



LAW DEPARTMENT

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February 23, 2024

Detroit City Council
1340 Coleman A. Young
Municipal Center
Detroit, Michigan

Re: Ordinance to regulate Fugitive Dust Emissions in the City of Detroit

Honorable City Council:

Council Member Santiago Romero has requested that the Law Department prepare a revised version of an ordinance to amend Chapter 8 of the 2019 Detroit City Code, *Building Construction and Property Maintenance*, Article XV, *Property Maintenance Code*, by amending Division 1, *Generally*, Section 8-15-4, *Definitions: C*, Section 8-15-5, *Definitions: D—F*, Section 8-15-7, *Definitions: L—O*, Section 8-15-9, *Definitions: S—Z*, and Section 8-15-11, *Civil fines for violations of this article*, and by adding Division 7, *Fugitive Dust*, to include Section 8-15-581, *Title and applicability; scope and intent*, Section 8-15-582, *Fugitive dust plan for commercial activity*, Section 8-15-583, *Opacity limits; measurement*, Section 8-15-584, *New Construction; fugitive dust plan required*, Section 8-15-585, *Change in operations, fugitive dust plan revisions*, Section 8-15-586, *Ongoing operations, fugitive dust plan revisions, other remedial actions*, Section 8-15-587, *Responsibility for dust mitigation; violations*, Section 8-15-588, *Administrative procedures*, Section 8-15-589, *High-wind events*, Section 8-15-590, *Inspections*, Section 8-15-591, *Record keeping*, Section 8-15-592, *Fugitive Dust Funding*, and Section 8-15-593, *Alternative Compliance*, to provide for the regulation, administration, and enforcement of fugitive dust emission and related inspection and reinspection of all community establishment premises and operations within the City, for the health, safety and welfare of the residents of the City of Detroit. A copy of the ordinance which has been approved as to form is attached for your review and consideration.

We are available to answer any questions that you may have concerning this proposed ordinance.

Respectfully submitted,

Adam Saxby
Senior Assistant Corporation Counsel

Enclosure

cc: Gail Fulton, City Council Liaison

SUMMARY

This ordinance amends Chapter 8 of the 2019 Detroit City Code, *Building Construction and Property Maintenance*, Article XV, *Property Maintenance Code*, by amending Division 1, *Generally*, Section 8-15-4, *Definitions: C*, Section 8-15-5, *Definitions: D—F*, Section 8-15-7, *Definitions: L—O*, Section 8-15-9, *Definitions: S—Z*, and Section 8-15-11, *Civil fines for violations of this article*, and by adding Division 7, *Fugitive Dust*, to include Section 8-15-581, *Title and applicability; scope and intent*, Section 8-15-582, *Fugitive dust plan for commercial activity*, Section 8-15-583, *Opacity limits; measurement*, Section 8-15-584, *New Construction; fugitive dust plan required*, Section 8-15-585, *Change in operations, fugitive dust plan revisions*, Section 8-15-586, *Ongoing operations, fugitive dust plan revisions, other remedial actions*, Section 8-15-587, *Responsibility for dust mitigation; violations*, Section 8-15-588, *Administrative procedures*, Section 8-15-589, *High-wind events*, Section 8-15-590, *Inspections*, Section 8-15-591, *Record keeping*, Section 8-15-592, *Fugitive Dust Funding*, and Section 8-15-593, *Alternative Compliance*, to provide for the regulation, administration, and enforcement of fugitive dust emission and related inspection and reinspection of all community establishment premises and operations within the City, for the health, safety and welfare of the residents of the City of Detroit.

1 **BY COUNCIL MEMBER** Gabriela Santiago-Romero :

2 **AN ORDINANCE** This ordinance amends Chapter 8 of the 2019 Detroit City Code,
3 Building Construction and Property Maintenance, Article XV, Property Maintenance Code, by
4 amending Division 1, Generally, Section 8-15-4, Definitions: C, Section 8-15-5, Definitions: D—
5 F, Section 8-15-7, Definitions: L—O, Section 8-15-9, Definitions: S—Z, and Section 8-15-11,
6 Civil fines for violations of this article, and by adding Division 7, Fugitive Dust, to include Section
7 8-15-581, Title and applicability; scope and intent, Section 8-15-582, Fugitive dust plan for
8 commercial activity, Section 8-15-583, Opacity limits; measurement, Section 8-15-584, New
9 Construction; fugitive dust plan required, Section 8-15-585, Change in operations, fugitive dust
10 plan revisions, Section 8-15-586, Ongoing operations, fugitive dust plan revisions, other remedial
11 actions, Section 8-15-587, Responsibility for dust mitigation; violations, Section 8-15-588,
12 Administrative procedures, Section 8-15-589, High-wind events, Section 8-15-590, Inspections,
13 Section 8-15-591, Record keeping, Section 8-15-592, Fugitive Dust Funding, and Section 8-15-
14 593, Alternative Compliance, to provide for the regulation, administration, and enforcement of
15 fugitive dust emission and related inspection and reinspection of all community establishment
16 premises and operations within the City, for the health, safety and welfare of the residents of the
17 City of Detroit.

18 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**
19 **THAT:**

20 **Section 1.** Chapter 8 of the 2019 Detroit City Code Article XV, be amended by amending
21 Division 1, Section 8-15-4, Section 8-15-5, Section 8-15-7, Section 8-15-9, and Section 8-15-11,
22 and by adding Division 7, to include Sections 8-15-581 through 8-15-593, to read as follows:

23 **CHAPTER 8. BUILDING CONSTRUCTION AND PROPERTY MAINTENANCE**

1 *Certified abatement worker* means an individual who has been trained to perform lead
2 abatement through an accredited training program and who is certified by the Michigan
3 Department of Health and Human Services to perform lead abatement.

4 *Certified clearance technician* means an individual who has completed an approved
5 training course and is certified by the Michigan Department of Health and Human Services to
6 perform lead clearance testing on interim controls or non-abatement/renovation projects to
7 ensure that lead dust has been removed.

8 *Certified lead inspector* means an individual who has been trained by an accredited
9 training program and certified by the Michigan Department of Health and Human Services to
10 conduct lead based paint inspections for the purpose of identifying lead-based paint and take
11 samples for the purpose of lead-abatement clearance testing.

12 *Certified renovator* means an individual who has successfully completed a lead hazard
13 renovator course provided by an accredited training program for which the Michigan Department
14 of Health and Human Services, who has been issued a certificate to perform lead hazard
15 renovations, or who directs or subcontracts to others under their supervision to perform lead
16 hazard renovations.

17 *Certified risk assessor* means an individual who has been trained by an accredited
18 training program and certified by the Michigan Department of Health and Human Services to
19 conduct evaluations, lead-based paint inspections, and risk assessments for lead-based paint
20 hazards, and to take samples for the presence of lead in paint and dust for the purpose of post-
21 remedy inspection and certification.

22 *Charitable organization* means a benevolent, educational, philanthropic, humane,
23 patriotic, or eleemosynary organization of persons that solicits or obtains contributions from the

1 public for charitable purposes and includes a chapter, branch, area office, or similar affiliate or
2 person soliciting contributions within the state for a charitable organization that has its principal
3 place of business outside the state.

4 *Clear vision triangle* means the area formed by extending the two curb lines a distance
5 of 45 feet from their point of intersection, and connecting these points with an imaginary line,
6 thereby making a triangle.

7 *Clearance examination* means an activity conducted following lead-based paint hazard
8 reduction activities to determine that the hazard reduction activities are complete and that no
9 lead-based paint hazards, as defined in this section, exist in the dwelling unit or work site.

10 *Co-box controller* means any person who owns or otherwise is in control of a collection
11 box used to solicit collections of salvageable personal property.

12 *Collection box* means any unattended container, receptacle, or similar device that is
13 located outdoors on any parcel or lot of record within the City of Detroit and that is used for
14 soliciting and collecting clothing, household items, or other salvageable personal property, but
15 does not include recycle bins solely used for the collection of recyclable material, garbage
16 receptacles, approved containers, as defined by Section 42-1-1 of this Code, or any collection
17 box enclosed in a building.

18 *Commercial box servicing* means every 21 days the collection box shall be:

- 19 (1) Power washed, both inside and outside, in a manner that disinfects to prevent
20 infestation;
- 21 (2) Cleared of all graffiti, tags, and gang markings;
- 22 (3) Repaired, which includes the removal of any large dents which change the surface
23 structure of the box, fixing any mechanisms that enable the collection box to stay

1 locked and secured, and replacing the collection box when it cannot be repaired
2 on location; and

3 (4) Cleaned such that the surrounding area is free of any solid waste, as defined
4 by Section 8-15-9 of this Code, clothes, and any other donated items.

5 *Community establishments* means all businesses, non-profit organizations, churches,
6 governmental agencies, and other such institutions, ~~which cannot be classified as residential~~
7 ~~structures, as well as~~ and residential structures containing five or more household units.

8 Community establishment designee means any person granted decision making authority
9 for the community establishment related to any activities on the community establishment
10 premises which generates fugitive dust, including but not limited to, an owner, manager, agent,
11 or operator of the community establishment.

12 *Commercial solid waste* means:

- 13 (1) The solid waste resulting from the operation of commercial establishments; and
- 14 (2) Construction solid waste but does not include domestic solid waste.

15 *Community residential home* means a location which provides shelter to prisoners placed
16 pursuant to Section 65a of the Michigan Department of Corrections Act, being MCL
17 791.265a.

18 *Condemnation* means to determine a structure unfit for occupancy.

19 *Condominium* means that portion of a condominium conversion or project designed and
20 intended for separate ownership and use, as described in the master deed, regardless of whether
21 intended for residential, office, industrial, business or recreational use, or use as a time share
22 unit, or any other type of use.

1 *Construction solid waste* means waste from buildings construction, alteration, demolition
2 or repair, and dirt from excavations.

3 *Containment* means a process to protect workers and the environment by controlling
4 exposure to a dust lead hazard and debris created during lead abatement.

5 *Contaminant* means, but is not limited to, any element, hazardous substance, compound,
6 or mixture, including disease causing agents, which after release into the environment and upon
7 exposure, ingestion, inhalation, or assimilation into any organism, either directly from the
8 environment or indirectly by ingestion through food chains, will or may reasonably be
9 anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation,
10 physiological malfunctions, including malfunctions in reproduction, or physical deformations,
11 in such organisms or their offspring.

12 *Control measures* means measures, devices, and technologies to be used to minimize and
13 control fugitive dust on the community establishment premises consistent with any applicable
14 standard for density of emissions provided for in this division, including but not limited to fence
15 line monitors.

16 *Correction notice* means a written notice of a violation that, if not cured within the time
17 period stated in the notice, will result in the issuance of a blight violation notice.

18 *Courville containers* means receptacles which are 100, 300 or 400 gallons in capacity,
19 are the property of the City, are provided by the Department of Public Works for use at residential
20 structures and commercial establishments, and are mechanically emptied.

21 **Sec. 8-15-5. Definitions: D—F.**

22 For purposes of this article, the following words and phrases shall have the meanings
23 respectively ascribed to them by this section:

1 *Debris* means the remains of an item broken down or destroyed.

2 *Designated transitional housing* means housing which is defined by the United States
3 Department of Housing and Urban Development, in 24 CFR 577.5 as "transitional housing" or
4 in 24 CFR 583.5 as "supportive housing."

5 *Deteriorated paint* means paint or other surface coating that is cracking, flaking,
6 chipping, peeling, or otherwise damaged or separating from the substrate of a building
7 component, unless the deteriorated paint surfaces total no more than:

- 8 (1) Twenty square feet on exterior surfaces;
- 9 (2) Two square feet in any one interior room or space; or
- 10 (3) Ten percent of the total surface area on an interior or exterior type of component
11 with a small surface area.

12 *Domestic solid waste* means the solid waste resulting from the usual routine of
13 housekeeping, but does not include commercial solid waste.

14 *Dust-lead hazard* means surface dust in a residential dwelling that contains a
15 concentration of lead at or in excess of levels identified by the EPA pursuant to Section 403 of
16 Title IV of the Toxic Substances Control Act, being 15 USC 2683, or as otherwise defined by
17 rule.

18 *Dwelling or dwelling unit* means a single unit providing complete, independent living
19 facilities occupied, or intended to be occupied, in whole or in part, by one or more persons,
20 including permanent space and provisions for living, cooking, eating, sanitation, and sleeping.

21 *Emergency* means any condition in a building, premises, or structure that reasonably
22 constitutes a threat to the public interest, safety, or welfare.

1 *Emergency shelter* means a facility which provides congregate-style temporary lodging
2 either with or without meals and ancillary services on the premises to primarily the homeless for
3 more than four weeks in any calendar year but does not provide such lodging to any individual:

4 (1) Who is required because of age, mental disability or other reason to reside either
5 in a public or in a private institution; or

6 (2) Who is imprisoned or otherwise detained pursuant to either federal or state law,
7 and excludes an adult foster care facility, designated transitional housing, home
8 for the aged, a nursing home, a temporary emergency shelter, and a warming
9 center.

10 *Encapsulant* means an ASTM compliant coating that forms a barrier between lead-based
11 paint and the environment using a liquid-applied coating, with or without reinforcement
12 materials, or an adhesively bonded covering material.

13 *Encapsulation* means the application of an encapsulant.

14 *Enclosure* means the use of rigid, durable construction materials that are mechanically
15 fastened to the substrate in order to act as a barrier between lead based paint and the environment.

16 *Environmental contamination* means the release of a contaminant, or the potential release
17 of a discarded contaminant, in a quantity which is, or may become, injurious to the environment
18 or to the public health, safety, or welfare.

19 *Environmental investigation* means any health, safety or environmental site assessment,
20 investigation, study, review, audit, or compliance review conducted at any time concerning any
21 Real Property or the business operations or activities of any Company or Affiliate of any
22 Company, including, without limitation:

23 (1) Air, soil, groundwater or surface water sampling and monitoring;

- 1 (2) Repair, cleanup, remediation, or detoxification;
- 2 (3) Preparation and implementation of any closure, remedial, spill, emergency or
3 other plans; and
- 4 (4) Any health, safety or environmental compliance audit or review.

5 *EPA RRP Certification* means the Lead Safe Certification for Renovation, Repair, and
6 Painting certification as provided by the United States Environmental Protection Agency.

7 *Evaluation* means a risk assessment, a lead-hazard screen, a lead-based paint inspection,
8 paint testing, or a combination of these to determine the presence of lead based paint hazards or
9 lead-based paint.

10 *Exterior property* means the open space on the premises and on adjoining premises or
11 property under the control of owners or operators of such premises and property.

12 *Extermination* means the control and elimination of insects, rats or other pests by
13 eliminating their harborage places, or by removing or making inaccessible materials that serve
14 as their food, or by fumigating, poisoning, spraying, trapping or any other approved pest
15 elimination method, or by a combination thereof.

16 *Facility* means any area, place, parcel or parcels of property, or portion of a parcel of
17 property where a contaminant in excess of the concentrations that satisfy the cleanup criteria for
18 unrestricted residential use has been released, deposited, stored, disposed of, or otherwise has
19 come to be located.

20 *Final decision and order* means a final decision by an administrative hearings officer that
21 a blight violation does or does not exist and constitutes a judgment for purposes of judicial
22 review which may be enforced in the same manner as a judgment entered by a court of competent
23 jurisdiction.

1 *Friction surface* means an interior or exterior surface that is subject to abrasion or
2 friction, including, but not limited to, certain window, floor, and stair surfaces.

3 *Fugitive Dust* means any solid particulate matter that becomes airborne or otherwise moves
4 beyond the premises or, if being transported by a vehicle, moves beyond the confines of the
5 vehicle, by natural or human-made activities, excluding engine combustion exhaust and particulate
6 matter emitted from a properly permitted exhaust stack.

7 **Sec. 8-15-6. Definitions: G—K.**

8 For purposes of this article, the following words and phrases shall have the meanings
9 respectively ascribed to them by this section:

10 *Garbage* means, as defined by Section 11503 of the Michigan Natural Resources and
11 Environmental Act, being MCL 324.11503, rejected food wastes including waste accumulation
12 of animal, fruit, or vegetable matter used or intended for food or that attends the preparation,
13 use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.

14 *Geotechnical report* means a report used to define and evaluate the existing geotechnical
15 condition of the property including the stability and suitability for its current or proposed use,
16 conducted by a licensed professional engineer or licensed professional geologist with relevant
17 experience and expertise.

18 *Good repair* means to be properly installed, safe, stable, and maintained sufficiently free
19 of defects or deterioration so as to be functional for current use.

20 *Graffiti* means any drawing, lettering, illustration, inscription, design, or other marking
21 that is etched, painted, sprayed, drawn, or otherwise caused to be displayed on the exterior of
22 any building, premises or structure, but does not mean an art mural or sign as defined in Section
23 4-1-1 of this Code, building identification under Section 8-15-202 of this Code, any sign

1 permitted by the Chapter 50 of this Code, *Zoning*, or any decoration that is part of the
2 architectural design of the building entrance.

3 *Guard* means a building component, or a system of building components, located at or
4 near the open sides of elevated walking surfaces that minimize the possibility of a fall from the
5 walking surface to a lower level.

6 *Habitable space* means space in a structure for living, eating, cooking or sleeping, but
7 does not mean bathrooms, closets, halls, storage or utility spaces, toilet rooms, or similar areas.

8 *Hazard reduction* means measures designed to reduce or eliminate human exposure to
9 lead-based paint hazards through methods, including interim controls or abatement or a
10 combination of the two.

11 *Hazardous condition* means a condition which may result in the death, injury, or illness
12 of a person or in severe damage to a building, premises, or structure.

13 *Hazardous substance* means one or more of the following:

- 14 (1) As likewise defined in the Comprehensive Environmental Response,
15 Compensation, and Liability Act (CERCLA), being 42 U.S.C. § 9601 *et seq.*; and
16 (2) As likewise defined in Section 2-6-1 of this Code, any chemical or other material
17 defined as a hazardous substance under Part 201 of the Michigan Natural
18 Resources and Environmental Protection Act, being MCL 324.20101 *et seq.*, and
19 any rules promulgated thereunder.

20 *High-wind event* means wind speeds in excess of 20 miles per hour.

21 *Homeless* means an individual who, or family which, lacks a fixed, regular and adequate
22 nighttime residence, or whose primary nighttime residence is:

1 (1) A supervised publicly or privately operated shelter designed to provide temporary
2 living accommodations; or

3 (2) A public or private place not designed for, or ordinarily used as, a regular sleeping
4 accommodation for human beings.

5 *Hotel* means any building containing guest rooms, which are intended or designed to be
6 used, rented, or hired out by transient persons or by a transient family.

7 *Household units* means the individual residences of the residents of the City.

8 *HUD Visual Assessment Certification* means the Lead Based Paint Visual Assessment
9 Certification as provided by the United States Department of Housing and Urban Development.

10 *Imminent danger* means a condition which could cause serious or life-threatening injury,
11 or death, to persons at any time due to the maintenance, or lack of maintenance, of a building,
12 premises, or structure.

13 *Impact surface* means an interior or exterior surface that is subject to damage by repeated
14 sudden force, such as certain parts of door frames.

15 *Impacted resident* means any resident in the affected area whose water supply may be
16 compromised.

17 *Infestation* means the presence of insects, rats, vermin or other pests within, or
18 contiguous to, a building, premises, or structure.

19 *Interim controls* means a set of measures designed to temporarily reduce human exposure
20 or likely exposure to lead-based paint hazards, including, but not limited to, specialized cleaning,
21 repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint
22 hazards or potential hazards, and the establishment and operation of management and resident
23 education programs.

1 **Sec. 8-15-7. - Definitions: L—O.**

2 For purposes of this article, the following words and phrases shall have the meanings
3 respectively ascribed to them by this section:

4 *Labeled* means appliances, devices, equipment, or materials to which has been affixed a
5 label, seal, symbol or other identifying mark of a nationally recognized testing laboratory,
6 inspection agency or other organization that is concerned with product evaluation and maintains
7 periodic inspection of the production of the above-labeled items and by whose label the
8 manufacturer attests to compliance with applicable nationally recognized standards.

9 *Large movable or stationary containers* means receptacles which are two cubic yards,
10 three cubic yards, six cubic yards or larger in capacity and are mechanically emptied.

11 *Lead-based paint* means paint or other surface coatings that contain lead equal to or in
12 excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

13 *Lead-based paint hazard* means any of the following conditions:

14 (1) Any lead-based paint on a friction surface, or on an impact surface, such as
15 windows or doors, unless they are replacement items that were manufactured after
16 1978, or unless a lead inspection is performed by a certified lead inspector or risk
17 assessor to verify that the surfaces do not contain lead-based paint; or

18 (2) Any lead-based paint on a friction surface, or on an impact surface, such as
19 windows or doors, where the lead dust levels on the nearest horizontal surface are
20 equal to or greater than the dust-lead hazard levels identified in rules promulgated
21 under the Michigan Lead Abatement Act, being MCL 333.5451 *et seq.*; or

22 (3) Any damaged or otherwise deteriorated lead-based paint on an impact surface that
23 is caused by impact from a related building component; or

- 1 (4) An interior or exterior surface painted with lead-based paint that a young child
2 can mouth or chew and includes an "accessible surface" as defined in Section
3 4851b(2) of the Residential Lead-Based Paint Hazard Reduction Act, being 42
4 USC 4851 *et seq.*, provided, that hard metal substrates and other materials, which
5 cannot be dented by the bite of a young child, are not considered chewable; or
- 6 (5) Any other deteriorated lead-based paint in or on any residential building or child-
7 occupied facility; or
- 8 (6) Surface dust in a residential dwelling or child-occupied facility that contains lead
9 in a mass-per-area concentration equal to or exceeding the levels established by
10 rules promulgated under the Michigan Lead Abatement Act, being MCL
11 333.5451 *et seq.*; or
- 12 (7) Bare soil on residential rental property that contains lead equal to or exceeding
13 levels established by rules promulgated under the Michigan Lead Abatement Act,
14 being MCL 333.5451 *et seq.*; or
- 15 (8) A porch that is found to contain more than 40 ug. per square foot of leaded dust.

16 *Lead clearance* means:

- 17 (1) A residential dwelling that has undergone interim controls or abatement to reduce
18 or control lead-based paint hazards, and the owner has received a post remedy
19 clearance report from a certified clearance technician or, for interim controls only,
20 a certified inspector or risk assessor; or
- 21 (2) The owner of a residential rental property has received report from a certified lead
22 inspector or risk assessor that lead paint exists on the rental property, but there
23 are no lead-based paint hazards on the rental property; or

1 (3) The owner of a residential rental property has received a report from a certified
2 lead inspector or risk assessor that lead-based paint does not exist on the rental
3 property.

4 *Lead inspection* means a surface-by surface investigation to determine the presence of
5 lead paint and the provision of a report explaining the results of the investigation.

6 *Let* means to permit, provide or offer possession or occupancy of a dwelling, dwelling
7 unit, rooming unit, building, premises, or structure by a person who is or is not the legal owner
8 of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a
9 recorded or unrecorded agreement of contract for the sale of land.

10 *Litter* means, as defined by Section 8901 of the Michigan Natural Resources and
11 Environmental Protection Act, being MCL 324.8901, all rubbish, refuse, waste material,
12 garbage, offal, paper, glass, cans, bottles, trash, debris, or other foreign substances.

13 *Loft* means a dwelling unit in a building originally constructed for other than residential
14 use containing one or more rooms or enclosed floor spaces arranged for living, eating, sleeping,
15 and/or a home occupation, which contains bathroom and kitchen facilities, subject to the
16 conditions specified in Chapter 50 of the 2019 Detroit City Code, *Zoning*.

17 *Method 9D* means the method by which visible emissions of fugitive dust shall be
18 determined, as defined in Section 5525(j) of the Michigan Natural Resources and Environmental
19 Protection Act, being MCL 324.5525(j).

20 *Motel* means a building, or a group of buildings, on a single zoning lot, that contains
21 rooming or dwelling units which may or may not be independently accessible from the outside,
22 designed for or primarily occupied by transients and may include any such building or building
23 group that is designated as a hotel, motor lodge, motor inn, or any other name intended for

1 identification as providing lodging for compensation, and that is with or without a general
2 kitchen and public dining room for use by the occupants.

3 *Motor vehicle* means any vehicle that is self-propelled and used for transportation of
4 persons or goods.

5 *Multiple dwelling* means any building containing three or more rooming or dwelling
6 units.

7 *Multiple-use building* means any building containing two or more areas or spaces of
8 different occupancies.

9 *Noxious weeds* means plants such as Canada thistle (*Cirsium arvense*), dodders (any
10 species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica*
11 or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle
12 (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), giant hogweed (*Heracleum*
13 *mantegazzianum*), ragweed (*Ambrosia elatior* L.) and poison ivy (*Rhus toxicodendron*), poison
14 sumac (*Toxicodendron vernix*), or other plant which, in the opinion of the Public Health Director,
15 is regarded as a common nuisance.

16 *Nursing home* means a facility which provides organized nursing care and medical
17 treatment to seven or more unrelated individuals suffering or recovering from illness, injury or
18 infirmity, and which is not a unit in a correctional facility that is operated by the Michigan
19 Department of Health and Human Services.

20 *Occupancy* means the purpose for which a building or structure is utilized or occupied.

21 *Occupant* means any individual living or sleeping in a building or structure, or having
22 possession of a space within a building or structure.

1 *Openable area* means that part of a window, skylight, or door which is available for
2 unobstructed ventilation and which opens directly to the outdoors.

3 *Operations with heavy equipment utilization* means operations that utilize heavy
4 construction or earth-moving equipment or that includes docks or wharves, waterway
5 shipping/freighters.

6 *Operator* means any person who is in charge, or has the care or control of a building,
7 premises or structure, which is let, offered or rented for occupancy.

8 *Owner* means any person, agent, operator, firm or corporation having a legal or equitable
9 interest in the building, premises or structure, or is recorded in the official records of the state,
10 the County, or the City as holding title to the building, premises or structure, or otherwise has
11 the legal responsibility for the control and maintenance of the building, premises or structure,
12 including the conservator or guardian of the estate of any such person, the executor or
13 administrator of the estate of such person where ordered to take possession of a building,
14 premises, or structure by a court, or is the taxpayer of record.

15 **Sec. 8-15-9. - Definitions: S—Z.**

16 For purposes of this article, the following words and phrases shall have the meanings
17 respectively ascribed to them by this section:

18 *Sanitary condition* means a clean condition which guards against disease, illness or
19 infection, or the growth of harmful bacteria.

20 *Seawall report* means a report prepared by a licensed professional civil engineer with
21 relevant experience and expertise, to provide data on the structural integrity of the seawall above
22 and below the water. The underwater portion of the assessment may be completed by camera,
23 drone, diver, or other methods determined appropriate by a licensed professional civil engineer.

1 *Secured by other than normal* means a building secured in a manner other than one used
2 in the construction, design, or approved plans for the building, or other than as required
3 by Section 8-15-113 of this Code.

4 *Shelter* means either an emergency shelter or a shelter for victims of domestic violence.

5 *Shelter for victims of domestic violence* means a residential facility which provides
6 temporary accommodation and support to victims of domestic violence either with or without
7 their minor children, and which is operated by a non-profit, charitable, or a religious agency that
8 meets the precontract standards of the Michigan Domestic Violence Prevention and Treatment
9 Board, but does not include an adult foster care facility, a community residential home, or a
10 substance abuse service facility.

11 *Site preparation* means land clearing, land maintenance, and land clean-up using any gas
12 *or electric powered equipment or vehicle, earthmoving, and excavating.*

13 *Solid waste* means any material defined as a solid waste within the meaning of Section
14 11506 of the Natural Resources and Environmental Protection Act, being MCL 324.11506, and
15 includes debris, garbage, litter, and rubbish, as defined by this section.

16 *Structure* means that which is built or constructed.

17 *Substance abuse service facility* means an establishment which is used on an outpatient
18 basis for the dispensing of compounds or prescription medicines directly to persons that have
19 drug or alcohol abuse problems, but excludes a generally recognized pharmacy or licensed
20 hospital that dispenses prescription medicines.

21 *Substantial number of limited English speaking persons* means persons who are members
22 of a population that constitutes at least five percent or 10,000 residents who speak a shared
23 language other than English, as those languages are determined based on a variety of relevant

1 sources, including, but not limited to, United States Census data, intake data collected by City
2 departments, and data on telephonic language translation service requests or usage.

3 *Temporary Certificate of Compliance* means a certificate issued by the Buildings, Safety
4 Engineering, and Environmental Department stating that a building, premises, or structure, or a
5 portion thereof, has been found to be safe for its intended purpose and use, is in substantial
6 compliance with this article, and provides for an expiration date of less than six months from the
7 date of issuance that is conditionally extendable in writing by the Building Official.

8 *Temporary emergency shelter* means a building which is opened on an urgent basis to
9 provide shelter for the homeless from the elements for not more than four weeks in any calendar
10 year, including those operated in concert by churches and other religious organizations that
11 permit the homeless to utilize their facilities as a place of lodging on a weekly rotating basis.

12 *Tenant* means a person, corporation, partnership or group, whether or not the legal owner
13 of record, who or which occupies a building or structure.

14 *Threat of release* means any circumstance that may reasonably be anticipated by
15 determination of a City department inspector to cause a release.

16 *Toilet room* means a room containing a water closet or urinal, but not a bathtub or shower.

17 *Townhouse* means a single-family dwelling unit constructed in a group of three or more
18 attached units in which each unit extends from foundation to roof and with no side yards except
19 end units which have one side yard.

20 Track-out means the carrying of mud, dirt, soil, or debris on vehicle wheels, slides, or
21 undercarriages from community establishment onto a public road, or right-of-way.

22 *Vacant building* means a building or structure that is unoccupied for more than 30 days,
23 is unsecured, is secured by other than normal means, as defined in this section, is illegally

1 occupied, or poses an imminent danger to the health and safety of surrounding residents and
2 properties or to the general public by being unsafe as determined by an authorized local official,
3 including, but not limited to, the existence of a fire hazard, a collapsed or dilapidated portion,
4 the loss of a utility, or an unsanitary condition.

5 *Ventilation* means the natural or mechanical process of supplying conditioned or
6 unconditioned air to, or removing such air from, any space.

7 *Vermin* means small animals, such as mice, and insects, such as bedbugs and lice, that
8 tend to occur in great numbers, are difficult to control, and are offensive as well as injurious.

9 *Violation* means any condition that is a violation of this article, or any act that is
10 prohibited or made or declared to be a blight violation by any section of this article, and any
11 omission or failure to act where the act is required by any section of this article.

12 *Violator* means a person who is responsible for a blight violation.

13 *Warming center* means a facility which is not designed for lodging and is operated for
14 the purpose of sheltering the transient homeless from the elements for brief intervals during any
15 24-hour period.

16 *Waterbody* means any surface water of the state, as likewise defined in the Michigan
17 Administrative Code R 323.1044(u), and includes:

- 18 (1) The Great Lakes and their connecting waters;
- 19 (2) All inland lakes;
- 20 (3) Rivers;
- 21 (4) Streams;
- 22 (5) Impoundments;
- 23 (6) Open drains;

- 1 (7) Wetlands; and
- 2 (8) Other surface bodies of water within the confines of the state. Drainage ways and
- 3 ponds used solely for wastewater conveyance, treatment, or control are expressly
- 4 excluded from this definition.

5 *Waterbody barrier* means human placed material including but not limited to dikes,

6 seawalls, riprap, and other shoreline embankments used to armor shorelines, streambeds, bridge

7 abutments, pilings, and other shoreline structures against scour, water, and wave or ice erosion.

8 *Waterbody property* means any real property that abuts any portion of a Waterbody. set

9 forth by the State of Michigan or its subsidiaries or agencies.

10 *Workmanlike* means constructed or repaired in a skilled professional manner, for

11 example, work that is generally plumb, level, square, in line, undamaged and without marring

12 adjacent work and generally in compliance with any applicable requirements of the Michigan

13 Construction Codes enacted pursuant to Section 4 of the Stille-DeRossett-Hale Single State

14 Construction Code Act, being MCL 125.1504.

15 *Yard* means an unobstructed open space on the same lot with a building or structure.

16 **Sec. 8-15-11. Civil fines for violations of this article.**

17 (a) In accordance with Chapter 3, Article II, of the 2019 Detroit City Code, the

18 following schedule of civil fines shall be assessed and paid at the Department of Appeals and

19 Hearings for the specified violation of this article:

	First Offense	Second Repeat Offense	Third and Subsequent Repeat Offense
I. Failure to meet a requirement of this article, except as otherwise specified in this section:			
One- or two-family dwelling	\$50.00	\$100.00	\$200.00
All other structures, except buildings with five or more stories	\$100.00	\$200.00	\$500.00
Buildings with five or more stories	\$200.00	\$500.00	\$1,000.00

All other structures, except buildings with five or more stories	\$100.00	\$200.00	\$500.00
Collection boxes	\$200.00	\$500.00	\$1,000.00
II. Failure to comply with an emergency or imminent danger order concerning an emergency condition, an imminent danger, an unsafe or unsanitary condition, or unlawful occupancy.			
One- or two-family dwelling	\$500.00	\$1,000.00	\$1,500.00
All other structures, except buildings with five or more stories	\$1,000.00	\$1,500.00	\$2,000.00
Buildings with five or more stories	\$1,500.00	\$3,000.00	\$5,000.00
Collection boxes	\$1,500.00	\$3,000.00	\$5,000.00
III. Failure of the owner to obtain a Certificate of Compliance in violation of Section 8-15-35 of this Code.			
	\$250.00	\$500.00	\$1,000.00
IV. Failure of the owner to obtain a Certificate of Registration for Vacant Property in violation of Section 8-15-45 of this Code.			
	\$250.00	\$375.00	\$500.00
V. Failure of the owner to obtain a Certificate of Registration of Rental Property in violation of Section 8-15-81 of this Code.			
	\$250.00	\$350.00	\$500.00
VI. Failure to obtain a Lead Clearance for Rental Property in violation of Section 8-15-83 of this Code.			
One- or two-family dwelling	\$500.00	\$1,000.00	\$2,000.00
All other structures, except buildings with five or more stories	\$1,000.00	\$2,000.00	\$4,000.00
Buildings with five or more stories	\$2,000.00	\$4,000.00	\$8,000.00
VII. Failure to obtain a Lead Clearance for Rental Property in violation of Section 8-15-83 of this Code, and tenant under six years of age with elevated blood level as determined by the Detroit Health Department or Michigan Department of Health and Human Services.			
One- or two-family dwelling	\$2,500.00	\$3,500.00	\$4,500.00
All other structures, except buildings with five or more stories	\$3,500.00	\$4,500.00	\$5,500.00
Buildings with five or more stories	\$4,500.00	\$7,500.00	\$10,000.00
VIII. Failure to remove snow or ice in violation of Section 8-15-103 of this Code.			
One- or two-family dwelling	\$50.00	\$125.00	\$250.00
All other buildings, premises, or structures with five or more stories	\$100.00	\$250.00	\$500.00
IX. Weeds or plant growth in violation of Section 8-15-104 of this Code.			
	\$50.00	\$125.00	\$250.00
X. Rodent harborage in violation of Section 8-15-105 of this Code.			
	\$100.00	\$250.00	\$500.00
XI. Failure to remove inoperable or unlicensed motor vehicle from premises in violation of Section 8-15-110 of this Code.			
	\$100.00	\$250.00	\$500.00
XII. Failure to maintain a vacant building or structure in accordance with the requirements of Section 8-15-113 of this Code			
One- or two-family dwelling	\$500.00	\$750.00	\$1,000.00
All other structures, except buildings with five or more stories	\$750.00	\$1,250.00	\$1,500.00
Buildings with five or more stories	\$1,000.00	\$2,000.00	\$3,000.00

XIII. Failure to maintain a collection box or related premises in accordance with the requirements of Section 8-15-521 of this Code.	\$1,000.00	\$2,000.00	\$3,000.00
XIV. Failure to obtain a Certificate of Collection Box Maintenance in violation of Section 8-15-531 of this Code.	\$250.00	\$500.00	\$1,000.00
XV. Failure of the owner to obtain a Certificate of Registration of Waterbody Barrier in violation of Section 8-15-552 of this Code.	\$250.00	\$500.00	\$1,000.00
XVIII. Failure to cease operations creating fugitive dust, in violation of Section 8-15-587.	\$1,000.00	\$1,500.00	\$2,000.00
XVII. Failure to submit a timely fugitive dust plan, in violation of Sections 8-15-582, 8-15-584, 8-15-585, 8-15-586, and 8-15-587.	\$500.00	\$750.00	\$1,000.00
XVI. Failure to timely implement adequate control measures, in violation of Section 8-15-586	\$500.00	\$750.00	\$1,000.00
XVII. Failure to comply with the terms of Sec. 8-15-593.	\$500.00	\$750.00	\$1,000.00

1 (b) In the case of a firm or a partnership, the civil fine may be imposed upon the
2 partnership or members thereof and, in the case of a corporation, the civil fine may be imposed
3 upon the officers thereof.

4 (c) The imposition of a civil fine, or the payment of the same, under this section shall
5 not be construed as excusing or permitting the continuance of any violation of this article.

6 (d) A civil fine that is paid before the administrative hearing date shall be reduced by
7 ten percent.

8 (e) A civil fine that is paid after the administrative hearing date shall be increased by
9 ten percent.

10 (f) A civil fine that is paid on the administrative hearing date neither shall be reduced
11 nor shall be increased.

12 (g) Pursuant to Section 4q(13) of the Michigan Home Rule City Act, being MCL
13 117.4q(13), and Section 3-2-52(a)(6) of the 2019 Detroit City Code, Blight Administrative
14 Hearings Bureau hearings officers shall impose a justice system assessment fee for each blight
15 violation determination.

1 (h) Pursuant to Section 3-2-55(b) of the 2019 Detroit City Code, each blight violation
2 notice shall be subject to an administrative processing and adjudication fee established by the
3 Director of the Department of Appeals and Hearings and approved by the City Council.

4 (i) Pursuant to Section 4q(3) of the Michigan Home Rules City Act, being MCL
5 117.4q(3), and Section 3-2-52(4) of the 2019 Detroit City Code, a hearings officer at the Blight
6 Administrative Hearings Bureau may waive a fine for a blight violation at an owner-occupied
7 dwelling, or for an owner who is verified as "low income," provided, that such owner is a first-
8 time violator of the Code and the violator has corrected the circumstances of the violation. For
9 purposes of this subsection, an owner shall qualify as "low income:"

- 10 (1) Where the owner establishes that his or her household income is at or below 50
11 percent of the median household income for the City of Detroit as determined by
12 the most recent United States Census;
- 13 (2) Where the owner has been granted eligibility for the Detroit Homeowners
14 Property Tax Assistance Program; or
- 15 (3) Where the owner meets criteria that the Director of the Buildings, Safety
16 Engineering, and Environmental Department may promulgate, in his or her
17 discretion, in accordance with Section 2-111 of the Charter.

18 **DIVISION 7. FUGITIVE DUST**

19 **Sec. 8-15-581. Title and applicability; scope and intent.**

20 (a) This Division shall be known as the Fugitive Dust Division and establishes the
21 minimum legal requirements for the prevention of off-site dust emission and related inspection
22 and reinspection of all operations on the premises of all community establishments within the City.
23 The Fugitive Dust Division shall be construed to secure its expressed intent, which is to ensure the

1 public health, safety, and welfare of the residents of the City insofar as they are affected by the
2 emission and production of fugitive dust within the City. The purpose of this Division is to regulate
3 operations of community establishments on their premises, including transportation on and off
4 these premises, to minimize the proliferation of fugitive dust in the City. Operations conducted on
5 the premises of a community establishment that do not comply with this article shall be altered or
6 remedied to provide a minimum level of health, safety, and welfare as required by this article.

7 (b) The provisions of this division shall apply to all operations that create fugitive dust
8 emissions on the premises of all community establishments, and includes but is not limited to, the
9 following:

- 10 (1) Weed abatement;
- 11 (2) Construction;
- 12 (3) Demolition;
- 13 (4) Storage and/or transporting operations including Bulk material handling,
14 transporting, bulk material stacking, loading, and unloading operations, and
15 outdoor storage, bulk solid or otherwise;
- 16 (5) Operation of gas or electric powered equipment or vehicles on unpaved surfaces;
- 17 (6) Establishing and/or using paved or unpaved staging areas, parking areas, material
18 storage areas, routes within a site;
- 19 (7) Landscaping;
- 20 (8) Site preparation;
- 21 (9) Vacant unpaved surfaces, including lots or roads within site; and
- 22 (10) Track-out.

1 (c) The standards contained in this division shall be in addition to any requirements
2 contained in Chapter 42, *Solid Waste and Illegal Dumping*, Article II, *Storage, Preparation,*
3 *Collection, Transport, Disposal, and Placement*, Division 5, *Illegal Dumping*, Subdivision B, *Bulk*
4 *Solid Materials* and Section 5524 of the Natural Resources and Environmental Protection Act,
5 being MCL 324.5524, *Fugitive dust sources or emissions*.

6 (d) The provisions of this division do not apply to emergency activities conducted by
7 any utility or government agency that may disturb the soil in order to prevent public injury or to
8 restore critical utilities to functional status.

9 **Sec. 8-15-582. Fugitive dust plan for community establishment activity.**

10 (a) No person shall engage in any new operation or activity on the premises of a
11 community establishment in the City which generates fugitive dust or make a modification to any
12 fugitive dust generating community establishment operation or activity, when such fugitive dust
13 generating operation has an opacity greater than 5% on a premises or an opacity greater than 0%
14 beyond the premises, without filing a fugitive dust plan, or amendment, with the Buildings, Safety
15 Engineering, and Environmental Department.

16 (b) The fugitive dust plan required in Subsection (a) of this section, shall include, at a
17 minimum, the following components:

- 18 (1) The name and address of the community establishment;
- 19 (2) The name and address of a community establishment designee;
- 20 (3) The name and address of the owner of the property on which the premises of the
21 community establishment resides;
- 22 (4) The name, address, and contact information of the individual responsible for
23 implementation of the fugitive dust plan;

- 1 (5) The dates and period of time during which fugitive dust is expected to be generated;
- 2 (6) A site map, drawn to scale, depicting the following information:
 - 3 a. community establishment boundaries;
 - 4 b. All buildings, internal roadways, and utilities on community establishment
5 property;
 - 6 c. All roadways and transportation corridors within one quarter mile of the
7 perimeter of the community establishment that are used for transport of
8 material to or from the community establishment; and
 - 9 d. All potential emissions points at the community establishment;
- 10 (7) A full and detailed description of the community establishment's operations which
11 are expected to generate fugitive dust;
- 12 (8) A full and detailed description of the control measures, devices, and technologies
13 to be used to minimize and control fugitive dust opacity as described in Section 8-
14 15-583, a description of how all control measures, devices, and technologies will
15 be maintained and calibrated to ensure their continued effectiveness, and a
16 description of the training provided to staff regarding the proper application and
17 operation of the control measures, devices, and technologies; and
- 18 (9) A fugitive dust monitoring plan that describes:
 - 19 a. The schedule and plan for testing to ensure compliance with the prohibition
20 on fugitive dust set forth in this division. Such testing must be:
 - 21 i. Conducted by a professional trained and certified to read opacity in
22 accordance with measurement method9D; and

1 ii. Conducted during a range of weather conditions to ensure that
2 representative conditions at the community establishment are
3 covered.

4 b. A contingency plan describing the community establishment's proposed
5 response when fugitive dust exceeds the reportable action level, as provided
6 in Section 8-15-583 of this Code. The response activities should consist of
7 a range of increasingly aggressive measures appropriate to different levels
8 of exceedance; A description of the community establishment's
9 recordkeeping system, which shall include a schedule for routine
10 inspection, testing, and maintenance as required Section 8-15-590 of this
11 Code;

12 c. Other information as the Buildings, Safety Engineering, and Environmental
13 Department may require to facilitate its review of the fugitive dust plan; and

14 d. A fact sheet or executive summary of the fugitive dust plan designed to
15 inform the public of the community establishment's plan to control and
16 minimize fugitive dust.

17 (c) The submission of a fugitive dust plan, or revision, shall not relieve any persons
18 subject to the requirements of this ordinance from compliance with any Federal laws, State of
19 Michigan laws, or this Code.

20 (d) Any other law, regulation or permit shall not relieve any person from submitting a
21 fugitive dust plan, as required by this ordinance.

1 **Sec. 8-15-583. Opacity limits; measurement.**

2 (a) An owner of the property, community establishment or community establishment
3 designee, or other person responsible for any fugitive dust regulated by this division shall not cause
4 or allow fugitive dust from an activity that has an opacity greater than five percent.

5 (b) An owner of the property, community establishment or community establishment
6 designee, or other person subject to this division shall not cause or allow any fugitive dust beyond
7 the property line of the community establishment that has an opacity greater than zero percent.

8 (c) Opacity shall be determined by reference test method 9d.

9 (d) The community establishment designee shall perform tests of visual fugitive dust
10 and opacity, on-site and at the property boundary, in accordance with the protocol set forth in the
11 approved fugitive dust plan.

12 **Sec. 8-15-584. New Construction; fugitive dust plan required.**

13 Fugitive dust plans are required to be submitted to and approved by Buildings, Safety
14 Engineering, and Environmental Department pursuant to Section 8-15-582 before any new
15 construction on a community establishment may begin.

16 **Sec. 8-15-585 Change in operations, fugitive dust plan revisions.**

17 Where any part of the community establishment's operation expands or changes, then, at
18 least 30 days before the expansion or change in operation, the community establishment designee
19 shall notify the Director of the Buildings, Safety Engineering, and Environmental Department in
20 writing of such change, and submit a revised fugitive dust plan or provide confirmation to the
21 Buildings, Safety Engineering, and Environmental Department's satisfaction that the expanded or
22 changed operation will be compliant utilizing the existing fugitive dust plan.

1 **Sec. 8-15-586 Ongoing operations, fugitive dust plan revisions, other remedial actions.**

2 Where any part of the community establishment's operation is determined by a Buildings,
3 Safety Engineering, and Environmental Department or its designee to emit fugitive dust at an
4 unlawful level, then, at the direction of Buildings, Safety Engineering, and Environmental
5 Department, the operation shall:

6 (a) Install or add control measures to remediate the issue; or

7 (b) Submit a new or modified fugitive dust plan to Buildings, Safety Engineering, And
8 Environmental Department for review and approval, within 14 days of being
9 notified by Buildings, Safety Engineering, And Environmental Department of the
10 need to do so.

11 **Sec. 8-15-587 Responsibility for dust mitigation; violations.**

12 (a) The community establishment and the owner of the property on which the
13 community establishment is located, shall ensure that the community establishment premises,
14 including its exterior property and adjoining sidewalks, remain in compliance with these
15 requirements, except as otherwise provided for in this article.

16 (b) It shall be unlawful for a person to engage in operations on the premises of a
17 community establishment, which generates fugitive dust except as provided for in Section 8-15-
18 582.

19 (c) Prior to the commencement of any activity which is expected to generate fugitive
20 dust on a community establishment, the community establishment designee shall submit a
21 fugitive dust plan to the Detroit Buildings, Safety Engineering, and Environmental Department,
22 if that community establishment falls under one or more of the following:

1 Engineering, and Environmental Department review and approval. All dust generating activities
2 must cease until Buildings, Safety Engineering, and Environmental Department approves the
3 fugitive dust plan.

4 (g) Except as otherwise specified in this division, each owner of the property or
5 community establishment and community establishment designee shall be responsible for dust
6 generation related to the community establishment operations and premises regulated under this
7 article, including dust generated on the sidewalk adjoining the premises, and for any violation
8 and any corresponding penalty, as a result of a failure to comply with the provisions of this
9 article.

10 (h) All property owners and community establishments and community
11 establishment designees are jointly and severally required:

12 (1) To comply with the requirements of this division; and

13 (2) To cure any violations that are issued under this division.

14 **Sec. 8-15-588. Administrative procedures.**

15 (a) *Review Criteria.* Buildings, Safety Engineering, and Environmental Department
16 will review all fugitive dust plans for completeness and control measures.

17 (b) *Effect of Approval or Denial.* Buildings, Safety Engineering, and Environmental
18 Department shall take final action on a fugitive dust plan or plan revision within 30 calendar days
19 of the filing of the complete application. Buildings, Safety Engineering, and Environmental
20 Department shall notify the applicant in writing of his approval or denial.

21 (c) *Duration.* Once approved, a fugitive dust plan is good for the life of the operation,
22 unless Section 8-15-584 through 8-15-587 applies or the City determines that the plan is not
23 effectively mitigating the necessary levels of fugitive dust.

1 **Sec. 8-15-589. High-wind events.**

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

6 **Sec. 8-15-590. Inspections.**

7 Inspections for the purpose of monitoring compliance with this division may be conducted
8 by the Buildings, Safety Engineering, and Environmental Department without notice and in
9 response to any complaint received by the Buildings, Safety Engineering, and Environmental
10 Department.

11 **Sec. 8-15-591. Record keeping.**

12 (a) The community establishment designee shall keep and maintain community
13 establishment logs as follows:

14 (1) Record the application of water and/or chemical stabilizers as applicable, and note
15 any instances when such application is suspended for any reason, including but not
16 limited to, weather conditions;

17 (2) Record any instances when activities are suspended due to high winds as required
18 by Section 8-15-589 of this Code;

19 (3) Maintain a schedule for routine inspection, maintenance, and testing of all control
20 measures, devices, and technologies, inspection of any monitors and inspection of
21 off-site areas for the presence of fugitive dust, and identify the person or persons
22 responsible for such inspections, maintenance, and testing; and

1 **(b) All records that are required to be kept pursuant to this division shall be submitted**
2 **to the Buildings, Safety Engineering, and Environmental Department upon request, be kept and**
3 **maintained at the community establishment, and be available for inspection for a minimum of**
4 **three years from the date the record is created.**

5 **Sec. 8-15-592. Fugitive Dust Funding.**

6 **(a) The City shall create an appropriation within the Buildings, Safety Engineering,**
7 **and Environmental Department’s budget deemed the Detroit Fugitive Dust Fund.**

8 **(b) The purpose of the fund is:**

9 **(1) To foster and promote the purpose and intent of this article:**

10 **(2) To prioritize the regulation and mitigation of Fugitive Dust within the City limits;**

11 **(3) To promote the health, safety, and welfare of the residents of the City of Detroit**

12 **(c) The City shall ensure that the annual budget contains an appropriation to the**
13 **Fugitive Dust Fund in an amount, at a minimum, commensurate with the money generated by the**
14 **collection of Fugitive Dust penalties under this division during the preceding year.**
15 **Notwithstanding anything to the contrary, the requirement to contain any amount of appropriation**
16 **for the Fugitive Dust Fund is contingent on the City’s determination that such an appropriation is**
17 **in the best interest of the City, given the budgetary condition and all other needs of the City for**
18 **that current year.**

19 **(d) Unless specifically stated otherwise in the budget closing resolution, funds not**
20 **expended within such appropriation during a given fiscal year shall remain in such appropriation**
21 **and carry forward into the subsequent fiscal year to fund future regulation and mitigation efforts**
22 **of Fugitive Dust, in accordance with this Code.**

1 (e) Subject to approval of the City Council, the City may also accept and deposit into
2 the Fugitive Dust Fund, or subaccounts of the Fugitive Dust Fund, donations, and grants from
3 private or public sources, subject to conditions of such grant, for use in accordance with the
4 purpose of the Fugitive Dust Fund.

5 (f) Nothing herein shall be construed as to prevent the Buildings, Safety Engineering,
6 and Environmental Department from otherwise funding the regulation and mitigation of Fugitive
7 Dust, in accordance with all applicable laws and regulations.

8 **Sec. 8-15-593. Alternative Compliance.**

9 (a) Notwithstanding Sections 18-15-581 through 8-15-592 of this division, the
10 community establishment shall be deemed in compliance with this division where any of the
11 following apply:

12 (1) The community establishment is an agency or department of the City of Detroit and
13 has submitted to the Buildings, Safety Engineering, and Environmental Department
14 a single plan to limit fugitive dust opacity, in accordance with Section 8-15-583,
15 for any process that governs activities of the department or agency reasonably
16 expected to generate fugitive dust; or

17 (2) The community establishment has submitted a state operating plan for the facility
18 pursuant to Section 5524 of the Michigan Natural Resources and Environmental
19 Protection Act, being MCL 324.5524;

20 a. The state operating plan, including any amendment, is effective and the
21 establishment is in compliance with the state operating plan; and

1 b. The state operating plan includes the information required by Section 5524
2 of the Michigan Natural Resources Environmental Protection Act, being
3 MCL 324.5524;

4 c. If the Community establishment is relying only upon a state operating plan
5 for compliance with this section, the community establishment shall file
6 with the Buildings, Safety Engineering, and Environmental Department a
7 copy of the state operating plan and any amendments to document
8 compliance with this section and shall also:

9 i. Within 45 days of receipt, the Buildings, Safety Engineering, and
10 Environmental Department reviews the operating plan and any
11 amendments, and inspects the community establishment for
12 compliance with the requirements of this section to determine
13 whether the operating plan and any amendments satisfy the
14 requirements of this section and are adequate to protect the public
15 health and the environment and to prevent the emission of fugitive
16 dust that causes unreasonable interference with the comfortable
17 enjoyment of life and property;

18 ii. Within 45 days of the inspection, the Buildings, Safety Engineering,
19 and Environmental Department determines and notifies the
20 community establishment in writing that the community
21 establishment is in compliance with this section; and

22 iii. Remain in compliance with this section.

1 (3) If the community establishment is relying upon a state permit not part of a state
2 operating plan or other supplemental information filed with the Buildings, Safety
3 Engineering, and Environmental Department in addition to a state operating plan
4 for compliance with this section, the community establishment shall comply with
5 all of the following:

6 a. The community establishment shall file a copy of the state operating plan
7 and any amendments and any supplemental information to document
8 compliance with this section with the Buildings, Safety Engineering, and
9 Environmental Department along with an application for alternative
10 compliance under this section on a form determined by the Buildings,
11 Safety Engineering, and Environmental Department;

12 b. Within 45 days of receipt, the Buildings, Safety Engineering, and
13 Environmental Department:

14 1. Reviews the application and other documents submitted;

15 2. Inspects the facility for compliance with the requirements of this
16 section to determine whether the application and other documents
17 submitted satisfy the requirements of this section and are adequate
18 to protect the public health and the environment and to prevent the
19 emission of fugitive dust that causes unreasonable interference with
20 the comfortable enjoyment of life and property; and

21 3. Issues a Certificate of Alternative Compliance confirming
22 compliance with this section; and

1 c. The community establishment shall remain in compliance with this section.
2 The Buildings, Safety Engineering, and Environmental Department may
3 revoke a Certificate of Alternative Compliance issued under this section if
4 the community establishment does not remain in compliance with this
5 section.

6 (b) If a community establishment is deemed in compliance with this division through
7 Subsection (a) of this section and the community establishment either violates the requirements of
8 the state operating plan or permit for the community establishment or otherwise violates Section
9 5524 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.5524,
10 or R 336.1371 and 336.1372 of the Michigan Administrative Code, and the Michigan
11 Environment, Great Lakes, and Energy or another state officer or agency does not act to remedy
12 or penalize the violation, the violation may be enforced as a blight violation under Section 8-15-
13 11 of this Code.

14 (c) Subsection (b) of this section shall not be an exclusive remedy, or be construed to
15 impair or bar any cause of action or legal or equitable remedy of any person or the public under
16 applicable laws and regulations.

17 (d) The Buildings, Safety Engineering, and Environmental Department may conduct
18 inspections without notice for the purpose of monitoring compliance with this section and may
19 conduct other inspections for the purpose of monitoring compliance with this subdivision. If the
20 Buildings, Safety Engineering, and Environmental Department determines that a community
21 establishment is not in compliance with the requirements of this division, including, but not limited
22 to this section, the Buildings, Safety Engineering, and Environmental Department shall require the
23 community establishment to take action to comply with this division, and shall impose fines

1 authorized under this division for each day that the community establishment fails to take the
2 action required by the Buildings, Safety Engineering, and Environmental Department.

3 (e) A community establishment not in compliance with this section at any time must
4 comply with Sections 18-15-581 through 8-15-592 of this division. A community establishment
5 shall not be deemed in compliance with this section if one or more of the following apply:

6 (1) The State determines that the community establishment is not in compliance with
7 a state operating program or state permit applicable to the community
8 establishment;

9 (2) The Buildings, Safety Engineering, and Environmental Department determines that
10 the community establishment has not complied with the requirements of this
11 section; or

12 (3) The community establishment violates R 336.1901 of the Michigan Administrative
13 Code.

14 **Secs. 8-15-594—8-15-620. - Reserved.**

15 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are
16 repealed.

17 **Section 3.** This ordinance is hereby declared necessary for the preservation of the
18 public peace, health, safety, and welfare of the people of the City of Detroit.

19 **Section 4.** Where this ordinance is passed by a two-thirds majority of City Council
20 Members serving, it shall be given immediate effect and shall become effective upon publication
21 in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this ordinance is
22 passed by less than two-thirds majority of City Council Members serving, it shall become effective
23 30 days after publication in accordance with Section 4-118(2) of the 2012 Detroit City Charter.

Approved as to form:

A handwritten signature in black ink, appearing to read "C. Mallett", written over a horizontal line.

Conrad L. Mallett
Corporation Counsel