

RECEIVED

AUG 19 2009

LANCASTER COUNTY
CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF AMENDING ARTICLE 1,)
SECTION 6 AND ARTICLE 2, SECTION 30,)
OF THE LINCOLN- LANCASTER COUNTY)
AIR POLLUTION CONTROL PROGRAM)
REGULATIONS AND STANDARDS,)
AS PROVIDED IN ATTACHMENTS "A",)
AND "B")

RESOLUTION NO. R-09-0063

WHEREAS, pursuant to Neb.Rev.Stat. §13-801, et seq. (Reissue 2007), Lancaster County and the City of Lincoln entered into an Interlocal agreement for the purpose of providing for the establishment of the 1993 Lincoln-Lancaster County Air Pollution Program; and

WHEREAS, pursuant to Neb. Rev. Stat. § 71-1630 and §71-1635 (Reissue 2003), Lancaster County cooperated with the City of Lincoln in the establishment and maintenance of a City-County Health Department; and

WHEREAS, the Lincoln-Lancaster County Health Department has recommended an amendment to increase the notification fees for the National Emissions Standards for Hazardous Air Pollutants asbestos projects, as provided in Attachment "A," attached hereto and incorporated by this reference; and

WHEREAS, the Lincoln-Lancaster County Health Department has recommended an amendment to increase the fees associated with construction permits, as provided in Attachment "B," attached hereto and incorporated by this reference; and

WHEREAS, on August 25, 2009, the Board of Commissioners of Lancaster County, Nebraska, conducted a public hearing regarding the adoption of the amendments to the Lincoln-Lancaster County Air Pollution Program as provided in Attachments "A", and "B"; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Lancaster County, that the amendments to the 1993 Lincoln-Lancaster County Air Pollution Control Program, as provided in Attachments "A", and "B" are hereby adopted and shall become effective September 29, 2009.

BE, IT FURTHER RESOLVED, that a copy of this resolution and said amendments be placed on file in the office of the County Clerk.

DATED this 25 day of August, 2009, in the County-City Building,
Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 25 day of
August, 2009.

Deputy County Attorney
GARY E. LACEY
Lancaster County Attorney







ARTICLE 1
SECTION 6

ANNUAL FEES

SECTION 6. ANNUAL FEES.

- (A) Applicability -- The provisions of this Regulations and Standards section shall apply to any person who owns or operates a source as defined in Article 2, Section 1 of these Regulations and Standards and is required to obtain any one of the following: 1) A Class I or a Class II operating permit in accordance with Article 2, Section 5 of the Regulations and Standards; 2) A construction permit in accordance with Article 2, Section 17 of the Regulations and Standards; or 3) Any source subject to an applicable requirement (other than permitting) of the Regulations and Standards the nature of which necessitates that the source submit an annual emissions report and/or be the subject of an annual or biannual inspection.
- (B) Calculation of Fee -- Beginning July 1, 1999, owners or operators of sources, identified in (A) above, shall pay an annual fee. The fee shall be based on the actual emission tonnage as established in the emission inventory for the previous calendar year, beginning with calendar year 1998. For purposes of this section, a pollutant which may be regulated under more than one provision of these Regulations and Standards, need only be counted once. Any temporary source issued an operating permit under Section 10 shall pay an annual fee based on emissions which occurred during the time period the source was located and operated in Lincoln or Lancaster County.

Fee Schedule:

- (1) Class I sources with actual emissions equal to or greater than 100 tons per year pay only emission fees as required by Article 2, Section 29.
- (2) Class I source with actual emissions less than 100 tons per year pay emission fees as required by Article 2, Section 29 plus \$2,000.00.
- (3) Class II synthetic minor sources pay \$2,000.00.
- (4) "True" Class II sources with actual emissions greater than 20 tons per year pay \$1,400.00.
- (5) "True" Class II sources with actual emissions between 10 and 20 tons per year pay \$1,000.00.
- (6) "True" Class II sources with actual emissions between 1 and 9.99 tons per year pay \$500.00.
- (7) "True" Class II sources with actual emissions less than 1 ton per year pay \$100.00.
- (8) Notification fee for a National Emission Standards for Hazardous Air Pollutants (NESHAPS) asbestos project shall be ~~\$255.00~~ \$265.00 per project.

For purposes of this section, the following definitions shall apply:

Synthetic Minor shall mean a source which has accepted a federally enforceable limit to reduce its potential to emit to below the major source thresholds defined in Article 2, Section 2.

"True" Class II shall mean a source which is required by Article 2, Section 5 to obtain a Class II operating permit whose potential to emit is below the major source thresholds defined in Article 2, Section 2 without physical or operational limitations on its capacity to emit any pollutants.

The fee for a temporary source which is a Synthetic Minor shall be pro-rated based on the number of months of the operating year during which the source was located and operated in Lincoln or Lancaster County. The operating year is the number of months during the calendar year that the source was operated. Operation during any part of a month will be counted as one month's operation for fee calculation.

- (C) Any person subject to the requirements of this section who fails to submit an annual emissions inventory report when required by Article 2, Section 6 of these Regulations and Standards shall pay an annual emission fee based on the source's potential to emit as defined in Article 2, Section 1 of these Regulations and Standards.
- (D) Payment of Fees -- Any person required to submit fees pursuant to this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable on July 1 of each year, beginning with the calendar year 1999. All fees paid in accordance with the section shall be non-refundable.

- (E) Failure to submit the fees required by this section, in addition to other relief allowed by law, shall be cause for:
- (1) Revocation of the source's operating permit; and
 - (2) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (D) above.
- (F) If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this section, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If any annual emission inventory report form which is modified pursuant to this section results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with paragraph (D) above.
- (G) The rate structure will be reviewed annually by the Director, and a report submitted to the Board of Health. The Board of Health may recommend any modifications to the Lincoln City Council and the Lancaster County Board of Commissioners. The new rate structure may be adopted by Resolution of the two governing bodies, individually, as a result of a recommendation by the Board of Health, or at the initiation of either of the two governing bodies.
- (H) All money collected from the permit fees, and air quality service charges provided for herein, shall be payable to the Lincoln-Lancaster County Health Department and shall be credited to the Air Pollution Control Fund.



A85497

09R-148

Introduce: 8-24-09

RESOLUTION NO. A- **85497**

1 WHEREAS, the City Council adopted Resolution No. A-85009 on September 8,
2 2008, and is authorized under Chapter 8.06 of the Lincoln Municipal Code to establish and
3 revise fees; and

4 WHEREAS, the Health Director has re-evaluated the estimated costs and available
5 resources to administer, operate and enforce the provisions of Chapter 8.06, and the Lincoln-
6 Lancaster County Air Pollution Control Regulations and Standards and has determined that
7 certain revisions are appropriate.

8 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

9 That the Amendments to Article 1, Section 6 and Article 2, Section 30 of the Lincoln-
10 Lancaster County Air Pollution Control Program Regulations and Standards implemented by the
11 Lincoln-Lancaster County Health Department, copies of which are attached hereto, marked as
12 Attachments "A" and "B", respectively, and made a part hereof by reference, which
13 Amendments increase the notification fee for a National Emission Standards for Hazardous Air
14 Pollutants (NESHAPS) asbestos projects and construction permit fees, respectively, are hereby
15 approved.

16 BE IT FURTHER RESOLVED that City Council Resolution No. A-85009 shall be
17 superseded by the terms of this resolution.

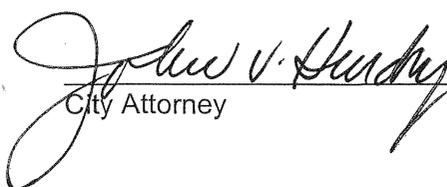
18 The City Clerk is directed to return two (2) fully executed copies of this Resolution
19 and Amendments to the Lancaster County Clerk's Office for filing with the County.

Introduced by:


AYES: Camp, Carroll, Cook,

Emery, Hornung, Snyder, Spatz;
NAYS: None.

Approved as to Form & Legality:


City Attorney

Approved this 2nd day of Sept., 2009:

Mayor

ADOPTED

AUG 31 2009

BY CITY COUNCIL

Lincoln-Lancaster County Health Department Air Pollution Control Program

ARTICLE 1
SECTION 6

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ARTICLE 1
SECTION 6

ANNUAL FEES

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 - (1) Revocation of the source's operating permit; and
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- (F) If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this section, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If any annual emission inventory report form which is modified pursuant to this section results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with paragraph (D) above.

- (G) The rate structure will be reviewed annually by the Director, and a report submitted to the Board of Health. The Board of Health may recommend any modifications to the Lincoln City Council and the Lancaster County Board of Commissioners. The new rate structure may be adopted by Resolution of the two governing bodies, individually, as a result of a recommendation by the Board of Health, or at the initiation of either of the two governing bodies.

- (H) All money collected from the permit fees, and air quality service charges provided for herein, shall be payable to the Lincoln-Lancaster County Health Department and shall be credited to the Air Pollution Control Fund.

Lincoln-Lancaster County Health Department Air Pollution Control Program

ARTICLE 2 - Regulations and Standards

SECTION 30 CONSTRUCTION PERMIT FEE

(A) A fee shall be charged for the review of an application for a permit for the construction, installation, modification, or reconstruction of processing machines, equipment or devices, fuel burning equipment, and waste incinerators at the rate of ~~\$90.00~~ \$95.00 per hour which fee shall not exceed a maximum of ~~\$9,000.00~~ \$9,500.

(B) Payment of Fees - - any person required to submit fees pursuant to this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after receipt of issuance of the permit.