

INITIATIVE PETITION APPLICATION FILED ON APRIL 18, 2011  
(Revised)

SUMMARY OF ORDINANCE

Shall Chapters 8.21, 1.04, and 3.08 of the Fairbanks North Star Borough Code of Ordinances be modified to provide for air quality control prohibitions, standards, incentives, and penalties? In the nonattainment area, passage of this initiative will prohibit wood-fired hydronic heaters and coal burning appliances, add coal to the list of prohibited fuels, and remove the Interior/Healy coal exception from prohibition against using material not intended for use by the manufacturer. Borough-wide, passage of this initiative will prohibit misuse of a heating appliance, establish standards for Visible Emissions and Emissions Crossing Property Lines, extend eligibility of the Voluntary Removal, Replacement, or Repair Program to all properties, and offer property tax credits for air quality improvements. Passage of this initiative will modify the fines for violations of these provisions.

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PROPOSITION BY CITIZEN'S INITIATIVE:

Healthy Air Protection Act for Our Property Rights and Local Economy

WHEREAS, all Fairbanks North Star Borough residents deserve the freedom to breathe clean air;  
and

WHEREAS, fine particulate (PM 2.5) concentrations in the nonattainment area have risen over the last four winters and on dozens of days dangerously threaten the health of our children, elders, other vulnerable residents, and even healthy adults and athletes; and

WHEREAS, the extreme levels of PM 2.5 in our community are not just a nuisance; they are a public health threat and private property right assault; and

WHEREAS, emissions from each wood-fired hydronic heater are 22 to 40 times greater than an EPA-certified indoor woodstove, and a coal burning appliance produces at least 9 times more PM 2.5 pollution than an oil furnace; and

WHEREAS, with rising fuel prices, the burning of cheap coal will increase unless steps are taken;  
and

WHEREAS, homeowners risk losing the option to heat responsibly and affordably with wood unless misuse and highly polluting heating appliances are prohibited; and

WHEREAS, a quarter century of medical research has found PM 2.5 pollution is hazardous to human health, resulting in acute respiratory distress, decreases in lung function, bronchitis, asthma, cardiovascular disease, cancer, emergency room visits, hospitalization, and death; and

WHEREAS, nonattainment risks our Federal highway funds, may increase our electric rates, and will be a factor in deciding the fate of our military bases during the upcoming BRAC process beginning with the Quadrennial Defense Review in September 2013; and

WHEREAS, the borough wood and coal stove change-out program eases the economic hardship of the transition away from highly polluting heating appliances; and

WHEREAS, we are out of time to rely on half measures or voluntary compliance; and

WHEREAS, a focused air quality control program of incentives, prohibitions, standards, and penalties is needed to reduce PM 2.5 at the source to protect the health of our citizens, property rights, and the future of our economy.

BE IT ORDAINED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the code of the Fairbanks North Star Borough.

Section 2. FNSB 8.21.020 G. is repealed and reenacted, effective October 29, 2012, as follows:

Proper Use Protected, Misuse Prohibited.

The borough shall not ban or prohibit the use of home heating devices with the exception of wood-fired hydronic heaters and coal burning appliances. The borough shall not fine residents for proper use of solid fuel burning appliances. Misuse of a heating appliance is prohibited.

Section 3. FNSB 8.21.020, Prohibited acts and requirements, is amended to add, effective October 29, 2012, the following new subsections:

Highly Polluting Appliances Prohibited in the Nonattainment Area.

All wood-fired hydronic heaters and coal burning appliances, excepting pellet fuel burning appliances, shall be removed or made inoperable in the nonattainment area.

Visible Emissions Standard.

No person shall cause, permit, or allow the emission from a solid fuel burning appliance to create opacity greater than 30 percent for more than 15 minutes in any hour.

Emissions Crossing Property Lines Standard.

No person shall cause, permit, or allow the emission from a solid fuel burning appliance to impact the resident(s) of an adjacent property through the creation of a plume that crosses the adjacent property line and is 35 micrograms per cubic meter or greater than the surrounding neighborhood background PM 2.5 levels.

Section 4. FNSB 8.21.020 C., Prohibited Fuels in the Nonattainment Area, is amended, effective upon certification of the election, to delete the exception for coal as follows:

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

o. Material not intended for use by the manufacturers of the appliance or stove [~~EXCEPT THAT COAL PRODUCED IN THE INTERIOR/HEALY AREA MAY BE USED IN A COAL STOVE EVEN IF IT IS NOT RECOMMENDED FOR USE BY THE MANUFACTURER OF THE STOVE~~].

Section 5. FNSB 8.21.020 C., Prohibited Fuels in the Nonattainment Area, is amended, effective October 29, 2012, to add the following prohibited fuel:

p. Coal.

Section 6. FNSB 1.04.050, Fine schedule, is amended to add, effective October 29, 2012, the following offenses:

Offense	Penalty/Fine	Mandatory Warning Required
Misuse of heating appliance – 1st offense	\$100.00	Yes, unless during Air Quality Alert or a threat to health

Misuse of heating appliance – 2nd offense	\$200.00	No
Misuse of heating appliance in an Air Quality Zone – 1st offense	\$200.00	No
Misuse of heating appliance in an Air Quality Zone – 2nd offense	\$400.00	No

Section 7. FNSB 1.04.050, Fine schedule, is amended to change the fine from \$50 to \$100, effective upon certification of the election, as follows:

Offense	Penalty/Fine	Mandatory Warning Required
Installation of or failure to remove an unlisted or prohibited appliance	\$100.00	No
Illegal installation or failure to remove hydronic heaters	\$100.00	No

Section 8. FNSB 8.21.010, Definitions, is amended to add, effective October 29, 2012, the following definition of misuse which shall be added in alphabetical order:

Misuse - burning of Prohibited Fuels or use of an appliance such that it violates the Visible Emissions Standard, Emissions Crossing Property Lines Standard, or is injurious to health or welfare.

Section 9. FNSB 8.21.030 A. 3. Voluntary removal, replacement, or repair program, is amended effective upon certification of the election, to extend the program to all properties as follows:

3. Eligibility. If an application receives a priority score sufficient to qualify for a program, the applicant will be given up to 90 days to meet all of the requirements for the type of program selected.

Section 10. FNSB Chapter 3.08 shall be amended, effective on certification of the election, to add the following section:

**Air Quality Improvement Tax Credit.**

The Fairbanks North Star Borough shall, to the extent funds are available and appropriated by the assembly, provide for an air quality improvement tax credit to offset a portion of the property taxes due on property that, during the immediately preceding tax year, has been improved in a way that aids in improving the air quality in the municipality. These tax credits shall be for:

- annual maintenance of a fuel oil, natural gas, or propane heater;
- installation of a natural gas or propane heater; and
- replacement of a catalyst for an EPA-certified woodstove.

Approval shall be by application with proper documentation. Amounts of the tax credits, eligibility, conditions, and other criteria shall be established by the Assembly.