

1 By: Van Lawrence  
2 Matthew Cooper  
3 Introduced: 03/24/2016  
4 Advanced: 03/24/2016  
5 Substituted: 05/04/2016  
6 Amended: 05/04/2016  
7 Adopted: 05/04/2016  
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10 FAIRBANKS NORTH STAR BOROUGH

11 ORDINANCE NO. 2016-21

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13  
14 AN ORDINANCE AMENDING FNSB 8.21.025 TO REQUIRE THE REMOVAL OF  
15 CERTAIN UNLISTED HYDRONIC HEATERS IN THE AIR QUALITY CONTROL ZONE,  
16 AMENDING THE FY 2015-16 BUDGET BY APPROPRIATING \$500,000 FROM THE  
17 GENERAL FUND FUND BALANCE TO THE TRANSIT ENTERPRISE PROJECTS  
18 FUND TO PAY FOR THE REMOVAL OF THE UNLISTED HYDRONIC HEATERS AND  
19 SUSPEND ALL OTHER PAYMENTS FROM THE VOLUNTARY REMOVAL AND  
20 REPLACEMENT PROGRAM UNTIL MAY 1, 2017  
21

22 WHEREAS, Hydronic heaters that do not have an emissions rating of 0.10  
23 pounds per million BTU or less cannot, under existing code, be legally installed in the  
24 borough's nonattainment area; and  
25

26 WHEREAS, Certain hydronic heaters significantly contribute to the  
27 borough's air quality problem; and  
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29 WHEREAS, The Borough has offered in past years and continues to offer  
30 a removal program that pays homeowners to remove or replace these hydronic heaters;  
31 and  
32

33 WHEREAS, The Borough needs to increase funding of the removal  
34 program and temporarily preclude other program spending in order to ensure funds are  
35 available to pay owners who are required to remove these unlisted hydronic heaters;  
36 and  
37

38 WHEREAS, The imminent reclassification by the EPA of the Fairbanks  
39 North Star Borough from a Moderate to a Serious non-attainment area will result in the  
40 imposition of control measures, including expensive technology upgrades for power  
41 plants and other stationary sources, which will lead to insignificant improvement to air  
42 quality but will significantly increase utility rates; and  
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Text to be *added* is underlined  
Text to be *deleted* is [BRACKETED AND CAPITALIZED]

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

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

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

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

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

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

63 1. Borough listed or was listed at the time of installation,

64 2. A closed combustion system with automatic components that feed solid  
65 fuel, including wood pellets, into a firebox where the combustion is enhanced by an  
66 active airflow system, or

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

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

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

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

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

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

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

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

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

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

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PASSED AND APPROVED THIS 4<sup>TH</sup> DAY OF MAY, 2016.

  
John Davies  
Presiding Officer

ATTEST:



Nanci Ashford-Bingham, MMC  
Borough Clerk

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

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