

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}**

Public Notice Draft

July 18, 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 ~~January 2010~~**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)

Note: DEC Proposes to remove the copy of the Fairbanks North Star Borough website list of ordinances that is subject to change and has been modified and instead rely on the actual ordinances approved by the assembly. The majority of the proposed text to be deleted is not relative to the State Air Quality Plan and was inadvertently included.

~~Title 8~~
~~HEALTH AND SAFETY~~

Chapters:

~~[8.1](#) Emergency Medical Service~~

~~[8.2](#) Health and Social Services~~

~~[8.3](#) Emergency Communication Services~~

~~[8.4](#) *Repealed*~~

~~[8.5](#) Carbon Monoxide Emergency Episode Prevention Plan~~

~~[8.6](#) Oxygenated Fuel~~

~~[8.7](#) Curfew for Minors~~

~~[8.8](#) Fireworks~~

~~[8.10](#) Solid Waste Collection District~~

~~[8.12](#) Garbage and Solid Waste~~

~~[8.14](#) Abandoned Vehicles~~

~~[8.16](#) *Repealed*~~

~~[8.18](#) *Repealed*~~

~~[8.20](#) Vehicle Plug-In Program~~

~~[8.21](#) PM_{2.5} Air Quality Control Program~~

~~Chapter 8.01~~ **EMERGENCY MEDICAL SERVICE**

Sections:

- ~~8.01.010~~ Creation of powers.
- ~~8.01.020~~ Emergency medical service – Intent.
- ~~8.01.030~~ Emergency medical services (EMS) boards.
- ~~8.01.040~~ *Repealed.*
- ~~8.01.050~~ Functions and duties.
- ~~8.01.060~~ Organization.
- ~~8.01.070~~ Definitions.

~~8.01.010~~ Creation of powers.

~~There is established a nonareawide service within the borough designated “Fairbanks North Star Borough Emergency Medical and Facilities Service” within the area outside of the cities of Fairbanks and North Pole, as shown on the corresponding map in the clerk’s office. The Fairbanks North Star Borough Emergency Medical Service area shall have emergency medical services and facilities, including ambulance powers. (Ord. 83-154 § 2, 1983)~~

~~8.01.020~~ Emergency medical service – Intent.

~~The borough shall exercise the power to provide emergency medical service as approved by the electorate to promote efficiency and performance of emergency medical services throughout the borough. (Ord. 83-154 § 2, 1983)~~

~~8.01.030~~ Emergency medical services (EMS) boards.

~~A. EMS Advisory Board. There is created an emergency medical services board, which shall consist of members appointed by the mayor with assembly concurrence. The composition of the board shall be as follows:~~

- ~~1. Three citizens at large;~~
- ~~2. Three service unit representatives (nominations to be elected by all EMS service units collectively);~~
- ~~3. One medical board representative;~~
- ~~4. One Fairbanks Memorial Hospital representative;~~
- ~~5. One regional EMS planning agency representative;~~

~~6. One Fairbanks North Star Borough EMS coordinator (ex officio, nonvoting);~~

~~7. One Fairbanks North Star Borough assembly member (ex officio, nonvoting).--~~

~~The EMS advisory board shall contain no more than nine voting members.~~

~~B. Medical Board. There is created a medical board which shall consist of members appointed by the mayor with assembly concurrence. The composition of the medical board shall be as follows:~~

~~1. Seven physicians, to include at least one emergency room physician and one physician at large (non-EMS related);~~

~~2. One ambulance service unit representative (to be selected by provider groups);~~

~~3. One nonambulance EMS service unit representative (to be selected by provider groups);~~

~~4. One Fairbanks North Star Borough EMS coordinator (ex officio, nonvoting).~~

~~The medical board shall contain no more than nine voting members. (Ord. 87-034 § 2, 1987; Ord. 83-154 § 2, 1983)~~

~~8.01.040 Board compensation.~~

~~*Repealed by Ord. 87-034.* (Ord. 83-154 § 2, 1983)~~

~~8.01.050 Functions and duties.~~

~~A. The EMS advisory board shall act as an emergency medical service advisory board for the area outside of the cities of Fairbanks and North Pole to the mayor, including making studies, holding public hearings, and making recommendations to the mayor in conjunction with medical board recommendations, on areas which may include, but are not limited to, the following:~~

~~1. Levels of EMS service;~~

~~2. Capital improvement projects;~~

~~3. The annual operational budget of service units;~~

~~4. Emergency medical service policies and procedures;~~

~~5. Emergency medical services training units;~~

- ~~6. Appropriate equipment for service units;~~
- ~~7. Service unit personnel qualifications;~~
- ~~8. Service unit backup equipment;~~
- ~~9. New emergency medical service unit areas and locations;~~
- ~~10. Fees to be charged for ambulance service;~~
- ~~11. Mutual aid and support agreements with ambulance services of other jurisdictions and with private ambulance services;~~
- ~~12. The EMS policy manual;~~
- ~~13. *Repealed by Ord. 87-034;*~~
- ~~14. The proposed annual budget for emergency medical services within the Fairbanks-North Star Borough;~~
- ~~15. Capital improvement needs for each service unit;~~
- ~~16. Ordinances and actions to be taken by the mayor;~~
- ~~17. Consultations with other advisory bodies, such as the planning commission, medical board, and any other medical, health, or public safety organizations.~~

~~Each service unit shall coordinate directly with the EMS advisory board in regard to its budget and all other matters for which the board is responsible.~~

~~B. The medical board shall perform the following functions and duties:~~

- ~~1. Create and supervise standing orders;~~
- ~~2. Establish medical communication protocols;~~
- ~~3. Establish medical criteria for new and current levels of service, to include:
 - ~~a. Desirable response times;~~
 - ~~b. Personnel qualifications and levels of training;~~
 - ~~c. Medical equipment needs for designated levels of service;~~~~

~~d. Response area boundaries, medical facilities, and changes to existing service areas;~~

~~4. Approve all medical equipment and training requests that require borough funding. (Ord. 87-034 § 2, 1987; Ord. 83-154 § 2, 1983)~~

~~8.01.060 Organization.~~

~~All matters of administration shall be the responsibility of the emergency medical services (EMS) coordinator. (Ord. 87-034 § 2, 1987; Ord. 83-154 § 2, 1983)~~

~~8.01.070 Definitions.~~

~~As used herein, "service unit" means a geographically defined area to which a certain emergency medical service group is assigned. (Ord. 87-034 § 2, 1987; Ord. 83-154 § 2, 1983)~~

~~Chapter 8.02—
HEALTH AND SOCIAL SERVICES~~

Sections:

~~8.02.010~~ Definitions.

~~8.02.010 Definitions.~~

~~“Health and social services” means programs that are essential to the maintenance of life or focus primarily on prevention such as health screening, preventive services and referral. (Ord. 93-039 § 3, 1993)~~

Chapter 8.03 EMERGENCY COMMUNICATION SERVICES

Sections:

~~8.03.010~~ Enhanced 911 emergency reporting system.

~~8.03.020~~ Definitions.

~~8.03.030~~ Enhanced emergency reporting systems.

~~8.03.040~~ *Repealed.*

~~8.03.010~~ Enhanced 911 emergency reporting system.

A. Pursuant to AS 29.35, any ~~local exchange telephone company~~ providing service within the ~~borough~~ shall cooperate in the establishment of an enhanced 911 emergency reporting system.

B. The area served by the ~~enhanced 911 system~~ shall be the entire Fairbanks North Star Borough, excluding Eielson Air Force Base. (Ord. 2014-29 § 3, 2014; Ord. 2013-64 § 3, 2013; Ord. 93-057 § 2, 1993)

~~8.03.020~~ Definitions.

In this chapter and Chapter 3.60 FNSBC, the following definitions apply:

~~"911 PSAP selective router demarcation point"~~ is the physical point at which the public network of a telecommunications company ends and the private network of the ~~borough's~~ 911 system begins.

~~"911 service area"~~ or ~~"enhanced 911 service area"~~ means the area within the ~~borough~~ that has been designated to receive enhanced 911 service; the area designated to receive an ~~enhanced 911 system~~ is not a "service area" under Article X, Section 5 of the Alaska Constitution.

~~"Borough"~~ means the Fairbanks North Star Borough.

~~"Enhanced 911 equipment"~~ means any equipment dedicated to the operation of, or use in, the establishment, operation or maintenance of an ~~enhanced 911 system~~, including customer premises equipment, automatic number identification or automatic location identification controllers and display units, printers, recorders, software and other essential communication equipment.

~~"Enhanced 911 system"~~ or ~~"system"~~ means a telephone system consisting of network, database and ~~enhanced 911 equipment~~ that uses the single three digit number, 911, for

reporting a medical, fire, police, or other emergency situation, and which enables the users of a public telephone system to reach a ~~public safety answering point~~ and includes the personnel required to acquire, install, operate and maintain the system.

~~"Local exchange access line" means a telephone line that connects a local exchange service customer to the local exchange telephone company switching office and has the capability of reaching local public safety agencies, but does not include a line used by a carrier to provide interexchange services.~~

~~"Local exchange service" means the transmission of two way interactive switched voice communications furnished by a local exchange telephone company within the Fairbanks North Star Borough, including access to enhanced 911 systems.~~

~~"Local exchange telephone company" means a telephone utility certified by the Alaska Public Utilities Commission to provide local exchange service in the Fairbanks North Star Borough.~~

~~"Public safety answering point" means a 24-hour local communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency. (Ord. 2013-64 § 4, 2013; Ord. 2010-59 § 3, 2011; Ord. 93-057 § 2, 1993)~~

8.03.030 Enhanced emergency reporting systems.

A. The ~~borough~~ may purchase, lease or contract for any ~~enhanced 911 equipment~~ or services required to establish or maintain an ~~enhanced 911 system~~ at ~~public safety answering points~~ from a ~~local exchange telephone company~~ or other qualified vendor of an ~~enhanced 911 system~~.

B. If the ~~enhanced 911 system~~ is to be provided for an area that is included in more than one telephone company service area, the ~~borough~~ may enter into such agreements as are necessary to establish and operate the ~~system~~.

C. The ~~borough~~ hereby designates both 911 Cushman Street and 800 William C Leary Lane in Fairbanks as the two ~~911 PSAP selective router demarcation points~~ solely for the purposes of 911 call delivery by telecommunications carriers. (Ord. 2013-64 § 5, 2013; Ord. 93-057 § 2, 1993)

8.03.040 Enhanced 911 advisory committee.

~~Repealed by Ord. 2014-13. (Ord. 2010-59 § 4, 2011; Ord. 94-010 § 2, 1993)~~

~~Chapter 8.04~~
~~AIR POLLUTION~~

(Repealed by Ord. 2013-07)

Chapter 8.05
CARBON MONOXIDE EMERGENCY EPISODE PREVENTION PLAN

Sections:

~~8.05.010 Purpose.~~

~~8.05.020 Episode criteria.~~

~~8.05.010 Purpose.~~

~~The Fairbanks area emergency episode prevention plan is designed to prevent carbon-monoxide concentrations within the borough from reaching levels which endanger the public health. Primary responsibility for implementation of this plan rests with the borough's air quality division of the department of transportation. (Amended during 1993 republication; Ord. 85-065 § 2, 1985)~~

~~8.05.020 Episode criteria.~~

~~A. During the winter months of November through February the borough shall review daily carbon monoxide data. When the CO concentration reaches the onset level for an episode and is expected to remain at that level for 12 hours, an alert will be declared.~~

~~B. The following definitions are adopted:~~

~~"Alert" means when the FNSB air quality division determines, using available data, that a violation of the nine parts per million for an eight hour average will likely occur.~~

~~"Episode" means when conditions reach alert status.~~

~~"Forecast" means a description of the current dispersion conditions described as good, fair or poor and including the expected CO concentrations expressed in parts per million for an eight-hour average.~~

~~"Maintenance area" means:~~

- ~~1. The Fairbanks/Fort Wainwright subarea, including Township 1 South, Range 1 West, Sections 2 through 23, the portion of Section 1 west of the Fort Wainwright military reservation boundary, and the portions of Section 24 north of the Old Richardson Highway and west of the military reservation boundary;~~
- ~~2. Township 1 South, Range 2 West, Sections 13 and 24, the portion of Section 12 southwest of Chena Pump Road, and the portions of Sections 14 and 23 southeast of the Chena River;~~

~~3. Township 1 South, Range 1 East, Sections 7, 8 and 18, and the portions of Section 19 north of the Richardson Highway; and~~

~~4. The North Pole subarea, including Township 2 South, Range 2 East, and the portions of Section 9 and 10 southwest of the Richardson Highway.~~

~~C. Carbon Monoxide Control Measures. FNSB air quality division will notify local media to ensure the declared alert is broadcast. Information within the notification will contain the CO forecast and procedures to reduce sources of CO, e.g., use of public transportation, use of engine preheating, elimination of unnecessary use of motor vehicles. (Ord. 2013-07 § 3, 2013; Ord. 2004-61 § 2, 2004; Ord. 2003-71 § 2, 2003; amended during 1993 republication; Ord. 91-044 § 2, 1991; Ord. 85-065 § 2, 1985)~~

Chapter 8.06 OXYGENATED FUEL

Sections:

~~8.06.010 Purpose.~~

~~8.06.020 Definitions.~~

~~8.06.030 Unlawful acts.~~

~~8.06.040 Penalty for violations.~~

8.06.010 Purpose.

~~The purpose of this chapter is the protection of health and safety of the residents of the Fairbanks North Star Borough from problems caused by the use of oxygenated fuel.~~

~~It establishes a zero tolerance local ambient air quality standard as provided for by 42 USC 7545(M)(3). (Ord. 94-018 § 2, 1994)~~

8.6.20 Definitions.

~~“Borough” means the Fairbanks North Star Borough.~~

~~“Mandate” includes, but is not limited to, cases where sanctions of any kind are proposed for failure to adopt an oxygenated fuel program.~~

~~“Oxygenated fuel” means a fuel that:~~

- ~~1. Contains an average of 2.7 percent oxygen by weight for the control period; and~~
- ~~2. Contains at least 2.0 percent oxygen by weight. (Ord. 94-018 § 2, 1994)~~

8.06.030 Unlawful acts.

~~A. No public official or government entity may cause or enforce mandatory sales and use of oxygenated fuel within the borough.~~

~~B. This chapter shall remain in effect until such time that the federal, state and borough governments certify, in conjunction with independent peer reviewed scholarly confirmation, that the oxygenated fuel to be used in the Fairbanks North Star Borough is not harmful to the health and safety of borough residents and their environment. (Ord. 94-018 § 2, 1994)~~

8.06.040 Penalty for violations.

~~A. Nothing in this chapter shall prohibit the Fairbanks North Star Borough from taking civil action for violations of any provisions of this chapter.~~

~~B. Nothing in this chapter shall prohibit individuals from taking civil action for violations of their rights or for the compromising of their health and safety. (Ord. 94-018 § 2, 1994)~~

Chapter 8.07 CURFEW FOR MINORS

Sections:

~~8.07.010~~ Definitions.

~~8.07.020~~ Offenses.

~~8.07.030~~ Exceptions.

~~8.07.040~~ *Repealed.*

8.7.10 Definitions.

In this chapter:

“Curfew hours” means:

1. September through May:
 - a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day; and
 - b. 1:00 a.m. on any Saturday and Sunday until 5:00 a.m. of the same day.
2. June through August: 1:00 a.m. on any day until 5:00 a.m. of the same day.

“Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent physical injury or loss of life.

“Establishment” means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

“Guardian” means:

1. A person who, under court order, is the guardian of the minor; or
2. Public or private agency with whom a minor has been placed by a court.

“Knowingly” means, with respect to conduct or to a circumstance described by a provision of law defining an offense, that a person is aware that his or her conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist.

~~“Minor” means any person under the age of 18 years.~~

~~“Operator” means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.~~

~~“Parent” means a person who is:~~

- ~~1. A natural parent, adoptive parent, or stepparent of another person; or~~
- ~~2. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.~~

~~“Physical injury” means a physical pain or an impairment of physical condition.~~

~~“Public place” means any place to which the public or a substantial group of the public has access, and includes but is not limited to streets, highways, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.~~

~~“Remain” means to:~~

- ~~1. Linger or stay; or~~
- ~~2. Fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises. (Ord. 98-043 § 2, 1998)~~

~~8.07.020 Offenses.~~

~~A. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the Fairbanks North Star Borough during curfew hours.~~

~~B. A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Fairbanks North Star Borough during curfew hours in violation of this chapter. Indifference as to the activities or whereabouts of the minor shall be prima facie evidence of insufficient control.~~

~~C. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours. (Ord. 98-043 § 2, 1998)~~

8.07.030 Exceptions.

A. It is an exception to prosecution under FNSBC [8.07.020](#)(A) and (B) if the minor was:

1. Accompanied by his or her parent or guardian;
2. On an errand at the written direction of his or her parent or guardian, without any detour or stop (written direction must be signed, timed, and dated by the parent or guardian and must indicate the specific errand);
3. Involved in an emergency;
4. Engaged in an employment activity, or going to or returning from an employment activity, without detour or stop;
5. On the public right of way immediately abutting the minor's residence or immediately abutting the residence of a next door neighbor, if the neighbor did not complain to the police department about the minor's presence;
6. Attending, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the Fairbanks North Star Borough, Fairbanks North Star Borough School District, a civic organization, or another similar entity that takes responsibility for the minor;
7. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
8. Married or had disabilities of minority removed in accordance with AS 9.55.

B. It is an exception to prosecution under FNSBC [8.07.020](#)(C) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave. (Ord. 98-043 § 2, 1998)

8.07.040 Penalties.

Repealed by Ord. 2013-26. (Ord. 2012-66 § 4, 2013; Ord. 98-043 § 2, 1998)

Chapter 8.08 FIREWORKS¹

Sections:

- ~~8.08.010~~ Defined.
- ~~8.08.020~~ Sale prohibited.
- ~~8.08.030~~ Use restricted.
- ~~8.08.040~~ Displays — Permit required.
- ~~8.08.050~~ Authorized sale and use.
- ~~8.08.060~~ Penalty for violations.

~~8.08.010~~ Defined.

~~"Fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include toy—pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of—nonmanned balloons which require fire underneath to propel the same, firecrackers,—torpedoes, skyrockets, Roman candles, daygo bombs, or other devices of like construction—and any devices containing any explosive or flammable compound, or any tablets or other—devices containing any explosive substance, except that the term "*fireworks*" shall not include auto flares, ammunition, paper caps, containing not in excess of an average of 0.25 of a grain of explosive content per cap manufactured in accordance with the Interstate Commerce—Commission regulations for packing and shipping as provided therein, and toy pistols, toy—canes, toy guns, or other devices for use of such caps, and sale and use of which shall be permitted at all times. (Ord. 72-27, 1972; Ord. 72-5, 1972; Ord. 69-1, 1969; prior code § 32.05.010)~~

~~8.08.020~~ Sale prohibited.

~~The sale of *fireworks* is prohibited. (Ord. 72-27, 1972; Ord. 72-5, 1972; Ord. 69-1, 1969; prior code § 32.05.020)~~

~~8.08.030~~ Use restricted.

~~Except as provided in FNSBC [8.08.040](#) and [8.08.050](#), no person shall, except on real—property owned by him, under his control or with permission granted by the owner, use or—explode *fireworks*. The mayor may, in times of extreme fire danger, prohibit all use or—explosion of *fireworks* in the Fairbanks North Star Borough within the areas outside the cities—of Fairbanks and North Pole. (Ord. 2014-16 § 2, 2014; Ord. 72-27, 1972; Ord. 72-5, 1972; Ord. 69-1, 1969; prior code § 32.05.030)~~

~~8.08.040 Displays – Permit required.~~

~~A. *Fireworks* may be used for public displays by municipalities, fair associations, amusement parks and other organizations or groups of individuals, under the following conditions:~~

- ~~1. A permit is obtained from the borough mayor or his authorized representative after approval of the local fire authorities;~~
- ~~2. In determining whether to issue or deny a permit for the use of *fireworks* at a public display, the borough mayor or his designee shall consider the following:
 - ~~a. The location of the proposed display and the surrounding property;~~
 - ~~b. The type of *fireworks* and the length of the proposed display;~~
 - ~~c. The danger of the proposed display to persons and property; and~~
 - ~~d. The experience and the competency in handling *fireworks* of the person in charge of the proposed display;~~~~
- ~~3. A bond is filed with the borough, in the amount of at least \$1,000 to ensure payment of all damages to persons or property caused by the display. The bond requirement will not be operative if the holder of the permit has in effect an insurance policy which accomplished the same purpose as the bond.~~

~~B. No permit is transferable.~~

~~C. Any *fireworks* that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of *fireworks* remaining. (Ord. 72-27, 1972; Ord. 72-5, 1972; Ord. 69-1, 1969; prior code § 32.05.040)~~

~~8.08.050 Authorized sale and use.~~

~~Nothing in this chapter shall be construed to prohibit any resident wholesaler, dealer or jobber to sell at wholesale such *fireworks* as are not herein prohibited; or the sale of any kind of *fireworks* provided the same are to be shipped directly out of the borough, in accordance with the Interstate Commerce Commission regulations covering the transportation of explosives and other dangerous articles by motor, rail, and water; or the use of *fireworks* by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. This chapter does not pertain to those explosives or devices~~

~~used in construction, logging or mining and would not prohibit the use of these explosives or devices in such activities. (Ord. 72-27, 1972; Ord. 72-5, 1972; Ord. 69-1, 1969; prior code § 32.05.050)~~

~~8.08.060 Penalty for violations.~~

~~Every person, firm, corporation, club, association or organization violating any of the provisions of this chapter is guilty of a violation punishable by a \$1,000 fine. (Ord. 2013-65 § 17, 2013; Ord. 72-27, 1972; Ord. 72-5, 1972; Ord. 69-1, 1969; prior code § 32.05.060)~~

¹

~~For statutory provisions authorizing municipalities to regulate the offering for sale, exposure for sale, sale, use or explosion of fireworks, see AS 29.35.~~

Chapter 8.10
SOLID WASTE COLLECTION DISTRICT

Sections:

[8.10.010](#) — Solid waste collection district.

~~8.10.010 Solid waste collection district.~~

A. ~~There is hereby established the Fairbanks North Star Borough solid waste collection district. The district is not a service area. The district shall consist of the area lying within the boundaries of the city of North Pole and the area outside all the cities in the borough.~~

B. ~~The assembly may levy taxes, charges, or assessments in the district to finance the collection of solid waste in the district. (Recodified during 2004 republication; Ord. 91-008 § 3, 1991. Formerly 1.02.160.)~~

~~Chapter 8.12~~ **GARBAGE AND SOLID WASTE⁴**

Sections:

- ~~8.12.011~~ Chapter purpose.
- ~~8.12.021~~ Definitions.
- ~~8.12.031~~ Solid waste disposal facilities.
- ~~8.12.33~~ Recycling of materials.
- ~~8.12.34~~ *Recodified.*
- ~~8.12.35~~ Approved recyclers.
- ~~8.12.36~~ *Repealed.*
- ~~8.12.041~~ General prohibition.
- ~~8.12.046~~ Landfill tipping fees.
- ~~8.12.051~~ Use of borough waste facilities.
- ~~8.12.055~~ Waiver of tipping fees.
- ~~8.12.061~~ Collection and transportation of solid waste.
- ~~8.12.071~~ Penalty for violations.

8.12.011 Chapter purpose.

The declared purpose of this chapter is the protection of the public health, safety and welfare of the people of the Fairbanks North Star Borough. The chapter and any regulations promulgated pursuant thereto are intended to:

- A. Control dumping and disposal of solid waste at such place and in such manner that it will not be a detriment to the health, safety and welfare of the citizens of the borough;
- B. Provide facilities for the proper disposal of solid waste at minimum cost;
- C. Reduce litter and littering;
- D. Promote resource recovery, recycling and reuse of solid waste;
- E. Preserve and enhance the beauty and quality of our environment;
- F. Promote responsible agricultural practices and encourage economic activity.

No section of this chapter should be interpreted as prohibiting residents from reusing articles from the waste stream discarded at a borough transfer site. (Ord. 2009 39 § 2, 2009; Ord. 84 29 § 2, 1984)

8.12.21 Definitions.

In this chapter unless the context requires otherwise:

~~“Avoided costs” means the savings realized by the solid waste collection district or solid waste disposal funds of the borough if recyclables are diverted from the landfill or separated from the waste stream prior to being deposited in the landfill or a transfer station. Avoided costs shall not include hauling costs avoided by the city of Fairbanks. Avoided hauling costs of the borough shall include avoided costs of hauling recyclables from outside the city of Fairbanks, tipping fees avoided by the taxpayers of the solid waste collection district, and calculated savings to the solid waste operation that result from a lower amount of refuse being handled at the landfill including avoided closure and post-closure costs. To determine avoided hauling costs and tipping fees, an approved recycler must have a method of weighing the recycled goods approved as accurate and verifiable by the Fairbanks North Star Borough. To determine avoided landfill costs, the methodology used will be the methodology used by the MacTech study, or other comparable study as selected at the sole discretion of the mayor, to calculate landfill costs, adjusted for the projected reduction in tonnage.~~

~~“Biomass” means a given quantity of organic material.~~

~~“Bulky wastes” are large items of refuse including but not limited to appliances, vehicles, furniture, large auto parts, tires, trees and branches, stumps and flottage.~~

~~“Commingled recyclables” means a mixture of several recyclable materials into one container.~~

~~“Curbside collection” means programs where recyclable materials are collected at the curb from special containers, to be brought to various processing facilities.~~

~~“Director” means the public works director, or his/her designee.~~

~~“Diversion rate” means a measure of the amount of recyclables diverted for recycling compared with the total amount that was previously landfilled.~~

~~“Documentation” means written proof that a quantity of recyclables has been recycled and will not be landfilled.~~

~~“Drop-off center” means a method of collecting recyclable or compostable materials in which individuals take materials to collection sites and deposit them into designated containers.~~

~~“Garbage” means any putrescible solid and semisolid animal or vegetable wastes resulting from the production, handling, preparation, cooking, serving or consumption of food or food materials.~~

~~“Hazardous waste” means a waste or combination of wastes that because of quantity, concentration or physical, chemical or infectious, pathological or radiological characteristics might cause, or significantly contribute to:~~

- ~~1. An increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or~~
- ~~2. A substantial present or potential hazard to human health or to the environment if improperly managed, treated, stored, transported or disposed of or otherwise managed.~~

~~“Industrial solid waste” means any waste substance or a combination thereof resulting from the operation of or from any process of industry, manufacturing, trade or business, or from the development of any agricultural or natural resources.~~

~~“Inert solid wastes” means wastes including but not limited to wood, glass, crockery, brick, plastics, rubber or other materials which have minimum potential for environmental degradation and leachate production.~~

~~“Infectious waste” means certain laboratory, surgical and hospital waste; surgical specimens including pathological specimens, tissues, blood elements, excreta and secretions obtained from patients; disposable materials that have been in contact with persons who have a suspected or diagnosed communicable disease; a substance that might harbor or transmit pathogenic organisms; disposable materials from outpatient areas, emergency rooms and rooms of patients with a suspected or diagnosed communicable disease that requires isolation; and certain equipment, including instruments, syringes and needles.~~

~~“Junk” means used materials which will not be further utilized unless collected and processed for reuse or recycling.~~

~~“Litter” means any discarded, used or unconsumed substance or waste material which has not been deposited in a suitable litter receptacle.~~

~~“Manual separation” means the separation of recyclable or compostable materials from waste by hand sorting.~~

~~“Materials recovery” means extraction of materials from the waste stream for reuse or recycling, including source separation, front end recovery, in plant recycling, post combustion recovery, leaf composting, etc.~~

~~“Mechanical separation” means the separation of waste into various components using mechanical means, such as cyclones, trommels and screens.~~

~~“Putrescible waste” means material that can decompose and cause obnoxious odors.~~

~~“Recyclable metals” means copper, brass, bronze, aluminum, lead, zinc, and ferrous metals, but does not include steel cans and those metals that are bonded or fused to other materials and cannot be readily separated.~~

~~“Recyclables” means materials that have useful physical or chemical properties after serving their original purpose and that can, therefore, be reused or remanufactured into additional products, including refuse derived fuel (RDF).~~

~~“Recycling” means the process by which a material that would otherwise be placed in the landfill is collected, reprocessed, or remanufactured, and then reused, or used for energy.~~

~~“Refuse” means any putrescible or nonputrescible solid waste, except human excreta.~~

~~“Resource recovery” means the processing of solid wastes in such a way as to produce materials or energy which may be used in manufacturing, agriculture, or other processes.~~

~~“Rubbish” means any solid waste except ashes and putrescible waste.~~

~~“Secured” means tied down or otherwise not subject to release.~~

~~“Sewage sludge” means the organic sludge generated by municipal or other wastewater collection and treatment activities, and may include primary, secondary and digested sludges, grit and screenings.~~

~~“Sludge” means any solid, semisolid or liquid waste which contains at least five percent solids by weight generated at a municipal, commercial or industrial wastewater treatment plant, septic tank, water supply treatment plant or air pollution control facility; “sludge” includes any similar material accumulated in and removed from a storage tank or surface impoundment containing oil, industrial liquid waste, acid, chemicals or other similar substances.~~

~~“Solid waste” means drilling wastes, garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities. For the purposes of this chapter “solid waste” does not include:~~

- ~~1. Spoil and overburden from road construction, land clearing or mining operations;~~
- ~~2. Mining waste regulated by the Federal Surface Mining Control and Reclamation Act of 1977, as amended, and by the Alaska Surface Mining Control and Reclamation Act of~~

~~1982 (AS 27.21);~~

~~3. Domestic sewage and other wastes that are discharged into the pass through a sewer system to a publicly owned treatment works;~~

~~4. Industrial or mining wastes that are being collected, stored or treated in:~~

~~a. A wastewater treatment plant before discharge or removal, or~~

~~b. An industrial processing facility for continual reuse;~~

~~5. Industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended;~~

~~6. Source, special nuclear, or byproduct material as defined by the Nuclear Waste Policy of 1982, as amended January 7, 1983, at Public Law 97-425.~~

~~“Source separation” means the segregation of specific materials at the point of generation for separate collection. Recyclables are source separated at residences as part of a recycling program.~~

~~“Special solid waste” means hazardous wastes, infectious wastes, radioactive wastes, industrial wastes or sludges and sewage residues. (Ord. 2012-49 § 2, 2012; Ord. 2009-39 § 3, 2009; Ord. 2003-43 § 2, 2003; Ord. 94-045 §§ 2, 3, 1994; amended during 1993 republication; Ord. 89-038 § 2, 1989; Ord. 84-29 § 2, 1984)~~

~~8.12.031 Solid waste disposal facilities.~~

~~A. The borough may require any person dumping solid waste at the following areas to dump where specified, and may reject or impound any waste which is judged to be unacceptable. Impoundment implies that the waste and its container, but not the vehicle used to transport the waste, may be impounded. The following facilities are designated for the disposal of all types of solid waste, with the exception of special solid waste:~~

~~1. South Cushman baler and landfill;~~

~~2. Other borough owned or borough operated landfills.~~

~~B. Collection and transfer sites provided as part of the borough’s solid waste collection district are designated solely for the disposal of residential solid waste by residents of the borough residing outside the city of Fairbanks.~~

~~C. The following facilities are for the disposal of solid waste as approved by the owners of~~

such facilities. Only persons with the prior approval of the owners may dump solid waste at these facilities:

1. Military landfills;
2. Other containers which will be dumped at the South Cushman baler and landfill, including private dumpsters located at apartment complexes, mobile home parks and other locations. For the purposes of this paragraph, in the case of leased private dumpsters, the lessee shall be considered the owner;
3. Other locations, as approved and permitted by the state, subject to the conditions of such permits.

D. Any administrative decisions of the director or the solid waste superintendent pursuant to this chapter may be appealed to the pollution control commission. In all actions under the provisions of this chapter, the name of the complainant will be a matter of public information. (Ord. 94-056 § 2, 1994; amended during 1993 republication; Ord. 89-038 § 3, 1989; Ord. 84-29 § 2, 1984)

8.12.33 Recycling of materials.

A. The borough shall ensure that, at all borough owned or operated landfills and primary collection and transfer sites, separate locations or containers are provided to receive and hold recyclable materials. These may include but are not limited to:

1. Glass;
2. Aluminum cans;
3. Corrugated cardboard, flattened;
4. Computer paper;
5. Office paper;
6. Scrap metal:
 - a. Aluminum,
 - b. Copper,
 - c. Iron,

~~d. Brass;~~

~~e. Stainless steel;~~

~~7. Car radiators;~~

~~8. Plastic;~~

~~9. Biomass material;~~

~~10. Other materials selected by the borough.~~

~~B. The borough may provide for this separation by either:~~

~~1. Ensuring that borough-provided locations or containers are available; or~~

~~2. Contracting with a private firm to furnish and service such locations or containers.~~

~~C. If the borough provides for the deposit of such materials directly, periodically the borough shall sell to recycling firms the materials collected in these locations or containers.~~

~~D. Deposit of materials other than the appropriate, designated materials in any of the thus-established locations or containers, or the removal of any such materials, except by prior-written permission of the borough, is prohibited.~~

~~E. The borough shall waive in whole or in part the tipping fee to persons, businesses and entities which separate recyclable materials into lots designated by the borough which may include aluminum, glass, plastic, cardboard, mixed paper, newspaper, electronics or wood products in loads delivered to the landfill. A waiver may be granted for other materials, if recommended by the commission and approved by the mayor with notification to the assembly. The waiver shall be no greater than 100 percent of the tipping fee. Nonseparated loads of recyclables shall not receive a waiver. The mayor is authorized to establish a rate schedule for such waivers.~~

~~F. It is the policy of the Fairbanks North Star Borough to encourage reduction, reuse and recycling of solid wastes generated in the borough. These efforts may include payment of a portion of actual avoided costs of hauling and land filling to approved recyclers/reusers not to exceed \$175,000. Subject to appropriation, avoided costs, less a 25 percent reduction, may be paid to approved recyclers when documentation is provided to show that materials separated as recyclables have been removed from the waste stream by recycling within the current fiscal year. Twenty five percent of avoided costs may be paid to a fund established to maintain the efforts of the commission.~~

~~G. The borough may implement a program of designated burial of source separated-recyclable materials that are not removed from the waste stream. (Ord. 2009-39 §§ 4, 5, 2009; Ord. 94-045 § 4, 1994; amended by voter approval 10/5/93; Ord. 91-035 § 2, 1991; Ord. 89-060 § 2, 1990)~~

~~8.12.34 Recycling commission.~~

~~Recodified as Chapter 2.110 FNSBC by Ord. 2011-30. (Ord. 2009-39 § 7, 2009; Ord. 94-045 § 5, 1994)~~

~~8.12.35 Approved recyclers.~~

~~A. The recycling commission shall recommend to the administration those recyclers—authorized to remove recyclables for the purpose of reuse or remanufacture who will be—eligible to receive payment for tonnage of materials that will not be placed in the landfill. The commission shall evaluate proposals from recyclers. The evaluation criteria will include the following:~~

- ~~1. Valid Alaska business license and city license if applicable;~~
- ~~2. Proof of financial resources in proportion to the business purpose;~~
- ~~3. Authorized site approval documentation by DEC and FNSB, if necessary;~~
- ~~4. Submission and approval of a business plan to show:
 - ~~a. Type(s) of materials to be recycled or shipped;~~
 - ~~b. Location of approved material sites including appropriate site zoning;~~
 - ~~c. Estimated number of tons to be recycled each month;~~
 - ~~d. Program start date for waste generated after specified date; and~~
 - ~~e. Consistency with the borough's overall recycling plan.~~~~
- ~~5. The overall impact on the goal of recycling and reduction of solid wastes generated in the borough.~~

~~B. Notwithstanding FNSBC 16.30.010 through 16.30.080, the mayor or his designee may enter into a contract with any or all recyclers recommended by the recycling commission and who demonstrate an ability to make a significant positive impact on the borough's recycling—plan goals sufficient to justify the cost of the contract. No funds shall be paid pursuant to~~

FNSBC ~~8.12.033~~(F) to a recycler until a contract has been agreed to and signed by the borough and recycler. The contract shall not exceed a term of 10 years. The contract must include a provision authorizing termination at will by the mayor. (Ord. 2009-39 § 8, 2009; Ord. 94-045 § 6, 1994)

~~8.12.36 Recycling promotion special revenue fund.~~

~~Repealed by Ord. 2009-39.~~ (Ord. 94-045 § 7, 1994)

~~8.12.041 General prohibition.~~

A. No person shall dispose of solid wastes, special solid wastes or sludge in any place except those listed in FNSBC ~~8.12.031~~.

B. No person shall dump, throw, drop or deposit any special solid waste in the Fairbanks North Star Borough except approved haulers at approved facilities.

C. No person shall allow the accumulation of garbage, solid waste, animal feces, etc., on property where he resides or which he owns or controls to impose a threat to public health. Nothing in this section shall be construed to restrict normal agricultural practices in the rural and agricultural or general use zones.

D. No person shall discard any litter into or on any water or land within the borough, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose.

E. No person shall dump solid waste in the borough's public dumpsters collected from any location other than individual residences located in the borough outside the city of Fairbanks.

F. No solid waste shall be dropped, deposited, discarded or otherwise disposed at a public dumpster unless it remains within the public dumpster. Any disposal outside the container is a violation of subsection (D) of this section.

G. No person shall dump at the borough's public dumpsters bulky wastes, dead animals, infectious wastes, demolition debris or special solid wastes. (Ord. 2013-07 § 4, 2013; Ord. 94-056 § 3, 1994; Ord. 89-038 § 4, 1989; Ord. 84-29 § 2, 1984)

~~8.12.046 Landfill tipping fees.~~

A. Except as otherwise provided in this chapter, any person disposing of solid waste at the borough landfill shall pay a tipping fee established in accordance with FNSBC ~~3.50.010~~.

B. The borough mayor may permit a commercial hauler regulated by the state of Alaska to

~~dispose of residential solid waste collected solely from individual residences located in the solid waste collection district and delivered directly to the borough landfill without direct payment of a tipping fee. Such tipping fees shall be paid to the landfill by the solid waste collection district. (Ord. 2001-34 § 2, 2001)~~

~~8.12.051 Use of borough waste facilities.~~

~~A. Any person wishing to dispose of solid waste generated or collected from a location outside of the borough shall be charged a fee that reflects the actual costs of providing such services, including but not limited to current operational costs, probable operational and monitoring costs for the life of the landfill, and landfill closure and replacement costs.~~

~~B. Disposal of solid waste generated or collected from a location outside of the borough shall not be permitted unless the solid waste meets the conditions of the borough's ADEC solid waste permit.~~

~~C. Disposal of more than 25 tons of solid waste per month from a source outside of the borough shall not be permitted unless the mayor determines that:~~

- ~~1. The solid waste can be safely and efficiently disposed of at the borough landfill;~~
- ~~2. The solid waste will not significantly impact the capacity of the borough landfill; and~~
- ~~3. There will be no harm to the borough or the borough landfill.~~

~~D. Disposal of solid waste from a source outside the borough for longer than 60 days shall also require concurrence of the borough assembly. (Ord. 97-036 § 2 1997; Ord. 84-29 § 2, 1984)~~

~~8.12.055 Waiver of tipping fees.~~

~~A. The borough will waive the tipping fee to residents of the borough who bring minor loads of nonhazardous solid waste to the landfill. For the purpose of this subsection, loads of nonhazardous waste brought to the landfill from a residence in a passenger vehicle, a pick up truck, or a trailer with two wheels and a single axle will be considered minor loads if the vehicle is not registered in the name of a company or business or used for commercial purposes.~~

~~B. Any Internal Revenue Code Section 501(c)(3) or 501(d) nonprofit organization which accepts clothing, furniture or other items of personal property, on a year round basis, and sells those items of personal property to raise funds for the organization's services, or distributes those items of personal property to persons in need, shall be exempt from paying tipping fees on that personal property which is in such disrepair that it cannot be resold and must be~~

transported to and disposed of in the landfill.

C. The borough mayor may waive tipping fees for materials to the landfill for borough recycling or hazardous waste disposal programs and for community cleanup activities. The mayor may waive tipping fees for debris from private residences in the borough damaged by fire if there is no reimbursement for such waived fees from any other source. The mayor, when there is a direct and primary benefit to the public, may waive tipping fees for materials removed from deteriorated property, as defined in FNSBC 3.11.070, during the course of rehabilitation, repair, construction, reconstruction, renovation, demolition, removal or replacement of any structure on such property. ²

D. All other loads will be considered commercial and will be charged the usual tipping fee on the entire load. (Ord. 2005-26 § 4, 2005; Ord. 99-006 § 2, 1999; Ord. 94-085 § 2, 1994; Ord. 94-074 §§ 2, 3, 1994; Ord. 93-002 § 3, 1993; Ord. 91-056 § 2, 1991)

8.12.061 Collection and transportation of solid waste.

A. The owner or occupant of any premises, business establishment, industrial establishment, or refuse collection service shall be responsible for the collection and transportation of all solid waste accumulated at a premises, business establishment or industrial establishment to an approved solid waste disposal facility in accordance with this chapter.

B. Garbage and similar putrescible wastes, or refuse containing such materials, shall be collected and transported in containers which are covered and leakproof.

C. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom. Where spillage does occur, it is the responsibility of the collector or transporter to pick up the material, return it to the vehicle or container, and properly clean the area. Any person collecting or transporting solid waste who permits the waste to fall, leak or spill from the vehicle or who fails to clean up waste which has fallen, leaked or spilled from his vehicle shall be subject to a civil penalty not to exceed \$1,000 in addition to the cost of cleanup incurred by the borough or other public agency.

D. Any person who arrives at any borough operated solid waste disposal facility, including the South Cushman balefill/landfill and any borough solid waste transfer station, with a vehicle or container which is not covered or with a load which is not secured is in violation of this section. (Ord. 2003-43 § 3, 2003; Ord. 84-29 § 2, 1984)

8.12.071 Penalty for violations.

~~This chapter does not affect the private right of any person to bring an action for damages or other relief because of injury caused by garbage or solid waste. (Ord. 2013-26 § 7, 2013; Ord. 2003-43 §§ 4, 5, 6, 2003; Ord. 89-038 § 5, 1989; Ord. 84-29 § 2, 1984)~~

1

~~For statutory provisions authorizing municipalities to regulate garbage and solid waste collection and disposal, see AS 29.35.~~

2

~~Code reviser's note: Ordinance 2005-26, amending subsection (C) of this section, may be repealed by voters through referendum.~~

Chapter 8.14 ABANDONED VEHICLES

Sections:

- ~~8.14.010~~ Definitions.
- ~~8.14.015~~ Unlawful acts.
- ~~8.14.020~~ Removal of abandoned vehicles.
- ~~8.14.030~~ Notice of impoundment.
- ~~8.14.040~~ Disposition—Destruction.
- ~~8.14.050~~ Disposition—Sale.
- ~~8.14.060~~ Waiver of claims for damages.

8.14.10 Definitions.

"Abandoned vehicle" means a vehicle that is:

- ~~1. Registered or titled as required under AS 28.10 that has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway or vehicular way or area in excess of 48 hours;~~
- ~~2. Registered or titled as required under AS 28.10 that reasonably appears to have been left standing or parked on private property in excess of 24 hours or upon other public property for more than 30 days, without the consent of the owner or person in charge of the property;~~
- ~~3. A wrecked or junked vehicle that reasonably appears to have been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway or vehicular way or area in excess of 24 hours; or~~
- ~~4. A wrecked or junk vehicle that reasonably appears to have been left standing or parked on private property or other public property in excess of 24 hours and without the consent of the owner or person in charge of the property.~~

~~"Director" means the director of community planning, or his designee.~~

"Junk vehicle" means a vehicle that:

- ~~1. Is not currently registered, except for a vehicle used exclusively for competitive racing;~~
- ~~2. Is stripped, wrecked, or otherwise inoperable due to mechanical failure;~~
- ~~3. Has not been repaired because of mechanical difficulties or because the cost of~~

repairs required to make it operable exceeds the fair market value of the vehicle; or

4. Is in a condition that exhibits more than one of the following: broken glass, missing wheels or tires, missing body panels or parts, or missing drive train parts.

"Wrecked vehicle" means a vehicle that is disabled and cannot be used as a vehicle without substantial repair or reconstruction.

These definitions are for the purpose of this chapter only and shall not be used as definitions for language used in other chapters. (Ord. 2001-71 § 2, 2001; Ord. 86-017 § 42, 1986; Ord. 82-41 § 2, 1982)

8.14.015 Unlawful acts.

A. A person may not abandon a vehicle upon a highway or vehicular way or area.

B. A person may not abandon a vehicle upon public property or upon private property without the consent of the owner or person in lawful possession or control of the property. (Ord. 2001-71 § 8, 2001)

8.14.020 Removal of abandoned vehicles.

A. An abandoned vehicle may be impounded by the director or his designee in accord with this chapter.

B. Notwithstanding subsection (A) of this section, no vehicle may be removed from private property without the written request or consent of the property owner or occupant. (Ord. 2001-71 § 3, 2001; Ord. 82-41 § 2, 1982)

8.14.030 Notice of impoundment.

A. Within 30 days of impoundment, notice shall be given to the registered owner of record (and lienholder of record, if any) of the abandoned vehicle. When the persons involved are known, adequate notice shall be by either certified mail or personal service. The giving of notice by mail is considered complete upon the return of the receipt or upon return of the notice as undeliverable, refused or unclaimed. If such persons are not known or cannot be located the vehicle shall be impounded and notice shall be by publication in the manner prescribed in the rules of court for service of process by publication. The director shall attempt to ascertain ownership from the Department of Public Safety.

B. Notice under this section shall contain:

1. The description of the vehicle;

- ~~2. The date, time, grounds and place of removal;~~
- ~~3. An itemized statement of amounts due the borough for towing and storage and stating that such fees must be paid prior to redemption of the vehicle;~~
- ~~4. A statement that the vehicle will be disposed of 15 days from the date notice was mailed or published unless the vehicle is redeemed and costs paid; and~~
- ~~5. A statement that the owner of the vehicle may, at any time within the 15 day period, request a hearing before the director concerning whether the vehicle was left for the period specified in FNSBC [8.14.010](#) or concerning the amount due. (Ord. 2001-71 § 4, 2001; Ord. 82-41 § 2, 1982)~~

~~8.14.040 Disposition – Destruction.~~

~~If the director determines that an abandoned vehicle impounded pursuant to this chapter has been scrapped, dismantled or destroyed beyond repair, or if he determines that because of the age and condition of the vehicle it is no longer of significant value, he may dispose of it by crushing or other means of destruction upon the expiration of the 15 day period required by FNSBC [8.14.030](#).~~

~~The borough may also dispose of junk vehicles at the written request of the registered owner of the vehicle or person in lawful possession or control of the vehicle. This written request shall be on a form prescribed by the borough. (Ord. 2001-71 § 5, 2001; Ord. 82-41 § 2, 1982)~~

~~8.14.050 Disposition – Sale.~~

~~A. The director may sell abandoned vehicles impounded in accord with this chapter at a public auction.~~

~~B. The public auction shall be preceded by at least 20 days' notice of public auction posted in a newspaper of general circulation in the borough.~~

~~C. The notice of public auction shall state the description of the vehicle, date, time and place of auction, the name of the owner if known and a statement that, subject to the provisions of subsection (E) of this section, the vehicle shall be sold to the highest spot cash bidder.~~

~~D. The owner of the vehicle, upon presenting satisfactory proof of ownership, may redeem an abandoned vehicle prior to the time of sale after paying the borough towing and storage costs and a pro rata share of the cost of the notice and other costs of impoundment and sale.~~

~~E. A certificate of sale shall be issued for all vehicles sold at the auction. The certificate shall~~

~~stipulate that the vehicle must be titled with the Department of Public Safety before the vehicle is released to the purchaser. Upon a showing that certificate of title has been obtained the vehicle will be released to the purchaser. If no such showing has been made within a 20-day period the purchase price will be returned and the vehicle may be disposed of pursuant to this section. (Ord. 2001-71 § 6, 2001; Ord. 82-41 § 2, 1982)~~

~~**8.14.060 Waiver of claims for damages.**~~

~~A. An owner of an abandoned vehicle, by the act of abandonment, waives any claims he may have for damage to or loss of his vehicle which may result from actions taken pursuant to this chapter. Such damage or loss includes but is not limited to accidental damage or destruction occasioned by removal transport and storage, and acts of third parties.~~

~~B. Should a vehicle purchased at auction pursuant to FNSBC [8.14.050](#) be damaged or destroyed prior to release, the purchaser's remedy is limited to a return of the purchase price. (Ord. 2001-71 § 7, 2001; Ord. 82-41 § 2, 1983)~~

**Chapter 8.16
JUNKYARDS**

(Repealed by Ord. 2005-29)

Chapter 8.18
VEHICLE INSPECTION AND MAINTENANCE PROGRAM

(Repealed by Ord. 2009-36)

~~Chapter 8.20~~
VEHICLE PLUG-IN PROGRAM

Sections:

~~8.20.010~~ Vehicle plug in program.

~~8.20.010 Vehicle plug-in program.~~

~~A. Parking Lot Owner Responsibilities. Between November 1st of each year and March 31st of the subsequent year, each employer or business with a total of 275 or more parking spaces with outlets within the borough maintenance area shall supply electricity to outlets located in its parking lots for use by motorists in plugging in vehicles equipped with engine heaters. Electricity shall be supplied on days when temperatures fall below 21 degrees Fahrenheit, as measured by the National Weather Service at the Fairbanks International Airport.~~

~~1. Power Cycling. Power to parking lots may be cycled on and off every other hour during days when temperatures fall below the 21 degrees Fahrenheit threshold to conserve electricity use.~~

~~2. Record Keeping. Each employer or business subject to subsection (A) of this section shall maintain a logbook that documents the days on which power is supplied to electrical outlets located in its parking lots. Notations of special circumstances that prevent the supply of electricity to outlets shall be included. The logbooks shall be maintained for a five year period and be available for inspection upon borough request.~~

~~3. New Parking Lots.~~

~~a. Employers and businesses subject to subsection (A) of this section shall provide outlets for any new parking spaces intended for use by a motorist for longer than two hours.~~

~~b. Notwithstanding subsection (A) of this section, an employer or business shall provide outlets for new parking spaces when such spaces increase its number of spaces intended for use by a motorist for longer than two hours to 275 or more. The employer or business shall supply electricity to such outlets on days when temperatures fall below 21 degrees Fahrenheit, as measured by the National Weather Service at the Fairbanks International Airport in accordance with this chapter.~~

~~4. Maintenance of Outlets. Each employer or business subject to subsection (A) of this section shall maintain the electrical outlets in operable condition. No employer or~~

~~business subject to subsection (A) of this section shall decrease the number of parking spaces with outlets without prior approval of the I/M program administrator.~~

~~B. Implementing Policies and Procedures. Within six months of the effective date of the ordinance codified in this chapter, the borough shall develop administrative policies and procedures for implementing and enforcing this program.~~

~~C. Penalties for Violation.~~

~~1. The borough may institute a civil action against an employer or business that violates a provision of this chapter. In addition to injunctive and compensatory relief, the borough may obtain a civil penalty not to exceed \$1,000 for each violation. The borough may bring an action to enjoin a violation or to recover a civil penalty notwithstanding the availability of any other remedy.~~

~~2. Each day that a violation of this chapter continues constitutes a separate violation.~~

~~D. Definitions.~~

~~"Employer" or "business" means all private and public sector entities, including state, local and federal agencies, departments, offices, boards, commissions, corporations and political subdivisions or other organizational units, including the University of Alaska and school district. The total number of parking spaces includes all agencies, divisions, subsidiaries and locations of the employer or business within the borough maintenance area.~~

~~"Maintenance area" means the area located within the borough that is set out and described by federal law (40 CFR 81.302) but excluding the city of North Pole. (Ord. 2004 61 § 3, 2004; Ord. 2001 17 § 3, 2001)~~

Chapter 8.21 PM2.5 AIR QUALITY CONTROL PROGRAM

Sections:

- ~~8.21.010~~ Definitions.
- ~~8.21.020~~ Borough listed appliances.
- ~~8.21.025~~ Prohibited acts.
- ~~8.21.030~~ *Repealed.*
- ~~8.21.035~~ Enhanced voluntary removal, replacement and repair program.
- ~~8.21.040~~ Forecasting exceedances and voluntary restrictions in the nonattainment area during an alert.
- ~~8.21.045~~ Voluntary burn cessation program.
- ~~8.21.050~~ *Repealed.*
- ~~8.21.060~~ *Repealed.*

Actual ordinance has been incorporated into the State Air Quality plan instead of this copy of the Fairbanks North Star Borough website which has been modified and restructured.

~~8.21.10~~ Definitions.

In this chapter, the following definitions apply:

~~"Air quality alert"~~ means an advisory, ~~alert~~ or ~~episode~~ concerning air quality whether issued by the Fairbanks North Star Borough or the state of Alaska.

~~"Alert"~~ means a notice issued by the FNSB air quality division when the ~~division~~ determines, using available data, that a violation of the 35 micrograms per cubic meter will likely occur.

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

~~"Cookstove"~~ means a wood burning ~~appliance~~ that is designed primarily for cooking food and that has the following characteristics:

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

6. An ash clean-out door below the oven; and

7. The absence of a fan or heat channels to dissipate heat from the device.

"Division" means the Fairbanks North Star Borough air quality division.

"Episode" means when conditions reach **alert** status.

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

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

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

"Heating appliances" means, but is not limited to: oil furnaces, gas furnaces, wood stoves, coal stoves, wood fired **hydronic heaters**, wood fired furnaces, coal fired **hydronic heaters**, coal fired furnaces, **masonry heaters**, **pellet stoves**, **cook stoves**, and **fireplaces**.

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

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

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

1. Is designed and intended for operation only in a closed combustion chamber configuration; and
2. Has enough thermal storage capacity to maintain no less than 50.0 percent of the maximum masonry mass temperature for at least four hours after the maximum masonry mass temperature has been reached; and

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

"*Nonattainment area*" is the area depicted on the map attached to the ordinance codified in this chapter and is further defined as follows:

Township Range Delineated Boundary for the Fairbanks *Nonattainment Area*

~~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.~~

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

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

~~"*PM_{2.5}*" means *particulate matter* comprised of particles that have diameters of two and one-half microns or less.~~

~~"*Sale*" means the transfer of ownership or control.~~

~~"*Solid fuel burning appliance*" means any *appliance*, unless specifically excluded from this definition, designed to produce heat by burning nongaseous and nonliquid fuels. This definition includes, but is not limited to:~~

- ~~1. Wood stoves;~~
- ~~2. Coal stoves;~~

3. Wood-fired ~~hydronic heaters~~;
4. Wood-fired furnaces;
5. Coal-fired ~~hydronic heaters~~;
6. Coal-fired furnaces; and
7. ~~Fireplace inserts~~.

The following ~~appliances~~ are specifically excluded from this definition:

1. ~~Masonry heaters~~;
2. ~~Pellet fuel burning appliances~~;
3. ~~Cook stoves~~; and
4. ~~Fireplaces~~. (Ord. 2013-35 § 3, 2013; Ord. 2013-06 § 2, 2013; Ord. 2011-32 § 2, 2011; Ord. 2011-12 § 2, 2011; Ord. 2011-03 § 2, 2011; amended by citizen initiative 10/28/10; Ord. 2010-28 § 2, 2010)

~~8.21.020 Borough listed appliances.~~

An ~~appliance~~ shall be listed by the borough if:

A. The ~~appliance~~ is certified by the U.S. Environmental Protection Agency as meeting the federal emissions limit standard appropriate for that ~~appliance~~ or in the case of ~~hydronic heaters~~ is at least phase II qualified. For purposes of this section, "certified" means that the solid fuel ~~appliance~~ meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by the EPA in 40 CFR 60 Subpart AAA; or

B. The ~~appliance~~ is tested by an accredited independent laboratory, or other qualified person or entity approved by the borough, establishing that it meets the EPA emissions limit standard appropriate for that ~~appliance~~ or an emissions limit standard equivalent to that of a listed ~~appliance~~ in a similar category. (Ord. 2012-61 § 2, 2012)

~~8.21.025 Prohibited acts.~~

The borough shall not, in any way, regulate, prohibit, curtail, nor issue fines or fees associated with the ~~sale~~, distribution, or operation of ~~heating appliances~~ or any type of combustible fuel. (Ord. 2013-06 § 3, 2013)

~~8.21.030 Voluntary replacement and repair program.~~

~~Repealed by Ord. 2014-10. (Ord. 2012 61 § 3, 2012; Ord. 2011 32 §§ 3—9, 2011; Ord. 2010 37 §§ 2—5, 2010; Ord. 2010 28 § 2, 2010)~~

~~8.21.035 Enhanced voluntary removal, replacement and repair program.~~

~~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:~~

~~A. General Requirements.~~

- ~~1. Application. An application approved by the *division* and signed by all property owner(s) must be submitted along with any documentation required by the *division*. Applicants must fully comply with the *division*'s inspection process which shall verify the existence of a qualifying SFBA or *fireplace*.~~
- ~~2. Priority Ranking. Applications may be prioritized and may be limited by the *division* in its discretion based on geographical location, the overall air quality benefit and the type of SFBA or *fireplace* being removed, replaced or repaired.~~
- ~~3. Eligibility¹. The program is limited to properties within the borough's *PM_{2.5} nonattainment area* boundary in which a qualifying SFBA or *fireplace* is installed. If an application is approved for the program, the applicant will be given up to 90 days to meet all of the requirements. Applicants must have no delinquent property tax or penalty or interest owing at the time of application and at completion of the program requirements.~~
- ~~4. Additional Requirements. In addition to the general requirements set forth in this section, applicants must also meet the following requirements:~~
 - ~~a. Fully comply with the inspection process required by the *division* that shall ensure that the existence of the qualifying *appliance* to be removed, replaced or repaired is properly documented.~~
 - ~~b. Removal of *appliance*.~~
 - ~~c. Delivery of *appliance* to an authorized decommission station.~~
 - ~~d. Certificate of destruction delivered to the *division*, if applicable.~~

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

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

5. Payments. Applicants will be eligible for reimbursements or, at the option of the applicant, payment may be made directly to a borough approved vendor.

Reimbursements and payments shall be available as follows:

a. Replacement of an outdoor *hydronic heater*. With either an EPA certified SFBA with an emission rate less than or equal to 2.5 grams/hour, an EPA Phase II qualified pellet burning *hydronic heater* with an emission rate equal to or less than 0.2 pounds/million BTUs, or an *appliance* designed to use pellets, home heating oil (excluding waste oil), natural gas, propane, hot water district heat, electricity or a *masonry heater* (including parts, labor and any costs associated with upgrading the chimney to the extent required by the manufacturer of the appliance for proper installation).

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

b. Replacement of a non EPA certified SFBA, *fireplace*, or an EPA certified SFBA that has an emission rate greater than 2.5 grams/hour. With either an EPA certified SFBA with an emission rate equal to or less than 2.5 grams/hour and an emission rate 50 percent or less than the replaced heater, or an *appliance* designed to use pellets, home heating oil (excluding waste oil), natural gas, propane, hot water district heat, electricity or a *masonry heater* (including parts, labor and any costs associated with upgrading the chimney to the extent required by the manufacturer of the appliance for proper installation).

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

c. Removal of a SFBA (limited to a one time participation in this program per

property).

| Cash Payment |
|--|
| \$2,000 — if removing outdoor <i>hydronic heater</i> |
| \$1,000 — if removing other SFBA's |

d. ~~Fuel Payment. If a *pellet fuel burning appliance* or a *pellet stove* is purchased and installed under this program, the applicant is eligible to receive an additional \$300.00 payment for the purchase of pellets manufactured in the Fairbanks North Star Borough. If a wood burning *appliance* is purchased and installed under this program, the applicant is eligible to receive an additional \$300.00 payment for borough approved pressed wood energy logs manufactured in the Fairbanks North Star Borough.~~

e. ~~Repair Program.~~

i. ~~The repair program will pay for the:~~

~~(A) Replacement of a wood stove's catalytic converter that has exceeded its life span through the one time payment of up to \$750.00.~~

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

ii. ~~In addition to the general requirements set forth in this section, applicants must fully comply with any inspection process required by the *division*, which may be performed by a borough approved vendor. (Ord. 2014 10 § 3, 2014)~~

~~8.21.040 Forecasting exceedances and voluntary restrictions in the nonattainment area during an alert.~~

~~A. During the winter months of October through March, the borough shall issue a daily *PM forecast* at 4:30 p.m. Monday through Friday. When the *PM* concentration reaches the onset level for an *episode* and is expected to remain at that level for 12 hours, an *alert* will be declared. Once an *alert* is declared, *PM* control measures set forth in this section shall be implemented and continued until the *alert* is cancelled.~~

~~B. Voluntary Restrictions in the *Nonattainment Area* During an *Alert*.~~

~~1. Residents shall be requested to voluntarily stop operation of *solid fuel burning*~~

~~appliances, pellet stoves, and masonry heaters in the nonattainment area.~~

2. The ~~division~~ will notify local media to ensure the declared ~~alert~~ is broadcast. Information within the notification will contain the ~~PM forecast~~ and procedures to reduce sources of ~~PM~~. (Ord. 2010-28 § 2, 2010)

~~8.21.045 Voluntary burn cessation program.~~

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

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

B. Incentives will be provided to households that participate in the program. These incentives may include the provision of (1) a sign up bonus such as cash, a voucher, or goods and services useful to a household that heats with wood; (2) a thank you letter, window or yard sign; or, (3) other form of public acknowledgment. The cost of this incentive to the borough shall not exceed \$25.00 per household. These incentives may be provided or augmented by private contributions.

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

D. Private contributions, including goods and/or services, will be sought for all appropriate

elements of the program. In general this will focus on the provision of materials, equipment, and certain one-time services, but not to fund borough staff positions. (Ord. 2014-11 § 2, 2014)

~~8.21.050 Voluntary emissions standard and educational program.~~

~~Repealed by Ord. 2012-09.~~ (Ord. 2011-03 § 9, 2011)

~~8.21.060 Enhanced SFBA change-out program.~~

~~Repealed by Ord. 2014-10.~~ (Ord. 2013-35 § 2, 2013)

¹

Code reviser's note: Section 4 of Ordinance 2014-10 provides: "This ordinance shall be effective at 5:00 p.m. of the first Borough business day following its adoption except that the amendment expanding the program outside the borough's PM_{2.5} nonattainment area by deleting the geographically limiting eligibility language in FNSB 8.21.035 (3) is effective January 1, 2015."

| | | |
|----|-------------------------|---------------|
| 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

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

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

WHEREAS, voluntary measures may enable the Borough to model attainment, however, it is likely that they would take more than five years to reach this goal and they would not address local neighborhood problems arising from one or two significant polluters, neither of which is acceptable; 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 the State of Alaska Department of Environmental Conservation has issued draft regulations intended to be part of the State Implementation Plan (SIP) as required by the EPA; those regulations provide some new restrictions on the sale of solid fuel burning appliances and firewood, and authorize the borough to take on additional regulatory responsibility related to the SIP; and

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

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

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

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 PM2.5 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

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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

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- 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

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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

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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:

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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> |

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| | | | |
|--------------------|---|------------------|------------|
| <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> |

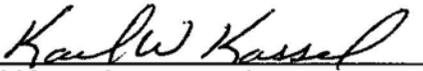
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Section 9. Effective Date. Except for FNSBC 8.21.025 G (Commercial Sales) which shall be effective 30 days after adoption, and FNSBC 8.21.025 B (sale of property) which shall be effective on May 1st, 2015, and FNSBC 8.21.025(F)(1) (requirement wood 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

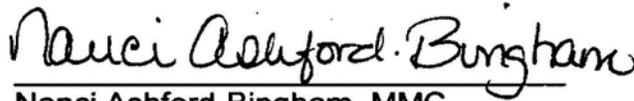
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385 following its adoption and shall have only prospective application, meaning no provision
386 shall apply to any act, including installation or purchase of a solid fuel appliance
387 completed prior to the effective date.

388 PASSED AND APPROVED THIS 27TH DAY OF FEBRUARY, 2015.
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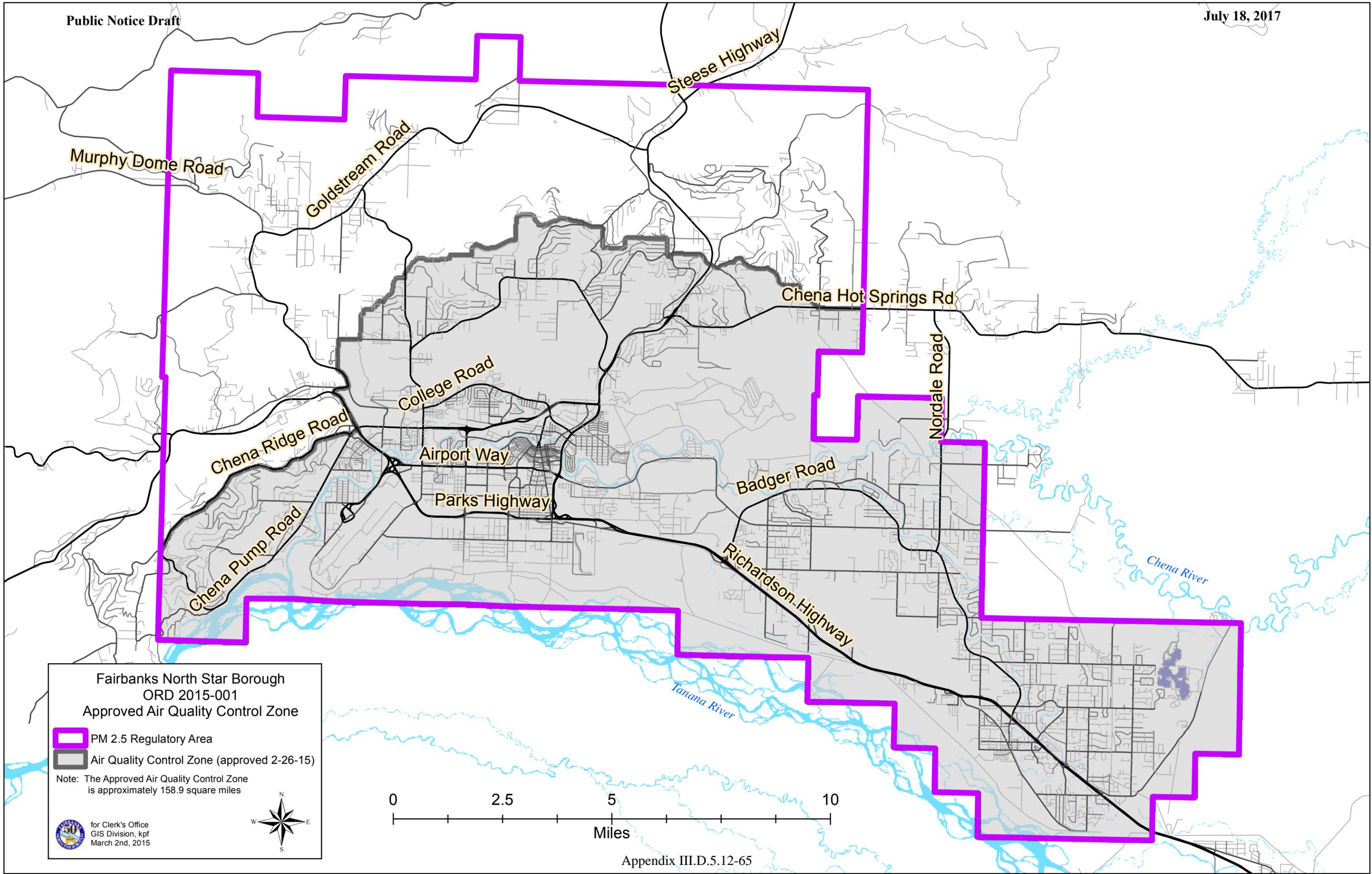
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393 _____
394 Karl Kassel
395 Presiding Officer

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

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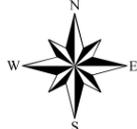


Fairbanks North Star Borough
 ORD 2015-001
 Approved Air Quality Control Zone

 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
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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

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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 PELLETT FUEL BURNING APPLIANCE OR A
 98 PELLETT 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 PELLETT 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.

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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

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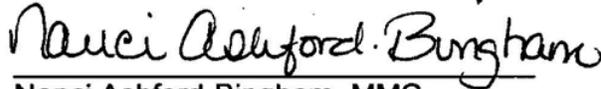
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PASSED AND APPROVED THIS 23RD DAY OF APRIL, 2015.


Karl Kassel
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

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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
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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 $25 \mu\text{g}/\text{m}^3$.

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 $35 \mu\text{g}/\text{m}^3$.

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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

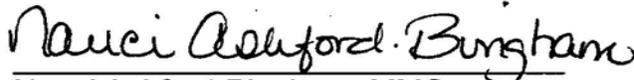
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PASSED AND APPROVED THIS 25TH DAY OF JUNE, 2015.

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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]

| | |
|-------------|-----------------------|
| 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

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

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

166 _____ iii. With an appliance designed to use home heating oil
167 (excluding waste oil), hot water district heat, electricity, or a masonry heater (including
168 parts, labor and any costs associated with upgrading the chimney to the extent required
169 by the manufacturer of the appliance for proper installation) up to \$6,000 for the
170 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.

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|---|
| [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 SFBA |

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.]

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

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

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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.

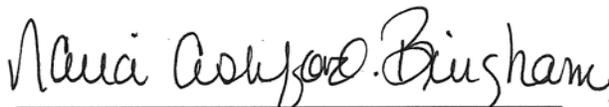
62
63 Section 5. Effective Date. This ordinance is effective at 5:00 p.m. on
64 the first Borough business day following its adoption.

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

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John Davies
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

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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.

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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

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| 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

10 AN ORDINANCE AMENDING THE FAIRBANKS NORTH STAR BOROUGH CODE OF
 11 ORDINANCES TO ADOPT THE PROPOSED RENUMBERING AND
 12 REORGANIZATION
 13

14
 15 WHEREAS, Codification is a process of organizing and arranging all
 16 legislation of a permanent and general nature into Code and a recodification is any new
 17 replacement of the original Code; and

18
 19 WHEREAS, The Fairbanks North Star Borough Code of Ordinances was
 20 first codified in 1975 and has since undergone two recodifications, the most recent in
 21 2004; and

22
 23 WHEREAS, It is necessary to routinely update a Code to ensure
 24 maximum usability, flexibility, amendability and economy resulting in a Code that is easy
 25 to access, easy to understand, has room to grow and is simple and inexpensive to
 26 maintain; and

27
 28 WHEREAS, The proposed recodification is a product of an extensive legal
 29 review by Code Publishing, Co. and the FNSB Legal Department to eliminate expired
 30 provisions, outdated references to state law, and conflicts with other code provisions or
 31 laws; and

32
 33 WHEREAS, Following recodification, the Fairbanks North Star Borough
 34 Code of Ordinances will present an updated, orderly and logical composition of all
 35 permanent Borough legislation.

36
 37 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
 38 North Star Borough:

39
 40 Section 1. This ordinance is not of a general and permanent nature and
 41 shall not be codified.

42
 43 Section 2. The Clerk is authorized to approve the attached Fairbanks
 44 North Star Borough Code proposed renumbering and reorganization plan prepared by
 45 Code Publishing Company and to take all other action necessary to implement the plan.
 46

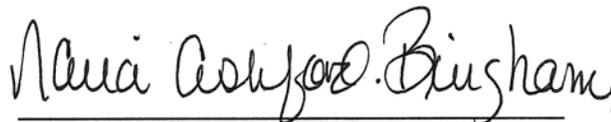
47 Section 3. The attached proposed renumbering and reorganization is
48 adopted.

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.

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61 John Davies
62 Presiding Officer

63 ATTEST:

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67 Nanci Ashford-Bingham, MMC
68 Borough Clerk

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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. | Variances – Appeals |
| 17.70 | 17.64 | Variances |
| 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 Askegard Bingham</u> | <u>4.29.16</u> |
| | Name | Date |
| | <u>Borough Clerk</u> | |
| | Position | |

| | |
|-------------|--------------------|
| By: | Karl Kassel, Mayor |
| Introduced: | 06/23/2016 |
| Advanced: | 06/23/2016 |
| Amended: | 07/28/2016 |
| 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.

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John Davies
Presiding Officer

70 ATTEST:

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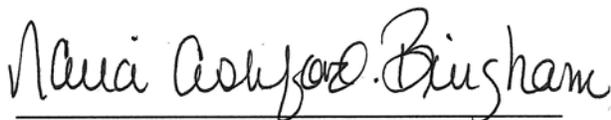
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Nanci Ashford-Bingham, MMC
Borough Clerk

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

Noes: Roberts

Other: Quist (Excused)

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By: Karl Kassel, Mayor
Introduced: 02/23/2017
Advanced: 02/23/2017
Amended: 03/09/2017
Adopted: 03/09/2017
Immediate
Reconsideration Failed: 03/09/2017
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]

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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 21.28.010, **Definitions**, shall be amended as follows:

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

["AIR QUALITY ALERT" MEANS AN ADVISORY, ALERT OR EPISODE CONCERNING AIR QUALITY WHETHER ISSUED BY THE FAIRBANKS NORTH STAR BOROUGH OR THE STATE OF ALASKA.]

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

"Air Quality Index" (AQI) is an index for reporting daily air quality, which indicates how polluted the air currently is or how polluted it is forecast to become. The higher the AQI value, the greater the level of air pollution and the greater the health concern. AQI is divided into six categories with correspondingly higher levels of health concern as 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. |

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

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

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

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

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

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

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

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- 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.

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

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

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

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

Township Range Delineated Boundary for the Fairbanks
Nonattainment Area

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.

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

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

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

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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

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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

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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

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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

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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.

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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*.

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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 SFBA's through a one-time payment of
 475 \$2,000.

| |
|---------------------------------------|
| [CASH PAYMENT |
| \$5,000 – IF REMOVING HYDRONIC HEATER |
| \$2,000 – IF REMOVING OTHER SFBA'S] |

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

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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

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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.]

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] $\mu\text{G}/\text{M}^3$.

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.]

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).

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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:

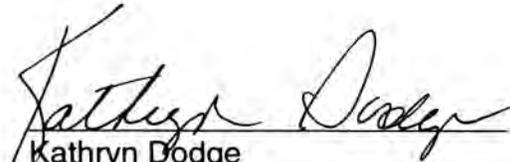
| Code Section | Offense | Penalty/Fine | Mandatory Warning Required |
|---------------------|---|---------------------|-----------------------------------|
| [21.28.030(B)] | FAILURE TO DISCLOSE AN UNLISTED APPLIANCE BEFORE SALE | \$500.00 | NO] |
| 21.28.050[(D)](C) | Violation of a Stage [2]1 air 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

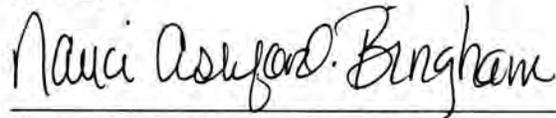
AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
 Text to be added is underlined
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PASSED AND APPROVED THIS 9TH DAY OF MARCH, 2017.


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
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| | |
|---------------------------|--------------------|
| 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:

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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 |

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| 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

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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

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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

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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;

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- 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

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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

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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
379 J[I]. Other Laws. Nothing in this section precludes other local jurisdictions from having
380 more restrictive codes.
381

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

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

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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 SFBA's 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

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- 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.

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- 478 ii. Removal of other SFBAs 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

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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 $\mu\text{g}/\text{m}^3$.

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

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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

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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) | Failure to obtain, submit and execute a permit for installing a SFBA in new construction. | \$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

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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:

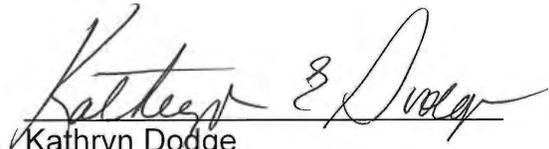
641 **Air Quality**

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

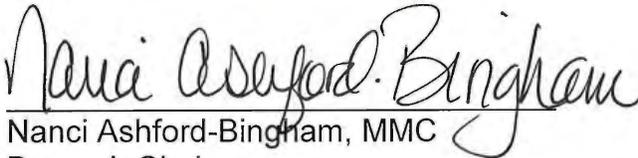
644
645 Section 10. Effective Date. This ordinance shall be effective at 5:00 p.m.
646 of the first Borough business day following its adoption.

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



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Kathryn Dodge
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

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Text to be deleted is [BRACKETED, CAPITALIZED]

The Department is proposing to replace this 2010 MOU with the 2016 MOU that starts on page 147 of this document.
Air Pollution Control MOU-DEC/FNSB

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 is to clarify the joint responsibilities for air pollution control and monitoring within the Fairbanks North Star Borough with respect to PM_{2.5} and for the maintaining and monitoring of carbon monoxide within the Fairbanks North Star Borough. 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 Memorandum of Understanding 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:

register with DEC's online system for public notice announcements when it becomes available; and

Air Pollution Control MOU-DEC/FNSB

notify DEC when it desires information on a permitted facility, permit application or renewal.

III. Open Burning

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

DEC will:

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

notify applicants to contact the Borough regarding the Borough Codes pertaining to open burning.

The Borough will:

provide DEC and the Division of Forestry with copies of a handout, designed for distribution to burn permit applicants, which outlines the Borough open burning regulations;

advise DEC and the Division of Forestry of any changes to the Borough's open burning regulations and permit procedures; and

conduct an advertising campaign designed to educate the public regarding any significant changes in the Borough's 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.

The Borough will:

take the lead in developing and implementing local control programs to address pollution from area sources and will notify and consult with DEC regarding local control programs being considered for implementation to

Air Pollution Control MOU-DEC/FNSB

insure coordination with any existing state programs or regulations;

DEC will:

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;

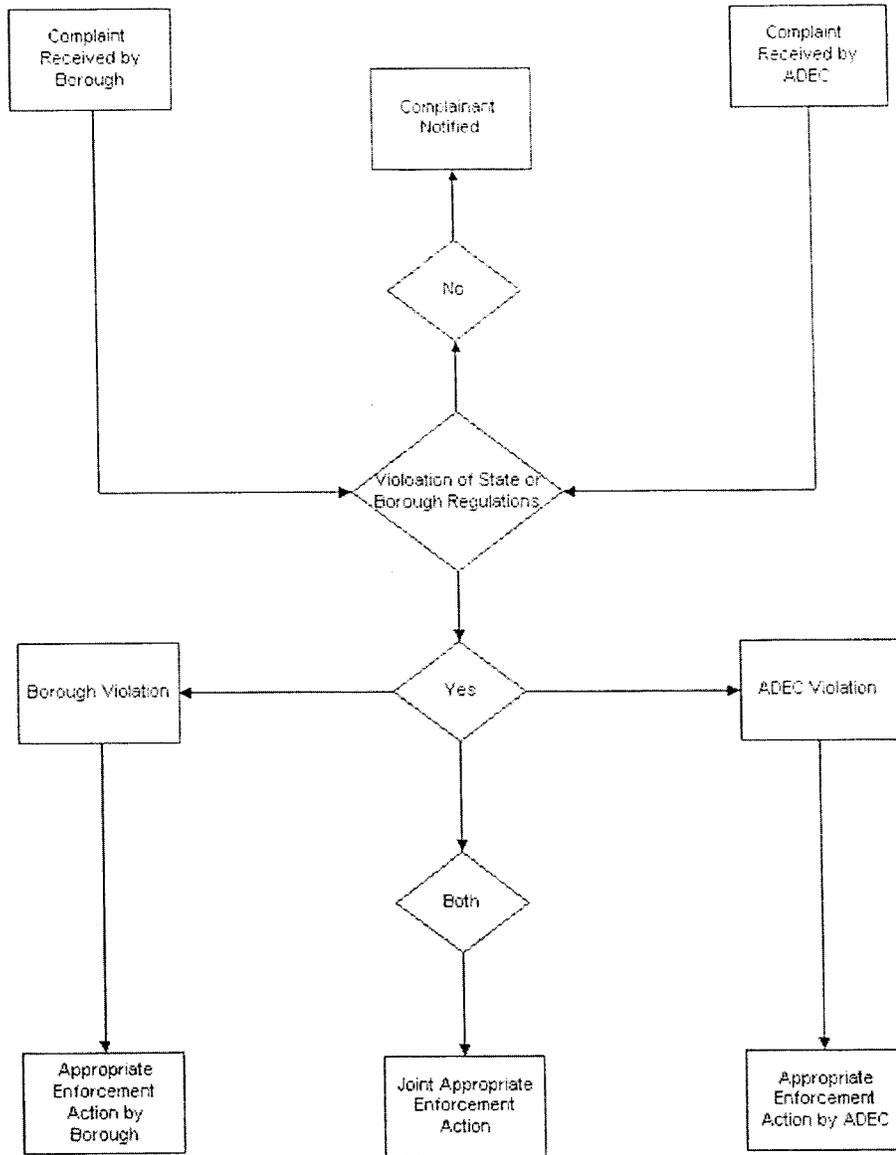
upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated area source program, work cooperatively to implement the program; and

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 continue to respond jointly to public complaints regarding air pollution within the Borough. The flow chart delineates the course of action to be used in assessing the need for appropriate enforcement actions.

Air Pollution Control MOU-DEC/FNSB



As indicated above, both DEC and the Borough will be responsible for assessing whether or not an air quality complaint received by their respective agency is a violation of either Borough or State regulations. This will necessitate close communication between the agencies regarding each other's regulations. Once it is determined whether or not either, or both, State or Borough regulations are being, or have been violated, the appropriate agency will take the lead role in enforcement action.

Complaints received by DEC related to permitted stationary sources will be handled by DEC. If the Borough is interested in any complaints regarding permitted facilities, the Borough will contact DEC and DEC will provide the information.

Air Pollution Control MOU-DEC/FNSB

VI. Ambient Air Monitoring/Air Quality Forecasting

The Borough will maintain and operate the network of carbon monoxide (CO) and fine particulate (PM_{2.5}) ambient air monitors to identify and describe existing air quality conditions within the Borough. 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. DEC will provide technical support and quality assurance related to the ambient air monitoring network.

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

DEC will:

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

send to 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 monitoring site locations as required;

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

perform quarterly audit tests on the Borough's air quality monitoring network;

assist Borough staff with field monitoring during periods of Borough staffing problems as time and funding allows;

provide filter weighing operations for the analysis of particulate filters;

loan air monitoring equipment, shelters and supplies for use in FNSB seasonal monitoring studies, based on availability;

replace air monitoring equipment (e.g. CO, PM, meteorological monitors,

Air Pollution Control MOU-DEC/FNSB

data loggers) in future years, based on state amortization priorities and available funding;

work cooperatively with the Borough to select the State's N CORE site, to be located in Fairbanks;

provide assistance for major repairs to air monitoring equipment to insure minimum down time for instrumentation during catastrophic failures; and

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

The Borough will:

operate and maintain the CO and 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;

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;

conduct special air monitoring studies of criteria pollutants to identify/better define air quality problem areas, as funding and staff allow;

maintain instruments and equipment in good working order subject to available funding. In the event that funding is reduced DEC/FNSB will discuss and mutually agree before deferring maintenance;

submit to DEC in writing for approval any desired/required changes in the monitoring network;

maintain trained staff capable of operating and maintaining monitoring equipment and coordinate training needs with DEC to identify potential local and in-state training opportunities;

participate in the State's air quality data quality assurance program, and submit required data to DEC and/or EPA;

submit annual/quarterly air quality monitoring data to DEC within 30 days after the end of a quarter, to include but not be limited to CO and PM_{2.5};

work cooperatively with DEC to select the State's N CORE site, to be located in Fairbanks;

continue to implement, as needed, the Borough's emergency episode

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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

provide a recorded weekly PM_{2.5} forecast 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 also be provided on the Borough web page and phone system for media and the general public. 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 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 national ambient air quality standard 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 standard for carbon monoxide in the Fairbanks area, subject to available funding;
- aid the Borough in attaining the health based standard for PM_{2.5} in the Fairbanks 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 Fairbanks area.

The Borough will:

continue its efforts to maintain the national ambient air quality standard for carbon monoxide;

update the CO maintenance plan per the Clean Air Act requirements or as

Air Pollution Control MOU-DEC/FNSB

needed to address local objectives;

continue its efforts to attain the national ambient air quality standard for PM_{2.5};

implement PM_{2.5} strategies to attain the standard that are shown to be 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 Fairbanks, 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 with DEC a PM_{2.5} attainment plan to bring Fairbanks into attainment with the national ambient air quality standard.

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;

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;

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.

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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 an 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. Dynamometer Testing System and Congestion Mitigation & Air Quality Projects

The Borough will:

use the test van, dynamometer, analytical equipment and support equipment for vehicle and cold weather testing projects as needed;

share data collected from all studies utilizing the dynamometer testing system;

with adequate notice, provide DEC access to the dynamometer testing system for special projects; and

provide DEC the opportunity to reclaim the dynamometer testing system.

DEC will:

notify the Borough 90-days prior to the department's need to use the dynamometer testing facility for special projects; and

share data collected from all studies utilizing the dynamometer testing system.

DEC and the Borough will:

coordinate requests for CMAQ projects; and

jointly determine roles and responsibilities for implementing CMAQ projects

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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,

Alice Edwards, Acting Director, Division of Air Quality

For purposes of this agreement, the Borough's project manager is,

Glenn Miller, Director, Department of Transportation

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 annually funding agreements for the coming year. These annual funding agreements will be negotiated between the DEC Air Quality Director and the FNSB Director of Transportation. Future year appropriations shall be discussed and operational costs agreed upon no later than January 31st of each year to assist with annual budget development. The annual funding agreements shall be documented in writing and make specific reference to this Memorandum of Understanding.

DEC shall:

provide each year that the conditions of this Memorandum of Understanding are met, a total of \$54,000 per year for the work described in the approved annual work plan and up to \$18,500 per year for operation and maintenance of the PM2.5 speciation sampler (to be negotiated annually); and

make, upon receipt of a request for reimbursement which shows at least 50 percent of the local match funds have been expended, an initial payment of \$40,000. The balance will be provided upon completion of the work identified in the approved annual work plan, for each fiscal year, and the

Air Pollution Control MOU-DEC/FNSB

submission of a final Financial Status Report which identifies the total program expenditures.

The Borough shall:

adhere to applicable sections of 40 CFR 30, 31, 32, 33, and 35, Subpart A. The principal "parts" of 40 CFR, Chapter 1, Subchapter B, and Part 32 "Debarment and Suspension Under EPA Assistance Programs"; Part 31 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; and Part 32 "Debarment and Suspension Under EPA Assistance Programs";

comply with the requirements of the Single Audit Act (OMB Circular A128);

file a preliminary financial status report on or before August 20 each-year;

file a final financial status report on or before September 20 each year;

inventory and track all equipment purchased. Disposal shall be in accordance with current federal requirements. Purchase of equipment exceeding \$3,000 for a complete unit must be approved by DEC in advance of purchase;

when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with grant money, clearly state (a) the percentage of the total cost of the program or project which will be funded with grant money, and b) the dollar amount of grant funds for the project or program;

make a good-faith effort to maintain a drug-free work place by publishing a statement notifying employees that manufacturing, distributing, dispensing, possessing, or using a controlled substance in the work place is prohibited;

when issuing contracts, ensure all contractors and subcontractors have a valid Alaska business license;

provide for DEC representation on committees reviewing RFPs and contract awards using DEC pass through or DEC grant and Borough funds;

submit copies of signed subcontracts and purchase orders between FNSB and minority/women construction and supply firms on a quarterly bases;

ensure that no portion of this award may be used for lobbying or propaganda purposes as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74;

ensure that the cost principles of OMB Circular A-87 are applicable to this award. When indirect costs are included within the assistance budget, the

Air Pollution Control MOU-DEC/FNSB

recipient must be in compliance with A-87 and EPA regulations regarding allowable project costs. Actual indirect costs charged to this agreement may not exceed the final approved rates as negotiated annually between the State and the appropriate cognizant federal agency;

in accordance with the Clean Air Act, Section 105 b(3) and EPA regulations, provide matching funds to support the programs which are at least equal to the local matching funds spent in the prior year; and

spend local matching funds on at least a pro rata share with the understanding that local funds spent for the year must equal or exceed the amount spent in the previous year. Should the amount of local funds not equal or exceed the previous year's grant expenditures, the grant may be revoked. Unexpended grant funds shall revert to DEC to be reprogrammed (if prior to June 30 of each year) or returned to EPA according to federal law.

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 payments under this agreement require funds from future appropriations and are subject to future appropriations by the Borough Assembly and the state legislature;
3. 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, in excess of that authorized by this agreement.
4. that the Borough may provide funding to DEC for performing special projects negotiated under this agreement.
5. that future year awards will be authorized only upon receipt of federal funds and upon an approved annual work plan, which must include lawfully appropriate detailed budget information, project period, and signature blocks for both parties.
6. that an interim financial status report will be filed on or before March 31 each year. The purpose is to determine if all grant funds will be expended by the end of the fiscal year (June 30). If grant funds will not be fully expended, DEC may restrict the amount of grant funds and reprogram the unexpended funds in accordance with EPA regulations.
7. that specific full-time equivalents listed for each task in the annual work plan are both parties' best estimate and only approximate; and

Air Pollution Control MOU-DEC/FNSB

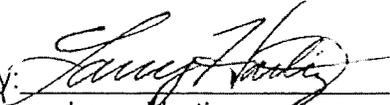
- 8. that amendments to this agreement may be proposed by either party and shall become effective upon approval of both parties.

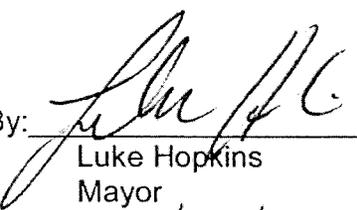
XIII. Execution/Modification and Duration of Agreement

This amendment 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. FNSB shall return all unexpended funds to DEC. 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

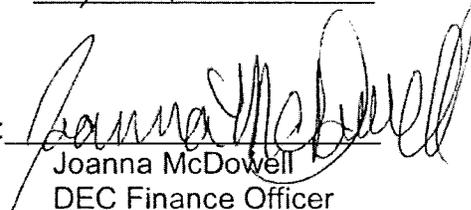
Fairbanks North Star Borough

By: 
Larry Hartig
Commissioner

By: 
Luke Hopkins
Mayor

Date: 1/26/10

Date: 1/20/10

By: 
Joanna McDowell
DEC Finance Officer

Date: 1/22/10

Reviewed by Legal Department
Date: 1/20/10
By: clb

**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

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;

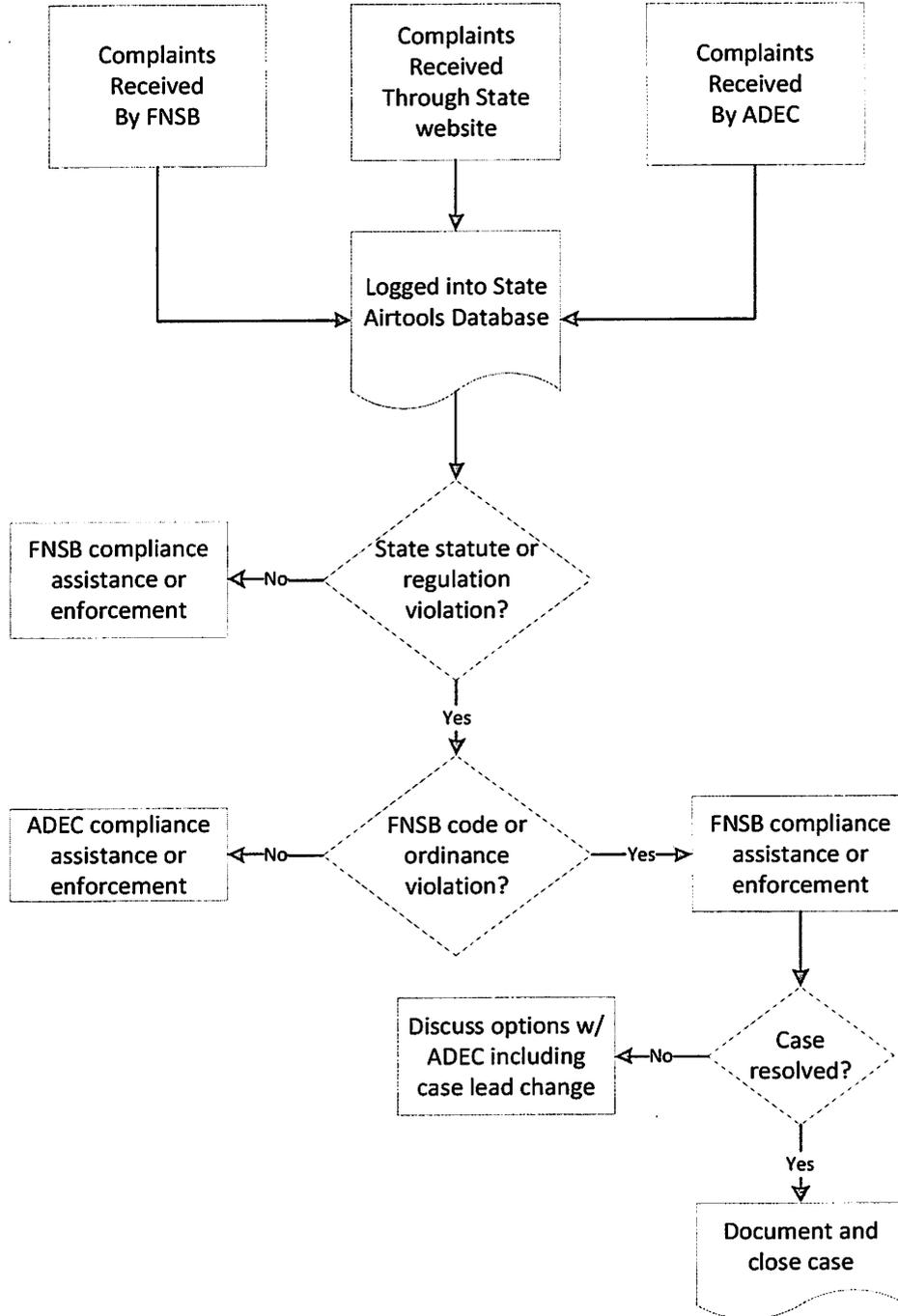
upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated area source program, work cooperatively to implement the program; and

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

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;

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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;

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- 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;

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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

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.

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.

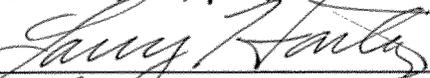
VI. SIGNATORIES

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