

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[8.4](#) ~~Repealed~~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[8.16](#) ~~Repealed~~

[8.18](#) ~~Repealed~~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- ~~8.01.040~~ *Repealed.*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 nonarea-wide 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 baffle/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.

~~"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;~~

~~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 appliance 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 appliance 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."

By: John Davies
Kathryn Dodge
Janice Golub
Introduced: 01/15/2015
Advanced: 01/15/2015
Substituted: 02/12/2015
Amended: 02/12/2015
Amended: 02/26/2015
Amended: 02/27/2015
Adopted: 02/27/2015
Immediate
Reconsideration Failed: 02/27/2015
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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44
45 WHEREAS, PM_{2.5} emissions from solid fuel burning appliances can be
46 significantly reduced through the selection and proper use of modern, EPA rated
47 models designed to meet more stringent emissions standards and by operating in
48 accordance with “best practices”, including selection of appropriate fuel sources; and
49

50 WHEREAS, voluntary, incentive-based programs coupled with
51 comprehensive education programs have been employed in other communities to help
52 reduce PM_{2.5} emissions; and
53

54 WHEREAS, voluntary measures may enable the Borough to model
55 attainment, however, it is likely that they would take more than five years to reach this
56 goal and they would not address local neighborhood problems arising from one or two
57 significant polluters, neither of which is acceptable; and
58

59 WHEREAS, the State of Alaska, through a Memorandum of Agreement
60 with the Borough, has authorized the Fairbanks North Star Borough to establish and
61 administer an area-wide local PM_{2.5} air quality control program that will operate in lieu of
62 and consistent with the State’s air quality program; and
63

64 WHEREAS the State of Alaska Department of Environmental
65 Conservation has issued draft regulations intended to be part of the State
66 Implementation Plan (SIP) as required by the EPA; those regulations provide some new
67 restrictions on the sale of solid fuel burning appliances and firewood, and authorize the
68 borough to take on additional regulatory responsibility related to the SIP; and
69

70 WHEREAS, at the recent “Town Hall” on the PM_{2.5} problem, more than 50
71 citizens provided testimony indicating that our air quality was not acceptable and that
72 they expected the Assembly to act to put into place programs that will improve the air
73 quality in the borough.
74

75 WHEREAS, it is the intent of the Fairbanks North Star Borough Assembly
76 to respond to calls for regulations that will help improve the air quality within the
77 borough by adopting a program that balances the need for clean air with the needs for
78 economically heating our buildings; and
79

80 WHEREAS, in adopting this clean air program, it is the intent of the
81 Assembly that it be enforced by concentrating on the most significant sources of PM_{2.5}
82 pollution first, both for attainment within the Non-Attainment area and for significant local
83 sources of pollution that affect adjacent and nearby properties; and
84

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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WHEREAS, in enforcing this clean air program, it is the intent of the Assembly that the focus be on assisting violators to come into compliance through the use of warning, education, and assistance provided through programs such as the enhanced solid fuel burning device change-out 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. The following definitions in FNSBC 8.21.010 Definitions are amended or added 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 ug/m³ has, or will likely occur.

"Air Quality Control Zone" means the area of the Borough currently contained in the EPA designated non-attainment area, which uses the non-attainment 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 non-attainment 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 south east 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 non-attainment area.

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

"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.

"Episode" means when conditions reach or are predicted to reach advisory or alert status.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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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

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

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

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

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

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

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

E. Borough-Wide Installation Requirements for Hydronic Heaters.

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

a. 330 feet from the closest property line, or
b. 660 feet from a school, clinic, hospital, or senior housing unit.
2. Any hydronic heater installed in violation of this section shall be immediately remedied or made inoperable and removed as soon as practicable; however, in no case shall the time of removal be longer than 180 days after notice from the Division of a violation.

F. Prohibited Fuels.

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

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

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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2. Garbage,
3. Tires,
4. Materials containing plastic or rubber,
5. Waste petroleum products,
6. Paints and paint thinners,
7. Chemicals,
8. Glossy or colored papers,
9. Construction and demolition debris,
10. Plywood,
11. Particleboard,
12. Saltwater driftwood,
13. Manure,
14. Animal carcasses,
15. Asphalt products,
16. Flooring products.

G. Sales or Leasing of Solid Fuel Burning Appliances.

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

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

- a. The fuel restrictions imposed in this chapter;
- b. Proper installation, property location, operation, and maintenance of the appliance;
- c. An advisory statement noting that operation of solid fuel burning appliances may not be appropriate in some areas due to terrain, meteorological conditions, or other relevant conditions that render the operation of the appliance a public nuisance or health hazard even though it is otherwise legally installed and operated, and

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

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

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

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. A building-owner or other person with a property or managerial interest in the building 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 result in damage to property including damage to the appliance itself and its heating system components.

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

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

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

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

Section 8. FNSB 1.04.050 **Fine schedule** is amended to add the 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>

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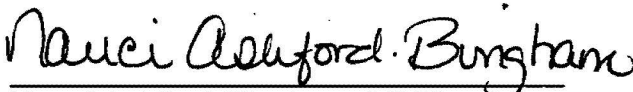
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following its adoption and shall have only prospective application, meaning no provision shall apply to any act, including installation or purchase of a solid fuel appliance completed prior to the effective date.

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

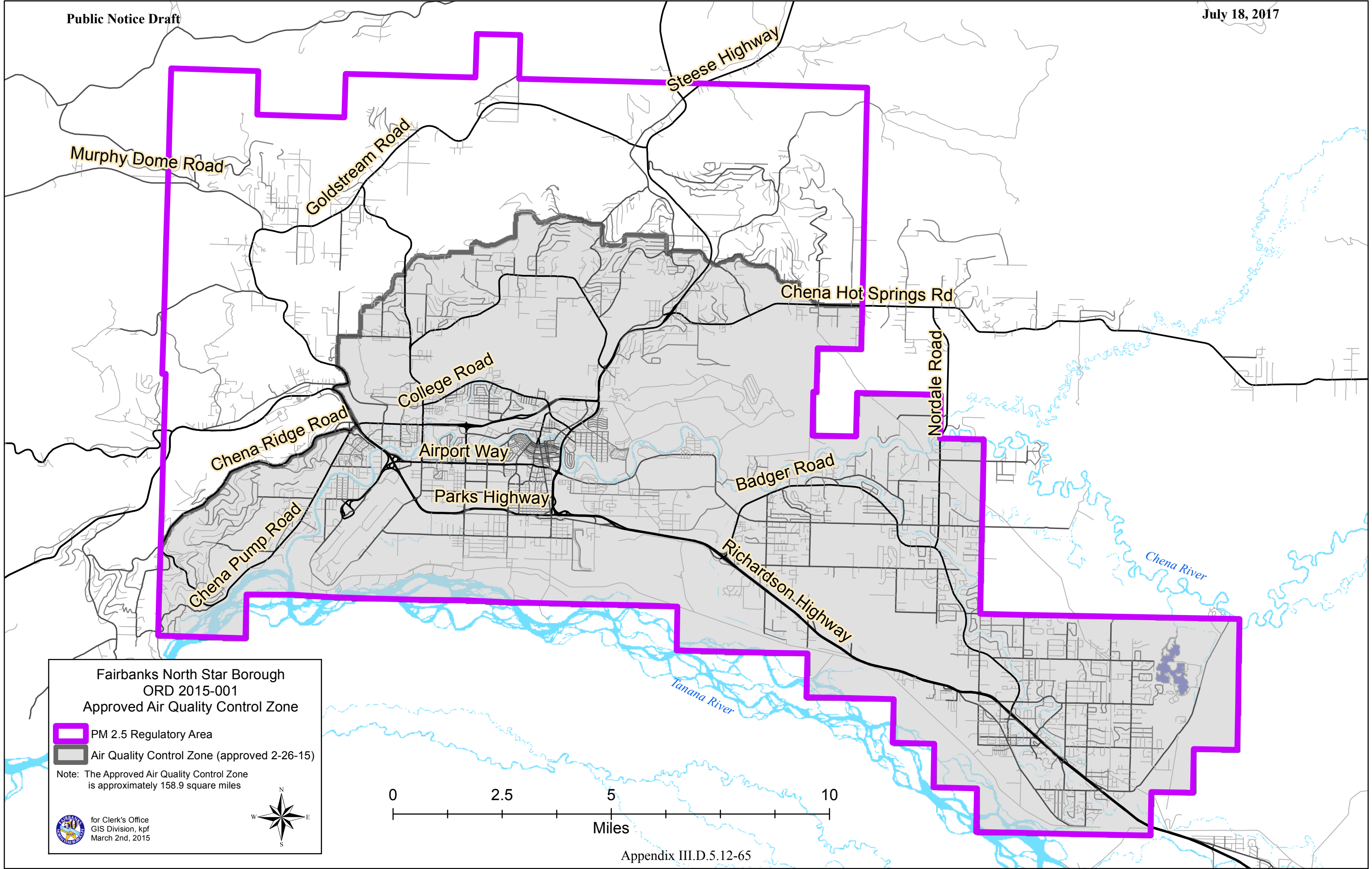

Karl Kassel
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

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By: Lance Roberts
Introduced: 04/09/2015
Advanced: 04/09/2015
Amended: 04/23/2015
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:

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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. Eligibility. The program is limited to properties within the borough 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 a borough listed solid fuel burning appliance [N 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.

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b. Replacement of a non-borough listed [EPA certified] SFBA, or fireplace[, OR AN EPA CERTIFIED SFBA THAT HAS AN EMISSION RATE GREATER THAN 2.5 GRAMS/HOUR]: With either a borough listed solid fuel burning appliance [N EPA CERTIFIED SFBA WITH AN EMISSION RATE EQUAL TO OR LESS THAN 2.5 GRAMS/HOUR AND] that has 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). Multiple non-borough-listed solid fuel burning appliances or fireplaces, or combinations thereof, may be replaced with a single heating device that meets the requirements above, except for those that are fired by solid fuels. Payment will be based on the number of devices 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.

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.

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

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] air quality control zone 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]C. 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.

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

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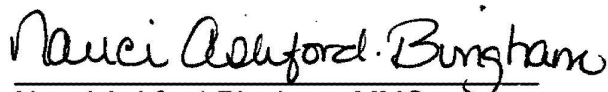
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PASSED AND APPROVED THIS 23RD DAY OF APRIL, 2015.


Karl Kassel
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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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:

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

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

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

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

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

1. A Stage 1 air *advisory* is implemented when concentrations exceed or are forecasted to exceed $25 \mu\text{g}/\text{m}^3$.

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

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

1. A Stage 2 air *alert* is implemented when concentrations exceed or are forecasted to exceed $35 \mu\text{g}/\text{m}^3$.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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

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

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

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

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

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

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

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

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

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

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

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

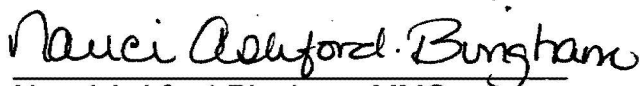
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PASSED AND APPROVED THIS 25TH DAY OF JUNE, 2015.


Karl Kassel
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

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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]

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

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

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

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. FNSB 8.21.020, **Borough listed appliances**, is amended as follows:

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

A. The solid fuel burning appliance is certified by the U.S. Environmental Protection Agency as meeting the federal emissions rate of 2.5 grams of PM2.5 per hour or less or for hydronic heaters, meets Phase II qualifications and has [AN ANNUAL AVERAGE EMISSION LEVEL RATING EQUAL TO OR LESS THAN 2.5 GRAMS OF PM2.5 PER HOUR] an emission rating of 0.10 pounds per million BTU or less. For purposes of this section, "certified" means that the solid fuel burning 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 solid fuel burning appliance is tested, including by use of a handheld or other portable device, by an accredited independent laboratory, or other qualified person or entity approved by the borough, establishing that it meets an emissions rate of 2.5 grams of PM2.5 per hour or less or for hydronic heaters the appliance has [AN ANNUAL AVERAGE EMISSION LEVEL RATING EQUAL TO OR LESS THAN 2.5 GRAMS OF PM2.5 PER HOUR] an emission rating of 0.10 pounds per million BTU or less.

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

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

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

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

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

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

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

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

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

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

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*. Applications for either the removal of a solid fuel burning appliance or replacement with an appliance designed to use natural gas, propane or home heating oil shall include a signed recordable document restricting future installations of solid fuel burning appliances and requiring appropriate notice to purchasers in the seller's disclosure statement. Applicants must fully comply with the *division's* inspection process which shall verify the existence of a qualifying SFBA or *fireplace*.

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

3. Eligibility. The program is limited to properties within the [BOROUGH] air quality control zone 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.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

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

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

ii. With an appliance designed to use home heating oil (excluding waste oil) 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), up to \$12,000 for purchase and installation of the appliance.

iii. With an appliance designed to use natural gas, propane, hot water district heat, or electricity up to \$14,000 for purchase and installation of the appliance. [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 APPLIANCE PLUS FUEL PAYMENT, IF APPLICABLE
--

]

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

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

iii. With an appliance designed to use home heating oil (excluding waste oil), 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) up to \$6,000 for the purchase and installation of the appliance.

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

[APPLIANCE + FUEL PAYMENT

UP TO \$4,000 PER DEVICE 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

<u>\$5,000</u> [\$2,000] – if removing [OUTDOOR] <i>hydronic heater</i> <u>\$2,000</u> [\$1,000]– if removing other SFBA's

[D. FUEL PAYMENT. 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.]

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

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT


Text to be *added* is underlined

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

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:

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

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

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


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

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

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


John Davies
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

Noes: Roberts

Other: Dodge (Excused)

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

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

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

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

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

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

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

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

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

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

Section 3. FNSBC 1.04.050, fine schedule, is amended to add the 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>

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


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

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


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

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

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

By: John Davies
Introduced: 04/14/2016
Advanced: 04/14/2016
Adopted: 04/28/2016

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016-30

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

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

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

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

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

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

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


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

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

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

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

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


John Davies
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

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

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

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

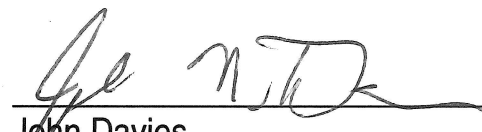
C. It shall be a violation to submit a false affidavit for a "no other adequate source of heat" determination.

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

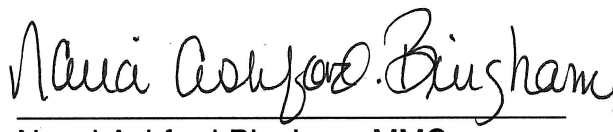
E. Applications denied by the division may be appealed to the air pollution control commission.

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

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


John Davies
Presiding Officer

ATTEST:


Nanci Ashford-Bingham, MMC
Borough Clerk

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

Noes: Roberts

Other: Quist (Excused)

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]

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 $\mu\text{G}/\text{M}^3$ 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:

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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.

“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;

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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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“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” (SFBA) 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*[.];
8. Pellet fuel burning appliances;
9. Masonry Heaters;
10. Cook Stoves; and
11. Fireplaces.

[THE FOLLOWING APPLIANCES ARE SPECIFICALLY EXCLUDED FROM THIS DEFINITION:

1. MASONRY HEATERS;
2. PELLET FUEL BURNING APPLIANCES;
3. COOK STOVES; AND
4. FIREPLACES.]

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

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

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

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

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QUALIFICATIONS] is EPA certified and has an emission rating of 0.10 pounds per million BTU or less[. FOR PURPOSES OF THIS SECTION, "CERTIFIED" MEANS THAT THE SOLID FUEL BURNING 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 solid fuel burning appliance is a masonry heater, cook stove, or fireplace; or

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

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

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

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

1. Borough listed or was listed at the time of installation,
2. A closed combustion system with automatic components that feed solid fuel, including wood pellets, into a firebox where the combustion is enhanced by an active airflow system, or

3. Connected to a thermal mass system that is certified by the contractor or installer as sufficient to allow the hydronic heater to burn at maximum capacity minimizing on/off cycling. The division may require an owner to provide documentation supporting the certification.

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

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

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

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

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

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

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

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

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

E. Borough-Wide Installation Requirements for Hydronic Heaters.

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

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

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

F. Prohibited Fuels. No person shall burn in the borough any fuel, except coal in an 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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commercial dealers or sellers shall also include with the notice documentation showing whether the appliance sold or leased meets the borough's emissions standard.

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

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

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

Section 5. FNSBC 21.28.040, **Enhanced voluntary removal, replacement and repair program**, shall be 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:

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. Applications for either the removal of a solid fuel burning appliance (SFBA), or replacement of a SFBA with an emergency power system, or an appliance designed to use natural gas, propane, or home heating oil shall include a signed recordable document restricting future installations of SFBAs[SOLID FUEL BURNING APPLIANCES] and requiring appropriate notice to purchasers in the seller's disclosure statement. 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.

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3. Eligibility. The program is limited to properties within the air quality control zone 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 a hydronic heater:

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

ii. With an appliance designed to use home heating oil (excluding waste or used oil) 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), up to \$12,000 for purchase and installation of the appliance.

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

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

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

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

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iii. With an appliance designed to use home heating oil (excluding waste oil), 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), or an emergency power system, up to \$6,000 for the purchase and installation [OF THE APPLIANCE].

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

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

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

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

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

d. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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RECREATIONAL FIRES SUCH AS BONFIRES, CAMPFIRE OR CEREMONIAL FIRES AND THE USE OF FIRE PITS.

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

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

1. A Stage 2 [3] air alert is implemented when concentrations exceed or are forecasted to exceed 35[55] $\mu\text{G}/\text{M}^3$.

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

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

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

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

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

A. A building owner or other person with a property or managerial interest in 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 SFBA being used to heat the structure is EPA certified, unless an application has been made to the Enhanced Voluntary Removal, Replacement and Repair Program (FNSBC 21.28.040) to remove or replace the non-certified SFBA and it has been denied, a pellet fuel burning appliance installed prior to April 1, 2017, a masonry heater, or a cook stove;

[1]2. 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]3. 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

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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 result in damage to property including damage to the appliance itself and its heating system components; and

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

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

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

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

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

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

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

[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 AIR QUALITY CONTROL ZONE 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).

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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. 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.

C. 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.]

Section 9. FNSBC 1.20.080, **Fine Schedule**, is hereby amended as 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

Section 10. Effective Date. This ordinance shall be effective thirty days following its adoption.

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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)

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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 PM_{2.5} 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 (PM_{2.5}); 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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Section 1. Sections 2, 3, 4, 5, 6, 7, and 8 of this ordinance are of a general and permanent nature and shall be codified. Sections 9 and 10 of this ordinance are not of a general and permanent nature and shall not be codified.

Section 2. FNSBC 21.28.010, Definitions, shall be amended as follows:
 "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 Bennett Road, and along Steele 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:

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.

“Alert” means a notice issued by the division when the division determines, using available data or modeling, that PM_{2.5} concentration levels have reached or are forecasted to reach 25 µg/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.

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

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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.

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“Heating appliances” means, but is not limited to: wood, coal, or pellet fired hydronic heaters, stoves, and furnaces; oil or gas fired boilers and furnaces; and 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.

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

“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.

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“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 PM2.5 (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.

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

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

“Sale” means the transfer of ownership or control.

“Solid fuel burning appliance” (SFBA) means any appliance 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;
7. Fireplace inserts;
8. Pellet fuel burning appliances;
9. Masonry heaters;
10. Cook stoves; and
11. Fireplaces.

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

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

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

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

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

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

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

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

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

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

1. Crosses a property line;

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2. Is observable using EPA Method 22 (40 CFR 60 Appendix A); and
3. Is 25 $\mu\text{g}/\text{m}^3$ greater than the surrounding immediate vicinity background $\text{PM}_{2.5}$ level using methods defined by the borough division of air quality. For purposes of this subsection, the surrounding "immediate vicinity" means land within an area measured 1,200 feet in all directions from the boundaries of the emitting property.

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

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

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

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

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

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

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

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

v. Proper wood storage will be available; and

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

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

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

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

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

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

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

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

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

1. Any wood that does not meet the definition of clean wood or has more than 20 percent moisture content;
2. Garbage;
3. Tires;
4. Materials containing plastic or rubber;
5. Waste petroleum products;
6. Paints and paint thinners;
7. Chemicals;
8. Glossy or colored papers;
9. Construction and demolition debris;
10. Plywood;
11. Particleboard;
12. Saltwater driftwood;
13. Manure;
14. Animal carcasses;
15. Asphalt products;
16. Flooring products.

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

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

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

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

a. The fuel restrictions imposed in this chapter;

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

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

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

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

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

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

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

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

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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. Applications for either the removal of a solid fuel burning appliance (SFBA), or replacement of a SFBA with an emergency power system, or an appliance designed to use natural gas, propane, or home heating oil shall include a signed recordable document restricting future installations of SFBA's and requiring appropriate notice to purchasers in the seller's disclosure statement. Applicants must fully comply with the division's inspection process which shall verify the existence of a qualifying SFBA.

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. Eligibility. The program is limited to properties within the air quality control zone 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. The qualified appliance must be properly installed by a Borough listed vendor/installer attesting to proper installation of the device based on manufacturer's installation manual, compliance with any building code requirements, and that the device is properly sized for the building in question.

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

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

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

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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.
490

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

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

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

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

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

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

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

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

1. A Stage 2 air alert is implemented when concentrations exceed or are forecasted to exceed 35 $\mu\text{g}/\text{m}^3$.

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

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

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

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A. A building owner or other person with a property or managerial interest in 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 SFBA being used to heat the structure is a Borough listed appliance;[EPA CERTIFIED UNLESS AN APPLICATION HAS BEEN MADE TO THE ENHANCED VOLUNTARY REMOVAL, REPLACEMENT AND REPAIR PROGRAM TO REMOVE OR REPLACE THE NONCERTIFIED SFBA AND HAS BEEN DENIED, A PELLET FUEL BURNING APPLIANCE INSTALLED PRIOR TO APRIL 1, 2017, A MASONRY HEATER, OR A COOK STOVE.]

a.

2. 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, including the following:

a. Documentation of approved appliance must be submitted, including pictures, make, model, and serial number.

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

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

3. 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 result in damage to property including damage to the appliance itself and its heating system components. If economic hardship is the reason the applicant has no other adequate source of heat, validating documentation is required. Validating documentation may be established by showing approval for assistance from a list of agencies or programs that provide economic assistance (e.g., programs based on HHS poverty guidelines, unemployment insurance, nutrition assistance) to be made available by the division;

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

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

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

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

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

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

Section 7. FNSBC 1.20.080, **Fine Schedule**, is hereby amended as follows:

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

Section 8. Subsection G of FNSBC 4.12.110 shall be amended as follows:

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

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

Air Quality

Permit application fee for SFBA in new construction \$375.00

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

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




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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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

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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

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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;

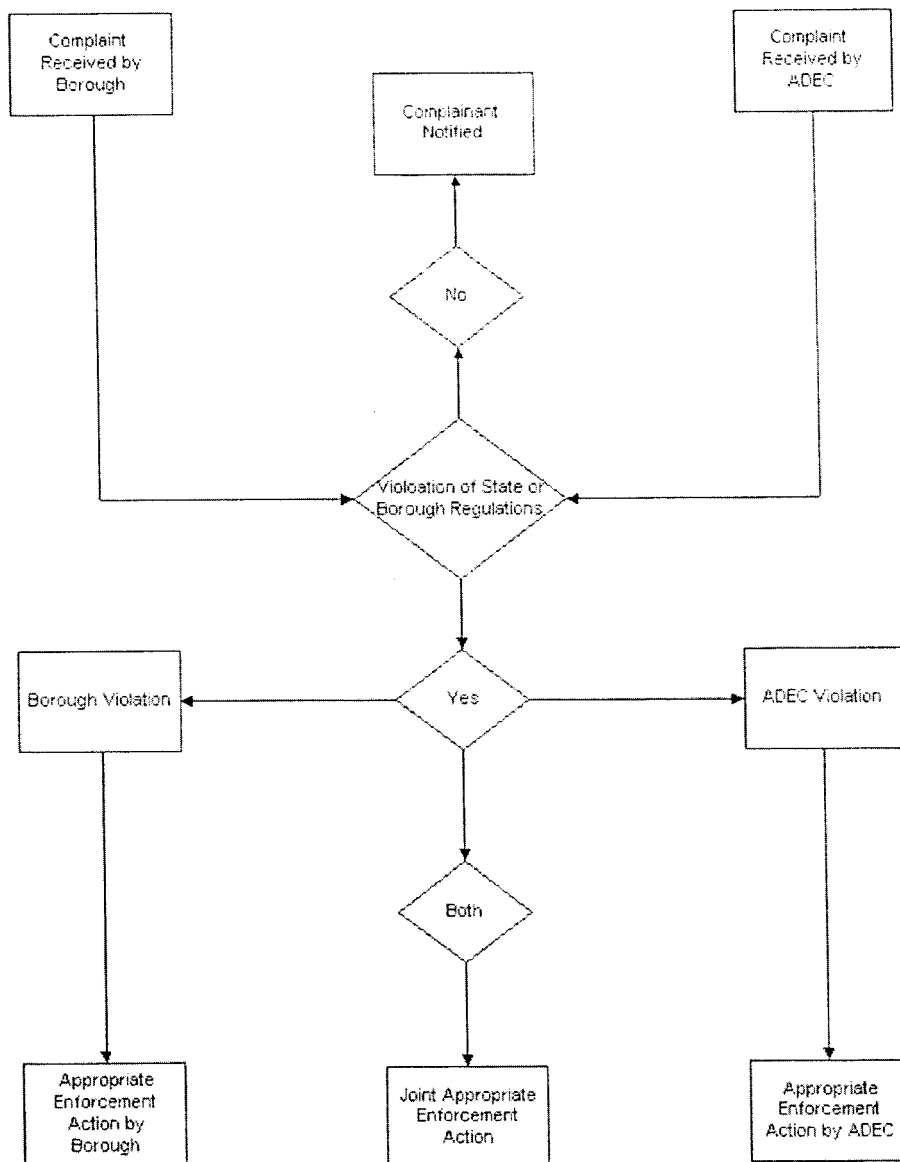
upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated area source program, work cooperatively to implement the program; and

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.

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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.

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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,

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

work cooperatively with the Borough to select the State's NCORE 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 NCORE 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

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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

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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

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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

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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

Date: 1/26/10By: 

Joanna McDowell
DEC Finance Officer

Date: 1/22/10By: 

Luke Hopkins
Mayor

Date: 1/20/10

**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;

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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;

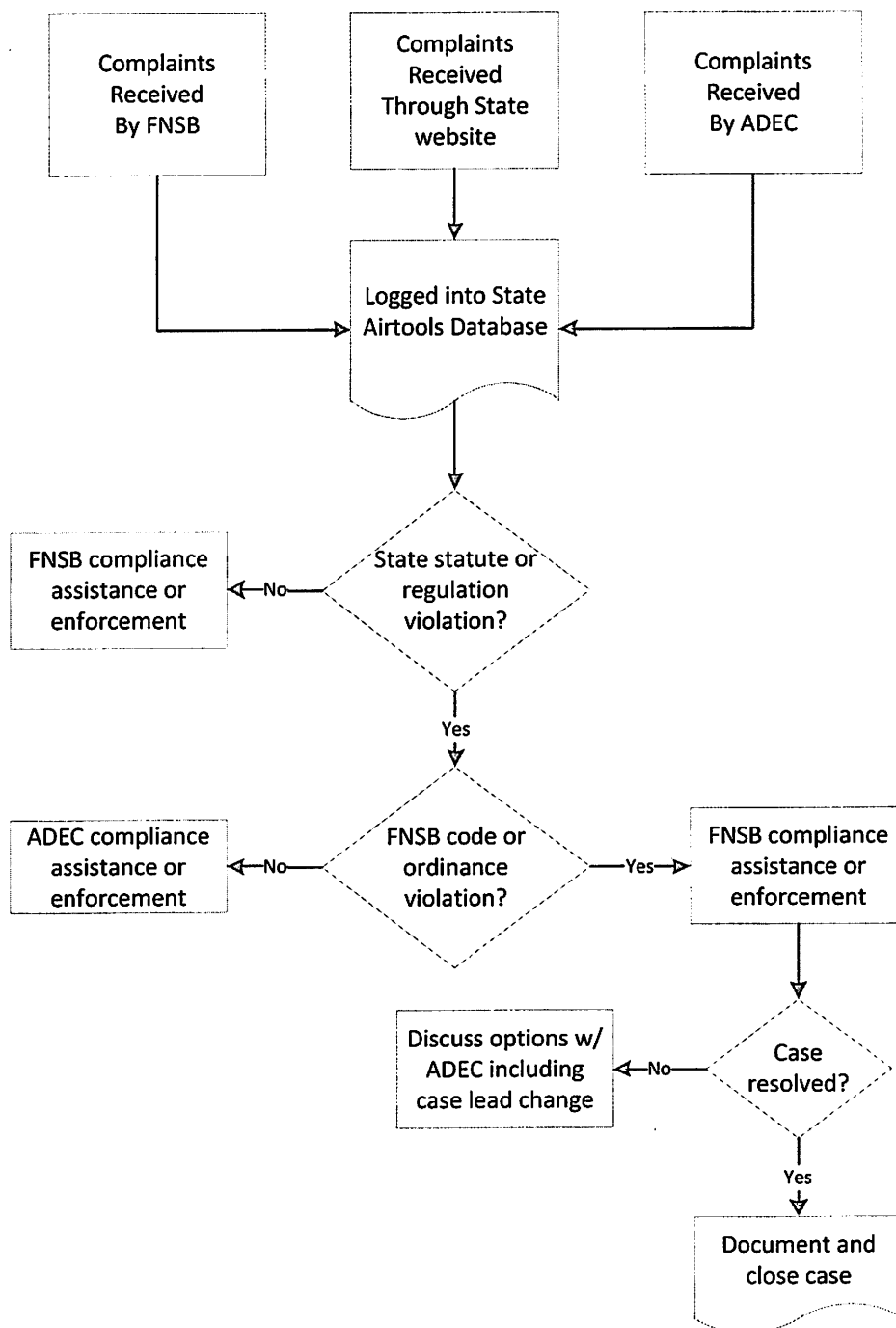
upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated area source program, work cooperatively to implement the program; and

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

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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

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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

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

DEC will:

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

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

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

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

The Borough and DEC will:

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

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

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

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

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

IX. Congestion Mitigation & Air Quality (CMAQ) Projects

The Borough will:

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

Air Pollution Control MOU-DEC/FNSB

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

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

DEC will:

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

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

DEC and the Borough will:

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

X. Notice/Project Contacts

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

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

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

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

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

XI. Budgetary

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

Air Pollution Control MOU-DEC/FNSB

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

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

XII. It is mutually agreed:

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

XIII. Execution/Modification and Duration of Agreement

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

Alaska Department of
Environmental Conservation

By: 

Larry Hartig
Commissioner

Date: 10/25/16

Fairbanks North Star Borough

By: 

Karl Kassel
Mayor

Date: 10/14/16

Air Pollution Control MOU-DEC/FNSB

By: 
Nikolay Barkov
DEC Finance Officer

Date: 10/19/16

FINAL

MEMORANDUM OF AGREEMENT

FOR THE SELECTION AND FUNDING OF PROJECTS

FUNDED BY CMAQ WITHIN THE

FAIRBANKS NONATTAINMENT AREA FOR PM 2.5

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

I. PURPOSE

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

II. BACKGROUND

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

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

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

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

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

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

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

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 PM_{2.5} 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