

Subdivision B. - Bulk Solid Materials

Part I. - In General

Sec. 42-2-151. - Purpose and scope.

- (a) The purpose of this subdivision is to regulate the storage and transporting, including loading and unloading, of bulk solid materials in order to minimize the proliferation of fugitive dust that has the potential to collect in residents' homes and vehicles and to protect residents from potential health hazards of inhaling fugitive dust including pulmonary inflammation and fibrosis, and to classify non-compliant bulk solid material storage as a visual nuisance and blight within the City and along its waterways.
- (b) This subdivision prescribes reasonable, specific operating, and maintenance practices to minimize emissions of fugitive dust from the storage, on-site transporting or handling, loading, unloading, stockpiling, and processing of bulk solid materials as defined in Section 42-1-1 of this Code. This subdivision applies to any owner, operator, or other person who processes, handles or transports onsite, transfers, loads, unloads, stockpiles, or stores bulk solid materials.
- (c) This subdivision provides criteria to assure that processing, handling, transporting, loading, unloading, stockpiling and storage of bulk solid materials is conducted in accordance with a fugitive dust plan compliant with the standards and criteria set forth in Section 5524 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5524, and in R 336.1371 and R 336.1372 of the Michigan Administrative Code, subject to such additional requirements as may be imposed by this subdivision and this chapter.

(Code 1984, § 22-5-1; Ord. No. 32-17, § 1(22-5-1), eff. 12-6-2017)

Sec. 42-2-152. - Authority under Michigan Natural Resources and Environmental Protection Act.

The provision of this subdivision are authorized by and adopted pursuant to Part 55 of the Michigan Natural Resources and Environmental Protection Act, titled "Air Pollution Control," particularly Sections 5540 and 5542, being MCL 324.5540 and 324.5542, and specifically Section 5542(1), being MCL 324.5542(1), which provides: "(1) Nothing in this part or in any rule promulgated under this part invalidates any existing ordinance or regulation having requirements equal to or greater than the minimum applicable requirements of this part or prevents any political subdivision from adopting similar provisions if their requirements are equal to or greater than the minimum applicable requirements of this part."

(Code 1984, § 22-5-2; Ord. No. 32-17, § 1(22-5-2), eff. 12-6-2017)

Sec. 42-2-153. - Other laws.

The requirements of this subdivision do not affect the responsibilities of the facility owner and operator to comply with all other applicable federal or state law or regulations, or this Code, including, but not limited to, those regarding the zoning, construction, operation, maintenance, and closure of the facility, whether or not such other laws are specifically referenced in this subdivision.

(Code 1984, § 22-5-3; Ord. No. 32-17, § 1(22-5-3), eff. 12-6-2017)

Sec. 42-2-154. - Dumping, storing, or depositing bulk solid material on any publicly-owned property, or private property or water, without permit; exception; other violations of subdivision.

- (a) Unless otherwise provided for in this chapter, dumping, storing, depositing, or transporting bulk solid material on any private property, public property, right-of-way, or surface water or around any approved or portable container is illegal dumping and is a blight violation subject to the fines and penalties provided for in this chapter. Asphalt millings removed as part of a public paving or repaving project (a project conducted, controlled or funded by the governments or agencies of the City of Detroit, the County of Wayne, the State of Michigan, or the United States) and temporarily stored on or adjacent to that project for reuse in that project is not illegal dumping if the temporary storage period does not exceed 45 days.
- (b) Violations of Article V of this chapter not described by Section 42-2-92(g), including, but not limited to, the escape of fugitive dust from an otherwise authorized collection of bulk solid material in an amount that exceeds the opacity limit specified in MCL 324.5524(2), regardless of qualification under MCL 324.5524(1), is unlawful and is subject to the fines and penalties provided for in this chapter.

(Code 1984, § 22-2-83(g), (h); Ord. No. 32-17, § 1(22-2-83(g), (h)), eff. 12-6-2017; Ord. No. 22-19, § 1(22-2-83(g), (h)), eff. 7-31-2019)

Sec. 42-2-155. - Alternative compliance for qualified solid bulk materials.

- (a) Notwithstanding Parts II through V of this subdivision, the owner or operator of a facility that processes, handles or transfers on-site, transfers, loads, unloads, stockpiles, or stores qualified solid bulk materials shall be deemed in compliance with this subdivision where all of the following apply:
 - (1) The owner or operator has submitted a state operating plan for the facility pursuant to Section 5524 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5524, and R 336.1371 and 336.1372 of the Michigan Administrative Code, in compliance with Section 5524 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5524;
 - (2)

The state operating plan, including any amendment, is effective and the owner or operator is in compliance with the state operating plan; and

(3) The state operating plan includes the information required by Section 5524(5) of the Michigan Natural Resources Environmental Protection Act, being MCL 324.5524(5), and all of the following additional information is included in the state operating plan, included in an active national pollutant discharge elimination system or active groundwater permit for the facility issued by the Michigan Department of Environment, Great Lakes, and Energy, or included with any supplemental information filed with the Buildings, Safety Engineering, and Environmental Department with an application for a Certificate of Alternative Compliance under this section:

- a. A site map for the facility that includes all of the information required under Section 42-2-179(3)(b) to (e) of this Code;
- b. A description of the facility's operations, including a list of all bulk solid materials that are construction bulk solid materials handled at, processed at, or transported to, from, or within the facility;
- c. A description of the control measures, devices, and technologies to be used to minimize and control fugitive dust at the facility consistent with any applicable standard for density of emissions under R 336.1301 of the Michigan Administrative Code, a description of how all control measures, devices, and technologies will be maintained and calibrated to ensure their continued effectiveness, and a description of the training provided to staff regarding the proper application and operation of the control measures, devices, and technologies;
- d. A description of the owner or operator's system for recordkeeping compliant with the requirements otherwise applicable under Section 42-2-191(1), (2) and (6) of this Code, the system of recordkeeping for the owner or operator's compliance with Subsections (3)c and h of this section, and compliant with a requirement that the owner or operator keep and maintain the records described in this subsection at the facility and available for inspection by the Buildings, Safety Engineering, and Environmental Department for at least three years after creation;
- e. A description of the owner or operator's measures to comply with any applicable setback requirements under a state law, rule, or permit, or applicable under Chapter 50 of this Code, *Zoning*;
- f. A description of measures to comply with the requirements relating to height limits and screening of piles otherwise applicable under Section 42-2-213 of this Code;
- g.

A description of protections for water ways consistent with the requirements of any applicable state law, rule, or permit, or the requirements of this Code or a permit issued by the City;

- h. A description of the owner or operator's measures to monitor wind speeds at the facility and to suspend disturbance of piles of qualified bulk solid materials, including, but not limited to, outdoor loading, unloading, and any other processing, during high wind conditions unless alternate measures are implemented to effectively control dust in accordance with any applicable state operating plan or permit; and
- i. A description of storm water management, erosion, sediment control, and drainage measures to control runoff or migration at or from the facility in a manner consistent with requirements under any applicable state law, rule, or permit, or with any requirement of this Code or a City permit, or both.

- (4) If the owner or operator is relying only upon a state operating plan for compliance with this section, the owner or operator files a copy of the state operating plan and any amendments to document compliance with this section and all of the following apply:
- a. Within 45 days of receipt, the Buildings, Safety Engineering, and Environmental Department reviews the operating plan and any amendments, and inspects the facility for compliance with the requirements of this section to determine whether the operating plan and any amendments satisfy the requirements of this section and are adequate to protect the public health and the environment and to prevent the emission of fugitive dust that causes unreasonable interference with the comfortable enjoyment of life and property;
 - b. Within 45 days of the inspection, the Buildings, Safety Engineering, and Environmental Department determines and notifies the owner or operator of the facility in writing that the owner or operator of the facility is in compliance with this section; and
 - c. The owner or operator remains in compliance with this section.
- (5) If the owner or operator is relying upon a state permit not part of a state operating plan or other supplemental information filed with the Buildings, Safety Engineering, and Environmental Department in addition to a state operating plan for compliance with this section, the owner or operator complies with all of the following:
- a. The owner or operator files a copy of the state operating plan and any amendments and any supplemental information to document compliance with this section with the Buildings, Safety Engineering, and Environmental Department along with an application for alternative compliance under this section on a form determined by the Buildings, Safety Engineering, and Environmental Department;
 - b. Within 45 days of receipt, the Buildings, Safety Engineering, and Environmental Department:

1. Reviews the application and other documents submitted;
 2. Inspects the facility for compliance with the requirements of this section to determine whether the application and other documents submitted satisfy the requirements of this section and are adequate to protect the public health and the environment and to prevent the emission of fugitive dust that causes unreasonable interference with the comfortable enjoyment of life and property; and
 3. Issues a Certificate of Alternative Compliance confirming compliance with this section; and
- c. The owner or operator remains in compliance with this section. The Buildings, Safety Engineering, and Environmental Department may revoke a Certificate of Alternative Compliance issued under this section if an owner or operator does not remain in compliance with this section.
- (b) If an owner or operator of a facility is deemed in compliance with this subdivision through Subsection (a) of this section and the owner or operator either violates the requirements of the state operating plan or permit for the facility or otherwise violates Section 5524 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5524, or R 336.1371 and 336.1372 of the Michigan Administrative Code, and the Michigan Environment, Great Lakes, and Energy or another state officer or agency does not act to remedy or penalize the violation, the violation may be enforced as a blight violation under Section 42-1-27 of this Code.
- (c) Subsection (b) of this section shall not be an exclusive remedy, or be construed to impair or bar any cause of action or legal or equitable remedy of any person or the public under applicable laws and regulations.
- (d) The Buildings, Safety Engineering, and Environmental Department shall conduct semi-annual inspections for the purpose of monitoring compliance with this section and may conduct other inspections for the purpose of monitoring compliance with this subdivision. If the Buildings, Safety Engineering, and Environmental Department determines that an owner or operator is not complying with the requirements of this subdivision, including, but not limited to this section, the Buildings, Safety Engineering, and Environmental Department shall require the owner or operator to take action to comply with this subdivision or both, and shall impose fines authorized under this chapter for each day that the owner or operator fails to take the action required by the Buildings, Safety Engineering, and Environmental Department.
- (e) An owner or operator of a facility not in compliance with this section at any time must comply with Parts II through V of this subdivision. An owner or operator of a facility shall not be deemed in compliance with this section if one or more of the following apply:
- (1) The State determines that the owner or operator is not in compliance with a state operating program or state permit applicable to the facility;

- (2) The Buildings, Safety Engineering, and Environmental Department determines that the owner or operator has not complied with the requirements of this section; or
- (3) The owner or operator of the facility violates R 336.1901 of the Michigan Administrative Code.

(Code 1984, § 22-5-6; Ord. No. 32-17, § 1(22-5-6), eff. 12-6-2017)

Sec. 42-2-156. - Alternative compliance for scrap processors.

- (a) Notwithstanding Parts II through V of this subdivision, a scrap processor shall be deemed in compliance with this subdivision where all of the following apply:
 - (1) The scrap processor holds a business license as a scrap metal dealer that is issued by the Buildings, Safety Engineering, and Environmental Department under Chapter 41, Article IV, of this Code, *Scrap Metal Dealers*, and the business license has not expired without submission of a renewal application or been suspended or revoked;
 - (2) The scrap processor does not handle or transfer on-site, transfer, load, unload, stockpile, store, or process carbonaceous bulk solid materials at the facility for which the business license described in Subsection (a)(1) of this section was issued;
 - (3) The scrap processor is in compliance with all of the following:
 - a. Chapter 41, Article IV, of this Code, *Scrap Metal Dealers*;;
 - b. Sections 7, 9, and 10 of the Michigan Scrap Metal Regulatory Act, being MCL 445.427, 445.429, and 445.430; and
 - c. Any applicable standard for density of emissions under R 336.1301 of the Michigan Administrative Code.
 - (4) The scrap processor does not engage in a milling activity at the facility for which the business license described in Subsection (a)(1) of this section was issued that generates fugitive dust visible beyond the property line of the facility in violation of an applicable permit for the facility or an applicable standard for density of emissions under R 336.1301 of the Michigan Administrative Code; and
 - (5) The scrap processor uses measures to mitigate out-going material transport vehicles from causing any track-out of materials onto the public way such as rumble strips or wheel wash stations, or both;
- (b) Where a scrap processor is deemed in compliance with Subsection (a)(1) of this section, the scrap processor violates R 336.1301 of the Michigan Administrative Code, and a state officer or agency does not act to remedy or penalize the violation, the violation may be enforced as a blight violation under Section 42-1-27 of this Code.
- (c) Nothing in Subsection (b) of this section shall be an exclusive remedy, or be construed to impair or bar any cause of action or legal or equitable remedy of any person or the public under

applicable laws and regulations.

- (d) The Buildings, Safety Engineering, and Environmental Department shall conduct semi-annual inspections for the purpose of monitoring compliance with this section and may conduct other inspections for the purpose of monitoring compliance with this subdivision.
- (e) An owner or operator of a facility not in compliance at any time with this section must comply with Parts II through V of this subdivision.

(Code 1984, § 22-5-7; Ord. No. 32-17, § 1(22-5-7), eff. 12-6-2017)

Secs. 42-2-157—42-2-170. - Reserved.

Part II. - Bulk Solid Material Facilities—General Requirements

Sec. 42-2-171. - Operating and maintenance practices.

- (a) Except as provided for in Subsections (b) and (c) of this section, a facility that processes, handles or transfers on-site, transfers, loads, unloads, stockpiles, or stores bulk solid materials shall comply with the requirements of this subdivision.
- (b) A location that is an active construction site with all appropriate building permits and to which bulk solid materials are delivered for use in the construction at that site or at which bulk solid materials are temporarily situated for use in the construction at that site shall not be considered a facility subject to the requirements of this subdivision.
- (c) Asphalt millings removed as part of a public paving or repaving project conducted, controlled, or funded by the City, the County of Wayne, the State of Michigan, or the United States and temporarily stored on or adjacent to the project for reuse in the project shall not be considered a facility subject to the requirements of this subdivision if the temporary storage period does not exceed 45 days.

(Code 1984, § 22-5-10; Ord. No. 32-17, § 1(22-5-10), eff. 12-6-2017)

Sec. 42-2-172. - Certificate of Operation.

- (a) Every owner or operator of a facility subject to this subdivision must possess a Certificate of Operation that is issued by the Buildings, Safety Engineering, and Environmental Department.
- (b) The owner or operator shall submit to the Buildings, Safety Engineering, and Environmental Department an application for a Certificate of Operation. Upon the owner or operator providing evidence of compliance with the provisions of this subdivision, including, where applicable, submitting an approved fugitive dust plan or an approved enclosure plan, or both, and upon payment of the fee established by the Director of the Buildings, Safety Engineering, and

Environmental Department pursuant to a schedule of fees, to cover the cost of application review and compliance inspection. The Buildings, Safety Engineering, and Environmental Department shall issue a Certificate of Operation in accordance with the provisions of this subdivision.

- (c) The Certificate of Operation shall be conditioned upon continued compliance with this subdivision.
- (d) The Buildings, Safety Engineering, and Environmental Department may impose dust control requirements, in addition to the requirements set forth in this subdivision, as a condition of the facility's Certificate of Operation, if the Buildings, Safety Engineering, and Environmental Department finds that the facility has failed to demonstrate its ability to control fugitive dust and the additional dust control requirements are necessary to protect the public health and environment.
- (e) In the case of a facility operating under all applicable permits issued by the Buildings, Safety Engineering, and Environmental Department and subject to a Certificate of Operation issued by the Buildings, Safety Engineering, and Environmental Department as of the effective date of the ordinance that enacted this section, the Buildings, Safety Engineering, and Environmental Department may issue a temporary Certificate of Operation.

(Code 1984, § 22-5-11; Ord. No. 32-17, § 1(22-5-11), eff. 12-6-2017)

Sec. 42-2-173. - Reviewing and approving applications.

- (a) In determining whether to approve a fugitive dust plan and issue a Certificate of Operation, the Buildings, Safety Engineering, and Environmental Department shall solicit comments from the Health Department and the Water and Sewerage Department. The Buildings, Safety Engineering, and Environmental Department shall evaluate the information provided in the application to meet the requirements of this subdivision.
- (b) The Director of the Buildings, Safety Engineering, and Environmental Department shall deny the application if it is incomplete or if the application does not demonstrate compliance with the requirements of this subdivision.
- (c) The Director of the Buildings, Safety Engineering, and Environmental Department may attach reasonable conditions to the Certificate of Operation to ensure minimization of any adverse impacts.

(Code 1984, § 22-5-12; Ord. No. 32-17, § 1(22-5-12), eff. 12-6-2017)

Sec. 42-2-174. - Change in facility operations.

Where any part of the facility's operation expands or changes, then, at least 30 days before the expansion or change in operation, the facility owner or operator shall notify the Director of the Buildings, Safety Engineering, and Environmental Department, submit an application to amend the Certificate of

Operation, and submit a revised fugitive dust plan or establish to the Buildings, Safety Engineering, and Environmental Department's satisfaction that the expanded or changed operation will be compliant with the existing fugitive dust plan.

(Code 1984, § 22-5-13; Ord. No. 32-17, § 1(22-5-13), eff. 12-6-2017)

Sec. 42-2-175. - Inspections by Buildings, Safety Engineering, and Environmental Department.

The Buildings, Safety Engineering, and Environmental Department shall conduct inspections for the purpose of monitoring compliance with this subdivision on a semiannual basis. The Buildings, Safety Engineering, and Environmental Department may conduct inspections for the purpose of monitoring compliance with this subdivision in response to any complaint received by the Buildings, Safety Engineering, and Environmental Department or the Buildings, Safety Engineering, and Environmental Department's reasonable suspicion of a violation of this subdivision.

(Code 1984, § 22-5-14; Ord. No. 32-17, § 1(22-5-14), eff. 12-6-2017)

Sec. 42-2-176. - Fugitive dust.

- (a) A facility owner or operator shall prevent the discharge into the atmosphere of visible fugitive dust as specified in this division.
- (b) A facility owner or operator shall not cause or allow any fugitive dust that is visible beyond the property line of the facility. The facility owner or operator shall prevent the discharge into the atmosphere of visible fugitive dust as specified in this division.

(Code 1984, § 22-5-15; Ord. No. 32-17, § 1(22-5-15), eff. 12-6-2017)

Sec. 42-2-177. - Opacity limits; measurement.

- (a) An owner, operator or other person responsible for any fugitive dust source subject to this subdivision shall not cause or allow the emission of fugitive dust from any road, lot, or storage pile, including any material handling activity at a storage pile, that has an opacity greater than five percent.
- (b) An owner or operator of a facility subject to this subdivision shall not cause or allow any fugitive dust beyond the property line of the facility that has an opacity greater than zero percent.
- (c) Opacity shall be determined by reference test method 9d, as defined in Section 5525(j) of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5525(j).
- (d) The facility owner or operator shall perform, on at least a quarterly basis, tests of visual fugitive dust and opacity in accordance with the protocol set forth in the approved fugitive dust plan.

(Code 1984, § 22-5-16; Ord. No. 32-17, § 1(22-5-16), eff. 12-6-2017)

Sec. 42-2-178. - Fugitive dust plan—Required.

- (a) Every owner or operator of a facility subject to this subdivision must submit and follow a fugitive dust plan.
- (b) If the owner or operator of the facility has obtained approval from the State of Michigan of a state operating plan as defined in Section 42-1-6 of this Code pursuant to state laws or regulations, including but not limited to Section 5524 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5524, and R 336.1371 and R 336.1372 of the Michigan Administrative Code, and the State Operating Plan, including any amendments, is currently legally enforceable and in effect, then the owner or operator of the facility shall provide a complete and current copy of the State Operating Plan, including any amendments to the Buildings, Safety Engineering, and Environmental Department, along with a statement indicating where and how the requirements of this subdivision are addressed by the State Operating Plan. Unless the Buildings, Safety Engineering, and Environmental Department makes specific findings that the State Operating Plan contains deficiencies or omissions that would render it insufficient to ensure compliance with this subdivision, the State Operating Plan shall be presumed to satisfy the requirements of this subdivision. The owner or operator shall notify the Buildings, Safety Engineering, and Environmental Department in advance of any submissions of new or amended state operating plans. Notwithstanding this subsection, the owner or operator of the facility shall install, operate, and maintain fugitive dust monitors pursuant to Section 42-2-180 of this Code unless the owner or operator of the facility conducts fugitive dust monitoring that is no less stringent than the requirements of Section 42-2-180 of this Code.
- (c) If, at any time, the Buildings, Safety Engineering, and Environmental Department finds that the submitted fugitive dust plan is missing any required information or is insufficient to ensure compliance with this subdivision, the Buildings, Safety Engineering, and Environmental Department shall disapprove the fugitive dust plan and require submission of an amended fugitive dust plan. If there is any change, modification, or addition to any facility component described in an approved fugitive dust plan, the facility owner or operator shall submit an amended fugitive dust plan to the Buildings, Safety Engineering, and Environmental Department for review and approval at least 30 days before such change, modification, or addition.
- (d) The first fugitive dust plan shall be due within 180 days of the effective date of the ordinance that enacted this subdivision. For facilities that are constructed or become subject to this subdivision after enactment, the first fugitive dust plan shall be submitted with the facility's application for a Certificate of Operation and before the facility accepts any bulk solid materials. After April 30 and before July 1 of each year, the owner or occupant of the facility shall submit to the Buildings, Safety Engineering, and Environmental Department an annual update to the fugitive dust plan for the Buildings, Safety Engineering, and Environmental Department's review.

(Code 1984, § 22-5-17; Ord. No. 32-17, § 1(22-5-17), eff. 12-6-2017)

Sec. 42-2-179. - Fugitive dust plan—Contents.

The fugitive dust plan shall include, at a minimum, the following components:

- (1) The name and address of the facility;
- (2) The name, address, and contact information of the owner or operator responsible for implementation of the fugitive dust plan;
- (3) A site map, drawn to scale, depicting the following information:
 - a. Facility boundaries;
 - b. All buildings, internal roadways, and utilities on facility property;
 - c. All roadways and transportation corridors within one quarter mile of the perimeter of the facility that are used for transport of material to or from the facility;
 - d. The location of all floor drains, storm drains, and storm water outfalls;
 - e. All potential emissions points at the facility, including a depiction of the footprints of all bulk solid material storage piles; and
 - f. The locations of all control devices and monitoring devices, including the fugitive dust monitors required under Section 42-2-180 of this Code and the wind monitors required under Section 42-2-181 of this Code;
- (4) A description of the facility's operations, including a list of all bulk solid materials handled at, processed at, or transported to, from, or within the facility;
- (5) A description of the truck routes within one quarter mile of the perimeter of the facility that are used to transport material to and from the facility, including an explanation of how dust will be minimized during transport, for example, travel on paved roads where possible, minimize truck speeds, and the like, and a description of the measures that will be used to ensure trucks are cleaned of loose material before they leave the facility;
- (6) A calculation showing the facility's maximum total indoor and outdoor bulk solid material storage capacity in tons or cubic yards, in the first fugitive dust plan, due within 180 days of the ordinance that enacted this subdivision, the calculation shall be certified by signature of an authorized representative of the owner or operator and shall be accompanied by evidence of authority to sign on behalf of the owner or operator;
- (7) A description of the control measures, devices, and technologies to be used to minimize and control fugitive dust, a description of how all control measures, devices, and technologies will be maintained and calibrated to ensure their continued effectiveness, and a description of the training provided to staff regarding the proper application and operation of the control measures, devices, and technologies;

- (8) A dust monitoring plan that describes:
- a. The placement, operation, and maintenance of the PM10 monitors if required under Section 42-2-180 of this Code; and
 - b. The schedule and plan for quarterly testing to ensure compliance with the prohibition on fugitive dust set forth in this subdivision. Such testing must be:
 1. Conducted by a professional trained and certified to read opacity in accordance with the measurement method specified in Section 42-2-177 of this Code; and
 2. Conducted during a range of weather conditions to ensure that representative conditions are the facility are covered;
- (9) A contingency plan describing the owner's or operator's response activities when PM10 exceeds the reportable action level. The response activities should consist of a range of increasingly aggressive measures appropriate to different levels of exceedance;
- (10) A contingency plan for an alternative method of monitoring in the event of malfunction or failure of any required PM10 monitors;
- (11) A description of the facility's recordkeeping system, which shall include a schedule for routine inspection, testing, and maintenance as required in Section 42-2-191 of this Code;
- (12) Other information as the Buildings, Safety Engineering, and Environmental Department may require to facilitate its review of the fugitive dust plan; and
- (13) A fact sheet or executive summary of the fugitive dust plan designed to inform the public of the facility's plan to control and minimize fugitive dust, which may be posted on the City's website.

(Code 1984, § 22-5-18; Ord. No. 32-17, § 1(22-5-18), eff. 12-6-2017)

Sec. 42-2-180. - Fugitive dust monitoring.

Unless, either pursuant to the variance procedure set forth in Part V of this subdivision or because the facility does not include carbonaceous bulk solid materials and is enclosed in accordance with Section 42-2-203 of this Code, the facility owner or operator establishes that the facility's operations do not and will not result in off-site fugitive dust emissions, the owner or operator of the facility shall install, operate, and maintain around the perimeter of the facility, according to manufacturer's specifications, permanent, continuous Federal Equivalent Method (FEM) real-time PM10 monitors, or other sensors acceptable to the Buildings, Safety Engineering, and Environmental Department and the Health Department that provide equivalent information, in accordance with the following specific requirements:

- (1) During the first year of monitoring, at least two monitors must be located at opposite ends of the facility to monitor fugitive dust in the ambient air around the facility;
- (2)

During the second and subsequent years of monitoring, monitors must be placed at the facility in compliance with an approved fugitive dust monitoring plan for the facility based on data collected from monitors placed under Subsection (1) of this section;

- (3) A data logger shall be attached to the monitors to record readings from the monitors, and the facility owner or operator shall notify the Buildings, Safety Engineering, and Environmental Department, in writing within 24 hours, each time the monitors exceed the reportable action level set forth in the fugitive dust plan and any time monitoring equipment has malfunctioned preventing readings or logging of data; and
- (4) The facility owner or operator shall maintain a log of all routine and non-routine maintenance and calibration activities associated with each fugitive dust monitor.

(Code 1984, § 22-5-19; Ord. No. 32-17, § 1(22-5-19), eff. 12-6-2017)

Sec. 42-2-181. - Wind monitoring.

- (a) Except as provided in Subsection (b) of this section, the owner or operator shall install, operate, and maintain, according to manufacturer's specifications, a weather station or other permanent device to monitor and log wind speed and wind direction at the facility at an unobstructed, unsheltered area, centrally positioned in relation to the storage piles, and at a minimum height of 15 feet above ground level, unless the Buildings, Safety Engineering, and Environmental Department determines that another height is appropriate pursuant to applicable U.S. Environmental Protection Agency protocols and guidance.
- (b) Subsection (a) of this section does not apply to bulk solid materials other than carbonaceous bulk solid materials if all handling and storage of the bulk solid materials is conducted within enclosed buildings, vehicles, and conveyors.

(Code 1984, § 22-5-20; Ord. No. 32-17, § 1(22-5-20), eff. 12-6-2017)

Sec. 42-2-182. - Conveyors and transfer points.

The owner or operator shall install, operate, and maintain conveyors and material transfer points in compliance with one or a combination of the following measures in order to ensure compliance with the opacity limit set forth in Section 42-2-177 of this Code:

- (1) Total enclosure;
- (2) Water spray system sufficient to control fugitive dust emissions during operations;
- (3) Vented to air pollution control equipment which is in full operation; or
- (4) Transfer only moist material with a minimum moisture content of eight percent by weight as determined by ASTM analysis, unless another standard is established by an applicable state law or rule, and conduct the transfer in a manner that minimizes the exposed drop.

(Code 1984, § 22-5-21; Ord. No. 32-17, § 1(22-5-21), eff. 12-6-2017)

Sec. 42-2-183. - Transport.

When transport is by truck, the facility owner or operator shall ensure that:

- (1) All vehicles and off-road mobile heavy equipment handling or transporting bulk solid material shall adhere to the posted speed limit within the facility, which shall be no more than eight miles per hour;
- (2) Except for existing facilities, material is received or transferred only in truck beds or trailers that, within one quarter mile of the perimeter of the facility, are driven only on paved roads;
- (3) Unless the approved fugitive dust plan specifies an aggregate street sweeping plan or other measures to ensure that the trucks will not cause any unaddressed track-out of materials onto the public way, all outgoing material transport trucks, whether loaded or empty, are cleaned so that:
 - a. Any part of any tractor, bed, trailer or the exterior surface, excluding the inside of the beds or trailer, are free of all loose material; and
 - b. The material removed by the truck cleaning operation is collected and recycled or otherwise disposed of so that it does not result in fugitive dust emissions.
- (4) All outgoing material transport trucks, whether loaded or empty, pass over rumble strips that will vibrate the trucks and shake off loose material and dust;
- (5) Unless the approved fugitive dust plan specifies an aggressive street sweeping plan or other measures in addition to the rumble strips to ensure that the trucks will not cause any unaddressed track-out of materials onto the public way, all outgoing material transport trucks, whether loaded or empty, pass through a wheel wash station.

(Code 1984, § 22-5-22; Ord. No. 32-17, § 1(22-5-22), eff. 12-6-2017)

Sec. 42-2-184. - Coverings and other dust control.

The facility owner or operator shall not load material into any truck bed or trailer, railcar, or vessel unless measures are in place to prevent material from escaping from the truck bed or trailer, railcar, or vessel as follows:

- (1) Truck beds and trailers must be immediately covered before leaving the facility in one of the following manners:
 - a. A solid sliding cover or stackable cover on the top of the truck bed or trailer that is kept completely closed except during loading; or
 - b.

A continuous tarp that completely covers the truck bed or trailer and that is installed or constructed to prevent wind from entering over the leading edge of the bed or trailer rim into the interior of the bed or trailer.

- (2) Railcars and vessels must be loaded in a manner that will control dust through the use of best management practices such as, but not limited to, the use of solid covers, the application of dust suppression agents and/or water, and the profiling of materials to prevent wind erosion.

(Code 1984, § 22-5-23; Ord. No. 32-17, § 1(22-5-23), eff. 12-6-2017)

Sec. 42-2-185. - Prohibition against leakage.

Facility owners or operators shall not load material into a truck bed or trailer, railcar, or vessel such that the truck bed or trailer, railcar, or vessel leaks material or liquid that contains material onto internal roads or into waterways. Where the truck bed or trailer, railcar, or vessel leaks material or liquid that contains material onto an internal road or into a waterway, the facility owner or operator shall clean the affected road within one hour with a street sweeper or water and shall clean the affected waterway immediately.

(Code 1984, § 22-5-24; Ord. No. 32-17, § 1(22-5-24), eff. 12-6-2017)

Sec. 42-2-186. - Truck loading and unloading.

For enclosed carbonaceous bulk solid material storage piles, the facility owner or operator shall conduct material truck loading and unloading only in an enclosed structure that is either equipped with a water spray system to be used as needed to prevent visible dust emissions or vented to permitted air pollution control equipment that is operated during loading and unloading activities. The ends of the structure shall have overlapping flaps that reduce the opening, sliding doors which shall remain closed except to allow the trucks to enter and leave, or other equally effective devices. For outdoor bulk solid material storage, the facility owner or operator shall ensure that truck loading and unloading occurs in compliance with the requirements for transfer points specified in Section 42-2-182 of this Code.

(Code 1984, § 22-5-25; Ord. No. 32-17, § 1(22-5-25), eff. 12-6-2017)

Sec. 42-2-187. - Railcar loading and unloading.

For enclosed carbonaceous bulk solid material storage piles, the facility owner or operator shall conduct railcar material loading and unloading only in an enclosed structure that is either equipped with a water spray system operated to prevent visible dust emissions or vented to permitted air pollution control equipment that is operated during loading and unloading activities. The ends of the structure shall have overlapping flaps, sliding doors or other equally effective devices, which shall remain closed except to allow

the railcars to enter and leave. For outdoor bulk solid material storage, the facility owner or operator shall ensure that railcar loading and unloading occurs in compliance with the requirements for transfer points specified in Section 42-2-182 of this Code.

(Code 1984, § 22-5-26; Ord. No. 32-17, § 1(22-5-26), eff. 12-6-2017)

Sec. 42-2-188. - Vessel loading and unloading.

The facility owner or operator shall conduct vessel material loading only through an enclosed chute that uses a water spray system, or an air pollution control system or other mechanism described in the approved fugitive dust plan, in order to control fugitive dust emissions during operations. Vessel unloading shall be conducted in a manner that will minimize dust in accordance with measures set forth in the fugitive dust plan and in compliance with the requirements for transfer points specified in Section 42-2-182 of this Code.

(Code 1984, § 22-5-27; Ord. No. 32-17, § 1(22-5-27), eff. 12-6-2017)

Sec. 42-2-189. - Roadway cleaning.

In order to clean roads of spilled and tracked material, the facility owner or operator shall use street sweeper to clean any paved road that is used to transport material inside or within one quarter mile of the perimeter of the facility and shall comply with all of the following requirements:

- (1) The street sweeper shall be equipped with a water spray for use during non-freezing weather and a vacuum system to prevent fugitive dust during street sweeping;
- (2) The street sweeping shall be sufficient so that not more than eight hours elapses between each street sweeper cleaning or after every 100 truck material receipts or dispatches, but not less than one time daily when the facility is open for business, unless the roads are free and clear of any material transported to or from the facility; and
- (3) Each day, the facility owner or operator shall document whether for that day the facility owner or operator is street sweeping every eight hours or every 100 trucks, or whether the roads are free and clear of any material transported to or from the facility. The record shall show the date and time when street sweeping was performed and the truck count, as applicable.

(Code 1984, § 22-5-29; Ord. No. 32-17, § 1(22-5-29), eff. 12-6-2017)

Sec. 42-2-190. - Spilled material.

The facility owner or operator shall maintain all areas within the facility not regularly used for storage of bulk solid material free of any spilled or misplaced material by removing such material by the end of each work shift.

(Code 1984, § 22-5-30; Ord. No. 32-17, § 1(22-5-30), eff. 12-6-2017)

Sec. 42-2-191. - Recordkeeping.

The facility owner or operator shall keep and maintain facility logs as follows:

- (1) Record daily, all cleaning and street sweeping;
- (2) Record the application of water and/or chemical stabilizers as applicable, and note any instances when such application is suspended for any reason, including but not limited to, weather conditions;
- (3) Record any instances when activities are suspended due to high winds as required by Section 42-2-215 of this Code as applicable;
- (4) Record the results of the continuous monitoring for fugitive dust as required in Section 42-2-180 of this Code, indicate any instances when a monitor detects fugitive dust that exceeds the reportable action level set forth in the fugitive dust plan, and record the action taken to respond to the detection of fugitive dust;
- (5) Record quarterly, the results of the tests of visual fugitive dust and opacity as required in Section 42-2-177 of this Code;
- (6) Maintain a schedule for routine inspection, maintenance, and testing of all control measures, devices, and technologies, including a schedule for inspection of bulk solid material piles, inspection of any monitors and inspection of off-site areas for the presence of dust, and identify the person or persons responsible for such inspections, maintenance, and testing;
- (7) All records that are required to be kept pursuant to this subdivision shall be submitted to the Buildings, Safety Engineering, and Environmental Department on a quarterly basis and kept and maintained at the facility and be available for inspection for a minimum of three years from the date the record is created.

(Code 1984, § 22-5-31; Ord. No. 32-17, § 1(22-5-31), eff. 12-6-2017)

Sec. 42-2-192. - Inspections.

Inspections for the purpose of monitoring compliance with this subdivision shall be conducted by the Buildings, Safety Engineering, and Environmental Department on at least a semiannual basis and in response to any complaint received by the Buildings, Safety Engineering, and Environmental Department.

(Code 1984, § 22-5-32; Ord. No. 32-17, § 1(22-5-32), eff. 12-6-2017)

Secs. 42-2-193—42-2-200. - Reserved.

Part IV. - Outdoor Storage of Bulk Solid Materials Other Than Carbonaceous Bulk Solid Materials

Sec. 42-2-211. - Outdoor bulk solid material storage.

The facility owner or operator may maintain outdoor storage of bulk solid material other than carbonaceous bulk solid material if the facility meets all of the requirements of this division.

(Code 1984, § 22-5-50; Ord. No. 32-17, § 1(22-5-50), eff. 12-6-2017)

Sec. 42-2-212. - Setbacks.

Bulk solid material storage piles shall be located in accordance with setback requirements established in Chapter 50 of this Code, *Zoning*.

(Code 1984, § 22-5-51; Ord. No. 32-17, § 1(22-5-51), eff. 12-6-2017)

Sec. 42-2-213. - Height limit; screening from view.

The vertical distance from grade immediately adjacent to a pile to the highest point of that pile shall be no greater than 50 feet. The facility owner or operator shall install and maintain, or otherwise have available at the facility, equipment or devices used to measure the height of each pile, with the equipment or devices available for use by an inspector during any inspection or use by the owner or operator of the facility to demonstrate compliance with the height limit to the satisfaction of the inspector during any inspection. Piles shall be screened from view or adjacent rights-of-way and from view of properties adjacent to the facility at the level of the right-of-way or separated from the facility by a right-of-way if the properties are located in districts zoned residential, SD4, or PR in conformance with Chapter 50, Article XIV, Division 2, Subdivision D, in particular Sections 50-14-365 and 50-14-367 of this Code.

(Code 1984, § 22-5-52; Ord. No. 32-17, § 1(22-5-52), eff. 12-6-2017)

Sec. 42-2-214. - Protection of waterways.

Outdoor storage piles shall be set back at least 25 feet from any waterway, except that material in the process of being unloaded from or loaded to a vessel may be located within 25 feet of a waterway for a period of time not to exceed 24 hours so long as no materials are allowed to fall, erode, be thrown, discharged, dumped, disposed of, or deposited in the waterway at any time, the Buildings, Safety Engineering, and Environmental Department may reduce the 25 feet setback requirement upon receipt and verification of information that a shorter setback satisfies runoff and engineering requirements specific to the site.

(Code 1984, § 22-5-53; Ord. No. 32-17, § 1(22-5-53), eff. 12-6-2017)

Sec. 42-2-215. - High-wind events.

Disturbance of outdoor bulk solid material piles, including but not limited to outdoor loading, unloading, and any other processing, shall be suspended during high wind conditions unless alternate measures are implemented to effectively control dust in accordance with the approved fugitive dust plan.

(Code 1984, § 22-5-54; Ord. No. 32-17, § 1(22-5-54), eff. 12-6-2017)

Sec. 42-2-216. - Dust-suppressant system.

The Buildings, Safety Engineering, and Environmental Department shall require the facility owner or operator to apply chemical stabilizers and/or maintain and operate wind screens, water spray bars, a misting system, water spray systems, and/or water trucks to prevent fugitive dust emissions in violation of Sections 42-2-176 and 42-2-177 of this Code, in accordance with the following requirements:

- (1) Except pursuant to Subsection (3) of this section, the dust suppressant system shall be operable and able to dispense water, water-based solutions, and/or chemical stabilizers at all times unless all bulk storage material piles are covered or protected by wind screens.
- (2) When the temperature falls below 32 degrees Fahrenheit, the facility must use chemical stabilizers and/or water heating systems to ensure that dust suppression continues.
- (3) If any part of the dust suppressant system is undergoing maintenance or otherwise becomes inoperable, the facility owner or operator must suspend disturbance of bulk solid material piles that would be controlled by the inoperable portion of the dust suppressant system until such time as the system becomes operable again.

(Code 1984, § 22-5-55; Ord. No. 32-17, § 1(22-5-55), eff. 12-6-2017)

Sec. 42-2-217. - Run-off management.

The facility owner or operator shall install and maintain storm water management, erosion, and sediment controls, pursuant to a written plan, sufficient to:

- (1) Prevent runoff from the pile onto neighboring parcels, public ways, or any water bodies;
- (2) Prevent runoff from entering into public sewers or any entry points into the storm water collection system, unless such discharges are in compliance with all applicable discharge permits;
- (3) Address timely and effective ways to respond to spills and/or visible migration of pollutants that could occur on site or offsite;
- (4) Demonstrate that the site is graded in such a way as to ensure proper drainage and to prevent pooling of water.

(Code 1984, § 22-5-56; Ord. No. 32-17, § 1(22-5-56), eff. 12-6-2017)

Secs. 42-2-218—42-2-230. - Reserved.

Part V. - Variances

Sec. 42-2-231. - Applications for a variance; fee.

The facility owner or operator may apply to the Director of the Buildings, Safety Engineering, and Environmental Department for a variance from any requirement or provision set forth in Part II, Part III, or Part IV of this subdivision in accordance with the provisions set forth in this Part V of this subdivision. The Director of the Buildings, Safety Engineering, and Environmental Department may establish a schedule of fees pursuant to which a variance review fee may be assessed per application.

(Code 1984, § 22-5-60; Ord. No. 32-17, § 1(22-5-60), eff. 12-6-2017)

Sec. 42-2-232. - Requirements of variance application.

The request for a variance must be in writing and must set forth, in detail, all of the following:

- (1) A statement identifying the provision or requirement of this subdivision from which the variance is requested;
- (2) A description of the process or activity for which the variance is requested, including pertinent data on location, size, and the population and geographic area affected by, or potentially affected by, the process or activity;
- (3) The quantity and types of materials used in the process or activity in connection with which the variance is requested, as appropriate;
- (4) A demonstration that issuance of the variance will not create a public nuisance or adversely impact the surrounding area, surrounding environment, or surrounding property uses;
- (5) A statement explaining:
 - a. Why compliance with the regulations imposes an arbitrary or unreasonable hardship;
 - b. Why compliance cannot be accomplished during the required timeframe due to events beyond the facility owner or operator's control such as permitting delays or natural disasters; or
 - c. Why the proposed alternative measure is superior or preferable.
- (6) A description of the proposed methods to achieve compliance with the regulations and a timetable for achieving that compliance, if applicable;
- (7)

A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a variance;

- (8) A statement regarding the person's current status as related to the subject matter of the variance request;
- (9) For any request for a variance from the enclosure deadline set forth in Section 42-2-252 of this Code, if the applicant is not the owner or operator of a facility operating on the effective date of the ordinance that enacted this section, the applicant must submit all of the information required in Subsections (1) through (8) of this section and shall also submit all of the following:
 - a. Fugitive dust monitoring reports for the four months before the date of the variance application; and
 - b. In the event that the variance is granted, monthly fugitive dust monitoring reports for the duration of the variance which shall be due 14 days following the end of the month which the report covers.
- (10) The monthly fugitive dust monitoring reports required by this section shall be submitted in an electronic format as specified in the variance.

(Code 1984, § 22-5-61; Ord. No. 32-17, § 1(22-5-61), eff. 12-6-2017)

Sec. 42-2-233. - Criteria for reviewing applications.

- (a) In determining whether to grant a variance, the Director of the Buildings, Safety Engineering, and Environmental Department will consider public comments received pursuant to Section 42-2-235 of this Code and will evaluate the information provided in the application to meet the requirements of Section 42-2-232 of this Code. Particular consideration will be given to the following information:
 - (1) Inclusion of a definite compliance program;
 - (2) Evaluation of all reasonable alternatives for compliance;
 - (3) Demonstration that any adverse impacts will be minimal.
- (b) The Director of the Buildings, Safety Engineering, and Environmental Department shall deny the variance if the application for the variance is incomplete or if the application is outside the scope of relief provided by variances.
- (c) The Director of the Buildings, Safety Engineering, and Environmental Department may deny a variance, may grant a variance in whole or in part, and may attach reasonable conditions to the variance to ensure minimization of any adverse impacts.
- (d) Granting a variance is at the sole discretion of the Director of the Buildings, Safety Engineering, and Environmental Department. A variance may be revoked at any time if the Director of the Buildings, Safety Engineering, and Environmental Department finds that operation of the facility

is creating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.

(Code 1984, § 22-5-62; Ord. No. 32-17, § 1(22-5-62), eff. 12-6-2017)

Sec. 42-2-234. - Change in facility operations.

If any part of the facility's operation that is the subject of the variance expands or changes, then, at least 30 days before the expansion or change in operation, the facility owner or operator shall notify the Director of the Buildings, Safety Engineering, and Environmental Department and either apply for a new variance or notify the Director of the Buildings, Safety Engineering, and Environmental Department of the owner or operator's intent to comply with the requirements that were the subject of the variance, in which case the variance will automatically terminate.

(Code 1984, § 22-5-63; Ord. No. 32-17, § 1(22-5-63), eff. 12-6-2017)

Sec. 42-2-235. - Notice of variance applications; public hearing; public comment.

The Director of the Buildings, Safety Engineering, and Environmental Department shall not grant any variance under this section until after a public hearing at which members of the public have had an opportunity to comment on the variance application. Members of the public shall also have the opportunity to submit written comments on the variance application. The Director of the Buildings, Safety Engineering, and Environmental Department shall provide notice of all variance applications by:

- (1) Publication in a newspaper of general circulation published within the City;
- (2) Posting on the City's website; and
- (3) Mailed or delivered notice to all addresses located within 300 feet of the boundaries of the facility seeking the variance.

The public hearing shall be held not less than 14 days after publication of the notice. The Director of the Buildings, Safety Engineering, and Environmental Department shall accept written comments for a period of not less than 30 days from the date of publication of the notice. The Director of the Buildings, Safety Engineering, and Environmental Department shall not make a decision until after close of the comment period. Notice of the decision shall be posted on the City's website.

(Code 1984, § 22-5-64; Ord. No. 32-17, § 1(22-5-64), eff. 12-6-2017)

Secs. 42-2-236—42-2-250. - Reserved.

Part VI. - Implementation and Compliance

Sec. 42-2-251. - Implementation schedule.

The provisions of this subdivision shall take effect in three phases as follows:

- (1) The following sections and subsections shall take effect immediately upon the effective date of the ordinance that enacted this subdivision:
 - a. All sections with respect to new facilities or expansions of facilities, except those portions in operation on the effective date of the ordinance that enacted this subdivision;
 - b. All sections within Part I of this subdivision, *In General*;
 - c. All sections within Part V of this subdivision, *Variances*;
 - d. Sec. 42-2-171, Operating and Maintenance Practices;
 - e. Sec. 42-2-172, Certificate of Operation;
 - f. Sec. 42-2-173, Reviewing and Approving Applications;
 - g. Sec. 42-2-174, Change in Facility Operations;
 - h. Sec. 42-2-175, Inspections by Buildings, Safety Engineering, and Environmental Department;
 - i. Sec. 42-2-177, Opacity Limits: Measurement;
 - j. Sec. 42-2-185, Prohibition Against Leakage;
 - k. Sec. 42-2-189, Roadway Cleaning;
 - l. Sec. 42-2-190, Spilled Material;
 - m. Sec. 42-2-191(1), Recordkeeping—Daily cleaning;
 - n. Sec. 42-2-191(6), Recordkeeping—Maintain Schedule for Routine Inspection;
 - o. Sec. 42-2-191(7), Recordkeeping—Timeframe for Maintenance of Required Records;
 - p. Sec. 42-2-192, Inspections;
 - q. Sec. 42-2-251, Implementation Schedule;
 - r. Sec. 42-2-253, Enclosure Reporting;
 - s. Sec. 42-2-254, Issuance of Certificate of Operation;
 - t. Sec. 42-2-27, Penalties;
 - u. Sec. 42-2-255, Public Health Fund.
- (2) For facilities in operation on the effective date of the ordinance that enacted this subdivision, the following sections and subsections shall take effect 180 days from the effective date of the ordinance that enacted this subdivision:
 - a. Sec. 42-2-176, Fugitive Dust;

- b. Sec. 42-2-178, Fugitive Dust Plan—Required;
 - c. Sec. 42-2-179, Fugitive Dust Plan—Contents;
 - d. Sec. 42-2-180, Fugitive Dust Monitoring;
 - e. Sec. 42-2-181, Wind Monitoring;
 - f. Sec. 42-2-182, Conveyors and Transfer Points;
 - g. Sec. 42-2-183, Transport;
 - h. Sec. 42-2-184, Coverings and Other Dust Control;
 - i. Sec. 42-2-186, Truck Loading and Unloading;
 - j. Sec. 42-2-187, Railcar Loading and Unloading;
 - k. Sec. 42-2-188, Vessel Loading and Unloading;
 - l. Sec. 42-2-191(2), Recordkeeping—Weather Conditions;
 - m. Sec. 42-2-191(2), Recordkeeping—Application of Water or Chemical Stabilizer;
 - n. Sec. 42-2-191(3), Recordkeeping—Suspension of Activities Due to High Winds;
 - o. Sec. 42-2-191(4), Recordkeeping—Dust Monitoring Results;
 - p. Sec. 42-2-191(5), Recordkeeping—Record Quarterly Tests of Visual Fugitive Dust;
 - q. Sec. 42-2-201, Enclosure of Carbonaceous Bulk Solid Material;
 - r. Sec. 42-2-202, Enclosure Plan;
 - s. All sections within Part IV of this subdivision, Outdoor Storage of Bulk Solid Materials Other than Carbonaceous Bulk Solid Materials.
- (3) For facilities in operation on the effective date of the ordinance that enacted this subdivision, the following sections shall take effect two years from the effective date of the ordinance that enacted this subdivision:
- a. Sec. 42-2-203, Enclosure Requirements.
 - b. Sec. 42-2-252, Enclosure Deadline.

(Code 1984, § 22-5-70; Ord. No. 32-17, § 1(22-5-70), eff. 12-6-2017)

Sec. 42-2-252. - Enclosure deadline.

- (a) For facilities continuing in operation on the effective date of the ordinance that enacted this subdivision: Within two years from the submission of the enclosure plan, as required by Section 42-2-202 of this Code, and Section 42-2-251(2)(q) of this Code, all carbonaceous bulk solid materials must be either fully enclosed or removed from the facility, as required by Section 42-2-201 of this Code.
- (b) For new facilities, expansion or recommencement of operation of existing facilities, compliance with the enclosure requirements is a condition to receiving a Certificate of Operation.

(Code 1984, § 22-5-71; Ord. No. 32-17, § 1(22-5-71), eff. 12-6-2017)

Sec. 42-2-253. - Enclosure reporting.

During the two-year period provided in Section 42-2-251(3) of this Code, the facility owner or operator shall submit to the Buildings, Safety Engineering, and Environmental Department quarterly reports describing the work completed within the previous quarter, and the work planned in the current quarter and following quarter, towards compliance with these sections. The first report shall be due on the 15th day of the second month following the effective date of the ordinance that enacted this subdivision, with subsequent reports due on the 15th day of the month following each calendar quarter. The address to submit the reports is:

Buildings, Safety Engineering, and Environmental Department
Attn: Environmental Affairs Division
Two Woodward Avenue, 4th Floor
Detroit, Michigan 48226

The Director of the Buildings, Safety Engineering, and Environmental Department may, at the Director's sole discretion, grant extensions of the timeframes provided, in accordance with the variance provisions set forth in Part V of this subdivision upon request and only for good cause shown by the facility owner or operator.

(Code 1984, § 22-5-72; Ord. No. 32-17, § 1(22-5-72), eff. 12-6-2017)

Sec. 42-2-254. - Issuance of Certificate of Operation.

Upon the owner or operator providing evidence of compliance with the provisions of this subdivision, including but not limited to submitting an approved fugitive dust plan and where applicable, an approved fugitive dust plan and enclosure plan, and upon payment of the fee established by the Director of the Buildings, Safety Engineering, and Environmental Department pursuant to a schedule of fees, to cover the cost of application review and compliance inspection. The Buildings, Safety Engineering, and Environmental Department shall issue a Certificate of Operation. The Certificate of Operation shall be conditioned upon continued compliance with this subdivision.

(Code 1984, § 22-5-73; Ord. No. 32-17, § 1(22-5-73), eff. 12-6-2017)

Sec. 42-2-255. - Public Health Fund.

(a) The Public Health Fund is created as a separate depository fund. The Public Health Fund shall consist of the following:

(1) Money deposited in the Public Health Fund under Subsection (c) of this section;

- (2) Money appropriated or allocated to the Public Health Fund by resolution, or by this Code; and
- (3) Donations of money to the Public Health Fund from any other source.
- (b) Money in the Public Health Fund at the close of a fiscal year will remain in the Public Health Fund and not revert to the General Fund.
- (c) Notwithstanding a contrary provision of this Code, a penalty or fine paid to the City for a violation of this subdivision must be credited to and deposited in the Public Health Fund.
- (d) The Health Department and the Buildings, Safety Engineering, and Environmental Department may expend money from the Public Health Fund upon appropriation only for activities promoting the public health and wellness of residents of the City and to mitigate negative health impacts of pollution on residents of the City, including, but not limited to, enforcement of this subdivision, purchasing, installation use, and maintenance of air monitoring equipment, installation of vegetation to buffer the impact of activities subject to regulation under this subdivision, and conducting health impact assessments.
- (e) A grant or other donation to the Public Health Fund must be accepted by City Council and is subject to any conditions on the grant or donation.
- (f) An agreement or contract for expenditure of money from the Public Health Fund must be approved by the City Council and the Mayor.

(Code 1984, § 22-5-75; Ord. No. 32-17, § 1(22-5-75), eff. 12-6-2017)

Secs. 42-2-256—42-2-300. - Reserved.