

CLERK'S OFFICE

APPROVED

Date:

7-12-11

Submitted by: ASSEMBLY MEMBER Traini

Reviewed by: Office of the Ombudsman

Prepared by: Assembly Counsel

For reading: June 28, 2011

ANCHORAGE, ALASKA

AO NO. 2011-75

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
ANCHORAGE MUNICIPAL CODE SECTION 15.35.105 TO PROVIDE FOR LIMITED
WAIVER AUTHORITY.**

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 15.35.105 is hereby amended to read as follows (*language indicating no amendment is included for context only and other subsections not affected are not set out*):

15.35.105 Stationary source emissions--Wood-fired boilers.

*** *** ***

- D. Within the boundaries of the municipality, no person shall install or allow the installation of a wood-fired boiler subject to the requirements of this section unless:
1. The wood-fired boiler is located more than 50 feet from an adjacent property line and 100 feet from any habitable structure that it is not serving at the time of installation, unless that property or habitable structure is under common ownership; and
 2. The wood-fired boiler has an attached permanent stack extending higher than the peak of the roof of the structure(s) being served by the wood-fired boiler, and higher than the peak of the roof of any other habitable structure located within 150 feet of the wood-fired boiler; and
 3. The wood-fired boiler is certified to meet the U.S. Environmental Protection Agency voluntary phase 2 emissions level for wood-fired boilers through testing by an accredited independent laboratory showing it emits no more than 0.32 pounds of particulate matter per million BTUs of heat output; and
 4. The wood-fired boiler complies with all applicable laws, including but not limited to local ordinances, and its operation does not create a public nuisance; and
 5. Scaled drawings, prepared by a registered professional engineer or registered professional land surveyor, are submitted and approved by

the air pollution control officer showing the wood-fired boiler will meet the separation requirements to adjacent property lines and habitable structures established in this subsection and that the stack of the boiler will be higher than the roof peak of any habitable structure within 150 feet.

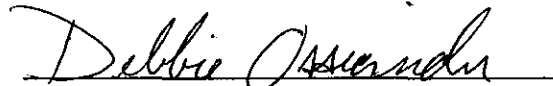
6. Installation, modification and repair of a wood-fired boiler shall comply with the provisions of the Anchorage Building Code, Title 23 of the Anchorage Municipal Code.

E. For any wood-fired boiler certified to meet the requirements in subsection D.3. of this section and purchased new by the original owner prior to codification of section 15.35.105, the department shall waive the separation and stack height requirements of subsections D.1, D.2, and D.5 upon proof of purchase date satisfactory to the director. Waiver of separation and stack height requirements does not relieve the owner of any other compliance obligations.


(AO No. 2009-41(S), § 3, 7-1-09)

Section 2. This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 12th day of July, 2011.


Chair

ATTEST:


Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
No. AM 368-2011

Meeting Date: June 28, 2011

From: ASSEMBLY MEMBER Dick Traini
Subject: AO 2011-75 — AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 15.35.105 TO PROVIDE FOR LIMITED WAIVER AUTHORITY.

The purpose of this ordinance is to resolve an Ombudsman's Inquiry that arose after the 2009 amendments to AMC Chapter 15.35 came into effect for wood-burning boilers.

The legislative record shows AO 2009-41 as introduced on March 24, 2009, with a delayed public hearing date of June 23, 2009. Public hearing was held on June 23, 2009. AO 2009-41(S) was laid on the table, amended, and approved by the Assembly on June 23, 2009, with an effective date of July 1, 2009. Wood-fired boilers installed after July 1, 2009 must meet all of the new code requirements. Included within AO 2009-41(S) is a new code section, AMC 15.35.105, which includes certain separation and stack height requirements. Boilers installed prior to July 1, 2009 do not need to meet any of the AO 2009-41(S) requirements. The event tied to the July 1, 2009 effective date is boiler installation, not boiler purchase.

The Ombudsman's Inquiry involves a citizen's June 20, 2009 purchase of a wood-fired boiler, which appears to have met the requirements of municipal code as of the date of purchase. The boiler and boiler installation appear to meet all of the AO 2009-41(S) requirements made effective July 1, 2009, with the exception of the separation and stack height requirements. The Department of Health and Human Services (DHHS) determined the wording of the ordinance gave no room for departmental waiver in deference to a purchase being made in compliance with code on record at the time of purchase, since the effective date was tied to installation (not purchase). Boilers represent a substantial financial investment for any homeowner.

Passage of the present ordinance would allow DHHS to review the facts and determine if a limited waiver is appropriate based on proof satisfactory to the director that that the purchase of a new boiler by the original owner was made in good faith prior to the effective date of AO 2009-41(S). DHHS knows of this instant case, and others not yet identified by DHHS may have been caught in a similar circumstance. The Ombudsman supports this avenue of proactive resolution.

Respectfully submitted: Dick Traini, Assembly Member, Section 4

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor

Prepared by: Department of Health and
Human Services

For reading: June 23, 2009

CLERK'S OFFICE

AMENDED AND APPROVED ANCHORAGE, ALASKA

Date: 6-23-09 AO No. 2009-41(S)

**AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS
15.35.040 AND 15.35.050, AND ADDING A NEW SECTION TO REGULATE
THE SALE AND INSTALLATION OF WOOD-FIRED BOILERS.**

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 15.35.040 is amended to read as
follows (*the remainder of the section is not affected and therefore not set out*):

15.35.040 Stationary source emissions - General definitions.

Unless the context clearly indicates otherwise, the following terms used in
this regulation shall be defined as follows:

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Clean wood means wood with no paint, stains, or other types of coatings,
and wood with no preservative treatment(s) including, but not limited to,
copper chromium arsenate, creosote, or pentachlorophenol.

Habitable structure means a structure suitable for human habitation
including, but not limited to, single or multi-family residences,
schools, churches and buildings for commercial purpose. A habitable
structure includes porches, gazebos, and other attached
improvements.

*** **

Outdoor Wood-fired boiler or outdoor wood-fired hydronic heater means
a fuel burning device [designed to]:

1. Designed to burn primarily wood, wood pellets or other solid fuels
[corn]; and
2. Designed to heat spaces or water by the distribution through pipes

of a fluid heated in the device, typically water or a mixture of water and anti-freeze; and

- 3. Specified by the manufacturer for outdoor installation or in structures not normally inhabited by humans including sheds and garages.**

~~[Examples of common uses of wood-fired boilers include, but are not limited to space heating and heating of domestic hot water, and heating water for swimming pools, hot tubs or whirlpool baths.]~~

- 4. Wood-fired boilers that are specifically designed to burn wood pellet fuel with metered air and fuel feed and controlled combustion engineering and burns only pellets from untreated natural wood are exempt from this ordinance.**

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70)

Section 2. Anchorage Municipal Code section 15.35.050 is amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

15.35.050 Stationary source emissions - Visible emission standards.

- A. No person shall cause, permit or allow the emission of any air contaminant, excluding portions of emissions containing condensed uncombined water vapor from any stationary source including air curtain incinerators to reduce visibility through the exhaust effluent by:
1. Greater than twenty percent for a period or periods aggregating more than three minutes in any one hour, except as provided in subsection 2 of this subsection; or
 2. Twenty percent or greater for municipal wastewater treatment plant sludge incinerators; or
 3. Greater than twenty percent for a period or periods aggregating more than six minutes in any hour for wood-fired boilers, except during the first 20 minutes after the initial firing of the unit.

*** *** ***

(AO No. 78-141; AO No. 79-80(AM); AO No. 80-2; AO No. 80-70; AO No. 93-131, § 8, 10-26-93)

Section 3. Anchorage Municipal Code chapter 15.35 is amended by adding a new section for wood-fired boilers to read as follows:

15.35.105 Stationary source emissions - wood-fired boilers.

- A. Unless otherwise prohibited by law, within the boundaries of the municipality no person shall cause, suffer, permit or allow the operation of a wood-fired boiler except when fired by:
1. Clean wood, or
 2. Wood pellets made from clean wood; or
 3. Corn; or
 4. Home heating oil and natural gas as a starter fuel or substitute fuel in dual-fired wood boilers.
- B. Within the boundaries of the municipality the burning of wood that has been treated, painted, or treated with preservatives or other coatings is prohibited.
- C. Within the boundaries of the municipality the burning of used oil, waste petroleum products and home heating oil not meeting applicable limits for sulfur content is prohibited.
- D. Within the boundaries of the municipality, no person shall install or allow the installation of a wood-fired boiler subject to the requirements of this section unless:
1. The wood-fired boiler is located more than 50 ~~[100]~~ feet from an adjacent property line and 100 ~~[150]~~ feet from any habitable structure that it is not serving at the time of installation, unless that property or habitable structure is under common ownership; and
 2. The wood-fired boiler has an attached permanent stack extending higher than the peak of the roof of the structure(s)

1 being served by the wood-fired boiler, and higher than the
2 peak of the roof of any other habitable structure located within
3 150 [300] feet of the wood-fired boiler; and
4

5 3. The wood-fired boiler is certified to meet the U.S.
6 Environmental Protection Agency voluntary phase 2
7 emissions level for wood-fired boilers through testing by an
8 accredited independent laboratory showing it emits no more
9 than 0.32 pounds of particulate matter per million BTUs of
10 heat output; and
11

12 4. The wood-fired boiler complies with all applicable laws,
13 including but not limited to local ordinances, and its operation
14 does not create a public nuisance; and
15

16 5. Scaled drawings, prepared by a registered professional
17 engineer or registered professional land surveyor, are
18 submitted and approved by the air pollution control officer
19 showing the wood-fired boiler will meet the separation
20 requirements to adjacent property lines and habitable
21 structures established in this subsection and that the stack of
22 the boiler will be higher than the roof peak of any habitable
23 structure within 150 [300] feet.
24

25 6. Installation, modification and repair of a wood-fired boiler shall
26 comply with the provisions of the Anchorage Building Code,
27 Title 23 of the Anchorage Municipal Code.
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29 ~~[E. Within the boundaries of the municipality, no person shall sell~~
30 ~~or offer for retail sale or lease a wood-fired boiler subject to the~~
31 ~~requirements of this section unless prior to any sales or lease~~
32 ~~agreement, the seller or dealer provides the prospective buyer~~
33 ~~or lessee with written notice prepared by or approved by the air~~
34 ~~pollution control officer stating:~~

35 1. ~~Only clean wood may be burned in a wood-fired boiler;~~
36 ~~and~~

37 2. ~~The installation of the wood-fired boiler is subject to the~~
38 ~~property line setback and stack height requirements~~
39 ~~provided in section A above; and~~

40 3. ~~Prior to installation, written drawings showing all the~~
41 ~~requirements will be satisfied must be submitted and~~
42 ~~approved by the air pollution control officer; and~~

1 ~~4. Includes an advisory statement noting a wood-fired boiler~~
2 ~~meeting the distance and stack height requirements in~~
3 ~~section A may not be appropriate in some areas due to~~
4 ~~terrain or meteorological conditions that render the~~
5 ~~operation of a wood-fired boiler a public nuisance or~~
6 ~~health hazard.~~

7 ~~F. The written notice specified in section E shall be signed and~~
8 ~~dated by the prospective buyer or lessee to indicate receipt of~~
9 ~~the notification requirements of this section.~~

10 ~~G. Prior to making delivery of a wood-fired boiler into the~~
11 ~~possession of any buyer or lessee, the seller or dealer shall~~
12 ~~mail or otherwise provide a copy of the signed notice specified~~
13 ~~above to the air pollution control officer. The notice shall~~
14 ~~contain:~~

15 ~~1. The name, address and telephone number of both the~~
16 ~~seller or dealer and the buyer or lessee; and~~

17 ~~2. The make and model of the wood-fired boiler, plus~~
18 ~~documentation showing the boiler is certified to meet the~~
19 ~~U.S. Environmental Protection Agency voluntary phase 2~~
20 ~~emissions level.]~~

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22 **Section 4.** This ordinance shall be effective beginning on July 1, 2009.

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25 PASSED AND APPROVED by the Anchorage Assembly this 25th day of
26 June, 2009.

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30 Chair

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33 ATTEST:

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37 Municipal Clerk