

Alaska Department of Environmental Conservation



Amendments to: State Air Quality Control Plan

Vol. III: Appendix III.D.5.12

**{Appendix to Volume II. Analysis of Problems, Control Actions;
Section III. Area-wide Pollutant Control Program; D. Particulate
Matter; 5. Fairbanks North Star Borough PM_{2.5} Control Plan}**

Adopted

December 8, 2017

**Bill Walker
Governor**

**Larry Hartig
Commissioner**

(This page serves as a placeholder for two-sided copying)

Appendix III.D.5.12

FNSB Air Quality Ordinances:

2015-01
2015-18
2015-29
2015-73
2016-20-1A
2016-21
2016-30
2016-37
2017-18
2017-44

ADEC & FNSB MOU October 2016

MOA for the Selection & Funding of Projects Funded by CMAQ within the FNSB PM2.5

Nonattainment Area.

(This page serves as a placeholder for two-sided copying)

1	By:	John Davies
2		Kathryn Dodge
3		Janice Golub
4	Introduced:	01/15/2015
5	Advanced:	01/15/2015
6	Substituted:	02/12/2015
7	Amended:	02/12/2015
8	Amended:	02/26/2015
9	Amended:	02/27/2015
10	Adopted:	02/27/2015
11	Immediate	
12	Reconsideration Failed:	02/27/2015
13	Adopted:	02/27/2015

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO 2015 - 01

AN ORDINANCE AMENDING CHAPTER 8.21 OF THE FNSB CODE OF ORDINANCES REGARDING THE PM_{2.5} AIR QUALITY CONTROL PROGRAM, AMENDING 2.48.120 REGARDING THE AIR POLLUTION CONTROL COMMISSION'S DUTIES, AND AMENDING 1.04.050 REGARDING THE FINE SCHEDULE TO ADD VIOLATIONS OF THE PM_{2.5} AIR QUALITY CONTROL PROGRAM

WHEREAS, EPA, on December 22, 2008, declared part of the Fairbanks North Star Borough a non-attainment area for fine particulate pollution (PM_{2.5}); and

WHEREAS, in the winter, PM_{2.5} concentrations in the non-attainment area routinely exceed the allowable limit, thereby violating the federal health-based standards; and

WHEREAS, an excessive level of PM_{2.5} impacts the health and well-being of borough residents; and

WHEREAS, air quality issues could impact large scale economic development, including military expansion; and

WHEREAS, studies have identified wood burning as a significant contributor of PM_{2.5}, particularly wood with high moisture content; and

WHEREAS, the combined effort of an educational program concerning the importance of burning only dry wood and an increase in the availability of dry wood could significantly reduce Borough PM_{2.5} levels; and

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED & CAPITALIZED]

44
 45 WHEREAS, PM_{2.5} emissions from solid fuel burning appliances can be
 46 significantly reduced through the selection and proper use of modern, EPA rated
 47 models designed to meet more stringent emissions standards and by operating in
 48 accordance with “best practices”, including selection of appropriate fuel sources; and

49
 50 WHEREAS, voluntary, incentive-based programs coupled with
 51 comprehensive education programs have been employed in other communities to help
 52 reduce PM_{2.5} emissions; and

53
 54 WHEREAS, voluntary measures may enable the Borough to model
 55 attainment, however, it is likely that they would take more than five years to reach this
 56 goal and they would not address local neighborhood problems arising from one or two
 57 significant polluters, neither of which is acceptable; and

58
 59 WHEREAS, the State of Alaska, through a Memorandum of Agreement
 60 with the Borough, has authorized the Fairbanks North Star Borough to establish and
 61 administer an area-wide local PM_{2.5} air quality control program that will operate in lieu of
 62 and consistent with the State’s air quality program; and

63
 64 WHEREAS the State of Alaska Department of Environmental
 65 Conservation has issued draft regulations intended to be part of the State
 66 Implementation Plan (SIP) as required by the EPA; those regulations provide some new
 67 restrictions on the sale of solid fuel burning appliances and firewood, and authorize the
 68 borough to take on additional regulatory responsibility related to the SIP; and

69
 70 WHEREAS, at the recent “Town Hall” on the PM_{2.5} problem, more than 50
 71 citizens provided testimony indicating that our air quality was not acceptable and that
 72 they expected the Assembly to act to put into place programs that will improve the air
 73 quality in the borough.

74
 75 WHEREAS, it is the intent of the Fairbanks North Star Borough Assembly
 76 to respond to calls for regulations that will help improve the air quality within the
 77 borough by adopting a program that balances the need for clean air with the needs for
 78 economically heating our buildings; and

79
 80 WHEREAS, in adopting this clean air program, it is the intent of the
 81 Assembly that it be enforced by concentrating on the most significant sources of PM_{2.5}
 82 pollution first, both for attainment within the Non-Attainment area and for significant local
 83 sources of pollution that affect adjacent and nearby properties; and

84

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED & CAPITALIZED]

85 WHEREAS, in enforcing this clean air program, it is the intent of the
 86 Assembly that the focus be on assisting violators to come into compliance through the
 87 use of warning, education, and assistance provided through programs such as the
 88 enhanced solid fuel burning device change-out program.

89
 90 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
 91 North Star Borough:

92
 93 Section 1. This ordinance is of a general and permanent nature and shall
 94 be codified.

95
 96 Section 2. The following definitions in FNSBC 8.21.010 Definitions are
 97 amended or added as follows:

98 “Advisory” means a notice issued by the FNSB Air Quality division when the
 99 division determines, using available data, that a PM_{2.5} concentration of 25 ug/m³ has,
 100 or will likely occur.

101 “Air Quality Control Zone” means the area of the Borough currently contained in
 102 the EPA designated non-attainment area, which uses the non-attainment area southern,
 103 western and eastern boundaries as modified by their respective intersection with the
 104 following northern boundary described as; beginning at the intersection of Isberg Road
 105 with Chena Ridge Road on the western boundary of the EPA designated non-
 106 attainment area, then following Chena Ridge Road back to Chena Pump Road and
 107 continuing north on the Parks Highway to Sheep Creek Road, then Sheep Creek Road
 108 to Miller Hill Road, then north on Miller Hill Road, then east on Yankovich, then north
 109 from Yankovich Road along the east boundary of the Large Animal Research Station to
 110 a point just north of its intersection with Nottingham drive and follows the ridge crest
 111 across Nottingham Estates to approximately the point where Swallow Drive intersects
 112 Dalton Trail to north on Dalton Trail to the crest of the Farmer’s Loop Ridge, then follow
 113 the geographic crest of Farmer’s Loop Ridge to its intersection with the New Steese
 114 Highway, then south east on Bennet Road, and along Steel Creek Road to the
 115 intersection of Chena Hot Springs Road, and Chena Hot Springs Road to the eastern
 116 boundary of the EPA designated non-attainment area.

117 “Alert” means a notice issued by the FNSB air quality division when the division
 118 determines, using available data, that a PM_{2.5} violation of the 35 [MICROGRAMS PER
 119 CUBIC METER] ug/m³ has, or will likely occur.

120 “Clean wood” means natural wood that has not been painted, varnished, or
 121 coated with a similar material, has not been treated with preservatives, and does not
 122 contain resins or glues as in plywood or other composite wood products.

123 “Construction and demolition debris” means a conglomeration of materials from
 124 construction, repair, remodeling or demolition of buildings and structures containing any
 125 prohibited fuels.

126 “Episode” means when conditions reach or are predicted to reach advisory or
 127 alert status.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED & CAPITALIZED]

128 “Forecast” means a description of the current dispersion conditions described as
 129 good, fair, or poor and including the expected PM_{2.5} concentrations expressed in
 130 micrograms per cubic meter.

131 “Opacity” means the reduction in transmitted light through a column of smoke as
 132 measured by an observer certified in using EPA Reference Method 9 as defined by
 133 federal law.

134
 135 Section 3. Section 8.21.020 **Borough listed appliances** shall be
 136 amended as follows:

137 A[N] solid fuel burning appliance shall be listed by the borough if:

138 A. The solid fuel burning appliance is certified by the U.S. Environmental Protection
 139 Agency as meeting the federal emissions [LIMIT STANDARD APPROPRIATE FOR
 140 THAT APPLIANCE OR IN THE CASE OF HYDRONIC HEATERS IS AT LEAST
 141 PHASE II QUALIFIED] rate of 2.5 grams of PM_{2.5} per hour or less or for hydronic
 142 heaters, meets Phase II qualifications and has an annual average emission level rating
 143 equal to or less than 2.5 grams of PM_{2.5} per hour. For purposes of this section,
 144 “certified” means that the solid fuel burning appliance meets emission performance
 145 standards when tested by an accredited independent laboratory and labeled according
 146 to procedures specified by the EPA in 40 CFR 60 Subpart AAA; or

147 B. The solid fuel burning appliance is tested, including by use of a handheld or other
 148 portable device, by an accredited independent laboratory, or other qualified person or
 149 entity approved by the borough, establishing that it meets an [THE EPA] emissions
 150 [LIMIT STANDARD APPROPRIATE FOR THAT APPLIANCE OR AN EMISSIONS
 151 LIMIT STANDARD EQUIVALENT TO THAT OF A LISTED APPLIANCE IN A SIMILAR
 152 CATEGORY] rate of 2.5 grams of PM_{2.5} per hour or less or for hydronic heaters the
 153 appliance has an annual average emission level rating equal to or less than 2.5 grams
 154 of PM_{2.5} per hour.

155
 156 Section 4. Section 8.21.025 **Prohibited acts** shall be amended as
 157 follows:

158 [THE BOROUGH SHALL NOT, IN ANY WAY, REGULATE, PROHIBIT,
 159 CURTAIL, NOR ISSUE FINES OR FEES ASSOCIATED WITH THE SALE,
 160 DISTRIBUTION, OR OPERATION OF HEATING APPLIANCES OR ANY TYPE OF
 161 COMBUSTIBLE FUEL.]

162 A. Installation of certain solid fuel burning appliances in the non-attainment area.
 163 Within the non-attainment area no person shall install or allow the installation of a solid
 164 fuel burning appliance unless it is listed by the Borough as qualifying under this chapter
 165 and the installation complies with all other requirements imposed in this chapter. It is a
 166 separate violation to fail to remove a solid fuel burning appliance installed in violation of
 167 this chapter.

168 B. All persons owning and selling their property within the Air Quality Control Zone
 169 with an unlisted installed solid fuel burning appliance that will not be removed before
 170 sale must, if the solid fuel burning appliance was not listed by the Borough as qualifying

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED & CAPITALIZED]

171 at the time of installation, provide a written disclosure to the buyer and to the Division
 172 prior to closing.

173 C. Visible Emissions Standard in the Air Quality Control Zone.

174 1. Standard. No person shall cause, permit, or allow the emission from a
 175 solid fuel burning appliance in the Air Quality Control Zone to create opacity greater
 176 than 20 percent for a period or periods aggregating more than 10 minutes in any hour
 177 except during the first 30 minutes after the initial firing of a cold unit when the opacity
 178 limit shall be less than 50 percent.

179 2. Procedures and Enforcement. When ambient weather and light conditions
 180 permit, methods and procedures specified by the EPA in 40 CFR 60 Appendix A
 181 reference method 9 (Visual determination of the Opacity of Emissions From Stationary
 182 Sources), or an alternative technology that replaces method 9, when the technology is
 183 available and the choice is feasible, upon request of the person being investigated, shall
 184 be used to determine compliance with this section. Smoke visible from a chimney, flue
 185 or exhaust duct in excess of the opacity standard for a period in excess of 30 minutes
 186 shall constitute prima facie evidence of unlawful operation of an applicable solid fuel
 187 burning appliance.

188 D. PM_{2.5} Emissions Crossing Property Lines. No person shall cause or permit
 189 emissions from a solid fuel burning appliance to impact the resident(s) of a neighboring
 190 property through the creation of an emissions plume that:

- 191 1. crosses a property line
- 192 2. is observable using EPA method 22 (40 CFR 60 Appendix A), and
- 193 3. is 25ug/m³ greater than the surrounding immediate vicinity background
 194 PM_{2.5} level using methods defined by the Borough Division of Air Quality. For purposes
 195 of this subsection, the surrounding "immediate vicinity" means land within an area
 196 measured 1,200 feet in all directions from the boundaries of the emitting property.

197 E. Borough-Wide Installation Requirements for Hydronic Heaters.

198 1. Setback. Unless permitted by a variance, installing an approved pellet
 199 fuel burning appliance, or replacing an existing hydronic heater with a listed appliance,
 200 no person shall install or allow the installation of a hydronic heater located less than:

- 201 a. 330 feet from the closest property line, or
- 202 b. 660 feet from a school, clinic, hospital, or senior housing unit.

203 2. Any hydronic heater installed in violation of this section shall be
 204 immediately remedied or made inoperable and removed as soon as practicable;
 205 however, in no case shall the time of removal be longer than 180 days after notice from
 206 the Division of a violation.

207 F. Prohibited Fuels.

208 No person shall burn in the Borough any fuel, except coal in an appliance
 209 designed to use coal, which is not listed in the manufacturer's owner's manual as an
 210 acceptable fuel for that device or any of the following items in a solid fuel burning
 211 appliance:

- 212 1. Any wood that does not meet the definition of clean wood or has more
 213 than 20% moisture content,

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED & CAPITALIZED]

- 214 2. Garbage,
- 215 3. Tires,
- 216 4. Materials containing plastic or rubber,
- 217 5. Waste petroleum products,
- 218 6. Paints and paint thinners,
- 219 7. Chemicals,
- 220 8. Glossy or colored papers,
- 221 9. Construction and demolition debris,
- 222 10. Plywood,
- 223 11. Particleboard,
- 224 12. Saltwater driftwood,
- 225 13. Manure,
- 226 14. Animal carcasses,
- 227 15. Asphalt products,
- 228 16. Flooring products.

229 G. Sales or Leasing of Solid Fuel Burning Appliances.

230 1. No person shall sell or lease a solid fuel burning appliance or barrel stove
 231 kit in the borough that does not meet the emissions limits established in 8.21.020 A.
 232 unless the buyer signs an affidavit, on a form prescribed by the Borough, that the
 233 appliance will not be installed or used in the Air Quality Control Zone. This section does
 234 not apply to appliances or stoves that transfer pursuant to a sale of property.

235 2. No person shall commercially sell or offer for sale or lease a solid fuel
 236 burning appliance in the borough unless the commercial seller or dealer provides the
 237 prospective buyer or lessee, prior to any sales or lease agreement, with a written notice,
 238 prepared or approved by the Division, that includes, but is not limited to, the following:

239 a. The fuel restrictions imposed in this chapter;
 240 b. Proper installation, property location, operation, and maintenance
 241 of the appliance;

242 c. An advisory statement noting that operation of solid fuel burning
 243 appliances may not be appropriate in some areas due to terrain, meteorological
 244 conditions, or other relevant conditions that render the operation of the appliance a
 245 public nuisance or health hazard even though it is otherwise legally installed and
 246 operated, and

247 3. The written notice required in this section shall be signed and dated by the
 248 prospective buyer or lessee prior to purchase or lease to indicate receipt of the
 249 notification requirements of this section.

250 4. The commercial dealer or seller shall mail or otherwise provide a copy of
 251 the notice, any required affidavit, to the Division within thirty days of the sale. All
 252 commercial dealers or sellers shall also include with the notice documentation showing
 253 whether the appliance sold or leased meets the Borough's emissions standard.

254 H. Nuisance. No person within the Fairbanks North Star Borough shall cause or
 255 allow emissions of a solid fuel or waste oil burning appliance that are injurious to human life
 256 or to property or that unreasonably interfere with the comfortable enjoyment of life or

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED & CAPITALIZED]

257 property. No person within the Fairbanks North Star Borough shall operate a solid fuel or
 258 waste oil burning appliance in a manner so as to create a public or private nuisance. A
 259 violation of a provision of this chapter is hereby declared to be a nuisance.

260 I. Other laws. Nothing in this section precludes other local jurisdictions from having
 261 more restrictive codes.

262 J. Penalties. Upon first conviction of an offense in this chapter, the
 263 penalty(ies)/fines(s) set forth in FNSBC Title 1 regarding violations of the PM_{2.5} air
 264 quality control program may be satisfied by completion within 60 days of a borough
 265 approved class covering PM_{2.5} health concerns, non-attainment, importance of dry
 266 wood and proper operation of solid fuel burning appliances. The borough may on its
 267 own initiative file notice of satisfaction of attendance requirements with the court, or the
 268 defendant may file a certificate of completion with the court within the applicable time
 269 frame.

270 Section 5. Section 8.21.040, **Forecasting exceedances and voluntary**
 271 **restrictions in the non-attainment area during an alert**, shall be amended as follows:

272 **8.21.040 Forecasting exceedances and [VOLUNTARY] restrictions in the Air**
 273 **Quality Control Zone [NON-ATTAINMENT AREA] during an alert**

274 A. During the winter months of October through March, the Borough shall issue a
 275 daily PM_{2.5} forecast [at] by 4:30 p.m. [MONDAY THROUGH FRIDAY]. When the PM_{2.5}
 276 concentration reaches the onset level for an episode and is expected to remain at that
 277 level for 12 hours or more, an alert or advisory will be declared. An alert or advisory may
 278 apply to the Air Quality Control Zone as a whole, or to one or more sub-areas
 279 designated by the division. Once an alert or advisory is declared, PM_{2.5} control
 280 measures set forth in this section shall be implemented and continued until the alert or
 281 advisory is cancelled. There are three levels of episodes: Stage 1, 2 and 3. The
 282 obligations imposed in this sub-section do not require, absent specific funding for that
 283 purpose, any actions to be taken outside of the borough's normal business days and
 284 hours of operation.

285 B. The Division will notify local media to ensure the declared alert or advisory is
 286 broadcast. The Division shall also use social media and methods of direct
 287 communication such as text messages as feasible. Information within the notification
 288 will contain the PM_{2.5} forecast, Stage level for areas, and actions required to reduce
 289 sources of PM_{2.5}. The obligations imposed in this sub-section do not require, absent
 290 specific funding for that purpose, any actions to be taken outside of the borough's
 291 normal business days and hours of operation.

292 [B]C. Stage 1: Voluntary Restrictions in the Air Quality Control Zone [NON-
 293 ATTAINMENT AREA] During an [ALERT] Advisory.

294 1. A Stage 1 air advisory is implemented when concentrations exceed or are
 295 forecasted to exceed 25ug/m³.

296 [1]2. Residents shall be requested to voluntarily stop operation of solid fuel
 297 [BURNING APPLIANCES], pellet [STOVES], and waste oil burning appliances, [AND]
 298 as well as masonry heaters and all outdoor burning that includes recreational fires such

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED & CAPITALIZED]

299 as bonfires, campfires and the use of fire pits, non-permitted incinerators and burn
 300 barrels in the Air Quality Control Zone [NON-ATTAINMENT AREA].

301 [2. THE DIVISION WILL NOTIFY LOCAL MEDIA TO ENSURE THE
 302 DECLARED ALERT IS BROADCAST. INFORMATION WITHIN THE NOTIFICATION
 303 WILL CONTAIN THE PM FORECAST AND PROCEDURES TO REDUCE SOURCES
 304 OF PM.]

305 D. Stage 2: Required Restrictions in the Air Quality Control Zone During an Alert

306 1. A Stage 2 air alert is implemented when concentrations exceed or are
 307 forecasted to exceed 35ug/m³.

308 2. Burning is permitted in all borough listed appliances. No fuel source may
 309 be added to the combustions chamber or firebox of any non-listed solid fuel burning
 310 appliance or waste oil burning appliance. Residents should rely instead on their home's
 311 alternate, cleaner source of heat (such as a gas or fuel oil fired furnace or boiler or
 312 electric baseboard heaters) until the Stage 2 air alert is cancelled.

313 3. If a building owner or other person with a property or managerial interest
 314 in the building has an approved "No Other Adequate Source of Heat" designation, the
 315 building owner is exempted from complying with the Stage 2 air alert restrictions for that
 316 building.

317 4. Outdoor burning is prohibited including non-permitted incinerators and
 318 burn barrels. This does not include recreational fires such as bonfires, campfires or
 319 ceremonial fires and the use of fire pits.

320 5. These restrictions shall not apply during a power failure.

321 E. Stage 3: Required Restrictions in the Air Quality Control Zone During an Alert.

322 1. A Stage 3 air alert is implemented when concentrations exceed or are
 323 forecasted to exceed 55ug/m³.

324 2. No fuel source may be added to the combustions chamber or firebox of
 325 any solid fuel burning appliances, masonry heaters, pellet fuel burning appliances, cook
 326 stoves, fireplaces, or waste oil burning appliances. No waste oil may be added to a
 327 waste oil burning appliance. Residents should rely instead on their home's alternate,
 328 cleaner source of heat (such as a furnace, boiler or electric baseboard heaters) the
 329 Stage 3 air alert is cancelled.

330 3. If a building owner or other person with a property or managerial interest
 331 in the building has an approved "No Other Adequate Source of Heat" designation the
 332 building owner is exempted from complying with the Stage 3 air alert restrictions for that
 333 building.

334 4. Outdoor burning is prohibited including non-permitted incinerators and
 335 burn barrels. This does not include recreational fires such as bonfires, campfires or
 336 ceremonial fires and the use of fire pits.

337 5. These restrictions shall not apply during a power failure or to listed
 338 appliances, masonry heaters or pellet fuel burning appliances when the temperature is
 339 below -15 as recorded at the Fairbanks International Airport.

340 Section 6. FNSB 2.48.120 **Powers and duties** of the Air Pollution Control
 341 Commission are amended as follows:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED & CAPITALIZED]

342 F. The commission may [SHALL] develop or review comprehensive plans for the
 343 prevention, abatement, and control of air pollution in the borough. Such plans may
 344 include recommendations on subjects including, but not limited to, transportation control
 345 measures, zoning, taxation, research, and public relations.

346 H. After a public hearing, the commission shall determine whether a person may
 347 receive a variance from the installation requirements of FNSB 8.21.020 E allowing them
 348 to install a hydronic heater. In determining whether to grant the variance, the
 349 commission shall consider the proposed location of the appliance, impact on
 350 surrounding neighborhood, emission levels of the appliance, terrain, meteorological
 351 conditions, and other relevant conditions that may render the operation of the appliance
 352 at that location a nuisance or a health hazard.

353
 354 Section 7. A new section, Section 8.21.043, **No other adequate source**
 355 **of heat determination**, shall be added as follows:

356 A. A building-owner or other person with a property or managerial interest in the
 357 building may obtain a “No Other Adequate Source of Heat” determination from the
 358 Division if:

359 1. The building-owner(s) or other person with a property or managerial
 360 interest in the building applies with the Division on a form developed by the Division.

361 2. The building-owner(s) or other person with a property or managerial
 362 interest in the building files an affidavit with the application that the subject structure
 363 must be heated and the structure has no adequate heating source without using a solid
 364 fuel or waste oil burning appliance or that economic hardships require the applicant’s
 365 use of a solid fuel or waste oil burning appliance or complying with a restriction would
 366 result in damage to property including damage to the appliance itself and its heating
 367 system components.

368 B. There shall be no fee for applying for or obtaining a determination.

369 C. It shall be a violation to submit a false affidavit for a “no other adequate source of
 370 heat” determination.

371 D. If the “no other adequate source of heat” appliance does not meet the standards
 372 set in this chapter, the Division shall provide the applicant with information concerning
 373 the borough’s voluntary removal, replacement and repair program.

374 E. Applications denied by the division may be appealed to the Air Pollution Control
 375 Commission.

376
 377 Section 8. FNSB 1.04.050 **Fine schedule** is amended to add the
 378 following:

<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>	<u>Mandatory Warning Required</u>
<u>8.21.025(A)</u>	<u>Installation of an unlisted appliance</u>	<u>\$500.00</u>	<u>No</u>

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED & CAPITALIZED]

<u>8.21.025(A)</u>	<u>Failure to remove an unlisted appliance</u>	<u>\$500.00</u>	<u>Yes</u>
<u>8.21.025(B)</u>	<u>Failure to disclose an unlisted appliance before sale</u>	<u>\$500.00</u>	<u>No</u>
<u>8.21.025(C)</u>	<u>Violation of visible emissions standard 1st offense</u>	<u>\$100.00</u>	<u>Yes</u>
<u>8.21.025(C)</u>	<u>Violation of visible emissions standard 2nd offense</u>	<u>\$500.00</u>	<u>No</u>
<u>8.21.025(D)</u>	<u>Emissions crossing property lines 1st offense</u>	<u>\$500.00</u>	<u>Yes</u>
<u>8.21.025(D)</u>	<u>Emissions crossing property lines 2nd offense</u>	<u>\$1000.00</u>	<u>No</u>
<u>8.21.025(E)</u>	<u>Illegal installation of hydronic heaters</u>	<u>\$500.00</u>	<u>No</u>
<u>8.21.025(E)</u>	<u>Failure to remove hydronic heaters</u>	<u>\$500.00</u>	<u>No</u>
<u>8.21.025(F)</u>	<u>Use of prohibited fuels--1st offense</u>	<u>\$100.00</u>	<u>Yes</u>
<u>8.21.025(F)</u>	<u>Use of prohibited fuels--2nd offense</u>	<u>\$500.00</u>	<u>No</u>
<u>8.21.025(G)</u>	<u>Violation of commercial sale requirements</u>	<u>\$500.00</u>	<u>No</u>
<u>8.21.040(D)</u>	<u>Violation of a stage 2 air alert restriction</u>	<u>\$500.00</u>	<u>Yes</u>
<u>8.21.040(D)</u>	<u>Violation of a stage 3 air alert restriction</u>	<u>\$1000.00</u>	<u>Yes</u>
<u>8.21.043</u>	<u>Filing a false affidavit</u>	<u>\$500.00</u>	<u>No</u>

379
380
381
382
383
384

Section 9. Effective Date. Except for FNSBC 8.21.025 G (Commercial Sales) which shall be effective 30 days after adoption, and FNSBC 8.21.025 B (sale of property) which shall be effective on May 1st, 2015, and FNSBC 8.21.025(F)(1) (requirement wood be 20% moisture content) which shall be effective on October 1, 2015. This ordinance shall be effective at 5:00 pm on the first Borough business day

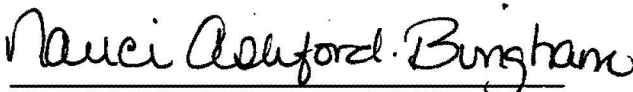
AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED & CAPITALIZED]

385 following its adoption and shall have only prospective application, meaning no provision
386 shall apply to any act, including installation or purchase of a solid fuel appliance
387 completed prior to the effective date.

388 PASSED AND APPROVED THIS 27TH DAY OF FEBRUARY, 2015.
389
390

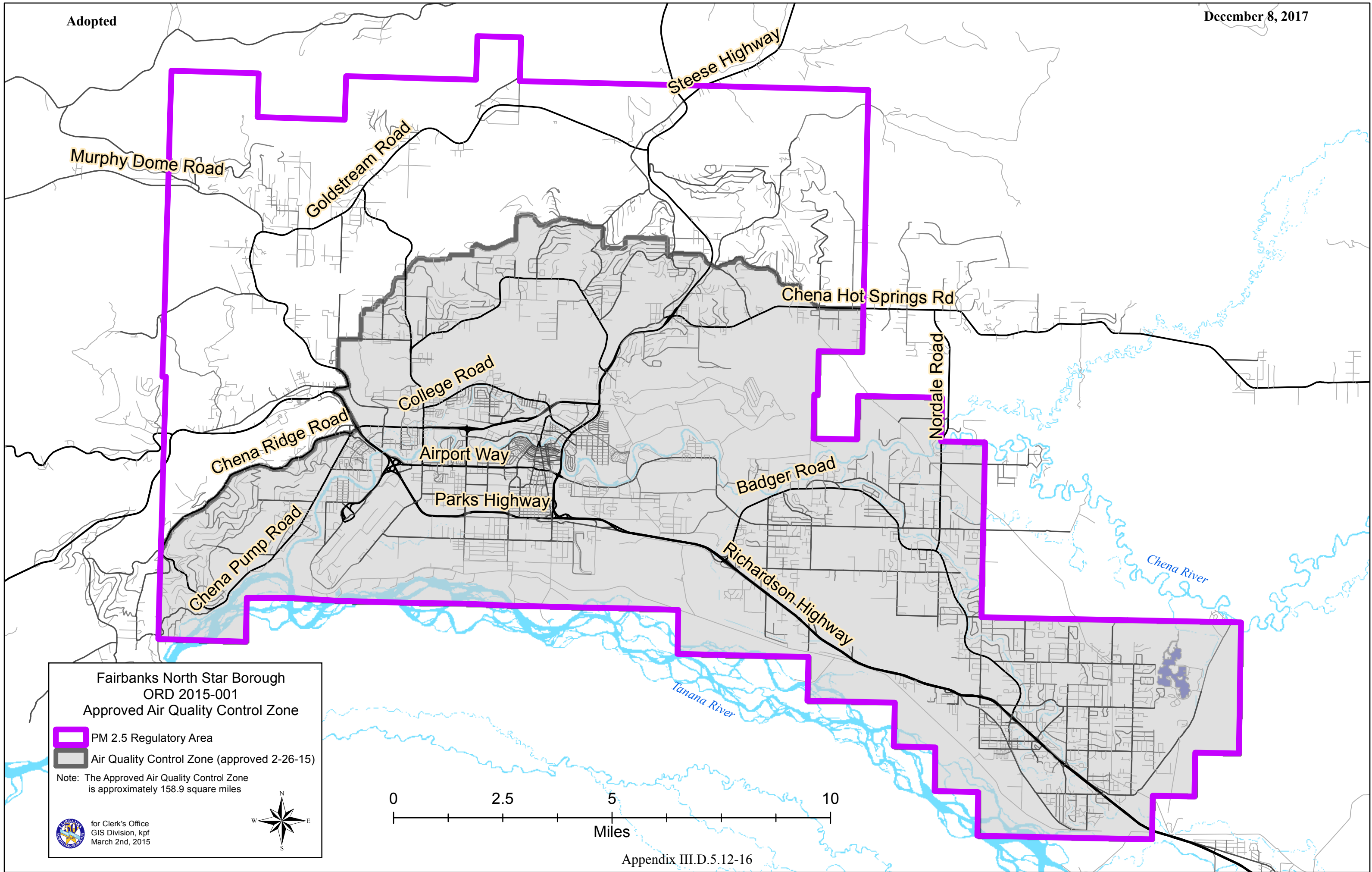
391
392 
393 _____
394 Karl Kassel
395 Presiding Officer

396 ATTEST:

397
398 
399 _____
400 Nanci Ashford-Bingham, MMC
401 Borough Clerk
402

403
404 Ayes: Golub, Hutchison, Lawrence, Dodge, Quist, Davies, Kassel
405 Noes: Sattley, Roberts

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED & CAPITALIZED]



Fairbanks North Star Borough
 ORD 2015-001
 Approved Air Quality Control Zone

 PM 2.5 Regulatory Area

 Air Quality Control Zone (approved 2-26-15)

Note: The Approved Air Quality Control Zone is approximately 158.9 square miles



 for Clerk's Office
 GIS Division, kpf
 March 2nd, 2015



1	By:	Lance Roberts
2	Introduced:	04/09/2015
3	Advanced:	04/09/2015
4	Amended:	04/23/2015
5	Adopted:	04/23/2015

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2015 - 18

AN ORDINANCE AMENDING FNSBC 8.21.035 REGARDING THE ENHANCED VOLUNTARY REMOVAL, REPLACEMENT AND REPAIR PROGRAM, REMOVING THE ADDITIONAL FUEL PAYMENT FROM THE PROGRAM AND AMENDING FNSBC 8.21.045 REGARDING THE VOLUNTARY BURN CESSATION PROGRAM

WHEREAS, the Borough Assembly recently amended FNSBC 8.21.020 regarding borough listed solid fuel burning appliances so that the use of that defined term can now be substituted for the current lengthier description of an acceptable solid fuel burning appliance replacement for the enhanced voluntary removal, replacement and repair program ;and

WHEREAS, in order to maximize the limited funds available for the enhanced voluntary removal, replacement and repair program, it is necessary to remove the additional payment for the purchase of fuel; and

WHEREAS, the recently amended voluntary, removal, replacement and repair program largely replaces the separate voluntary burn cessation program and any funds intended to be spent on the cessation program could be more efficiently spent on the removal, replacement and repair program.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 8.21.035, **Enhanced voluntary removal, replacement and repair program**, is hereby amended as follows:

The Fairbanks North Star Borough shall, to the extent funds are available and appropriated by the assembly, offer an enhanced removal, replacement and repair program to help offset the costs of removing, replacing or repairing a *solid fuel burning appliance* (SFBA) or *fireplace*. This program shall be subject to the following eligibility requirements, conditions, and criteria:

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]

- 45 A. General Requirements.
- 46 1. Application. An application approved by the *division* and signed by all
- 47 property owner(s) must be submitted along with any documentation required by the
- 48 *division*. Applicants must fully comply with the *division's* inspection process which shall
- 49 verify the existence of a qualifying SFBA or *fireplace*.
- 50 2. Priority Ranking. Applications may be prioritized and may be limited by
- 51 the *division* in its discretion based on geographical location, the overall air quality
- 52 benefit and the type of SFBA or *fireplace* being removed, replaced or repaired.
- 53 3. Eligibility. The program is limited to properties within the borough
- 54 boundary in which a qualifying SFBA or fireplace is installed. If an application is
- 55 approved for the program, the applicant will be given up to 90 days to meet all of the
- 56 requirements. Applicants must have no delinquent property tax or penalty or interest
- 57 owing at the time of application and at completion of the program requirements.
- 58 4. Additional Requirements. In addition to the general requirements set forth
- 59 in this section, applicants must also meet the following requirements:
- 60 a. Fully comply with the inspection process required by the *division*
- 61 that shall ensure that the existence of the qualifying *appliance* to be removed, replaced
- 62 or repaired is properly documented.
- 63 b. Removal of *appliance*.
- 64 c. Delivery of *appliance* to an authorized decommission station.
- 65 d. Certificate of destruction delivered to the *division*, if applicable.
- 66 e. Final installation of a qualified *appliance* visually verified.
- 67 f. All aspects of this section may be performed by borough-approved
- 68 personnel or a borough-approved vendor.
- 69 5. Payments. Applicants will be eligible for reimbursements or, at the option
- 70 of the applicant, payment may be made directly to a borough-approved vendor.
- 71 Reimbursements and payments shall be available as follows:
- 72 a. Replacement of an outdoor *hydronic heater*. With either a borough
- 73 listed solid fuel burning appliance [N EPA CERTIFIED SFBA WITH AN EMISSION
- 74 RATE LESS THAN OR EQUAL TO 2.5 GRAMS/HOUR, AN EPA PHASE II QUALIFIED
- 75 PELLET BURNING *HYDRONIC HEATER* WITH AN EMISSION RATE EQUAL TO OR
- 76 LESS THAN 0.2 POUNDS/MILLION BTUS], or an *appliance* designed to use pellets,
- 77 home heating oil (excluding waste oil), natural gas, propane, hot water district heat,
- 78 electricity or a *masonry heater* (including parts, labor and any costs associated with
- 79 upgrading the chimney to the extent required by the manufacturer of the appliance for
- 80 proper installation).

Appliance + Fuel Payment
Up to \$10,000 for purchase and installation of the <i>appliance</i> plus fuel payment, if applicable.

81

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED AND CAPITALIZED]

82 b. Replacement of a non-borough listed [EPA certified] SFBA, or
 83 *fireplace*, OR AN EPA CERTIFIED SFBA THAT HAS AN EMISSION RATE GREATER
 84 THAN 2.5 GRAMS/HOUR]: With either a borough listed solid fuel burning appliance [N
 85 EPA CERTIFIED SFBA WITH AN EMISSION RATE EQUAL TO OR LESS THAN 2.5
 86 GRAMS/HOUR AND] that has an emission rate 50 percent or less than the replaced
 87 heater, or an *appliance* designed to use pellets, home heating oil (excluding waste oil),
 88 natural gas, propane, hot water district heat, electricity or a *masonry heater* (including
 89 parts, labor and any costs associated with upgrading the chimney to the extent required
 90 by the manufacturer of the appliance for proper installation). Multiple non-borough-
 91 listed *solid fuel burning appliances* or fireplaces, or combinations thereof, may be
 92 replaced with a single heating device that meets the requirements above, except for
 93 those that are fired by solid fuels. Payment will be based on the number of devices
 94 removed, up to a maximum of three, and may not exceed the replacement cost.

Appliance + Fuel Payment
Up to \$4,000 <u>per device</u> for purchase and installation of the <i>appliance</i> plus fuel payment, if applicable.

95 c. Removal of a SFBA (limited to a one-time participation in this
 96 program per property).

Cash Payment
\$2,000 – if removing outdoor <i>hydronic heater</i>
\$1,000 – if removing other SFBAs

97 d. Fuel Payment. [IF A *PELLET FUEL BURNING APPLIANCE* OR A
 98 *PELLET STOVE* IS PURCHASED AND INSTALLED UNDER THIS PROGRAM, THE
 99 APPLICANT IS ELIGIBLE TO RECEIVE AN ADDITIONAL \$300.00 PAYMENT FOR
 100 THE PURCHASE OF PELLETS MANUFACTURED IN THE FAIRBANKS NORTH
 101 STAR BOROUGH.] If a wood burning *appliance* is purchased and installed under this
 102 program, the applicant is eligible to receive an additional \$300.00 payment for borough-
 103 approved pressed wood energy logs manufactured in the Fairbanks North Star
 104 Borough.

105 e. Repair Program.
 106 i. The repair program will pay for the:
 107 (A) Replacement of a wood stove’s catalytic converter
 108 that has exceeded its life span through the one-time payment of up to \$750.00.
 109 (B) Replacement of any emissions-reducing component
 110 of an EPA-certified wood stove up to the maximum amount of \$750.00.
 111 ii. In addition to the general requirements set forth in this
 112 section, applicants must fully comply with any inspection process required by the
 113 *division*, which may be performed by a borough-approved vendor.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED AND CAPITALIZED]

114
 115 Section 3. FNSBC 8.21.045, **Voluntary burn cessation program**, is
 116 hereby amended:

117 8.21.045 Voluntary burn cessation program.

118 The Fairbanks North Star Borough will, to the extent funds are available and
 119 appropriated by the assembly, establish a program to encourage, incentivize, and
 120 facilitate the voluntary cessation of the use of wood burning *appliances* (i.e., wood
 121 stoves, wood-fired *hydronic heaters*, wood-fired furnaces, *fireplaces*, *fireplace inserts*,
 122 *masonry heaters* or *pellet fuel burning appliances*) in the [NONATTAINMENT AREA] air
 123 quality control zone during *air quality alerts*. It is recognized that it will be difficult or
 124 impossible for some households to participate in this program (e.g., those that heat
 125 solely with wood or for which wood is a necessary supplement during periods of cold
 126 weather). Therefore, this program is intended for households that are able to use space
 127 heating alternatives with significantly lower *pm_{2.5}* emissions, including those fueled by
 128 gas, oil, electricity, propane or district heat, but not wood or *pellet stoves* or other wood
 129 burning *appliances*. This program will at a minimum consist of the following
 130 components:

131 A. The borough may contract with an agency that will provide services to
 132 promote the program. This agency must have the standing, experience, and capability
 133 to carry out a campaign to advertise, reach out, and attract a large number of
 134 participants in the *nonattainment area* who are willing to cease the use of a wood
 135 burning *appliance* during *air quality alerts*.

136 B. [INCENTIVES WILL BE PROVIDED TO HOUSEHOLDS THAT
 137 PARTICIPATE IN THE PROGRAM. THESE INCENTIVES MAY INCLUDE THE
 138 PROVISION OF (1) A SIGN-UP BONUS SUCH AS CASH, A VOUCHER, OR GOODS
 139 AND SERVICES USEFUL TO A HOUSEHOLD THAT HEATS WITH WOOD; (2) A
 140 THANK-YOU LETTER, WINDOW OR YARD SIGN; OR, (3) OTHER FORM OF PUBLIC
 141 ACKNOWLEDGMENT. THE COST OF THIS INCENTIVE TO THE BOROUGH SHALL
 142 NOT EXCEED \$25.00 PER HOUSEHOLD. THESE INCENTIVES MAY BE PROVIDED
 143 OR AUGMENTED BY PRIVATE CONTRIBUTIONS.

144 C.] Facilitation of this program by the borough will include, but not be limited
 145 to, the provision of notice of *air quality alerts* to individual households by methods such
 146 as electronic mail messages, text messages, automated phone calls, notices to radio
 147 and television stations, and information posted on electronic reader or display boards
 148 located throughout the borough in locations best suited to notify residents of *air quality*
 149 *alerts*.

150 [D]C. Private contributions, including goods and/or services, will be sought for all
 151 appropriate elements of the program. In general this will focus on the provision of
 152 materials, equipment, and certain one-time services, but not to fund borough staff
 153 positions.

154
 155 Section 4. Effective Date. This ordinance shall be effective at 5:00 p.m.
 156 of the first Borough business day following its adoption.

157

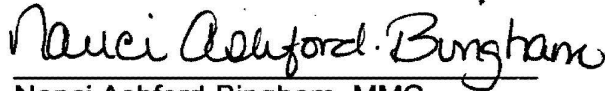
CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED AND CAPITALIZED]

158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174

PASSED AND APPROVED THIS 23RD DAY OF APRIL, 2015.


Karl Kassel
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

Ayes: Golub, Sattley, Hutchison, Roberts, Lawrence, Dodge, Quist, Davies, Kassel
Noes: None

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED AND CAPITALIZED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

By: Kathryn Dodge
John Davies
Introduced: 04/23/2015
Advanced: 04/23/2015
Substituted: 06/25/2015
Amended: 06/25/2015
Adopted: 06/25/2015

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2015 – 29

AN ORDINANCE AMENDING FNSBC 8.21.025.B TO PERMIT FILING OF PROPERTY SALE WRITTEN DISCLOSURES WITH THE AIR QUALITY DIVISION AFTER THE RECORDING OF THE SALE AND AMENDING FNSBC 8.21.040 CONCERNING USE OF APPLIANCES THAT WERE BOROUGH LISTED AT THE TIME OF INSTALLATION DURING A STAGE 2 & 3 AIR ALERT

WHEREAS, As part of the recently adopted PM_{2.5} Air Quality Control Program, borough code requires certain property sellers to provide written disclosures to the buyer and to the borough’s Air Quality Division, prior to closing; and

WHEREAS, Although disclosure prior to closing serves to fully inform the buyer prior to purchase, disclosure to the borough can wait until after closing; and

WHEREAS, Because property transactions sometimes fail to close for a variety of reasons, waiting until after closing to provide a copy of the disclosures to the borough will potentially avoid an unnecessary step and ensure that the Borough receives accurate information.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is of a general and permanent nature and shall be codified.

Section 2. Section 8.21.025.B, **Prohibited acts**, is amended as follows:

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]

41 B. All persons owning and selling their property within the Air Quality Control Zone
 42 with an [UNLISTED SOLID FUEL BURNING APPLIANCE] installed non EPA certified
 43 solid fuel burning appliance, or for hydronic heaters non EPA Phase II qualifications,
 44 that will not be removed before sale must[, IF THE SOLID FUEL BURNING
 45 APPLIANCE WAS NOT LISTED BY THE BOROUGH AS QUALIFYING AT THE TIME
 46 OF INSTALLATION,] provide a written disclosure to the buyer [AND TO THE DIVISION]
 47 prior to closing, and a copy to the division no later than 10 days after the recording of
 48 the sale.

49
 50 Section 3. FNSBC 8.21.040, **Forecasting exceedances and**
 51 **restrictions in the air quality control zone during an alert**, is amended as follows:
 52

53 A. During the winter months of October through March, the borough shall issue a
 54 daily *PM_{2.5} forecast* by 4:30 p.m. When the *PM_{2.5}* concentration reaches the onset level
 55 for an *episode* and is expected to remain at that level for 12 hours or more, an *alert* or
 56 *advisory* will be declared. An *alert* or *advisory* may apply to the *air quality control zone*
 57 as a whole, or to one or more sub-areas designated by the *division*. Once an *alert* or
 58 *advisory* is declared, *PM_{2.5}* control measures set forth in this section shall be
 59 implemented and continued until the *alert* or *advisory* is cancelled. There are three
 60 levels of *episodes*: Stage 1, 2 and 3. The obligations imposed in this subsection do not
 61 require, absent specific funding for that purpose, any actions to be taken outside of the
 62 borough's normal business days and hours of operation.

63 B. The *division* will notify local media to ensure the declared *alert* or *advisory* is
 64 broadcast. The *division* shall also use social media and methods of direct
 65 communication such as text messages as feasible. Information within the notification
 66 will contain the *PM_{2.5} forecast*, stage level for areas, and actions required to reduce
 67 sources of *PM_{2.5}*. The obligations imposed in this subsection do not require, absent
 68 specific funding for that purpose, any actions to be taken outside of the borough's
 69 normal business days and hours of operation.

70 C. Stage 1: Voluntary Restrictions in the *Air Quality Control Zone* During an
 71 *Advisory*.

72 1. A Stage 1 air *advisory* is implemented when concentrations exceed or are
 73 forecasted to exceed 25 µg/m³.

74 2. Residents shall be requested to voluntarily stop operation of solid fuel,
 75 pellet, and waste oil burning *appliances*, as well as *masonry heaters* and all outdoor
 76 burning that includes recreational fires such as bonfires, campfires and the use of fire
 77 pits, nonpermitted incinerators and burn barrels in the *air quality control zone*.

78 D. Stage 2: Required Restrictions in the *Air Quality Control Zone* During an *Alert*.

79 1. A Stage 2 air *alert* is implemented when concentrations exceed or are
 80 forecasted to exceed 35 µg/m³.

81

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED AND CAPITALIZED]

82 2. Burning is permitted in all [BOROUGH LISTED *APPLIANCES*] EPA
 83 certified solid fuel burning appliances, and EPA Phase II Qualified hydronic heaters with
 84 an annual average emission rating of 2.5 grams or less, masonry heaters, pellet fuel
 85 burning appliances, cook stoves, and fireplaces. No fuel source may be added to the
 86 combustions chamber or firebox of any [NONLISTED] *solid fuel burning appliance* or
 87 waste oil burning *appliance not listed above*. Residents should rely instead on their
 88 home’s alternate, cleaner source of heat (such as a gas or fuel oil fired furnace or boiler
 89 or electric baseboard heaters) until the Stage 2 air *alert* is cancelled.

90 3. If a building owner or other person with a property or managerial interest
 91 in the building has an approved “no other adequate source of heat” designation, the
 92 building owner is exempted from complying with the Stage 2 air *alert* restrictions for that
 93 building.

94 4. Outdoor burning is prohibited including nonpermitted incinerators and burn
 95 barrels. This does not include recreational fires such as bonfires, campfires or
 96 ceremonial fires and the use of fire pits.

97 5. These restrictions shall not apply during a power failure.

98 E. Stage 3: Required Restrictions in the *Air Quality Control Zone* During an *Alert*.

99 1. A Stage 3 air *alert* is implemented when concentrations exceed or are
 100 forecasted to exceed 55 µg/m³.

101 2. No fuel source may be added to the combustions chamber or firebox of
 102 any *solid fuel burning appliances, masonry heaters, pellet fuel burning appliances, cook*
 103 *stoves, fireplaces, or waste oil burning appliances*. No waste oil may be added to a
 104 waste oil burning *appliance*. Residents should rely instead on their home’s alternate,
 105 cleaner source of heat (such as a furnace, boiler or electric baseboard heaters) until the
 106 Stage 3 air *alert* is cancelled.

107 3. If a building owner or other person with a property or managerial interest
 108 in the building has an approved “no other adequate source of heat” designation the
 109 building owner is exempted from complying with the Stage 3 air *alert* restrictions for that
 110 building.

111 4. Outdoor burning is prohibited including nonpermitted incinerators and burn
 112 barrels. This does not include recreational fires such as bonfires, campfires or
 113 ceremonial fires and the use of fire pits.

114 5. These restrictions shall not apply during a power failure or to [LISTED
 115 *APPLIANCES*] EPA certified solid fuel burning appliances, EPA Phase II Qualified
 116 hydronic heaters with an annual average emission rating of 2.5 grams or less, *masonry*
 117 *heaters or pellet fuel burning appliances* when the temperature is below -15 Fahrenheit
 118 as recorded at the Fairbanks International Airport.

119
 120 Section 4. This ordinance is effective at 5:00 p.m. on the first Borough
 121 business day following its adoption except that Section 2 shall apply retroactively with
 122 an effective date of May 1st, 2015.
 123

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

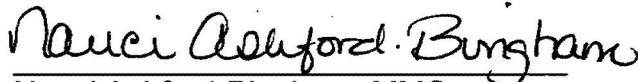
Text to be *deleted* is [BRACKETED AND CAPITALIZED]

124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140

PASSED AND APPROVED THIS 25TH DAY OF JUNE, 2015.


Karl Kassel
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

Ayes: Quist, Sattley, Hutchison, Lawrence, Dodge, Davies, Kassel
Noes: Roberts
Excused: Golub

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

By: Karl W. Kassel, Mayor
Introduced: 12/10/2015
Advanced: 12/10/2015
Amended: 01/14/2016
Adopted: 01/14/2016

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2015-73

AN ORDINANCE AMENDING CHAPTER 8.21 OF THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES REGARDING THE PM2.5 AIR QUALITY CONTROL PROGRAM

WHEREAS, FNSB code of ordinances requires realty disclosures for all residences sold where an unlisted solid fuel burning device is installed, a requirement that to date has only produced two disclosures with zero solid fuel burning device change outs; and

WHEREAS, FNSB code of ordinances limits air quality complaint response to emissions from solid fuel burning appliances only; and

WHEREAS, In adopting a clean air program that is enforced by concentrating on the most significant sources of PM2.5 pollution, both for attainment within the Non-Attainment area and for significant local sources of pollution that affect nearby properties, the complaint response program would be better suited to all types of high particulate emitting sources; and

WHEREAS, On February 27th, 2015 the assembly adopted ordinance 2015-01 which created an Air Quality Control Zone, an area designated to refocus the FNSB woodsmoke mitigation efforts ; and

WHEREAS, The current code of ordinances dictates that the Enhanced Voluntary Removal, Replacement, and Repair Program be made available to all residences within the FNSB, an area larger than the non-attainment boundary and the Air Quality Control Zone; and

WHEREAS, The FNSB has made \$500,000 of general fund balance money available for the woodstove change out program and the greatest air quality improvement can be achieved by applying it within designated hot spot areas; and

WHEREAS, The FNSB assembly and the State of Alaska has adopted a 20% moisture content requirement for cordwood as part of ordinance 2015-01; and

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]

45
 46 WHEREAS, Dirigo Laboratories conducted a series of tests detailing the
 47 benefits and limitations of mixing Superior Pellet Fuels energy logs with local cordwood,
 48 the largest benefits to stove emissions reductions were with wet wood which is now
 49 illegal within the borough; and

50
 51 WHEREAS, The price of heating fuel has dropped to a 8 year low making
 52 it a more economical and cleaner to heat with oil instead of energy logs; and

53
 54 WHEREAS, FNSB code allows a one-time cash payment for the removal
 55 of a solid fuel burning appliance, a benefit which could see larger participation with a
 56 higher incentive.

57
 58 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
 59 North Star Borough:

60
 61 Section 1. Classification. This ordinance is of a general and permanent
 62 nature and shall be codified.

63
 64 Section 2. FNSB 8.21.020, **Borough listed appliances**, is amended as
 65 follows:

66 A solid fuel burning appliance shall be listed by the borough if:

67 A. The solid fuel burning appliance is certified by the U.S. Environmental Protection
 68 Agency as meeting the federal emissions rate of 2.5 grams of PM2.5 per hour or less or
 69 for hydronic heaters, meets Phase II qualifications and has [AN ANNUAL AVERAGE
 70 EMISSION LEVEL RATING EQUAL TO OR LESS THAN 2.5 GRAMS OF PM2.5 PER
 71 HOUR] an emission rating of 0.10 pounds per million BTU or less. For purposes of this
 72 section, “certified” means that the solid fuel burning appliance meets emission
 73 performance standards when tested by an accredited independent laboratory and
 74 labeled according to procedures specified by the EPA in 40 CFR 60 Subpart AAA; or

75 B. The solid fuel burning appliance is tested, including by use of a handheld or other
 76 portable device, by an accredited independent laboratory, or other qualified person or
 77 entity approved by the borough, establishing that it meets an emissions rate of 2.5
 78 grams of PM2.5 per hour or less or for hydronic heaters the appliance has [AN ANNUAL
 79 AVERAGE EMISSION LEVEL RATING EQUAL TO OR LESS THAN 2.5 GRAMS OF
 80 PM2.5 PER HOUR] an emission rating of 0.10 pounds per million BTU or less.

81
 82 Section 3. FNSB 8.21.025 C. 1. regarding the visible emissions standard
 83 is amended as follows:

84 1. Standard. No person shall cause, permit, or allow [THE] particulate
 85 emissions [FROM A SOLID FUEL BURNING APPLIANCE] from a non-mobile source in
 86 the air quality control zone to create opacity greater than 20 percent for a period or
 87 periods aggregating more than 10 minutes in any hour except during the first 30

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED AND CAPITALIZED]

88 minutes after the initial firing [OF A COLD UNIT] when the opacity limit shall be less
 89 than 50 percent.

90
 91 Section 4. FNSB 8.21.025 D. is amended as follows:

92 D. PM2.5 Emissions Crossing Property Lines. No person shall cause or permit
 93 particulate emissions [FROM A SOLID FUEL BURNING APPLIANCE] from a non-
 94 mobile source to impact the resident(s) of a neighboring property through the creation of
 95 an emissions plume that:

- 96 1. Crosses a property line;
 - 97 2. Is observable using EPA Method 22 (40 CFR 60 Appendix A); and
 - 98 3. Is 25 µg/m³ greater than the surrounding immediate vicinity background
- 99 PM2.5 level using methods defined by the borough division of air quality. For purposes
 100 of this subsection, the surrounding “immediate vicinity” means land within an area
 101 measured 1,200 feet in all directions from the boundaries of the emitting property.

102
 103 Section 5. FNSB 8.21.025 H. is amended as follows:

104 H. Nuisance. No person within the Fairbanks North Star Borough shall cause or
 105 allow particulate emissions [OF A SOLID FUEL OR WASTE OIL BURNING
 106 APPLIANCE] from a non-mobile source that are injurious to human life or to property or
 107 that unreasonably interfere with the comfortable enjoyment of life or property. No
 108 person within the Fairbanks North Star Borough shall operate a solid fuel or waste oil
 109 burning appliance in a manner so as to create a public or private nuisance. A violation
 110 of a provision of this chapter is hereby declared to be a nuisance.

111

112 Section 6. FNSB 8.21.035 A. 1. Regarding applications for the enhanced
 113 voluntary removal, replacement and repair program is amended as follows:

- 114 1. Application. An application approved by the *division* and signed by all
 115 property owner(s) must be submitted along with any documentation required by the
 116 *division*. Applications for either the removal of a solid fuel burning appliance or
 117 replacement with an appliance designed to use natural gas, propane or home heating
 118 oil shall include a signed recordable document restricting future installations of solid fuel
 119 burning appliances and requiring appropriate notice to purchasers in the seller’s
 120 disclosure statement. Applicants must fully comply with the *division’s* inspection
 121 process which shall verify the existence of a qualifying SFBA or *fireplace*.

122

123 Section 7. FNSB 8.21.035 A. 3., regarding eligibility for the enhanced
 124 voluntary removal, replacement and repair program is amended as follows:

- 125 3. Eligibility. The program is limited to properties within the [BOROUGH] air
 126 quality control zone boundary in which a qualifying SFBA or fireplace is installed. If an
 127 application is approved for the program, the applicant will be given up to 90 days to
 128 meet all of the requirements. Applicants must have no delinquent property tax or
 129 penalty or interest owing at the time of application and at completion of the program
 130 requirements.

131

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED AND CAPITALIZED]

132 Section 8. FNSB 8.21.035 A. 5., regarding payments for the enhanced
133 voluntary removal, replacement and repair program is amended as follows:

134 5. Payments. Applicants will be eligible for reimbursements or, at the option
135 of the applicant, payment may be made directly to a borough-approved vendor.
136 Reimbursements and payments shall be available as follows:

137 a. Replacement of an [OUTDOOR] *hydronic heater*:

138 _____ i. With either an [BOROUGH LISTED SOLID FUEL BURNING
139 APPLIANCE, OR AN APPLIANCE DESIGNED TO USE PELLETS] EPA certified wood
140 or pellet stove with an emission rate less than or equal to 2.0 grams of PM2.5 per hour,
141 or an EPA phase II certified pellet burning hydronic heater with an emission rate equal
142 to or less than 0.1 pounds per million BTU, up to \$10,000 for purchase and installation
143 of the appliance.

144 _____ ii. With an appliance designed to use home heating oil
145 (excluding waste oil) or a masonry heater (including parts, labor and any costs
146 associated with upgrading the chimney to the extent required by the manufacturer of the
147 appliance for proper installation), up to \$12,000 for purchase and installation of the
148 appliance.

149 _____ iii. With an appliance designed to use natural gas, propane, hot
150 water district heat, or electricity up to \$14,000 for purchase and installation of the
151 appliance. [OR A MASONRY HEATER (INCLUDING PARTS, LABOR AND ANY
152 COSTS ASSOCIATED WITH UPGRADING THE CHIMNEY TO THE EXTENT
153 REQUIRED BY THE MANUFACTURER OF THE APPLIANCE FOR PROPER
154 INSTALLATION).

APPLIANCE + FUEL PAYMENT
UP TO \$10,000 FOR PURCHASE AND
INSTALLATION OF THE APPLIANCE PLUS FUEL
PAYMENT, IF APPLICABLE

156]

b. Replacement of a non-borough-listed SFBA or *fireplace*:

157 _____ i. With either an [BOROUGH LISTED SOLID FUEL BURNING
158 APPLIANCE] EPA certified wood stove, or fireplace insert that has an emission rate
159 less than or equal to 2.0 grams of PM2.5 per hour, or in the case of an EPA certified
160 wood stove, PM2.5 emissions must be reduced by 50 percent and emit 2.0 grams of
161 PM2.5 per hour or less [THAN THE REPLACED HEATER], up to \$4,000 for purchase
162 and installation of the appliance.

163 _____ ii. With [or]an appliance designed to use pellets, - up to \$5,000
164 for purchase and installation of the appliance.

165 _____ iii. With an appliance designed to use home heating oil
166 (excluding waste oil), hot water district heat, electricity, or a masonry heater (including
167 parts, labor and any costs associated with upgrading the chimney to the extent required
168 by the manufacturer of the appliance for proper installation) up to \$6,000 for the
169 purchase and installation of the appliance.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED AND CAPITALIZED]

171 iv. With an *appliance* designed to use natural gas[,] or propane
 172 up to \$10,000 per purchase and installation of the appliance. [, HOT WATER DISTRICT
 173 HEAT, ELECTRICITY OR A *MASONRY HEATER* (INCLUDING PARTS, LABOR AND
 174 ANY COSTS ASSOCIATED WITH UPGRADING THE CHIMNEY TO THE EXTENT
 175 REQUIRED BY THE MANUFACTURER OF THE *APPLIANCE* FOR PROPER
 176 INSTALLATION).] Multiple non-borough-listed *solid fuel burning appliances* or
 177 *fireplaces*, or combinations thereof, may be replaced with a single heating device that
 178 meets the requirements above, except for those that are fired by solid fuels. Payment
 179 will be based on the number of devices removed, up to a maximum of three, and may
 180 not exceed the replacement cost.

181

[APPLIANCE + FUEL PAYMENT
UP TO \$4,000 PER DEVICE FOR PURCHASE AND INSTALLATION OF THE <i>APPLIANCE</i> PLUS FUEL PAYMENT, IF APPLICABLE.]

182

183 c. Removal of a SFBA (limited to a one-time participation in this
 184 program per property).

185

Cash Payment
<u>\$5,000</u> [\$2,000] – if removing [OUTDOOR] <i>hydronic heater</i> \$2,000 [\$1,000]– if removing other SFBAs

186

187 [D. FUEL PAYMENT. IF A WOOD BURNING APPLIANCE IS
 188 PURCHASED AND INSTALLED UNDER THIS PROGRAM, THE APPLICANT IS
 189 ELIGIBLE TO RECEIVE AN ADDITIONAL \$300.00 PAYMENT FOR BOROUGH
 190 APPROVED PRESSED WOOD ENERGY LOGS MANUFACTURED IN THE
 191 FAIRBANKS NORTH STAR BOROUGH.]

192

193 Section 9. Effective Date. This ordinance is effective at 5:00 p.m. on the
 194 first Borough business day following its adoption.

195

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED AND CAPITALIZED]

196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2016.


John Davies
Presiding Officer

ATTEST:



Nanci Ashford-Bingham, MMC
Borough Clerk

Ayes: Cooper, Golub, Lawrence, Dodge, Quist, Davies
Noes: Roberts
Excused: Sattley, Hutchison

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED AND CAPITALIZED]

By: Karl W. Kassel, Mayor
 Kathryn Dodge
 John Davies
 Introduced: 07/28/2016
 Advanced: 07/28/2016
 Adopted: 08/11/2016

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016-20-1A

AN ORDINANCE AMENDING THE FY 2016-17 BUDGET BY APPROPRIATING
 \$290,400 FROM THE GENERAL FUND FUND BALANCE TO THE TRANSIT
 ENTERPRISE PROJECTS FUND TO DESIGN AND OPERATE AN AIR QUALITY
 MONITORING NETWORK

WHEREAS, In 2009 the Environmental Protection Agency (EPA) designated Fairbanks a “PM2.5 Non-Attainment” area; and

WHEREAS, The Fairbanks North Star Borough (FNSB) returned regulatory air quality monitoring responsibilities to the State of Alaska in FY 2017; and

WHEREAS, The FNSB has designed a community based Air Quality Monitoring Plan that will enhance real-time decision making and provide actionable inputs for improved air quality; and

WHEREAS, The FNSB Air Quality Division will integrate several different monitor types to identify, in real-time, high PM2.5 emissions sources, resulting in targeted and increased community engagement actions; and

WHEREAS, The last comprehensive Air Quality speciation study was conducted by the FNSB in 2013; and

WHEREAS, This funding will be used for, but not limited to, the purchase of a variety of monitor types, a maintenance and deployment contract, equipment hosting contracts, equipment operating supplies, and a speciation study; and

WHEREAS, This Community-Based Air Quality Monitoring Program is estimated to last three years and funding in subsequent fiscal years for operating the program (FY18 and FY19) are intended to be included in the Mayor’s recommended budgets for those years.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

46 Section 1. Classification. This ordinance is not of a general and
47 permanent nature and shall not be codified.

48
49 Section 2. General Fund Appropriation. The FY 2016-17 budget is
50 hereby amended by appropriating \$290,400 to the General Fund budgetary guideline
51 entitled "Contribution to Transit Enterprise Projects Fund" and by increasing
52 Contribution from Fund Balance by a like amount.

53
54 Section 3. Transit Enterprise Projects Fund Appropriation. The FY
55 2016-17 budget is hereby amended by appropriating \$290,400 to the Transit Enterprise
56 Projects Fund budgetary guideline entitled "Community-Based Air Quality Monitoring
57 Program" and increasing Contribution from General Fund by a like amount.

58
59 Section 4. Lapse of Funds. Upon completion or abandonment of the
60 project, any unexpended, unencumbered funds will lapse to the General Fund fund
61 balance.


62
63 Section 5. Effective Date. This ordinance is effective at 5:00 p.m. on
64 the first Borough business day following its adoption.

65
66 PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2016.

67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86

John Davies
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

Yeses: Cooper, Sattley, Hutchison, Westlind, Lawrence, Quist, Davies
Noes: Roberts
Other: Dodge (Excused)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

By: Van Lawrence
Matthew Cooper
Introduced: 03/24/2016
Advanced: 03/24/2016
Substituted: 05/04/2016
Amended: 05/04/2016
Adopted: 05/04/2016

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016-21

AN ORDINANCE AMENDING FNSB 8.21.025 TO REQUIRE THE REMOVAL OF CERTAIN UNLISTED HYDRONIC HEATERS IN THE AIR QUALITY CONTROL ZONE, AMENDING THE FY 2015-16 BUDGET BY APPROPRIATING \$500,000 FROM THE GENERAL FUND FUND BALANCE TO THE TRANSIT ENTERPRISE PROJECTS FUND TO PAY FOR THE REMOVAL OF THE UNLISTED HYDRONIC HEATERS AND SUSPEND ALL OTHER PAYMENTS FROM THE VOLUNTARY REMOVAL AND REPLACEMENT PROGRAM UNTIL MAY 1, 2017

WHEREAS, Hydronic heaters that do not have an emissions rating of 0.10 pounds per million BTU or less cannot, under existing code, be legally installed in the borough’s nonattainment area; and

WHEREAS, Certain hydronic heaters significantly contribute to the borough’s air quality problem; and

WHEREAS, The Borough has offered in past years and continues to offer a removal program that pays homeowners to remove or replace these hydronic heaters; and

WHEREAS, The Borough needs to increase funding of the removal program and temporarily preclude other program spending in order to ensure funds are available to pay owners who are required to remove these unlisted hydronic heaters; and

WHEREAS, The imminent reclassification by the EPA of the Fairbanks North Star Borough from a Moderate to a Serious non-attainment area will result in the imposition of control measures, including expensive technology upgrades for power plants and other stationary sources, which will lead to insignificant improvement to air quality but will significantly increase utility rates; and

44 WHEREAS, The Borough's continued failure to significantly reduce PM2.5
45 pollution will further result in offset sanctions which will strangle economic development
46 in the non-attainment area and highway sanctions eliminating federal funding of road
47 projects within the non-attainment area; and

48
49 WHEREAS, These sanctions will be lifted if and when air quality violations
50 cease.

51
52 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
53 North Star Borough:

54
55 Section 1. Sections 2, 3 and 4 are of a general and permanent nature and
56 shall be codified. Sections 5, 6 and 7 shall not be codified.

57
58 Section 2. FNSBC 8.21.025 B. is hereby amended as follows:

59 B. No person who has been convicted of or pled no contest to two or more
60 violations of this chapter involving visible emissions or emissions crossing property lines
61 shall, in the air quality control zone, operate, use or keep installed a hydronic heater
62 unless the hydronic heater is:

- 63 1. Borough listed or was listed at the time of installation,
- 64 2. A closed combustion system with automatic components that feed solid
65 fuel, including wood pellets, into a firebox where the combustion is enhanced by an
66 active airflow system, or
- 67 3. Connected to a thermal mass system that is certified by the contractor or
68 installer as sufficient to allow the hydronic heater to burn at maximum capacity
69 minimizing on/off cycling. The division may require an owner to provide documentation
70 supporting the certification.

71
72 This prohibition shall be effective 90 days after the 2nd conviction or entry or a no
73 contest plea.

74
75 All persons owning and selling their property within the *air quality control zone* with an
76 installed non-EPA-certified *solid fuel burning appliance*[, OR FOR *HYDRONIC*
77 *HEATERS* NON-EPA PHASE II QUALIFICATIONS,]that will not be removed before
78 sale must provide a written disclosure to the buyer prior to closing, and a copy to the
79 *division* no later than 10 days after the recording of the sale.

80

81 Section 3. FNSBC 1.04.050, fine schedule, is amended to add the
 82 following:

Code Section	<u>Offense</u>	Penalty/Fine	Mandatory Warning Required
8.21.025(B)	<u>Failure to remove, using or operating a prohibited hydronic heater. 1st offense.</u>	<u>\$500</u>	<u>Yes, with removal as soon as practicable.</u>
8.21.025(B)	<u>Failure to remove, using or operating a prohibited hydronic heater. 2nd offense.</u>	<u>\$1,000</u>	<u>No.</u>

83
 84 Section 4. General Fund Appropriation. The FY 2015-16 budget is
 85 hereby amended by appropriating \$500,000 to the General Fund budgetary guideline
 86 entitled “Contribution to Transit Enterprise Projects Fund” and by increasing
 87 Contribution from Fund Balance by a like amount.

88
 89 Section 5. Transit Enterprise Projects Fund Appropriation. The
 90 FY 2015-16 budget is hereby amended by appropriating \$500,000 to the Transit
 91 Enterprise Projects Fund budgetary guideline entitled “Enhanced Voluntary Removal,
 92 Replacement, and Repair Program” and by increasing Contribution from General Fund
 93 by a like amount.

94
 95 Section 6. Limited Use of Funds. All unencumbered funds remaining in
 96 the removal, replacement and repair program on the effective date of this ordinance
 97 may be spent only on payments to applicants within the air quality zone who are (1)
 98 removing or replacing an unlisted hydronic heater or (2) removing or replacing a
 99 woodstove that has been the subject of more than one substantiated neighborhood
 100 complaint and meeting additional criteria established by the Mayor. This restriction shall
 101 continue until May 1, 2017 or until the assembly appropriates additional funds to pay for
 102 the other removal, replacement or repairs authorized under the program, whichever
 103 occurs first.

104
 105 Section 7. Lapse of Funds for the “Enhance Voluntary Removal,
 106 Replacement, and Repair Program”. Upon completion or abandonment of the program,
 107 any unexpended and unencumbered funds will lapse to the General Fund fund balance.

108
 109 Section 8. Effective Date. Sections 2, 3 and 4 of this ordinance shall be
 110 effective on October 1, 2016. The remaining sections shall be effective at 5:00 pm. on
 111 the first Borough business day following its adoption.

112


113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130

PASSED AND APPROVED THIS 4TH DAY OF MAY, 2016.



John Davies
Presiding Officer

ATTEST:



Nanci Ashford-Bingham, MMC
Borough Clerk

Ayes: Sattley, Hutchison, Cooper, Westlind, Lawrence, Dodge, Quist, Davies
Noes: Roberts

1	By:	John Davies
2	Introduced:	04/14/2016
3	Advanced:	04/14/2016
4	Adopted:	04/28/2016

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016-30

AN ORDINANCE AMENDING THE FAIRBANKS NORTH STAR BOROUGH CODE OF
 ORDINANCES TO ADOPT THE PROPOSED RENUMBERING AND
 REORGANIZATION

WHEREAS, Codification is a process of organizing and arranging all legislation of a permanent and general nature into Code and a recodification is any new replacement of the original Code; and

WHEREAS, The Fairbanks North Star Borough Code of Ordinances was first codified in 1975 and has since undergone two recodifications, the most recent in 2004; and

WHEREAS, It is necessary to routinely update a Code to ensure maximum usability, flexibility, amendability and economy resulting in a Code that is easy to access, easy to understand, has room to grow and is simple and inexpensive to maintain; and

WHEREAS, The proposed recodification is a product of an extensive legal review by Code Publishing, Co. and the FNSB Legal Department to eliminate expired provisions, outdated references to state law, and conflicts with other code provisions or laws; and

WHEREAS, Following recodification, the Fairbanks North Star Borough Code of Ordinances will present an updated, orderly and logical composition of all permanent Borough legislation.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:


Section 1. This ordinance is not of a general and permanent nature and shall not be codified.

Section 2. The Clerk is authorized to approve the attached Fairbanks North Star Borough Code proposed renumbering and reorganization plan prepared by Code Publishing Company and to take all other action necessary to implement the plan.

47 Section 3. The attached proposed renumbering and reorganization is
48 adopted.

49
50 Section 4. Effective Date. Section 2 of this ordinance shall be effective at
51 5:00 p.m. of the first Borough business day following its adoption. Section 3 of the
52 ordinance is effective July 15th, 2016.

53
54 PASSED AND APPROVED THIS 28TH DAY OF APRIL, 2016.

55
56
57
58
59 
60 John Davies
61 Presiding Officer
62

63 ATTEST:

64
65 
66
67 Nanci Ashford-Bingham, MMC
68 Borough Clerk
69

70
71 Ayes: Sattley, Hutchison, Cooper, Westlind, Roberts, Lawrence, Dodge, Quist, Davies
72 Noes: None

**Fairbanks North Star Borough Code
Proposed Renumbering
Prepared by Code Publishing Company**

2004 Code	New Code	New Name
TITLE 1		GENERAL PROVISIONS
1.03.010 – 1.03.040, 1.03.110 – 1.03.160	1.04	Code Adoption – General Provisions
1.01	1.08	Borough Incorporation
1.02, 8.01.010, 8.01.020, 8.02.010	1.12	Borough Powers
2.60	1.16	Public Records and Privacy
1.04	1.20	Penalty Provisions
TITLE 2		ADMINISTRATION AND PERSONNEL
2.04	2.04	Borough Mayor
2.16	2.08	Borough Administration Departments
2.19	2.12	Borough Attorney
2.28, 9.04	2.16	Emergency Management
2.05 (except 2.05.050)	2.20	Risk Management
2.32.042, 2.32.052	2.24	Library Director
2.36.070 – 2.36.100	2.28	Parks and Recreation
2.24	2.32	Personnel System
TITLE 3		ASSEMBLY
2.08, 2.09.010(A) – (D) and (H), 2.09.020, 2.09.200	3.04	Borough Assembly
2.09.070, 2.20	3.08	Borough Clerk
1.03.050 – 1.03.100	3.12	Ordinances
2.09.030, 2.09.050, 2.09.060, 2.09.080, 2.09.090	3.16	Meetings
2.09.035	3.20	Agendas
2.09.010(E) – (G) and (I), 2.09.040, 3.01.200(C), 14.02.040(A)	3.24	Committees
TITLE 4		BOARDS AND COMMISSIONS
2.21 (except 2.21.190)	4.04	General Provisions
2.63	4.08	Agricultural Commission
2.48	4.12	Air Pollution Control Commission
2.38, 6.14.020, 6.14.030	4.16	Animal Control Commission
2.10.040 – 2.10.110	4.20	Assembly Board of Ethics

**Fairbanks North Star Borough Code
Proposed Renumbering**
Prepared by Code Publishing Company

2004 Code	New Code	New Name
18.52.030, last three sentences of 18.56.025(C)	4.24	Board of Adjustment
3.24.002	4.28	Board of Equalization
2.37	4.32	Chena Riverfront Commission
2.100	4.36	Early Childhood Development Commission
2.75	4.40	Economic Development Commission
8.01.030, 8.01.050 – 8.01.070	4.44	Emergency Medical Services (EMS) Boards
2.67	4.48	Health and Social Services Commission
2.64	4.52	Historic Preservation Commission
3.04.130	4.56	Investment Advisory Committee
2.65	4.60	John A. Carlson Community Center Advisory Board
2.80	4.64	Land Management Advisory Commission
2.105	4.68	Landscape Review Board
2.32.012, 2.32.022	4.72	Library Commission
2.36.010 – 2.36.060	4.76	Parks and Recreation Commission
2.40, 18.52.020	4.80	Planning Commission
2.39	4.84	Platting Board
2.56	4.88	Public Transportation Advisory Commission
2.110	4.92	Recycling Commission
2.95	4.96	Road Service Revolving Loan Fund Board
2.70	4.100	Senior Citizens Advisory Commission
2.22	4.104	Salaries and Emoluments Commission
2.45	4.108	Sister City Commission
2.62	4.112	Trails Advisory Commission
2.90	4.116	Youth Commission
TITLE 5		ELECTIONS
2.12.010 – 2.12.120, 2.12.780, 14.01.071	5.04	General Provisions
2.12.130 – 2.12.170	5.08	Voter Qualifications
2.12.180 – 2.12.270	5.12	Candidate Qualifications
2.12.280 – 2.12.315	5.16	Ballots

**Fairbanks North Star Borough Code
Proposed Renumbering**
Prepared by Code Publishing Company

2004 Code	New Code	New Name
2.12.320 – 2.12.455	5.20	Operation of Polls
2.12.460 – 2.12.510	5.24	Ballot Counting Procedures
2.12.520 – 2.12.620	5.28	Absentee Voting
2.12.630 – 2.12.680	5.32	Canvass Board and Certification of Election Results
2.12.690 – 2.12.730	5.36	Election Recount
2.12.740	5.40	Appeal or Judicial Review
TITLE 6		CODE OF ETHICS
	Division 1.	Assembly Code of Ethics
2.10.330	6.04	Definitions
2.10.010 – 2.10.030	6.08	Purpose and Applicability
2.10.120	6.12	Violations
2.10.130	6.16	Gifts and Required Disclosure
2.10.150 – 2.10.300	6.20	Procedures
2.10.310, 2.10.320	6.24	Penalties and Remedies
	Division 2.	Code of Ethics for Boards and Commissions, Mayor and Borough Employees
2.21.190	6.28	Code of Ethics for Boards and Commissions
2.25	6.32	Code of Ethics for Mayor and Borough Employees
TITLE 7		FINANCE
3.01 (except 3.01.200(C))	7.04	Fiscal Management
3.02	7.08	Grant Management
3.03	7.12	Budget Management
3.04 (except 3.04.130, 3.04.140)	7.16	Investment of Borough Funds
TITLE 8		REVENUE AND TAXATION
	Division 1.	Property Taxes
3.08, 3.11.070, 3.12	8.04	General Provisions
3.10	8.08	Exemptions and Deferrals
3.11.010 – 3.11.060, 3.11.080	8.12	Criteria for Real Property Exemptions and Deferrals

**Fairbanks North Star Borough Code
Proposed Renumbering
Prepared by Code Publishing Company**

2004 Code	New Code	New Name
3.24.001, 3.28	8.16	Appeal – Remedies Available to Property Taxpayers Seeking Relief From Taxes Assessed or Paid
3.32	8.20	Delinquency and Foreclosure
3.36	8.24	Redemption, Sale and Repurchase
3.40	8.28	Statute of Limitations
	Division 2.	Other Assessments, Taxes and Fees
3.05	8.32	Special Assessment Procedures
3.46	8.36	Oil and Gas Property Tax
3.55	8.40	Borough Debt and Bonds
3.57	8.44	Tobacco Distribution Excise Tax
3.58	8.48	Hotel-Motel Room Tax
3.59	8.52	Alcoholic Beverage Tax
8.10	8.56	Solid Waste Collection District
3.50	8.60	User Fees
TITLE 9		PUBLIC PEACE, MORALS AND WELFARE
9.12	9.04	Offenses Against Public Property
9.16	9.08	Liquor Licenses
9.17	9.12	Marijuana Regulation
9.20	9.16	Compulsory Attendance
8.07	9.20	Curfew for Minors
TITLE 10		TRAFFIC AND VEHICLES
	Division 1.	Abandoned Vehicles – Vehicle Impoundment
8.14	10.04	Abandoned Vehicles
10.01	10.08	Vehicle Impoundment
	Division 2.	Permanent Motor Vehicle and Noncommercial Trailer Registration
10.02	10.12	Permanent Motor Vehicle and Noncommercial Trailer Registration
TITLE 11		NATURAL GAS UTILITY
11.01.010, 11.01.030	11.04	Establishment of Utility and Management
TITLE 12		STREETS AND SIDEWALKS
12.01	12.04	Protection of Public Roads and Areas

**Fairbanks North Star Borough Code
Proposed Renumbering**
Prepared by Code Publishing Company

2004 Code	New Code	New Name
12.02	12.08	Traffic Regulations
12.03	12.12	Street and Road Maintenance
14.03	12.16	Excavation and Construction on Public Roads Within Road Service Areas
TITLE 13		STORM WATER DISCHARGE
21.20	13.04	Definitions
21.10	13.08	General Provisions
21.30	13.12	Illicit Discharge Detection and Elimination
21.40	13.16	Construction Site Storm Water Runoff Control
21.50	13.20	Post-Construction Storm Water Management
TITLE 14		SERVICE AREAS AND COMMISSIONS
	Division 1.	General Provisions
14.01.011 – 14.01.061, 14.01.091 – 14.01.181 (except last sentence of 14.01.151(C))	14.04	General Provisions
14.01.081, 14.01.160, 17.60.200	14.08	Annexation and Boundaries
	Division 2.	Service Area District Councils
14.02.010, 14.02.020, 14.02.030, 14.02.040(B), 14.02.050	14.12	Service Area District Councils
	Division 3.	Service Area Creation, Powers and Commissions
14.08 (except 14.08.030, 14.08.110, 14.08.150, 14.08.155, 14.08.180, 14.08.230, 14.08.270, 14.08.275, 14.08.290, 14.08.300, 14.08.900)	14.16	Road Construction, Maintenance, and Improvement
14.08.110, 14.08.150, 14.08.155, 14.08.180, 14.08.290, 14.08.300, 14.08.900	14.20	Fire Protection

**Fairbanks North Star Borough Code
Proposed Renumbering
Prepared by Code Publishing Company**

2004 Code	New Code	New Name
14.08.030, 14.08.230, 14.08.270, 14.08.275	14.24	Utilities – Parks and Recreation
TITLE 15		BUILDINGS AND CONSTRUCTION
15.04	15.04	Floodplain Management Regulations
TITLE 16		PUBLIC PROCUREMENT AND SURPLUS
2.05.050, 3.04.140, 11.01.020, 16.21	16.04	Procurement Generally
16.25	16.08	Office of the Chief Procurement Officer
14.01.151(C) last sentence, 16.30	16.12	Source Selection and Contract Formation
16.35	16.16	Specifications
16.40	16.20	Construction Contract Management and Contract Administration
16.45	16.24	Bonds and Bid Security
16.50	16.28	Contract Clauses and Their Administration
16.55	16.32	Professional Services
16.60	16.36	Debarment or Suspension
16.65	16.40	Appeals and Remedies
16.70	16.44	Ethics in Public Contracting
TITLE 17		SUBDIVISIONS
	Division 1.	General Provisions
17.20	17.04	Definitions
17.10	17.08	General Provisions
	Division 2.	Subdivision Applications and Approval Processes
17.30.010 – 17.30.030	17.12	Major Plats
17.30.040 – 17.30.060	17.16	Quick Plats
17.30.070 – 17.30.100	17.20	Waiver of a Plat
17.30.110, 17.30.120	17.24	Amendments
17.30.130 – 17.30.160	17.28	Right-of-Way Acquisition Plats
	Division 3.	Other Related Applications and Approval Processes
17.40.010 – 17.40.040	17.32	Vacations
17.40.050 – 17.40.080	17.36	Street Naming of Public Roads

**Fairbanks North Star Borough Code
Proposed Renumbering**
Prepared by Code Publishing Company

2004 Code	New Code	New Name
17.40.090 – 17.40.120	17.40	Street Naming of Private Roads
17.50	17.44	Assurances for Completion
	Division 4.	Subdivision Requirements
17.60.010	17.48	Preliminary Plats
17.60.020 – 17.60.055	17.52	Final Plats
17.60.060 – 17.60.180	17.56	Design and Public Improvement Requirements
17.60.190, 17.60.210, 17.60.220, 17.60.230	17.60	Other Miscellaneous Requirements
	Division 5.	Variations – Appeals
17.70	17.64	Variations
17.80	17.68	Appeals
TITLE 18		ZONING
18.06	18.04	Definitions
18.02	18.08	Comprehensive Plan
18.04	18.12	General Provisions
18.08	18.16	Zoning District Designations
18.10	18.20	OR Outdoor Recreational District
18.11	18.24	OSB Open Space Buffer District
18.14	18.28	RA-40, RA-20, RA-10 and RA-5 Rural and Agricultural Districts
18.16	18.32	RF-4 and RF-2 Rural Farmstead Districts
18.18	18.36	RE-4 and RE-2 Rural Estate Districts
18.20	18.40	RR Rural Residential District
18.22	18.44	SF-20, SF-10 and SF-5 Single-Family Residential Districts
18.24	18.48	TF Two-Family Residential District
18.26	18.52	MF Multiple-Family Residential District
18.28	18.56	MFO Multiple-Family Residential/ Professional Office District
18.32	18.60	LC Light Commercial District
18.34	18.64	GC General Commercial District
18.36	18.68	CBD Central Business District
18.38	18.72	LI Light Industrial District
18.40	18.76	HI Heavy Industrial District

**Fairbanks North Star Borough Code
Proposed Renumbering**
Prepared by Code Publishing Company

2004 Code	New Code	New Name
18.42	18.80	ML Mineral Lands District
18.44	18.84	GU-1 General Use District
18.45	18.88	GU-5 General Use District
18.48	18.92	Overlay Designations
18.50	18.96	Supplementary Regulations
18.52.010	18.100	Department of Community Planning
18.54	18.104	Amendments, Changes and Procedures
18.56 (except last three sentences of 18.56.025(C))	18.108	Nonconforming (Grandfathered) Uses and Lots
18.58	18.112	Enforcement and Penalties
Title 18 Appendix A	18.116	Geometric Standards
TITLE 19		MOBILE HOMES
19.20	19.04	Definitions
3.16	19.08	Mobile Home Registration
19.10	19.12	Mobile Home Parks
3.44	19.16	Mobile Home Sales
TITLE 20		LAND ACQUISITION, MANAGEMENT AND SALE
25.25.030	20.04	Definitions
25.25.010	20.08	Purpose
25.05	20.12	Land Acquisition
25.10	20.16	Land Management
25.15	20.20	Land Sale
25.20	20.24	Determining Which Borough Lands May Be Sold or Retained
TITLE 21		HEALTH AND SAFETY
3.60, 8.03	21.04	Emergency Communication Services
8.05	21.08	Carbon Monoxide Emergency Episode Prevention Plan
8.06	21.12	Oxygenated Fuel
8.08	21.16	Fireworks
8.12	21.20	Garbage and Solid Waste
8.20	21.24	Vehicle Plug-In Program
8.21	21.28	PM _{2.5} Air Quality Control Program

**Fairbanks North Star Borough Code
Proposed Renumbering**
Prepared by Code Publishing Company

2004 Code	New Code	New Name
TITLE 22		ANIMALS
6.04.010	22.04	Definitions
6.04.020	22.08	Animal Control Management
6.06	22.12	Fees and Deposits
6.12	22.16	Impoundment
6.14.010	22.20	Animal Bite Incidents
6.16	22.24	Rabies Control
6.24	22.28	Unlawful Acts
6.04.030, 6.28	22.32	Enforcement – Penalties

Approved by borough:	<u>Nanci Asekopod-Bingham</u> Name <u>Borough Clerk</u> Position	<u>4.29.16</u> Date
----------------------	---	------------------------

1	By:	Karl Kassel, Mayor
2	Introduced:	06/23/2016
3	Advanced:	06/23/2016
4	Amended:	07/28/2016
5	Adopted:	07/28/2016

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016-37

AN ORDINANCE AMENDING TITLE 21 REGARDING NO OTHER ADEQUATE SOURCE OF HEAT DETERMINATIONS

WHEREAS, Borough code exempts qualifying buildings with no other adequate source of heat from compliance with certain air quality regulations; and

WHEREAS, Granting these exemptions only to buildings constructed prior to December 31, 2016 will encourage property owners to include an alternative source of heat in new construction for use during times of exceedances; and

WHEREAS, Because borough codes imposing restrictions on the use of solid fuel and other appliances during air alerts apply only to the air quality zone, only owners within the air quality zone need to apply for a "no other adequate source of heat" determination.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 21.28.060 **No other adequate source of heat determination** is amended to read as follows:

A. A building owner or other person with a property or managerial interest in [THE] a building located within the air quality control zone may obtain a "no other adequate source of heat" determination from the division if:

1. The building owner(s) or other person with a property or managerial interest in the building applies with the division on a form developed by the division[.];

2. The building owner(s) or other person with a property or managerial interest in the building files an affidavit with the application that the subject structure must be heated and the structure has no adequate heating source without using a solid fuel or waste oil burning appliance or that economic hardships require the applicant's use of a solid fuel or waste oil burning appliance or complying with a restriction would

45 result in damage to property including damage to the appliance itself and its heating
46 system components[.]; and

47 3. The building was constructed on or before December 31, 2016.

48 B. There shall be no fee for applying for or obtaining a determination.

49 C. It shall be a violation to submit a false affidavit for a "no other adequate source of
50 heat" determination.


51 D. If the "no other adequate source of heat" appliance does not meet the standards
52 set in this chapter, the division shall provide the applicant with information concerning
53 the borough's voluntary removal, replacement and repair program.

54 E. Applications denied by the division may be appealed to the air pollution control
55 commission.

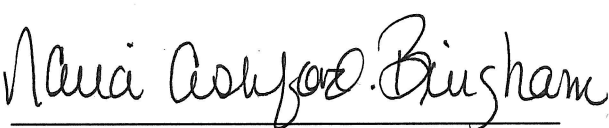
56
57 Section 3. Effective Date. This ordinance shall be effective at 5:00 p.m.
58 of the first Borough business day following its adoption.

59
60 PASSED AND APPROVED THIS 28TH DAY OF JULY, 2016.

61
62
63

64
65
66 
67 John Davies
68 Presiding Officer
69

70 ATTEST:

71
72 
73
74 Nanci Ashford-Bingham, MMC
75 Borough Clerk
76

77
78 Yeses: Cooper, Sattley, Hutchison, Westlind, Lawrence, Dodge, Davies

79 Noes: Roberts

80 Other: Quist (Excused)

1	By:	Karl Kassel, Mayor
2	Introduced:	02/23/2017
3	Advanced:	02/23/2017
4	Amended:	03/09/2017
5	Adopted:	03/09/2017
6	Immediate	
7	Reconsideration Failed:	03/09/2017
8	Adopted:	03/09/2017

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2017-18

AN ORDINANCE AMENDING CHAPTER 21.28 FNSBC
 REGARDING THE PM_{2.5} AIR QUALITY CONTROL PROGRAM AND AMENDING
 FNSBC 1.20.080, FINE SCHEDULE

WHEREAS, The United States Environmental Protection Agency (EPA), on December 22, 2008, declared part of the Fairbanks North Star Borough a non-attainment area for fine particulate pollution (PM_{2.5}); and

WHEREAS, On December 16, 2016 the EPA published public notice in the Federal Register of its intent to reclassify the Fairbanks North Star Borough's non-attainment area from Moderate to Serious status; and

WHEREAS, Reclassification to Serious non-attainment status triggers the mandate that Best Available Control Measures be implemented as mitigation measures within the non-attainment area; and

WHEREAS, The State of Alaska, through a Memorandum of Agreement with the Borough, has authorized the Fairbanks North Star Borough to establish and administer an area-wide local PM_{2.5} air quality control program that will operate in lieu of and consistent with the State's air quality program; and

WHEREAS, In the winter, PM_{2.5} concentrations in the non-attainment area routinely exceed the allowable limit, thereby violating the federal health-based standards; and

WHEREAS, An excessive level of PM_{2.5} impacts the health and well being of borough residents; and

WHEREAS, Air quality issues could negatively impact large scale economic development, including military expansion, in the Fairbanks North Star Borough.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

45
 46 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
 47 North Star Borough:

48
 49 Section 1. This ordinance is of a general and permanent nature and shall
 50 be codified.

51
 52 Section 2. FNSBC 21.28.010, **Definitions**, shall be amended as follows:

53
 54 [“ADVISORY” MEANS A NOTICE ISSUED BY THE FNSB AIR QUALITY
 55 DIVISION WHEN THE DIVISION DETERMINES, USING AVAILABLE DATA, THAT A
 56 PM_{2.5} CONCENTRATION OF 25 µG/M³ HAS OCCURRED, OR WILL LIKELY OCCUR.]

57
 58 [“AIR QUALITY ALERT” MEANS AN ADVISORY, ALERT OR EPISODE
 59 CONCERNING AIR QUALITY WHETHER ISSUED BY THE FAIRBANKS NORTH
 60 STAR BOROUGH OR THE STATE OF ALASKA.]

61
 62 “Air quality control zone” means the area of the borough currently contained in
 63 the EPA designated nonattainment area, which uses the nonattainment area southern,
 64 western and eastern boundaries as modified by their respective intersection with the
 65 following northern boundary described as: beginning at the intersection of Isberg Road
 66 with Chena Ridge Road on the western boundary of the EPA designated nonattainment
 67 area, then following Chena Ridge Road back to Chena Pump Road and continuing
 68 north on the Parks Highway to Sheep Creek Road, then Sheep Creek Road to Miller Hill
 69 Road, then north on Miller Hill Road, then east on Yankovich, then north from
 70 Yankovich Road along the east boundary of the Large Animal Research Station to a
 71 point just north of its intersection with Nottingham Drive and follows the ridge crest
 72 across Nottingham Estates to approximately the point where Swallow Drive intersects
 73 Dalton Trail to north on Dalton Trail to the crest of the Farmer’s Loop Ridge, then follow
 74 the geographic crest of Farmer’s Loop Ridge to its intersection with the New Steese
 75 Highway, then southeast on Bennet Road, and along Steel Creek Road to the
 76 intersection of Chena Hot Springs Road, and Chena Hot Springs Road to the eastern
 77 boundary of the EPA designated nonattainment area.

78
 79 “Air Quality Index” (AQI) is an index for reporting daily air quality, which indicates
 80 how polluted the air currently is or how polluted it is forecast to become. The higher the
 81 AQI value, the greater the level of air pollution and the greater the health concern. AQI
 82 is divided into six categories with correspondingly higher levels of health concern as
 83 outlined in the table below:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

AQI (Air Quality Index)	AQI Category	Cautionary Statement	Health Statement
0-50	Good	None	None
51-100	Moderate	Unusually sensitive people should consider reducing prolonged or heavy exertion.	None
101-150	Unhealthy for Sensitive Groups	People with respiratory or heart disease, the elderly, and children should limit prolonged exertion.	Increasing likelihood of respiratory symptoms in sensitive individuals, aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly.
151-200	Unhealthy	People with respiratory or heart disease, the elderly, and children should avoid prolonged exertion; everyone else should limit prolonged exertion.	Increased aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; increased respiratory effects in general population.
201-300	Very Unhealthy	People with respiratory or heart disease, the elderly, and children should avoid outdoor activity; everyone else should avoid prolonged exertion.	Significant aggravation of the heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; significant increase in respiratory effects in the general population.
301-500	Hazardous	Everyone should avoid any outdoor exertion; people with respiratory or heart disease; the elderly and children should remain indoors.	Significant aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; significant increase in respiratory effects in the general population.

84

85

86 “Alert” means a notice issued by the [FNSB AIR QUALITY] division when the
 87 division determines, using available data or modeling, that [A] PM_{2.5} [VIOLATION OF
 88 THE 35 µg/m³ HAS OCCURED OR WILL LIKELY OCCUR] concentration levels have
 89 reached or are forecasted to reach 25µg/m³ or higher for at least 12 consecutive hours.

90

91 “Appliance” means a device or apparatus that is manufactured and designed to
 92 utilize energy and which does not require a stationary source air quality permit from the
 93 state of Alaska under 18 AAC 50.

94

95 “Clean wood” means natural wood that has not been painted, varnished, or
 96 coated with a similar material, has not been treated with preservatives, and does not
 97 contain resins or glues as in plywood or other composite wood products.

98

99 “Construction and demolition debris” means a conglomeration of materials from
 100 construction, repair, remodeling or demolition of buildings and structures containing any
 101 prohibited fuels.

102

103 “Cook stove” means a wood burning appliance that is designed primarily for
 104 cooking food and that has the following characteristics:

- 105 1. An oven, with a volume of 0.028 cubic meters (one cubic foot) or greater,
- 106 and an oven rack;
- 107 2. A device for measuring oven temperatures;
- 108 3. A flame path that is routed around the oven;
- 109 4. A shaker grate;
- 110 5. An ash pan;

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

- 111 6. An ash clean-out door below the oven; and
- 112 7. The absence of a fan or heat channels to dissipate heat from the device.

113
 114 “Division” means the Fairbanks North Star Borough air quality division.

115
 116 “Emergency Power System” is an independent source of electrical power that
 117 supports important electrical systems on loss of normal power supply. An emergency
 118 power system may include a standby generator, batteries, and other apparatus.
 119 Emergency power systems are installed to protect life and property from the
 120 consequences of loss of normal electric power supply.

121
 122 “EPA” means the United States Environmental Protection Agency.

123
 124 “EPA certified” means that the solid fuel burning appliance meets emission
 125 performance standards when tested by an accredited independent laboratory and is
 126 labeled according to procedures specified by the EPA in 40 CFR Part 60 Subpart AAA
 127 or QQQQ.

128
 129 [“EPISODE” MEANS WHEN CONDITIONS REACH OR ARE PREDICTED TO
 130 REACH ADVISORY OR ALERT STATUS.]

131
 132 “Fireplace” means an assembly consisting of a hearth and open fire chamber of
 133 noncombustible factory-built or masonry materials and provided with a chimney, for use
 134 with solid fuels, which cannot be operated with an air to fuel ratio of less than 35 to one.

135
 136 “Fireplace insert” means a solid fuel burning appliance similar in function and
 137 performance to a freestanding wood burning stove, which is made from cast iron or
 138 steel designed to be installed in an existing masonry or prefabricated fireplace.

139
 140 “Forecast” means a description of the current dispersion conditions described as
 141 good, fair, or poor and including the expected PM_{2.5} [CONCENTRATIONS
 142 EXPRESSING IN MICROGRAMS PER CUBIC METER] NowCast AQI categorized as
 143 good, moderate, unhealthy for sensitive groups, unhealthy, very unhealthy, or
 144 hazardous.

145
 146 “Heating appliances” means, but is not limited to: [OIL FURNACES, GAS
 147 FURNACES, WOOD STOVES, COAL STOVES, WOOD-FIRED HYDRONIC
 148 HEATERS, WOOD-FIRED FURNACES, COAL-FIRED HYDRONIC HEATERS, COAL-
 149 FIRED FURNACES] wood, coal, or pellet fired hydronic heaters, stoves, and furnaces;
 150 oil or gas fired boilers and furnaces; and masonry heaters, pellet stoves, cook stoves,
 151 and fireplaces.

152
 153 “Hydronic” means having to do with a system moving heat from one location to
 154 another by means of the circulation of a heat transfer liquid through piping or tubing.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

155

156 “Hydronic heater” means a fuel burning appliance designed to (1) burn wood or
 157 other solid fuels and (2) heat building space and/or domestic hot water via the
 158 distribution, typically through pipes, of a fluid heated in the appliance.

159

160 “Masonry heater” means a wood burning appliance that complies with the
 161 guidelines of ASTM E1602-08, Standard Guide for Construction of Masonry Heaters,
 162 and:

163 1. Is designed and intended for operation only in a closed combustion chamber
 164 configuration; and

165 2. Has enough thermal storage capacity to maintain no less than 50.0 percent of the
 166 maximum masonry-mass temperature for at least four hours after the maximum
 167 masonry-mass temperature has been reached; and

168 3. The masonry heater design and installation has been confirmed and documented
 169 by a qualified person or entity approved by the borough.

170

171 “Nonattainment area” is the area depicted on the map attached to the ordinance
 172 codified in this chapter and is further defined as follows:

173 Township Range Delineated Boundary for the Fairbanks

174 Nonattainment Area

175 MTRS F001N001 – All Sections, MTRS F001N001E – Sections 2-11, 14-

176 23, 26-34, MTRS F001N002 – Sections 1-5, 8-17, 20-29, 32-36, MTRS

177 F001S001E – Sections 1, 3-30, 32-36, MTRS F001S001W – Sections 1-

178 30, MTRS F001S002E – Sections 6-8, 17-20, 29-36, MTRS F001S002W

179 – Sections 1-5, 8-17, 20-29, 32-33, MTRS F001S003E – Sections 31-32,

180 MTRS F002N001E – Sections 31-35, MTRS F002N001 – Sections 28, 31-

181 36, MTRS F002N002 – Sections 32-33, 36, MTRS F002S001E – Sections

182 1-2, MTRS F002S002E – Sections 1-17, 21-24, MTRS F002S003E –

183 Sections 5-8, 18.

184

185 “NowCast” means a weighted average of hourly air monitoring data used by
 186 the EPA for real-time reporting of the AQI for PM.

187

188 “Opacity” means the reduction in transmitted light through a column of smoke as
 189 measured by an observer certified in using EPA Reference Method 9 as defined by
 190 federal law or EPA approved Alternative Method 82 which is defined as American
 191 Society for Testing and Materials (ASTM) D 7520-09.

192

193 “Particulate matter” or “PM” means total particulate matter including PM₁₀ and
 194 PM_{2.5} (condensable and noncondensable fraction) and is a complex airborne mixture of
 195 extremely small particles and liquid droplets that are made up of a number of
 196 components, including acids, organic chemicals, metals, soil, or dust.

197

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

198 “Pellet fuel burning appliance” or “pellet stove” means a closed combustion,
199 vented pellet burning appliance with automatic components creating an active air flow
200 system, sold with the hopper and auger combination as integral parts, and designed,
201 warranted, safety listed, and advertised by the manufacturer specifically to be fueled by
202 pellets of sawdust, wood products and other biomass materials while prohibiting the use
203 of cordwood.

204
205 “PM_{2.5}” means particulate matter comprised of particles that have diameters of
206 two and one-half microns or less.

207
208 “Sale” means the transfer of ownership or control.

209
210 “Solid fuel burning appliance” (SFBA) means any appliance[, UNLESS
211 SPECIFICALLY EXCLUDED FROM THIS DEFINITION,] designed to produce heat by
212 burning nongaseous and nonliquid fuels. This definition includes, but is not limited to:

- 213 1. Wood stoves;
- 214 2. Coal stoves;
- 215 3. Wood-fired *hydronic heaters*;
- 216 4. Wood-fired furnaces;
- 217 5. Coal-fired *hydronic heaters*;
- 218 6. Coal-fired furnaces; [AND]
- 219 7. *Fireplace inserts*[.];
- 220 8. Pellet fuel burning appliances;
- 221 9. Masonry Heaters;
- 222 10. Cook Stoves; and
- 223 11. Fireplaces.

224
225 [THE FOLLOWING APPLIANCES ARE SPECIFICALLY EXCLUDED FROM THIS
226 DEFINITION:

- 227 1. MASONRY HEATERS;
- 228 2. PELLET FUEL BURNING APPLIANCES;
- 229 3. COOK STOVES; AND
- 230 4. FIREPLACES.]

231
232 “Waste oil burning appliance” means an appliance that burns used or waste oil.

233
234 Section 3. FNSBC 21.28.020, **Borough listed appliances**, shall be
235 amended as follows:

236
237 A solid fuel burning appliance shall be listed by the borough if:

238
239 A. The solid fuel burning appliance is EPA certified [CERTIFIED BY THE U.S.
240 ENVIRONMENTAL PROTECTION AGENCY (EPA)] as meeting the federal emissions
241 rate of 2.5 grams of PM_{2.5} per hour or less, or for hydronic heaters, [MEETS PHASE II

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

242 QUALIFICATIONS] is EPA certified and has an emission rating of 0.10 pounds per
 243 million BTU or less]. FOR PURPOSES OF THIS SECTION, "CERTIFIED" MEANS
 244 THAT THE SOLID FUEL BURNING APPLIANCE MEETS EMISSION PERFORMANCE
 245 STANDARDS WHEN TESTED BY AN ACCREDITED INDEPENDENT LABORATORY
 246 AND LABELED ACCORDING TO PROCEDURES SPECIFIED BY THE EPA IN 40
 247 CFR 60 SUBPART AAA]; or

248
 249 B. The solid fuel burning appliance is a masonry heater, cook stove, or fireplace; or
 250

251 C. The solid fuel burning appliance is tested, including by use of a handheld or other
 252 portable device, by an accredited independent laboratory, or other qualified person or
 253 entity approved by the borough, establishing that it meets the emissions rate of 2.5
 254 grams per hour or less. [OR FOR HYDRONIC HEATERS THE APPLIANCE HAS AN
 255 EMISSION RATING OF 0.1 POUNDS PER MILLION BTU OR LESS.]
 256

257 Section 4. FNSBC 21.28.030, **Prohibited acts**, shall be amended as
 258 follows:
 259

260 A. Installation of Certain Solid Fuel Burning Appliances in the Nonattainment Area.
 261 Within the nonattainment area no person shall install or allow the installation of a solid
 262 fuel burning appliance unless it is listed by the borough as qualifying under this chapter
 263 and the installation complies with all other requirements imposed in this chapter. It is a
 264 separate violation to fail to remove a solid fuel burning appliance installed in violation of
 265 this chapter.
 266

267 B. No person who has been convicted of or pled no contest to two or more
 268 violations of this chapter involving visible emissions or emissions crossing property lines
 269 shall, in the air quality control zone, operate, use or keep installed a hydronic heater
 270 unless the hydronic heater is:

- 271 1. Borough listed or was listed at the time of installation,
- 272 2. A closed combustion system with automatic components that feed solid
 273 fuel, including wood pellets, into a firebox where the combustion is enhanced by an
 274 active airflow system, or
- 275 3. Connected to a thermal mass system that is certified by the contractor or
 276 installer as sufficient to allow the hydronic heater to burn at maximum capacity
 277 minimizing on/off cycling. The division may require an owner to provide documentation
 278 supporting the certification.

279 This prohibition shall be effective 90 days after the second conviction or entry [OR] of a
 280 no contest plea.

281 [ALL PERSONS OWNING AND SELLING THEIR PROPERTY WITHIN THE AIR
 282 QUALITY CONTROL ZONE WITH AN INSTALLED NON-EPA-CERTIFIED SOLID
 283 FUEL BURNING APPLIANCE THAT WILL NOT BE REMOVED BEFORE SALE MUST
 284 PROVIDE A WRITTEN DISCLOSURE TO THE BUYER PRIOR TO CLOSING, AND A

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

285 COPY TO THE DIVISION NO LATER THAN 10 DAYS AFTER THE RECORDING OF
 286 THE SALE.]

287

288 C. Visible Emissions Standard in the Air Quality Control Zone.

289 1. Standard. No person shall cause, permit, or allow particulate emissions
 290 from a nonmobile source in the air quality control zone to create opacity greater than 20
 291 percent for a period or periods aggregating more than 10 minutes in any hour except
 292 during the first 40[30] minutes after the initial firing when the opacity limit shall be less
 293 than 50 percent.

294 2. Procedures and Enforcement. When ambient weather and light conditions
 295 permit, methods and procedures specified by the EPA in 40 CFR 60 Appendix A
 296 Reference Method 9 (Visual determination of the Opacity of Emissions From Stationary
 297 Sources), or an alternative technology that replaces Method 9, when the technology is
 298 available and the choice is feasible, upon request of the person being investigated, shall
 299 be used to determine compliance with this section. Smoke visible from a chimney, flue
 300 or exhaust duct in excess of the opacity standard for a period in excess of 30 minutes
 301 shall constitute prima facie evidence of unlawful operation of an applicable solid fuel
 302 burning appliance.

303

304 D. PM_{2.5} Emissions Crossing Property Lines. No person shall cause or permit
 305 particulate emissions from a nonmobile source to impact the resident(s) of a
 306 neighboring property through the creation of an emissions plume that:

- 307 1. Crosses a property line;
- 308 2. Is observable using EPA Method 22 (40 CFR 60 Appendix A); and
- 309 3. Is 25 g/m³ greater than the surrounding immediate vicinity background
 310 PM_{2.5} level using methods defined by the borough division of air quality. For purposes of
 311 this subsection, the surrounding "immediate vicinity" means land within an area
 312 measured 1,200 feet in all directions from the boundaries of the emitting property.

313

314 E. Borough-Wide Installation Requirements for Hydronic Heaters.

315 1. Setback. Unless permitted by a variance, [INSTALLING AN APPROVED
 316 PELLET FUEL BURNING APPLIANCE]or if replacing an existing hydronic heater with a
 317 listed appliance, no person shall install or allow the installation of a hydronic heater
 318 located less than:

- 319 a. Three hundred thirty feet from the closest property line; or
- 320 b. Six hundred sixty feet from a school, clinic, hospital, or senior
 321 housing unit.

322 2. Any hydronic heater installed in violation of this section shall be
 323 immediately remedied or made inoperable and removed as soon as practicable;
 324 however, in no case shall the time of removal be longer than 180 days after notice from
 325 the *division* of a violation.

326

327 F. Prohibited Fuels. No person shall burn in the borough any fuel, except coal in an
 328 appliance designed to use coal, which is not listed in the manufacturer's owner's

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

329 manual as an acceptable fuel for that device or any of the following items in a solid fuel
330 burning appliance:

- 331 1. Any wood that does not meet the definition of clean wood or has more
- 332 than 20 percent moisture content;
- 333 2. Garbage;
- 334 3. Tires;
- 335 4. Materials containing plastic or rubber;
- 336 5. Waste petroleum products;
- 337 6. Paints and paint thinners;
- 338 7. Chemicals;
- 339 8. Glossy or colored papers;
- 340 9. Construction and demolition debris;
- 341 10. Plywood;
- 342 11. Particleboard;
- 343 12. Saltwater driftwood;
- 344 13. Manure;
- 345 14. Animal carcasses;
- 346 15. Asphalt products;
- 347 16. Flooring products.

348
349 G. Sales or Leasing of Solid Fuel Burning Appliances.

350 1. No person shall sell or lease an unlisted solid fuel burning appliance or
351 barrel stove kit in the borough [THAT DOES NOT MEET THE EMISSIONS LIMITS
352 ESTABLISHED IN FNSBC 21.28.020(A)] unless the buyer signs an affidavit, on a form
353 prescribed by the borough, attesting that the appliance will not be installed or used in
354 the air quality control zone. This section does not apply to appliances or stoves that
355 transfer pursuant to a sale of property;

356 2. No person shall commercially sell or offer for sale or lease a solid fuel
357 burning appliance in the borough unless the commercial seller or dealer provides the
358 prospective buyer or lessee, prior to any sales or lease agreement, with a written notice,
359 prepared or approved by the division, that includes, but is not limited to, the following:

- 360 a. The fuel restrictions imposed in this chapter;
- 361 b. Proper installation, property location, operation, and maintenance
- 362 of the appliance;

363 c. An advisory statement noting that operation of solid fuel burning
364 appliances may not be appropriate in some areas due to terrain, meteorological
365 conditions, or other relevant conditions that render the operation of the appliance a
366 public nuisance or health hazard even though it is otherwise legally installed and
367 operated;

368 3. The written notice required in this section shall be signed and dated by the
369 prospective buyer or lessee prior to purchase or lease to indicate receipt of the
370 notification requirements of this section;

371 4. The commercial dealer or seller shall mail or otherwise provide a copy of
372 the notice[,] and any required affidavit[,] to the division within 30 days of the sale. All

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED, CAPITALIZED]

373 commercial dealers or sellers shall also include with the notice documentation showing
374 whether the appliance sold or leased meets the borough's emissions standard.

375
376 H. Nuisance. No person within the Fairbanks North Star Borough shall cause or
377 allow particulate emissions from a nonmobile source that are injurious to human life or
378 to property or that unreasonably interfere with the comfortable enjoyment of life or
379 property. No person within the Fairbanks North Star Borough shall operate a solid fuel
380 or waste oil burning appliance in a manner so as to create a public or private nuisance.
381 A violation of a provision of this chapter is hereby declared to be a nuisance.

382
383 I. Other Laws. Nothing in this section precludes other local jurisdictions from having
384 more restrictive codes.

385
386 J. Penalties. Upon first conviction of an offense in this chapter, the
387 penalty(ies)/fine(s) set forth in FNSBC Title 1 regarding violations of the PM2.5 air
388 quality control program may be satisfied by completion within 60 days of a borough-
389 approved class covering PM2.5 health concerns, nonattainment, importance of dry
390 wood and proper operation of solid fuel burning appliances. The borough may on its
391 own initiative file notice of satisfaction of attendance requirements with the court, or the
392 defendant may file a certificate of completion with the court within the applicable time
393 frame.

394
395 Section 5. FNSBC 21.28.040, **Enhanced voluntary removal,**
396 **replacement and repair program**, shall be amended as follows:

397 The Fairbanks North Star Borough shall, to the extent funds are available and
398 appropriated by the assembly, offer an enhanced removal, replacement and repair
399 program to help offset the costs of removing, replacing or repairing a solid fuel burning
400 appliance (SFBA) or fireplace. This program shall be subject to the following eligibility
401 requirements, conditions, and criteria:

402
403 A. General Requirements.

404 1. Application. An application approved by the division and signed by all
405 property owner(s) must be submitted along with any documentation required by the
406 division. Applications for either the removal of a solid fuel burning appliance (SFBA), or
407 replacement of a SFBA with an emergency power system, or an appliance designed to
408 use natural gas, propane, or home heating oil shall include a signed recordable
409 document restricting future installations of SFBAs[SOLID FUEL BURNING
410 APPLIANCES] and requiring appropriate notice to purchasers in the seller's disclosure
411 statement. Applicants must fully comply with the division's inspection process which
412 shall verify the existence of a qualifying SFBA [OR FIREPLACE].

413 2. Priority Ranking. Applications may be prioritized and may be limited by the
414 division in its discretion based on geographical location, the overall air quality benefit
415 and the type of SFBA or fireplace being removed, replaced or repaired.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]

416 3. Eligibility. The program is limited to properties within the air quality control
 417 zone boundary in which a qualifying SFBA or fireplace is installed. If an application is
 418 approved for the program, the applicant will be given up to 90 days to meet all of the
 419 requirements. Applicants must have no delinquent property tax or penalty or interest
 420 owing at the time of application and at completion of the program requirements.

421 4. Additional Requirements. In addition to the general requirements set forth
 422 in this section, applicants must also meet the following requirements:

423 a. Fully comply with the inspection process required by the division
 424 that shall ensure that the existence of the qualifying appliance to be removed, replaced
 425 or repaired is properly documented.

426 b. Removal of appliance.

427 c. Delivery of appliance to an authorized decommission station.

428 d. Certificate of destruction delivered to the division, if applicable.

429 e. Final installation of a qualified appliance visually verified.

430 f. All aspects of this section may be performed by borough-approved
 431 personnel or a borough-approved vendor.

432
 433 5. Payments. Applicants will be eligible for reimbursements or, at the option
 434 of the applicant, payment may be made directly to a borough-approved vendor.
 435 Reimbursements and payments shall be available as follows:

436 a. Replacement of a hydronic heater:

437 i. With either an EPA-certified wood or pellet stove with an
 438 emission rate less than or equal to two grams of PM_{2.5} per hour, or an EPA phase II
 439 certified pellet burning hydronic heater with an emission rate equal to or less than 0.1
 440 pounds per million BTU, or an emergency power system, up to \$10,000 for purchase
 441 and installation [OF THE APPLIANCE].

442 ii. With an appliance designed to use home heating oil
 443 (excluding waste or used oil) or a masonry heater (including parts, labor and any costs
 444 associated with upgrading the chimney to the extent required by the manufacturer of the
 445 appliance for proper installation), up to \$12,000 for purchase and installation of the
 446 appliance.

447 iii. With an appliance designed to use natural gas, propane, hot
 448 water district heat, or electricity, up to \$14,000 for purchase and installation of the
 449 appliance.

450 b. Replacement of a non-borough-listed SFBA [OR FIREPLACE]:

451 i. With either an EPA-certified wood stove, or fireplace insert
 452 that has an emission rate less than or equal to two grams of PM_{2.5} per hour, or in the
 453 case of an EPA-certified wood stove, PM_{2.5} emissions must be reduced by 50 percent
 454 and emit two grams of PM_{2.5} per hour or less, up to \$4,000 for purchase and installation
 455 of the *appliance*.

456 ii. With an EPA certified pellet stove that has an emission rate
 457 less than or equal to two grams of PM_{2.5} per hour [APPLIANCE DESIGNED TO USE
 458 PELLETS], up to \$5,000 for purchase and installation of the *appliance*.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

459 iii. With an appliance designed to use home heating oil
 460 (excluding waste oil), hot water district heat, electricity, or a masonry heater (including
 461 parts, labor and any costs associated with upgrading the chimney to the extent required
 462 by the manufacturer of the appliance for proper installation), or an emergency power
 463 system, up to \$6,000 for the purchase and installation [OF THE APPLIANCE].

464 iv. With an appliance designed to use natural gas or propane,
 465 up to \$10,000 per purchase and installation of the appliance. Multiple non-borough-
 466 listed solid fuel burning appliances or fireplaces, or combinations thereof, may be
 467 replaced with a single heating device that meets the requirements above, except for
 468 those that are fired by solid fuels. Payment will be based on the number of devices
 469 removed, up to a maximum of three, and may not exceed the replacement cost.

470 c. Removal of a SFBA (limited to a one-time participation in this
 471 program per property).

472 i. Removal of a hydronic heater through a one-time payment of
 473 \$5,000.

474 ii. Removal of other SFBAs through a one-time payment of
 475 \$2,000.

[CASH PAYMENT
\$5,000 – IF REMOVING HYDRONIC HEATER
\$2,000 – IF REMOVING OTHER SFBAS]

476 d. Repair Program.

477 i. The repair program will pay for the:
 478 (A) Replacement of a wood stove’s catalytic converter
 479 that has exceeded its life span through the one-time payment of up to \$750.00.

480 (B) Replacement of any emissions-reducing component
 481 of an EPA-certified wood stove up to the maximum amount of \$750.00.

482 ii. In addition to the general requirements set forth in this
 483 section, applicants must fully comply with any inspection process required by the
 484 division, which may be performed by a borough-approved vendor.
 485

486 Section 6. FNSBC 21.28.050, **Forecasting exceedances and**
 487 **restrictions in the air quality control zone during an alert,** shall be amended as
 488 follows:

489 A. During the winter months of October through March, the borough shall issue a
 490 daily PM_{2.5} forecast by 4:30 p.m. When the PM_{2.5} concentration reaches the onset level
 491 for an alert [EPISODE] and is expected to remain at that level for 12 hours or more, an
 492 alert [OR ADVISORY] will be declared. An alert [OR ADVISORY] may apply to the air
 493 quality control zone as a whole, or to one or more sub-areas designated by the division.
 494 Once an alert [OR ADVISORY] is declared, PM_{2.5} control measures set forth in this
 495 section shall be implemented and continued until the alert [OR ADVISORY] is
 496 cancelled. There are [THREE] two levels of [EPISODES] alerts: Stage 1[,] and Stage 2
 497 [AND 3]. The obligations imposed in this subsection do not require, absent specific
 498 funding for that purpose, any actions to be taken outside of the borough’s normal

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

499 business days and hours of operation. These restrictions shall not apply during a power
 500 failure. When an alert is in effect, outdoor burning is prohibited, including nonpermitted
 501 incinerators and burn barrels. This outdoor burning prohibition does not include
 502 recreational fires such as bonfires, campfires, or ceremonial fires and the use of fire
 503 pits.

504
 505 B. The division will notify local media to ensure the declared alert [OR ADVISORY]
 506 is broadcast. The division shall also use social media and methods of direct
 507 communication such as text messages as feasible. Information within the notification
 508 will contain the PM_{2.5} forecast, stage level for areas, and actions required to reduce
 509 sources of PM_{2.5}. The obligations imposed in this subsection do not require, absent
 510 specific funding for that purpose, any actions to be taken outside of the borough's
 511 normal business days and hours of operation.

512
 513 C. Stage 1: [VOLUNTARY] Restrictions in the Air Quality Control Zone during an
 514 [ADVISORY] Alert.

515 [1. A STAGE 1 AIR ADVISORY IS IMPLEMENTED WHEN
 516 CONCENTRATIONS EXCEED OR ARE FORECASTED TO EXCEED 25 µG/M³.

517 2. RESIDENTS SHALL BE REQUESTED TO VOLUNTARILY STOP
 518 OPERATION OF SOLID FUEL, PELLET, AND WASTE OIL BURNING APPLIANCES,
 519 AS WELL AS MASONRY HEATERS AND ALL OUTDOOR BURNING THAT
 520 INCLUDES RECREATIONAL FIRES SUCH AS BONFIRES, CAMPFIRES AND THE
 521 USE OF FIRE PITS, NONPERMITTED INCINERATORS AND BURN BARRELS IN
 522 THE AIR QUALITY CONTROL ZONE.

523
 524 D. STAGE 2: REQUIRED RESTRICTIONS IN THE AIR QUALITY CONTROL
 525 ZONE DURING AN ALERT.]

526 1. A Stage 1 [2] air alert is implemented when concentrations exceed or are
 527 forecasted to exceed 25 [35] µg/m³.

528 2. Burning is permitted in all EPA-certified solid fuel burning appliances, and
 529 EPA [PHASE II QUALIFIED] certified hydronic heaters, [WITH AN ANNUAL AVERAGE
 530 EMISSION RATING OF 2.5 GRAMS OR LESS] masonry heaters,[PELLET FUEL
 531 BURNING APPLIANCES,] and cook stoves[, AND FIREPLACES]. No fuel source may
 532 be added to the combustion[S] chamber or firebox of any solid fuel burning appliance or
 533 waste oil burning appliance not listed above. Residents should rely instead on their
 534 home's alternate, cleaner source of heat (such as a gas or fuel oil fired furnace or boiler
 535 or electric baseboard heaters) until the Stage 1 [2] air alert is cancelled.

536 3. If a building owner or other person with a property or managerial interest
 537 in the building has an approved "no other adequate source of heat" designation, the
 538 building owner is exempted from complying with the Stage 1 [2] air alert restrictions for
 539 that building.

540 [4. OUTDOOR BURNING IS PROHIBITED INCLUDING NONPERMITTED
 541 INCINERATORS AND BURN BARRELS. THIS DOES NOT INCLUDE

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

542 RECREATIONAL FIRES SUCH AS BONFIRES, CAMPFIRES OR CEREMONIAL
543 FIRES AND THE USE OF FIRE PITS.

544 5. THESE RESTRICTIONS SHALL NOT APPLY DURING A POWER
545 FAILURE.]

546
547 D[E]. Stage 2 [3]: Required Restrictions in the Air Quality Control Zone during an Alert.

548 1. A Stage 2 [3] air *alert* is implemented when concentrations exceed or are
549 forecasted to exceed 35[55] µG/M³.

550 2. No fuel source may be added to the combustion[S] chamber or firebox of
551 any solid fuel burning appliance[S, MASONRY HEATERS, PELLET FUEL BURNING
552 APPLIANCES, COOK STOVES, FIREPLACES,] or waste oil burning appliance[S. NO
553 WASTE OIL MAY BE ADDED TO A WASTE OIL BURNING APPLIANCE] . Residents
554 should rely instead on their home’s alternate, cleaner source of heat (such as a furnace,
555 boiler or electric baseboard heaters) until the Stage 2 [3] air alert is cancelled.

556 3. If a building owner or other person with a property or managerial interest
557 in the building has an approved “no other adequate source of heat” designation the
558 building owner is exempted from complying with the Stage 2 [3] air alert restrictions for
559 that building.

560 [4. OUTDOOR BURNING IS PROHIBITED INCLUDING NONPERMITTED
561 INCINERATORS AND BURN BARRELS. THIS DOES NOT INCLUDE
562 RECREATIONAL FIRES SUCH AS BONFIRES, CAMPFIRES OR CEREMONIAL
563 FIRES AND THE USE OF FIRE PITS.

564 5. THESE RESTRICTIONS SHALL NOT APPLY DURING A POWER
565 FAILURE. OR TO EPA-CERTIFIED SOLID FUEL BURNING APPLIANCES, EPA
566 PHASE II QUALIFIED HYDRONIC HEATERS WITH AN ANNUAL AVERAGE
567 EMISSION RATING OF 2.5 GRAMS OR LESS, MASONRY HEATERS OR PELLET
568 FUEL BURNING APPLIANCES WHEN THE TEMPERATURE IS BELOW -15
569 FAHRENHEIT AS RECORDED AT THE FAIRBANKS INTERNATIONAL AIRPORT.]

570
571 Section 7. FNSBC 21.28.060, **No other adequate source of heat**
572 **determination**, shall be amended as follows:

573 A. A building owner or other person with a property or managerial interest in a
574 building located within the air quality control zone may obtain a “no other adequate
575 source of heat” determination from the division if:

576 1. The SFBA being used to heat the structure is EPA certified, unless an
577 application has been made to the Enhanced Voluntary Removal, Replacement and
578 Repair Program (FNSBC 21.28.040) to remove or replace the non-certified SFBA and it
579 has been denied, a pellet fuel burning appliance installed prior to April 1, 2017, a
580 masonry heater, or a cook stove;

581 [1]2. The building owner(s) or other person with a property or managerial
582 interest in the building applies with the division on a form developed by the division;

583 [2]3. The building owner(s) or other person with a property or managerial
584 interest in the building files an affidavit with the application that the subject structure
585 must be heated and the structure has no adequate heating source without using a solid

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED, CAPITALIZED]

586 fuel or waste oil burning appliance or that economic hardships require the applicant's
587 use of a solid fuel or waste oil burning appliance or complying with a restriction would
588 result in damage to property including damage to the appliance itself and its heating
589 system components; and

590 [3]4. The building was constructed on or before December 31, 2016.

591
592 B. There shall be no fee for applying for or obtaining a determination.

593
594 C. It shall be a violation to submit a false affidavit for a "no other adequate source of
595 heat" determination.

596
597 D. If the "no other adequate source of heat" appliance does not meet the standards
598 set in this chapter, the division shall provide the applicant with information concerning
599 the borough's voluntary removal, replacement and repair program.

600
601 E. Applications denied by the division may be appealed to the air pollution control
602 commission within 30 days of the decision.

603
604 F. An applicant that has been denied a "no alternative source of heat determination"
605 by the division because the appliance does not meet the criteria of this section may
606 apply to the air pollution control commission for a variance within 10 days of this
607 decision. A temporary "no alternative source of heat" determination shall be granted
608 pending the decision of the commission. In determining whether to grant a variance,
609 the commission shall consider the location of the appliance, impact on surrounding
610 neighborhood, emission levels of the appliance, the financial investment and ability of
611 the applicant to replace the appliance and any other relevant conditions that indicate the
612 operation of the appliance at that location is not a nuisance or health-hazard. If the
613 commission denies a variance, the "no alternative source of heat" determination shall
614 expire 60 days from the date of denial.

615
616 Section 8. FNSBC 21.28.070, **Voluntary burn cessation program**, is
617 repealed as follows:

618
619 [THE FAIRBANKS NORTH STAR BOROUGH WILL, TO THE EXTENT FUNDS
620 ARE AVAILABLE AND APPROPRIATED BY THE ASSEMBLY, ESTABLISH A
621 PROGRAM TO ENCOURAGE, INCENTIVIZE, AND FACILITATE THE VOLUNTARY
622 CESSATION OF THE USE OF WOOD BURNING APPLIANCES (I.E., WOOD
623 STOVES, WOOD-FIRED HYDRONIC HEATERS, WOOD-FIRED FURNACES,
624 FIREPLACES, FIREPLACE INSERTS, MASONRY HEATERS OR PELLET FUEL
625 BURNING APPLIANCES) IN THE AIR QUALITY CONTROL ZONE DURING AIR
626 QUALITY ALERTS. IT IS RECOGNIZED THAT IT WILL BE DIFFICULT OR
627 IMPOSSIBLE FOR SOME HOUSEHOLDS TO PARTICIPATE IN THIS PROGRAM
628 (E.G., THOSE THAT HEAT SOLELY WITH WOOD OR FOR WHICH WOOD IS A
629 NECESSARY SUPPLEMENT DURING PERIODS OF COLD WEATHER).

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]

630 THEREFORE, THIS PROGRAM IS INTENDED FOR HOUSEHOLDS THAT ARE ABLE
 631 TO USE SPACE HEATING ALTERNATIVES WITH SIGNIFICANTLY LOWER PM_{2.5}
 632 EMISSIONS, INCLUDING THOSE FUELED BY GAS, OIL, ELECTRICITY, PROPANE
 633 OR DISTRICT HEAT, BUT NOT WOOD OR PELLET STOVES OR OTHER WOOD
 634 BURNING APPLIANCES. THIS PROGRAM WILL AT A MINIMUM CONSIST OF THE
 635 FOLLOWING COMPONENTS:

636 A. THE BOROUGH MAY CONTRACT WITH AN AGENCY THAT WILL PROVIDE
 637 SERVICES TO PROMOTE THE PROGRAM. THIS AGENCY MUST HAVE THE
 638 STANDING, EXPERIENCE, AND CAPABILITY TO CARRY OUT A CAMPAIGN TO
 639 ADVERTISE, REACH OUT, AND ATTRACT A LARGE NUMBER OF PARTICIPANTS
 640 IN THE NONATTAINMENT AREA WHO ARE WILLING TO CEASE THE USE OF A
 641 WOOD BURNING APPLIANCE DURING AIR QUALITY ALERTS.

642 B. FACILITATION OF THIS PROGRAM BY THE BOROUGH WILL INCLUDE, BUT
 643 NOT BE LIMITED TO, THE PROVISION OF NOTICE OF AIR QUALITY ALERTS TO
 644 INDIVIDUAL HOUSEHOLDS BY METHODS SUCH AS ELECTRONIC MAIL
 645 MESSAGES, TEXT MESSAGES, AUTOMATED PHONE CALLS, NOTICES TO RADIO
 646 AND TELEVISION STATIONS, AND INFORMATION POSTED ON ELECTRONIC
 647 READER OR DISPLAY BOARDS LOCATED THROUGHOUT THE BOROUGH IN
 648 LOCATIONS BEST SUITED TO NOTIFY RESIDENTS OF AIR QUALITY ALERTS.

649 C. PRIVATE CONTRIBUTIONS, INCLUDING GOODS AND/OR SERVICES, WILL
 650 BE SOUGHT FOR ALL APPROPRIATE ELEMENTS OF THE PROGRAM. IN
 651 GENERAL THIS WILL FOCUS ON THE PROVISION OF MATERIALS, EQUIPMENT,
 652 AND CERTAIN ONE-TIME SERVICES, BUT NOT TO FUND BOROUGH STAFF
 653 POSITIONS.]

654
 655 Section 9. FNSBC 1.20.080, **Fine Schedule**, is hereby amended as
 656 follows:

Code Section	Offense	Penalty/Fine	Mandatory Warning Required
[21.28.030(B)]	FAILURE TO DISCLOSE AN UNLISTED APPLIANCE BEFORE SALE	\$500.00	NO]
21.28.050[(D)](C)	Violation of a Stage [2]1 air alert restriction.	\$500	Yes
21.28.050[(E)](D)	Violation of a Stage [3]2 air alert restriction.	\$1,000	Yes

657
 658 Section 10. Effective Date. This ordinance shall be effective thirty
 659 days following its adoption.
 660


AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680

PASSED AND APPROVED THIS 9TH DAY OF MARCH, 2017.


Kathryn Dodge
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

Yeses: Cooper, Quist, Gray, Lawrence, Dodge, Davies
Noes: Roberts, Sattley
Other: Tacke (Excused)

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED, CAPITALIZED]

By:	Karl Kassel, Mayor
Introduced:	05/18/2017
Advanced:	05/18/2017
Amended:	06/19/2017
Adopted:	06/19/2017
Immediate Reconsideration	
Failed:	06/19/2017
Adopted:	06/19/2017

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2017-44

AN ORDINANCE AMENDING CHAPTER 21.28 FNSBC
 REGARDING THE PM2.5 AIR QUALITY CONTROL PROGRAM, AMENDING
 TITLE 4 REGARDING AIR POLLUTION CONTROL COMMISSION DUTIES,
 AMENDING FNSBC 1.20.080, FINE SCHEDULE, AND AMENDING APPENDIX E—
 USER FEE SCHEDULE/TRANSPORTATION OF ORDINANCE NO. 2017-20 (FY 2017-
 18) TO ADD PERMIT APPLICATION FEES FOR SOLID FUEL BURNING
 APPLIANCES IN NEW CONSTRUCTION

WHEREAS, The United States Environmental Protection Agency (EPA) in December 2009, declared part of the Fairbanks North Star Borough (Borough) a non-attainment area for fine particulate pollution (PM2.5); and

WHEREAS, On December 16, 2016 the EPA published public notice in the Federal Register of its intent to reclassify the Borough non-attainment area from Moderate to Serious status, and the Final Rule was signed on April 28, 2017; and

WHEREAS, The serious non-attainment designation requires a new serious State Implementation Plan (SIP) to be submitted to the EPA by December 31, 2017 which must include implementation of all Best Available Control Measures (BACM); and

WHEREAS, The Borough should consider implementing some of the control measures by June 2017 so goodwill for these control measures can be recognized in the Serious SIP.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

43 Section 1. Sections 2, 3, 4, 5, 6, 7, and 8 of this ordinance are of a
 44 general and permanent nature and shall be codified. Sections 9 and 10 of this
 45 ordinance are not of a general and permanent nature and shall not be codified.
 46

47 Section 2. FNSBC 21.28.010, Definitions, shall be amended as follows:
 48 “Air quality control zone” means the area of the borough currently contained in the EPA
 49 designated nonattainment area, which uses the nonattainment area southern, western
 50 and eastern boundaries as modified by their respective intersection with the following
 51 northern boundary described as: beginning at the intersection of Isberg Road with
 52 Chena Ridge Road on the western boundary of the EPA designated nonattainment
 53 area, then following Chena Ridge Road back to Chena Pump Road and continuing
 54 north on the Parks Highway to Sheep Creek Road, then Sheep Creek Road to Miller Hill
 55 Road, then north on Miller Hill Road, then east on Yankovich, then north from
 56 Yankovich Road along the east boundary of the Large Animal Research Station to a
 57 point just north of its intersection with Nottingham Drive and follows the ridge crest
 58 across Nottingham Estates to approximately the point where Swallow Drive intersects
 59 Dalton Trail to north on Dalton Trail to the crest of the Farmer’s Loop Ridge, then follow
 60 the geographic crest of Farmer’s Loop Ridge to its intersection with the New Steese
 61 Highway, then southeast on Bennett Road, and along Steele Creek Road to the
 62 intersection of Chena Hot Springs Road, and Chena Hot Springs Road to the eastern
 63 boundary of the EPA designated nonattainment area.
 64

65 “Air quality index” (AQI) is an index for reporting daily air quality, which indicates how
 66 polluted the air currently is or how polluted it is forecast to become. The higher the AQI
 67 value, the greater the level of air pollution and the greater the health concern. AQI is
 68 divided into six categories with correspondingly higher levels of health concern as
 69 outlined in the table below:
 70

AQI (Air Quality Index)	AQI Category	Cautionary Statement	Health Statement
0 – 50	Good	None	None
51 – 100	Moderate	Unusually sensitive people should consider reducing prolonged or heavy exertion.	None
101 – 150	Unhealthy for Sensitive Groups	People with respiratory or heart disease, the elderly, and children should limit prolonged exertion.	Increasing likelihood of respiratory symptoms in sensitive individuals, aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

AQI (Air Quality Index)	AQI Category	Cautionary Statement	Health Statement
			the elderly.
151 – 200	Unhealthy	People with respiratory or heart disease, the elderly, and children should avoid prolonged exertion; everyone else should limit prolonged exertion.	Increased aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; increased respiratory effects in general population.
201 – 300	Very Unhealthy	People with respiratory or heart disease, the elderly, and children should avoid outdoor activity; everyone else should avoid prolonged exertion.	Significant aggravation of the heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; significant increase in respiratory effects in the general population.
301 – 500	Hazardous	Everyone should avoid any outdoor exertion; people with respiratory or heart disease, the elderly and children should remain indoors.	Significant aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; significant increase in respiratory effects in the general population.

71
72 “Alert” means a notice issued by the division when the division determines, using
73 available data or modeling, that PM2.5 concentration levels have reached or are
74 forecasted to reach 25 µg/m³ or higher for at least 12 consecutive hours.

75
76 “Appliance” means a device or apparatus that is manufactured and designed to utilize
77 energy and which does not require a stationary source air quality permit from the state
78 of Alaska under 18 AAC 50.

79
80 “Clean wood” means natural wood that has not been painted, varnished, or coated with
81 a similar material, has not been treated with preservatives, and does not contain resins
82 or glues as in plywood or other composite wood products.

83
84 “Commence” means (i) begin, or cause to begin, actual on-site construction or (ii) enter
85 into binding agreements or contractual obligations to begin construction, which cannot
86 be cancelled or modified without substantial loss to the owner.

87

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]

88 “Construction and demolition debris” means a conglomeration of materials from
 89 construction, repair, remodeling or demolition of buildings and structures containing any
 90 prohibited fuels.

91
 92 “Cook stove” means a wood burning appliance that is designed primarily for cooking
 93 food and that has the following characteristics:

- 94 1. An oven, with a volume of 0.028 cubic meters (one cubic foot) or greater,
 95 and an oven rack;
- 96 2. A device for measuring oven temperatures;
- 97 3. A flame path that is routed around the oven;
- 98 4. A shaker grate;
- 99 5. An ash pan;
- 100 6. An ash clean-out door below the oven; and
- 101 7. The absence of a fan or heat channels to dissipate heat from the device.

102
 103 “Division” means the Fairbanks North Star Borough air quality division.

104
 105 “Emergency power system” is an independent source of electrical power that supports
 106 important electrical systems on loss of normal power supply. An emergency power
 107 system may include a standby generator, batteries, and other apparatus. Emergency
 108 power systems are installed to protect life and property from the consequences of loss
 109 of normal electric power supply.

110
 111 “EPA” means the United States Environmental Protection Agency.

112
 113 “EPA certified” means that the solid fuel burning appliance meets emission performance
 114 standards when tested by an accredited independent laboratory and is labeled
 115 according to procedures specified by the EPA in 40 CFR Part 60 Subpart AAA or
 116 QQQQ.

117
 118 “Fireplace” means an assembly consisting of a hearth and open fire chamber of
 119 noncombustible factory-built or masonry materials and provided with a chimney, for use
 120 with solid fuels, which cannot be operated with an air to fuel ratio of less than 35 to one.

121
 122 “Fireplace insert” means a solid fuel burning appliance similar in function and
 123 performance to a freestanding wood burning stove, which is made from cast iron or
 124 steel designed to be installed in an existing masonry or prefabricated fireplace.

125
 126 “Forecast” means a description of the current dispersion conditions described as good,
 127 fair, or poor and including the expected PM2.5 NowCast AQI categorized as good,
 128 moderate, unhealthy for sensitive groups, unhealthy, very unhealthy, or hazardous.

129

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

130 “Heating appliances” means, but is not limited to: wood, coal, or pellet fired hydronic
 131 heaters, stoves, and furnaces; oil or gas fired boilers and furnaces; and masonry
 132 heaters, pellet stoves, cook stoves, and fireplaces.
 133

134 “Hydronic” means having to do with a system moving heat from one location to another
 135 by means of the circulation of a heat transfer liquid through piping or tubing.
 136

137 “Hydronic heater” means a fuel burning appliance designed to (1) burn wood or other
 138 solid fuels and (2) heat building space and/or domestic hot water via the distribution,
 139 typically through pipes, of a fluid heated in the appliance.
 140

141 “Masonry heater” means a wood burning appliance that complies with the guidelines of
 142 ASTM E1602-08, Standard Guide for Construction of Masonry Heaters, and:

- 143 1. Is designed and intended for operation only in a closed combustion
 144 chamber configuration; and
- 145 2. Has enough thermal storage capacity to maintain no less than 50.0
 146 percent of the maximum masonry-mass temperature for at least four hours after the
 147 maximum masonry-mass temperature has been reached; and
- 148 3. The masonry heater design and installation has been confirmed and
 149 documented by a qualified person or entity approved by the borough.
 150

151 “New Construction” means construction of entirely new structures designed for heated
 152 occupancy and any structural alteration that adds heated square footage to an existing
 153 structure whether or not the structure was previously occupied.
 154

155 “Nonattainment area” is the area depicted on the map attached to the ordinance
 156 codified in this chapter and is further defined as follows:

157 Township Range Delineated Boundary for the Fairbanks
 158 Nonattainment Area
 159

160 MTRS F001N001 – All Sections, MTRS F001N001E – Sections
 161 2-11, 14-23, 26-34, MTRS F001N002 – Sections 1-5, 8-17, 20-
 162 29, 32-36, MTRS F001S001E – Sections 1, 3-30, 32-36, MTRS
 163 F001S001W – Sections 1-30, MTRS F001S002E – Sections 6-
 164 8, 17-20, 29-36, MTRS F001S002W – Sections 1-5, 8-17, 20-
 165 29, 32-33, MTRS F001S003E – Sections 31-32, MTRS
 166 F002N001E – Sections 31-35, MTRS F002N001 – Sections 28,
 167 31-36, MTRS F002N002 – Sections 32-33, 36, MTRS
 168 F002S001E – Sections 1-2, MTRS F002S002E – Sections 1-17,
 169 21-24, MTRS F002S003E – Sections 5-8, 18.
 170

171 “NowCast” means a weighted average of hourly air monitoring data used by the EPA for
 172 real-time reporting of the AQI for PM.
 173

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

174 “Opacity” means the reduction in transmitted light through a column of smoke as
 175 measured by an observer certified in using EPA Reference Method 9 as defined by
 176 federal law or EPA approved Alternative Method 82 which is defined as American
 177 Society for Testing and Materials (ASTM) D 7520-09.

178
 179 “Particulate matter” or “PM” means total particulate matter including PM10 and PM2.5
 180 (condensable and noncondensable fraction) and is a complex airborne mixture of
 181 extremely small particles and liquid droplets that are made up of a number of
 182 components, including acids, organic chemicals, metals, soil, or dust.

183
 184 “Pellet fuel burning appliance” or “pellet stove” means a closed combustion, vented
 185 pellet burning appliance with automatic components creating an active air flow system,
 186 sold with the hopper and auger combination as integral parts, and designed, warranted,
 187 safety listed, and advertised by the manufacturer specifically to be fueled by pellets of
 188 sawdust, wood products and other biomass materials while prohibiting the use of
 189 cordwood.

190
 191 “PM2.5” means particulate matter comprised of particles that have diameters of two and
 192 one-half microns or less.

193
 194 “Proper Wood Storage” means specific and dedicated space to store clean wood in
 195 such a manner that the clean wood is not in contact with soil, the top of the clean wood
 196 is adequately protected from precipitation, and with airflow available to the clean wood.

197
 198 “Sale” means the transfer of ownership or control.

199
 200 “Solid fuel burning appliance” (SFBA) means any appliance designed to produce heat
 201 by burning nongaseous and nonliquid fuels. This definition includes, but is not limited to:

- 202 1. Wood stoves;
- 203 2. Coal stoves;
- 204 3. Wood-fired hydronic heaters;
- 205 4. Wood-fired furnaces;
- 206 5. Coal-fired hydronic heaters;
- 207 6. Coal-fired furnaces;
- 208 7. Fireplace inserts;
- 209 8. Pellet fuel burning appliances;
- 210 9. Masonry heaters;
- 211 10. Cook stoves; and
- 212 11. Fireplaces.

213
 214 “Waste oil burning appliance” means an appliance that burns used or waste oil.

215
 216 Section 3. FNSBC 21.28.030 **Prohibited acts**, shall be amended as
 217 follows:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

218
 219 A. Installation of Certain Solid Fuel Burning Appliances in the Nonattainment Area.
 220 Within the nonattainment area no person shall install or allow the installation of a solid
 221 fuel burning appliance unless it is listed by the borough as qualifying under this chapter
 222 and the installation complies with all other requirements imposed in this chapter. It is a
 223 separate violation to fail to remove a solid fuel burning appliance installed in violation of
 224 this chapter.

225
 226 B. No person who has been convicted of or pled no contest to two or more
 227 violations of this chapter involving visible emissions or emissions crossing property lines
 228 shall, in the air quality control zone, operate, use or keep installed a hydronic heater
 229 unless the hydronic heater is:

- 230 1. Borough listed or was listed at the time of installation,
- 231 2. A closed combustion system with automatic components that feed solid
 232 fuel, including wood pellets, into a firebox where the combustion is enhanced by an
 233 active airflow system, or
- 234 3. Connected to a thermal mass system that is certified by the contractor or
 235 installer as sufficient to allow the hydronic heater to burn at maximum capacity
 236 minimizing on/off cycling. The division may require an owner to provide documentation
 237 supporting the certification.

238
 239 This prohibition shall be effective 90 days after the second conviction or entry of a no
 240 contest plea.

241
 242 C. Visible Emissions Standard in the Air Quality Control Zone.

243 1. Standard. No person shall cause, permit, or allow particulate emissions
 244 from a nonmobile source in the air quality control zone to create opacity greater than 20
 245 percent for a period or periods aggregating more than 10 minutes in any hour except
 246 during the first 40 minutes after the initial firing when the opacity limit shall be less than
 247 50 percent.

248 2. Procedures and Enforcement. When ambient weather and light conditions
 249 permit, methods and procedures specified by the EPA in 40 CFR 60 Appendix A
 250 Reference Method 9 (Visual determination of the Opacity of Emissions From Stationary
 251 Sources), or an alternative technology that replaces Method 9, when the technology is
 252 available and the choice is feasible, upon request of the person being investigated, shall
 253 be used to determine compliance with this section. Smoke visible from a chimney, flue
 254 or exhaust duct in excess of the opacity standard for a period in excess of 30 minutes
 255 shall constitute prima facie evidence of unlawful operation of an applicable solid fuel
 256 burning appliance.

257
 258 D. PM_{2.5} Emissions Crossing Property Lines. No person shall cause or permit
 259 particulate emissions from a nonmobile source to impact the resident(s) of a
 260 neighboring property through the creation of an emissions plume that:

- 261 1. Crosses a property line;

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

- 262 2. Is observable using EPA Method 22 (40 CFR 60 Appendix A); and
 263 3. Is 25 µg/m³ greater than the surrounding immediate vicinity background
 264 PM_{2.5} level using methods defined by the borough division of air quality. For purposes of
 265 this subsection, the surrounding “immediate vicinity” means land within an area
 266 measured 1,200 feet in all directions from the boundaries of the emitting property.
 267

268 E. Requirements for Installation of Solid Fuel Burning Appliances in New
 269 Construction.

270 1. For all new construction that commences on or after January 1, 2018 and
 271 is located within the air quality control zone the following will apply:

272 a. Installation of a solid fuel burning appliance is prohibited unless a
 273 permit has been issued by the division. A permit must be obtained for any solid
 274 fuel burning appliance installed in new construction prior to installation of the
 275 appliance.

276 b. Application. The permit application will require the owner(s) to
 277 certify they will meet the following requirements:

278 i. The proposed solid fuel burning appliance meets all federal,
 279 state, and borough air quality regulations;

280 ii. The proposed solid fuel burning appliance meets the
 281 requirements of this chapter;

282 iii. The proposed solid fuel burning appliance is properly sized
 283 for the structure in the opinion of a Borough listed vendor/installer;

284 iv. The proposed solid fuel burning appliance will be installed by
 285 a Borough listed vendor/installer attesting to proper installation of the
 286 device based on the manufacturer’s installation manual;

287 v. Proper wood storage will be available; and

288 vi. Training will be provided to the occupants on proper wood
 289 burning techniques.

290 c. Permit. An installation permit will be issued upon receipt of an
 291 application meeting the requirements of subsection (b) and payment of any
 292 required fee. Within 24 months of issuance, the owner must verify with
 293 supporting documentation that the requirements of subsection (b) have been
 294 completed, upon which an operating permit will be issued. If verification has not
 295 been submitted or approved within 24 months the permit application will
 296 automatically expire.

297 d. After a public hearing, and prior to installation of the solid fuel
 298 burning appliance, the air pollution control commission may grant a variance, the
 299 commission shall consider any alternate proposal that the applicant submits, the
 300 location of the appliance, impact on surrounding neighborhood of the requested
 301 variance, emission levels of the appliance, and any other relevant conditions that
 302 indicate the operation of the appliance at that location or the requirement that is
 303 being varied will not result in a nuisance or health-hazard.

304
 305 E[E]. Borough-Wide Installation Requirements for Hydronic Heaters.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

306 1. Setback. Unless permitted by a variance, or if replacing an existing
307 hydronic heater with a listed appliance, no person shall install or allow the installation of
308 a hydronic heater located less than:

- 309 a. Three hundred thirty feet from the closest property line; or
- 310 b. Six hundred sixty feet from a school, clinic, hospital, or senior
311 housing unit.

312 2. Any hydronic heater installed in violation of this section shall be
313 immediately remedied or made inoperable and removed as soon as practicable;
314 however, in no case shall the time of removal be longer than 180 days after notice from
315 the division of a violation.

316 3. Variance. After a public hearing, the commission shall determine whether
317 a person may receive a variance from the installation requirements of this subsection
318 allowing them to install a hydronic heater. In determining whether to grant the variance,
319 the commission shall consider the proposed location of the appliance, impact on
320 surrounding neighborhood, emission levels of the appliance, terrain, meteorological
321 conditions, and other relevant conditions that may render the operation of the appliance
322 at that location a nuisance or a health hazard.
323

324 G[F]. Prohibited Fuels. No person shall burn in the borough any fuel, except coal in an
325 appliance designed to use coal, which is not listed in the manufacturer's owner's
326 manual as an acceptable fuel for that device or any of the following items in a solid fuel
327 burning appliance:

- 328 1. Any wood that does not meet the definition of clean wood or has more
329 than 20 percent moisture content;
- 330 2. Garbage;
- 331 3. Tires;
- 332 4. Materials containing plastic or rubber;
- 333 5. Waste petroleum products;
- 334 6. Paints and paint thinners;
- 335 7. Chemicals;
- 336 8. Glossy or colored papers;
- 337 9. Construction and demolition debris;
- 338 10. Plywood;
- 339 11. Particleboard;
- 340 12. Saltwater driftwood;
- 341 13. Manure;
- 342 14. Animal carcasses;
- 343 15. Asphalt products;
- 344 16. Flooring products.

345
346 H[G]. Sales or Leasing of Solid Fuel Burning Appliances.

347 1. No person shall sell or lease an unlisted solid fuel burning appliance or
348 barrel stove kit in the borough unless the buyer signs an affidavit, on a form prescribed
349 by the borough, attesting that the appliance will not be installed or used in the air quality

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be *added* is underlined
Text to be *deleted* is [BRACKETED, CAPITALIZED]

350 control zone. This section does not apply to appliances or stoves that transfer pursuant
 351 to a sale of property;

352 2. No person shall commercially sell or offer for sale or lease a solid fuel
 353 burning appliance in the borough unless the commercial seller or dealer provides the
 354 prospective buyer or lessee, prior to any sales or lease agreement, with a written notice,
 355 prepared or approved by the division, that includes, but is not limited to, the following:

356 a. The fuel restrictions imposed in this chapter;

357 b. Proper installation, property location, operation, and maintenance
 358 of the appliance;

359 c. An advisory statement noting that operation of solid fuel burning
 360 appliances may not be appropriate in some areas due to terrain, meteorological
 361 conditions, or other relevant conditions that render the operation of the appliance
 362 a public nuisance or health hazard even though it is otherwise legally installed
 363 and operated;

364 3. The written notice required in this section shall be signed and dated by
 365 the prospective buyer or lessee prior to purchase or lease to indicate receipt of the
 366 notification requirements of this section;

367 4. The commercial dealer or seller shall mail or otherwise provide a copy of
 368 the notice and any required affidavit to the division within 30 days of the sale. All
 369 commercial dealers or sellers shall also include with the notice documentation showing
 370 whether the appliance sold or leased meets the borough's emissions standard.

371 J[H]. Nuisance. No person within the Fairbanks North Star Borough shall cause or
 372 allow particulate emissions from a nonmobile source that are injurious to human life or
 373 to property or that unreasonably interfere with the comfortable enjoyment of life or
 374 property. No person within the Fairbanks North Star Borough shall operate a solid fuel
 375 or waste oil burning appliance in a manner so as to create a public or private nuisance.
 376 A violation of a provision of this chapter is hereby declared to be a nuisance.
 377

378 J[I]. Other Laws. Nothing in this section precludes other local jurisdictions from having
 379 more restrictive codes.
 380

381 K[J]. Penalties. Upon first conviction of an offense in this chapter, the
 382 penalty(ies)/fine(s) set forth in FNSBC Title 1 regarding violations of the PM2.5 air
 383 quality control program may be satisfied by completion within 60 days of a borough-
 384 approved class covering PM2.5 health concerns, nonattainment, importance of dry
 385 wood and proper operation of solid fuel burning appliances. The borough may on its
 386 own initiative file notice of satisfaction of attendance requirements with the court, or the
 387 defendant may file a certificate of completion with the court within the applicable time
 388 frame.
 389

390 Section 4. 21.28.040 **Enhanced voluntary removal, replacement and**
 391 **repair program**, shall be amended as follows:
 392
 393

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED, CAPITALIZED]

394 The Fairbanks North Star Borough shall, to the extent funds are available and
395 appropriated by the assembly, offer an enhanced removal, replacement and repair
396 program to help offset the costs of removing, replacing or repairing a solid fuel burning
397 appliance (SFBA) or fireplace. This program shall be subject to the following eligibility
398 requirements, conditions, and criteria:

399 A. General Requirements.

400 1. Application. An application approved by the division and signed by all
401 property owner(s) must be submitted along with any documentation required by the
402 division. Applications for either the removal of a solid fuel burning appliance (SFBA), or
403 replacement of a SFBA with an emergency power system, or an appliance designed to
404 use natural gas, propane, or home heating oil shall include a signed recordable
405 document restricting future installations of SFBAs and requiring appropriate notice to
406 purchasers in the seller's disclosure statement. Applicants must fully comply with the
407 division's inspection process which shall verify the existence of a qualifying SFBA.

408 2. Priority Ranking. Applications may be prioritized and may be limited by the
409 division in its discretion based on geographical location, the overall air quality benefit
410 and the type of SFBA or fireplace being removed, replaced or repaired.

411 3. Eligibility. The program is limited to properties within the air quality control
412 zone boundary in which a qualifying SFBA or fireplace is installed. If an application is
413 approved for the program, the applicant will be given up to 90 days to meet all of the
414 requirements. Applicants must have no delinquent property tax or penalty or interest
415 owing at the time of application and at completion of the program requirements.

416 4. Additional Requirements. In addition to the general requirements set forth
417 in this section, applicants must also meet the following requirements:

418 a. Fully comply with the inspection process required by the division
419 that shall ensure that the existence of the qualifying appliance to be removed,
420 replaced or repaired is properly documented.

421 b. Removal of appliance.

422 c. Delivery of appliance to an authorized decommission station.

423 d. Certificate of destruction delivered to the division, if applicable.

424 e. Final installation of a qualified appliance visually verified.

425 f. The qualified appliance must be properly installed by a Borough
426 listed vendor/installer attesting to proper installation of the device based on
427 manufacturer's installation manual, compliance with any building code
428 requirements, and that the device is properly sized for the building in question.

429 g. The applicant will be required to demonstrate proper wood storage.

430 h. The applicant will be required to complete training with the vendor,
431 ensuring that they understand how their particular device operates, including
432 education on proper wood burning techniques.

433 i.[F] All aspects of this section may be performed by borough-approved
434 personnel or a borough-approved vendor.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED, CAPITALIZED]

- 435 5. Payments. Applicants will be eligible for reimbursements or, at the option
 436 of the applicant, payment may be made directly to a borough-approved vendor.
 437 Reimbursements and payments shall be available as follows:
- 438 a. Replacement of a hydronic heater:
 - 439 i. With either an EPA certified wood or pellet stove with an
 440 emission rate less than or equal to two grams of PM2.5 per hour, or an
 441 EPA phase II certified pellet burning hydronic heater with an emission rate
 442 equal to or less than 0.1 pounds per million BTU, or an emergency power
 443 system, up to \$10,000 for purchase and installation.
 - 444 ii. With an appliance designed to use home heating oil
 445 (excluding waste or used oil) or a masonry heater (including parts, labor
 446 and any costs associated with upgrading the chimney to the extent
 447 required by the manufacturer of the appliance for proper installation), up to
 448 \$12,000 for purchase and installation of the appliance.
 - 449 iii. With an appliance designed to use natural gas, propane, hot
 450 water district heat, or electricity, up to \$14,000 for purchase and
 451 installation of the appliance.
 - 452 b. Replacement of a non-borough-listed SFBA:
 - 453 i. With either an EPA certified wood stove, or fireplace insert
 454 that has an emission rate less than or equal to two grams of PM2.5 per
 455 hour, or in the case of an EPA certified wood stove, PM2.5 emissions
 456 must be reduced by 50 percent and emit two grams of PM2.5 per hour or
 457 less, up to \$4,000 for purchase and installation of the appliance.
 - 458 ii. With an EPA certified pellet stove that has an emission rate
 459 less than or equal to two grams of PM2.5 per hour, up to \$5,000 for
 460 purchase and installation of the appliance.
 - 461 iii. With an appliance designed to use home heating oil
 462 (excluding waste oil), hot water district heat, electricity, or a masonry
 463 heater (including parts, labor and any costs associated with upgrading the
 464 chimney to the extent required by the manufacturer of the appliance for
 465 proper installation), or an emergency power system, up to \$6,000 for the
 466 purchase and installation.
 - 467 iv. With an appliance designed to use natural gas or propane,
 468 up to \$10,000 per purchase and installation of the appliance. Multiple non-
 469 borough-listed solid fuel burning appliances or fireplaces, or combinations
 470 thereof, may be replaced with a single heating device that meets the
 471 requirements above, except for those that are fired by solid fuels. Payment
 472 will be based on the number of devices removed, up to a maximum of
 473 three, and may not exceed the replacement cost.
 - 474 c. Removal of a SFBA (limited to a one-time participation in this
 475 program per property).
 - 476 i. Removal of a hydronic heater through a one-time payment of
 477 \$5,000.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

- 478 ii. Removal of other SFBA's through a one-time payment of
- 479 \$2,000.
- 480 d. Repair Program.
- 481 i. The repair program will pay for the:
- 482 (A) Replacement of a wood stove's catalytic converter that
- 483 has exceeded its life span through the one-time payment of up to
- 484 \$750.00.
- 485 (B) Replacement of any emissions-reducing component of
- 486 an EPA certified wood stove up to the maximum amount of \$750.00.
- 487 ii. In addition to the general requirements set forth in this
- 488 section, applicants must fully comply with any inspection process required
- 489 by the division, which may be performed by a borough-approved vendor.

491 Section 5. FNSBC 21.28.050, **Forecasting exceedances and**
 492 **restrictions in the air quality control zone during an alert**, shall be amended as
 493 follows:
 494

495 A. During the winter months of October through March, the borough shall issue a
 496 daily PM2.5 forecast by 4:30 p.m. When the PM2.5 concentration reaches the onset
 497 level for an alert and is expected to remain at that level for 12 hours or more, an alert
 498 will be declared. An alert may apply to the air quality control zone as a whole, or to one
 499 or more sub-areas designated by the division. Once an alert is declared, PM2.5 control
 500 measures set forth in this section shall be implemented and continued until the alert is
 501 cancelled. There are two levels of alerts: Stage 1 and Stage 2. The obligations imposed
 502 in this subsection do not require, absent specific funding for that purpose, any actions to
 503 be taken outside of the borough's normal business days and hours of operation. These
 504 restrictions shall not apply during a power failure. When an alert is in effect, outdoor
 505 burning is prohibited, including nonpermitted incinerators and burn barrels. This outdoor
 506 burning prohibition does not include recreational fires such as bonfires, campfires, or
 507 ceremonial fires and the use of fire pits.
 508

509 B. The division will notify local media to ensure the declared alert is broadcast. The
 510 division shall also use social media and methods of direct communication such as text
 511 messages as feasible. Information within the notification will contain the PM2.5 forecast,
 512 stage level for areas, and actions required to reduce sources of PM2.5. The obligations
 513 imposed in this subsection do not require, absent specific funding for that purpose, any
 514 actions to be taken outside of the borough's normal business days and hours of
 515 operation.
 516

- 517 C. Stage 1: Restrictions in the Air Quality Control Zone during an Alert.
- 518 1. A Stage 1 air alert is implemented when concentrations exceed or are
 - 519 forecasted to exceed 25 µg/m³.
 - 520 2. No fuel source may be added to the combustion chamber of a firebox of
 - 521 any solid fuel burning appliance or waste oil burning appliance. Residents should rely

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be *added* is underlined
 Text to be *deleted* is [BRACKETED, CAPITALIZED]

522 instead on their home’s alternate, cleaner source of heat (such as a furnace, boiler or
 523 electric baseboard heaters) until the Stage 1 air alert is cancelled.[BURNING IS
 524 PERMITTED IN ALL EPA CERTIFIED SOLID FUEL BURNING APPLIANCES, AND
 525 EPA CERTIFIED HYDRONIC HEATERS, MASONRY HEATERS, AND COOK
 526 STOVES. NO FUEL SOURCE MAY BE ADDED TO THE COMBUSTION CHAMBER
 527 OR FIREBOX OF ANY SOLID FUEL BURNING APPLIANCE OR WASTE OIL
 528 BURNING APPLIANCE NOT LISTED ABOVE. RESIDENTS SHOULD RELY INSTEAD
 529 ON THEIR HOME’S ALTERNATE, CLEANER SOURCE OF HEAT (SUCH AS A GAS
 530 OR FUEL OIL FIRED FURNACE OR BOILER OR ELECTRIC BASEBOARD
 531 HEATERS) UNTIL THE STAGE 1 AIR ALERT IS CANCELLED.]

532 3. If a building owner or other person with a property or managerial interest
 533 in the building has an approved “no other adequate source of heat” designation, the
 534 building owner is exempted from complying with the Stage 1 air alert restrictions for that
 535 building.

536 4. If a building owner or other person with a property or managerial interest
 537 in the building has an approved Stage 1 Waiver the building owner is exempted from
 538 complying with the Stage 1 air alert restrictions for that building. A Stage 1 Waiver will
 539 be granted if the person with property or managerial interest verifies that the SFBA
 540 being operated during a Stage 1 air alert is a Borough listed appliance. A Stage 1
 541 Waiver may be obtained by completing an application on a form developed by the
 542 division, that includes the following information:

543 a. Documentation of approved appliance must be submitted, including
 544 pictures, make and model.

545 b. Documentation of the applicant’s ability to properly store wood.

546 c. Documentation the applicant has taken a class or training in proper wood
 547 burning techniques.

548
 549 D. Stage 2: Required Restrictions in the Air Quality Control Zone during an Alert.

550 1. A Stage 2 air alert is implemented when concentrations exceed or are
 551 forecasted to exceed 35 µg/m³.

552 2. No fuel source may be added to the combustion chamber or firebox of
 553 any solid fuel burning appliance or waste oil burning appliance. Residents should rely
 554 instead on their home’s alternate, cleaner source of heat (such as a furnace, boiler or
 555 electric baseboard heaters) until the Stage 2 air alert is cancelled.

556 3. If a building owner or other person with a property or managerial interest
 557 in the building has an approved “no other adequate source of heat” designation the
 558 building owner is exempted from complying with the Stage 2 air alert restrictions for that
 559 building.

560
 561 Section 6. FNSBC 21.28.060 **No other adequate source of heat**
 562 **determination**, shall be amended as follows:
 563

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED, CAPITALIZED]

- 564 A. A building owner or other person with a property or managerial interest in a
 565 building located within the air quality control zone may obtain a “no other adequate
 566 source of heat” determination from the division if:
- 567 1. The SFBA being used to heat the structure is a Borough listed
 568 appliance;[EPA CERTIFIED UNLESS AN APPLICATION HAS BEEN MADE TO THE
 569 ENHANCED VOLUNTARY REMOVAL, REPLACEMENT AND REPAIR PROGRAM TO
 570 REMOVE OR REPLACE THE NONCERTIFIED SFBA AND HAS BEEN DENIED, A
 571 PELLET FUEL BURNING APPLIANCE INSTALLED PRIOR TO APRIL 1, 2017, A
 572 MASONRY HEATER, OR A COOK STOVE.]
 573 a.
 - 574 2. The building owner(s) or other person with a property or managerial
 575 interest in the building applies with the division on a form developed by the division,
 576 including the following:
 - 577 a. Documentation of approved appliance must be submitted, including
 578 pictures, make, model, and serial number.
 - 579 b. Documentation of the applicant’s ability to properly store wood.
 - 580 c. Documentation the applicant has taken a class or training in proper
 581 wood burning techniques;
 - 582 3. The building owner(s) or other person with a property or managerial
 583 interest in the building files an affidavit with the application that the subject structure
 584 must be heated and the structure has no adequate heating source without using a solid
 585 fuel [OR WASTE OIL] burning appliance or that economic hardships require the
 586 applicant’s use of a solid fuel [OR WASTE OIL] burning appliance or complying with a
 587 restriction would result in damage to property including damage to the appliance itself
 588 and its heating system components. If economic hardship is the reason the applicant
 589 has no other adequate source of heat, validating documentation is required. Validating
 590 documentation may be established by showing approval for assistance from a list of
 591 agencies or programs that provide economic assistance (e.g., programs based on HHS
 592 poverty guidelines, unemployment insurance, nutrition assistance) to be made available
 593 by the division;
 - 594 4. The building was constructed on or before December 31, 2016.
- 595
- 596 B. There shall be no fee for applying for or obtaining a determination.
- 597
- 598 C. It shall be a violation to submit a false affidavit for a “no other adequate source
 599 of heat” determination.
- 600
- 601 D. If the “no other adequate source of heat” appliance does not meet the standards
 602 set in this chapter, the division shall provide the applicant with information concerning
 603 the borough’s voluntary removal, replacement and repair program.
- 604
- 605 E. Applications denied by the division may be appealed to the air pollution control
 606 commission within 30 days of the decision.
- 607

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

608 F. An applicant that has been denied a “no alternative source of heat determination”
 609 by the division because the appliance does not meet the criteria of this section may
 610 apply to the air pollution control commission for a variance within 10 days of this
 611 decision. A temporary “no alternative source of heat” determination shall be granted
 612 pending the decision of the commission. In determining whether to grant a variance, the
 613 commission shall consider the location of the appliance, impact on surrounding
 614 neighborhood, emission levels of the appliance, the financial investment and ability of
 615 the applicant to replace the appliance and any other relevant conditions that indicate the
 616 operation of the appliance at that location is not a nuisance or health hazard. If the
 617 commission denies a variance, the “no alternative source of heat” determination shall
 618 expire 60 days from the date of denial.

619
 620 Section 7. FNSBC 1.20.080, **Fine Schedule**, is hereby amended as
 621 follows:
 622

21.28.030(E)	<u>Failure to obtain, submit and execute a permit for installing a SFBA in new construction.</u>	\$1,000	No
21.28.030(F[E])	Illegal installation of hydronic heaters.	\$500.00	No
21.28.030(F[E])	Failure to remove hydronic heaters.	\$500.00	No
21.28.030(G[F])	Use of prohibited fuels. 1st offense	\$100.00	Yes
21.28.030(G[F])	Use of prohibited fuels. 2nd offense	\$500.00	No
21.28.030(H[G])	Violation of commercial sale requirements.	\$500.00	No

623
 624
 625 Section 8. Subsection G of FNSBC 4.12.110 shall be amended as
 626 follows:
 627

628 G. The commission shall hear variance requests as set forth in FNSBC Title
 629 21. [AFTER A PUBLIC HEARING, THE COMMISSION SHALL DETERMINE
 630 WHETHER A PERSON MAY RECEIVE A VARIANCE FROM THE INSTALLATION
 631 REQUIREMENTS OF FNSBC 21.28.030(E) ALLOWING THEM TO INSTALL A
 632 HYDRONIC HEATER. IN DETERMINING WHETHER TO GRANT THE VARIANCE,
 633 THE COMMISSION SHALL CONSIDER THE PROPOSED LOCATION OF THE
 634 APPLIANCE, IMPACT ON SURROUNDING NEIGHBORHOOD, EMISSION LEVELS
 635 OF THE APPLIANCE, TERRAIN, METEOROLOGICAL CONDITIONS, AND OTHER
 636 RELEVANT CONDITIONS THAT MAY RENDER THE OPERATION OF THE
 637 APPLIANCE AT THAT LOCATION A NUISANCE OR A HEALTH HAZARD.]
 638

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
 Text to be deleted is [BRACKETED, CAPITALIZED]

639 Section 9. Appendix E- User Fee Schedule of the FY 2017-18 budget is
640 hereby amended to add the following to the Transportation User Fee Schedule:

641 **Air Quality**

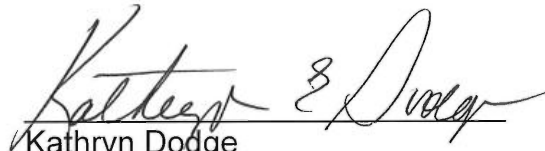
642 Permit application fee for SFBA in new construction \$375.00
643

644
645 Section 10. Effective Date. This ordinance shall be effective at 5:00 p.m.
646 of the first Borough business day following its adoption.

647 PASSED AND APPROVED THIS 19th DAY OF JUNE, 2017.
648



659
660
661
662
663
664
665
666



Kathryn Dodge
Presiding Officer

667 ATTEST:

668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688



Nanci Ashford-Bingham, MMC
Borough Clerk

689 Yeses: Tacke, Davies, Cooper, Quist, Gray, Lawrence, Dodge
690 Noes: Roberts, Sattley

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AND
FAIRBANKS NORTH STAR BOROUGH
FOR
AIR POLLUTION CONTROL**

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to clarify the joint responsibilities for air pollution control and monitoring within the Fairbanks North Star Borough with an emphasis on fine particulate matter (PM_{2.5}) and carbon monoxide (CO). The Alaska Department of Environmental Conservation (DEC) and the Fairbanks North Star Borough (Borough) have joint responsibility for air pollution control in the Fairbanks North Star Borough. The parties to this MOU recognize that clear lines of responsibility must be established and maintained to maximize the efficient utilization of available resources and to provide the greatest protection to the public's health and safety. It is with this recognition that these two parties hereby enter into this agreement.

II. Major Stationary Sources

DEC will retain responsibility for permitting, inspection, surveillance, and enforcement of all currently permitted facilities under DEC authority, and for any new sources that require DEC permit approval under AS 46.14.

DEC will:

notify the Borough upon receipt of any permit applications or renewals for State Air Quality Permits for stationary sources located within the Borough, to allow sufficient time for Borough comment on such permitting activities;

respond to Borough requests during the Department permit review, for additional information from a permit applicant pursuant to 18 AAC 50 or the State Implementation Plan for Air Quality Control; and

provide information in a reasonable time period to the Borough in response to requests for information on permitted facilities.

The Borough will:

Maintain its registration to DEC's online system for public notice announcements; and

notify DEC when it desires information on a permitted facility, permit

Air Pollution Control MOU-DEC/FNSB

application or renewal.

III. Open Burning

DEC will be responsible for issuing approvals for open burning of materials from Fire Service training, land clearing operations of 40 acres or greater per year and for the open burning of petroleum-based materials or other materials in a way that produces black smoke.

DEC will:

provide the Borough with copies of all open burning approvals issued by DEC for sites within the Borough;

notify applicants to contact the Borough regarding any Borough Codes pertaining to open burning; and

include open burning prohibitions in its air quality advisories if determined to be appropriate to the air pollution event.

The Borough will:

advise DEC and the Division of Forestry if the Borough re-establishes any open burning regulations and permit procedures

IV. Area Source Control Programs

The Borough and DEC recognize that many small stationary pollution emission sources have the potential to collectively impact air quality. These small sources are categorized as area sources by EPA and DEC and may be regulated by local, state, or federal rules, but are not typically permitted by the DEC Air Permit program. They include, but are not limited to, the following types of sources: solid fuel-fired heating devices, commercial and residential space heating, small sources that fall below permitting thresholds, and fugitive dust sources including, but not limited to construction and demolition activities, sand blasting, land clearing and farming activities.

The Borough will:

implement solid fuel-fired heating device repair, retrofit, and replacement programs as resources allow;

implement voluntary programs related to fuel burning that assist in mitigating PM_{2.5} air pollution as resources allow;

Air Pollution Control MOU-DEC/FNSB

conduct public outreach and education on air quality health effects and the mitigation and impacts of air pollution from home heating devices, and other local area sources as resources allow;

take the lead in developing and implementing local control programs to address pollution from area sources consistent with the Borough Assembly's approval/authorization and will notify and consult with DEC regarding local control programs being considered for implementation to insure coordination with any existing state programs or regulations.

DEC will:

implement state regulations designed to mitigate area source impacts in the area;

assist and coordinate with the Borough on public outreach and education activities;

notify and consult with the Borough regarding any proposed state area source programs or regulations that could impact a local control program or activities within the Borough; and

provide technical assistance related to state and federal requirements that could impact development and implementation of a local control program.

The Borough and DEC will:

look for opportunities to share data related to area sources that can further technical efforts in assessing air quality impacts;

jointly determine whether, and when, the two agencies will need to coordinate on implementation of an area source program;

jointly determine the roles and responsibilities for each agency in implementing any coordinated area source program;

upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated area source program, work cooperatively to implement the program; and

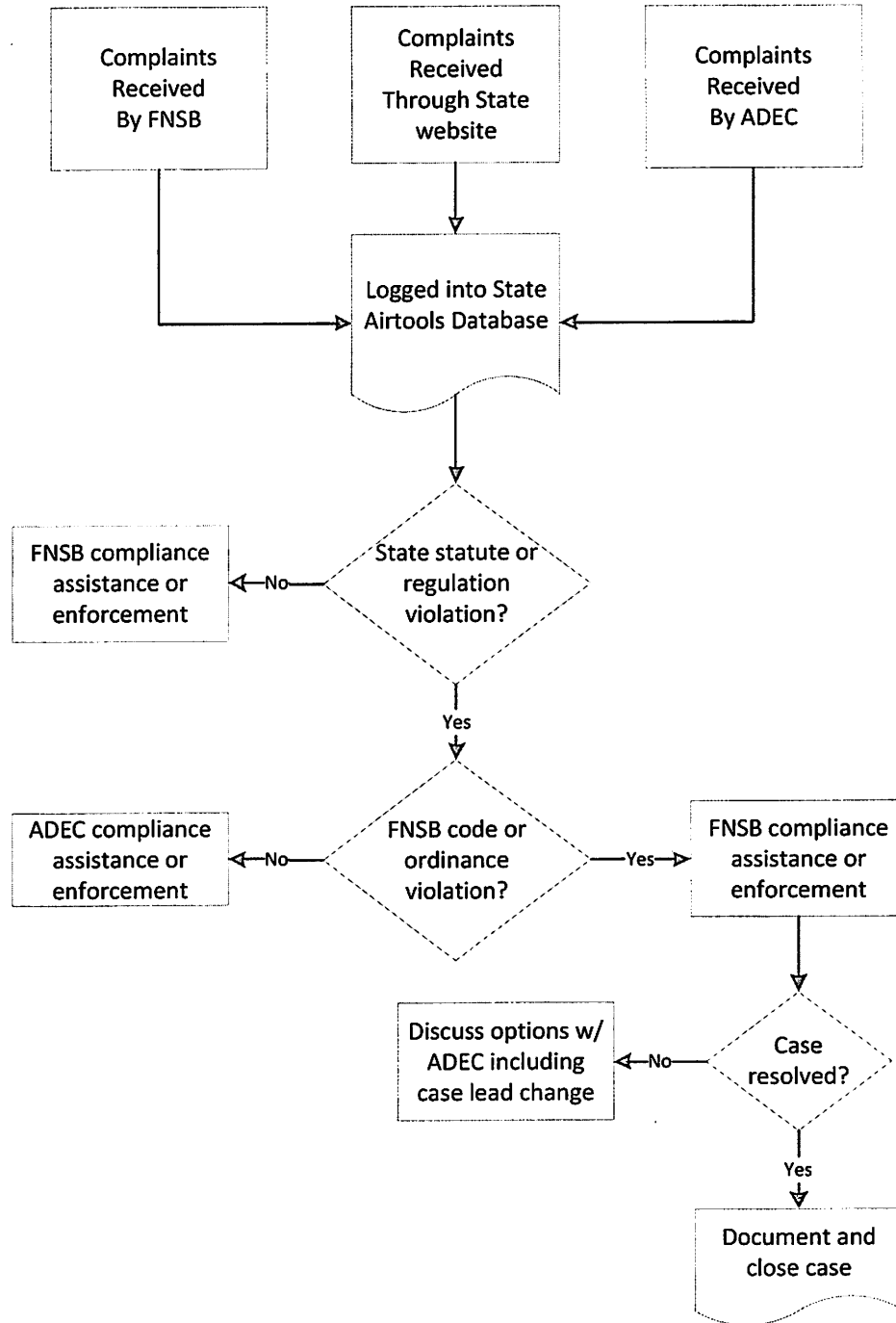
amend this agreement, as soon as practical, to incorporate the relevant details related to an approved area source program so that clear lines of responsibility are delineated.

V. Complaint Response

DEC and the Borough will collaborate in the response, investigation, compliance

Air Pollution Control MOU-DEC/FNSB

assistance and enforcement stemming from public complaints regarding air pollution within the Borough. The flow chart delineates the course of action and agency lead in assessing appropriate enforcement actions.



Each agency will be responsible for assessing whether an air quality complaint is

Air Pollution Control MOU-DEC/FNSB

based upon a violation of the Borough Air Quality Ordinances or of the State Air Quality Control Regulations. If the complaint alleges a Borough ordinance violation, then the Borough may respond, investigate and address the violation. If the complaint alleges a violation of both the Borough Ordinances and the State regulations, and the Borough is unable to resolve the violation, then the Borough will discuss options with the State, such as a change in agency lead. Case coordination necessitates close communication between the agencies regarding respective agency approach and goals, based on the agency ordinances or regulations.

For DEC permitted stationary sources, DEC will investigate public Air Quality Complaints. If the Borough is interested in public complaints regarding permitted facilities, the Borough will, in its discretion, contact DEC. DEC agrees to share information regarding the complaint investigation and closure with the Borough.

VI. Ambient Air Monitoring/Air Quality Forecasting

As of July 1, 2016, DEC began maintenance and operation of the federally required air quality monitoring network consisting of three sampling sites in the Fairbanks North Star Borough: The Fairbanks State Office Building (SOB), the multi-pollutant National Core site (NCore) and the North Pole Fire Station #3 (NPF3) sampling site. The SOB and NPF3 sites are used to monitor fine particulate matter (PM_{2.5}) and the Ncore site monitors PM_{2.5} and carbon monoxide, along with a suite of other criteria pollutants and meteorological parameters. The Borough will review monitoring needs with DEC and EPA in consideration of resources available for the purpose of assigning monitoring priorities. The Borough will continue to provide recorded daily ambient air quality forecasts during the period of October 1 through March 31 each winter and will issue air quality advisories and alerts as needed. DEC will provide technical and back-up support for issuing air quality advisories and will assist with posting the Borough advisories to the state advisory website.

Close communication and cooperation between the agencies is necessary to share information on ambient air conditions including any results from any special purpose monitoring efforts to determine the need for issuing an air quality advisory, or declaring an air episode due to anthropogenic or natural events.

DEC will:

operate and maintain the NCore, CO, PM_{2.5} ambient air and meteorological monitoring network as required in accordance with state and federal regulations, guidelines, and the yearly DEC/EPA and Borough Air Programs work plan;

assume payment for utilities and internet access for the monitoring sites on Borough property and previously covered by the Borough, specifically for the

Air Pollution Control MOU-DEC/FNSB

NCore and North Pole Fire Station #3 monitoring sites;

operate and maintain the PM_{2.5} speciation monitor in accordance with state and federal regulations, guidelines, and the yearly DEC/EPA and Borough Air Programs work plan;

continue to provide technical assistance to the Borough in the areas of ambient air monitoring science, instrument operation, and quality assurance;

send the Borough copies of correspondence and applicable materials associated with air quality monitoring work performed by DEC within the Borough and air monitoring information received from EPA or other sources which may be of interest to the Borough;

notify the Borough as to reporting requirements, due dates, etc.;

review and approve in writing special purpose monitoring site locations using Federal Equivalence Method (FEM) monitors as required and notify EPA of SPM monitoring locations;

provide, or facilitate in-state, technical assistance and training as time and funding allows;

provide filter weighing operations for the analysis of particulate filters;

conduct an annual monitoring network assessment and develop recommendations for any changes which may be necessary in coordination with the Borough and EPA;

coordinate with and assist the Borough on developing air quality advisories and forecasts, provide assistance by posting the Borough's advisories to the State's Air Advisory web site, and assist in the distribution of information to the public and interested parties; and

provide and maintain a data acquisition system including a website for near real-time data access and a database for data storage, review and submission of required monitoring data to EPA.

The Borough will:

house the NCore, North Pole Fire Station #3 air quality monitoring sites, and the Peger Road meteorological tower on Borough property and grant DEC access to these sites year round;

notify DEC regarding any special air monitoring studies using non-regulatory monitors to identify/better define air quality problem areas, as funding and staff allow;

Air Pollution Control MOU-DEC/FNSB

submit to DEC in writing for approval any desired/required changes to the special purpose monitoring sites monitoring network for any sites using FEM monitors;

assist DEC staff with field monitoring during short-term periods when DEC has staffing problems (as time and funding allows);

continue to implement, as needed, the Borough's emergency episode prevention and response plan for CO;

provide a recorded daily CO forecast during periods of poor air quality, when CO concentrations are of concern. The daily CO forecast will also be provided on the Borough web page and phone system for media and the general public; and

develop and provide PM_{2.5} forecasts to address potential impacts during the summer wildfire season and the winter PM_{2.5} season. A daily forecast will be provided during periods of poor air quality. The PM_{2.5} forecast will be posted on the Borough web page and the Borough's phone system for media and the general public. The Borough will notify DEC of any air quality advisory as soon as possible and provide said advisory to DEC for posting to the State's web site. As part of that forecast, provide a description of the air dispersion (poor, fair, or good) forecast for each day, with weekend and holiday projections made the previous Friday.

VII. Air Quality Planning

The Borough will continue its efforts to maintain the National Ambient Air Quality Standard (NAAQS) for carbon monoxide and work towards meeting attainment for fine particulate matter (PM_{2.5}). This will include the study and possible implementation of reasonable, cost-effective strategies designed to reduce ambient air pollutant concentrations which will allow the Borough to maintain the carbon monoxide standard and attain the PM_{2.5} standard.

DEC will:

provide technical and administrative assistance to the Borough;

- in the area of maintenance of the NAAQS for carbon monoxide; and
- In the area of development of the attainment plan for PM_{2.5}

work with the Borough to develop additional programs that will;

- aid the Borough in maintaining the health based NAAQS for carbon monoxide in the Borough maintenance area, subject to available funding;

Air Pollution Control MOU-DEC/FNSB

- aid the Borough in attaining the health based NAAQS standard for PM_{2.5} in the Borough nonattainment area, subject to available funding; and
- assist the Borough in its dealings with EPA, particularly in the development of additional strategies to reduce ambient air pollutant levels in the Borough.

The Borough will:

continue its efforts to maintain the NAAQS for carbon monoxide;

update the CO maintenance plan per the Clean Air Act requirements or as needed to address local objectives;

continue its efforts to attain the NAAQS for PM_{2.5};

implement PM_{2.5} strategies to attain the standard that are shown to be necessary, reasonable and cost effective;

assist DEC to study PM_{2.5} concentrations at cold temperatures, and the resultant impact of PM_{2.5} on the prospects for attaining and maintaining the PM_{2.5} standard in the Borough nonattainment area, including potential use of new and innovative programs;

develop emission inventories as needed to support or implement PM_{2.5} SIPs; and

take the lead in collaboratively developing and updating with DEC a PM_{2.5} attainment plan to bring the Borough nonattainment area into attainment with the NAAQS.

VIII. Mobile Source Control Programs

The Borough and DEC recognize that air pollution emissions from motor vehicles and other mobile sources have the potential to collectively impact air quality. Mobile sources are typically regulated by federal and state rules, but local programs can be beneficial in reducing emissions.

The Borough will:

take the lead in developing and implementing local control programs to address pollution from mobile sources and will notify and consult with DEC regarding local control programs being considered for implementation to insure coordination with any existing state programs or regulations; and

implement projects to expand parking lot electrical plug-in infrastructure to

Air Pollution Control MOU-DEC/FNSB

reduce cold start emissions at Borough owned facilities, when included in the State Implementation Plan as resources allow.

DEC will:

maintain state regulations that allow a vehicle inspection & maintenance program to remain as a CO contingency measure in the Fairbanks CO maintenance plan as required by EPA;

coordinate with the state DOT on any diesel emission reduction projects being implemented to reduce PM_{2.5} emissions from the state fleet as part of the State Implementation Plan;

notify and consult with the Borough regarding any proposed state mobile source programs or regulations that could impact a local control program or activities within the Borough; and

provide technical assistance related to state and federal requirements that could impact development and implementation of a local control program.

The Borough and DEC will:

look for opportunities to share data related to mobile sources that can further technical efforts in assessing air quality impacts;

jointly determine whether, and when, the two agencies will need to coordinate on implementation of any mobile source program;

jointly determine the roles and responsibilities for each agency in implementing any coordinated mobile source program;

upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated mobile source program, work cooperatively to implement the program; and

amend this agreement, as soon as practical, to incorporate the relevant details related to any approved mobile source program so that clear lines of responsibility are delineated.

IX. Congestion Mitigation & Air Quality (CMAQ) Projects

The Borough will:

Conduct a call for project nominations to address PM_{2.5} in the donut area (the area outside of the metropolitan planning area but within the PM_{2.5} non-attainment area) if funding is available, on behalf of the CMAQ Project Evaluation Board;

Air Pollution Control MOU-DEC/FNSB

Coordinate with the DEC regarding the development of CMAQ projects to address the PM_{2.5} within the non-attainment area;

Consult with the metropolitan planning organization (MPO) and the State of Alaska DOT&PF Northern Region regarding priority CMAQ projects within the metropolitan planning area.

DEC will:

Coordinate with the Borough regarding the development of CMAQ projects to address PM_{2.5} within the non-attainment area;

Consult with the MPO and the State of Alaska DOT&PF Northern Region regarding priority CMAQ projects within the metropolitan planning area.

DEC and the Borough will:

jointly determine roles and responsibilities for implementing CMAQ projects at the time that the projects are submitted to the metropolitan planning organization or Department of Transportation for funding.

X. Notice/Project Contacts

For purposes of this agreement each agency will identify a project manager who will have overall responsibility for management of the agreement. The project managers may designate and identify in writing to the other agency, other staff with responsibility for implementing specific activities under the agreement.

For purposes of this agreement DEC's project manager is,
Denise Koch, Director, Division of Air Quality

For purposes of this agreement, the Borough's project manager is,
Ron Lovell, Manager, Air Quality Division

All project work plans and approvals shall be submitted through the project managers designated in this section.

Parties agree to notify each other in writing of changes in project manager or activity managers within 10 days of change.

XI. Budgetary

DEC and the Borough shall negotiate any funding agreements for the coming year as an amendment to this MOU. Any annual funding agreements will be negotiated between the DEC Air Quality Director and the FNSB Air Quality Manager. Future

Air Pollution Control MOU-DEC/FNSB

year appropriations shall be discussed and operational costs agreed upon no later than May 31st of each year. The annual funding agreements shall be documented in writing and make specific reference to this MOU.

This MOU has no financial consideration at this point in time. If future services are needed by either party requiring funding, an amendment to this MOU will be issued.

XII. It is mutually agreed:

1. that the Borough and DEC shall employ and maintain staff to carry out the activities necessary to administer the air quality programs outlined in this agreement;
2. that nothing in this agreement shall be construed as obligating DEC or the Borough to the expenditure of funds, or for the future payment of funds; and
3. that amendments to this agreement may be proposed by either party and shall become effective upon approval of both parties.

XIII. Execution/Modification and Duration of Agreement

This agreement will be in effect upon signature by both parties until amended or revoked. The agreement may be terminated upon 90 days' written notice by either party. In addition, all notes, data collected, equipment and any draft reports shall be submitted to DEC within 30 days of termination of this agreement by either party.

Alaska Department of
Environmental Conservation

Fairbanks North Star Borough

By: 

By: 

Larry Hartig
Commissioner

Karl Kassel
Mayor

Date: 10/25/16

Date: 10/14/16

Adopted

December 8, 2017

Air Pollution Control MOU-DEC/FNSB

By: 
Nikolay Barkov
DEC Finance Officer

Date: 10/19/16

FINAL

MEMORANDUM OF AGREEMENT

FOR THE SELECTION AND FUNDING OF PROJECTS

FUNDED BY CMAQ WITHIN THE

FAIRBANKS NONATTAINMENT AREA FOR PM 2.5

Among the Alaska Department of Transportation and Public Facilities (ADOT&PF), the Fairbanks Metropolitan Area Transportation System (FMATS), the Fairbanks North Star Borough (FNSB) and the Alaska Department of Environmental Conservation (ADEC)

I. PURPOSE

A. This Memorandum of Agreement (MOA) is a written agreement among the Fairbanks area MPO (FMATS), state agencies (ADEC, ADOT&PF), and the designated air quality planning agency (Fairbanks North Star Borough, FNSB) describing their respective roles and responsibilities including project selection and CMAQ fund management necessary for air quality related transportation planning.

II. BACKGROUND

A. The U.S. Environmental Protection Agency (EPA) has designated the following townships and ranges of the Fairbanks North Star Borough as a non-attainment area for PM 2.5: -MTRS F001N001 – All sections; -MTRS F001N001E – Sections 2 – 11, 14 – 23, 26 – 34; -MTRS F001N002 – Sections 1 – 5, 8 – 17, 20 – 29, 32 – 36; -MTRS F001S001E – Sections 1, 3 – 30, 32 – 36; -MTRS F001S001W – Sections 1 – 30; -MTRS F001S002E – Sections 6 – 8, 17 – 20, 29 – 36; -MTRS F001S002W – Sections 1 – 5, 8 – 17, 20 – 29, 32 – 33; -MTRS F001S003E-Sections 31 - 32; -MTRS F002N001E- Sections 31 – 35; -MTRS F002N001-Sections 28, 31 – 36; -MTRS F002N002-Sections 32 - 33, 36; -MTRS F002S001E - Sections 1 - 2; -MTRS F002S002E - Sections 1 - 17, 21 – 24; -MTRS F002S003E - Sections 5 - 8, 18. A map of the non-attainment area is attached as Appendix A.

B. This PM 2.5 nonattainment designation became effective on December 14, 2009.

C. The above non-attainment area is larger than the FMATS Metropolitan Planning Area (MPA) illustrated in Appendix A as the MPO boundary.

D. 23 CFR 450.314(b) states that if the metropolitan planning area does not include the entire nonattainment or maintenance area, there shall be an agreement among the state department of transportation, state air quality agency, affected local agencies and the metropolitan planning organizations describing the process for cooperative planning and analysis of all projects outside the metropolitan planning area but within the nonattainment or maintenance area.

E. Further, 23 CFR 450.314(c) states that in the nonattainment area or maintenance areas, if the MPO is not the designated agency for air quality planning under section 174 of the Clean Air Act (42 USC 7504), there shall be a written agreement between the MPO and the designated air quality planning agency describing their respective roles and responsibilities for air quality related transportation planning.

III. AGENCY ROLES & RESPONSIBILITIES**A. ADEC**

1. ADEC and the FNSB have joint responsibility for air pollution control in the FNSB.
2. ADEC will provide technical assistance in the development of the Fairbanks PM2.5 nonattainment area CMAQ transportation project listing.

MOA Regarding Use of CMAQ Funds in Fairbanks

3. ADEC will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.
- B. ADOT&PF Northern Region (NR)
1. NR will provide technical assistance in the development of the Fairbanks CMAQ transportation project listing.
 2. NR will prepare and submit the PDAs to fund the selected projects, administer project funds to the appropriate implementing agency, and will assist in the development of the environmental documentation, design, right-of-way, utility and construction of selected projects as required.
 3. NR will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.
 4. NR will issue an annual thirty-day Call for Nominations prior to January 31.
- C. ADOT&PF Division of Program Development (HQ)
1. HQ will make Federal CMAQ funding available for eligible air quality projects in Fairbanks.
 2. HQ will provide CMAQ funding for the purposes of travel demand modeling and conformity determination for the updates of the plans and programs and to include projects outside of the MPA in the nonattainment area. No local match is currently required. Should local match be required in the future, agreements will be developed through interagency consultation.
 3. HQ will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.
 4. HQ will (subject to available CMAQ funding) include in the STIP all projects agreed to by the Fairbanks CMAQ Project Evaluation Board and submitted by the FNSB.
- D. FMATS
1. FMATS will work with local agencies in developing and submitting projects to the Fairbanks CMAQ Project Evaluation Board.
 2. FMATS will include all projects approved by the Fairbanks CMAQ Project Evaluation Board and submitted by the FNSB in the informational section of the TIP.
 3. FMATS will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.
- E. FNSB
1. FNSB and the ADEC have joint responsibility for air pollution control in the FNSB.
 2. FNSB is the lead air quality agency for the Fairbanks area and will determine the priorities for the CMAQ funding provided to the PM2.5 nonattainment area.

MOA Regarding Use of CMAQ Funds in Fairbanks

3. FNSB will provide to the NR a list of PM 2.5 CMAQ transportation projects for the PM2.5 nonattainment area for inclusion in the STIP.
4. FNSB will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.

IV. CMAQ PROJECT EVALUATION BOARD**A. Board membership**

1. The Fairbanks CMAQ Project Evaluation Board (hereinafter Board) will have 7 members representing the following entities: ADEC, FMATS, City of Fairbanks, City of North Pole, FNSB, ADOT&PF (NR) and ADOT&PF (HQ). The Board may select a chair to facilitate evaluation discussions.

B. Project Evaluation Criteria

1. The Board will develop criteria to use in evaluating projects submitted to the Board.
2. The developed criteria will take into account eligible uses of CMAQ funding and consider the projects efficacy in addressing PM2.5 attainment.
3. Evaluation criteria will be provided to agencies for use in developing CMAQ project proposals for submittal to the Board.

C. Project Submission

1. Any member of the Board may submit a project for evaluation and possible inclusion in the STIP.
2. Board Members will notify their respective agencies of the time window for the Call for Nominations.

D. Project Evaluation

1. The Board will use the developed evaluation criteria to score the projects.
2. Projects evaluated will be ranked by their total score.
3. Based upon the project ranking and scheduling, projects will be submitted to the FNSB mayor for approval and then to NR for inclusion in the STIP subject to CMAQ funding available to the Fairbanks PM2.5 nonattainment area.
4. In compiling the proposed list for inclusion in the STIP, if the next ranked project is too costly to be included due to fiscal constraint, the next project below it may be included instead.
5. The Board will meet as necessary to allow FNSB to submit its slate of proposed projects in time for inclusion in a draft STIP or draft STIP amendment. It is anticipated that the Board will meet at a minimum once per year, preferably no later than March 31, to solicit, rank, and recommend projects.

E. Conflict Resolution Process

1. Conflicts regarding the submission of a project listing to NR, including the inclusion or absence of a project, will be resolved according to the following process:

- a) The conflict resolution process is initiated in writing, via email, from any signatory who has a conflict or grievance to all other signatories in the MOA who are affected by the conflict or grievance.
- b) Within fifteen (15) working days after receipt of such notice, each affected party, along with its director or designee, will meet and determine reasonable measures to resolve the conflict.
- c) If the conflict has not been resolved at the expiration of sixty (60) days after receipt of the initial notice, the conflict shall be referred to the Office of the Governor for final resolution.

2. All parties understand and agree that the timeline above, while ambitious, may not suffice in getting the matter resolved in time for inclusion in the draft STIP or draft STIP amendment.


V. AGREEMENT TERMS

A. This agreement shall be effective upon signature of all parties and binding until amended or revoked. The anticipated duration of the agreement is tied to the PM 2.5 non-attainment designation and is required until the area has achieved attainment status and maintained such status for a period of at least twenty years. The undersigned agencies may revise or replace this MOA via unanimous written agreement. The agreement may be terminated by a signing agency upon 90 days' written notice to all the signatory parties.

B. An interagency consultation process shall be used for revision of the MOA as necessary.

VI. SIGNATORIES

The undersigned hereby agree to comply with the provisions and terms of this MOA as described above.




 Steve Titus, P.E., Chair, FMATS

9/15/10
 Date



 Larry Hartig, Commissioner, ADEC

10/4/10
 Date



 Mayor Luke Hopkins, Fairbanks North Star Borough

9/15/10
 Date



 Leo von Scheben, P.E., L.S., M.B.A., Commissioner, ADOT&PF

9/29/10
 Date

Abbreviations Guide

- ADOT & PF – Alaska Department of Transportation and Public Facilities
- ADEC – Alaska Department of Environmental Conservation
- CMAQ – Congestion Mitigation/Air Quality Program
- EPA – United States Environmental Protection Agency
- FHWA – Federal Highway Administration
- FMATS – Fairbanks Metropolitan Area Transportation System
- FNSB – Fairbanks North Star Borough
- FTA – Federal Transit Administration
- HQ - Alaska Department of Transportation and Public Facilities, Headquarters
- PDA – Project Development Authorization
- PM2.5 – Fine Particulate Matter Less Than 2.5 Micrometers
- MOA – Memorandum of Agreement
- MPA – Metropolitan Planning Area
- MPO – Metropolitan Planning Organization
- MTP – Metropolitan Transportation Plan
- NR - Alaska Department of Transportation and Public Facilities, Northern Region
- RLRTP – Regional Long Range Transportation Plan
- SIP – State Implementation Plan
- STIP – Statewide Transportation Improvement Program
- TIP – Transportation Improvement Program
- USDOT – United States Department of Transportation