

Chapter 20

AIR POLLUTION CONTROL

Current as of 1-1-01

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20.01 TITLE.

This Ordinance (Chapter 20) shall be known, cited and referred to as "The DeKalb Air Pollution Control Ordinance".

20.02 DEFINITIONS.

For the purpose of this Ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section.

Air or atmospheric pollution: the discharging from stacks, chimneys, exhausts, vents, ducts, openings, vehicles, processes, or any other source, of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter, or any other materials in such place, manner or concentration as to cause injury, detriment, or nuisance to the public, or to endanger the public, or to endanger the health, comfort, repose, safety or welfare of the public, or in such a manner as to cause or have a natural tendency to cause injury or damage to business or property.

Ashes: Shall include cinders, fly ash, or any other solid material resulting from combustion, and may include unburned combustibles.

ASME: The American Society of Mechanical Engineers.

ASTM: The American Society for Testing Materials.

Breeching: Any conduit for the transport of products of combustion or processes to the atmosphere or to any intermediate device before being discharged into the atmosphere. It does not include the chimney or stack.

Building fires: The term "a new fire being built," shall be held to mean the period during which a fresh fire is being started and does not mean the process of replenishing an existing live fuel bed with additional fuel.

Chimney or stack: Any conduit, duct, vent, flue, or opening of any kind whatsoever arranged to conduct any products of combustion to the atmosphere vertically. It does not include breeching as defined herein.

Cinders: Particles not ordinarily considered as fly ash or dust because of their greater size, consisting essentially of fused ash and/or unburned matter.

Commission: The Air and Water Pollution Control Commission established pursuant to Section 20.03.

Domestic heating plant: A plant generating heat for a single family residence, or for two residences either in a duplex or double house form, or for multiple-dwelling units in which such plant serves fewer than three apartments. Under this designation are also hot water heaters, stoves, and space heaters used in connection with the foregoing establishments or to heat shacks and other temporary buildings, such as used by the railroad and construction industries; provided, however, that like equipment used in multiple-dwelling units other than herein described, or used in permanent buildings of commercial or industrial establishments are not to be construed to be included under this designation.

Down-draft furnace: In this furnace there are two separate grates, one above the other; the top grate is water tubes, the bottom consists of common grate bars and is fed by half consumed fuel falling from the upper grate. The primary air for combustion enters the upper fire door and passes through the bed of green fuel on the upper grate and then over the incandescent fuel on the lower grate.

Dryer: A device for drying by heat, force ventilation of both; an apparatus such as a furnace, oven, or revolving kiln for expelling moisture or volatiles by evaporation or volatilization.

Dust: Particulate matter released into the air by natural forces, or by any fuel burning, combustion or process equipment or device, or by construction work; or by mechanical or industrial processes, such as crushing, grinding, milling, drilling, demolishing, shoveling, sweeping, bagging, conveying, transferring, transporting, and the like.

Fuel: Any form of combustible matter: solid, liquid, vapor, or gas.

Fumes: Gases, vapors or particulate matter that are of such character as to cause atmospheric pollution.

Furnace volume: The effective volume of this chamber or enclosure in which the combustion process takes place.

Heating and reheating furnace: A furnace in which metal is heated to permit shaping or forming, or to achieve specific physical properties.

Incinerators: Any device intended for or used for the destruction of garbage or other combustible refuse or atmospheric pollution, or to constitute a nuisance.

Noxious odors: Any smells which are unwholesome, harmful, or injurious to the public health, comfort, or passing through a stack or chimney.

Particulate matter: Material, other than water, which is suspended in or discharged into the atmosphere in partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, agency or instrumentality of federal, state, or local government, contractor, supplier, vendor, installer, operator, capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law, or other plural as included in any circumstances.

Ringlemann Chart: The chart published and described in the U.S. Bureau of Mines Information Circular 8333, and capacity of smoke.

Smoke: Small gas-atmospheric pollution.

Soot: Agglomerated particles consisting essentially of carbonaceous material.

Stack or chimney: Any conduit, duct, vent, flue, or opening of any kind whatsoever arranged to conduct e breeching as defined herein.

Stack spray: A nozzle or series of nozzles installed in a stack above the breeching used to inject wetting agents at high pressure to suppress the discharge of particulate matter from the stack.

Standard conditions: A gas temperature of 60 degrees Fahrenheit and a gas pressure of 30 inches mercury.

Standard cubic foot (scf): The standard cubic foot is a measure of the volume of gas under standard

-propelled mechanism, such as a truck, machine portable hoisting engine or automobile; or any conveyance used for carrying persons or things, trailer, semi-ut is used in various places over a wide area.

Volatile matter: The gaseous constituents of solid fuels as determined by the Standard ASTM Procedure

20.03 ENFORCEMENT.

This Air Pollution Ordinance shall be administered by the Environmental Pollution Control Commission as provided in Chapter 3.35 of this Code. (82-81)

20.04 POLLUTION PROHIBITED.

It shall be unlawful within the City of DeKalb and within one mile of the corporate limits for any person, owner, agent, operator, firm or corporation to permit to cause, suffer or allow the discharge, emission or release into the atmosphere from any source whatsoever of such quantities of soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate solid, liquid or gaseous matter or any other materials in such place, manner or concentration as to constitute atmospheric pollution.

20.05 SMOKE.

It shall be unlawful within the City of DeKalb and within one mile of the corporate limits for any person, owner, agent, operator, firm or corporation to permit to cause, suffer or allow the emission of any smoke from any source whatever of a density, shade or opacity equal to or greater than that described as #2 on the Ringlemann Chart as published by the United States Bureau of Mines, three copies of which are on file with the City Clerk, provided that the following exceptions to the provisions of this section shall be permitted for fuel-burning equipment.

- a) For a period or periods aggregating 4 minutes in any 30 minutes of a density, shade or opacity equal to but not greater than that described as #2 on the Ringlemann Chart.
- b) For a period or periods aggregating 4 minutes in any 60 minutes of a density, shade or opacity equal to but not greater than that described as #3 on the Ringlemann Chart when building a new fire.

20.06 PARTICULATE MATTER.

It shall be unlawful within the City of DeKalb for any person to cause, suffer or allow the emission into the air of dust, soot, cinder, or of any particulate in concentrations in excess of 0.69 lb/1000 lb of gas (or air) from any process or operation that is enclosed or can reasonably be enclosed. When applied to fuel-burning equipment, this value must be adjusted to 50% excess air in the products of combustion. The requirements of this section shall be calculated in accordance with the American Society of Mechanical Engineers "Power Test Codes, Test Code for Dust Separation Apparatus, PTC 27-1957 Procedure," three copies of which are on file with the City Clerk.

20.07 VEHICLE PARKING SURFACES.

It shall be unlawful for any person to maintain or conduct, or cause to be maintained or conducted, any parking lot or automobile and/or truck sales lot, or use any real property for a private roadway for the use or benefit of a business or industry, unless such real property is covered or treated with a surface or substance or otherwise maintained in such a manner as to minimize atmospheric pollution.

20.08 WIND BORNE MATTER.

It shall be unlawful for any person to cause or permit the handling, loading, unloading, reloading, storing,

transferring, placing, depositing, throwing, discarding, or scattering of any ashes, fly ash, cinders, slag or dust collected from any combustion process, any dust, dirt, chaff, wastepaper, trash, rubbish, waste, refuse matter of any kind, or any other substance or material whatever, which is likely to be scattered by the wind or is susceptible to being wind borne, without taking reasonable precautions or measures so as to minimize atmospheric pollution.

20.09 FUEL BURNING EQUIPMENT.

It shall be unlawful for any person to cause or permit the operation of any fuel burning equipment or the process being caused or permitted to operate is conducted in good operational manner so as to abate the release of noxious gases and odors into the atmosphere. The standard to be applied for "good operational manner" shall be that manner of operation which a reasonable, prudent person would cause or permit in light of public health, comfort, repose, safety, and welfare. The current standard in the industry or like standards are not to be controlling unless they in fact comply with the standard as expressed in this Section.

20.10 OPEN FIRES.

It shall be unlawful to burn paper, wood, or other combustible refuse, waste, rubbish, garbage or any other material in any open fire except upon issuance of a permit therefor by the Commission. An application fee of Twenty-five Dollars (\$25.00) shall be paid at the time of application to cover administrative costs. (84-39) Such permit shall be effective for a specified period but in no case exceeding one year, unless revoked as hereinafter provided. At least three hours prior to the time of starting any such fire pursuant to a permit so issued, the holder of such permit shall notify the Fire Department of the City of his intention to start such an open fire at a designated time. Such permit shall be revoked if there shall, within any 90 day period be two violations of the smoke emission maxima contained in Section 20.05. This section shall not apply to persons residing in a single dwelling unit or in a multiple family dwelling for the burning on their residential property of leaves or barbecuing upon a charcoal grill or any other grill.

20.11 ACTIONS FOR DAMAGES.

Nothing in this ordinance shall be construed to impair any cause of action, legal or equitable remedy, of any person or the public, or the City of DeKalb for injury or damage arising from the discharge, emission, or release into the atmosphere from any source whatsoever of such qualities of smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, noxious odors, toxic or radioactive substances, waste, particulate, liquid or gaseous matter or any other materials in such place, manner or concentration as to constitute atmospheric pollution or a common law nuisance.

20.12 PERMIT, FUEL BURNING EQUIPMENT INSTALLATION.

a) It shall be unlawful for any person to install, erect, construct, reconstruct alter or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel-burning, combustion or process equipment of device, or any equipment pertaining thereto, or any stack or chimney connected therewith, within the City, excepting domestic heating plants, domestic refuse-burning equipment, locomotives and internal combustion engines, in said City, until there has been filed in duplicate by the owner, contractor, installer or other person, or his agent, with the City, an application for a permit, accompanied by a complete listing of emissions into the atmosphere that result from the operation of the aforesaid equipment or processes, both as to kind and quantity; and, in addition thereto a listing of the type and capacity of each emission and an estimate of its efficiency. Said submitted register of pollutants shall be accompanied by an affidavit of a qualified person stating that it is complete and correct and that the proper operation of the plant or process, as designed, will not

result in any violation of this ordinance. If, after considering all factors, the Commission determines the operation will not cause air pollution as defined in Section 20.02. of this Ordinance, and otherwise meets all other requirements set forth herein, it shall approve such applicant; otherwise, it shall deny the same.

b) Upon petition from the Commission, all plants shall, within 90 days after the date of the petition, submit in writing to the Commission a complete and comprehensive inventory of all gaseous or particulate emission into the atmosphere by any equipment owned or operated by them. This inventory shall contain correct descriptions and all data relating to quantity and types of emissions.

c) All persons responsible for operating commercial or industrial plants, works, shops, facilities or equipment which were constructed prior to the enactment of this ordinance will submit, upon request, to the Commission a formal program of air pollution abatement which shall schedule over a period of time, which is reasonable under the circumstances, either a continued installation of gas cleaning devices or the replacement of specified facilities. The Commission shall review the formal program submitted by such affected persons and after having considered all factors, shall approve or disapprove the program. After the Commission has approved the program by resolution, the owner of said facilities shall not be in violation of this ordinance, so long as said program is complied with. Reports of the status of these gas cleaning programs shall be submitted annually or at other periods designated by the Commission.

20.13 VARIANCES.

a) The Commission may grant individual variances beyond the limitations prescribed in this ordinance, whenever it is found, upon presentation of adequate proof, that compliance with any rule, regulation or order of the Commission would impose an arbitrary or unreasonable hardship. In granting or denying a variance, the Commission shall file and publish a written opinion stating the facts and reasons leading to its decision. In granting a variance, the Commission may impose such conditions as the policies of this ordinance may require. If the hardship complained of, consists solely of the need for a reasonable delay in which to correct a violation of this ordinance or of the Commission regulations, the Commission shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

Any variance granted pursuant to the provisions of this section shall be specified by the Commission at the time of the granting of such variance and upon the condition that the person who received such variance shall make such periodic progress reports as the Commission shall specify. Such variance may be extended from year to year by affirmative action of the Commission, but only if satisfactory progress has been shown.

b) Any person seeking a variance shall do so by filing a petition for variance with the Commission. The Commission shall hold a public hearing on the petition for variance and give public notice of the time and place of the hearing on the petition. Such notice shall be given no more than 30 days nor less than 15 days before the date set for the hearing.

c) If the Commission fails to take final action on a variance request within 90 days after the filing of the petition, the petitioner may deem the request granted under this Act. If any person files a petition for a variance from a rule or regulation within 20 days after the effective date of such rule or regulation, the operation of such rule or regulation shall be stayed as to such person pending the disposition of the petition. All of the provisions of this section shall apply to petitions for extension of existing variances.

20.14 INSPECTIONS.

The Commission, or anyone authorized to act for it, in the performance of its duties under this ordinance,

is hereby authorized and empowered to enter into and upon any premises, at all reasonable hours for the purpose of inspecting any fuel burning, combustion or process equipment or device situated therein; and shall collect and preserve any and all evidence pertaining to any alleged violation of any provision of this ordinance.

20.14-5 CONFLICTING LAWS.

It is the intention of the City Council of the City of DeKalb that Chapter 19, "Water Pollution Control" and Chapter 20, "Air Pollution Control" of the Municipal Code of the City of DeKalb set forth minimum standards effective throughout the City of DeKalb and outside of the corporate limits of the City of DeKalb to the extent of the City's jurisdiction in the premises, unless said jurisdiction is limited by specific language contained therein; and, Illinois State Statutes relating to the same subject matter should be read concurrently and in the case of a conflict between the above two mentioned chapters of the Municipal Code and said Illinois State Statutes relating to the same subject matter, the higher standards shall control.

20.15 SEPARABILITY.

If any provision, clause, sentence, paragraph, section, or part of this Ordinance or application thereof to any person, firm corporation or circumstance shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporations or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which said judgment shall have been rendered and to the person, firm, corporation or circumstance involved.

20.16 PENALTIES.

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter 20, shall be fined not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00). A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation, or failure to comply, is permitted to exist after notification thereof. Prosecutions under this Chapter 20 shall be instituted by the Commission, its duly authorized representative or the City Council and shall be prosecuted in the name of the City. (86-31)