

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Dept. of Health and Human  
Services and Dept. of Law  
For reading: December 5, 2017

**ANCHORAGE, ALASKA**  
**AO No. 2017-161**

**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.**

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**Section 1.** Anchorage Municipal Code chapters 15.30 and 15.35 are hereby repealed in their entirety. The complete existing text of the affected chapters is attached hereto as **Attachment B**.

**Section 2.** Anchorage Municipal Code chapter 15.30 is re-enacted to read as follows:

**Chapter 15.30 CLEAN AIR ORDINANCE**

- 15.30.010 - Short title of chapter.
- 15.30.020 - Definitions.
- 15.30.030 - Air pollution episodes.
- 15.30.040 - Visible stationary source emission standards.
- 15.30.050 - Other emission limitations.
- 15.30.060 - Fugitive emissions.
- 15.30.070 - Circumvention.
- 15.30.080 - Open burning
- 15.30.090 - Wood-fired boilers.
- 15.30.100 - Motor vehicle emissions.
- 15.30.110 - Motor vehicle fleet operation.
- 15.30.120 - Motor vehicle inspection.
- 15.30.130 - Motor vehicle owner liability.
- 15.30.140 - Variance criteria.
- 15.30.150 - Air pollution inspections.
- 15.30.160 - Enforcement action and appeals procedure.
- 15.30.170 - Injunctive relief.
- 15.30.180 - Appeals.

**15.30.010 - Short title of chapter.**

This chapter may be known and cited as the Clean Air Ordinance.

**15.30.020 - Definitions.**

Unless separately defined in a rule or regulation promulgated pursuant to this chapter or unless the context clearly indicates otherwise, the following terms used in this chapter or any rule or regulation promulgated pursuant thereto shall be defined as follows:

*Air contaminant* means dust, fumes, mist, smoke, fly ash, other particulate matter, vapor, gas or an odorous substance, or a combination of these, but not including water vapor or steam condensate.

*Air curtain burner* means a type of incinerator.

*Air pollutant* means any substance in the atmosphere, either from natural or manmade sources, in a concentration that reaches or exceeds a level that tends to have an adverse effect on human health or welfare, have some deleterious effect on animal or plant life, or damage materials of economic value to society.

*Air pollution* means the presence in the outdoor atmosphere of one or more air pollutants.

*Ambient air* and *atmosphere* mean any unconfined portion of the atmosphere or the outside air, external to buildings.

*Anchorage Bowl area* means that area within the boundaries of the Municipality of Anchorage enclosed by a border beginning at the intersection of 61 degrees 18 minutes north latitude and 149 degrees 42 minutes west longitude, thence due south to 61 degrees 4 minutes north latitude, thence due west to 150 degrees 5 minutes west longitude, thence due north to 61 degrees 18 minutes north latitude, and thence due east to the point of beginning, 149 degrees 42 minutes west longitude.

*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.

*Department* means the Department of Health and Human Services.

*Director* means the director of the Department of Health and Human Services or an authorized representative.

*Emission* means a release of air contaminants into the environment.

*Equipment* means any stationary or portable device or any part thereof

capable of causing the emission of any air contaminant.

*Facility* means a pollutant-emitting source or activity located on one or more contiguous or adjacent properties and which is operated by the same person under common control.

*Federal ambient air quality standard* means a national primary or secondary ambient air quality standard promulgated pursuant to the federal Clean Air Act, as amended, 42 U.S.C. § 7409.

*Fire chief* means the Anchorage Fire Chief or an authorized representative.

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

*Incinerator* means any furnace used in the process of burning solid waste for the purpose of reducing the volume of the waste by removing combustible matter.

*Installation* means the placement, assemblage or construction of equipment or control apparatus at the facility where equipment, as defined in this section, or control apparatus will be used.

*Mobile source* means a source capable of simultaneous motion and emission of air contaminants.

*Motor vehicle* means any self-propelled vehicle designed and used for transporting persons or property, but excludes aircraft, vessels operated on water and vehicles operated exclusively on a rail or rails.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

*Open burning* means the burning of any matter in such manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through an approved stack, duct, vent or chimney from an enclosed chamber, but does not include the operation of safety flares, smudge pots, and similar devices associated with safety or for the purpose of protecting human life.

*Owner* means the person who owns, leases or supervises equipment, control apparatus or a stationary or mobile source of air contaminants.

*Particulate matter* and *particulates* means minute solid or liquid particles in

the air or in an emission, including but not limited to dust, smoke, fumes, spray and fog.

*PM-2.5* means particulate matter with an aerodynamic diameter less than or equal to 2.5 microns, measured consistent with federal regulation (40 CFR § 58.1).

*PM-10* means particulate matter with an aerodynamic diameter less than 10 microns, measured consistent with federal regulation (40 CFR § 58.1).

*ppm* means parts per million by volume.

*ppb* means parts per billion by volume.

*Person* means any individual, trust, estate, firm, corporation, association, partnership or any officer, employee, department, agency, board, bureau or commission of the United States, a state or any political subdivision thereof.

*Regulation* means any regulation, ambient air quality standard, emission standard, limitation or control or subsequently adopted additions or amendments thereto promulgated pursuant to this chapter.

*Stationary source* means any building, structure, facility, installation or equipment that emits or may emit any air contaminant or air pollutant including but not limited to incinerators, boilers, asphalt batch plants, waste oil burners, and fuel combustion equipment.

*Untreated open areas* means land upon which all of the natural vegetation has been removed and no successful measures have been taken to either revegetate or resurface the ground to prevent the emission of dust, vapors or other particulate matter into the atmosphere.

*Visible emissions* means those gases or particulates, excluding uncombined water, that separately or in combination are visible upon release to the outdoor atmosphere.

*Wood-fired boiler* means a fuel burning device:

1. Designed to burn primarily wood, wood pellets or other solid fuels; 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.

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 chapter.

**15.30.030 - Air pollution episodes.**

- A. *Concentration levels.* An air pollution alert, warning or emergency shall be declared when in the opinion of the director the concentration of air contaminants or pollutants in the ambient air has reached or is predicted to reach any of the following levels:

Table 1. AIR POLLUTANT LEVELS WARRANTING THE DECLARATION OF AIR ALERTS, WARNINGS AND EMERGENCIES

TABLE INSET:

<b><u>Pollutant</u></b>	<b><u>Alert</u></b>	<b><u>Warning</u></b>	<b><u>Emergency</u></b>
Carbon monoxide	9.5 ppm for an 8-hour average	15.5 ppm for an 8-hour average	30.5 ppm for an 8-hour average
PM-10	155 micrograms per cubic meter for a 24-hour average	355 micrograms per cubic meter for a 24-hour average	425 micrograms per cubic meter for a 24-hour average
PM-2.5	35.5 micrograms per cubic meter for a 24-hour average	150.5 micrograms per cubic meter for a 24-hour average	250.5 micrograms per cubic meter for a 24-hour average
Ozone	70 ppb for an 8-hour average	106 ppb for an 8-hour average	201 ppb for an 8-hour average

- B. Air pollutant levels will be measured in accordance with Code of Federal Regulations Title 40 Part 58 – Ambient Air Quality Surveillance.
- C. *Air pollution episode plan.* The director shall, in order to implement the purposes of this section, keep updated an air pollution episode plan that describes the curtailment actions, communications, and public notification procedures to be employed when the concentration of air contaminants has reached or is predicted to reach the alert, warning, or emergency concentrations set forth in subsection A of this section. The Anchorage Air Pollution Episode

Plan shall be implemented as standard operating procedure in the event of air emergencies. Copies of this plan shall be maintained at the mayor's office, department of health and human services, and office of emergency management.

- D. *Air quality advisory.* The director or a designee shall issue an air quality advisory when, in the director's or designee's judgment, air quality or atmospheric dispersion conditions exist that may cause injury to public health.

**15.30.040 - Visible stationary source emission standards.**

- A. No person shall cause, permit or allow the opacity from the emission of any air contaminant from any stationary source, excluding portions of emissions containing condensed uncombined water vapor, to exceed 20 percent for a period or periods aggregating more than 3 minutes in any one hour, except:

1. The opacity of air-contaminant emissions from air curtain burners may exceed 20 percent during the first 20 minutes after initial firing of the unit, and thereafter only must not exceed 20 percent averaged over a period or periods aggregating more than 6 minutes in any hour; and
2. The opacity of air-contaminant emissions from wood fired boilers, fireplaces, wood and coal burning stoves and similar solid fuel heating appliances may exceed 20 percent during the first 20 minutes after initial firing of the unit, and thereafter only must not exceed 20 percent averaged over a period or periods aggregating more than 6 minutes in any hour, except the opacity of emissions from a unit addressed in this subsection may exceed 20 percent at any time if the unit serves as a location's only available source of heat.

- B. The opacity of an air contaminant shall be determined at the point of emission, except when the point of emission cannot be readily observed, in which case it may be determined at an observable point of the plume nearest the point of emission.

- C. This section shall not apply to smoke-generating equipment approved by the director for the training, instruction or certification of persons to observe and determine the opacity of air contaminants, to smoke-generating equipment used by the fire chief for instruction in firefighting, or to smoke-generating equipment when used by a law enforcement agency for instruction or training in incident response, when such equipment is otherwise operated in compliance with

applicable federal and state laws.

**15.30.050 - Other emission limitations.**

- A. No person shall cause, allow or permit the emission of any air contaminant or water vapor, including but not limited to odorous matter that tends to be injurious to or adversely affects human health, safety or welfare, animal or plant life, or property or interferes with the normal use and enjoyment of life, property or business.
- B. Nothing in this chapter shall be construed to impair any cause of action or legal remedy therefore of any person or the public for injunctive relief, injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.
- C. The director may enforce this section by issuing a notice of violation that includes what is required to bring the source into compliance, in accordance with section 15.05.060 and enforcement proceedings authorized by this title.

**15.30.060 - Fugitive emissions.**

- A. No person shall cause, allow or permit particulate matter to be handled, transported or stored without taking reasonable measures to prevent the particulate matter from becoming airborne.
- B. Within the boundaries of the municipality no person shall cause, allow or permit a building or its appurtenances or a road to be constructed, altered, repaired or demolished without taking reasonable measures to prevent particulate matter from becoming airborne.
- C. Within the boundaries of the municipality no person shall cause, allow or permit untreated open areas, including but not limited to roads, parking lots or construction sites located within a private or public lot or roadway, to be improved, graded, excavated, repaired, demolished, altered, constructed, maintained or used without taking reasonable measures to prevent particulate matter from becoming airborne.
- D. The director may issue guidelines determined to be reasonable measures for controlling fugitive emissions, and compliance with such guidelines shall be deemed to fulfill the requirements of subsections A. through C.

**15.30.070 - Circumvention.**

- A. No person shall willfully cause, allow or permit the installation or use of any device or use any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate these regulations.
- B. No person shall cause, allow or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.
- C. No person shall cause, permit or allow the use of air for dilution of emission contaminants without affecting any total decrease in such contaminants as a method to effect compliance with the requirements of this regulation.
- D. No person shall cause, permit or allow the use of stack heights that exceed good engineering practice or dispersion techniques to affect the degree of emission limitation required for control of air contaminants.

**15.30.080 - Open burning.**

- A. Within the boundaries of the municipality no person shall cause, suffer, permit or allow any open burning except the following unless otherwise prohibited by law:
  - 1. Open burning for pleasure, religious, ceremonial, cooking or like social purposes and open burning from flares, torches, waste gas burners, incense burners and insect pots is allowed.
  - 2. Open burning authorized by the fire chief for the disposal of dangerous materials is allowed, provided no alternate means of disposal is reasonably available.
  - 3. Open burning authorized by the fire chief for instruction in the method of fighting fires or testing fire resistive materials and fire protection equipment is allowed provided that these outdoor fires have prior written approval from the director, and, unless waived by the department, the public shall be notified through the news media of the time, place and purpose of the exercise at least three days in advance of the activity. Prior written approval from the director and public

notice shall not be required when such outdoor fires do not exceed 30 inches in diameter.

4. Open burning for the disposal of trees and brush on property being developed for commercial or residential purposes or on property where the trees and brush were grown is allowed provided that:

a. Open burning shall be allowed only outside the Anchorage bowl area and only during the periods from April 1 through May 31 and August 15 through October 31; and

b. The person responsible for such open burning shall obtain a written permit for such fire from the fire chief and upon terms and conditions specifically approved by the director and shall comply with all the laws and regulations of the director, the fire chief and all other governmental agencies regarding such fires; and

c. Tires or heavy petroleum products may not be used to start or maintain open burning.

5. Open burning for the disposal of household refuse is allowed in the areas of the municipality where municipal or Regulatory Commission of Alaska sanctioned refuse collection service is not available.

6. The burning of combustible construction debris, trees, brush and other vegetative matter is allowed in a commercial air curtain combustion system properly operated and maintained according to the manufacturer's specifications, provided that the device has been registered with the director, that the operator obtains written approval from the director prior to operation, and that the operation of the device complies with all rules and regulations of the director, the fire chief and all other governmental agencies regarding such equipment.

7. Open burning for the disposal of small quantities of grass, leaves, weeds and other organic debris accumulated during winter months may be allowed without an open burning permit throughout the municipality during a ten-day period in the spring authorized by the mayor upon appropriate terms and conditions that take into consideration those factors described in subsection A.10. of this section.

8. Open burning for the disposal of small quantities of grass, leaves, brush, weeds and other organic debris may be allowed without an open burning permit in the area east of the Bragaw Road/Elmore/Abbot Loop alignment and south of Tudor Road up to 24 days between May 1 and June 14 and up to 14 days between August 15 and October 15, when authorized by the mayor and upon appropriate terms and conditions that take into consideration those factors described in subsection A.10. of this section.
  9. The fire chief, with the approval of the air pollution control officer or department, may issue open burning permits for the disposal of small quantities of grass, leaves, brush, weeds and other organic debris at such times and places and upon such terms and conditions as the fire chief and director deem appropriate in consideration of and consistent with those factors described in subsection A.10. of this section.
  10. The fire chief, with the approval of the air pollution control officer or the department may issue open burning permits allowed by this section upon appropriate terms and conditions that take into consideration the ambient air quality, the achievement and maintenance of federal, state or municipal ambient air quality standards, meteorological conditions, the suitability of air pollution control devices for large quantities of waste, means of reducing fire hazards, the suitability of disposal by other available means, the amount and nature of waste to be burned, the proximity of the burn site to developed areas and the population density of the surrounding area.
- B. The director shall publish the dates during which open burning will be allowed along with appropriate terms and conditions to be followed while burning.
- C. The director may suspend or prohibit open burning at any time based on air quality considerations, or, upon consultation with the fire chief, for fire safety reasons.
- D. The fire chief, in consultation with the air pollution control officer, and upon appropriate terms and conditions that take into consideration those factors described in subsection A.10. of this section, may issue written permits for the destruction of timber infested with spruce bark beetle during periods outside of the open burn periods designated in this section.

1 E. The fire chief shall establish guidelines and may establish an  
2 appropriate fee schedule for the issuance of written permits  
3 authorized under this section.  
4

5 F. It shall be a rebuttable presumption that the person who owns or  
6 controls the property on which open burning occurs has caused or  
7 allowed said open burning.  
8

9 **15.30.090 - Wood-fired boilers.**

10  
11 A. Unless otherwise prohibited by law, within the boundaries of the  
12 municipality no person shall cause, suffer, permit or allow the  
13 operation of a wood-fired boiler except when fired by:  
14

- 15 1. Clean wood;
- 16 2. Wood pellets made from clean wood;
- 17 3. Corn; or
- 18 4. Home heating oil and natural gas as a starter fuel or substitute  
19 fuel in dual-fired wood boilers.  
20  
21  
22

23  
24 B. Within the boundaries of the municipality the burning of wood that  
25 has been treated, painted, or treated with preservatives or other  
26 coatings is prohibited.  
27

28 C. Within the boundaries of the municipality the burning of used oil,  
29 waste petroleum products and home heating oil not meeting  
30 applicable limits for sulfur content as set forth by the Federal Clean  
31 Air Act is prohibited.  
32

33 D. Within the boundaries of the municipality, no person shall install or  
34 allow the installation of a wood-fired boiler subject to the  
35 requirements of this section unless:  
36

- 37 1. The wood-fired boiler is located more than 50 feet from an  
38 adjacent property line and 100 feet from any habitable  
39 structure that it is not serving at the time of installation, unless  
40 that property or habitable structure is under common  
41 ownership;  
42
- 43 2. The wood-fired boiler has an attached permanent stack  
44 extending higher than the peak of the roof of the structure(s)  
45 being served by the wood-fired boiler, and higher than the  
46 peak of the roof of any other habitable structure located within

150 feet of the wood-fired boiler;

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;
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 (July 1, 2009), 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.

**15.30.100 - Motor vehicle emissions.**

- A. No person shall operate, drive, cause or permit to be driven or operated any motor vehicle upon a public street or highway that emits any visible emission for a period in excess of 5 consecutive seconds except for those motor vehicles powered by compression ignition or diesel-powered engines and except when the presence of uncombined water is the only reason an emission fails to meet this requirement.
- B. No person shall operate, drive, cause or permit to be driven or

operated any diesel-powered motor vehicle that emits for a period in excess of 10 consecutive seconds any air contaminant that obscures an observer's vision to a degree greater than 30 percent opacity.

- C. No person shall operate, drive, cause or permit to be driven or operated any motor vehicle that violates or exceeds any federal or state law, regulation, emission standard or limitation applicable to such motor vehicle for the control of emissions of carbon monoxide, hydrocarbons or oxides of nitrogen.

#### **15.30.110 - Motor vehicle fleet operation.**

The director by written notice may require the owner of any motor vehicle fleet operation of more than 5 vehicles to certify annually that its motor vehicles are maintained in good working order and, if applicable, in accordance with the motor vehicle manufacturer's specifications and maintenance schedules that may or tend to affect visible emissions. The director by written notice may require records pertaining to observations, tests, maintenance and repairs performed to control or reduce visible emissions from individual motor vehicles to be made available for review and inspection by the director.

#### **15.30.120 - Motor vehicle inspection.**

The director by written notice may require the owner of any motor vehicle of a motor vehicle fleet operation or the owner of any motor vehicle that the director has reason to believe may be in violation of this regulation to make such motor vehicle available for testing for compliance with section 15.30.110 of this regulation at a reasonable time and place.

#### **15.30.130 - Motor vehicle owner liability.**

It shall be a rebuttable presumption that the owner of a motor vehicle that violates or exceeds any provision of this regulation has caused or permitted the operation or driving of that motor vehicle.

#### **15.30.140 - Variance criteria.**

- A. A person who owns or is in control of a plant, building, structure, establishment, process or equipment may apply to the director for a variance from any emission standard or limitation promulgated pursuant to this chapter. The director may grant the variance, but only after public hearing following 30 days' notice, if the director finds that:

1. The emissions occurring or proposed to occur do not

endanger human health or safety; and

2. Compliance with the rules or regulations from which the variance is sought would produce serious hardship without equal or greater benefits to the public.

B. No variance may be granted under this section until the director has considered the relative interest of the applicant, other owners of property likely to be affected by the emissions, and the general public.

C. A variance granted under subsection A. of this section shall be for periods and under conditions consistent with the reasons for it and within the following limitations:

1. If a variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be effective only until the necessary means for prevention, abatement or control become known and available, subject to the taking of substitute or alternate measures that the director may prescribe.

2. If a variance is granted on the grounds that compliance with the particular requirement from which a variance is sought will necessitate the taking of measures which because of their complexity or cost will involve considerable hardship, it shall be effective for a period of time which in the opinion of the director is necessary and reasonable. A variance granted on this ground shall contain a timetable for compliance with the particular requirement from which a variance is sought in an expeditious manner and shall be for not more than 5 years.

**15.30.150 - Air pollution inspections; right to entry.**

A. Subject to subsection B. of this section, the director may at any reasonable time and upon presentation of proper identification, enter upon, investigate, and inspect any land, building, or premises where reasonable cause exists that there has been or is a violation of this chapter, or enter upon such land, building, or premises to perform a duty of the director under this chapter.

B. Where federal or state law so requires, the director shall obtain an administrative search warrant authorizing an inspection and exhibit the warrant to the owner, agent or occupant of the premises, if present, before conducting the inspection. The director shall apply to

the appropriate court to obtain an inspection warrant, stating the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned within 10 days.

**15.30.160 - Enforcement actions and appeal procedures.**

- A. In addition to notice of violation, charging document or citation or other enforcement actions, the director may issue an enforcement order to any person who violates the provisions of this chapter. The enforcement order may be issued by personal service or certified mail to the violator's last known address according to Municipal Assessor's property records, or if the violator's address or identity is unknown, by posting a dated and signed placard in a conspicuous place on each parcel of property containing the violation. The enforcement order may be issued to more than one person for the same violation, including the property owner, occupant of the property, agent of the property owner, and the person who causes or maintains the violation, for all such persons are jointly and severally liable for the violation.
- B. An enforcement order shall identify the violator and the property where the violation is located, briefly describe the nature of the violation, and list the provisions of this chapter that have been violated. The enforcement order shall require the abatement of the violation within no less than 15 days of service of the enforcement order, or the violator shall be subject to specified fines, penalties, costs and other remedies for each violation of this chapter, and for each day the violation continues. If a significant public health hazard exists, remedy may be required less than 15 days from the date of service. The enforcement order shall inform the violator that if the violation is not abated within the designated time period, and the violator does not enter into a written compliance agreement with the department which extends the abatement deadline, the municipality may abate the violation and assess the abatement costs and any administrative fees to the violator or violators, who are all jointly and severally liable. The enforcement order shall also give notice that if the violator commits a similar offense within one year of service of the enforcement order, even if the similar type of violation occurs on a different property parcel, the violator shall be subject to enhanced fines, penalties, costs and other remedies, as provided for in this chapter. A description of the Administrative Hearing Office appeal procedure shall also be provided with the enforcement order.
- C. An enforcement order is final with respect to a violator who does not

1 appeal to the Administrative Hearing Office within 15 days of its  
2 service in accordance with section 14.30.050, unless a written  
3 compliance agreement is entered into between the department and  
4 the violator or the violator has abated the violation to the satisfaction  
5 of the department. Once an enforcement order is final, the  
6 department may file a notice of violation of the enforcement order  
7 with and seek a compliance order from the Administrative Hearing  
8 Office, which may include abatement of the violation if it still exists.  
9

10 D. If a timely appeal is not taken to the superior court from an  
11 Administrative Hearing Officer's final decision, and the violator has  
12 not complied with the Administrative Hearing Officer's compliance  
13 order, the municipality may file a civil action with the superior court to  
14 seek enforcement of the Administrative Hearing Officer's compliance  
15 order.  
16

17 E. An enforcement order need not be issued before other legal action is  
18 commenced with respect to a violation of this chapter, including filing  
19 an original action in court. Also, the pendency of any proceeding  
20 regarding an enforcement order does not stay any other legal action  
21 with respect to a violation that is the subject of the enforcement order.  
22 Whether the department proceeds with any other legal action shall  
23 depend upon, but not be limited to, the nature of the violation, the  
24 danger to the public health which the violation presents, or the time  
25 reasonably necessary to take required action.  
26

#### 27 **15.30.170 - Injunctive relief.**

28

29 A. Notwithstanding any other provision of this chapter or other remedy  
30 provided by law, any person who violates any provision of this  
31 chapter or any regulation, rule, permit, variance or final order issued  
32 pursuant thereto shall be subject to injunctive relief to restrain the  
33 person from continuing the violation or threat of violation. Upon  
34 application for injunctive relief and a finding that a person is violating  
35 or threatening to violate any provision of this chapter or any rule,  
36 regulation, permit, variance or order issued pursuant to this chapter,  
37 the court shall grant injunctive relief to restrain the violation.  
38

39 B. In addition to any other remedy or penalty provided by law, a person  
40 who violates any provision of this chapter or any regulation, rule,  
41 permit, variance or final order issued pursuant thereto shall be  
42 subject to the civil, criminal and administrative remedies or penalties  
43 provided by the law of that member government wherein such  
44 violation occurred.  
45

#### 46 **15.30.180 - Appeals.**

- 1
- 2 A. A person aggrieved by an enforcement order, a decision to deny,
- 3 suspend or revoke a permit, or deny of a variance request by the
- 4 director may appeal to the administrative hearing officer. An appeal
- 5 requested under this subsection shall be conducted pursuant to
- 6 chapter 3.60, except as otherwise provided in this section.
- 7
- 8 B. An appeal made under subsection A. above shall be filed within 15
- 9 days from service of the department's decision to issue an
- 10 enforcement order, deny, suspend, or revoke a permit, deny a
- 11 variance request.
- 12
- 13 C. A hearing on an appeal made under subsection A. above shall be
- 14 held no later than 30 days from a timely request for appeal.
- 15
- 16 D. The time periods set forth in this section, Chapter 3.60, and Title 14
- 17 may be extended with the agreement of all parties to the action and
- 18 the approval of the administrative hearing office.
- 19
- 20 E. The administrative hearing officer shall prepare findings of fact,
- 21 conclusions of law and a final decision on the appeal made under
- 22 subsection A. above. This decision is appealable to the superior
- 23 court as provided in subsection F. below.
- 24
- 25 F. A party may appeal an administrative hearing officer decision under
- 26 subsection E. above to the superior court within 30 days of issuance
- 27 of the final decision by the administrative hearing officer. Review by
- 28 the superior court shall be limited to whether the decision of the
- 29 administrative hearing office is supported by substantial evidence.
- 30 Failure to file an appeal within 30 days shall be a waiver of the right
- 31 to appeal.
- 32

33 **Section 3.** Anchorage Municipal Code section 14.60.030, Fine Schedule, is

34 amended as follows (the remaining of the section is not affected and therefore not

35 set out):

36

37 **14.60.030 - Fine Schedule.**

38

39 The fine schedule under this chapter is as follows:

40

41 TABLE INSET:

42

43

Code Section	Offense	Penalty/Fine
***	***	***

[15.30.110]	[PERMIT TO OPERATE:]	
	[A. OPERATION WITHOUT PERMIT]	[75.00]
	[B. ALTERATION WITHOUT APPROVAL]	[75.00]
<u>15.30.040</u> [15.35.050]	<u>Visible stationary source emission standards</u> [STATIONARY EMISSIONS]:	
	A. Exceeding 20 percent opacity	75.00 - <u>300.00</u>
[15.35.060]	[EMISSION STANDARDS (IDENTIFYING SPECIFIC VIOLATION)]	[75.00]
<u>15.30.050</u> [15.35.070]	Other emission limitations:	
	A. Injurious release	75.00 - 300.00
<u>15.30.060</u> [15.35.090]	Fugitive emissions:	
	A. Failure to take measures	75.00 - <u>300.00</u>
	B. Failure to take measures	75.00 - <u>300.00</u>
	C. Failure to take measures	75.00 - <u>300.00</u>
<u>15.30.070</u> [15.35.080]	Circumvention (identify specific violation)	75.00 - <u>300.00</u>
<u>15.30.080A.</u> [15.35.100A.]	Causing or allowing prohibited open burning:	
	First offense	150.00
	Second offense within five years	300.00
	Third and subsequent offenses within a five year period	600.00
<u>15.30.090D.</u>	<u>Wood-fired boilers – installation not meeting requirements</u>	<u>300.00 -</u> <u>1000.00</u>
<u>15.30.100</u> [15.35.140]	Motor vehicle emissions (identifying specific violation)	75.00
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(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07; AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No. 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), § 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-09; AO-2010-35(S), § 7, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No. 2010-87(S), § 3, 12-7-10; AO No. 2011-46, § 4, 4-12-11; AO No. 2011-59, § 10, 5-24-11; AO No. 2011-106(S), § 3, 11-8-11; AO No. 2011-112, § 4, 11-22-11, eff. 12-22-11; AO No. 2012-10, § 1, 1-31-12; AO No. 2012-77, § 29, 8-7-12; AO No. 2013-109(S-1), § 5, 12-3-13; AO No. 2013-130(S-1), § 1, 1-14-14; AO No. 2014-42, § 31, 6-21-14; AO No. 2014-85, § 4, 8-5-14; AO No. 2014-110(S), § 2, 9-9-14; AO No. 2014-137(S), § 3, 11-18-14; AO 2015-54, § 1, 5-26-15; AO No. 2015-65, § 4, 6-9-15; AO No. 2015-111(S-1), § 2, 1-1-16; AO No. 2016-16(S), § 4, 2-9-16; AO No. 2016-76(S), § 7, 7-12-16; AO No. 2016-81(S), § 4, 8-25-16; AO No. 2016-83(S), § 9, 7-26-16; AO No. 2016-82, § 3, 8-9-16; AO No. 2016-116, § 2, 10-18-16; AO No. 2016-115(S), § 2, 11-15-16; AO No. 2016-124(S), § 11, 12-20-16)

**Section 4.** This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Chair of the Assembly

ATTEST:

\_\_\_\_\_  
Municipal Clerk