

Presented by: The Manager  
Introduced: 08/25/2008  
Drafted by: J.W. Hartle

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2008-28**

**An Ordinance Amending the Woodsmoke Control Program  
Regarding Solid Fuel-Fired Burning Devices.**

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become a part of the City and Borough Code.

**Section 2. Amendment of Chapter.** CBJ 35.40 Solid Fuel-Fired Burning Devices is amended to read:

**36.40.010 Findings.**

The assembly of the City and Borough finds that there has been a significant and unprecedented increase in the installation and use of solid fuel-fired burning devices in the City and Borough; that the increase in such installations and use in the Mendenhall Valley has been especially great; that such devices generally produce a high level of harmful airborne pollutants; and that the above conditions combined with atmospheric conditions throughout the municipality and other factors causing recurring smoke pollution conditions are detrimental to the health of, and offensive to, the people of Juneau. It is the purpose of this chapter to reduce the increase of airborne pollutants from open burning and from solid fuel-fired heating devices at the times and in the areas of the City and Borough that appear to be most adversely affected by such pollutants.

**36.40.020 Smoke hazard area map adopted.**

There are adopted as the maps identifying the smoke hazard areas of the City and Borough the maps entitled "Mendenhall Valley Smoke Hazard Area Map, City and Borough of Juneau, Alaska," dated September 30, 1985, and "Lemon Creek Smoke Hazard Area Map," dated December 10, 1985.

**36.40.030 Definitions.**

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Masonry heater means a heating appliance constructed of concrete or solid masonry which is designed to absorb and store heat from a solid fuel fire built in the firebox by routing the exhaust gases through internal heat exchange channels in which the flow path downstream of the firebox may include flow in a horizontal or downward direction before entering the chimney and which delivers heat by radiation from the masonry surface of the heater, or as otherwise defined in the current version of the International Building Code. Masonry heaters shall comply with one of the following:

1. Masonry heaters shall comply with the requirements of ASTM E 1602; or
2. Masonry heaters shall be listed and labeled in accordance with UL 1482 and installed in accordance with the manufacturer's installation instructions.

Open burning means the burning of a material which results in the products of combustion being emitted directly into the ambient air without passing through a stack or flue, but not including the burning of campfires, barbecues, candles or tobacco.

Particulate matter means any combination of particles transported in the air that are either coarse (between 2.5 micrometers and 10 micrometers) or fine (2.5 micrometers or less). The two types of particulate matter have separate regulatory requirements. These particles can form from solids or liquids and can be a health hazard when inhaled.

Person means an individual, partnership corporation, company or other association.

Solid fuel-fired heating device and device mean a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, fireplaces, solid fuel-fired cooking stoves and combination fuel furnaces or boilers which burn solid fuel, but does not include stoves, fireplaces, furnaces, or boilers designed and used exclusively for the combustion of wood pellets having a maximum length of one inch in any dimension.

#### **36.40.040 Air pollution alerts and emergencies.**

(a) For the purposes of this section, the manager shall declare an air pollution emergency to be in effect whenever the ambient concentration of particulate matter within the air pollution zone equals or exceeds thirty micrograms per cubic meter ( $\text{ug}/\text{m}^3$ ) averaged over a 24-hour period and will remain at or above  $30 \text{ ug}/\text{m}^3$  if an emergency is not called. The manager may call an emergency whenever available scientific and meteorological data indicate that the ambient concentration of particulate matter within a smoke hazard area can reasonably be expected to equal or exceed  $30 \text{ ug}/\text{m}^3$  averaged over a 24-hour period. When, in the opinion of the manager, meteorological and scientific data indicate that the type of particulate measured is not hazardous, the limit may be adjusted. The manager may call an emergency upon a finding that smoke conditions are, or are likely to become, a danger to health or generally objectionable to persons in a smoke hazard area.

(b) Within a smoke hazard area, no person may operate a solid fuel fired heating device, other than a masonry heater, during an air pollution emergency declared by the manager pursuant to subsection (a) of this section.

(c) *Reserved.*

(d) *Reserved.*

(e) Notice of an air pollution emergency is adequate if published in a newspaper of general circulation within the City and Borough, or if given orally at least three times during a six-hour period by at least two radio stations operating within the City and Borough, or if made available to the general public in the form of a recorded telephone message the telephone number for which is published in the telephone directory or newspaper of general circulation within the City and Borough, or if made available to the general public as a posting on the municipal webpage the address for which is published in the telephone directory or newspaper of general circulation within the City and Borough. The prohibition shall be effective from the earlier of the time stated in the notice, 6:00 p.m. of the day the notice is published in a newspaper, the time the last required announcement of the notice is given by radio, or two hours after the time the recorded message is first made available by telephone or webpage.

(f) Notwithstanding the provisions of subsection (b) of this section, solid fuel fired heating devices may be used at any location during a loss of electrical power service to that location. Use of the device may commence no sooner than two hours after the loss of electrical service and shall be terminated as soon as practicable after reestablishment of service.

**36.40.050** *Reserved.*

**36.40.060 Open burning.**

(a) No person may engage in the open burning of any material except as authorized by a valid open burning permit. Open burning permits may be issued by the manager or the manager's designee upon application. No permit may be issued for open burning in the Mendenhall Valley or the Lemon Creek smoke hazard areas during the period of November 1 through March 31. Open burning by commercial businesses is not allowed.

(b) Open burning permits shall be valid only for the times and locations specified in the permit. Permits shall be issued only when weather conditions or smoke conditions are not such as to cause the burning to be, or be likely to become, a danger to the public health or generally objectionable. The manager or the manager's designee may base such determination upon direct observation or upon reports or forecasts from other agencies.

(c) A person may engage in open burning only if the fire is tended to at all times; the fire is not within 50 feet of any building; the prevailing wind direction is away from any structure or roadway; and the open burn is conducted during a period of adequate air movement.

(d) When burning land-clearing debris, slash piles must be loosely stacked to promote maximum combustion efficiency throughout the burn cycle. Noncombustible material must be minimized so as to not cause or create dense smoke. The manager or the manager's designee may, at their discretion, require the use of fans to promote enhanced combustion.

(e) No person may cause or allow open burning which creates a danger to public health or safety or a public or private nuisance. No person may cause or allow the open burning of asphalt, rubber, plastic, tar, wire insulation, petroleum products, automobile parts, petroleum-treated products, treated lumber, oily waste, contaminated oil cleanup materials, or other materials in a way that produces black smoke; or of putrescible garbage, animal carcasses, or petroleum-based materials.

(f) "Open burning" means the burning of a material that results in the products of combustion being emitted directly into the ambient air without passing through a contaminant outlet.

(g) This section 36.40.060 is applicable only to those portions of the City and Borough within the Roaded Service Area No. 9.

#### **36.40.070 Permits.**

(a) Upon a showing of justifiable need, the manager may issue a temporary permit authorizing operation of a solid fuel fired heating device in circumstances otherwise prohibited by this code. "Justifiable need" includes occasions when a furnace or central heating system is inoperable other than through the owner's own actions or neglect.

(b) The manager may issue a temporary special burning permit to the municipal fire department for the purpose of training fire fighters, if the fire is restricted to a building or structure or a permanent training facility, and if the material to be burned is not allowed to smolder after the training session has terminated and no public nuisance is created. Special burning permits will not be issued during either an air alert or an air emergency.

#### **36.40.080 Solid fuel combustion and smoke emission standards.**

(a) No person shall use a solid fuel-fired heating device for the combustion of any material other than paper, cardboard or untreated wood.

(b) No person may operate a solid fuel-fired heating device in such a manner that visible emissions reduce visibility through the exhaust effluent by 50 percent or greater for more than 15 minutes in any one hour as determined by a test conducted in substantial compliance with the regulations applicable to the visual determination of stationary source emission opacity promulgated at 40 CFR 60, Appendix A, by the United States Environmental Protection Agency; provided, and notwithstanding any contrary provisions in the regulation, opacity observation shall be made at the point of greatest opacity in any portion of the emissions plume without regard to the presence or absence of condensed water vapor.

**36.40.090 Penalties.**

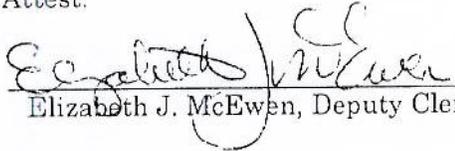
The first violation of any section of this chapter is an infraction. Each subsequent violation is a Class B misdemeanor.

**Section 3. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this 8<sup>th</sup> day of September, 2008.

  
Bruce Botelho, Mayor

Attest:

  
Elizabeth J. McEwen, Deputy Clerk