

**CITY OF BALTIMORE
COUNCIL BILL 18-0306
(First Reader)**

Introduced by: Councilmembers Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett,
Cohen, Middleton, Dorsey, Pinkett, Sneed, Clarke

Introduced and read first time: November 19, 2018

Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Environmental
Control Board, Department of Public Works

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Health Code – Clean Air Regulation**

3 FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining
4 certain terms; requiring the continuous monitoring of certain pollutants; setting emissions
5 limits for certain pollutants; requiring the production and public disclosure of certain
6 emissions reports; requiring commercial solid waste incinerators to allow certain inspections;
7 establishing a certification process for air monitoring contractors; setting certain penalties;
8 setting special effective dates; and generally relating to clean air regulations.

9 BY adding

10 Article - Health
11 Section(s) 8-110 to 8-126, to be under a new designation entitled
12 “Part II. Commercial Solid Waste Incinerators”
13 Baltimore City Code
14 (Edition 2000)

15 BY repealing and reordaining, without amendments

16 Article - Health
17 Section(s) 8-301
18 Baltimore City Revised Code
19 (Edition 2000)

20 BY repealing and reordaining, with amendments

21 Article - Health
22 Section(s) 8-302
23 Baltimore City Revised Code
24 (Edition 2000)

25 BY repealing and reordaining, with amendments

26 Article 1 - Mayor, City Council, and Municipal Agencies
27 Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
28 Baltimore City Code
29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS.*

2 (1) *IN GENERAL.*

3 “CONTINUOUS EMISSIONS MONITORING SYSTEM” OR “CEMS” MEANS A POLLUTION
4 MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND
5 PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S.
6 ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE
7 ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

8 (2) *SAMPLING FREQUENCY.*

9 EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING
10 FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE
11 PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

12 (I) ONCE PER MINUTE; OR

13 (II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR,
14 THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF
15 COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS
16 PART II.

17 (3) *DIOXIN AND FURAN SAMPLING.*

18 IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE
19 USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS
20 YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF
21 LONG-TERM MONTHLY SAMPLES.

22 (E) *“PERSON”.*

23 “PERSON” MEANS:

24 (1) AN INDIVIDUAL;

25 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
26 KIND;

27 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
28 REPRESENTATIVE OF ANY KIND.

29 (F) *SOLID FUEL OR WASTE.*

30 “SOLID FUEL” OR “WASTE” MEANS ANY SOLID WASTE, DISCARDED MATERIAL,
31 RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS,
32 MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL
33 WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO
34 SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL
35 PRODUCED FROM MUNICIPAL WASTE.

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1 (G) TEQ_{DF}-WHO₉₈ -

2 “TEQ_{DF}-WHO₉₈” MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS,
3 STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD
4 HEALTH ORGANIZATION’S 1998 METHOD.

5 **§ 8-112. SCOPE.**

6 ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE
7 SUBJECT TO THE REQUIREMENTS OF THIS PART II.

8 **§ 8-113. RULES AND REGULATIONS.**

9 (A) *HEALTH COMMISSIONER TO ADOPT.*

10 THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS
11 PART II.

12 (B) *FILING WITH LEGISLATIVE REFERENCE.*

13 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED
14 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

15 **§ 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.**

16 EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING
17 CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124
18 {“AIR MONITORING CONTRACTOR CERTIFICATION”} TO INSTALL, OPERATE, AND MAINTAIN
19 CONTINUOUS EMISSIONS MONITORING SYSTEMS (“CEMS”) EQUIPMENT TO MONITOR,
20 MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- 21 (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL
22 DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES
23 CENTIGRADE;
- 24 (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- 25 (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- 26 (4) NITROGEN OXIDES (NOX);
- 27 (5) SULFUR DIOXIDES (SO₂);
- 28 (6) PARTICULATE MATTER (PM);
- 29 (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
- 30 (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHS); AND

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1 (9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL,
2 SELENIUM, AND ZINC.

3 **§ 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.**

4 (A) *IN GENERAL.*

5 A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS
6 OPERATING.

7 (B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

8 CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS
9 OPERATING ARE A VIOLATION OF THIS SECTION.

10 **§ 8-116. EMISSION LIMITS.**

11 (A) *LIMITS ON JANUARY 1, 2020.*

12 STARTING JANUARY 1, 2020, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION
13 LIMITS:

- | | |
|---|---|
| 14 (1) MERCURY: | 15 MICROGRAMS PER DRY STANDARD CUBIC METER
15 (μ G/DSCM) CORRECTED AT 7% O ₂ |
| 16 (2) SULFUR DIOXIDE (SO ₂): | 18 PARTS PER MILLION DRY VOLUME (PPMVD)
17 CORRECTED AT 7% O ₂ (24 HOUR GEOMETRIC MEAN) |

18 (B) *LIMITS ON JANUARY 1, 2022.*

19 STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS
20 SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- | | |
|---------------------------------|---|
| 21 (1) DIOXINS/FURANS (PCDD/F): | 2.6 NANOGRAMS TEQ _{DF-WHO98} PER DRY
22 STANDARD CUBIC METER (NG/DCSM)
23 CORRECTED AT 7% O ₂ |
| 24 (2) NITROGEN OXIDES (NOX): | 45 PARTS PER MILLION DRY VOLUME (PPMVD)
25 CORRECTED AT 7% O ₂ (24 HOUR BLOCK
26 ARITHMETIC MEAN) |
| | 40 PARTS PER MILLION DRY VOLUME (PPMVD)
27 CORRECTED AT 7% O ₂ (12 MONTH ROLLING
28 AVERAGE)
29 |

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1 **§ 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.**

2 (A) *ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.*

3 IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A
4 MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR
5 CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY
6 REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR
7 STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II,
8 THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

9 (B) *CITY ENFORCEMENT.*

10 IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS,
11 REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS
12 SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY
13 THE CITY OF BALTIMORE.

14 **§ 8-118. TO § 8-119 . {RESERVED}**

15 **§ 8-120. REQUIRED CEMS REPORTS.**

16 (A) *REPORTS REQUIRED.*

17 (1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR
18 THAT DETAILS:

19 (I) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114.
20 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND

21 (II) THE REASONS FOR ANY CEMS DOWNTIME.

22 (2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF
23 THE CITY OF BALTIMORE.

24 (B) *FORM OF REPORT.*

25 THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE
26 HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

27 (C) *REASONABLE ACCESS REQUIRED.*

28 A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR
29 MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS
30 SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

31 (D) *HISTORICAL REPORTS.*

32 EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS
33 REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE

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1 ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE
2 TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

3 **§ 8-121. DATA DISCLOSURE.**

4 (A) *IN GENERAL.*

5 (1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE
6 DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS
7 REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE
8 OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

9 (2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED
10 FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND
11 MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE
12 FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"},
13 AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO
14 READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

15 (B) *REPORTS TO HEALTH DEPARTMENT.*

16 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH
17 COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT
18 MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

19 (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION
20 LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND
21 STANDARDS"};

22 (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND

23 (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

24 **§ 8-122. INSPECTIONS.**

25 (A) *IN GENERAL.*

26 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE
27 CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY
28 THAT THEY ARE OPERATING CORRECTLY.

29 (B) *TIMES AND INTERVALS.*

30 INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN
31 BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

32 (C) *FREQUENCY.*

33 NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

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1 **§ 8-123. {RESERVED}**

2 **§ 8-124. AIR MONITORING CONTRACTOR CERTIFICATION.**

3 (A) *REQUIRED CAPABILITIES.*

4 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST
5 DEMONSTRATE TO THE HEALTH COMMISSIONER’S SATISFACTION THAT IT, USING ITS OWN
6 RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

7 (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A
8 SUBJECT FACILITY;

9 (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {“INSPECTIONS”} OF THIS
10 PART II; AND

11 (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY
12 DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120.
13 {“REQUIRED CEMS REPORTS”} OF THIS PART II.

14 (B) *CONFLICTS OF INTERESTS.*

15 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT
16 HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR
17 MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR
18 OPERATOR OF A FACILITY:

19 (1) WITHIN THE PAST 10 YEARS; OR

20 (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

21 (C) *CERTIFICATION.*

22 THE BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE
23 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING
24 CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

25 (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO
26 DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A)
27 AND (B) OF THIS SECTION; AND

28 (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

29 **§ 8-125. CRIMINAL PENALTIES.**

30 (A) *IN GENERAL.*

31 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION
32 ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT

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1 TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH
2 FINE AND IMPRISONMENT FOR EACH OFFENSE.

3 (B) *MULTIPLE SIMULTANEOUS VIOLATIONS.*

4 IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS
5 PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF
6 MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY
7 MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD
8 REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION
9 CONSTITUTES A SEPARATE OFFENSE.

10 (C) *CONTINUING VIOLATIONS.*

11 EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

12 **§ 8-126. SEVERABILITY.**

13 ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE,
14 CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT
15 THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID,
16 THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR
17 CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

18 *Subtitle 3. Penalties.*

19 **§ 8-301. Enforcement by citation.**

20 (a) *In general.*

21 In addition to any other civil or criminal remedy or enforcement procedure, this title may be
22 enforced by issuance of:

23 (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental
24 Control Board"}; or

25 (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

26 (b) *Process not exclusive.*

27 The issuance of a citation to enforce this title does not preclude pursuing any other civil or
28 criminal remedy or enforcement action authorized by law.

29 **§ 8-302. Penalties: \$1,000.**

30 (a) *In general.*

31 [Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is
32 guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each
33 offense.

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1 (b) *Each day a separate offense.*

2 Each day that a violation continues is a separate offense.

3 **Article 1. Mayor, City Council, and Municipal Agencies**

4 **Subtitle 40. Environmental Control Board**

5 **§ 40-14. Violations to which subtitle applies.**

6 (e) *Provisions and penalties enumerated.*

7 (7) **Health Code**

8
9 Title 8: Air Pollution [\$100]

10 SUBTITLE 2: PROHIBITED EMISSIONS

11 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

12 ALL OTHER PROVISIONS \$100

13

14 **Subtitle 41. Civil Citations**

15 **§ 41-14. Offenses to which subtitle applies – Listing.**

16 (6) **Health Code**

17
18 Title 8: Air Pollution [\$100]

19 SUBTITLE 2: PROHIBITED EMISSIONS

20 PART II. COMMERCIAL SOLID WASTE INCINERATORS \$1,000

21 ALL OTHER PROVISIONS \$100

22

23 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance are not
24 law and may not be considered to have been enacted as a part of this or any prior Ordinance.

25 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect 18 months after the
26 date it is enacted, except as is hereafter provided.

27 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the Health Commissioner may begin to certify
28 Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of
29 this Ordinance 6 months after the date it is enacted.