

THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.

AN ORDINANCE

AMENDING CHAPTER 26, "POLLUTION CONTROL," ARTICLE II, OF THE CITY CODE OF THE CITY OF SAN ANTONIO, TEXAS, PERTAINING TO THE REGULATION OF AIR POLLUTION TO INCLUDE REQUIRING REGISTRATION AND A REGISTRATION FEE; AND PROVIDING FOR CRIMINAL PENALTIES AND PUBLICATION.

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WHEREAS, the current Air Pollution ordinance was last substantively amended in 1982; and

WHEREAS, this Ordinance will update the language of Chapter 26, "Pollution Control," Article II "Air Pollution," by updating the state law references, and requiring that businesses with sources of air pollution register with the San Antonio Metropolitan Health District (Metro Health); and

WHEREAS, registration will provide information that Metro Health can use in determining strategies to lower ozone levels and other air pollutants so that it can continue to develop its air pollution program and work with businesses in San Antonio to lower emissions; and

WHEREAS, taking proactive steps to lower ozone levels may help San Antonio avoid a nonattainment designation by the Environmental Protection Agency (EPA); and

WHEREAS, as well as the ozone issue, Metro Health is also concerned with the high rates of asthma in the city; and

WHEREAS, ozone and other pollutants contribute to and exacerbate asthmatic episodes; and

WHEREAS, thus, Metro Health's air pollution program will target ozone precursors, such as mono-nitrogen oxides (NOx) and Volatile Organic Compounds (VOCs), to address these concerns; and

WHEREAS, the recommended changes to Chapter 26, "Pollution Control," Article II "Air Pollution," will allow Metro Health to further develop an air pollution program and proactively determine strategies to lower ozone levels; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 26 of the City Code of San Antonio, Texas entitled "Pollution Control" is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 26, Article II. of the City Code of San Antonio, Texas is hereby amended as follows:

Sec. 26-16. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air contaminant means particulate matter, radioactive material, dust, fumes, gas, mist, smoke, vapor, odor, including any combination of those items, produced by processes other than natural.

Air pollution means the presence in the atmosphere of one or more air contaminants or combination of air contaminants in such concentration and of such duration that: (A) are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property; or (B) interfere with the normal use or enjoyment of animal life, vegetation, or property.

City means the City of San Antonio, Texas.

Current registration means a current and valid registration issued under this article.

Department means the Health Department of the City also known as the San Antonio Metropolitan Health District.

Director means the director of the Health Department of the City or designee.

Facility means a business location with one or more discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not considered to be a facility.

Person means an individual, corporation, organization, governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

Source means a point of origin of air contaminants, whether privately or publicly owned or operated.

~~*Incinerator* shall mean devices for combustion of commercial waste, pathological waste or industrial process waste.~~

~~*Industrial process* shall mean any furnace boiler, kiln, dryer, mill, mixer, crusher, silo or still used in the manufacture of metal products including iron, steel, lead, copper, brass, bronze or aluminum; mineral products including aggregate, rock, sand, cement, clinker, lime, perlite or vermiculite; petroleum products including gasoline, diesel fuel,~~

~~solvents, liquefied natural gas, propane, butane or volatile organic compounds; wood products including sawdust, charcoal, pressed wood, fiber board or plywood; paper products including paperboard, cardboard or packaging; building materials including concrete, asphaltic concrete, tar roofing material, brick, tiles or blocks; chemical products including plastics, paint, fiberglass, fertilizers, pesticides or cleaning agents; feed for other than human consumption to include meat byproducts, grains or seeds; food products for human consumption including flour, nuts, or beverages including beer, wine, or liquor; recycled scrap metal including that from automobiles, appliances or beverage cans.~~

~~*Petroleum storage and loading facility* shall include each storage tank and each loading rack at any terminal for commercial dispensing of petroleum products.~~

~~*Sandblasting* shall include use of any gun or other means at any fixed location to blast with sand, grit, or other abrasive.~~

~~*Spray painting* shall include any room, booth, enclosure or yard at any fixed location used for spray painting of vehicles, appliances or building materials.~~

Sec. 26-17. Rules and regulations of Texas Commission on Environmental Quality (TCEQ) and the Texas Clean Air Act, Chapter 382 of the Texas Health and Safety Code Texas Air Control Board adopted by reference.

~~The Texas Clean Air Act, Chapter 382 of the Texas Health and Safety Code, and rules and regulations of the Texas Commission on Environmental Quality (TCEQ) thereto. The rules and regulations of the Texas Air Control Board, as promulgated by Board Order No. 68 1, and presently in effect, pursuant to the Clean Air Act of Texas, Vernon's Ann. Civ. St. art. 4477-5, are incorporated herein by reference and are hereby adopted as rules and regulations for the control of air pollution within the City city. Three (3) copies of said rules and regulations, identified by the signature of the city clerk, are on file in the office of the city clerk pursuant to section 17 of the city charter, for permanent record and inspection.~~

Sec. 26-18. Registration required; fee; penalty.

~~A business facility located within the City that is a source of air pollution is required to register with the Department. A registration fee of two hundred dollars (\$200.00) per year is required for each facility. The fee shall be payable in advance on an annual basis. The Department shall issue a receipt on a form to be prepared for that purpose. Facilities that are owned and operated by a governmental entity shall be exempt from payment of the fees but shall be registered. It shall be unlawful for any person to operate or cause to be operated any business facility unless there is current registration for the facility.~~

Sec. 26-18. City clerk to furnish copy of article to Executive Secretary, Texas Air Control Board.

~~The city clerk is hereby directed to furnish a copy of this article without the necessity of having a copy of the rules and regulations adopted by this article attached thereto, to the executive secretary of the Texas Air Control Board.~~

Sec. 26-19. Legal staff authorized to seek injunctive relief, etc.

The legal staff of the City city, ~~upon resolution by the city council,~~ without regard to prosecutions in municipal court, ~~is be, and is hereby,~~ authorized to seek injunctive relief to prevent any further violation or seek court order for the assessment of a penalty ~~of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) per day~~ for each day such violation continues, as the court may deem proper, or for both injunctive relief and penalty. The legal staff of the City city shall seek to prosecute and enjoin violations in a court of appropriate jurisdiction by working with and through the state attorney general or such other legal staff of the Texas Commission on Environmental Quality state air control board as may request such action.

Sec. 26-20. Penalty for violations.

The operation, within the City, of a business facility that is a source of air pollution which is not registered with the Department ~~The violation of any of the rules and regulations set forth in this article~~ is hereby declared to be unlawful and punishable in accordance with section 1-5.

Sec. 26-21. Air pollution inspection fee.

~~In order to defray a part of the expense necessary to provide inspection, surveillance and monitoring of air pollution sources in the city there is hereby levied an air pollution inspection fee of four hundred forty eight dollars (\$448.00) per annum for each permanent and moveable source in the city that has aggregate total emission of less than fifty (50) tons per year. This fee shall be collected by the public health department of the city and be deposited into the city general fund. The fee shall be payable in advance on an annual basis, not later than the last day of October of any year, and shall cover the city fiscal year. The public health department shall issue a receipt therefor on a form to be prepared for that purpose.~~

SECTION 3. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 236000000180 and General Ledger 4201210.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. All other provisions of Chapter 26 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 6. Violations occurring after the effective date of this ordinance shall be punished as provided in the revised Chapter 26 of the City Code of San Antonio. Violations prior to the effective date shall be punished under the former applicable Sections which shall remain in effect for that purpose.

SECTION 7. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 8. The City Clerk is directed to promptly publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

SECTION 9. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 10. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

SECTION 11. Penalties provided for in the revised Chapter 26 of the City Code of San Antonio shall be effective five days after publication by the City Clerk.

PASSED AND APPROVED this ____ day of _____.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney