

Plan Review Fee	Commercial	Non-Commercial
New Operations, less than 25,000 sq. feet	\$150.00	\$75.00
New Operations, greater than 25,000 sq. feet	\$300.00	\$150.00
Extensive Alteration, less than 25,000 sq. feet	\$75.00	\$37.50
Extensive Alteration, greater than 25,000 sq. feet	\$100.00	\$50.00

(i) The Commissioner of Assessments and Licenses shall submit all applications for a food shop license to the Director of Public Health for approval or disapproval of the application.

(j) The Commissioner of Assessments and Licenses is authorized to collect license fees for retail food establishments and food service operations and deposit the fees into a fund created under RC 3717.25 and 3717.45.

(k) For purposes of this section, non-commercial organizations are defined as organizations such as churches, or non-profit organizations operated exclusively for charitable purposes as defined in RC 5739.02(B)(12), provided that displayed foods are not displayed for more than seven (7) consecutive days or more than fifty-two (52) separate days per year.

(l) For a food service operation, a penalty of twenty five percent (25%) of any license fee required by this section must be paid before the issuance of the license if the required license fee is not paid on or before the date it is due.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.051 Food Vehicle Permit; Fee – Expired

(Ord. No. 210-11. Passed 4-25-11, eff. 4-25-11)

§ 241.06 License or Permit Disapproval; Revocation; Suspension; Appeals

(a) The Director of Public Health, and/or authorized employees who are registered sanitarians or sanitarians-in-training, may suspend or revoke a food license upon determining that the license holder is in violation of any requirement of RC Chapter 3717 or the rules adopted thereunder, which are applicable to retail food establishments and food service operations, including a violation evidenced by the documented failure to maintain sanitary conditions within the operation.

(b) Except in the case of a violation that presents an immediate danger to the public health, prior to initiating an action to suspend or revoke a food license, the Director of Public Health, and/or authorized employees, shall give the license holder written notice specifying each violation and a reasonable time within which each violation must be corrected to avoid suspension or revocation of the license. The Director of Public Health, and/or authorized employee, may extend the time specified in the notice for correcting a violation if the license holder, in the sole discretion and determination of the Director of Public Health, is making a good faith effort to correct the alleged violation. If the license holder fails to correct the violation in the time granted by the Director of Public Health, and/or authorized employee, the Director of Public Health, and/or authorized employee, may initiate an action to suspend or revoke the food license by giving the license holder written notice of the proposed suspension or revocation.

(c) In the case of a violation that presents an immediate danger to the public health, the Director of Public Health, and/or authorized employee, may issue an immediate order of suspension or revocation of a food license without giving written notice or affording the license holder the opportunity to correct the violation.

(d) The license holder may appeal the proposed suspension or revocation of a food license or the immediate order of suspension or revocation of a food license as provided in RC 3717.29 and 3717.49 and in conformance with the rules of procedure adopted thereunder. In such cases, the Director of Public Health is

charged with presiding over the hearing and is authorized to render a decision denying, suspending or revoking a license, or rendering a decision to dissolve or continue an issued suspension. A food license can be suspended for a period up to thirty (30) days.

(e) A mobile food shop permit issued under Section 241.36 may be suspended or revoked by the Commissioner of Assessments and Licenses for violations of Sections 241.37 and/or 241.38. The permittee or applicant may appeal a suspension, revocation, or disapproval of a permit to the Commissioner of Assessments and Licenses within twenty (20) days of the date of notice of suspension, revocation, or disapproval. The permittee or applicant may appeal the Commissioner's decision to the Board of Zoning Appeals established pursuant to Charter Section 76-6. Notice of such appeal shall be in writing and shall be filed with the Board within ten (10) days from the date of the written decision of the Commissioner.

(f) If a food license has been revoked due to a violation of any of the laws set forth in this chapter, then such food shop may not reapply for a license or permit to operate such a business at the same location for a period of six (6) months after the date of revocation.
(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.07 Display of License and Permit

Every license or permit issued under this chapter shall be displayed in a conspicuous place upon the wall and close to the entrance of the premises where such business is conducted. Food vehicles shall have displayed the name and address of the business on the side of such vehicle in letters at least two (2) inches high and shall have displayed the vehicle permit plate issued by the Commissioner of Assessments and Licenses.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.08 Food Shop Sanitation

Every food shop and all parts thereof and appurtenant thereto, shall be kept clean and sanitary at all times and free from any accumulation of filth and waste material.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.09 Food Handling Premises to be Free of Insects and Rodents

All buildings and portions of buildings in which food is prepared, stored or served shall be of rat-proof construction and insect and rodent free. When flies are prevalent, all openings to the outer air shall be effectively screened and doors shall be self-closing unless other effective means are provided to prevent their entrance.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.10 Animals Prohibited

No live animals shall be brought into, or kept in any room in which food is prepared, processed, stored or served except that guide dogs accompanying their blind masters may not be prohibited.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.11 Walls, Ceilings, Floors; Light and Ventilation

The walls and ceilings of food shops shall be of smooth construction and easily cleanable material and shall be kept clean, in good repair and well-painted. Floors shall be of impervious material and smooth construction and shall be kept clean. Rooms where food is handled shall be well-ventilated and food preparation and utensil washing areas shall be adequately lighted and sufficient in size for their purpose.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.12 Water Supply

Every food shop shall have running hot and cold water, abundant in supply and under adequate pressure supplied to conveniently located sinks, and if necessary, other devices for the processing of food and washing of equipment. The water shall be of safe, sanitary quality.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.13 Sanitary Facilities

(a) Every food shop shall be provided with adequate toilet facilities. Such facilities shall be clean, in good repair and properly ventilated. All toilet room doors shall be tight fitting and self-closing and no toilet room shall open directly into any room where food is prepared or served. Conveniently located hand-washing facilities shall be provided for all toilet rooms, including wash bowl supplied with running hot and cold water, soap and sanitary towers or other approved drying facilities. Such hand-washing facilities shall not be used for the washing of food or food equipment. No employee shall resume work after using the toilet room without washing his or her hands. When deemed necessary, auxiliary hand-washing facilities shall be provided in the food preparation area.

(b) No clothing shall be kept in an objectionable manner in any food shop and when deemed necessary, suitable dressing rooms shall be provided for

employees.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.14 Equipment and Utensils

All equipment in food shops shall be designed, constructed and so placed as to be easily cleanable, and shall be in good repair and kept clean. No utensils shall be made wholly or in part of lead, cadmium or other substances which food may affect to form dangerous or unwholesome substances. Utensils shall be stored and handled in a manner to prevent contamination. Drying cloths, table cloths and napkins shall be clean and used only for their intended purposes.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.15 Wastes

All food shop wastes, whether liquid or solid, combustible or noncombustible, whether inside or outside the shop, shall be kept in such a manner as not to become a nuisance. All stored garbage and rubbish shall be kept in suitable, tightly covered containers.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.16 Living and Sleeping Quarters

No building or portion of a building where food is prepared for sale shall be used for living purposes unless the portion of the building so used is separated from the food shop. There shall be no direct opening between rooms where food is stored, prepared or served to the public, and rooms used for living purposes.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.17 Offensive Substances and Odors

In any room where food is processed, no barbering, shoe repairing, laundering or other operation where offensive substances or odors may be set free, shall be allowed.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.18 Reserved

§ 241.19 Transportation

No food shall be transported unless it is so covered that it is protected from dust, dirt, insects and other contaminating substances. Every vehicle transporting food shall be kept in a clean, sanitary condition.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.20 Display

No food shall be displayed in, upon or over any street, alley, sidewalk, or other public place in the City, except in districts designated by the City as market districts. Produce or other foodstuffs displayed outside on the food shop's property shall be displayed so as to be protected from contamination.
(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.21 Licensing Outdoor Restaurants: Procedure and Fee

(a) To provide for issuance of annual licenses by the Commissioner of Assessments and Licenses and to direct the Director of Public Health to develop rules for the operations not inconsistent with state statutes and regulations, application shall be accepted by the Commissioner of Assessments and Licenses from restaurants, the approval of which will allow them to serve food and beverages outdoors.

(b) Each license application shall have included with it a sketch of the premises showing what outdoor areas are proposed to be used for the serving of food and beverages.

(c) Before any food shop may expand its operation to an outdoor area, in addition to obtaining a food service operation or retail food establishment license, it must submit a new application for an outdoor restaurant license and new sketch of the premises to the Commissioner of Assessments and Licenses and obtain approval as required by this section.

(d) Each application shall be accompanied by an outdoor license fee of fifty dollars (\$50.00).

(e) This section shall in no way supersede any applicable portions of City or state health regulations.

(f) On the approval of the application by the Director of Public Health, the Commissioner of Assessments and Licenses shall issue the outdoor restaurant license. Denial of an outdoor restaurant license may be appealed to the Board of Zoning Appeals.

(g) After issuance of the outdoor restaurant license, each applicant must submit an application for a sidewalk permit under Chapter 513 of these Codified

Ordinances.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.22 Adulterated or Misbranded Food

No person, firm or corporation shall sell, keep for sale, store or serve any food or drink that is unclean, unwholesome, spoiled, unfit for human consumption, adulterated, misbranded, not labeled if required to be labeled or which does not conform to standard. All milk, milk products, frozen desserts, meat, meat by-products and meat food products, shellfish and ice shall be from approved, inspected sources.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.23 Cleanliness of Food Handlers

All food handlers shall be clean in their habits and shall wear clean garments. When deemed necessary, food handlers shall wear caps, nets or other hair coverings when preparing or serving food. Food handlers shall not expectorate or use tobacco in any form in rooms where food is prepared or served.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.231 Sale of Irradiated Foods – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 241.232 Perishable food labeling – Repealed

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.24 Adulterated or Misbranded Drugs or Cosmetics

No person, firm or corporation shall sell or offer for sale in the City any drug, cosmetic or device that is adulterated, misbranded or fraudulent.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.25 Vending Machines

(a) No person shall employ a coin-operated or other mechanical dispensing device for vending of food or drink unless the machine is constructed of suitable material and designed for easy, thorough cleaning and sanitizing and is maintained in clean, sanitary surroundings. Each machine shall be filled with wholesome ingredients, handled under sanitary conditions and transported in a clean, sanitary manner.

(b) Food in vending machines shall not be admixed with any trinket, prize or other similar novelty made of plastic, metal or other non-nutritive substances.

(c) Whenever requested by the official charged with the enforcement of this chapter, the owner or operator of such mechanical devices for dispensing food and drink, or his or her representatives, shall assist in making inspection of the interior of such machines at all reasonable hours.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.26 Sources of Poultry and Game

No poultry or game shall be brought into the City for sale except in conformity with all applicable Federal and State and City laws and regulations including RC Chapters 3715 and 3717.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.27 Sale of Poultry by Weight

Poultry shall be sold by weight only.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.28 Inspections Required

(a) No person, firm or corporation shall sell, keep for sale, store or deliver within the City any meat, meat by-product or meat food product that is adulterated, mislabeled or not labeled if required to be labeled.

(b) No uninspected meat, meat by-product or meat food product shall be sold, kept for sale, stored or delivered within the City, and no meat, meat by-product or meat food product shall be brought into the City from any plant or place not having Federal inspection, State inspection or inspection by any other

acceptable official agency.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.29 Standards for Hamburg or Hamburger

(a) As used in this chapter, “hamburg” or “hamburger” means comminuted fresh or fresh frozen skeletal beef, with or without the addition of beef fat as such, containing not more than a total of thirty percent (30%) beef fat or suet, as determined by chemical analysis.

(b) No person, firm, partnership, corporation or association shall display, sell or offer for sale any hamburg or hamburger containing excessive fat, added chemicals, preservatives, coloring matter or any other matter than beef, beef fat or suet, except that salt, pepper and other seasoning may be added in condimental proportions.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.30 Standards for Ground Beef, Ground Steak, Ground Chuck, Chopped Beef, Chopped Steak, etc.

(a) As used in this chapter, “ground beef,” “ground meat,” “ground steak,” “ground chuck,” “chopped beef,” “chopped steak,” and similar comminuted beef products means comminuted fresh or fresh frozen skeletal beef, without the addition of beef fat as such, containing not more than a total of thirty percent (30%) beef fat, or suet as determined by chemical analysis.

(b) No person, firm, partnership, corporation or association shall display, sell or offer for sale any ground beef, ground meat, ground steak, ground chuck, chopped beef, chopped steak and similar comminuted beef products containing excessive fat, added chemicals, preservatives, coloring matter or any other matter, except that salt, pepper and other seasoning may be added in condimental proportions.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.31 Standards for Pork Sausage and Breakfast Sausage

(a) As used in this chapter, “pork sausage” means comminuted fresh or smoked pork with fat content not more than fifty percent (50%) either in casing or bulk, with or without the addition of seasoning. “Breakfast sausage” shall be composed of fresh or cured meat and fresh fat, with a fat content not more than fifty percent (50%). It may be derived from trimmings of beef, pork, veal, lamb or mutton. It may be seasoned and smoked.

(b) No person, firm, partnership, corporation or association shall display, sell or offer for sale any pork sausage or breakfast sausage which contains excessive fat or which contains preservative.

(c) When comminuted meat contains any pork, it shall be labeled as containing pork.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.32 Enforcement Requiring Extra Services; Costs

Whenever the enforcement of the provisions of this chapter requires extraordinary services, the person, firm or corporation requesting such extraordinary services shall pay the cost of such services as determined by the Department of Public Health.

(Ord. No. 210-11. Passed 4-25-11, eff. 4-25-11)

§ 241.33 Perishable Food Labeling

(a) “Person” means any individual, partnership, partner, firm, company, corporation, association or any other legal entity, or their legal representatives, assigns, employees or successors.

(b) “Perishable food” means any food which has not been frozen, canned or dried, and which has not been prepared by the seller of the food for human consumption without further preparation or cooking.

(c) No person shall sell or offer for sale to another person in the City of Cleveland, for human consumption, perishable food:

(1) If the perishable food is marked by a sell-by-date, later than six (6) months after said sell-by- date; or

(2) If the perishable food is marked by a sale expiration date, later than said sale expiration date.

(d) No person shall sell or offer for sale to another person in the City of Cleveland, for human consumption, perishable foods which at one time were marked with a sell-by-date or sale expiration date, if such sell- by-date or sale expiration date has been falsified, removed, concealed, altered, defaced or erased.

(e) No person shall sell or offer for sale to another person in the City of Cleveland, for human consumption, perishable food which had at one time been frozen unless a sign has been conspicuously posted which states that the food had been previously frozen and unless the words “PREVIOUSLY FROZEN” appear on all labels and signs on which the price for the food is listed in lettering no less than one- half (1/2) the size of the price. As used in this division, “conspicuously posted sign” means a sign no less than two (2) feet by two (2) feet in size and visible to customers.

(f) Nothing in this section shall limit or alter the prohibitions and requirements regarding adulterated or misbranded food.

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.34 Safe Food Sanitation Standards

The definitions and standards for safe sanitation in retail food establishments and food service operations shall be any established as the Ohio Uniform Food

Safety Code, promulgated by The Ohio Director of Agriculture and Ohio Public Health Council pursuant to RC 3717.05. (Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.35 Categories and Fees

(a) Each application to the Commissioner of Assessments and Licenses for a food service operation license required under RC 3717.43, or for a retail food establishment license required under RC 3717.23 shall be accompanied by a combined license and inspection fee as follows:

(1) Food service operations and retail food establishments less than twenty-five thousand (25,000) square feet of floor space:

Table with 2 columns: Risk Level, Fee. Rows: Level I (\$213.00), Level II (\$243.00), Level III (\$482.00), Level IV (\$617.00)

(2) Food service operations and retail food establishments greater than twenty-five thousand (25,000) square feet of floor space:

Table with 2 columns: Risk Level, Fee. Rows: Level I (\$317.00), Level II (\$335.00), Level III (\$1,238.00), Level IV (\$1,314.00)

(3) Non-commercial food service operations and non-commercial retail food establishments less than twenty-five thousand (25,000) square feet of floor space:

Table with 2 columns: Risk Level, Fee. Rows: Level I (\$106.50), Level II (\$121.50), Level III (\$241.00), Level IV (\$308.00)

(4) Non-commercial food service operations and non-commercial retail food establishments greater than twenty-five thousand (25,000) square feet of floor space:

Table with 2 columns: Risk Level, Fee. Rows: Level I (\$158.00), Level II (\$167.50), Level III (\$619.00), Level IV (\$657.00)

(b) The risk level categories described herein shall have the meaning established in any rules promulgated under RC Chapters 3715 and 3717. (Ord. No. 83-09. Passed 2-9-09, eff. 2-11-09)

§ 241.36 Mobile Food Shops – Location Permits; Fee

(a) Permit Required. No vendor shall sell, offer for sale, or display food items from a vending device without first obtaining a permit from the Commissioner of Assessments and Licenses for the location upon which the vendor conducts a mobile food shop.

(b) Application. An application for a permit under this section shall be made upon a form prescribed by the Commissioner, and contain the following:

- (1) The vendor’s name, address, and food shop license number;
(2) Tax identification number;
(3) A description of the food cart, food truck or other vending device from which the applicant intends to vend, including the dimensions of the cart, truck or device;
(4) A description of the items to be offered for sale;
(5) A copy of the vendor’s food shop license;
(6) A certificate of insurance, or an acknowledgment thereof, by an insurance carrier licensed to do business in this state, evidencing comprehensive general liability coverage in the amount of one hundred thousand dollars (\$100,000.00), to protect against damage to property and/or persons resulting from the operation of the mobile food shop;
(7) The location(s) for which a permit is sought, including for locations on:
A. Public sidewalks outside of the Central Business District within the City, the ward(s) in which the mobile food shop intends to operate;
B. Public sidewalks inside the Central Business District within the City, an approved sidewalk occupancy permit issued by the Office of Capital Projects under Chapter 508;
C. Private property within the City not owned by the applicant, a notarized document evidencing the vendor’s right to operate on the property;
D. Public streets within the City, the ward(s) in which the mobile food shop intends to operate;

- (8) An application fee of one hundred dollars (\$100.00); and
- (9) Any other information as the Commissioner may require.

(c) *Issuance.* Upon receipt of an application in compliance with division (b) of this section, the Commissioner shall notify the City Councilmember(s) in whose ward(s) the mobile food shop intends to operate. The Commissioner shall issue a permit authorizing the use of locations for those ward(s) of the City Councilmember(s) so notified, unless within fifteen (15) days of receipt of notification an objection or comment is received by the Commissioner. If the notification to the Commissioner is in the nature of a comment rather than an objection, then the Councilmember(s) shall have an additional fifteen (15) days in which to submit an objection. An applicant may appeal any denial to the Board of Zoning Appeals established pursuant to Charter Section 76-6. Notice of such appeal shall be in writing and shall be filed with the Board within ten (10) days from the date of the written decision of the Commissioner.

(d) *Permitted Use.* Upon receipt of a permit under this section, the permittee may operate in those locations and wards designated on the permit in compliance with the regulations contained in Sections 241.37 and 241.38.

(e) *Expiration.* The permit issued under this section shall expire on the last day of February of each year, unless renewed.

(f) *Revocation.* The Commissioner of Assessments and Licenses may suspend or revoke any permit granted under this section on basis of a violation of this chapter.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.37 Mobile Food Shops – Location Restrictions

(a) *Mobile Food Shops on Public Sidewalks Outside of the Central Business District.* No vendor shall operate a mobile food shop on a public sidewalk outside of the Central Business District in the following locations:

- (1) Within fifty (50) feet of a property occupied by a residence, excluding residences with ground-floor retail space and excluding residences located on the opposite side of a public street;
- (2) Within ten (10) feet of a fire hydrant, bus stop, mail box, telephone booth, building entrance, sidewalk elevator, fire exit or escape, or a police or fire call box;
- (3) In a location that restricts the free passage of pedestrians in the lawful use of the public sidewalks by leaving an unobstructed sidewalk area of less than six (6) feet or as otherwise determined by the City;
- (4) Within fifty (50) feet of another mobile food shop on the public sidewalk, except if the other mobile food shop is located on the other side of a public street;
- (5) Within one hundred (100) feet of a food service business operating from a fixed and permanent location existing at the time of license issuance or renewal, during the operating hours of such business;
- (6) Within fifty (50) feet of the property of a gas station; or
- (7) Within seven hundred fifty (750) feet of a special event or community event established pursuant to Chapter 131, except for a mobile food shop that has been authorized to participate such event.

(b) *Mobile Food Shops on Public Sidewalks Inside of the Central Business District.* No vendor shall operate a mobile food shop on a public sidewalk inside the Central Business District without a permit issued under Chapter 508. The location of mobile food shops on public sidewalks in the Central Business District shall be as regulated in Chapter 508.

(c) *Mobile Food Shops on Public Streets.* No vendor shall operate a mobile food shop located on a public street in the following locations:

- (1) Within fifty (50) feet of a property occupied by a residence, excluding residences with ground-floor retail space and excluding residences located on the opposite side of a public street;
- (2) In a location where on-street parking is prohibited;
- (3) Within ten (10) feet of a driveway apron or crosswalk;
- (4) Adjacent to a sidewalk area that is less than ten (10) feet wide from the curb to the closest property line;
- (5) Within ten (10) feet of another mobile food shop operating on a public street;
- (6) Within one hundred (100) feet of a food service business operating from a fixed and permanent location existing at the time of license issuance or renewal, during the operating hours of such business;
- (7) Within fifty (50) feet of the property of a gasoline station;
- (8) Within seven hundred fifty (750) feet of a special event or community event established pursuant to Chapter 131, except for a mobile food shop that has been authorized to participate in the event; or
- (9) Within fifty (50) feet of another mobile food shop operating on a sidewalk within the Central Business District in accordance with a permit under Chapter 508.

(d) *Mobile Food Shops on Private Property.* No vendor shall operate a mobile food shop located on a private property in the following locations:

- (1) On a property located in a residential zoning district, except in the case of a property occupied by a school or church or other institutional use permitted in the residential district or a property occupied by a legal nonconforming commercial use;
- (2) Within ten (10) feet of a property occupied by a residence;
- (3) Within ten (10) feet of a driveway or driveway apron;
- (4) Within ten (10) feet of a building entrance, fire exit or escape;
- (5) Within ten (10) feet of another mobile food shop;
- (6) Closer than ten (10) feet from any public sidewalk, as measured from the sidewalk to the closest point on the mobile food shop, except that the mobile food shop may be located closer than ten (10) feet to a public sidewalk if the vending device is set back at least twenty (20) feet from the inside edge of the tree lawn or, if no tree lawn exists, at least twenty (20) feet from the outside edge of the curb;
- (7) Within fifty (50) feet of the property of a gasoline station;
- (8) Within seven hundred fifty (750) feet of a special event or community event established pursuant to Chapter 131, except for a mobile food shop that has been authorized to participate in the event;
- (9) Encroaching into any public sidewalk or public street;

(10) In any location that will interfere with the safe movement of vehicles or pedestrians on the subject property; or

(11) On property not owned by the applicant without first obtaining written permission from the property owner and, in the case of property owned by the City of Cleveland, permission from the applicable City department.

(e) *Mobile Food Shops in Organized Vending Zones.* Notwithstanding the restrictions contained in divisions (a) through (d) of this section, the Director of Capital Projects, in consultation with the Director of City Planning and the City Councilmember(s) representing the ward(s) in which the organized vending zone(s) will be located, are authorized to establish organized vending zones, wherein the holders of a permit issued pursuant to Section 241.36 may operate on such days, at such times of day, and under the conditions that the Director determines.

(1) The zones shall be created by rule, taking into account the following factors:

- A. Pedestrian and vehicular traffic patterns, including possible congestion during special events and sporting events;
- B. Proximity to special events and sporting events;
- C. Proximity to permanent food establishments; and
- D. Other factors deemed relevant by the Director of Capital Projects.

(2) The rules establishing an organized mobile food shop vending zone shall first be published in the *City Record* with the effective date of the zone.

(3) In establishing organized vending zones, the Director of Capital Projects may provide rules and regulations that suspend the time and place regulations established in Sections 241.37 and 241.38.

(4) Any organized vending zone may be dissolved in the same manner as it is created or by resolution of Council.

(5) The Director of Capital Projects may promulgate rules and regulations for the administration of this division. Such rules and regulations shall be published in the *City Record* and become effective seven (7) days after publication thereof.

(f) *Mobile Food Shops Participating in Special Events.* Notwithstanding the restrictions contained in divisions (a) through (e) of this section, no vendor shall operate a mobile food shop at the site of a special event or community event except in accordance with the regulations of Chapter 131.

(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.38 Mobile Food Shops – Regulations

Mobile food shops shall be operated in accordance with the regulations of this section and as otherwise provided by this code.

(a) *Prohibitions.* No mobile food shop vendor shall:

- (1) Sell food items, display food items, or conduct vending operations to the occupants of vehicles stopped in traffic;
- (2) Display food items or place lines or other devices for the display of food items on any building or on any utility pole, planter, tree, trash container, or other sidewalk fixture;
- (3) Place any food items in or upon any street or sidewalk;
- (4) Use liquefied petroleum gas, or other flammable substances, without a required permit pursuant to Section 385.18 or operate any vending device that does not comply with the Liquefied Petroleum Gas Code, NFPA 58, as promulgated by the National Fire Protection Association;
- (5) Leave a vending device unattended at any time;
- (6) Make any loud or unreasonable noise for the purpose of advertising or drawing attention to its food shop operations or for any other purpose;
- (7) Conduct business without making available a container suitable for the placement of litter;
- (8) Throw or deposit any merchandise, packaging, containers, fat, grease, paper or other litter on any streets or sidewalk or in any sewer;
- (9) Place or affix any advertising material and signage to any location other than flat upon the vending device being used in its operations;
- (10) Operate on a public sidewalk between the hours of 3:00 a.m. and 6:00 a.m.; or
- (11) Place a vending unit on a public sidewalk if such vending unit is self-propelled or exceeds six (6) feet in length or four (4) feet in width.

(b) *Requirements.* All mobile food shop vendors shall:

- (1) Obey any lawful order of a police officer to remove himself or herself and his or her vending device entirely from the sidewalk to avoid congestion or obstruction during an emergency;
- (2) Comply with all requirements of applicable state and local law, including, without limitation, the City's Fire Prevention Code, the State of Ohio Fire Code, and the City's Traffic and Zoning Codes;
- (3) If selling or offering frozen desserts, first be licensed as otherwise required by this Code in addition to the license and permits required by this chapter;
- (4) If selling merchandise or non-food items, first obtain a license and permit pursuant to Chapter 675 in addition to the license and permits required by this chapter;
- (5) Exercise reasonable care to ensure that their operations do not create a health or safety hazard to customers, other users of the sidewalks and streets, or persons on abutting property;
- (6) If operating on private property, maintain documentation of the operator's ownership, or if the operator is not the owner of the private property, notarized documentation, signed by the property owner, of the operator's right to operate on the property;
- (7) Maintain general liability insurance coverage in the amount of one hundred thousand dollars (\$100,000.00), to protect against damage to property and/or persons resulting from the operation of the mobile food shop; and
- (8) Operate with at least one (1) mobile food shop manager on duty. Every mobile food shop manager on duty must have on his or her person a photo identification badge issued by the Division of Assessments and Licenses.

A. Any person applying for an identification badge under this division shall furnish to the Commissioner of Assessments and Licenses a government issued identification as well as furnish two (2) photographs of the applicant taken within the thirty (30) day period before the date of application and of a size designated by the Commissioner.

B. The Division of Assessments and Licenses is authorized to charge a fee of sixty dollars (\$60.00) for the issuance of such identification badge required by this division. In the event that person loses the laminated identification card issued pursuant to this division, the Commissioner shall issue a replacement identification card upon payment of a replacement fee of ten dollars (\$10.00).

(c) *Supplemental Rules.* The Director of Capital Projects is authorized to promulgate additional rules and regulations necessary for the administration of

this section. Such rules and regulations shall be published in the *City Record* and become effective seven (7) days after publication thereof.
(Ord. No. 1657-11. Passed 11-28-11, eff. 11-28-11)

§ 241.39 Standards for Pork Sausage and Breakfast Sausage – Repealed

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.40 Enforcement Requiring Extra Services; Costs – Repealed

(Ord. No. 2163-01. Passed 5-20-02, eff. 5-23-02)

§ 241.42 Foods Containing Industrially-Produced Trans Fat Restricted

(a) No foods containing industrially-produced trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item or served in any food shop, as defined in Section 241.03(b) of this code or successor provision, except food that is being served directly to patrons in a manufacturer's original sealed package.

(b) For purposes of this section, a food shall be deemed to contain industrially-produced trans fat if the food is labeled as containing, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer notes the trans fat content of the food is zero (0) grams as labeled then it shall not be deemed to contain industrially-produced trans fat.

(c) Food shops shall maintain on site the original labels identifying the trans fat content or an affidavit provided the food supplier identifying the trans fat content of the food products supplied, or other approved alternative documentation for all food products:

- (1) That are, or that contain, fats, oils or shortenings;
- (2) That are, when purchased by such food shops, required by applicable federal and state law to have labels; and
- (3) That are currently being stored, distributed, held for service, used in preparation of any menu items, or served by the food service establishment.

Documentation Instead of Labels. Documentation acceptable to the Director and based upon information. Documentation acceptable to the Director, from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.

Documentation required when food products are not labeled. If baked goods, or other food products restricted pursuant to division (a) of this section, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food shops shall obtain and maintain documentation acceptable to the Director and based upon information, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content.

(d) The Director of Public Health may make rules and regulations to secure proper enforcement of this section.

(e) Whoever violates this section is liable to the City of Cleveland for a civil offense and shall receive a warning on the first offense; on the second offense, shall be fined one hundred fifty dollars (\$150.00); on a third offense shall be fined two hundred fifty dollars (\$250.00); and beginning with the fourth offense, shall be fined three hundred fifty dollars (\$350.00) and each day a violation occurs shall be a separate offense. Any person charged with the commission of a civil offense under this section may appeal to the Director of Public Health, or his or her designee. The appeal shall be taken not later than twenty (20) days from the date of the civil charge. Failure to file an appeal or pay the costs imposed within this time period shall constitute a waiver of the right to contest the charge and shall be considered an admission.

(f) This section shall take effect on January 1, 2013 with respect to oils, shortenings and margarines containing industrially-produced trans fat that are used for frying or in spreads; except that the effective date of this section with regard to oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing industrially-produced trans fat, shall be July 1, 2013.

(Ord. No. 474-11. Passed 4-25-11, eff. 4-25-11)

§ 241.99 Penalty

(a) Whoever violates Section 241.05 is guilty of a misdemeanor of the third degree on a first offense; for a second offense or subsequent offense, such person is guilty of a misdemeanor of the second degree. Each day the violation continues is a separate offense.

(b) Whoever violates Sections 241.36, 241.37, or 241.38 is guilty of a minor misdemeanor, and shall be fined not less than one hundred fifty dollars (\$150.00). The fine set forth herein is mandatory and shall not be suspended by the court in whole or in part. Each day upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder.

(1) In addition to any other method of enforcement provided for in this chapter, the provisions of division (b) of this section may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure.

(2) If the offender persists in improper operations after reasonable warning or request to desist, improper operations is a misdemeanor of the first degree.

(c) Unless otherwise specified in this chapter, whoever violates any of the provisions of this chapter, or of any ordinance amending or supplementing such provisions, shall be guilty of a first degree misdemeanor and fined no more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both.

(Ord. No. 210-11. Passed 4-25-11, eff. 4-25-11)

CHAPTER 243 – OHIO UNIFORM FOOD SAFETY CODE

- 243.01 Oho Uniform Food Safety Code
- 243.02 Standards – Repealed
- 243.03 Permit and License Required; Fees – Repealed
- 243.04 Vehicles; License – Repealed
- 243.05 Special Services for Enforcement; Costs – Repealed
- 243.06 Misbranded or Adulterated Milk or Milk Products – Repealed
- 243.07 Labeling and Identification – Repealed
- 243.08 Inspection of Farms and Plants – Repealed
- 243.09 Violations and Notice; Records – Repealed
- 243.10 Standards and Tests; Permit Suspension – Repealed
- 243.11 Grade A Raw Milk – Repealed
- 243.12 Grade A Pasteurized Milk – Repealed
- 243.13 Personnel Health and Cleanliness – Repealed
- 243.14 Pasteurized Products – Repealed
- 243.15 Regulations for Transferring, Delivering, Serving – Repealed
- 243.16 Returning Containers – Repealed
- 243.17 Enforcement for Grade A Requirements – Repealed

Cross-reference:

Food quality and labeling standards, CO 241.04

Statutory reference:

Food processing places to be kept sanitary, RC 913.41 et seq.

Sale of adulterated milk, RC 3717.01, 3717.09, 3717.31

§ 243.01 Oho Uniform Food Safety Code

The Ohio Uniform Food Safety Code as promulgated by the Ohio Director of Agriculture and Ohio Public Health Council pursuant to RC 3717.05, is hereby adopted and incorporated by the City of Cleveland as fully as if set forth herein.

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.02 Standards – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.03 Permit and License Required; Fees – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.04 Vehicles; License – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.05 Special Services for Enforcement; Costs – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.06 Misbranded or Adulterated Milk or Milk Products – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.07 Labeling and Identification – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.08 Inspection of Farms and Plants – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.09 Violations and Notice; Records – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.10 Standards and Tests; Permit Suspension – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.11 Grade A Raw Milk – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.12 Grade A Pasteurized Milk – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.13 Personnel Health and Cleanliness – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.14 Pasteurized Products – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.15 Regulations for Transferring, Delivering, Serving – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.16 Returning Containers – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

§ 243.17 Enforcement for Grade A Requirements – Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-27-00)

CHAPTER 245 – FROZEN DESSERTS

245.01 to 245.19 Repealed

Cross-reference:

Unnecessary noises, CO 605.10

Statutory reference:

Food processing places to be kept sanitary, RC 913.41 et seq.

Power to inspect peddlers' food products, RC 715.46

State license required for sale or manufacture; fees, RC 3717.52

§§ 245.01 to 245.19 Repealed

(Ord. No. 2025-2000. Passed 12-18-00, eff. 12-20-00)

TITLE V: AIR POLLUTION CONTROL

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CHAPTER 251 – DEFINITIONS

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- 251.67 Vapor Blowdown System
- 251.68 Visible Emission
- 251.69 Volatile Photochemically Reactive Material
- 251.70 Waste Gas Flare
- 251.71 Transfer Operations

Cross-reference:

- By-product coke plant defined, CO 277.03*
- Hazardous air pollutants defined, CO Ch. 281*
- Rendering plant defined, CO 267.02*
- Timely defined, CO 255.03*

Statutory reference:

- State definitions, RC 3704.01*

§ 251.01 Title and Distribution

This part of the Codified Ordinances shall be known as the “Air Pollution Code” and may be separately printed and distributed. The term “this Code” wherever used in this Title Five means the Air Pollution Code of the City of Cleveland.
 (Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.02 Air Cleaning Equipment

“Air cleaning equipment” means any control equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.
 (Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.03 Air Contaminant

“Air contaminant” means any smoke, vapors (except water vapor), charred paper, dust, soot, grim, carbon fumes, gases, mist (except uncombined water), odors, particulate matter, radioactive materials, noxious chemicals or any other material which is discharged directly or indirectly into the atmosphere.
 (Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.04 Air Pollution

“Air pollution” means the presence in the atmosphere of one (1) or more air contaminants, such as dust, fumes, gas, mist, odor, smoke or vapor in quantities, of characteristics and of duration such as to be injurious to human, plant or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life and property or the conduct of business.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.05 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.06 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.07 AGA

“AGA” means the American Gas Association.
(Ord. No. 857-A-76. Passed 6-27-77 eff. 6-30-77)

§ 251.08 ASME

“ASME” means the American Society of Mechanical Engineers.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.09 ASTM

“ASTM” means the American Society for Testing Materials.
(Ord. No. 857-A-77. Passed 6-27-77, eff. 6-30-77)

§ 251.10 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 pollution board.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.11 Architectural Coating

“Architectural coating” means any coating used for residential or commercial buildings and other appurtenances, or industrial buildings.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.12 Asbestos

“Asbestos” means any of six (6) naturally occurring, hydrated mineral silicates: actinolite, amosite, anthophyllite, chrysolite, crocidolite, tremolite; or any mixture containing any of these silicates.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.13 Atmosphere

“Atmosphere” means the air that envelops or surrounds the earth.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.14 Best Available Control Technology

“Best available control technology” shall be determined on a case-by-case basis considering the following:

- (a) The process, fuels and raw material available and to be employed in the facility involved;
- (b) The engineering aspects of the application of various types of control techniques which have been adequately demonstrated;
- (c) Process and fuel changes;
- (d) The respective costs of the application of all such control techniques, process changes, alternative fuels, etc.;
- (e) Any applicable State and Federal emission limitations; and
- (f) Location and siting considerations.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.15 Blast Furnace

“Blast furnace” means the furnace and equipment used in the smelting process in which primarily oxygen is removed from the ore and molten metal produced with gas as a byproduct. 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.16 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.17 BTU or British Thermal Unit

“BTU or British Thermal Unit” 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).

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.18 Clean Air Act

“Clean Air Act” means 42 U.S.C. 1857 et seq. as amended by the Air Quality Act of 1967. P.L. 90-148 and by the Clean Air Act Amendments of 1970, P.L. 91-604 or by any subsequent amendments and the rules and regulations promulgated hereunder.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.19 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.20 Commissioner

“Commissioner” means the Commissioner of Air Pollution Control of the City of Cleveland.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.21 Compliance Schedule

“Compliance schedule” means a plan of corrective action to achieve full compliance with the provisions of this Code, submitted as part of a variance application. 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 Pollution Code of the City of Cleveland.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.22 Control Equipment

“Control equipment” means any device or contrivance which prevents, removes, reduces or renders less noxious air contaminants discharged into the atmosphere.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.23 Criteria Pollutant

“Criteria pollutant” means an air pollutant for which air quality criteria have been issued, such criteria being information used as guidelines for decisions when establishing air quality goals and standards.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.24 Effluent Water Separator

“Effluent water separator” means any tank, box, sump or other container in which any volatile photochemically reactive material floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.25 Emission

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.26 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.27 Fuel

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.28 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 by indirect heat transfer.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.29 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 determination made by the Commissioner shall govern.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.30 Fugitive Emissions

“Fugitive emissions” means air contaminants emitted from any source, uncaptured at the point of origin.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.31 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.32 Install or Installation

“Install or installation” means to construct, erect, locate or affix any source of air pollutants, including related air-cleaning equipment.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.33 Liquid Organic Material

“Liquid organic material” means any organic material which is a liquid at standard conditions.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.34 Major Source

“Major source” means any stationary source which has potential emissions of more than twenty-five (25) tons per year (25T/YR) of a criteria pollutant which is located at a facility (plant) which has a total actual emissions of more than one hundred (100) tons per year (100T/YR) of a criteria pollutant.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.35 Minor Source

“Minor source” means any stationary source which is not a major or significant source as defined herein.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.36 Mobile Source

“Mobile source” means any vehicular air contaminant source, including, but not limited to, automobiles, trucks, tractors, buses and other motor vehicles, railroad locomotive, 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.37 Modify or Modification

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

- (a) Increases or decreases the amount of air pollutants emitted; or
- (b) Results in the emission of any type of air pollutant not previously emitted; or
- (c) Results in relocation of the source to new premises.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.38 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 pollutants emitted.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.39 Odor

“Odor” means that property of an air contaminant which affects the sense of smell.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.40 OEPA

“OEPA” means the Ohio Environmental Protection Agency.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.41 Opacity

“Opacity” means a state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer’s view.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.42 Open Burning

“Open burning” means the burning of any 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 shall be 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.43 Organic Material

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.44 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.45 Owner or Operator

“Owner or operator” means any person who owns, leases, controls or supervises an air contaminant emission source.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.46 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.47 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.48 Petroleum Cracking

“Petroleum cracking” means a unit composed of a reactor, regenerator and fractioning tower which is used to convert certain petroleum fractions into more valuable products by passing the material at elevated temperature through a bed of catalyst in the reactor. Coke deposits produced on the catalyst during cracking are removed by burning off in the regenerator.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.49 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, ester, ethers or ketones having a olefinic or cyclo-olefinic type of unsaturation: five percent (5%);
- (b) A combination of aromatic hydrocarbons with eight (8) or more carbon atoms to the molecule except ethylbenzene eight percent; (8%);
- (c) A combination of ethylbenzene, 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, that is, that group having the least allowable percent of total volume of liquid.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.50 Process Equipment

“Process equipment” means any equipment, device or contrivance for changing any materials whatever or for storing or handling of any materials, and all appurtenances thereto, including ducts and stack, the use of which may cause discharge of an air contaminant into the atmosphere, but not including that equipment specifically defined in this Code as fuel-burning equipment or incinerator.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.51 Process Weight

“Process weight” means the total weight of all material introduced into a unit operation or unit process, including solid fuels, but excluding liquid fuels and gaseous fuels when these are used solely as fuels and excluding air introduced for purposes of combustion.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.52 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.

(b) For cyclical or batch unit operation or batch 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 is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.53 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 or disposal including garbage, rubbish, trade wastes, leaves, salvageable material, agricultural wastes, human or animal remains and other wastes.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.54 Ringelmann Chart

“Ringelmann Chart” means the chart published and described in the U.S. Bureau of Mine Information Circular 8333, and on which are illustrated graduated shades of grey to black for use in estimating the light obscuring capacity of smoke.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.55 Seal

“Seal” means any device, tag or marking installed or affixed by the Commissioner of Air Pollution Control 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.56 Significant Source

“Significant source” means any stationary source which has potential emissions of more than twenty-five (25) tons per year (25T/YR) of a criteria pollutant which is not located at a facility (plant) which has potential emissions of more than one hundred (100) tons per year (100T/YR) of a criteria pollutant.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.57 Smoke

“Smoke” means small gas-borne particles resulting from incomplete combustion, consisting predominantly but not exclusively of carbon, ash and other

combustible material.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.58 Source

“Source” means any building, structure, facility, operation, installation, other physical facility or real or personal property which emits or may emit any air pollutant.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.59 Source Operation

“Source operation” means the last operation preceding emission, with operations: (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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.60 Stack

“Stack” means a duct, chimney, flue or conduit designed or arranged to conduct air contaminant emissions into the atmosphere.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.61 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.62 Stationary Source

“Stationary source” means a source which does not move from place to place in its day to day operation.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.63 Submerged Fill Pipe

“Submerged fill pipe” means any fill pipe the discharge opening of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge opening of which is entirely submerged when the liquid level is eighteen (18) inches above the bottom of the tank.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.64 Uncontrolled Mass Rate of Emission

“Uncontrolled mass rate of emission” means the total weight rate at which particulate matter is, or in the absence of an air-cleaning device would be, emitted from an air contaminant source when such source is operated at its maximum rated capacity.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.65 Unit Operation

“Unit operation” means methods 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.66 Unit Process

“Unit process” means reactions where raw materials undergo chemical change or where one (1) or more raw materials are combined and changed into a new substance with different properties or composition.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.67 Vapor Blowdown System

“Vapor blowdown system” means a system for disposal of emergency and waste refinery gases consisting of a manifolded pressure relieving system to insure personnel safety and protect equipment.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.68 Visible Emission

“Visible emission” means emissions of air contaminants of such quantity or quality as to be seen in contrast with background.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.69 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.70 Waste Gas Flare

“Waste gas flare” means the combustion of waste gas for disposal.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 251.71 Transfer Operations

“Transfer operations” means the loading of any liquid material into any tank, truck, trailer or railroad tank car from any loading facility.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 253 – AMBIENT AIR QUALITY STANDARDS

253.01 Maximum Concentrations, Non- Degradation

Cross-reference:

Ambient air defined, CO 251.05

Ambient air quality standards defined, CO 251.06

§ 253.01 Maximum Concentrations, Non- Degradation

(a) Concentrations of contaminants in the ambient air in excess of the concentrations and time durations specified in the following sections shall constitute a condition of undesirable air quality, and shall be applicable in all areas of the City. Such 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.

(b) *Suspended Particulate Matter.*

(1) The maximum annual geometric mean concentration shall not exceed sixty (60) micrograms per cubic meter.

(2) The maximum twenty-four (24) hour concentration, not to be exceeded more than once per year, shall be one hundred fifty (150) micrograms per cubic meter.

(c) *Sulfur Dioxide.*

(1) The maximum annual arithmetic mean concentration shall not exceed sixty (60) micrograms per cubic meter (twenty-three thousandths (0.023) parts per million (1,000,000) by volume).

(2) The maximum twenty-four (24) hour concentration, not to be exceeded more than once per year, shall be two hundred sixty (260) micrograms per cubic meter (one-tenth (0.10) parts per million (1,000,000) by volume).

(3) The maximum three (3) hour concentration, not to be exceeded more than once per year, shall be one thousand three hundred (1,300) micrograms per cubic meter (five-tenths (0.50) parts per million (1,000,000) by volume).

(d) *Carbon Monoxide.*

(1) The maximum eight (8) hour arithmetic mean concentration, not to be exceeded more than one (1) eight (8) hour period per year, shall be ten (10) milligrams per cubic meter (nine (9) parts per million (1,000,000) by volume).

(e) *Photochemical Oxidants.*

(1) The maximum one (1) hour arithmetic mean concentration shall not exceed one hundred nineteen (119) micrograms per cubic meter (six-hundredths (0.06) parts per million (1,000,000) by volume).

(2) The maximum four (4) hour arithmetic mean concentration, not to be exceeded more than one (1) consecutive four (4) hour period per year, shall

be seventy-nine (79) micrograms per cubic meter (four-hundredths (0.04) parts per million (1,000,000) by volume).

(3) The maximum twenty-four (24) hour arithmetic mean concentration, not to be exceeded more than one (1) day per year, shall be forty (40) micrograms per cubic meter (two-hundredths (0.02) parts per million (1,000,000) by volume).

(f) *Hydrocarbons.*

(1) The maximum three (3) hour arithmetic mean concentration of non-methane hydrocarbons shall not exceed one hundred twenty-six (126) micrograms per cubic meter (nineteen hundredths (0.19) parts per million (1,000,000) by volume measured as carbon) between the hours of 6:00 a.m. and 9:00 a.m.

(2) The maximum twenty-four (24) hour arithmetic mean concentration of non-methane hydrocarbons, not to be exceeded more than one (1) day per year, shall be three hundred thirty-one (331) micrograms per cubic meter (five-tenths (0.50) parts per million (1,000,000) by volume measure as carbon).

(g) *Nitrogen Dioxide.*

(1) The maximum annual arithmetic mean concentration shall not exceed one hundred (100) micrograms per cubic meter (five-hundredths (0.05) parts per million (1,000,000) by volume).

(h) *Non-Degradation Policy.*

(1) 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 shall be prohibited.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 255 – ADMINISTRATIVE

- 255.01 Air Pollution Personnel
- 255.02 Duties of Commissioner
- 255.03 Appeals
- 255.04 Abatement Orders
- 255.05 Records to be Available for Public Inspection; Exception
- 255.06 Authority to Enter into Consent Agreement
- 255.07 Rules and Regulations

Cross-reference:

- Advisory Committee, CO Ch. 291*
- Date registration, CO 279.04*
- Emergency orders, CO 283.04*
- Right of entry, CO 279.05*

Statutory reference:

- Records available for public inspection, RC 3704.08*

§ 255.01 Air Pollution Personnel

The Division of Air Pollution Control shall employ and qualify such personnel as are needed to insure the successful administration of this Code. Such personnel of the Division shall 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 shall aid and assist the Commissioner in the efficient discharge of his or her duties. 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 or her employment.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 255.02 Duties of Commissioner

The Commissioner under the supervision and director of the Director of Public Health and Welfare shall:

- (a) Supervise the execution of all laws, rules and regulations pertaining to air pollution as provided in this Code;
- (b) Institute complaints against all violators of any provisions of this Code and institute necessary legal proceedings, either personally or through his or her representatives;
- (c) Issue, and have served upon violators, orders requiring the repair of equipment or abatement of conditions not in compliance with this Code;
- (d) Compel the prevention and abatement of air pollution or nuisances arising therefrom;
- (e) Examine and approve or disapprove the plans for the installation or modification of any air contaminant source or control equipment;
- (f) Make inspections and tests of existing and newly installed air contaminant sources or control equipment subject to this Code to determine whether such source or equipment complies with this Code;
- (g) Investigate complaints of violations of the provisions of this Code and make inspections and observations of air pollution conditions. Records shall be maintained of all such investigations, complaints, inspections and observations;
- (h) Administer the issuance of permits to operate, notices, waiver citations, permits to install, variances and other documents required under the provisions of this Code;
- (i) Prepare and place before the Director of Public Health and Welfare for his or her consideration proposals for additions or revisions to this Code or other rules and regulations pertaining to air pollution;
- (j) Encourage voluntary cooperation by persons or affected groups in the preservation and restoration of the purity of the outdoor atmosphere;

- (k) Collect and remit to appropriate City officials fees collected and permits to operate variances and examination of plans and permits to install;
- (l) Work with other City agencies and other organizations for the purpose of coordinating activities for the common municipal good;
- (m) Conduct tests and make studies of air contaminants whether or not controlled by specific limitations of this Code;
- (n) Do any and all acts which may be necessary for the successful prosecution of the purposes of this Code and such other acts as may be specifically enumerated herein;
- (o) Work with other agencies of the Federal and State governments for the purpose of the preservation and restoration of the purity of the outdoor atmosphere;
- (p) Notify the Mayor or the Governor of the State of Ohio whenever air pollution in the City or in any part of the City exceeds that safe levels or otherwise presents an imminent and substantial danger to the health or safety of persons in the area;
- (q) Examine and approve or disapprove the plans of any person seeking to operate fuel-burning, incinerator, process and control equipment in variance from the provisions of this Code;
- (r) Establish, maintain and operate air quality monitoring stations and other devices and methodologies designed to measure air pollution.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 255.03 Appeals

(a) Appeals of a person adversely affected by any order, requirement, decision or determination by the Commissioner shall be heard and decided by the Air Pollution Appeals Board. An appeal shall stay execution of the action appealed. The Appeals Board shall commence to hear the merits of an appeal within thirty (30) days after the filing of such appeal in the office of the Board. Thereafter, the Board shall hear the final arguments and shall reach a decision on such appeal without unreasonable or unnecessary delay.

(b) A motion to dissolve a stay, resulting from an appeal, may be filed by the Commissioner with the Board. The Board shall commence to hear the merits of such motion within seven (7) days after the filing of such motion in the office of the Board. Thereafter, the Board shall hear the final arguments and shall reach a decision on such motion without unreasonable or unnecessary delay.

(c) Appeals of 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 visible emission limitations established by the Commissioner, in accordance with the applicable provisions of this Code, shall be heard and decided by the Board. The Board shall commence to hear the merits of an appeal within thirty (30) days after the filing of such appeal in the office of Board. Thereafter, the Board shall hear the final arguments and shall reach a decision on such appeal without unreasonable or unnecessary delay.

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

(e) Any appeal from an order, requirement, decision or determination of the Commissioner shall be filed with the Board within thirty (30) days after receipt of notice of the action of the Commissioner.

(f) Any appeal from a consent agreement or variance issued by the Commissioner or from new visible emission limitations established by the Commissioner shall be filed with the Board within thirty (30) days after date of publication of such consent agreement or variance by the Commissioner in the *City Record*.

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

(h) Any person affected by a decision of the Board may obtain judicial relief as provided by law.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 255.04 Abatement Orders

(a) Whenever the Commissioner finds upon inspection that a violation of this Code or of rules and regulations promulgated thereunder has occurred, or will occur, he or she may issue a written order to the person owning, operating or in control of such source, requiring the abatement of all violations of this Code and the correction of any condition which may result in a violation of this Code. Should the person to whom such order is issued fail to act upon such order within the time limit set forth therein or within the time extension granted by the Commissioner, the Commissioner may revoke any existing permit to operate and/or seal such source for failure to comply with such order.

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 255.05 Records to be Available for Public Inspection; Exception

(a) Any records, reports or information obtained under the applicable sections 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 portion thereof confidential, except that such record, report or information may be

disclosed when necessary to sustain an action brought pursuant to the applicable sections of this code on emission limitations or during a denial or revocation of a permit to install, modify or operate or conditional permit to operate or variance.

(b) Nothing in subsection (a) hereof 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 reports do not reveal any information otherwise confidential under this section.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 255.06 Authority to Enter into Consent Agreement

(a) Whenever any source or source operation is found to be in violation of the provisions of this Code and the Commissioner determines that compliance with the emission limitations, as established in the applicable sections of this Code, necessitates 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 and Welfare, modify any of the emission limitations, as established in this Code, and 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 modifications thereto, at the earliest possible date, based upon technical feasibility and economical reasonableness and their relation to the benefits to the people of the State 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 sections of this Code, in lieu of issuing an abatement order.

(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 operation. Public notice shall consist of publication in the *City Record* and a daily newspaper of general circulation in the metropolitan area.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 255.07 Rules and Regulations

(a) The Commissioner under the supervision and direction of the Director of Public Health and Welfare, 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;
- (2) Reference to the legal authority under which rule is proposed; and
- (3) Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(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 participate through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the Commissioner shall incorporate in the rules adopted a concise general statement of their basis and purpose.

(d) Upon adoption, pursuant to the procedure set forth in subsections (b) and (c) hereof, 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 257 – INSTALLATION AND MODIFICATION PERMITS

- 257.01 Application and Approval Required
- 257.02 Criteria for Granting Permits
- 257.03 Action on Application for Permit
- 257.04 Alternative Action on Application for Permit
- 257.05 Applicability of Permit
- 257.06 Violation of Permit
- 257.07 Time Limit on Permits
- 257.08 Registration of Contractors
- 257.09 Coordination of Departments
- 257.10 Issuance of Permits by Other Departments
- 257.11 Failure to Make Application or Obtain Permit or Approval Prior to Work

Cross-reference:

- Commissioner to administer permit issuance, CO 255.02(h)*
- Install or installation defined, CO 251.32*
- Modify or modification defined, CO 251.37*

§ 257.01 Application and Approval Required

(a) No person shall install any new air contaminant source or control equipment or modify any existing air contaminant source or control equipment for use within the city until an application, including not less than two (2) sets of properly prepared plans and specifications of the air contaminant source or control equipment and structures or buildings used in connection therewith, has been filed by the person or his or her agent in the office of, and has been approved by, the Commissioner, and until an installation permit has been issued by the Commissioner for such installation or modification.

(b) Application for permits to install or modify shall be made on forms prepared by the Commissioner and shall contain such information as he or she deems necessary to determine whether the permit should be issued. The information required in such applications including plans and specifications shall include the form and dimensions of the air contaminant source or control equipment, together with the description and dimensions of the building or part thereof in which such equipment is to be located, including the means provided for admitting the air for combustion process; the character and composition of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw materials processed; the nature, source and quantity of uncontrolled and controlled emissions; the type, size and efficiency of control facilities; the operating requirements; the use to be made of such air contaminant source or control equipment; contaminant concentration, gas volume and gas temperature at the emission point; the location and elevation of the emission point relative to nearby structures and window openings; a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes, and any other reasonable and pertinent information that may be required by the Commissioner.

(c) Applications for permits to install or modify shall be signed by the responsible person performing the installation or modification and by the corporate president or vice president reporting directly to the president or highest ranking corporate officer with offices located in Cuyahoga County; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator. Such signature shall constitute personal affirmation that the statements made in the application are true and complete, complying 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 shall assume responsibility for the installation, modification or location of such source or facility in accordance with this Code and with all other applicable rules and regulations, and terms and conditions.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.02 Criteria for Granting Permits

No permit to install or modify an air contaminant source or control equipment shall be wanted until the applicant demonstrates to the satisfaction of the Commissioner that:

(a) Such installation or modification will not result in the discharge of air contaminants in excess of the limitations established by this Code or the Federal Standards of Performance for New Sources promulgated by the Administrator of the Federal Environmental Protection Agency pursuant to Section III of the Clean Air Act, whichever are more stringent;

(b) Such installation incorporates the best available control technology;

(c) The information required by the Commissioner in the application has been supplied or is adequate for the evaluation of the application for permit to install or modify;

(d) Such installation or modification is provided, at the expense of the applicant, with any sampling and testing facilities the Commissioner may require, including, but not limited to:

- (1) Sampling ports of a size, number and location as the Commissioner may require;
- (2) Safe access to each port; and
- (3) Instrumentation to monitor and record emission data.

(e) Such installation or modification will not create a nuisance or otherwise violate any other provision of this Code or the rules and regulations promulgated pursuant thereto;

(f) Such installation or modification will operate without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard or cause any significant degradation in ambient air quality.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.03 Action on Application for Permit

(a) An application for permit to install any new air contaminant source or control equipment shall be approved or denied by the Commissioner within sixty (60) calendar days after it is filed in the office of the Division of Air Pollution Control.

(b) An application for permit to modify any existing air contaminant source or control equipment shall be approved or denied by the Commissioner within sixty (60) calendar days after it is filed in the office of the Division of Air Pollution. If such application for permit to modify is not acted upon by the Commissioner within said sixty (60) day time period, the application for permit to modify shall serve as authorization for the applicant to commence with work on such modification. Such authorization shall not be construed to prevent the Commissioner from approving or denying the application for permit to modify at a later date. Nor shall such authorization be construed as relieving the applicant of the responsibility of meeting the requirements of other applicable provisions of this Code nor shall it serve as a guarantee of immunity from prosecution or legal action for violations of other applicable provisions of this Code.

(c) Approval of the application for a permit to install or modify may, at the discretion of the Commissioner, include a condition requiring emission tests to be conducted upon completion of installation for which the permit to install or modify has been issued, and other special terms and conditions, to establish compliance with the emission limitations of this Code. The Commissioner shall notify the person applying for the permit to install or modify of his or her approval,

or reasons for denial, of the application in writing. Upon the approval of the application and upon payment of the prescribed fees, the Commissioner shall issue a permit for the installation or modification of such air contaminant source or control equipment.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.04 Alternative Action on Application for Permit

In the event the plans, specifications and information submitted to the Commissioner pursuant to Section 257.01 reveal a proposal to install or modify any new or existing air contaminant source of complex design or operational change of a complex nature involving technological ingenuity or advances of considerable magnitude, the Commissioner may, at his or her option, and in lieu of issuing a permit to install or modify, require the applicant to file with the Commissioner a statement setting forth the reasons he or she believes that the proposed equipment installation or modification will comply with all of the applicable provisions and limitations set forth in this Code. Upon filing of such a statement, and with the written approval of the Commissioner, the applicant may proceed with the proposed installation or modification, subject, however, to all of the provisions of this Code.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.05 Applicability of Permit

No installation or modification shall be made which is not in accordance with the information contained in the application including the plans, specifications and other pertinent information and conditions upon which the installation or modification permit was issued without the prior written approval of the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.06 Violation of Permit

A violation of the permit to install or modify shall be sufficient cause for the Commissioner to stop all work in connection with said permit, and he or she is hereby authorized to seal the installation or modification without notice. No further work shall be done until the Commissioner is assured that the condition in question will be corrected and that the work will proceed in accordance with the permit to install or modify.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.07 Time Limit on Permits

Unless otherwise stated in the application for permit to install or modify, if installation or modification is not begun within six (6) months nor completed within one (1) year from the date of the issuance of the permit, such permit shall automatically become void and all fees paid shall be forfeited unless an extension of time is granted by the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.08 Registration of Contractors

No permit required by the provisions of this Code shall be issued for work to be undertaken by contract except to a registered contractor, as authorized by Section 3107.37 of the Codified Ordinances.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.09 Coordination of Departments

It shall be the duty of the various departments, bureaus, divisions, officers and employees of the City, having charge of the inspection of the premises upon which such equipment is located to cooperate with the Commissioner to determine that the execution of work so authorized by such permit shall be done in conformity with plans and specifications approved by the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.10 Issuance of Permits by Other Departments

No permit for the erection, construction, reconstruction or modification of any building, plant or structure, related in any manner to fuel-burning equipment, process equipment, incinerator or control equipment, or any equipment which may be a source of air contaminants, shall be issued by the Commissioner of Building or by any other department, bureau, division, officer or employee of the City until the Commissioner has approved such plans and specifications which relate in any manner to a new or an existing air contaminant source or control equipment covered by provisions of this Code.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 257.11 Failure to Make Application or Obtain Permit or Approval Prior to Work

(a) No person shall cause, permit or allow the construction, installation or modification of any air contaminant source or control equipment to commence or proceed who has failed:

- (1) To make an application for a permit to install or modify as required by Section 257.01; and
- (2) To secure from the Commissioner a permit to install as required by Section 257.01; or
- (3) To file a compliance statement and secure written approval of the Commissioner to proceed with the proposed installation or modification, as authorized in Section 257.04, in lieu of the issuance of a permit to install or modify.

If work on the construction, installation or modification of such source or control equipment has commenced or is proceeding, the Commissioner is authorized to stop all work being done and to seal that part or parts of such source or control equipment that has been constructed, installed or modified until a permit to install or modify or approval of a compliance statement is secured from the Commissioner.

(b) No permit to install or modify or permit to operate shall be issued by the Commissioner to any person or contractor unless such person or contractor complies with all the requirements of this Code.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 259 – OPERATION PERMITS AND VARIANCES

259.01	Permit to Operate or Variance Prerequisite for Operation
259.02	Permits to Operate Subsequent to Installation or Modification Permits
259.03	Application for Permit to Operate for Existing Sources
259.04	Criteria for Granting of Permits to Operate
259.05	Action on Application for Permit to Operate
259.06	Renewal of Permits to Operate
259.07	Denial or Revocation of Permits to Operate or Conditional Permits to Operate
259.08	Applicability of Permit to Operate
259.09	Prima-Facie Evidence of Unlawful Emission
259.10	Variances

Cross-reference:

Commissioner to administer permit issuance, CO 255.02(h)

Installation and modification permits, CO Ch. 257

Permit fees, CO Ch. 263

§ 259.01 Permit to Operate or Variance Prerequisite for Operation

Except as otherwise provided in this Code no person shall cause, permit or allow the operation or other use of any air contaminant source or control equipment unless a permit to operate or variance has been granted by the Commissioner, and no such air contaminant source or control equipment shall be operated when such permit to operate or variance has been denied or revoked or becomes void.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.02 Permits to Operate Subsequent to Installation or Modification Permits

(a) No person shall operate or cause to be operated any air contaminant source or control equipment or any equipment pertaining thereto for which a permit to install or modify was required or was issued under this Code until an inspection has been made by the Commissioner or his or her representative. Such inspection shall be performed within five (5) working days of notification of completion of the installation or modification of such source or control equipment. If an inspection is not performed within five (5) working days, the application for the permit to install or modify will serve as a conditional permit to operate for a period not to exceed thirty (30) days. The person responsible for the installation or modification of any air contaminant source or control equipment or any equipment pertaining thereto for which a permit to install or modify is required shall notify the Commissioner when the work is completed and ready for final inspection. No air contaminant source or control equipment shall be operated for any other purpose or in any other manner than that for which the permit to install or modify was approved and for which a permit to operate has been issued unless otherwise authorized in writing by the Commissioner. After the permit to install or modify has been issued and it is demonstrated to the satisfaction of the Commissioner that the air contaminant source or control equipment can be operated in compliance with this Code, an initial permit to operate shall be issued by the Commissioner. Emission tests may be required by the Commissioner before issuing of an initial permit to operate. Such permit to operate shall be kept posted on or near the installation for which it was issued.

(b) If a new air contaminant source or control equipment that has been installed or if an existing air contaminant source or control equipment that has been modified in accordance with the provisions of a permit to install or modify, and otherwise in accordance with applicable law, is unable to comply with the applicable provisions of this Code on emission limitations as of the date of start-up of operations, the Commissioner may grant, at his or her discretion, a conditional permit to operate such air contaminant source or control equipment for a period not to exceed six (6) months from start-up of operation, provided the period is used to remedy any defect which prevents such compliance and the applicant affirms that such air contaminant source or control equipment will be operated in accordance with all other applicable provisions of this Code for the duration of the conditional permit. Conditional permits to operate may not be renewed and shall contain such terms and conditions as the Commissioner determines necessary and appropriate.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.03 Application for Permit to Operate for Existing Sources

(a) No person shall cause, permit or allow the operation or other use of any air contaminant source or control equipment existing prior to the adoption of this Code for which no previous permit to install or certificate of operation was issued by the Commissioner subsequent to October 27, 1969, under City of Cleveland Ordinance No. 1659-A-69, or for which no permit to operate or variance was issued, upon recommendation for issuance of such permit by the Commissioner, by the Director of the Ohio Environmental Protection Agency subsequent to October 23, 1972 without applying for and obtaining a permit to operate from the Commissioner as follows:

(1) Applications for permits to operate shall be filed in the office of the Division of Air Pollution Control within six (6) months of the effective date of this Code;

(2) Applications for permits to operate shall be on forms prepared by the Commissioner and shall include two (2) sets of properly prepared plans and specifications of the air contaminant source or control equipment and structures or buildings used in connection therewith. Such plans and specifications shall show the form and dimensions of the air contaminant source or control equipment, together with the description and dimensions of the building or part thereof in which such equipment is to be located, including the means provided for admitting the air for combustion processes; the character and composition of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw materials processed; the expected air contaminant emission rate; the operating requirements; the use to be made of such air contaminant source or control equipment; contaminant concentration, gas volume and gas temperature at the emission point; physical characteristics of particulates emitted; the location and elevation of the emission point relative to nearby structures and window openings; a flow diagram showing the equipment under consideration and its relationship to other processes; and any other reasonable and pertinent information that may be required by the Commissioner. Failure to comply with any request for information made by the Commissioner shall be cause for rejection of an application.

(b) Applications for permits to operate shall be signed by the corporate president or vice president reporting directly to the president, or highest ranking corporate officer with offices located in Cuyahoga County; or by an equally responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator. Such signature shall constitute personal affirmation that the statements made in the application are true and complete, complying fully with applicable City requirements, and shall subject the responsible official to liability under applicable City laws forbidding false and misleading statements.

(c) The applicant’s signature shall constitute an agreement that the applicant shall assume 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.04 Criteria for Granting of Permits to Operate

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:

(a) 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;

(b) 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;

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.05 Action on Application for Permit to Operate

An application for permit to operate an existing air contaminant source or control equipment shall be acted upon within sixty (60) calendar days after it is filed in the office of the Division of Air Pollution Control. Approval of the application for a permit to operate may, at the discretion of the Commissioner, include a condition requiring emission 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 emission 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 and upon the payment of the prescribed fees, the Commissioner shall issue a permit to operate such air contaminant source or control equipment.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.06 Renewal of Permits to Operate

Permits to operate air contaminant sources or control equipment shall be renewed according to the schedule of periodic inspections of designated classes of equipment as determined by rule or regulation of the Commissioner. No period of time between inspections shall exceed three (3) years.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.07 Denial or Revocation of Permits to Operate or Conditional Permits to Operate

- (a) A permit to operate or a conditional permit to operate may be denied or once granted, may be revoked:
 - (1) Incident to any discontinue and seal order;
 - (2) In an emergency where operation of the subject air contaminant source or control equipment may be dangerous to persons or property;

- (3) Where no air pollution control equipment or modification, if required, has been installed to permit operation in conformity with the provisions of this Code;
 - (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 conformity with the provisions of this Code;
 - (5) Upon failure or refusal of the person responsible to submit information required by the Code;
 - (6) Upon failure or refusal of the person responsible to comply with an abatement order issued under the provisions of Section 255.04;
 - (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;
 - (8) Upon failure or refusal of a person responsible to comply with the terms and conditions of any conditional permit granted by the Commissioner under the provisions of this Code;
 - (9) Upon failure or refusal of the person responsible to comply with the provisions of Chapter 283.
- (b) Notice in writing shall be sent by the Commissioner to persons in violation of subsections (a)(1), (a)(4), (a)(5), (a)(7) and (a)(9) hereof, except pursuant to Section 255.04, demanding compliance within a time limit set forth therein, or within a time limit extension granted by the Commissioner prior to the revocation of an existing permit to operate.
- (c) Denial or revocation of a permit to operate or conditional permit to operate shall not be a bar to prosecution for violation of any of the provisions of this Code.
- (Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.08 Applicability of Permit to Operate

The issuance of a permit to operate shall not operate as a guarantee of immunity from prosecution or other legal action for violations occurring during the period covered by the permit. Failure to operate under test within the limitations and requirements of this Code shall constitute sufficient grounds for ordering changes in the air contaminant source or control equipment or appurtenances thereto before a permit to operate can be granted or renewed. When the Commissioner refuses to issue a permit to operate, the Commissioner is authorized to seal the air contaminant source or control equipment until the person required to procure the permit to operate has complied with the provisions of this Code.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.09 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 Pollution Control, 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 259.10 Variances

- (a) Any person who owns or is in control of any plant, building structure, process, equipment or source may apply to the Commissioner for a variance from the provisions of this Code.
- (b) The Commissioner must give public notice of any request for a variance from the provisions of this Code. Public notice shall consist of publication in the *City Record* and daily newspaper of general circulation in the metropolitan area and shall contain the name of the company, the source, the location, the pollutants, the control strategy, if possible, and the duration of the variance being requested.
- (c) No variance shall be granted pursuant to this section except after due consideration by the Commissioner 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. 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 or general circulation in the metropolitan area, will be considered.
- (d) No variance shall be granted 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) A compliance schedule shall be approvable 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;
 - (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) A variance request shall be acted upon by the Commissioner 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 or her 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 shall be effective for whatever 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 subsections (c) and (d) hereof.

(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 or she deems necessary to insure compliance with the terms of the variance and to evaluate the effect of the emission upon the ambient atmosphere.

(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 shall have no effect upon the date of final compliance as set forth in the variance as granted.

(k) Once granted, a variance may be revoked by the Commissioner:

(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;

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

(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 or her property.

(m) No variance may be granted which is in any way in conflict 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 be a bar to 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 261 – EXEMPTIONS

261.01 Exemptions, Specified; Compliance

261.02 Limited Exemptions

Cross-reference:

Variances, CO 259.10

Visible air contaminant exceptions, CO 265.04

§ 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) American Gas Association (A.G.A.) approved smokeless, odorless incinerators installed in one (1) or two (2) family dwellings;

(3) 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;

(4) Boilers installed in any one (1) or two (2) family dwellings;

(5) 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 one (1) or two (2) family dwellings.

(b) Exception 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 Section 265.01, 267.01 and 277.08 and Chapter 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 277.08 and Chapter 283, the Commissioner shall take appropriate action, under the applicable provisions of this Code, to abate the violation.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 261.02 Limited Exemptions

(a) The provisions of Chapters 257 and 259 shall not apply to the following classes of sources:

(1) Mobile sources;

(2) Demolition of buildings, authorized open burning, sandblasting and/or building cleaning, spray applications of fiberated cementitious products and spraying of asbestos containing products. Permits may be required for such operations under the provisions of Chapters 277 and 281;

(3) Such 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 263 – FEES

- 263.01 Fees
- 263.02 Fee Reduction
- 263.03 Application to Governmental Units
- 263.04 Schools and Churches Exempted

Cross-reference:

Commissioner to collect and remit fees, CO 255.02
Installation and modification permits, CO Ch. 257
Operation permits and variances, CO Ch. 259

§ 263.01 Fees

(a) Fees for the examination of plans and applications for the issuance of permits, variances, and for the original inspection and permit to operate for the installation and modification of any air contaminant source or control equipment, within the jurisdiction of this code, and renewal of permits to operate shall be as follows:

	Permit to Install or Modify and Initial Permit to Operate and Variance	Renewal Permit to Operate
(1) <i>Fuel-burning Equipment for Each Unit.</i> The fee should be based upon the maximum designed heat input capacity,		
A. Of a heat input capacity of less than 2,500,000 BTU/HR	\$100.00	\$50.00
B. Of a heat input capacity of 2,500,000 BTU/HR and less than 10,000,000 BTU/HR	\$200.00	\$100.00
C. Of a heat input capacity of 10,000,000 BTU/HR and less than 25,000,000 BTU/HR	\$500.00	\$250.00
D. Of a heat input capacity of 25,000,000 BTU/HR and less than 50,000,000 BTU/HR	\$1,500.00	\$750.00
E. Of a heat input capacity of 100,000,000 or more	\$2,000.00	\$1,000.00
Total fees for all fuel-burning equipment, except major sources, in the above schedule in each boiler house (room) shall not exceed \$1,000.00 for renewal of permits to operate.		
(2) <i>Incinerators for Each Unit.</i>		
A. Having a primary furnace volume of 15 cubic feet or less	\$60.00	\$30.00
B. Having a primary furnace volume of 15 cubic feet but less than 25 cubic feet	\$100.00	\$50.00
C. Having a primary furnace volume of 25 cubic feet but less than 35 cubic feet	\$140.00	\$75.00
D. Having a primary furnace volume of 35 cubic feet but less than 50 cubic feet	\$200.00	\$100.00
E. Having a primary furnace volume of 50 cubic feet but less than 100 cubic feet	\$300.00	\$150.00
F. Having a primary furnace volume of 100 cubic feet but less than 200 cubic feet	\$1,200.00	\$600.00
G. Having a primary furnace volume of 200 cubic feet or more	\$2,000.00	\$1,000.00
(3) <i>Process Equipment.</i> Fee shall be based upon the value of X as determined from the following equation: X = Process Weight in pounds per hour + Exhaust Air Ventilation in actual cubic feet per minute.		
A. For values of X of 1,000 or less	\$80.00	\$40.00
B. For values of X over 1,000 but less than 10,000	\$200.00	\$100.00
C. For values of X over 10,000 but less than 50,000	\$400.00	\$200.00
D. For values of X over 50,000 but less than 100,000	\$800.00	\$400.00
E. For values of X over 100,000 but less than 500,000	\$1,200.00	\$600.00
F. For values of X over 500,000 but less than 1,000,000	\$1,600.00	\$800.00
G. For values of X of \$1,000,000 or more	\$2,000.00	\$1,000.00
Total fees for all process equipment, except major sources, in above schedule in each work room, shall not exceed \$500.00 for renewal of permits to operate.		
(4) <i>Process and Fuel-burning Equipment.</i> Fee shall be based upon		

the value of Y as determined from the following equation: $Y = \text{Heat input in million of BTU per hour} + \text{Exhaust Air Ventilation in actual cubic feet per minute} \times 1/1000$		
A. For values of Y of 1, or less	\$80.00	\$40.00
B. For values of Y over 1, but less than 10	\$200.00	\$100.00
C. For values of Y over 10, but less than 20	\$300.00	\$150.00
D. For values of Y over 20, but less than 40	\$600.00	\$300.00
E. For values of Y over 40, but less than 60	\$1,000.00	\$500.00
F. For values of Y over 60, but less than 80	\$1,400.00	\$700.00
G. For values of Y over 80, but less than 100	\$1,800.00	\$900.00
H. For values of Y over 100 or more	\$2,000.00	\$1,000.00
Total fees for all process and fuel-burning equipment, except major sources, in the above schedule in each work room, shall not exceed \$500.00 for renewal of permits to operate.		
(5) <i>Control Equipment and/or Appurtenances.</i> A separate permit shall be required and shall carry the same fees as the air contaminant source for which it is installed or modified. A separate permit and permit fee shall not be required when the control equipment or appurtenances are installed as an integral part of the source or concurrently with the installation or modification of the source.		
(6) <i>Any Other Air Contaminant Source.</i> Any other air contaminant source and not included in the above schedule	\$100.00	\$50.00

(b) Fees for the examination of applications and for the issuance of other permits, required by this code, shall be as follows: For each permit for a given location:

- (1) For open burning, fifty dollars (\$50.00);
- (2) For sandblasting of buildings and other structures, fifty dollars (\$50.00);
- (3) For spraying of asbestos containing products, fifty dollars (\$50.00).

(c) Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of the values of X and/or Y in subsection (a) of this section, the interpretation that results in the highest fee shall apply.
(Ord. No. 2393-02. Passed 2-3-03, eff. 2-3-03)

§ 263.02 Fee Reduction

Where a fee is demanded by the OEPA air pollution regulations for a permit to install or modify or permit to operate the same air contaminant source the fees demanded in Section 263.01 shall be reduced by seventy-five percent (75%).
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 263.03 Application to Governmental Units

The provisions of Section 263.01 shall apply within the City to all governmental units unless the imposition and collection of fees are prohibited by law.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 263.04 Schools and Churches Exempted

No fee shall be demanded or collected under the provision of Section 263.01 for the required permits, variances of inspection of fuel-burning or control equipment or incinerators installed or to be installed in any public or parochial school or any churches in the City.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 265 – VISIBLE AIR CONTAMINANT LIMITATIONS

- 265.01 Visible Emission Limitations from Any Single Source of Emission
- 265.02 Visible Emission Limitations from Mobile Equipment
- 265.03 Authority to Establish New Visible Emission Limitations
- 265.04 Exceptions

Cross-reference:

- Air contaminant defined, CO 251.03*
- Exemptions, CO Ch. 261*
- Visible emission defined, CO 251.68*

§ 265.01 Visible Emission Limitations from Any Single Source of Emission

(a) No person shall discharge into the atmosphere from any single source of emission whatsoever any air contaminant of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or twenty percent (20%) opacity, except as set forth in the applicable provisions of this chapter and Chapter 277.

(b) A person may discharge into the atmosphere from any single source of emission for a period or periods aggregating not more than three (3) minutes in any sixty (60) minutes air contaminants of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or twenty percent (20%) opacity but not darker than No. 3 on the Ringelmann Chart or sixty percent (60%) opacity.
(Ord. No. 141-79. Passed 12-17-79, eff. 12-19-79)

§ 265.02 Visible Emission Limitations from Mobile Equipment

(a) No person shall discharge or cause to be discharged from any gasoline-powered vehicle any visible air contaminants for a consecutive period greater than five (5) seconds.

(b) No person shall discharge or cause to be discharged from any diesel-powered vehicle, including diesel-drive motorboat and diesel locomotives, any visible air contaminants darker in shade or density than that designated as No. 1 on the Ringelmann Chart, or twenty percent (20%) opacity, for a consecutive period greater than five (5) seconds.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 265.03 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 or she 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) No new visible emission limitations shall be established by the Commissioner, pursuant to subsection (a) hereof, 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;
- (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, pursuant to subsections (a) and (b) hereof, 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 atmosphere from any single source of emission whatsoever 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, pursuant to the requirements of this section.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 265.04 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 277.09.

(c) The Commissioner is hereby authorized to exempt any source from compliance with the limitations of Sections 265.01 and 265.03 for periods of startup and shutdown. Such exemption may be granted by the Commissioner 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 267 – ODORS

- 267.01 Emission into the Atmosphere
- 267.02 Rendering Plants
- 267.03 Industrial Sources

Cross-reference:

- Exemptions, CO Ch. 261*
- Odor defined, CO 251.39*

§ 267.01 Emission into the Atmosphere

(a) No person shall cause or allow the emission into the atmosphere from any air contaminant source or control equipment that will cause the outdoor air to become odorous, beyond the property line of the air contaminant source or control equipment, as measured by the use of a scentometer, odor panel, equivalent instrumentation or methodology used separately or in union therewith, which is:

(1) On or adjacent to residential, recreational, institutional, retail sales, hotel or educational premises when the odorous air has an odor strength equal to or weaker than a No. 8 scale and is detectable for more than two (2) measurements, at intervals of not less than ten (10) minutes, in any one (1) hour period or when the odorous air has an odor strength stronger than a No. 8 scale and is detectable for more than two (2) measurements, at intervals of not less than fifteen (15) minutes, in any eight (8) hour period.

(2) On or adjacent to industrial premises when the odorous air has an odor strength equal to or stronger than a No. 21 scale and is detectable for more than two (2) measurements, at intervals of not less than fifteen (15) minutes, in any eight (8) hour period.

(3) On or adjacent to premises other than those specified in subsections (1) and (2) hereof when the odorous air has an odor strength equal to or stronger than a No. 8 scale and is detectable for more than two (2) measurements, at intervals of not less than fifteen (15) minutes, in any eight (8) hour period.

(b) No. 8 Scale shall mean the dilution of one (1) volume of odorous air with seven (7) volumes of odor free air resulting in a mixture which is below the threshold of odor sensory perception. No. 21 Scale shall mean the dilution of one (1) volume of odorous air with twenty (20) volumes of odor free air resulting in a mixture which is below the odor sensory perception.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 267.02 Rendering Plants

(a) As used in this section, the term “rendering plant” includes the land, buildings, machinery, apparatus and fixtures 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 it into fats and oils, food for poultry, livestock or pets, fertilizer or other products.

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

(1) All vents to the atmosphere from such rendering plant are substantially free of any odor causing air pollution;

(2) 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;

(3) Odor-producing 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;

(4) Excessive accumulations of odor- producing materials resulting from spillage or escape do not occur;

(5) 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;

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 267.03 Industrial Sources

Emissions from any of the sources or processes listed in Table 1 of Appendix A of this Title shall be equipped with air cleaning equipment for the control of odorous matter to maintain compliance with Section 267.01. The provisions of this section are inclusive of all processes listed in Table 1, but are not limited to those specified therein.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 269 – PARTICULATE LIMITATIONS

269.01 Emission from Fuel-Burning Equipment

269.02 Emission from Incinerators

269.03 Emission from Process Equipment

Cross-reference:

Exemptions, CO Ch. 261
Particulate matter defined, CO 251.46

§ 269.01 Emission from Fuel-Burning Equipment

(a) 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-hundredths (0.04) lb. per one hundred thousand (100,000) BTU heat input for installations using less than ten million (10,000,000) BTU per hour total input. Figure I and Table II of Appendix B of this Title 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.

(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 for determining 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 shall be considered as 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 269.02 Emission from Incinerators

(a) This section shall apply 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 manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Commissioner in accordance with good engineering practices. In case of conflict, the determination made by the Commissioner shall govern.

(c) For the purposes of this section, the total of the capacities of all operable furnaces within one (1) system shall be considered as 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 one-tenth (0.10) pounds 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 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) The installation or construction of a flue fed, single flue, single chamber incinerator is hereafter prohibited, 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, permit or allow the operation of a flue fed, single flue, single chamber incinerator after July 1, 1978 unless such incinerator is equipped with air cleaning equipment to maintain compliance with the emission limitations as established in this Code.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 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 permitted emission as provided for in Table III (or Figure II) or Figure III of Appendix C of this Title, whichever is applicable under subsection (b) hereof.

(b) Figure III relates uncontrolled mass rate of emission (abscissa) to maximum allowable mass rate of emission (ordinate). Table III relates process weight rate to maximum allowable mass rate of emission. Table III is shown in graphical form in Figure II. Figure III shall apply where the uncontrolled mass rate of emission can be determined by an acceptable method, such as stack tests, material balance, application of an emission factor characterization from a reference such as U.S.E.P.A. Publication AP-42, Compilation of Air Pollutant Emission Factor, 2nd Edition, April, 1973, 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 shall govern the source.

If two (2) or more process units connect to a single stack or chimney each unit shall for the purpose of computing the maximum allowable emission rate using Table III or Figure III be considered a separate entity.

(c) 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 271 – SULFUR COMPOUNDS LIMITATIONS

271.01 Emission of Sulfur Oxides from Fuel- Burning Equipment

271.02 Emission of Sulfur Compounds from Process Equipment

Cross-reference:

Emission defined, CO 251.25

Exemptions, CO Ch. 261

Fuel-burning equipment defined, CO 251.28

Process equipment defined, CO 251.50

§ 271.01 Emission of Sulfur Oxides from Fuel- Burning Equipment

(a) Except as otherwise specified in this section, no person shall cause or permit emission of sulfur dioxide from any stack in excess of the rates specified below.

(1) For fossil fuel-fired steam generating units between ten (10.0) and three hundred fifty(350) x ten (10) BTU's per hour total rated capacity of heat input, the emission rate in pounds in sulfur dioxide per million (1,000,000) BTU actual heat input shall be calculated by the following equation:

$$EL = 7.014Q - 0.3014$$

where Q is the total rated capacity of heat input in million (1,000,000) BTU per hour and EL is the allowable emission rate in pounds of sulfur dioxide per million (1,000,000) BTU actual heat input.

(2) For fossil fuel-fired units equal to or greater than three hundred fifty million (350,000,000) BTU per hour total rated capacity, one and two-tenths (1.20) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input.

(3) The Cleveland Electric Illuminating Company or any subsequent owner or operator of the Lake Shore Power Plant located in Cleveland shall not cause or permit the emission of sulfur dioxide from any stack at the Lake Shore Plant in excess of the following rates:

A. One and three-tenths (1.30) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input from unit no. 18;

B. One and nine-tenths (1.90) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input for units 91 through 94.

(4) The City of Cleveland or any subsequent owner or operator of the Division Pumping Station located at Cleveland shall not cause or permit the emission of sulfur dioxide from any stack at the Division Pumping Station in excess of four and two-tenths (4.20) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input.

(5) No present or subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of one (1.00) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input:

Company	Boiler Identification
Cleveland Electric Illuminating Co., Hamilton Ave. Steam Plant	All
Republic Steel	234, 1, 2, A, B and C
Jones and Laughlin Steel	30

(6) No present or subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of five-tenths (0.50) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input:

Company	Boiler Identification
Jones and Laughlin Steel	22, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34 and 35
United States Steel Cuyahoga-Lorain Works	1, 2, 3, 4, 5 and 6
DuPont	18
Harshaw Chemical	7 and 8
Standard Oil of Ohio	7, 9 and 10

(7) The Hupp Company or any subsequent owner or operator of Hupp facilities in Cleveland shall not cause or permit emission of sulfur dioxide from any stack attached to boilers 1 through 3 at this facility in excess of three and five-tenths (3.50) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input.

(8) No present or subsequent owner or operator of the Medical Center located in Cleveland shall cause or permit the emission of sulfur dioxide from any stack attached to boilers 3 through 8 at the Medical Center in excess of four and six-tenths (4.60) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input.

(9) The General Motors Corporation or any subsequent owner or operator of the Fisher Body Plant at Cleveland shall not cause or permit the emission of sulfur dioxide from any stack attached to boiler 7, 8 and 9 at this facility in excess of two and one-tenth (2.10) pounds of sulfur dioxide per million (1,000,000) BTU of actual heat input.

(b) Nothing in subsection (a) hereof shall prohibit the use of fuel in fuel-burning equipment with a sulfur content greater than the maximum amount permitted by this section, provided that the fuel-burning equipment is equipped with such control apparatus as to continually prevent the emission of any sulfur oxides in amounts greater than those that would be emitted from the burning in the same fuel-burning equipment without such control apparatus of fuel containing the maximum amount of sulfur by weight that is permitted in subsection (a) hereof.

(c) The percentage by weight of sulfur in the fuel shall be determined in accordance with the methods of the American Society for Testing Materials (ASTM).

(d) For the purpose of this section all emissions of sulfur oxides shall be expressed as concentrations of sulfur dioxide.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 271.02 Emission of Sulfur Compounds from Process Equipment

(a) In addition to the requirements of Section 277.08, except as otherwise specified in this section, no person shall cause or permit the emission of sulfur dioxide from any stack in excess of six (6.00) pounds of sulfur dioxide per ton of actual process weight input.

(b) No owner or operator, unless otherwise specified in this section, shall cause or permit the combustion to by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of one hundred seventy (170) grains of hydrogen sulfide per one hundred (100) dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of eighty-six hundredths (0.86) pounds of sulfur dioxide per million (1,000,000) BTU actual heat input. Fuel-burning equipment subject to Section 271.01 (a)(1) and (2) are not subject to this limitation.

(c) The Republic Steel Corporation or any subsequent owner or operator of Republic Steel facilities located in Cleveland shall not cause or permit the combustion of by-product coke oven gas at the basic oxygen furnace shop, open hearth shop, blast furnaces 1, 4 and 5, foundry, P-Anneals 1-4, and car thaw 1-1 through 1-4, containing a total sulfur content expressed as hydrogen sulfide in excess of two hundred forty (240) grains of hydrogen sulfide per one hundred (100) dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at the above facilities in excess of one and two-tenths (1.20) pounds of sulfur dioxide per million (1,000,000) BTU actual heat input.

(d) The Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facilities located in Cleveland shall not cause or permit the emission of sulfur dioxide from any stack attached to the sinter plant at this facility in excess of zero (0.00) pounds of sulfur dioxide per million (1,000,000) BTU actual heat input.

(e) The DuPont Company or any subsequent owner or operator of the DuPont Company sulfuric acid production units at Cleveland shall not cause or permit the emission of sulfur dioxide in excess of ten (10.0) pounds of sulfur dioxide per ton of one hundred percent (100%) sulfuric acid production.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 273 – HYDROCARBON LIMITATIONS

273.01 Emission of Organic Materials from Stationary Sources

Cross-reference:

Emission defined, CO 251.25

Exemptions, CO Ch. 261

Organic materials defined, CO 251.43

Stationary source defined, CO 251.62

§ 273.01 Emission of Organic Materials from Stationary Sources

(a) *Storage of Volatile Photochemically Reactive Materials.*

(1) No person shall place, store, hold in any stationary tank, reservoir or other container of more than sixty-five thousand (65,000) gallons capacity, any volatile photochemically reactive material unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed and equipped with one (1) of the following vapor loss control devices:

A. A floating pontoon or double-deck-type cover equipped with closure seals to enclose any space between the cover's edge and compartment wall. This control equipment shall not be permitted if the volatile photochemically reactive material has a vapor pressure of twelve and five-tenths (12.5) pounds per square inch absolute or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place;

B. A vapor recovery system which reduces the emission of organic materials into the atmosphere by at least ninety percent (90%) by weight. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place;

C. Other equipment or means of air pollution control as may be approved by the Commissioner.

(2) No person shall place, store or hold in any stationary storage vessel of more than five hundred (500) gallon capacity any volatile photochemically reactive material unless such vessel is equipped with a permanent submerged fill pipe, is loaded through the use of a portable loading tube which can be inserted below the liquid level line during loading operations or is a pressure tank as described in subsection (a)(1) hereof or is fitted with a vapor recovery system as described in subsection (a)(1)B. hereof.

(b) *Volatile Photochemically Reactive Materials Loading Facilities.*

(1) No person shall load in any one day more than forty thousand (40,000) gallons of any volatile photochemically reactive material into any tank truck, trailer or railroad tank car from any loading facility unless the loading facility is equipped with a vapor collection and disposal system properly installed, in good working order, in operation and consisting of one (1) of the following:

A. An adsorber system or condensation system which processes and recovers at least ninety percent (90%) by weight of all vapors and gases from the equipment being controlled;

B. A vapor handling system which directs all vapors to a fuel gas system;

C. Other equipment or means for purposes of air pollution control as may be acceptable to and approved by the Commissioner.

(2) All loading from facilities subject to the provisions of subsections (b)(1)A. and B. hereof shall be accomplished in such a manner that all displaced vapors and gases shall be vented only to the vapor collection system. A means shall be provided to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is discontinued.

(c) *Volatile Photochemically Reactive Material/Water Separation.*

(1) No person shall use any compartment of any vessel or device operated for the recovery of volatile photochemically reactive materials from an effluent water separator which recovers two hundred (200) gallons a day or more of any volatile photochemically reactive material unless such compartment is equipped with one (1) of the following vapor loss control devices properly installed, in good working order and in operation:

A. A solid cover with all openings sealed and totally enclosing the liquid contents of the compartment. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

B. A floating pontoon or double-deck type cover equipped with closure seals to enclose any space between the cover's edge and compartment wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

C. A vapor recovery system which reduces the emission of organic materials into the atmosphere by at least ninety percent (90%) by weight. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

D. Other equipment or means of air pollution control as may be approved by the Commissioner.

(d) *Operations Using Liquid Organic Materials.*

(1) A person shall not discharge more than fifteen (15) pounds of organic materials into the atmosphere in any one day, nor more than three (3) pounds in any one (1) hour, from any article, machine, equipment or other contrivance in which any liquid organic material or substance containing liquid organic material comes into contact with flame or is baked, heat-cured, or heat-polymerized, in the presence of oxygen, unless said discharge has been reduced by at least eighty-five percent (85%).

(2) A person shall not discharge more than forty (40) pounds of organic material into the atmosphere in any one (1) day, nor more than eight (8) pounds in any one (1) hour, from any article, machine, equipment or other contrivance used under conditions other than described in subsection (d)(1) hereof for employing, applying, evaporating or drying any photochemically reactive material or substance containing such photochemically reactive material, unless such discharge has been reduced by at least eighty-five percent (85%).

(3) Any series of articles, machines, equipment or other contrivances designed for processing a continuously moving sheet, web, strip or wire which is subjected to any combination of operations described in subsections (d)(1)(2) hereof involving any photochemically reactive material, or substance containing such photochemically reactive material, shall be subject to compliance with subsection (d)(2) hereof. Where only non-photochemically reactive materials or substances containing only non-photochemically reactive materials are employed or applied, and where any portion or portions of such series of articles, machines, equipment or other contrivances involves operations described in subsection (d)(1) hereof, such portions shall be collectively subject to compliance with subsection (d)(1) hereof.

(4) Emissions of organic materials to the atmosphere from the cleanup with photochemically reactive materials of any article, machine, equipment or other contrivance described in subsections (d)(1), (2) or (3) hereof, shall be included with the other emissions of organic materials from that article, machine, equipment or other contrivance for determining compliance with this section.

(5) Emissions of organic materials to the atmosphere resulting from air or heated drying of products for the first twelve (12) hours after their removal from any article, machine, equipment or other contrivance described in subsections (e)(1), (2) or (3) hereof, shall be included with other emissions of organic materials from that article, machine, equipment or other contrivance for determining compliance with this section.

(6) Emissions of organic materials into the atmosphere required to be controlled by subsections (d)(1), (2) or (3) hereof shall be reduced by:

A. Incineration, provided that ninety percent (90%) or more of the carbon in the organic material being incinerated is oxidized to carbon dioxide;

or

B. Adsorption; or

C. Processing in a manner determined by the Commissioner to be not less effective than subsection (d)(6)A. or B. above.

(7) A person incinerating, adsorbing or otherwise processing liquid organic materials pursuant to this rule shall provide, properly install, and maintain in calibration, in good working order and in operation, devices as specified in the authority to construct or the permit to operate, or as specified by the Commissioner for indicating temperatures, pressures, rates of flow or other operating conditions necessary to determine the degree and effectiveness of air pollution control.

(8) Any person using liquid organic materials or substances containing liquid organic materials shall supply the Commissioner upon request and in the manner and the form prescribed by the Commissioner, written evidence of the chemical composition, physical properties and amount consumed for each organic solvent used.

(9) The provisions of subsection (d) hereof shall not apply to:

A. The use of equipment for which other requirements are specified by (a), (b) and (c) hereof, or which are exempt from air pollution control requirements by such provisions;

B. The spraying or other employment of insecticides, pesticides or herbicides;

C. The use of any material, in any article, machine, equipment or other contrivance described in subsections (d)(1), (2), (3) or (4) hereof if:

1. The volatile content of such material consists only of water and liquid organic material; and

2. The liquid organic material comprises not more than twenty percent (20%) of such volatile content; and

3. The volatile content is not a photochemically reactive material.

D. The use of any material, in any article, machine, equipment or other contrivance described in subsections (d)(1), (2), (3) or (4) hereof if:

1. The volatile content of such material does not exceed twenty percent (20%) by volume of such material; and

2. The volatile content is not a photochemically reactive material.

E. The use, in any article, machine, equipment or other contrivance described in subsections (d)(1), (2), (3) or (4) hereof, of liquid organic materials which exhibit a boiling point higher than two hundred twenty degrees Fahrenheit (220°F) at five-tenths (0.5) millimeter mercury absolute pressure, or having an equivalent vapor pressure, unless such liquid organic material is exposed to temperatures exceeding two hundred twenty degrees Fahrenheit (220°F).

F. The use of any material, in any article, machine, equipment or other contrivance described in subsections (d)(1), (2), (3) or (4) hereof if it can be demonstrated to the satisfaction of the Commissioner that the emissions of organic materials into the atmosphere from such article, machine, equipment or other contrivance are not photochemically reactive. In case of conflict in the interpretation of this subsection, the definition of "not photochemically reactive" mentioned in this subsection, or the results of the test made to show compliance, the determination made by the Commissioner shall govern.

(e) *Architectural Coatings.*

(1) A person shall not sell or offer for sale for use in containers of greater than one (1) gallon capacity, any architectural coating containing a photochemically reactive material.

(2) A person shall not employ, apply, evaporate or dry any architectural coating, purchased in containers of greater than one (1) gallon capacity, containing a photochemically reactive material.

(3) A person shall not thin or dilute for application any architectural coating with a photochemically reactive material.

(f) *Disposal and Evaporation of Solvents.*

(1) A person shall not, during any one day, dispose of a total of more than one and one-half (1.5) gallons of any volatile photochemically reactive material, or dispose of any substance containing more than one and one-half (1.5) gallons of any volatile photochemically reactive material, by any means which will permit the evaporation of such volatile photochemical reactive material into the atmosphere.

(f) *Waste Gas Disposal.*

(1) No person shall emit a waste gas stream from any ethylene producing plant or other ethylene emission source into the atmosphere unless the waste gas stream is properly burned at one thousand three hundred degrees Fahrenheit (1,300°F) for three-tenths (0.3) seconds or greater in a direct-flame afterburner or an equally effective device as may be approved by the Commissioner

(2) No person shall emit organic materials to the atmosphere from a waste gas flare system unless such materials are burned by smokeless flares or an equally effective control device as approved by the Commissioner.

(3) The provisions of subsections (g)(1) and (2) hereof shall not apply to emissions from emergency relief and vapor blowdown systems. Emissions from emergency relief and vapor blowdown systems shall be controlled upon special order of the Commissioner by burning smokeless flare or equally effective device as may be approved by the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 275 – CARBON MONOXIDE LIMITATIONS

275.01 Emission from Stationary Sources

Cross-reference:

Emission defined, CO 251.25

Exemptions, CO Ch. 261

Stationary source defined, CO 251.62

§ 275.01 Emission from Stationary Sources

The provisions of this section shall be applicable to all existing stationary sources located within a region classified Priority 1 for carbon monoxide by Regulation EP-11-06, of any subsequent revision, of the Director of the Ohio Environmental Protection Agency and to all new stationary sources regardless of location.

(a) All new stationary carbon monoxide emission sources shall minimize carbon monoxide emissions by use of the best available control techniques and operating practices in accordance with best current technology.

(b) Nothing in this section shall be construed to preclude the use of alternative means to abate emissions, if such alternative is approved by the Commissioner and will not result in emissions significantly greater than would result from the application of the means specified herein.

(c) No person shall emit the carbon monoxide gases generated during the operation of a grey iron cupola, blast furnace or basic oxygen steel furnace unless they are burned at one thousand three hundred degrees Fahrenheit (1,300°F) for three-tenths (0.3) seconds or greater in a direct-flame afterburner, equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level or such other equivalent device to burn up the carbon monoxide that may be approved for use by the Commissioner.

(d) No person shall emit carbon monoxide waste gas stream from any catalyst regeneration of a petroleum cracking system, petroleum fluid coker or other petroleum process into the atmosphere, unless the waste gas stream is burned at one thousand three hundred degrees Fahrenheit (1,300°F) for three-tenths (0.3) seconds or greater in a direct-flame afterburner or boiler, equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level or such other equivalent device to burn up the carbon monoxide that may be approved for use by the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 277 – MISCELLANEOUS LIMITATIONS

277.01 Blast Furnace Slips

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277.12 Spray Applications of Fiberated Cementitious Products

Cross-reference:

Definitions, CO Ch. 251

Demolition, CO Ch. 3115

Exemptions, CO Ch. 261

§ 277.01 Blast Furnace Slips

(a) Emissions from blast furnaces shall be kept to a minimum. No person shall cause or allow any blast furnace to emit air contaminants, as a result of a slip, more than sixty (60) times in any consecutive twelve (12) month period or more than six (6) times in any consecutive thirty (30) day period. For the purpose of this section, a blast furnace slip is defined as a sudden emission of gas containing particulate matter of shade or density equal to or greater than No. 2 of the Ringelmann Scale or forty percent (40%) opacity from the relief valves at the top of the furnace.

(b) If a violation of the provisions of subsection (a) hereof occurs, the Commissioner may require the owner or operator of any blast furnace to equip such blast furnace with observing or recording devices to record all blast furnace slips. Such devices shall be approved by the Commissioner.

(c) All devices used for observing and recording blast furnace slips shall be maintained in good order. Safe and adequate means for inspection of such devices shall be provided by the person responsible for the blast furnace.

(d) All persons responsible for blast furnaces shall make available to the Commissioner, on request, the records of the required observation and recording devices. These records shall be deemed as an admission by the responsible person of the number of blast furnace slips occurring, but they shall not be deemed as a limit on the Commissioner's action to present evidence that a greater number of slips occurred than the records indicate.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.02 Demolition of Buildings

(a) No person shall cause or allow demolition of any existing building, structure or portion thereof within the City without obtaining a permit to demolish from the Commissioner of Building of the City of Cleveland. The Commissioner of Building shall forward to the Commissioner of Air Pollution Control a copy of each permit to demolish.

(b) Application for permit to demolish shall be made on forms prepared by the Commissioner of Building and shall contain such information as the Commissioners of Building and Air Pollution Control deem necessary.

(c) In addition to the requirements of Section 277.07, procedures to be followed to prevent particulate matter from becoming airborne during demolition of buildings or structures shall include, but not be limited to, the following:

(1) Asbestos materials used to insulate or fireproof any boiler, pipe or load-supporting structural member shall be wetted and removed before wrecking of load-supporting members is begun. This procedure shall be followed, where practicable, with all other asbestos-lined surfaces;

(2) Asbestos containing debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations;

(3) No pipe or load-supporting structural member covered with asbestos insulating or fireproofing material shall be dropped or thrown to the ground but shall be lowered or taken to ground level;

(4) No asbestos containing debris shall be thrown or dropped to the ground from any floor to any floor below. For buildings or structures fifty (50) feet or greater in heights, asbestos debris shall be transported to the ground via dust-tight chutes or containers.

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

(e) Failure of any person to comply with any of the requirements of subsections (c) and (d) hereof shall be sufficient grounds for the Commissioner of Building to revoke any permit.

(f) In cases of emergency any existing building, structure or portion thereof may be demolished prior to obtaining a permit to demolish from the Commissioner of Building if such building, structure or portion thereof is or may be dangerous to human safety or property if the demolition was deferred.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.03 Emissions from By-Product Coke Plant

(a) For the purpose of this section the term "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.

(B) *Visible Air Contaminants from Operation of Coke Oven Battery.*

(1) *Charging Emissions.*

A. No person shall discharge into the atmosphere during the charging cycle of a coke oven battery from the charging holes, larry car or standpipes any visible air contaminants except for a cumulative total not to exceed two hundred (200) seconds over a period of five (5) consecutive charges between March 31, 1978 and December 31, 1978 and one hundred fifty (150) seconds over a period of five (5) consecutive charges on or after January 1, 1979.

B. The emissions from the charging cycle shall include all emissions from the time that the gate(s) on a larry car coal hopper is (are) opened or mechanical feeds start the flow of coal into the ovens until the last charging hole lid is replaced.

(2) *Charging Hole Port Emissions.*

A. No person shall discharge into the atmosphere visible air contaminants at any time from more than five percent (5%) of the charging hole ports on any one (1) battery during any fifteen (15) consecutive minutes.

B. For the purpose of this subsection the denominator shall be the total number of charging hole ports on the battery and the numerator shall be the number of charging ports for operating ovens from which there was a visible emission during an inspection excluding oven(s) being charged and the two (2) ovens being decarbonized which follow the last oven being charged in accordance with the operating schedule. The inspection shall be made by a single observation performed as rapidly as conditions permit and inclusive of all ports.

(3) *Standpipe (Offtake Pipes) Emissions.*

A. No person shall discharge into the atmosphere visible air contaminants at any time for more than twelve percent (12%) of the offtake piping (standpipes) of any coke oven battery during any fifteen (15) consecutive minutes.

B. For the purpose of this subsection the denominator shall be the total number of offtake pipes on the battery and the numerator shall be the number of offtake pipes for operating ovens from which there was a visible emission during an inspection excluding oven(s) being charged and the two (2) ovens being decarbonized which follow the last oven being charged in accordance with the operating schedule. The inspection shall be made by a single observation performed as rapidly as conditions permit and inclusive of all offtake pipes.

(4) *Coke Oven Doors.*

A. No person shall discharge into the atmosphere from any opening on or seal of a coke oven door visible air contaminants, except for

nonsmoking flame, from more than sixteen percent (16%) of the coke oven doors on any one (1) battery during any twenty (20) consecutive minutes.

B. No person shall fail to adjust, repair or replace a coke oven door, found to be leaking for thirty (30) minutes or more after an oven is charged, prior to the next coking cycle which starts during the daylight turn.

C. No person or operator of a coke oven battery shall fail to maintain coke oven doors and a coke oven door repair facility capable of prompt and efficient repair of coke oven doors and seals. No person shall fail maintain an inventory of one (1) coke door for twelve (12) coke ovens operated.

D. For the purpose of this subsection an oven door and the associated chuck door on the pusher side of the battery shall be considered as one (1) door. The denominator shall be the number of coke oven doors for operating ovens on any battery and the numerator shall be the number of coke oven doors or seals which have one (1) or more visible emissions during an inspection excluding oven(s) being charged.

(5) *Pushing Emissions.*

A. No person shall discharge into the atmosphere during the pushing cycle of a coke oven battery visible air contaminants greater than fifteen percent (15%) opacity except for accumulative total not to exceed one hundred eighty (180) seconds over a period of three (3) consecutive pushes.

B. For the purpose of this section the pushing cycle shall begin when the coke oven door is removed and shall end when the quench car enters the quench tower.

(6) *Combustion Stack Emissions.* No person shall discharge into the atmosphere from the combustion stack of a coke oven battery visible air contaminants in excess of the limitations as set forth in Section 265.01.

(c) *Unloading, Handling, Transfer and Storage of Coal and Coke.* No person shall cause, suffer, allow or permit coal or coke to be unloaded, handled, transferred or stored without taking all necessary and reasonable precautions to prevent particulate matter from becoming airborne. Such precautions shall be taken as set forth in Section 277.07.

(d) *Coke Quenching Tower.*

(1) No person shall cause or allow the operation of a coke quenching tower unless such tower is equipped with effective interior baffles.

(2) No person shall cause or allow the wet quenching of coke unless the quality of make-up water used for such quenching is equivalent to the quality of water established for the nearest stream or river by regulation of the Ohio Environmental Protection Agency, except that water from the nearest stream or river or treated process water may be used for the quenching of coke. For the purpose of this section, treated process water means waste water treated physically and/or chemically for the removal of suspended solids, phenols, cyanides, ammonia, oil, grease and/or other substances to the degree approved by the Commissioner. (Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.04 Emission of Chromic Acid from Hard Chrome Electro-Plating Process

No person or operator shall cause or permit the operation of a hard chrome electro-plating process unless the emission of chromic acid is reduced by at least ninety-eight percent (98%) before being released into the atmosphere.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.05 Emission of Hydrogen Chloride Gas from Hydrochloric Acid Production

No person shall cause or permit the operation of a hydrochloric acid plant unless the emission of hydrogen chloride gas from such production plant is reduced to at least five-tenths (0.50) pounds per ton of hydrochloric acid produced expressed at twenty degrees Baume (20°Be).

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.06 Emission of Hydrogen Fluoride Gas from Hydrofluoric Acid Production

No person shall cause or permit the operation of a hydrofluoric acid plant unless the emission or hydrogen fluoride gas from such production plant is reduced as follows:

(a) To four-tenths (0.40) pounds per ton of anhydrous hydrofluoric acid produced per hour from the anhydrous gas generation and anhydrous hydrofluoric acid production;

(b) To fifteen hundredths (0.15) pounds per ton of seventy percent (70%) hydrofluoric acid produced per hour from the blending operation;

(c) To forty-five hundredths (0.45) pounds per ton of anhydrous hydrofluoric acid produced per hour from the storage and loading operations.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.07 Fugitive Emissions

(a) *General Provisions.* No person shall cause, allow or permit any materials to be handled, transported or stored, or a building, its appurtenances or a road to be used, constructed, altered, repaired or demolished without taking all necessary and reasonable precautions to prevent particulate matter from becoming airborne. Such precautions shall include, but not be limited to, the following:

(1) Use, where possible, water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(2) Application of asphalt, oil, water or suitable chemicals on dirt roads, materials stockpiles and other surfaces which can create airborne dusts;

(3) Installation and use of hoods, fans and control equipment to enclose, contain, capture and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;

(4) Covering at all times when in motion open bodied vehicles transporting materials likely to become airborne;

(5) Conduct of agricultural practices such as tilling of land, application of fertilizers, etc., in such manner as to prevent dust from becoming airborne;

(6) The paving of roadways and their maintenance in a clean condition;

(7) The prompt removal of earth or other material from paved streets onto which earth or other material has been deposited by trucking or earth moving equipment or erosion by water or other means.

(b) *Visible Emissions from Fugitive Emission Sources.* In addition to the provisions of subsection (a) hereof, no person shall cause or permit the discharge into the atmosphere of any visible air contaminant resulting from fugitive emission sources in excess of the limitations, as set forth in Section 265.01, or beyond the property line of the property on which the emissions originate.

(c) *Emission of Air Contaminants from Buildings, Equipment, Storage Areas or Material Handling Operations.* When dust, fumes, gases, mist, odorous matter, 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 Section 255.04, requiring 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 gasborne material leaving the building, equipment, storage area or material handling operation are treated by removal or destruction of air contaminants before discharge into the atmosphere.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.08 Nuisance

The emission or escape of air contaminants into the open air from any source or sources or control equipment in such manner or in such amounts, as to endanger or tend to endanger the health, comfort, safety or welfare of the public, or is reasonably offensive and objectionable to the public, or shall cause unreasonable injury or damage to property or interfere with the comfortable enjoyment of property or normal conduct of business, is hereby found and declared to be a public nuisance. No person shall cause, permit or maintain any such public nuisance.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.09 Open Burning

(a) No person shall cause or allow open burning within the City without obtaining a permit to open burn from the Commissioner except as set forth in subsection (d) hereof. The permit fee shall be based on the cost basis as set forth in Section 263.01.

(b) No permit to open burn shall be issued by the Commissioner except for the following purposes:

(1) Prevention or control of disease or pests;

(2) Ceremonial purposes. Ceremonial fires shall be less than five (5) feet by five (5) feet by five (5) in dimension and shall burn no longer than three (3) hours;

(3) Instruction in methods of fire fighting or for research in the control of fire;

(4) In emergency or other extraordinary circumstances for any purpose determined by the Commissioner.

(c) Application for permit to open burn shall be made on forms prepared by the Commissioner and shall contain such information as the Commissioner may deem necessary.

(d) A permit to open burn shall not be required from the Commissioner for open burning of the following nature:

(1) Non-commercial cooking of foods for human consumption;

(2) Heating tar, welding, acetylene torches and highway flares;

(3) Heating of clean and noncontaminated smokeless fuels for warmth of outdoor workers.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.10 Other Emissions

Air 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 Section 255.04.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.11 Sandblasting and/or Building Cleaning

(a) No person shall cause or allow the sandblasting and cleaning of a building or structure without obtaining a permit to sandblast and/or clean from the Commissioner. The permit fee shall be based on the cost basis as set forth in Section 263.01.

(b) Application for permit to sandblast and/or clean shall be made on forms prepared by the Commissioner and shall contain such information as the Commissioner deems necessary.

(c) No permit for the sandblasting and/or cleaning of a building or structure shall be granted until the applicant proves to the satisfaction of the Commissioner that:

(1) Adequate containment of dust and water droplets shall be furnished;

(2) Provisions for complete clean-up after sandblasting and/or cleaning shall be provided;

(3) One (1) person shall be assigned full time supervisory authority for all aspects of the operation.

(d) In addition to the requirements of Section 277.07, the Commissioner may require any control methods deemed necessary to adequately control excessive particulate matter and other pollutants during sandblasting and/or cleaning operations.

(e) The Commissioner is authorized to regulate, at his or her discretion, the times and hours of sandblasting and/or cleaning operations.

(f) Sandblasting of buildings and structures shall be of “wet-method” application wherein water is entrained with the cleaning medium to prevent excessive dust during cleaning operations.

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

(h) Failure of a person to comply with any of the requirements of subsections (c), (d), (e), (f) and (g) hereof shall be sufficient grounds for the Commissioner to revoke any permit.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 277.12 Spray Applications of Fiberated Cementitious Products

(a) 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 Commissioner of Building. The Commissioner of Building shall forward to the Commissioner of Air Pollution Control a copy of each permit for the spraying of such product or compounds.

(b) Application for a permit to spray cementitious products or compounds containing mineral fibers shall be made on forms prepared by the Commissioner of Building and shall contain such information as the Commissioners of Building and Air Pollution Control deem necessary.

(c) No person shall cause, permit 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, approved respiratory devices and clothing.

(d) 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.

(e) Failure of any person to comply with any of the requirements of subsections (c) and (d) hereof shall be sufficient grounds for the Commissioner of Building to revoke any permit.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 279 – PROCEDURES AND OTHER REQUIREMENTS

279.01 Breakdown of Equipment (Malfunctions)

279.02 Source Operation Without Control Equipment and Exceptions

279.03 Circumvention

279.04 Data Registration

279.05 Right of Entry

Cross-reference:

Abatement orders, CO 255.04

Exemptions, CO Ch. 261

Penalties, CO Ch. 287

Statutory reference:

Prohibitions, RC 3704.05

§ 279.01 Breakdown of Equipment (Malfunctions)

(a) Emissions exceeding any of the limits established under this Code, as direct result of the breakdown of any emission source or control equipment, shall not be deemed to be in violation of such limits, provided the owner or operator immediately advises the Commissioner of the breakdown and no later than four (4) hours after such breakdown advises the Commissioner of the immediate action taken or to be taken; and outlines a corrective program acceptable to the commissioner in writing by certified mail within five (5) days after the occurrence of such breakdown.

(b) In the event that the Commissioner disapproves the proffered corrective program, submitted under subsection (a) hereof or that the repairs to the emission source or control equipment cannot be completed within twenty-four (24) hours from the time of breakdown, the Commissioner may, at his or her discretion, issue a written order to the person owning, operating or in control of such source or equipment to immediately discontinue the operation of such source or equipment or to substantially reduce emissions until such time as corrective measures have been completed. Should the person to whom such order is issued fail to act upon such order, the Commissioner may seal such source or equipment, without further notice for failure to comply with such order.

(c) If under this section, the number of breakdowns of any single emission source or control equipment exceeds three (3) in any one (1) year period, the Commissioner may require an owner or operator to submit a satisfactory maintenance program for such source or equipment. Failure to maintain such source or equipment in accordance with such a maintenance program shall be grounds for revocation of a permit to operate.

(d) No person shall fail to report a breakdown of any emission source or control equipment, as provided for in subsection (a) hereof, that results in the discharge into the atmosphere of air contaminants in excess of any of the limits established under this Code.

(e) No person shall continue to operate any emission source or control equipment following a breakdown of said source or control equipment, that causes the discharge into the atmosphere of air contaminants in excess of any of the limits established under this Code except as otherwise provided for in subsections (a) and (h) hereof.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 279.02 Source Operation Without Control Equipment and Exceptions

(a) No person shall operate or cause to be operated any source or any equipment pertaining thereto that discharges any air contaminants into the atmosphere, when control equipment has been installed to permit operation in conformity with the provisions of this Code and such control equipment is not being operated, except as set forth in subsections (b) and (c) hereof.

(b) *Exception for scheduled maintenance of control equipment.*

(1) In the event that it becomes necessary to shutdown any control equipment for scheduled maintenance unaccompanied by shutdown of the emission source, it shall not be deemed to be a violation of subsection (a) hereof, provided the person owning, operating or in charge of such source notifies the Commissioner at least seventy-two (72) hours prior to the planned shutdown of the intent to shutdown such equipment and provided further that the Commissioner gives written approval of the proffered planned maintenance schedule. Prior notice shall include, but is not limited to, the following:

A. Identification and location of the specific control equipment, including number of permit to operate issued by the Commissioner, to be taken out of service;

B. The expected length of time that the air pollution control equipment will be out of service;

C. The nature and quantity of emissions of air contaminants likely to occur during the shutdown period;

D. Measures such as the use of offshift labor and equipment that will be taken to minimize the length of the shutdown period;

E. The reasons that it would be impossible or impractical to shutdown the source operation during the maintenance period;

F. A demonstration that any interim control measures have reduced or will reduce emissions from the source during the shutdown period.

(2) The Commissioner retains the responsibility to evaluate any report submitted pursuant to this section. Upon a determination that a shutdown was or has become avoidable or was induced or prolonged in bad faith or that the requirements of subsections (b)(1)D., E. and F. hereof have not been fulfilled, then the Commissioner shall take appropriate action under the provisions of this Code.

(c) *Exception for Breakdown of Equipment (Malfunctions).* The requirement of subsection (a) shall not apply where the only reason for the failure to operate the control equipment, when the source is operating, is because of the breakdown of such equipment, and provided further that the owner or operator of such control equipment complies with the provision of Section 279.01(a).

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 279.03 Circumvention

No person shall install, modify or use 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 279.04 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 of control equipment and the submission required under this section is in addition to the submission of plans and specifications under Sections 257.01 and 259.03. 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 or 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 limited emissions to conform to limitations set forth in this Code and written evidence to substantiate information required, 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 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 279.05 Right of Entry

The Commissioner or his or her authorized representative or representatives may 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, 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 sections of this Code, any orders or regulations adopted thereunder or any other determination of the Commissioner. 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

- 281.01 Definition and Designation
- 281.02 Source Reporting
- 281.03 Asbestos Emission Standard
- 281.04 Beryllium
- 281.05 Mercury Emission Standard

Cross-reference:

Abatement orders, CO 255.04
Asbestos defined, CO 251.12
Emergency episodes, CO Ch. 283

§ 281.01 Definition and Designation

(a) "Hazardous air pollutants" mean any air contaminants which may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible, illness to the public and have been so designated as hazardous pollutants pursuant to Section 112 of the Clean Air Act, by this Code, or by the Commissioner by rule and regulation.

(b) Asbestos, beryllium and mercury are hereby designated as hazardous air pollutants.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 281.02 Source Reporting

(a) The owner or operator of any existing source of potential hazardous air pollutant emissions shall report to the Commissioner, within ninety (90) days after the effective date of this Code, the following information:

- (1) Name and address of owner or operator;
- (2) Location of source;
- (3) Type of hazardous air pollutant potentially emitted;
- (4) Description of the nature, size, design and method of operation of the source including each point of emission of each hazardous pollutant;
- (5) Concentration of emission, and total weight released per day;
- (6) Description of existing control equipment for each emission point.

(b) The owner or operator of any new source of potential hazardous air pollutant emissions shall include the information listed in subsection (a) hereof part of the installation permit application, as described in Section 257.01.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 281.03 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) No person shall cause or allow the demolition of any building or structure, or parts thereof, where a risk of public exposure to asbestos fibers from the dislodging of asbestos containing materials is present, or without obtaining a permit to demolish from the Commissioner of Building, as required by Section 277.02(a). Adequate precautions to prevent or reduce asbestos dust emissions shall be taken as prescribed in Section 277.02(a).

(c) *Spraying of Asbestos Containing Products.*

- (1) No person shall cause or allow the use of asbestos containing spray products for outdoor application to surfaces.
- (2) No person shall cause or allow the use of any asbestos-containing spray product for the indoor application to surfaces without obtaining a permit to spray such product from the Commissioner. The permit fee shall be based on the cost basis as set forth in Section 263.01.
- (3) Application for permit to spray any asbestos containing spray product for the indoor application to surfaces shall be made on forms prepared by the Commissioner and shall contain such information as the Commissioner deems necessary.
- (4) No permit for the spraying of any asbestos-containing spray product for the indoor application to surfaces shall be granted until the applicant proves to the satisfaction of the Commissioner that:
 - A. Adequate containment of dust and overspray shall be furnished;
 - B. Provisions for complete clean-up after spraying shall be provided;
 - C. Sufficient and approved respiratory devices and clothing shall be used by all workers and other persons present;
 - D. One (1) person shall be assigned full time supervisory authority for all aspects of the operation.

(5) Failure of a person to comply with any of the requirements of subsection (c)(4) hereof shall be sufficient grounds for the Commissioner to revoke any permit.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 281.04 Beryllium

(a) *Emission Standard.* No person shall cause or allow the discharge to the atmosphere from any air contaminant source or control equipment the emission of greater than ten (10) grams of beryllium in any twenty-four (24) hour period, except as provided in subsection (b) hereof.

(b) In lieu of the requirement in subsection (a) hereof, an owner or operator may request written approval from the Commissioner to meet an ambient air

concentration limit, at the property line where the emissions originate, of one-hundredth (0.01) micrograms per cubic meter, averaged over any consecutive thirty (30) day period. Approval of such tests may be granted by the Commissioner provided that:

- (1) At least three (3) years of data is available which demonstrates to the satisfaction of the Commissioner that the ambient limit shall not be exceeded;
- (2) The owner or operator submits a report to the Commissioner within ninety (90) days after the effective date of the Code as provided in Section 281.02, and such report includes the following additional information: a complete description of sampling methods and analysis; averaging technique; factors affecting dispersion; and air sampling data, including concentration and location where measurements were made.
- (c) No person shall cause or allow the burning of beryllium and/or beryllium containing waste except in incinerators, which shall comply with the emission standards in subsection (a) hereof and all applicable provisions of the Code.
- (d) *Ambient Air Monitoring for Beryllium.*
 - (1) Air contaminant sources or control equipment subject to subsection (b) hereof shall locate air monitoring sites in accordance with a plan approved by the Commissioner. Such sites shall be located in such a manner as is calculated to detect maximum concentrations of beryllium in the ambient air.
 - (2) Monitoring sites shall be operated continuously except for reasonable allowance for maintenance, calibration, changing filters or repair.
 - (3) Filters shall be analyzed and concentrations calculated within thirty (30) days after filters are collected. Records shall be retained for a minimum of two (2) years and shall be made available for inspection by the Commissioner or his or her representative.
 - (4) Concentrations measured at all monitoring sites shall be reported to the Commissioner every thirty (30) days.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 281.05 Mercury Emission Standard

- (a) No person shall cause or allow the discharge into the atmosphere from any air contaminant source or control equipment the emission of greater than two thousand three hundred (2,300) grams of mercury in any twenty-four (24) hour period, except as set forth in subsection (b) hereof.
- (b) No person shall cause or allow the discharge into the atmosphere from sludge incineration plants, sludge drying plants or a combination thereof that processes wastewater treatment plant sludges, greater than three thousand two hundred (3,200) grams of mercury per twenty-four (24) hour period.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 283 – EMERGENCY EPISODES

- 283.01 Episode Prevention
- 283.02 Declaration of an Air Pollution Episode
- 283.03 Emission Control Action Programs
- 283.04 Emergency Orders
- 283.05 Breakdowns (Malfunctions) During an Episode
- 283.06 Scheduled Maintenance of Control Equipment During an Episode

Cross-reference:

Commission to notify of excessive safe levels, CO 255.02

Statutory reference:

Emergency action, declaration and enforcement, RC 3704.032

§ 283.01 Episode Prevention

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

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 283.02 Declaration of an Air Pollution Episode

- (a) Pursuant to RC 3704.032, or as subsequently amended, and pursuant to 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 pursuant to the declaration of an air pollution alert, air pollution warning or air pollution emergency shall take effect upon issuance, and no person to whom an order is directed shall fail to initiate compliance measures immediately upon receiving notice.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 283.03 Emission Control Action Programs

- (a) Any person responsible for the operation of a source of air contaminant 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 procedure 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 Tables IV to VIII which are made a part of this section.

(b) Emission control action programs as required under subsection (a) hereof 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 install or modify;

(3) The provisions of subsection (c)(1) hereof shall not apply if an emission control action program was filed with the Division of Air Pollution Control, 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 subsection (a) hereof 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, and in the opinion of the Commissioner, such emission control action programs do not effectively carry out the objectives as set forth in Tables IV to VIII, the Commissioner may disapprove such emission control action programs, state his or her reasons for disapproval and order the preparation of amended emission control action programs within the time period specified in the order.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 283.04 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 one or combination of air contaminants: "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) Suspended particulate matter:

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

B. "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 pm."

C. "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 pm."

(3) Nitrogen oxides, carbon monoxide and hydrocarbons:

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

B. "The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12:00 noon and 4:00 pm."

(b) *Air Pollution Warning.*

(1) Any one (1) or combination air contaminants: "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) Suspended particulate matter:

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

B. "The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited."

C. "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 pm."

(c) *Air Pollution Emergency.*

(1) Any one or combination of air contaminants:

A. "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."

B. "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."

C. "All places of employment described below shall immediately cease operations:"
"Mining and quarrying of non- metallic minerals."
"All contract construction work except that which must proceed to avoid physical harm."
"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."
"All 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, pursuant to City ordinance or State statute."

"All retail trade establishments, except pharmacies and stores, primarily engaged in the sale of food."

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

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

"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."

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

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

- D. “There shall be no open burning by any persons of tree waste, vegetation, refuse or debris in any form.”
- E. “The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.”
- F. “The use of motor vehicles is prohibited except in emergencies with the approval of City or State police.”

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 283.05 Breakdowns (Malfunctions) During an Episode

(a) Pursuant to 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 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 subsection (a) hereof without prior written approval of the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 283.06 Scheduled Maintenance of Control Equipment During an Episode

(a) Pursuant to 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 subsection (a) hereof without prior written approval of the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 285 – TESTING AND MONITORING EQUIPMENT

- 285.01 Emission Test Methods
- 285.02 Sampling and Testing
- 285.03 Test Facilities and Access
- 285.04 Source Monitoring and Recording Equipment

Cross-reference:

Appeals, CO 255.03

Commissioner to conduct tests and establish monitoring, CO 255.02

Equipment breakdowns, CO 279.01

Right of entry, CO 279.05

§ 285.01 Emission Test Methods

Emission tests shall be undertaken by standard methods as published and prescribed in the Federal Register dated December 23, 1971, Volume 36, Number 247, Part II, entitled “Standards of Performance for New Stationary Sources” 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 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 or her 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 or her. 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 Pollution Control be present during 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 or her 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.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 285.03 Test Facilities and Access

(a) It shall be the responsibility of the owner or operator of the source or control equipment tested to provide, at his or her expense, 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.

(b) All new sources of air contaminants created after the effective date of this Code may be required by the Commissioner to provide utilities, facilities and adequate openings in the system or stack, and safe and easy access thereto, to permit measurements and samples to be taken.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 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 two (2) 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 sources of air contaminants, installed 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 two (2) 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 give consideration to technical feasibility and economic reasonableness.
(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 287 – PENALTIES

- 287.01 Sealing
- 287.02 On Site Citations
- 287.03 Penalties

Cross-reference:

- Abatement orders, CO 255.04*
- Seal defined, CO 251.55*

Statutory reference:

- State penalties, RC 3704.99*

§ 287.01 Sealing

(a) Any person who has been found to have violated the provisions of this Code three (3) or more times within a twelve (12) month period shall be notified by registered or certified mail to show cause before the Commissioner within ten (10) days why the offending equipment may not be sealed. The notice shall be directed to the last known address of the person to be notified, or if the person or his or her whereabouts is unknown, the notice shall be posted on or near the premises at which the violations have occurred. If upon the hearing, at which the violator or his or her agent or attorney may appear and be heard, the Commissioner finds that adequate corrective measures have not been taken, he or she may seal the equipment until such time as corrective measures have been taken.

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

- (1) On any air contaminant source or control equipment being operated without a permit to operate or variance as required by this Code.
- (2) When necessary repairs or alterations are not accomplished within the time limit specified;
- (3) In cases of emergency, the air contaminant source or control equipment may be sealed without notice when the operation of such air contaminant source or control equipment is or may reasonably be dangerous to health or safety;
- (4) When control equipment has been installed in order to enable an operation or process to meet the conditions of a permit to operate, and such control equipment is not being operated, the air contaminant source may be sealed;
- (5) When test facilities and access required under Section 285.03 are not provided;
- (6) When an air contaminant source or control equipment, or proposed air contaminant source or control equipment, has been installed or modified, or is being installed or modified, without permits to install or modify, as required by Section 257.01, the air contaminant source and/or control equipment, or proposed air contaminant source and/or control equipment, may be sealed without notice;
- (7) When source monitoring and/or recording equipment required under Section 285.04 has not been provided;
- (8) When any information, data, reports, or programs required under provisions of this Code or by the Commissioner have not been provided.

Pursuant to Section 259.09, a prima-facie evidence of violation will support the action of the Commissioner in sealing certain equipment, as provided therein.

Sealing of equipment shall not be a bar to other legal action against the owner or operator thereof.

(c) No person shall break or remove a seal or operate any air contaminant source or control equipment sealed by the Commissioner unless such breaking, removal or use is authorized in writing by the Commissioner.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 287.02 On Site Citations

Violations of the provisions of this Code may be cited at the time and place of observation of violations by the Commissioner or such air pollution control personnel specified by the Commissioner from a list of personnel trained to make such observations. Upon failure of the person cited to accept such waiver ticket, the Commissioner or his or her representative shall note such refusal and proceed as in other violations to cause a complaint and summons to issue.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

§ 287.03 Penalties

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

(b) Whoever violates Sections 265.02 (a) or 277.09 (a) or participates in the violation of such sections is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred dollars (\$100.00). On a second or subsequent offense if less than twelve (12) months have elapsed since the last offense of the same provision, such person is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both.

(c) Whoever violates Sections 265.01, 265.02 (b), 265.03, 267.01, 267.02, 267.03, 277.01 (a), 277.03, 277.07 (a), 277.07 (b) or 279.02 (a) or participates in the violations of such sections is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred dollars (\$100.00). On a second or subsequent offense if less than twelve (12) months have elapsed since the last offense of the same provision, such person is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both.

(d) Whoever violates any provision of this Code, except as provided in subsections (b) and (c) hereof, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both.

(e) Each days violations shall constitute a separate offense and shall be subject to the penalties set forth in this section.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 289 – CONSTITUTIONALITY

289.01 Severability

Cross-reference:

Rules and regulations, CO 255.07

Variations, CO 259.10

§ 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.

(Ord. No. 857-A-76. Passed 6-27-77, eff. 6-30-77)

CHAPTER 291 – ADVISORY COMMITTEE

291.01 Establishment; Members Term, Vacancy and Duties

Cross-reference:

*Commissioner to recommend changes to Code and
rules and regulations, CO 255.02*

Rules and regulations, CO 255.07

§ 291.01 Establishment; Members Term, Vacancy and Duties

(a) There is hereby established an 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 Pollution 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 chairman.

(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 one (1) year 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 Pollution Code of the City or the rules and regulations adopted pursuant thereto.

(g) The committee shall issue an annual report no later than December 31 of each year regarding matters discussed during the previous year, including any recommendations regarding the Air Pollution 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.

(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 chairman shall be selected by a majority of the members of such Committee, at the first meeting thereof and shall serve for one (1) year.

APPENDICES A, B, C, D

APPENDIX A – TABLE I

Sources and Processes to Be Equipped with Air Cleaning Equipment for the Control of Odorous Matter

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 Smokehouse
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. Source 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 Graphic 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

APPENDIX B – FIGURE 1

Figure I is available as a PDF, click [HERE](#)

APPENDIX B – TABLE II

Maximum Allowable Particulate Emissions from Fuel Burning Equipment

Total Input/Hr. Millions of Btu.	Maximum Rate of Emissions Pounds of Particulate/Million Btu.
1 to 10	0.4
15	0.35
30	0.29
50	0.24
70	0.22
100	0.2

500	0.12
1,000 and over	0.1

Interpolation of the data in this table for values between 10 and 1,000 millions of Btu not given shall be accompanied by us of the equation $E = 51.27 H - 0.311$, where E = maximum allowable particulate emission rate (# - 10^6 Btu) and H = total heat input in Btu/Hr.

APPENDIX C – FIGURE II

Figure II is available as a PDF, click [HERE](#)

APPENDIX C – TABLE III

Allowable Rate of Emission Based on Process Weight Rate

Process Weight Rate	Rate of Emission		Process Weight Rate	Rate of Emission	
Lb./Hr.	Tons/Hr.	Lb./Hr.	Lb./Hr.	Tons/Hrs.	Lb./Hr.
100	0.05	0.551	16000	8	16.5
200	0.1	0.877	18000	9.00	17.9
400	0.2	1.4	20000	10	19.2
600	0.3	1.83	30000	15	25.2
800	0.4	2.22	40000	20	30.5
1000	0.5	2.58	50000	25	35.4
1500	0.75	3.38	60000	30	40
2000	1	4.1	70000	35	41.3
2500	1.25	4.76	80000	40	42.5
3000	1.5	5.38	90000	45	43.6
3500	1.75	5.96	100000	50	44.6
4000	2	6.52	120000	60	46.3
5000	2.5	7.58	140000	70	47.8
6000	3	8.56	160000	80	49
7000	3.5	9.49	200000	100	51.2
8000	4	10.4	1000000	500	69
9000	4.5	11.2	2000000	1000	77.6
10000	5	12	6000000	3000	92.7
12000	6	13.6			

Interpolation of the data in this table for process weight rates up to 60,000 lb./hr. shall be accomplished by use of the equation $E = 4.10P^{0.67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb./hr. shall be accomplished by use of the equation: $E = 55.0P^{0.11} - 40$, where E = rate of emission in lb./hr. and P = process weight rate in tons/hr.

APPENDIX C – FIGURE III

Figure III is available as a PDF, click [HERE](#)

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. b. Maximum utilization of mid-day (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler	a. Maximum reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid- day (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler	a. Maximum reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid- day (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot

	lancing and soot blowing.	lancing and soot blowing.	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 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 demands to absolute necessities consistent with preventing equipment damage.
	b. Maximum utilization of mid-day (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.	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.	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.
AND B. Other persons required by the Commissioner to prepare standby plans.	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.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	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.

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.	<p>a. Substantial reduction by utilization of fuels having lowest available sulfur content.</p> <p>b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.</p>	<p>a. Maximum reduction by utilization of fuels having lowest available sulfur content.</p> <p>b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.</p>	<p>a. Maximum reduction by utilization of fuels having lowest available sulfur content.</p> <p>b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.</p>
2. Coal or oil-fired process steam generating facilities.	<p>a. Substantial reduction by utilization of fuels having lowest available sulfur content.</p> <p>b. Reduction of steam load demands consistent with continuing plant operations.</p>	<p>a. Maximum reduction by utilization of fuels having the lowest available sulfur content.</p> <p>b. Reduction of steam load demands consistent with continuing plant operations.</p> <p>c. Making ready for use a plan of action to be taken if an emergency develops.</p>	<p>a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.</p> <p>b. Taking the action called for in the emergency plan.</p>
3. A. Manufacturing and processing industries. AND B. Other person required by the Commissioner to prepare standby plans.	<p>a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.</p> <p>b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.</p> <p>c. Reduction of heat load demands for processing</p>	<p>a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.</p> <p>b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.</p> <p>c. Reduction of heat load demands for</p>	<p>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.</p> <p>b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors, or malodorous substances.</p> <p>c. Maximum reduction of</p>

consistent with continuing plant operations.

processing consistent with continuing plant operations.

heat load demands for processing.

APPENDIX D – TABLE VI. EMISSION REDUCTION 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 contaminant. b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	a. Maximum reduction by utilization of fuels which results in the formation of less air contaminant. b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	a. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant. b. Reduction of steam load demands consistent with continuing plant operations.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant. 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.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
3. A. Manufacturing and processing industries. AND 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. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing consistent with continuing plant operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing consistent with continuing plant 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. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances. 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. b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	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.
5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning. b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 Noon and 4:00 p.m.	a. Maximum reduction by prevention of open burning. b. Complete elimination of the use of incinerators.	a. Maximum reduction by prevention of open burning. b. Complete elimination of the use of incinerators.

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 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 a 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
1. A. Manufacturing	a. Substantial reduction of air	a. Maximum reduction of air	a. Elimination of air contaminants from

industries.
AND
B. Other persons required by the Commissioner to prepare standby plans.
2. Refuse disposal operations.

contaminants from manufacturing operations by curtailing, postponing or deferring production and allied operations.
a. Maximum reduction by prevention of open burning.

contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
a. Maximum reduction by prevention of open burning.

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.
a. Maximum reduction by prevention of open burning.