

**ORDINANCE NO. 354**  
**CITY OF BESSEMER**  
**ODOR ORDINANCE**

**Section A: Definitions**

Noxious: Harmful or injurious to health or physical well-being, poisonous, toxic

Odor: that which produces a response of the human sense of smell to an odorous substance

Odorous air contaminants: an odor which is unreasonably unpleasant, distasteful, disturbing, nauseating, or harmful to a person of ordinary sensibilities.

**Section B: Odor pollution prohibited**

- 1) It shall be unlawful for the owner or occupant of any property to cause or allow any noxious odors to extend beyond their property lines.
- 2) It shall be unlawful for the owner or occupant of any property to cause or allow any odorous air contaminants to be detected beyond their property lines as follows
  - a. For areas used predominantly for residential or commercial purposes it is a violation if odorous air contaminants are detected after the odorous air has been diluted with seven (7) or more volumes of odor free air.
  - b. For all other land uses it is a violation if odorous air contaminants are detected after the odorous air has been diluted with fifteen (15) or more volumes of odor free air.
- 3) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality, if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining person has been in possession or commercial establishment has been in operation.

**Section C: Designation as a significant odor generator.**

After reviewing the results of odor testing, the city manager may determine that a property shall be designated as a significant odor generator and shall notify the property owner of the designation.

**Section D: Appeal.**

All Appeals can be brought to the City Council for their review. The City Council's decision is final and may only be appealed to the district court of appeals.

**Section E: Odor management plan.**

If the property is designated as a significant odor generator, then within 30 days of notice of designation by the city manager, the property owner shall work with the city manager to develop an odor management plan using the best practicable odor control technology in order to mitigate the odor emissions on the property. The city manager may grant an extension for up to an additional 90

days to submit the odor management plan, upon sufficient evidence and cause for such extension. The odor management plan shall:

- (1) Identify and explain the odor source(s);
- (2) Describe the best practicable odor control technology to manage the odors generated;
- (3) Provide a detailed plan on any proposed operational changes to the existing odor control equipment in order to control and mitigate the odors being generated;
- (4) Establish a timeline for development and implementation of engineering approved treatment technology, which includes monitoring instrumentation and equipment to ensure future compliance.
- (5) Be kept on file with the city manager

#### **Section F: Compliance.**

- 1) Compliance shall be achieved when the property owner has completed the installation, start-up and operation of the best practicable odor control technology in accordance with the odor management plan and follow-up testing has determined the results have significantly improved since the initial test.
- 2) At such time that the property has achieved compliance with the odor management plan and has received no verifiable odor complaints for a period of 12 months, the property shall be removed from the significant odor generator classification.

#### **Section G: Non-compliance.**

If the city manager determines after follow-up testing that the results at the property have not improved, or if odor complaints continue, the property owner shall be required to meet with the city manager on at least a quarterly basis to develop a new odor management plan. Such meetings and follow-up testing shall continue until the city manager determines that the results at the property have improved. If non-compliance continues for a period of 12 months, the city may impose Civil Infraction pursuant to ordinance 350

#### **Section H: Re-classification as a significant odor generator.**

A property that was previously classified as a significant odor generator but was removed from the classification due to compliance may be re-classified as a significant odor generator if it violates section B. It shall then be required to comply with Section E establishing a new odor management plan and Section G requiring quarterly meetings. A property re-classified as a significant odor generator will not be removed from the classification until it meets the compliance requirements in Section F.

#### **Section I Penalty.**

Failure to comply with the requirements in sections E, F, G, or failure to meet the obligations contained in the odor management plan, unless the failures are determined by the city manager to be

beyond the control of the significant odor generator or the result of an accident or unexpected and unforeseen events, shall result in a civil infraction notice pursuant to ordinance 350. In addition, any follow-up testing required due to compliance failure shall be paid for by the property owner.

This ordinance becomes effective fifteen (15) days after the date of its enactment.

Ordained and Enacted into an Ordinance at a regular meeting of the City Council of the City of Bessemer this 21<sup>st</sup> day of August, 2017

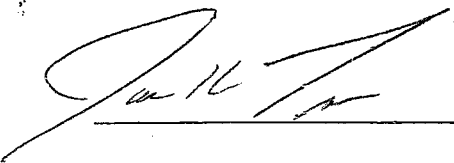
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Public Hearing: August 21, 2017

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Published: August 25, 2017

ATTEST:



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James K. Trudgeon, City Clerk