

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 4, WHICH CHAPTER IS KNOWN AS “THE CHATTANOOGA AIR POLLUTION CONTROL ORDINANCE,” BY REMOVING “AFFIRMATIVE DEFENSE” PROVISIONS AND PROVIDING FOR CERTAIN HOUSEKEEPING PROVISIONS.

WHEREAS, it is the declared public policy of this city to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, and to foster the comfort and convenience of the people; and

WHEREAS, local regulation of air quality is the most efficient means toward that end; and

WHEREAS, in order to maintain the Certificate of Exemption granted by the Tennessee Air Pollution Control Board for operating a local air pollution control program, it is necessary to adopt regulations no less stringent than state standards; and

WHEREAS, the adoption of these amendments is required for the protection of the health, safety, and welfare of the citizens of Chattanooga and to insure maintaining the local Certificate of Exemption;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that Chapter 4 of Part II of the Chattanooga City Code be amended as is hereafter set forth:

SECTION 1. That Chattanooga City Code, Part II, Chapter 4, Section 4-2, is hereby amended so as to delete the definition of “Minor pollution source” in its entirety.

~~Minor Pollution Source: Any fuel burning, refuse burning or process equipment which, without control equipment, would emit less than one thousand (1,000) pounds per year and less than ten (10) pounds per day of air pollutants, and which can otherwise be operated in compliance with this chapter; provided, that this definition shall not be applicable to sources of hazardous air pollutant emissions.~~

SECTION 2. That Chattanooga City Code, Part II, Chapter 4, Section 4-8, is hereby amended so as to delete Section 4-8(d)(6) in its entirety and substitute in lieu thereof the following:

- (6) ~~Any equipment which can be classified as a minor pollution source and which is not subject to subsection 4-8(e) "Construction or modification permit," shall be exempted from the requirements of subsection 4-8(a) and subsection 4-8(b) but must have a certificate of operation. No person shall operate any such equipment until an application for a certificate of operation, together with plans and specifications of the equipment, has been filed by such person and a certificate of operation has been issued by the director. An annual fee of one hundred fifty-five dollars (\$155.00) shall be assessed for the issuance of a certificate of operation upon such equipment.~~ **(Reserved)**

SECTION 3. That Chattanooga City Code, Part II, Chapter 4, Section 4-12, is hereby amended so as to delete Section 4-12(c) in its entirety and substitute in lieu thereof the following:

- (c) ~~Report required to preclude the issuance of a notice of violation.~~ **(Reserved)**
- (1) ~~When emissions in excess of any applicable provision of this chapter or of any installation permit or certificate of operation issued thereunder occur from any air pollutant source subject to this chapter, a notice of violation shall automatically be issued, unless the source owner or operator in the written report required by section 4-12(e) presents, within the deadlines stated in section 4-12(e), adequate justification for not issuing a notice except for visible emission levels included as a startup or shutdown permit condition under Section 4-41, Rule 3.2.~~
- ~~[Formerly 4-12(g)(1); T.A.R. 1200-3-20-.06]~~
- (2) ~~Failure to submit this report within the seven (7) day period specified in section 4-12(e)(2) shall preclude the admissibility of the report for consideration as an affirmative defense of malfunction for any operation, failure to operate, start-up, or shutdown resulting in emissions in excess of any applicable provision of this chapter or of any installation permit or certificate of operation issued thereunder.~~
- ~~[Formerly 4-12(g)(3); T.A.R. 1200-3-20-.06]~~

SECTION 4. That Chattanooga City Code, Part II, Chapter 4, Section 4-12, is hereby amended so as to delete Section 4-12(d) in its entirety and substitute in lieu thereof the following:

- (d) ~~*Effect of a malfunction.* A malfunction constitutes an affirmative defense to an action brought for noncompliance with any emission limitations if the conditions of section 4-12 are met. The affirmative defense of malfunction shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~ **(Reserved)**
- ~~(1) A malfunction occurred requiring emergency measures and that the source can identify the probable cause(s) of the malfunction. The probable cause identified by the source must be supported by a credible investigation into the incident that seeks to identify the causes and results in an explanation supported by generally accepted engineering or scientific principles;~~
- ~~(2) The source was, at the time of onset, being properly operated. In determining whether or not a source was being properly operated, the director or board may examine the source's written standard operating procedures which were in effect at the time of the noncompliance and any other code that would be relevant to preventing the noncompliance. The source's failure to follow recognized standards of practice to the extent that adherence to such a standard would have prevented noncompliance will disqualify the source from any affirmative defense of malfunction;~~
- ~~(3) During the period of the malfunction the source took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the installation permit or certificate of operation; and~~
- ~~(4) The source submitted the notices of the malfunction required in section 4-12 to the director by the deadlines set forth in section 4-12(e). [Modeled on 40 CFR 70.6(g)(3)]~~

SECTION 5. That Chattanooga City Code, Part II, Chapter 4, Section 4-19, is hereby amended so as to add the following Section 4-19(d):

- (d) The Director shall report to the Board at the next board meeting any determinations made by the Director concerning requests for confidentiality made pursuant to this Section 4-19.**

SECTION 6. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete Rule 2.6 in its entirety and substitute in lieu thereof the following:

Rule 2.6. No owner or operator of any Portland cement plant shall cause, suffer, allow or permit the emission of nitrogen oxides (NO_x) in excess of seven hundred and fifty (750) parts per million when averaged over any three (3) consecutive hour period. After April 30, 2007, the owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 through September 30 with at least one (1) of the following:

- (a) Low-NO_x burners;
- (b) Mid-kiln system firing;
- (c) Alternative control techniques approved by the Director and the EPA and achieving the same emissions decreases as low-NO_x burners or mid-kiln system firing; or
- (d) Reasonably available control technology approved by the Director and the EPA.

By April 30, 2007, the owner or operator of a cement kiln subject to this rule shall provide the Director with a statement confirming that the kiln is subject to the rule and a report demonstrating compliance with the requirements of the rule. If compliance is achieved by the use of prescribed equipment, the compliance demonstration shall be a written certification that the equipment is installed and in use. By October 31, 2007, the owner or operator shall provide the Director a report documenting the NO_x emissions for the period of May 31, 2007, through September 30, 2007. Beginning in 2008, an annual report documenting NO_x emissions for May 31 through September 30 of each year shall be submitted to the director by October 31 of that year. The annual report shall include a certification that the kiln has continued to be in compliance with this rule as stated in the initial compliance certification.

SECTION 7. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete Rule 3.2 in its entirety and substitute in lieu thereof the following:

~~*Rule 3.2.* Consistent with requirements of section 4-12 of this Code, due allowance may be made for visible emissions in excess of that permitted in this rule which are necessary or unavoidable due to routine start-up and shutdown conditions provided the owner or operator shall maintain a continuous, current log of all start-up and shutdown conditions showing a time at which such conditions began and ended and that such record shall be available to the director or his representative upon request.~~ (Reserved)

SECTION 8. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete Rule 15.1 in its entirety and substitute in lieu thereof the following:

Rule 15.1 The provisions of Title 40 Code of Federal Regulations Part 60 “Standards of Performance for New Stationary Sources,” Subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, BBa, CC, DD, EE, GG, HH, KK, KKa, LL, MM, MMa, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX,

AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, **TTTa**, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, QQQQ, and TTTT and Appendices A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, B, C, D, F, and I (Revised as of July 1, 2021~~3~~) are hereby incorporated by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121. The following subparts and appendices are included:

- Subpart A – General Provisions
- Subpart D – Fossil-Fuel-Fired Steam Generators
- Subpart Da – Electric Utility Steam Generating Units
- Subpart Db – Industrial-Commercial-Institutional Steam Generating Units
- Subpart Dc – Small Industrial-Commercial-Institutional Steam Generating Units
- Subpart E – Incinerators
- Subpart Ea – Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and On or Before September 20, 1994
- Subpart Eb – Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
- Subpart Ec – Hospital/Medical/Infectious Waste Incinerators
- Subpart F – Portland Cement Plants
- Subpart G – Nitric Acid Plants
- Subpart Ga – Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
- Subpart H – Sulfuric Acid Plants
- Subpart I – Hot Mix Asphalt Facilities
- Subpart J – Petroleum Refineries
- Subpart Ja – Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
- Subpart K – Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
- Subpart Ka – Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
- Subpart Kb – Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984

Subpart L –	Secondary Lead Smelters
Subpart M –	Secondary Brass and Bronze Production Plants
Subpart N –	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
Subpart Na –	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
Subpart O –	Sewage Treatment Plants
Subpart P –	Primary Copper Smelters
Subpart Q –	Primary Zinc Smelters
Subpart R –	Primary Lead Smelters
Subpart S –	Primary Aluminum Reduction Plants
Subpart T –	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
Subpart U –	Phosphate Fertilizer Industry: Superphosphoric Acid Plants
Subpart V –	Phosphate Fertilizer Industry: Diammonium Phosphate Plants
Subpart W –	Phosphate Fertilizer Industry: Triple Superphosphate Plants
Subpart X –	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
Subpart Y –	Coal Preparation and Processing Plants
Subpart Z –	Ferrous Alloy Production Facilities
<u>Subpart AA –</u>	<u>Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983</u>
Subpart AAa –	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983
Subpart BB –	Kraft Pulp Mills
Subpart BBa –	Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013
Subpart CC –	Glass Manufacturing Plants
Subpart DD –	Grain Elevators
Subpart EE –	Surface Coating of Metal Furniture
Subpart GG –	Stationary Gas Turbines
Subpart HH –	Lime Manufacturing Plants
Subpart KK –	Lead-Acid Battery Manufacturing Plants <u>for Which Construction, Reconstruction, or Modification Commenced After January 14, 1980, and On or Before February 23, 2022</u>

<u>Subpart KKa –</u>	<u>Lead-Acid Battery Manufacturing Plants for Which Construction, Modification or Reconstruction Commenced After February 23, 2022</u>
Subpart LL –	Metallic Mineral Processing Plants
Subpart MM –	Automobile and Light Duty Truck Surface Coating Operations <u>for Which Construction, Modification or Reconstruction Commenced After October 5, 1979, and On or Before May 18, 2022</u>
<u>Subpart MMA –</u>	<u>Automobile and Light Duty Truck Surface Coating Operations for Which Construction, Modification or Reconstruction Commenced After May 18, 2022</u>
Subpart NN –	Phosphate Rock Plants
Subpart PP –	Ammonium Sulfate Manufacture
Subpart QQ –	Graphic Arts Industry: Publication Rotogravure Printing
Subpart RR –	Pressure Sensitive Tape and Label Surface Coating Operations
Subpart SS –	Industrial Surface Coating: Large Appliances
Subpart TT –	Metal Coil Surface Coating
Subpart UU –	Asphalt Processing and Asphalt Roofing Manufacture
Subpart VV –	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
Subpart VVa –	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
Subpart WW –	Beverage Can Surface Coating Industry
Subpart XX –	Bulk Gasoline Terminals
Subpart AAA –	New Residential Wood Heaters
Subpart BBB –	Rubber Tire Manufacturing Industry
Subpart DDD –	Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
Subpart FFF –	Flexible Vinyl and Urethane Coating and Printing
Subpart GGG –	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006

- Subpart GGGa – Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
- Subpart HHH – Synthetic Fiber Production Facilities
- Subpart III – Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes
- Subpart JJJ – Petroleum Dry Cleaners
- Subpart KKK – Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011
- Subpart LLL – SO₂ Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011
- Subpart NNN – Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
- Subpart OOO – Nonmetallic Mineral Processing Plants
- Subpart PPP – Wool Fiberglass Insulation Manufacturing Plants
- Subpart QQQ – VOC Emissions From Petroleum Refinery Wastewater Systems
- Subpart RRR – Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
- Subpart SSS – Magnetic Tape Coating Facilities
- Subpart TTT – Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
- Subpart TTTa – Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines for Which Construction, Reconstruction, or Modification Commenced After June 21, 2022**
- Subpart UUU – Calciners and Dryers in Mineral Industries
- Subpart VVV – Polymeric Coating of Supporting Substrates Facilities
- Subpart WWW – Municipal Solid Waste Landfills **That Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014**
- Subpart XXX – Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
- Subpart AAAA – Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001

Subpart CCCC –	Commercial and Industrial Solid Waste Incineration Units
Subpart EEEE –	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006
Subpart IIII –	Stationary Compression Ignition Internal Combustion Engines
Subpart JJJJ –	Stationary Spark Ignition Internal Combustion Engines
Subpart KKKK –	Stationary Combustion Turbines
Subpart LLLL –	New Sewage Sludge Incineration Units
Subpart OOOO –	Crude Oil and Natural Gas Production, Transmission and Distribution Facilities for which Construction, Modification, or Reconstruction Commenced a A fter August 23, 2011, and on or b B efore September 18, 2015
Subpart OOOOa –	Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015
Subpart QQQQ –	New Residential Hydronic Heaters and Forced-Air Furnaces
Subpart TTTT –	Greenhouse Gas Emissions for Electric Generating Units
Appendix A-1 –	Test Methods 1 through 2F
Appendix A-2 –	Test Methods 2G through 3C
Appendix A-3 –	Test Methods 4 through 5I
Appendix A-4 –	Test Methods 6 through 10B
Appendix A-5 –	Test Methods 11 through 15A
Appendix A-6 –	Test Methods 16 through 18
Appendix A-7 –	Test Methods 19 through 25E
Appendix A-8 –	Test Methods 26 through 30B
Appendix B –	Performance Specifications
Appendix C –	Determination of Emission Rate Change
Appendix D –	Required Emission Inventory Information
Appendix F –	Quality Assurance Procedures
Appendix I –	Owner’s Manuals and Temporary Labels for Wood Heaters Subject to Subparts AAA and QQQQ of Part 60

SECTION 9. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete Rule 15.4 in its entirety and substitute in lieu thereof the following:

Rule 15.4 The provisions of Title 40 Code of Federal Regulations Part 62 “Approval and Promulgation of State Plans for Designated Facilities and Pollutants,” Subpart OOO “*Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014*” (Revised as of July 1, 202~~1~~³) is hereby incorporated by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121.

SECTION 10. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete the *first paragraph only* of Rule 16.1 and substitute in lieu thereof the following:

Rule 16.1 The provisions of Title 40 Code of Federal Regulations Part 61 “National Emissions Standards for Hazardous Air Pollutants,” Subparts A, B, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB, and FF and Appendices A, B, C, D, and E (Revised as of July 1, 202~~1~~³) are hereby incorporated by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121. The following subparts and appendices are included:

SECTION 11. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete the *first paragraph only* of Rule 16.5(c) and substitute in lieu thereof the following:

- (c) The provisions of Title 40 Code of Federal Regulations Part 63 “National Emissions Standards for Hazardous Air Pollutants for Source Categories,” Subparts A, B, C, D, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, NN, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, WWWW, YYYY, ZZZZ, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, LLLL, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAAA, BBBBBB, CCCCCC, DDDDDD, EEEEEEE, and HHHHHHH and Appendices A, B, C, D, and E (Revised as of July 1, 202~~1~~³) are hereby incorporated by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of

T.C.A. § 68-201-115 and § 10-7-121. The following subparts and appendices are included:

SECTION 12. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete the *96th row* of the table given in Rule 16.5(c) and substitute in lieu thereof the following:

Subpart IIII – ~~Mercury Emissions From~~ Mercury Cell Chlor-Alkali Plants

SECTION 13. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as delete the *first paragraph only* of Rule 17 and substitute in lieu thereof the following:

Rule 17. Emission Standard for Asbestos.

Title 40 Code of Federal Regulations Part 763, Subpart E “*Asbestos-Containing Materials in Schools,*” Appendix E “*Interim Method of the Determinations of Asbestos in Bulk Insulation Samples*” (Revised as of July 1, 202~~1~~**3**) is hereby incorporated by reference in Chapter 4 as a requirement of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121.

SECTION 14. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete the *entry that is found in the eighth row* (that begins with “Particulate Matter PM_{2.5}” and “Primary”) *and fourth column* (that has a heading of “Level”) of the table given in Rule 21 in its entirety and substitute in lieu thereof the following:

129 .0 µg/m ³

SECTION 15. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete Note (3) of the table given in Rule 21 in its entirety and substitute in lieu thereof the following:

⁽³⁾ To attain these standards, the three (3) year average of the weighted annual PM_{2.5} concentrations from single or multiple community-oriented monitors must not exceed ~~129~~ 129.0 µg/m³ for the primary standard and 15.0 µg/m³ for the secondary standard.

SECTION 16. That Chattanooga City Code, Part II, Chapter 4, Section 4-41, is hereby amended so as to delete Rule 22.1(1) in its entirety and substitute in lieu thereof the following:

- (1) This Rule 22 provides that the degree of emission limitation required of any source for control of any air pollutant must not be affected by that portion of any source's stack height that exceeds good engineering practice (GEP) or any other dispersion technique, except as provided in Rule 22.1(2)~~(a)~~. Before a new or revised emission limitation that is based on good engineering practice stack height exceeds the height allowed by Rule 22.2(3)~~(a)~~ or ~~(b)~~, the Director must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This Rule 22 does not restrict in any manner the actual stack height of any source.

SECTION 17. That Chattanooga City Code, Part II, Chapter 4, Section 4-52, is hereby amended so as to delete Section 4-52(d) in its entirety and substitute in lieu thereof the following:

- (d) The requirements of Title 40 Code of Federal Regulations Part 70 “*State Operating Permit Programs*” (Revised as of July 1, 202~~1~~3), which are incorporated herein by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the acid rain program, except as provided herein or modified in regulations promulgated under Title IV of the Act (acid rain program) in Title 40 Code of Federal Regulations Part 72 “*Permits Regulation*,” Part 75 “*Continuous Emission Monitoring*,” and Part 76 “*Acid Rain Nitrogen Oxides Emission Reduction Program*” (Revised as of July 1, 202~~1~~3), which are also incorporated herein by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121. If the provisions or requirements of Title 40 CFR Part 72 conflict with or are not included in this ordinance, the Part 72 provisions and requirements shall apply and take precedence.

SECTION 18. That Chattanooga City Code, Part II, Chapter 4, Section 4-53, is hereby amended so as to delete Item (9) under the definition of “Applicable requirements” in its entirety and substitute in lieu thereof the following:

- (9) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act in Title 40 Code of Federal Regulations Part 82 “*Protection of Stratospheric Ozone*” (Revised as of July 1, 2021~~3~~), which are incorporated herein by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121, unless the Administrator has determined that such requirements need not be contained in a Part 70 permit;

SECTION 19. That Chattanooga City Code, Part II, Chapter 4, Section 4-53, is hereby amended so as to delete Item (2) under the definition of “Regulated air pollutant” in its entirety and substitute in lieu thereof the following:

- (2) Any pollutant for which a national ambient air quality standard has been promulgated in Title 40 Code of Federal Regulations Part 50 “National Primary and Secondary Ambient Air Quality Standards” (Revised as of July 1, 2021~~3~~), the requirements of which are incorporated herein by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121;

SECTION 20. That Chattanooga City Code, Part II, Chapter 4, Section 4-53, is hereby amended so as to delete the *first paragraph only* of Item (5) under the definition of “Regulated air pollutant” and substitute in lieu thereof the following:

- (5) Any pollutant subject to a standard that has been promulgated under Section 112 of the Act [42 U.S.C. § 7412] in Title 40 CFR Part 61 or Title 40 CFR Part 63, which have been incorporated by reference in Chapter 4, or Title 40 Code of Federal Regulations Part 68 “*Chemical Accident Prevention Provisions*” (Revised as of July 1, 2021~~3~~), the requirements of which are incorporated herein by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121, including the following:

SECTION 21. That Chattanooga City Code, Part II, Chapter 4, Section 4-57, is hereby amended so as to delete Section 4-57(g) in its entirety and substitute in lieu thereof the following:

- (g) ~~*Emergency provision.*~~ **Reserved**

- ~~(1) *Definition.* An “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.~~
- ~~(2) *Effect of an emergency.* An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology based emission limitations if the conditions of paragraph (g)(3) of this section are met, unless an ambient air violation occurs as a result of the emergency.~~
- ~~(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~
- ~~(i) An emergency occurred and that the permittee can identify the cause(s) of the emergency;~~
 - ~~(ii) The permitted facility was at the time being properly operated;~~
 - ~~(iii) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and~~
 - ~~(iv) The permittee submitted notice of the emergency to the permitting authority within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph (a)(3)(iii)(B) of this section. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~
- ~~(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~
- ~~(5) This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~

SECTION 22. That Chattanooga City Code, Part II, Chapter 4, Section 4-65, is hereby amended so as to delete Section 4-65(g) in its entirety and substitute in lieu thereof the following:

- (g) Appropriateness of penalties and fines. A civil penalty or criminal fine assessed, sought, or agreed upon by the permitting authority under paragraph (e)(3) of this section shall be appropriate to the violation. ~~Where an affirmative defense of emergency is not established,~~ ~~†~~The Board may consider emergency circumstances in mitigation or reduction in assessing a penalty, and shall consider those factors enumerated in

§ 113(e)(1) [42 U.S.C. 7413(e)(1)] of the Act and those factors enumerated in T.C.A. 68-201-106, as well as those factors set forth at ~~§ Section~~ 4-4(e) of ~~the Chattanooga Air Pollution Control~~ this Ordinance.

SECTION 23. That Chattanooga City Code, Part II, Chapter 4, Section 4-68, is hereby amended so as to delete Section 4-68 in its entirety and substitute in lieu thereof the following:

Sec. 4-68. - Incorporation of documents by reference.

The following documents are hereby incorporated by reference in Chapter 4 as requirements of this municipality pursuant to the provisions of T.C.A. § 68-201-115 and § 10-7-121:

- (a) The following appendices of Title 40 Code of Federal Regulations Part 50 (Revised as of July 1, 202~~1~~3):
 - (1) Appendix A-1 “*Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method)*,”
 - (2) Appendix A-2 “*Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)*,”
 - (3) Appendix B “*Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)*,”
 - (4) Appendix C “*Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)*,”
 - (5) Appendix D “*Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere (Chemiluminescence Method)*,”
 - (6) Appendix F “*Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)*,”
 - (7) Appendix G “*Reference Method for the Determination of Lead in Total Suspended Particulate Matter*,”
 - (8) Appendix H “*Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone*,”
 - (9) Appendix I “*Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone*,”
 - (10) Appendix J “*Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere*,”
 - (11) Appendix K “*Interpretation of the National Ambient Air Quality Standards for Particulate Matter*,”

- (12) Appendix L “*Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere,*”
- (13) Appendix N “*Interpretation of the National Ambient Air Quality Standards for PM_{2.5},*”
- (14) Appendix O “*Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere,*”
- (15) Appendix P “*Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone,*”
- (16) Appendix Q “*Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected From Ambient Air,*”
- (17) Appendix R “*Interpretation of the National Ambient Air Quality Standards for Lead,*”
- (18) Appendix S “*Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide),*”
- (19) Appendix T “*Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide),*” and
- (20) Appendix U “*Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone*”;
- (b) Title 40 Code of Federal Regulations Part 51, Subpart I “*Review of New Sources and Modifications*” (Revised as of July 1, 202~~1~~**3**);
- (c) The following appendices of Title 40 Code of Federal Regulations Part 51 (Revised as of July 1, 202~~1~~**3**):
 - (1) Appendix M “*Recommended Test Methods for State Implementation Plans,*”
 - (2) Appendix P “*Minimum Emission Monitoring Requirements,*”
 - (3) Appendix S “*Emission Offset Interpretative Ruling,*” Section IV “*Sources That Would Locate in a Designated Nonattainment Area,*” and
 - (4) Appendix W “*Guideline on Air Quality Models*”;
- (d) Title 40 Code of Federal Regulations Part 58 “*Ambient Air Quality Surveillance*” and its Appendix B “*Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring*” (Revised as of July 1, 202~~1~~**3**);
- (e) Title 40 Code of Federal Regulations Part 64 “*Compliance Assurance Monitoring*” (Revised as of July 1, 202~~1~~**3**);
- (f) Title 40 Code of Federal Regulations § 70.4(b)(3)(viii) (Revised as of July 1, 202~~1~~**3**);
- (g) The following appendices of Title 40 Code of Federal Regulations Part 75 (Revised as of July 1, 202~~1~~**3**):
 - (1) Appendix A “*Specifications and Test Procedures,*”

- (2) Appendix B “*Quality Assurance and Quality Control Procedures,*”
- (3) Appendix C “*Missing Data Estimation Procedures,*”
- (4) Appendix D “*Optional SO₂ Emissions Data Protocol for Gas-Fired and Oil-Fired Units,*”
- (5) Appendix E “*Optional NO_x Emissions Estimation Protocol for Gas-Fired Peaking Units and Oil-Fired Peaking Units,*”
- (6) Appendix F “*Conversion Procedures,*” and
- (7) Appendix G “*Determination of CO₂ Emissions*”;
- (h) Title 40 Code of Federal Regulations Part 257, Subpart A “*Classification of Solid Waste Disposal Facilities and Practices,*” § 257.2 “*Definitions*” (Revised as of July 1, 202~~1~~**3**);
- (i) The following sections of Title 40 Code of Federal Regulations Part 258 “*Criteria for Municipal Solid Waste Landfills*” (Revised as of July 1, 202~~1~~**3**):
 - (1) Subpart D “*Design Criteria,*” § 258.40 “*Design criteria,*” and
 - (2) Subpart F “*Closure and Post-Closure Care,*” § 258.60 “*Closure criteria*”;
- (j) American Society for Testing and Materials (ASTM) Designation D 3266-91, Standard Test Method for Automated Separation and Collection of Particulate and Acidic Gaseous Fluoride in the Atmosphere (Double Paper Tape Sampler Method), 1994 Annual Book of ASTM Standards Volume 11.03;
- (k) American Society for Testing and Materials (ASTM) Designation D 323-94, Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method), 1994 Annual Book of ASTM Standards Volume 5.01;
- (l) American Petroleum Institute (API) Bulletin 2517 “*Evaporative Loss from External Floating-Roof Tanks*” Third Edition with addendum May 1994;
- (m) Tennessee Visible Emissions Evaluation Method 1 – Visual Determination of Opacity of Emissions from Nontraditional Sources (Roads and Parking Areas), Visible Emissions Evaluation Instruction Manual, August 1988 Revised 1995, issued by the Tennessee Department of Health & Environment, Division of Air Pollution Control; and
- (n) National Association of Corrosion Engineers (NACE) Standard RP0294-94 “*Recommended Practice Design, Fabrication, and Inspection of Tanks for Storage of Concentrated Sulfuric Acid and Oleum at Ambient Temperatures.*”

SECTION 24. BE IT FURTHER ORDAINED, that Chattanooga City Code, Part II, Chapter 4, codifying ordinances as previously adopted be construed to be cumulative in effect, and it is here declared to be the legislative intent that compliance with any one or more provisions of

that chapter shall not be construed as defense for non-compliance with any other applicable provisions of the Code or the Ordinance or rules or regulations thereof nor with any applicable provisions of that chapter.

SECTION 25. BE IT FURTHER ORDAINED, that if any section, part of a section, sentence, clause or phrase of this Ordinance is for any reason declared unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of any other portion of this Ordinance, and only such invalid portion shall be elided from this Ordinance.

SECTION 26. BE IT FURTHER ORDAINED, that this Ordinance shall become effective within two (2) weeks from and after its passage.

PASSED on second and final reading: xxxx xx, 2025

S/ _____
CHAIRPERSON

APPROVED: _____ DISAPPROVED: _____

DATE: _____, 2025

S/ _____
MAYOR