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 PM2.5 Control Plan}

Public Review Draft

November 14, 2014

Sean Parnell
Governor

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Commissioner

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

Appendix III.D.5.12

FNSB Air Quality Ordinances.

ADEC & FNSB MOU January 2010.

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

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HEALTH AND SAFETY

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Chapter 8.01
EMERGENCY MEDICAL SERVICE

Sections:

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8.01.040 *Repealed.*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

8.01.010 Creation of powers.

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

8.01.020 Emergency medical service – Intent.

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

8.01.030 Emergency medical services (EMS) boards.

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

1. Three citizens-at-large;

2. Three service unit representatives (nominations to be elected by all EMS service units collectively);

3. One medical board representative;

4. One Fairbanks Memorial Hospital representative;

5. One regional EMS planning agency representative;

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

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

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

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

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

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

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

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

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

8.01.040 Board compensation.

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

8.01.050 Functions and duties.

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

1. Levels of EMS service;

2. Capital improvement projects;

3. The annual operational budget of service units;

4. Emergency medical service policies and procedures;

5. Emergency medical services training units;

6. Appropriate equipment for service units;

7. Service unit personnel qualifications;

8. Service unit backup equipment;

9. New emergency medical service unit areas and locations;

10. Fees to be charged for ambulance service;

11. Mutual aid and support agreements with ambulance services of other jurisdictions and with private ambulance services;

12. The EMS policy manual;

13. *Repealed by Ord. 87-034;*

14. The proposed annual budget for emergency medical services within the Fairbanks North Star Borough;

15. Capital improvement needs for each service unit;

16. Ordinances and actions to be taken by the mayor;

17. Consultations with other advisory bodies, such as the planning commission, medical board, and any other medical, health, or public safety organizations.

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

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

1. Create and supervise standing orders;

2. Establish medical communication protocols;

3. Establish medical criteria for new and current levels of service, to include:

a. Desirable response times;

b. Personnel qualifications and levels of training;

c. Medical equipment needs for designated levels of service;

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

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

8.01.060 Organization.

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

8.01.070 Definitions.

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

Chapter 8.02
HEALTH AND SOCIAL SERVICES

Sections:

8.02.010 Definitions.

8.02.010 Definitions.

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

Chapter 8.03
EMERGENCY COMMUNICATION SERVICES

Sections:

8.03.010 Enhanced 911 emergency reporting system.
8.03.020 Definitions.
8.03.030 Enhanced emergency reporting systems.
8.03.040 *Repealed.*

8.03.010 Enhanced 911 emergency reporting system.

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

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

8.03.020 Definitions.

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

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

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

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

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

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

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

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

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

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

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

8.03.030 Enhanced emergency reporting systems.

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

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

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

8.03.040 Enhanced 911 advisory committee.

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

Chapter 8.04
AIR POLLUTION

(Repealed by Ord. 2013-07)

Chapter 8.05
CARBON MONOXIDE EMERGENCY EPISODE PREVENTION PLAN

Sections:

8.05.010 Purpose.
8.05.020 Episode criteria.

8.05.010 Purpose.

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

8.05.020 Episode criteria.

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

B. The following definitions are adopted:

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

"Episode" means when conditions reach alert status.

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

"Maintenance area" means:

1. The Fairbanks/Fort Wainwright subarea, including Township 1 South, Range 1 West, Sections 2 through 23, the portion of Section 1 west of the Fort Wainwright military reservation boundary, and the portions of Section 24 north of the Old Richardson Highway and west of the military reservation boundary;

2. Township 1 South, Range 2 West, Sections 13 and 24, the portion of Section 12 southwest of Chena Pump Road, and the portions of Sections 14 and 23 southeast of the Chena River;

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

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

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

Chapter 8.06
OXYGENATED FUEL

Sections:

8.06.010 Purpose.
8.06.020 Definitions.
8.06.030 Unlawful acts.
8.06.040 Penalty for violations.

8.06.010 Purpose.

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

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

8.06.020 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.*

8.07.010 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
FIREWORKS[1]

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)

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[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 WASTE[1]

Sections:

8.12.011 Chapter purpose.
8.12.021 Definitions.
8.12.031 Solid waste disposal facilities.
8.12.033 Recycling of materials.
8.12.034 *Recodified.*
8.12.035 Approved recyclers.
8.12.036 *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)

8.12.021 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 flotage.

“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)

8.12.033 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)

8.12.034 Recycling commission.

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

8.12.035 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)

8.12.036 Recycling promotion special revenue fund.

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

8.12.041 General prohibition.

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

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

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

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

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

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

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

8.12.046 Landfill tipping fees.

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

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

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

8.12.051 Use of borough waste facilities.

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

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

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

1. The solid waste can be safely and efficiently disposed of at the borough landfill;

2. The solid waste will not significantly impact the capacity of the borough landfill; and

3. There will be no harm to the borough or the borough landfill.

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

8.12.055 Waiver of tipping fees.

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

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

transported to and disposed of in the landfill.

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

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

8.12.061 Collection and transportation of solid waste.

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

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

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

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

8.12.071 Penalty for violations.

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

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[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.

8.14.010 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.*

8.21.010 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 PM_{10} 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. Eligibility[1]. 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 *hydronic heater* $1,000 – if removing other SFBAs

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)

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[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."

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

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

insure coordination with any existing state programs or regulations .

DEC will:

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

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

The Borough and DEC will:

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

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

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

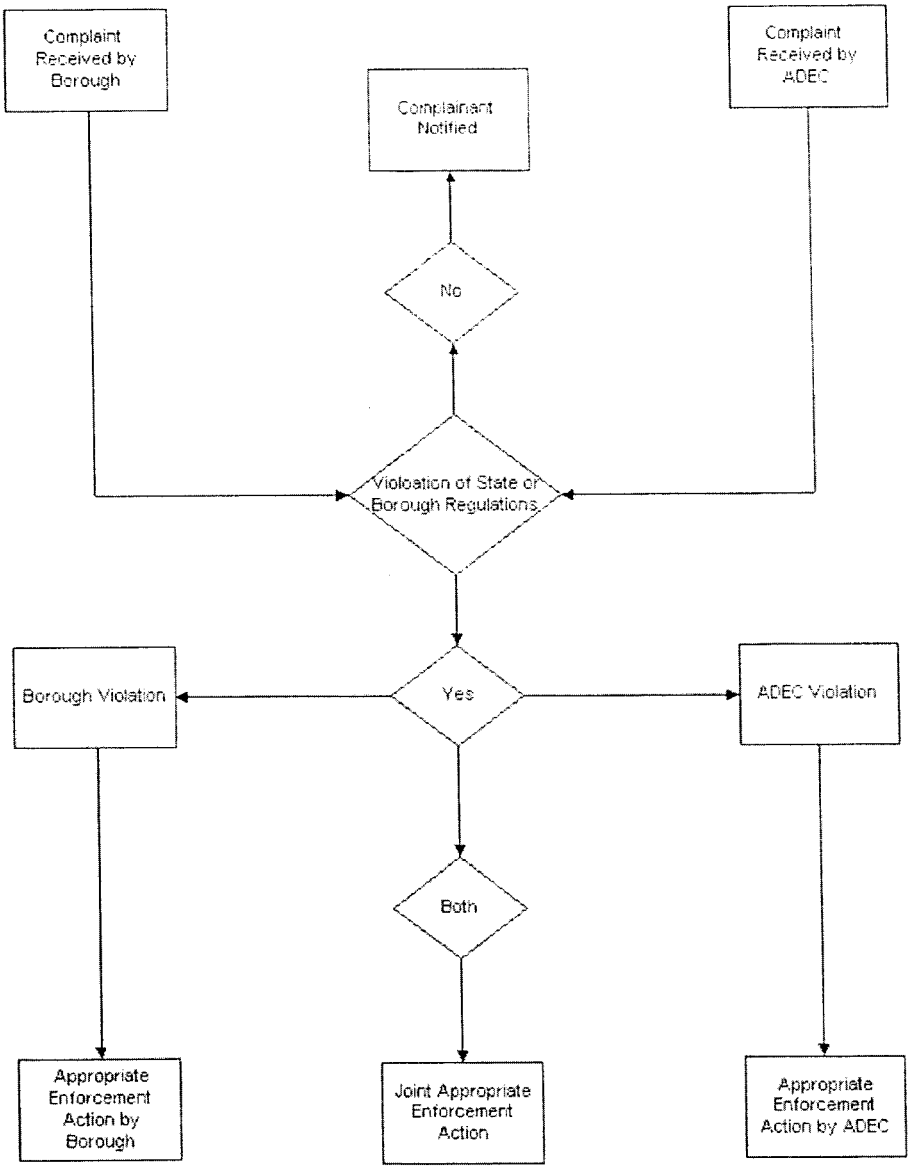
upon agreement by both agencies as to the roles, responsibilities, funding, and any other essential details of a coordinated area source program, work cooperatively to implement the program; and

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

V. Complaint Response

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

Air Pollution Control MOU-DEC/FNSB



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

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

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,

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 PM2.5 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

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

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.

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

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

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

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

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

By: _____
Larry Hartig
Commissioner

Date: 1/26/10

By: _____
Joanna McDowell
DEC Finance Officer

Date: 1/22/10

Fairbanks North Star Borough

By: _____
Luke Hopkins
Mayor

Date: 1/20/10

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

FINAL

MEMORANDUM OF AGREEMENT FOR THE SELECTION AND FUNDING OF PROJECTS FUNDED BY CMAQ WITHIN THE FAIRBANKS NONATTAINMENT AREA FOR PM 2.5

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

I. PURPOSE

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

II. BACKGROUND

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

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

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

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

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

III. AGENCY ROLES & RESPONSIBILITIES

A. ADEC

1. ADEC and the FNSB have joint responsibility for air pollution control in the FNSB.

2. ADEC will provide technical assistance in the development of the Fairbanks PM2.5 nonattainment area CMAQ transportation project listing.

3. ADEC will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.

B. ADOT&PF Northern Region (NR)

1. NR will provide technical assistance in the development of the Fairbanks CMAQ transportation project listing.

2. NR will prepare and submit the PDAs to fund the selected projects, administer project funds to the appropriate implementing agency, and will assist in the development of the environmental documentation, design, right-of-way, utility and construction of selected projects as required.

3. NR will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.

4. NR will issue an annual thirty-day Call for Nominations prior to January 31.

C. ADOT&PF Division of Program Development (HQ)

1. HQ will make Federal CMAQ funding available for eligible air quality projects in Fairbanks.

2. HQ will provide CMAQ funding for the purposes of travel demand modeling and conformity determination for the updates of the plans and programs and to include projects outside of the MPA in the nonattainment area. No local match is currently required. Should local match be required in the future, agreements will be developed through interagency consultation.

3. HQ will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.

4. HQ will (subject to available CMAQ funding) include in the STIP all projects agreed to by the Fairbanks CMAQ Project Evaluation Board and submitted by the FNSB.

D. FMATS

1. FMATS will work with local agencies in developing and submitting projects to the Fairbanks CMAQ Project Evaluation Board.

2. FMATS will include all projects approved by the Fairbanks CMAQ Project Evaluation Board and submitted by the FNSB in the informational section of the TIP.

3. FMATS will participate and be a member on the Fairbanks CMAQ Project Evaluation Board.

E. FNSB

1. FNSB and the ADEC have joint responsibility for air pollution control in the FNSB.

2. FNSB is the lead air quality agency for the Fairbanks area and will determine the priorities for the CMAQ funding provided to the PM2.5 nonattainment area.

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 — Date: 9/15/10

Larry Hartig, Commissioner, ADEC — Date: 10/4/10

Mayor Luke Hopkins, Fairbanks North Star Borough — Date: 9/15/10

Leo von Scheben, P.E., L.S., M.B.A., Commissioner, ADOT&PF — Date: 9/29/10

Reviewed by Legal Department
Date: 9/15/10
By:

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