

## Chapter 4 - AIR POLLUTION CONTROL<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Fire prevention and protection, Ch. 22; health and sanitation, Ch. 24; environmental tobacco smoke control, § 24-301 et seq.; nuisances, Ch. 37; certification of emissions control, § 54-69.*

**State Law reference**— *Air pollution control act, C.R.S. 1973, 25-7-101 et seq.*

## ARTICLE I. - IN GENERAL<sup>[2]</sup>

*Footnotes:*

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**Editor's note**— *Section 1 of Ord. No. 292-90, adopted May 29, 1990, repealed former Art. I, §§ 4-1—4-15; §§ 2 and 3 of said ordinance added new Arts. I and II, §§ 4-1 and 4-2, and §§ 4-6—4-10, respectively, to read as herein set out. Former Art. I pertained to similar subject matter and derived from the 1950 Code, §§ 710.1—710.11 and 710.13—710.15, and the following legislation: Ord. No. 521-81, adopted Oct. 13, 1981; Ord. No. 269-84, adopted June 11, 1984; Ord. No. 644-86, adopted Sept. 29, 1986; Ord. No. 700-86, adopted Oct. 27, 1986; Ord. No. 601-87, adopted Oct. 19, 1987; and Ord. No. 788-88, adopted Dec. 27, 1988.*

### Sec. 4-1. - Purpose.

This chapter is enacted to protect, preserve and promote the health, safety and welfare of the residents of the city through the reduction, prevention and control of air pollution. It is the intent of this chapter to establish and provide for the enforcement of air quality standards, rules and regulations, and permits that will be protective of human health and the environment and that prevent interference with the comfortable enjoyment of life or property or the conduct of business.

(Ord. No. 292-90, § 2, 5-29-90; Ord. No. 683-08, § 1, 12-8-08)

### Sec. 4-2. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter and all rules and regulations adopted hereunder:

- (1) *Air contaminant or air pollutant:* Any fume, odor, smoke, particulate matter, vapor, gas or any combination thereof but not including water vapor or steam condensate.
- (2) *Air contamination source:* Any source whatsoever at, from or by reason of which there is

emitted or discharged into the atmosphere any air contaminant.

- (3) *Air pollution*: The presence in the outdoor atmosphere of one (1) or more air contaminants.
- (4) *Air quality review*: A review of facilities to be performed by the department in accordance with rules and regulations adopted by the board and promulgated by the manager pursuant to this chapter.
- (5) *Ambient air*: The surrounding or outside air.
- (6) *Approved*: To be officially acceptable to the department or satisfactorily meeting the requirements of this chapter and any rules and regulations promulgated and adopted hereunder.
- (7) *Atmosphere*: The gaseous envelope that surrounds the earth.
- (8) *Board*: The board of environmental health of the city.
- (9) *Clean-burning fuels*: Compressed natural gas, liquefied natural gas, liquefied petroleum gas or hydrogen; multifuels, such as diesel/compressed natural gas fumigations; fuels containing not less than eighty-five (85) percent ethanol or methanol; electricity or any other alternative fuel that the board determines to be clean-burning.
- (10) *Criteria pollutants*: Those pollutants for which national ambient air standards have been established pursuant to the federal Clean Air Act as amended, i.e., particulate matter, sulfur oxides, nitrogen dioxide, ozone, carbon monoxide and lead.
- (11) *Department*: The department of environmental health of the city.
- (12) *Device*: Any machine, equipment, fabrication or contrivance the use of which causes the release of air contaminants, or that alters, contains, controls, prevents or removes air pollution from any air contamination source.
- (13) *Emergency vehicle*: Any surface or airborne vehicle used for the official business of the police and fire departments and any emergency medical vehicle as defined in chapter 17 of this Code.
- (14) *Emission or emit*: To discharge, release or to permit or cause the discharge or release of one (1) or more air contaminants into the atmosphere.
- (15) *Emission offset*: A net reduction in total emissions of a regulated air pollutant so that emissions of the regulated air pollutant are less than were emitted prior to instituting the offset. An offset can be accomplished by the installation of air pollution control devices or by the elimination of or changes in the method or process of manufacture in existing stationary or mobile sources or in any other way approved by the board.

- (16) *Engine*: Any internal combustion machine, such as found in motor vehicles, aircraft, locomotives and stationary power units, that utilizes gas or liquid fuel for combustion energy.
- (17) *Existing facilities*: Facilities for which application for all applicable permits and approvals required from the city have been submitted prior to the effective date of this article.
- (18) *Fireplace*: An opening made in a chimney and surrounded with brick, stone, metal or like material to hold a fire, and that has no specific method for recirculating heat or reducing emissions.
- (19) *Fuel*: Any combustible substance or material or any combination of such.
- (20) *Fuel-burning equipment*: Any furnace, boiler apparatus, stack or appurtenance thereto used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.
- (21) *Fugitive particulates*: Particulate matter that cannot be readily captured and routed through a stack or air pollution control equipment that is entrained in the ambient air and is caused by human or natural activities or both, including, without limitation, construction, demolition, earth moving, grading, sandblasting, materials handling, vehicular traffic on unpaved haul roads, and wind.
- (22) *Fugitive particulate control plan*: The plan submitted for activities that could emit particulate matter into the atmosphere beyond the lot line of the property on which the emissions originate.
- (23) *Gas*: An aeroform fluid having neither independent shape nor volume but tending to expand indefinitely.
- (24) *Gaseous fuel*: A fuel that exists as a gas at atmospheric temperature and pressure.
- (25) *Hazardous air pollutant*: An air pollutant to which no national ambient air quality standard is applicable and that, in the judgment of the Colorado Air Quality Control Commission, causes or contributes to air pollution that may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible or incapacitating reversible illness or injury; and any air pollutant listed by the state or federal government as a hazardous air pollutant.
- (26) *Health risk assessment*: An assessment, based on accepted scientific standards and information from inventories, sampling, modeling and/or estimation techniques, of the potential human health risk from exposure to specified levels of identified hazardous air pollutants and criteria pollutants.

- (27) *High-pollution day*: That period of time in which the Colorado Department of Public Health and Environment anticipates levels of carbon monoxide or particulates exceeding federal ambient air quality standards or when air pollution standards are exceeded for particulates, carbon monoxide or visibility.
- (28) *Incinerator*: A container, device or other appliance, designed, used or intended to be used for the disposal or reduction of household, commercial or industrial waste material or any commercial or industrial material by burning.
- (29) *Manager*: The manager of the department of environmental health of the city.
- (30) *Masonry heater*: An appliance designed for or capable of burning wood, capable of and intended for domestic space heating or domestic water heating, and has been approved by the Colorado Department of Public Health and Environment by meeting all design criteria, and emissions standards set forth by that agency.
- (31) *New facilities*: Facilities and temporary facilities not exempted through regulation by the board that have not applied for all applicable permits prior to the effective date of this article.
- (32) *Nuisance*: The doing of or the failure to do something that allows or permits air contaminants to escape into the open air that are or tend to be detrimental to the health, comfort, safety or welfare of the public or that causes or tends to cause injury or substantial annoyance or inconvenience to persons exposed thereto or causes or tends to cause damage to property.
- (33) *Opacity*: The fraction of a beam of light that fails to pass through a plume of smoke or air contaminants, expressed in percentage.
- (34) *Open burning*: Fire or smoldering where any material is burned in the outdoor air or in an open container, receptacle, pit, vessel, chiminea, or other device designed or used for outdoor fires.
- (35) *Particulate matter*: Any material, except water mist or spray, that exists in a finely divided form as a liquid or solid.
- (36) *Pellet stove*: A wood heater that meets the following criteria:
- (a) The manufacturer makes no reference to burning cordwood in advertising or literature;
  - (b) The unit is safety listed for pellet fuel only;
  - (c) The unit's operating and other instruction manual states that the use of cordwood is prohibited by federal law; and

- (d) The unit must be manufactured and sold including a hopper and auger combination as integral parts.
- (37) *Person*: Any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner and shall include any municipal corporation, state or federal governmental agency, district or any officer or employee thereof.
- (38) *Phase II wood stove*: A wood-burning device that has been certified by the United States Environmental Protection Agency or the Colorado Department of Public Health and Environment.
- (39) *Premises*: Any building, structure, land, utility or portion thereof, including all appurtenances, and shall include yards, lots, courts and properties without buildings.
- (40) *Process*: Any individual action, operation or treatment involving chemical, industrial or manufacturing factors and all other methods or forms of manufacturing or processing that may emit air contaminants.
- (41) *Reduction*: Any process utilizing heat, including but not limited to burning, rendering, drying, dehydrating, digesting, evaporating and protein concentrating that decreases the volume of material being processed.
- (42) *Regulated air pollutant*: A pollutant that is a criteria air pollutant or hazardous air pollutant.
- (43) *Smolder*: To burn and produce smoke without flame.
- (44) *Solid-fuel-fired device*: A device designed for the combustion of solid fuels including wood-burning devices, fireplaces, solid-fuel-fired stoves and combustion fuel furnaces that burn solid fuel. Solid-fuel-fired devices do not include natural gas-fired devices, commercial ovens or stoves used to prepare food for human consumption, public utility facilities generating steam or electricity, or solid-fuel-fired barbecue devices. The board may adopt and the manager may promulgate rules and regulations, as authorized in subsection 4-6(a), to further define solid-fuel-fired devices including exclusions to the definition for fuels or classes of technology where the board determines that the excluded fuel or technology is reliably cleaner burning than a Phase II wood stove or where the board determines that no reasonable alternative to the burning of solid fuel exists. In no case shall such definitions or exclusions be inconsistent with the requirements of chapter 24 of the Denver Revised Municipal Code.
- (45) *Solid waste*: Refuse consisting of paper, wood, yard wastes, food wastes, plastic, leather, rubber and such other combustibles and noncombustible glass, rock, etc., that may be

generated from residential and commercial operations and from industrial sites.

(46) *Stationary source*: Any building, structure, facility, equipment or installation or any combination thereof belonging to the same facility that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act, that is located on one (1) or more contiguous or adjacent properties and that is owned or operated by the same person or by persons under common control.

(47) *Traffic operations*: Activities necessary to direct traffic, to repair, install or maintain traffic-control devices, to paint traffic-control lanes or to pave, maintain or repair streets and sidewalks or to accomplish similar activities.

(Ord. No. 292-90, § 2, 5-29-90; Ord. No. 1018-93, § 1, 12-13-93; Ord. No. 504-94, § 1, 7-5-94; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 683-08, § 2, 12-8-08)

Secs. 4-3—4-5. - Reserved.

## ARTICLE II. - ADMINISTRATION<sup>[3]</sup>

*Footnotes:*

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*Editor's note*—See the editor's note to Art. I.

*Cross reference*— Authority of board of environmental health, § 24-1 et seq.; nuisances, Ch. 37; health authorities to enforce nuisance abatement, § 37-3; detrimental health conditions, § 37-17.

Sec. 4-6. - Power of board of environmental health.

- (a) The board is hereby authorized to adopt, and the manager may promulgate, rules and regulations deemed necessary for the proper and effective enforcement of the provisions of this chapter. Such rules and regulations shall be consistent with the provisions of this chapter and the standards established herein.
- (b) The board is hereby authorized to adopt, and the department may enforce, emission standards for regulated air pollutants. The emission standards at a minimum shall be the same as standards adopted by the state or federal governments or may be more stringent than the state or federal air emissions standards. More stringent standards may be adopted to protect the health and welfare of the citizens of the city and shall be adopted after a health risk assessment is conducted. Cumulative health effects of air pollution may be considered

when adopting such standards.

- (c) The board is hereby authorized to adopt, and the manager may promulgate, rules and regulations regarding emergency spill response to suspect asbestos spills to the extent the rules and regulations are consistent with C.R.S. § 25-7-501 et al. and rules promulgated pursuant thereto.
- (d) It shall be unlawful for any person to violate a rule or regulation adopted by the board or the manager pursuant to this section.

(Ord. No. 292-90, § 3, 5-29-90; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 683-08, § 3, 12-8-08; Ord. No. 516-15, § 1, 8-17-15)

#### Sec. 4-7. - Appeal to the board of environmental health.

Appeal from a notice, permit or order issued under this chapter shall be taken in accordance with sections 24-1 through 24-4 of the Revised Municipal Code.

(Ord. No. 292-90, § 3, 5-29-90; Ord. No. 1110-96, § 1, 12-16-96)

#### Sec. 4-8. - Inspections.

- (a) For the purpose of determining compliance with the provisions of this chapter, the department through its authorized representatives is hereby authorized and directed to make inspection of all air contamination sources, including solid fuel-fired heating devices, and to take samples of air for analysis whenever necessary to determine the quantity and character of air pollutants. If any person refuses or restricts entry and free access to any part of a premises or refuses inspection or sampling of any device, facility or process where inspection is sought, the department through its authorized representatives shall seek from the county court a warrant for inspection and order that such person refusing inspection be required to permit an inspection at a reasonable time without interference, restriction or obstruction. The court shall have full power, jurisdiction and authority to enforce all orders issued under the provisions of this chapter.
- (b) It shall be unlawful for any person to violate the provisions of any warrant for inspection and order issued under the provisions of this chapter.
- (c) It shall be unlawful for any person to hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with the department in the performance of its duties in investigation of a suspected air pollution violation.

(Ord. No. 292-90, § 3, 5-29-90)

Sec. 4-9. - Civil or administrative penalties.

- (a) Any person who violates any provision of this chapter shall also be subject to a civil penalty of not more than two thousand dollars (\$2,000.00) per violation per day.
- (b) Any person who violates any order issued by the manager shall also be subject to a civil penalty of not more than two thousand dollars (\$2,000.00) per violation per day.
- (c) The manager shall determine the amount of penalties. In determining the propriety and amount of penalties, the following factors may be considered:
  - (1) The potential harm to public health, or welfare, safety or the environment; as a result of the violation;
  - (2) The history of previous violations;
  - (3) The number of continuing rule or code violations in the order;
  - (4) The person's current compliance with this chapter and rules and regulations adopted and promulgated pursuant thereto;
  - (5) Whether the violation occurred because of negligent or intentional conduct;
  - (6) Economic benefit of noncompliance to the violator;
  - (7) The effect of the penalty on the person or entity's ability to continue in business;
  - (8) The demonstrated good faith of the person or entity charged in attempting to achieve rapid compliance after notification of a violation and other facts and circumstances relevant to the violation.
- (d) Any person who disputes a violation for which a civil penalty has been assessed by or on behalf of the city pursuant to the authority of the manager, may petition the board for a hearing in accordance with article I of chapter 24, D.R.M.C. and the rules and regulations adopted pursuant thereto. Compliance with this subsection is a jurisdictional prerequisite to any action brought under this section and failure to comply forever bars any such action.
- (e) In the event a person fails to pay a civil penalty, the manager may collect penalties by action initiated in the district court for collection of the penalty. A stay of any order of the manager pending judicial review does not relieve any person from liability under subsection (a) or (b).
- (f) The city may also petition the district court to issue a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of this chapter.



(Ord. No. 683-08, § 4, 12-8-08)

**Editor's note**— Section 4 of Ord. No. 683-08, adopted Dec. 8, 2008, amended § 4-9 in its entirety to read as herein set out. Former § 4-9 pertained to registration of air pollution devices, facilities, and processes and derived from Ord. No. 292-90, adopted May 29, 1990.

Sec. 4-10. - Nuisance.

- (a) To prevent and control nuisance odors, an odor control plan shall be submitted to the Manager describing the odor(s), if any, originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises in any of the following occur:
- (1) If odorous contaminants are detected when one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor-free air, as measured by any instrument, device, or method designated by the Colorado Air Pollution Control Division to be used in the determination of the intensity of an odor and in the enforcement of Colorado Air Quality Control Commission Regulation 2.
  - (2) If the department receives five (5) or more complaints from individuals representing separate households or businesses within the city within a 30-day period relating to a single odor description, and the department verifies the source of the odor. To be considered an odor complaint the department must have a record of it, which must include the:
    - a. Name, address and phone number of complainant.
    - b. Time and date of call.
    - c. Description of odor nuisance, including estimated location or source of complaint, and if possible, prevailing wind or weather conditions observed.
  - (3) If any person engages in one (1) or more of the following activities:
    - a. Pet food manufacturing;
    - b. Marijuana growing, processing, or manufacturing;
    - c. Rendering and meat byproduct processing;
    - d. Asphalt shingle and coating materials manufacturing;
    - e. Petroleum refining;
    - f. Sewage treatment;



become effective ninety (90) days from adoption of rules pursuant to this section.

(Ord. No. 292-90, § 3, 5-29-90; Ord. No. 683-08, § 5, 12-8-08; Ord. No. 257-16, § 1, 5-2-16)

Secs. 4-11—4-20. - Reserved.

### ARTICLE III. - STATIONARY SOURCES

Sec. 4-21. - Air quality reviews fees.

(a) *Air quality reviews.* When the owner or operator of a new or existing facility applies for a conditional use permit that requires review under section 59-286 by the City's Environmental Review Committee, or successor body, the department in conjunction with other city agencies may conduct an air quality review of such facility. This air quality review may include an assessment of the types and levels of each regulated air pollutant emitted or to be emitted by the facility, an inventory of the levels of these same pollutants currently being emitted into the relevant air basin from existing stationary and mobile pollution sources, a cumulative analysis of the pollutants from new and existing sources and a comparison of these pollution levels to national ambient air quality standards (NAAQS) or other peer-reviewed inhalation health risk benchmarks for the assessment of health risks from regulated air pollutants.

(b) *Fees.*

(1) The board may prescribe by regulation nonrefundable fees to be paid upon application for a use permit. Such fees shall be sufficient to offset all costs associated with the air quality review, including costs of administration and enforcement.

(2) All fees shall be paid at the time of filing the application for air quality review with the department. No application shall be deemed valid or complete until all prescribed fees have been paid.

(Ord. No. 293-90, 5-29-90; Ord. No. 683-08, § 6, 12-8-08)

Sec. 4-22. - Reserved.

**Editor's note**— Section 7 of Ord. No. 683-08, adopted Dec. 8, 2008, deleted § 4-22, which pertained to emissions offsets and derived from Ord. No. 293-90, adopted May 29, 1990, in its entirety.

Sec. 4-23. - Opacity.

- (a) *Emissions from stationary sources.* It shall be unlawful for any person to emit any air contaminants from stationary sources, including solid-fuel-fired heating devices that exceed twenty (20) percent opacity; provided, however, that the provisions of this subsection shall not apply to:
- (1) Gasoline-powered or diesel-powered engines for which standards are provided in article IV of this chapter; or
  - (2) Emissions from noncommercial barbecues; or
  - (3) Boiler emissions from soot-blowing or fuel-changing operations that do not exceed thirty (30) percent opacity for a period or periods aggregating more than six (6) minutes in any sixty (60) consecutive minutes.

(Ord. No. 293-90, 5-29-90; Ord. No. 1018-93, § 2, 12-13-93; Ord. No. 683-08, § 8, 12-8-08)

Sec. 4-24. - Combustion.

- (a) *Open burning.*
- (1) It shall be unlawful for any person to engage in or allow open burning within the city except when a written permit has been issued by the department; provided, however, that permits will not be required for fires in devices designed and used exclusively for outdoor noncommercial cooking of food for human consumption nor for smokeless or safety flares used for the combustion of gases or used to indicate some danger to the public.
  - (2) In determining whether and upon what conditions to issue an open burning permit, the department may consider:
    - a. Location and proximity of the proposed burning to any building or other structure;
    - b. Meteorological conditions on the day or days of the proposed burning;
    - c. Compliance by the applicant for the permit with applicable fire protection and safety requirements of the Denver Fire Department;

- d. Existence of any practical alternative to achieve the purpose of the proposed burn;  
and
  - e. Whether the proposed burn has a purpose other than aesthetic.
- (b) *Incinerator burning.* It shall be unlawful for any person to burn any materials in any incinerator within the city unless the incinerator is of the multi-chamber type or the domestic auxiliary fuel-fired type that has been approved by both the building department and the department prior to its use and that meets the air pollution emission standards of this chapter.
- (c) *Solid fuel burning.*
- (1) *High-pollution day prohibition.* It shall be unlawful for any person to operate a solid-fuel-fired device during a high-pollution day unless the device has been approved by the department or the Colorado Department of Public Health and Environment. The owner or lessee of a solid-fuel-fired device shall be liable for any unlawful operation of that device during a high-pollution day. Temporary approval may be given by the department if burning is necessary to provide heat for a building on an emergency or temporary basis.
  - (2) *Solid-fuel-fired devices.* No person shall sell, install or offer to install any solid-fuel-fired device for installation in Denver unless it is certified to meet the standards applicable for an EPA Phase II wood stove or pellet stove or masonry heater that has been approved by the Colorado Department of Public Health and Environment.
  - (3) *Number limited for single-unit dwelling.* One (1) solid-fuel-fired device may be installed in a single-unit dwelling (as defined in subsection 59-2(96) of the Revised Municipal Code) that is constructed or added to after the effective date of this section.
  - (4) *Prohibited fuels.* It shall be unlawful to burn the following materials in a solid-fuel-fired device: treated, processed, or coated wood; coated or glossy paper and cardboard; yard waste; household, commercial or industrial waste; plastics or other synthetic materials; and other materials that create a nuisance as defined in subsection 4-2.

(Ord. No. 293-90, 5-29-90; Ord. No. 1018-93, § 3, 12-13-93; Ord. No. 683-08, § 9, 12-8-08)

Sec. 4-25. - Fugitive particulate emissions.

- (a) No person shall allow or cause: (1) any materials to be handled, transported, or stored; (2) a building, including its appurtenances, or a construction haul road to be used, constructed,

altered, repaired or demolished; or (3) any unenclosed activity, including demolition, excavation, backfilling, grading, clearing of land, construction or sandblasting without taking all reasonable measures as the department requires to prevent particulate matter from becoming airborne. All persons shall take reasonable measures to prevent the visible discharge of fugitive particulate emissions beyond the lot line of the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays as well as any other period of inactivity. Based upon the size of the construction site, proximity to sensitive receptors, or history of noncompliance with the provisions of this chapter, the department may require a fugitive particulate control plan for such activities.

(1) *[Plan requirements.]* The fugitive particulate control plan shall:

- a. Be subject to department review, and if the department finds the plan to be inadequate, the department may require modifications;
- b. Include the name and contact information of the person(s) responsible for the implementation of the plan and the person(s) responsible for the particulate generating activities;
- c. Be effective in the control of fugitive particulates at all times, including evenings, weekends, and holidays, regardless of whether activities are being conducted at the site;
- d. Identify each potentially fugitive particulate generating activity and operation to be carried out on the site and the actual and potential sources of fugitive emissions on-site;
- e. Identify one (1) primary control measure and one (1) contingency control measure for each activity, operation or source of fugitive emissions identified above. A list of potential control measures may be obtained from the department;
- f. Include at least daily vacuuming or wet sweeping of the right-of-way adjacent to individual projects to control any materials that are tracked out or that otherwise have come to be located in adjacent right-of-way; and
- g. Be implemented for the duration of the project.

(2) *Fees:*

- a. The board may require by rule and regulation payment of nonrefundable fees to be paid upon submittal of a fugitive dust control plan. The fees are to be of amount

sufficient to offset all costs associated with the fugitive dust control plan review, including costs of administration and enforcement.

- b. All fees must be paid at the time of filing the application for review with the department. No application will be valid or complete until all fees have been paid.

(Ord. No. 293-90, 5-29-90; Ord. No. 683-08, § 10, 12-8-08)

Sec. 4-26. - Reserved.

**Editor's note**— Section 11 of Ord. No. 683-08, adopted Dec. 8, 2008, repealed § 4-26, which pertained to sulfur dioxide emissions and derived from Ord. No. 293-90, adopted May 29, 1990, in its entirety.

Sec. 4-27. - Reserved.

**Editor's note**— Section 12 of Ord. No. 683-08, adopted Dec. 8, 2008, repealed § 4-27, which pertained to storage of petroleum products and derived from Ord. No. 293-90, adopted May 29, 1990, in its entirety.

Sec. 4-28. - Asbestos.

*Emergency spill response.* In the event of a suspect asbestos spill, the property owner or contractor shall comply with measures required by the department to protect the public health.

(Ord. No. 293-90, 5-29-90; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 683-08, § 13, 12-8-08)

Secs. 4-29—4-40. - Reserved.

#### ARTICLE IV. - MOBILE SOURCES

Sec. 4-41. - Emissions and opacity.

- (a) *Emissions from gasoline-powered engines.* It shall be unlawful for any owner or operator of any gasoline-powered engine to cause or permit to be operated in the city any gasoline-powered engine that emits any visible air contaminants for a period of time greater than five (5) seconds.

- (b) *Emissions from diesel-powered engines.* It shall be unlawful for any owner or operator of any diesel-powered engine to cause or permit to be operated in the city any diesel-powered engine that emits any visible air contaminants that exceed twenty (20) percent opacity for a period of time greater than ten (10) seconds; provided, however, that the percentage opacity standard of this subsection shall not apply to diesel-powered locomotives engaged in switching or railroad yard activities. Emissions from such locomotives shall not exceed forty (40) percent opacity for longer than ten (10) seconds.
- (c) *Deception by owner.* It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any other way attempt to deceive a licensed repair garage or the department in order to avoid compliance with the provisions of this article.
- (d) *Deception by licensed garage.* It shall be unlawful for any licensed repair garage or its agents to misrepresent any fact, falsely certify any repair or in any other way attempt to mislead the department into believing that air pollution standards are being met.

(Ord. No. 330-90, 6-4-90; Ord. No. 683-08, § 14, 12-8-08)

Sec. 4-42. - Reserved.

**Editor's note—** Ord. No. 380-01, § 1, adopted May 7, 2001, repealed section 4-42 in its entirety. Former section 4-42 pertained to fuels and derived from Ord. No. 330-90, adopted June 4, 1990; Ord. No. 19-93, adopted Jan. 11, 1993; and Ord. No. 1110-96, § 4, adopted Dec. 16, 1996.

Sec. 4-43. - Idling restriction.

- (a) No person shall allow a vehicle to idle for more than five (5) minutes in any one-hour period unless:
  - (1) The ambient outside air temperature has been less than twenty (20) degrees Fahrenheit for each hour of the previous twenty-four (24) hour period; or
  - (2) The latest hourly ambient outside air temperature is less than ten (10) degrees Fahrenheit.
- (b) The idling restriction in subsection (a) shall not apply to emergency vehicles; to vehicles engaged in traffic control operations; to vehicles which are being serviced; to vehicles that must idle to operate auxiliary equipment, including but not limited to pumps, compressors or refrigeration units; or to vehicles en route to a destination that are stopped by traffic congestion.



(c) The idling restriction in subsection (a) applies to transportation vehicles, as defined in this subsection, except that the time during which transportation vehicles are actively loading or discharging passengers may not be included in the computation of the five (5) minutes provided for in subsection 4-43(a). A transportation vehicle shall be defined for purposes of this section to mean motor vehicles designed to transport a minimum of sixteen (16) persons.

(Ord. No. 330-90, 6-4-90; Ord. No. 683-08, § 15, 12-8-08)

Secs. 4-44—4-50. - Reserved.