

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 811-2017

Meeting Date: December 5, 2017

From: MAYOR

Subject: AN ORDINANCE REPEALING ANCHORAGE MUNICIPAL CODE CHAPTER 15.35, REPEALING AND RE-ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 15.30 REGARDING THE ANCHORAGE CLEAN AIR ORDINANCE, AND AMENDING THE FINE SCHEDULE IN MUNICIPAL CODE CHAPTER 14.60.

This ordinance repeals Anchorage Municipal Code chapters 15.30 and 15.35 (South Central Clean Air Ordinance and South Central Clean Air Ordinance Regulations) and re-enacts it as a single, streamlined and updated chapter 15.30, re-titled as "Clean Air Ordinance." This is a long overdue revision of the outdated current code that has not significantly changed since 2009's inclusion of outdoor wood boilers. The proposed code will be relevant and applicable to today's air quality standards, eliminate unnecessary provisions and duplicative air permitting and source registration requirements, and add new opacity requirements for wood stoves and fireplaces that are enforceable and help Anchorage avoid possible violations of the federal air quality standards for fine particulate (PM2.5). The updates promote public health and our mandated mission to protect air quality.

Major revisions are summarized below:

- Combines AMC 15.30 and 15.35 into a single chapter, AMC 15.30.
- Changes the chapter's title from "South Central Clean Air Ordinance" to "Clean Air Ordinance."
- Eliminates reference to the 1970's tri-borough South Central Clean Air Authority Commission (SCCAAC) whose concerns were open burning at Point McKenzie and the expansion of the IM Program for Mat-Su commuters. It is a defunct commission which last met in 1992 and was sunsetted by the Assembly effective October 14, 2011.
- Replaces the administrative hearing function and appeals procedure formerly performed by the SCCAAC with the administrative enforcement, hearings and appeals procedures outlined in Chapter 15.05 and Title 14. Hearing and appeals procedures will be handled in the same manner as other chapters in Title 15.
- Deletes air contaminant source registration and permitting requirements. Eliminates sections pertaining to stationary source emission standards

and source testing requirements as they have never been applied, standards are antiquated, and are covered by more up-to-date state regulations. The Alaska Department of Environmental Conservation (DEC) currently permits most sources that require permitting or registration under the current municipal code. Permitting and registration requirements are largely duplicative with the state and therefore unnecessary.

- Updates air pollution threshold concentrations used to declare air alerts, warnings and emergencies so they correspond with thresholds recommended by the EPA.
- Establishes a 20% opacity limit for visible emissions from fireplaces, wood and coal burning stoves and similar solid fuel heating appliances. The proposed 20% opacity limit is identical to that already adopted in municipal code for outdoor wood boilers. This opacity limit will provide a new objective enforcement tool to address one of the prominent reoccurring citizen complaints concerning excess smoke from wood stoves and fireplaces. The proposed limits are similar to those recently adopted in Fairbanks. They are “more stringent” than state-wide requirements set out in the Alaska Administrative Code, inasmuch as the State of Alaska has not adopted an objective opacity standard at all. Because that is the case, state law (AS 46.14.400(f)) required the Municipality to, among other things, obtain “affirmative agreement” from Alaska Department of Environmental Conservation that public health or air quality considerations provide a reasonable basis for the proposed standard. In accordance with the statute, the Department of Health and Human Services provided justification (rationale for exposure profiles, technological and economic feasibility) for 20% opacity limits in Anchorage to Alaska DEC. The Commissioner reviewed DHHS’s justification and affirmed that the Municipality may, consistent with state law, adopt the standards set out in the proposed ordinance.

There is no substantial financial impact expected to private or public sector, therefore no SEE is attached.

Attachment A provides a section-by-section comparison of the current code (AMC 15.30 & AMC 15.35) with the proposed new chapter 15.30.

Attachment B provides the full current code for AMC 15.30 and 15.35.

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by:	DeeAnn Fetko, Health and Human Services
Approved by:	Melinda Freemon, Health and Human Services
Concur:	Lance Wilber, OMB Director
Concur:	Robert E. Harris, CFO
Concur:	Rebecca A. Windt Pearson, Municipal Attorney
Concur:	William D. Falsey, Municipal Manager
Respectfully submitted:	Ethan A. Berkowitz, Mayor