

Sec. 4-4. Penalties for violation of chapter, permit or order.

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable as provided in section 1-8 of this Code.

(b) Each separate violation shall constitute a separate offense, and upon a continuing violation each hour of violation shall constitute a separate offense.

(c) In addition to the fines provided in paragraph (a) of this section, any person who violates any provision of this regulation, who violates the terms and conditions of any permit or Certificate of Operation issued pursuant to the provisions of this regulation, or who violates any order of the board, shall be liable for the payment of a civil penalty, as hereinafter provided, to be imposed by the board after hearing, or opportunity for hearing. Provided, however, that the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend payment of all or part of the civil penalty imposed.

(d) In addition to the civil penalties provided for above and not in limitation thereof, any person who violates the terms and conditions of any permit or Certificate of Operation issued pursuant to the provisions of this regulation, or who violates any order of the board, or who violates any order of the director, shall be liable for the payment of a civil penalty of five-thousand dollars (\$5000.00). Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend payment of all or part thereof.

(e) The amount of civil penalty to be imposed by the board, pursuant to subsection C and subsection J of this section, shall in no event exceed the amount of ten thousand dollars (\$10,000) for all violations occurring within a twenty four hour period. In determining the amount of the penalty to be imposed or the type and character of any other order to be entered by the board, the board may, but is not necessarily required to, consider, along with all other proof received, any one or more of the following factors: Any prior violations of this regulation; violations of prior orders of the board; violations of conditions imposed upon permits or variances; the type and character of violation and the extent to which the same is in excess of permissible activity or action; the past history of the pollution control efforts in regard to the taking of appropriate action to control emissions or abate pollution on the part of the person found to be in violation or otherwise subject to entry of an order of the board;

and the economic and financial conditions of the person found to have been in violation or otherwise subject to the entry of an order of the board.

(f) In lieu of the civil penalties provided in subsection (c) and subsection (j) of this section, the board may order that any person who violates any provision of this regulation, who violates the terms and conditions of any permit or certificate of operation issued pursuant to the provisions of this regulation, or who violates any order of the board, cease and desist the operation, use or activity which resulted in such violation, but may allow such person to continue the operation, use or activity upon the posting of a surety bond in an amount twice the penalty which could have been assessed pursuant to subsections (c) and (j) forfeiture of the said band shall be conditioned upon any further violation of the regulation, permit or certificate, or order.

(g) In addition to the civil penalties provided in subsection (c) and subsection (j) of this section, the board may order that such person cease and desist from the use of the equipment, activity or other source of air contaminant; or the board may enter a conditional cease and desist order; and if such order includes a reasonable delay during which to correct the source of violation, the board may require the posting of a sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(h) The liabilities which shall be imposed pursuant to any provision of this regulation upon violation of the provisions of this regulation or any standard, or rule, hereunder, shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.

(i) Action pursuant to this section shall not be a bar to enforcement of this regulation and orders made pursuant to this regulation, by injunction or other appropriate remedy, and the board shall have power to institute and maintain in the name of this city any and all such enforcement procedures.

(j) The board may impose a civil penalty upon the person liable in an amount in accordance with the following penalty schedules:

SCHEDULE 4-4-1.
FUEL BURNING EQUIPMENT

Penalties imposed shall be based upon the design fuel consumption per unit as expressed in thousands of British Thermal Units (Btu) per hour, using gross heating values of the fuel. Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed.

<i>1000 Btu Per Hour</i>	<i>Penalty</i>
Up to 150	\$100.00
150 to 399	250.00
400 to 649	500.00
650 to 1,499	750.00
1,500 to 2,499	1000.00
2,500 to 4,999	1500.00
5,000 to 14,999	2000.00
15,000 and greater	2500.00

SCHEDULE 4-4-II.
INCINERATORS

Penalties imposed shall be based upon the manufacturer's rated input as expressed pounds per hour. Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed.

<i>Input, Pounds Per Hour</i>	<i>Penalty</i>
Up to 200	\$100.00
200 to 599	250.00
600 to 999	500.00
1,000 to 1,999	750.00
2,000 to 4,999	1000.00
5,000 to 9,999	1500.00
10,000 and greater	2000.00

SCHEDULE 4-4-III.
PROCESS EQUIPMENT

Penalties imposed shall be based upon the input process weight per hour as expressed pounds per hour. Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed.

<i>Input Process Weight, Pounds Per Hour</i>	<i>Penalty</i>
Up to 999	\$250.00
1000 to 9,999	500.00
10000 to 49,999	1000.00
50000 to 149,999	2000.00
150000 to 499,999	3000.00
500,000 to 999,999	4000.00
1,000,000 and greater	5000.00

SCHEDULE 4-4-IV.
ODOR PRODUCING EQUIPMENT

A penalty of two hundred fifty dollars (\$250.00) shall be imposed. Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed.

SCHEDULE 4-4-V.
MISCELLANEOUS

A penalty of two hundred fifty dollars (\$250.00) shall be imposed. upon such article, machine, equipment or other contrivance which is not included in the preceding schedules. Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed.

SCHEDULE 4-4-VI.
OTHER ACTIVITY

A penalty of one thousand five hundred dollars (\$1,500.00) shall be imposed on account of a violation of this regulation resulting from any activity or use or operation of any article,

machine or other contrivance which is not included in the preceding schedules. (Examples include, but are not necessarily limited to, the following: Importation, sale, transportation, use or consumption of certain fuels; use of handfired fuel burning equipment; open burning; visible emissions from internal combustion engines; transporting and material handling in open air; odors in ambient air). Provided, however, the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed.

(Code 1968, Sec. 4-2; Ord. No. 6021, Sec. 19, 3-4-69; Ord. No. 6221, Sec. 70, 9-29-70; Ord. No. 6838, Sec. 1, 1-14-75; Ord. No. 7098, Sec. 2, 10-5-76)

THIS IS THE FEDERALLY APPROVED REGULATION AS OF MAY 8, 1990

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