



Municipal Board of Ethics

#: 2019-2

632 West 6th Ave. Ste. 250 Anchorage, Alaska 99501

Meeting Date: _____

Mailing Address: P.O. Box 196650 Anchorage, AK 99519-6650



Phone: 343-4311

Municipal Clerk: Barbara A. Jones

CONFIDENTIAL Request for an Advisory Opinion CONFIDENTIAL

Anchorage Municipal Code: Chapter 1.15 CODE OF ETHICS, AMC 1.15.150 Advisory Opinions.

- A. Current, former, or potential **public servant** may request an advisory opinion regarding the applicability and interpretation of this chapter related to actions, rights, or conflict personal to the inquirer.
- B. The municipal clerk, the municipal ombudsman, and the municipal attorney may request an advisory opinion from the board of ethics regarding the applicability and interpretation of this chapter.
- C. In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board's advice so long as the facts remain substantially unchanged from those represented to the board in the inquiry.
- D. **A request for advice is confidential** unless confidentiality is waived by the person requesting an advisory opinion.

*** **

| | | |
|---|--|---|
| <input checked="" type="radio"/> Current | <input checked="" type="radio"/> Employee | <input type="radio"/> Municipal Clerk |
| <input type="radio"/> Former | <input type="radio"/> Board Member | <input type="radio"/> Municipal Attorney |
| <input type="radio"/> Potential | <input type="radio"/> Elected Official | <input checked="" type="radio"/> Municipal Ombudsman |

AMC 1.15.030D. **Public Servants** - all persons within the scope of this code, including employees, board members, and elected officials.

In accordance with AMC 1.15, I am requesting applicability and interpretation of the following **section of the Municipal Code of Ethics**: NOT SURE

Please describe your request: I received an email from the MOA Ethics Officer, expressing concerns that posting a copy of an OMBUDSMAN MEMO on Facebook might be an ethics violation. MOA code mandates that the OMBUDSMAN'S OFFICE offer advice to the Assembly + Mayor. We post our reports online, + some times memos these are all public documents. The Ethics Officer was also concerned that I shared the OMBUDSMAN FB ON MY personal FB page

(Attach separate sheets as necessary.)

| | |
|---|--|
| <input checked="" type="radio"/> Waive Confidentiality | <input type="radio"/> I Request Confidentiality |
|---|--|

I understand that advisory opinions are required to be posted on the Municipal Website. The Board shall make sufficient deletions to prevent disclosure of the persons who have requested anonymity. AMC 1.15.150F. **I affirm to the best of my knowledge that my statement is true, correct, and complete.**

Signature of Requestor: Darrel W Hess Date: 6/14/19

Printed Name: Darrel W Hess Phone Number: (907) 343-4783

Email Address: Hess DW@MUNI.org

Mailing Address: PO Box 196650, ANCHORAGE 99519-6650

Hess, Darrel W.

From: Hess, Darrel W.
Sent: Tuesday, June 4, 2019 7:26 AM
To: Ennis, Deitra L.
Cc: Windt Pearson, Rebecca A,
Subject: Re: Link to Facebook Post

Dee,

I am puzzled and confused by your email. I am in Sitka this week. I can request an advisory opinion from the Ethics Board when I return next Monday, or you can request one.

Darrel

Sent from my iPhone

On Jun 3, 2019, at 9:30 PM, Ennis, Deitra L. <deitra.ennis@anchorageak.gov> wrote:

[http://www.muni.org/Departments/Assembly/Ethics/Documents/2018-0820 Response.pdf](http://www.muni.org/Departments/Assembly/Ethics/Documents/2018-0820%20Response.pdf)

Darrel,

As the Municipal Ethics Officer, I am very concerned with your link from the Ombudsman's website to your Facebook post opposing passage of AO 2019-59. I didn't have time today to more fully analyze it, but please see above link for Ethics Board opinion addressed to school superintendent with many relevant code cites and some applicable analysis. My concerns include you as a municipal employee advocating a partisan position with the use of Municipal resources (MOA Ombudsman website and perhaps your time). Underlying the prohibition of employees advocating for partisan causes in the workplace includes the overriding policy to prohibit use of municipal resources to fund battles within agencies of the municipal government. And to rally the troops against the administration's position through the use of the Ombudsman's website seems all the more problematic.

I'll look at this further, and would welcome your input. Conservatively, I would recommend that you delete the link from the Ombudsman website to Facebook ASAP. Whether the Facebook post with Ombudsman logo presents a further issue is for another day, but perhaps more likely to fall under a first amendment analysis.

Please feel free to call.

Dee
Municipal Ethics Officer
343-4349



Anchorage Ombudsman

Posted by Darrel Hess

June 2 at 10:18 AM

The Ombudsman's Office disagrees with how the MOA is interpreting equipment and paperwork violations to be moving violations, and does not support passage of AO 2019-59. In keeping with the code-mandated role of the Ombudsman's Office, we have articulated our concerns to the Assembly in the attached memo. We believe that this pract... See More



OFFICE OF THE OMBUDSMAN Memorandum

DATE: April 29, 2019

TO: Anchorage Assembly

FROM: Darrel W. Hess, Municipal Ombudsman
May Ramirez-Xiong, Deputy Ombudsman

SUBJECT: AMC 9.28.035 - Abatement of Vehicles Operated by Delinquent Offenders

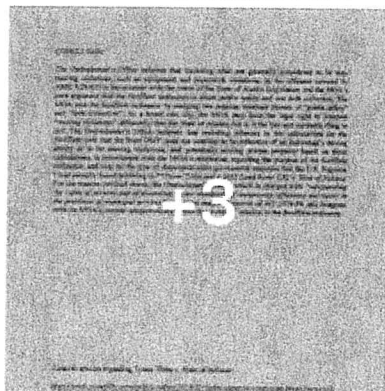
For some time, the Municipal Ombudsman's Office has had serious concerns about certain aspects of AMC 9.28.035 as written and as interpreted by the Municipality. AMC 9.28.035 - Abatement of Vehicles Operated by Delinquent Offenders, more commonly known as the Scofflaw ordinance, states in part that "Any motor vehicle operated by a person who accumulates delinquent traffic fines totaling more than \$1,000.00 is a public nuisance subject to abatement as provided in this section." Traffic fine is defined as "[a] fine issued by the municipality for a moving violation. Traffic fine does not include fines for parking violations." However, the term "moving violation" is not defined in the code. The Finance Department is proposing to amend the definition of a "traffic fine" in Municipal Code (AO 2019-59), to clarify that "moving violations" may include equipment violations or paperwork violations. For the reasons outlined in this memo, the Municipal Ombudsman's Office opposes this proposed change to code.

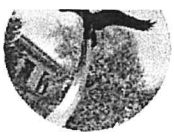
BACKGROUND

In early 2007, the Municipality of Anchorage (MOA) began exploring ways to deal with a relatively small group of individuals who had accumulated over \$4 million in delinquent traffic fines. The MOA began lobbying members of the Alaska State Legislature to pass legislation that would allow local governments to enact local Scofflaw ordinances.

On March 27, 2007, Assembly Members Shamberg and Tesche introduced AO 2007-60, accompanied by AM 237-2007. The ordinance made operation of a motor vehicle in the MOA by a person who accumulated three or more delinquent traffic fines totaling more than \$1,000 a misdemeanor, and their vehicle subject to impound and possible forfeiture. AM 237-2007 noted that "Safer highways for Anchorage motorists, not increased revenue, is the goal of AO 2007-60." The Assembly approved AO 2007-60 on April 10, 2007, with an effective date of October 1, 2007. The purpose of the delayed effective date was to give the Alaska Legislature time to pass legislation enabling municipalities to enact and enforce local ordinances such as AO 2007-60. When AO 2007-60 was adopted, proposed legislation was before the Judiciary Committee of the State House of Representatives. The Administration and Assembly believed that passing a

[Faint, mostly illegible text from a document, possibly a draft or related memo.]





Posted by Darrel Hess

June 2 at 10:18 AM ·

The Ombudsman's Office disagrees with how the MOA is interpreting equipment and paperwork violations to be moving violations, and does not support passage of AO 2019-59. In keeping with the code-mandated role of the Ombudsman's Office, we have articulated our concerns to the Assembly in the attached memo. We believe that this practice is not fair and equitable and disproportionately impacts low-income and minority individuals. For thousands of Anchorage residents, it is not a simple matter to be able to pay \$50-\$75 for a new headlight or taillight, or to replace a windshield, etc. They can't pay to fix the problem, and so they are fined, and they can't afford to pay the fine. This starts a vicious cycle for many people who are struggling financially. Equipment and paperwork violations should not be counted as moving violations for the purposes of the Scofflaw ordinance.

The Assembly is holding a work session on AO 2019-59 at 1 pm on Friday, June 14th, in RM 155 at City Hall. The Assembly public hearing on the ordinance, and possible vote will be at the Assembly meeting on Tuesday, June 18th. You may testify and/or provide written comments to the Assembly