

## **ARTICLE I. ADMINISTRATION AND ENFORCEMENT**

### **SECTION 10.56.020: Construction Permits**

- A. 1. It is unlawful for any person to install, erect, construct, reconstruct, alter, or add to, or cause to be installed, erected, constructed, reconstructed, altered or added to, any fuel-burning equipment, incinerator, process equipment, control device, or any equipment pertaining thereto, or any stack or chimney connected therewith, or to make or cause to be made any alteration or repairs which increases the amount of air contaminant emitted by such source or which results in the emission of any air contaminant not previously emitted until application for a construction permit has been filed with the Metropolitan Health Department and plans and specifications applicable to the work have been submitted to the Director and a construction permit issued by him for such construction, installations, alterations or repairs. Applications for a construction permit shall be filed in duplicate in the offices of the Director on forms adopted by the Director and supplied by the Metropolitan Health Department along with a copy of plans and specifications. The Director shall not grant a construction permit to any source which does not comply with the provisions of the New Source Review Regulations as adopted by the Board. If the Director determines, on the basis of information available to him, that such source does, or in all likelihood will, operate in violation of this Chapter, or that the source will operate so as to prevent attainment or maintenance of any national ambient air quality standard, he shall either impose conditions on the face of the construction permit that in his opinion will promote compliance with this Chapter, and/or attainment and maintenance of any national ambient air quality standard, or he shall deny the application for the construction permit. This Section shall not apply to fuel-burning equipment used exclusively for heating less than three (3) dwelling units, or to gas, or fuel oil equipment of five hundred thousand BTU input or less or to internal combustion engines.
2. In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation, or establishment of any fuel-burning equipment, incinerator, process equipment, or control devices and prior to invoking any such remedies, the person aggrieved thereby shall, upon request in accordance with the provisions of this Chapter and the rules and regulations adopted by the Board be entitled to a hearing. Such hearing shall be conducted pursuant to the contested cases provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, Part 3.
3. The absence or failure to issue a rule, regulation or order pursuant to this Section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.
- B. Maintenance or repairs or alterations which are minor in scope or do not change the capacity of any fuel-burning equipment, incinerator, process equipment and which do not

involve any change in the method of combustion or materially effect the emission of smoke, dust, gases, fumes, or other air contaminants therefrom may be made without placing an application for construction permit with the Metropolitan Health Department. Emergency repairs may be made prior to the applications in the event an emergency arises and serious consequences would result if the repair were to be deferred. When such repair is made in an emergency, the application as required by this Section shall be filed in the office of the Director within ten days after the start of such work.

- C. The plans and specifications, submitted pursuant to this Section, concerning any fuel-burning equipment, incinerator or process equipment shall show the type, form and dimensions of all equipment and appurtenances thereto and stacks and ducts, together with the description and dimensions of the building or part thereof in which such equipment is to be located, the amount of work or the amount of heating to be done by such equipment and all provisions for securing complete combustion of the fuel or refuse and for reducing or controlling emission of air contaminants. Such plans and specifications shall also show the character of the fuel or refuse to be burned or process material, the maximum quantity to be burned per hour, and the operation requirements of the equipment. The plans and specifications shall show that the room or premises in which fuel-burning equipment or incinerator is to be located is provided with adequate ventilation to provide sufficient air for the combustion process and for the safety of people.
- D. The plans and specifications submitted pursuant to this Section shall be prepared under the direction of, or approved by and bear the seal of, a professional engineer registered in this State or be a graduate of an accredited engineering school and experienced in his field of endeavor.
- E. The requirement for filing plans and specifications involving the installation, erection, construction, reconstruction, alteration, or repair of or addition to, any fuel-burning equipment, incinerator, process equipment, or the building of pilot plants or processes to be used in or to become part of a secret process is suspended upon the filing with the Metropolitan Health Department, in lieu of the filing of plans and specifications, of an affidavit of a responsible person to the effect that such equipment or process is to be so used. Such person may be required by the Board to furnish bond or other proof of financial responsibility. The suspension of the filing of such plans and specifications shall in no way relieve the person or persons responsible for the secret process from complying with all other provisions of this Chapter.
- F. If the installation, erection, construction, reconstruction, alteration, addition or repair is not started within one (1) year of the date of issuance of a construction permit or any extended period granted in writing by the Director, the construction permit shall become void.
- G. Any equipment covered by this Section which is installed, erected, constructed, reconstructed or altered without making application for a construction permit to the Department of Health and receiving this permit as provided herein may be sealed by the

Director with the approval of the Board, the seal to remain in effect until all provisions of this Chapter have been complied with. This remedy is not deemed to be the exclusive remedy.

- H. The receipt of a construction permit from the Metropolitan Health Department shall not be construed to indicate approval of the strength or safety of any equipment or to indicate compliance with the requirements of the Building Code of Metropolitan Nashville and Davidson County or any other ordinance thereof. Neither shall it relieve anyone from the responsibility to comply fully with the applicable provisions of this Code, nor any other requirement(s) imposed by statute, rule or regulation of the Metropolitan Government of Nashville and Davidson County, Tennessee, the State of Tennessee or the United States Government.
- I. New and modified sources having obtained a valid construction permit in accordance with this Section may operate under the construction permit for the period of time specified within the permit which shall not exceed one hundred and eighty (180) days provided that the Director is notified of the date of startup. Such notification must be submitted in writing within five (5) working days of the date of startup of the new or modified source.
- J. Results of any compliance testing required as a condition of a construction permit must be conducted in accordance with Section 10.56.290, "Measurement of Emissions" and Section 10.56.300, "Testing Procedures" of this Chapter and the test results submitted to the Director within the time period specified on the permit. Failure to demonstrate compliance with the allowable emission standards or any other condition shown on the construction permit shall constitute sufficient grounds for the Director to require changes in the installation before an operating permit can be granted. Responsibility for demonstrating proof of compliance including all expenses incurred in conducting the required compliance tests shall be borne by the owner or operator of the effected facility.
- K. The Director or his authorized representative shall have the right to enter the premises to observe any compliance tests and to inspect the installation and operation of any equipment for which a construction permit was issued.
- L. Any application for a construction permit for a major source received by the Director is subject to objection and comment by the Administrator under the provisions of 42 U.S.C. Section 7661 d., as amended. Therefore, no permit shall be final until the time for objection by the Administrator has expired.
- M. Any failure to act or inaction by the Director within eighteen (18) months after receipt of a complete application for a construction permit may be considered final action for the purpose of any appeal to the Davidson County Chancery Court under T.C.A. Section 27-8-101, et seq., and T.C.A. Section 27-9-101, et seq.
- N. The Director shall, on a monthly basis, notify the public, by advertisement in a newspaper or newspapers of general circulation within the Metropolitan Government area, of the applicants seeking to obtain a permit to construct or modify an air pollution

source. This notice shall specify the location of the proposed source of modification, the type of source or modification, and shall provide the opportunity for public comments. The public shall have thirty (30) days from the date of advertisement to submit written comments to the Director.