

Submitted by: CHAIR OF THE ASSEMBLY AT THE
REQUEST OF THE MAYOR
Prepared by: Department of Law
For reading: June 20, 2023

**ANCHORAGE, ALASKA
AO No. 2023-67(S)**

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**
2 **[REPEALING] ANCHORAGE MUNICIPAL CODE SECTION 9.28.035 TO RAISE**
3 **THE AMOUNT OF DELINQUENT FINES THAT TRIGGER VEHICLE**
4 **ABATEMENT OPERATED BY DELINQUENT OFFENDERS AND UPDATE THE**
5 **DEFINITION OF TRAFFIC FINE, [KNOWN AS THE “SCOFFLAW LAW,” AND**
6 **MAKING CONFORMING AMENDMENTS TO AMC CHAPTER 9.28].**
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9 **WHEREAS**, the Municipality of Anchorage enacted its first iteration of the “Scofflaw
10 Law” with passage of AO 2007-060 with a delayed effective date, and soon after
11 repealed and rewrote its law by AO 2007-161 enacting Anchorage Municipal Code
12 section 9.28.035 to be consistent with nascent state legislation that authorized
13 municipalities to adopt ordinances allowing impoundment and forfeiture of motor
14 vehicles driven on public streets if the driver has accumulated more than \$1,000 in
15 delinquent fines for moving violations committed within the municipality; and
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17 **WHEREAS**, the stated purpose of, the Municipality’s Scofflaw code, in AMC section
18 9.28.035A., is: “The purpose of abatement is to remove motor vehicles operated by
19 repeat traffic offenders who have not been subject to the deterrent and rehabilitative
20 effects of sentencing, and who therefore pose a heightened danger to the public.
21 The purpose of abatement is not to generate revenue.”; and
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23 **WHEREAS**, the Alaska Legislature later enacted a state statute amendment that
24 requires the Department of Motor Vehicles to “cancel a driver’s license upon
25 determination that ... the licensee owes \$1,000 or more in unpaid fines for offenses
26 involving a moving motor vehicle and failed to (A) pay the fines in full as required by
27 the court; or (B) make payments in good faith on the unpaid balance of the fines
28 under a payment plan established by the department.” AS 28.15.161(a)(7). The
29 statute change was part of House Bill 49 passed in 2019 as a response to the crime
30 rates in the wake of passage of Senate Bill 91 passed in 2016, as one of the tools
31 to address repeat offenders; and
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33 **WHEREAS**, the Municipal Ombudsman analyzed the utility and effect of the
34 Scofflaw code in a February 5, 2020 memorandum, finding that the “alleged public
35 safety purpose of the scofflaw program has not been achieved,” concluded that it is
36 “not fair, equitable or reasonable,” and recommended it be repealed; now, therefore,
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38 **THE ANCHORAGE ASSEMBLY ORDAINS:**
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40 **Section 1. [Anchorage Municipal Code section 9.28.035 is hereby repealed**
41 **in its entirety. In accordance with AMC section 1.05.050B., a copy of the**
42 **existing text of the section being repealed is attached as Attachment A.]**

Anchorage Municipal Code 9.28.035 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

9.28.035 Abatement of vehicles operated by delinquent offenders.

A. Any motor vehicle operated by a person who accumulates delinquent traffic fines totaling more than \$2,500.00 [\$1,000.00] is a public nuisance subject to abatement as provided in this section. The purpose of abatement is to remove motor vehicles operated by repeat traffic offenders who have not been subject to the deterrent and rehabilitative effects of sentencing, and who therefore pose a heightened danger to the public. The purpose of abatement is not to generate revenue.

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

*** *** ***

Traffic fine means a fine issued by the municipality for a moving violation, which is any violation of vehicle laws that is committed by the driver of a vehicle while the vehicle is moving, including not having proof of insurance. Moving violations shall not include equipment violations or paperwork violations relating to registration, licensing, and inspection. Traffic fine does not include fines for parking violations.

*** *** ***

(AO No. 2007-161, § 5, 12-11-07; AO No. 2010-76, § 7, 10-26-10; AO No. 2010-81(S-1), § 10, 12-7-10, eff. 1-1-11)

Section 2. [Anchorage Municipal Code section 9.28.026 is hereby amended as follows (the remainder of the section is not affected and therefore not set out):]

[9.28.026 Impoundment and forfeiture of vehicle.]

*** *** ***

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

*** *** ***

[Legally unjustified means there was:]

~~[1.] [No reasonable suspicion for the stop of the vehicle leading to an arrest for soliciting, driving without a valid license, driving under the influence, [OPERATING A MOTOR VEHICLE THAT IS PUBLIC NUISANCE UNDER SECTION 9.28.035,] or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle; or]~~

~~[2.] [No probable cause for the arrest of an individual for soliciting, driving without a valid license, driving under the influence, [OPERATING A MOTOR VEHICLE THAT IS PUBLIC NUISANCE UNDER SECTION 9.28.035,] or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle.]~~

*** *** ***
~~[(AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-163(S), §§ 10—19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No. 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12—14, 4-22-03; AO No. 2003-106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2006-89(S), § 1, 6-6-06; AO No. 2006-115, § 1, 9-12-06; AO No. 2007-60, § 2, 11-1-07; AO No. 2007-161, § 3, 12-11-07; AO No. 2008-126, § 1, 1-6-09; AO No. 2010-76, § 4, 10-26-10; AO No. 2010-81(S-1), § 8, 12-7-10, eff. 1-1-11; AO No. 2012-16, § 3, 2-14-12, retro eff. 12-22-11; AO No. 2012-55, § 1, 7-10-12; AO No. 2015-126, § 2, 1-1-16)]~~

~~[Section 3. Anchorage Municipal Code section 9.28.027 is hereby amended as follows (the remainder of the section is not affected and therefore not set out):]~~

~~[9.28.027 - Failure to return a vehicle released under a vehicle return bond.]~~

~~[A]: [It is unlawful for the person who has secured the release of a vehicle under a vehicle return bond under section 9.28.019, 9.28.020, 9.28.022, 9.28.026, 9.28.030, [9.28.035,] or 8.65.030 to willfully fail to return that vehicle when ordered by a court. Each day a vehicle is not returned constitutes a separate offense under this section.]~~

*** *** ***
~~[(AO No. 95-84(S-1), § 19, 4-27-95; AO No. 2001-72, § 3, 7-1-02; AO No. 2001-139, § 3, 7-1-02; AO No. 2003-155, § 3, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2007-60, § 3, 4-10-07; AO No. 2007-161, § 4, 12-11-07; AO No. 201-76, § 5, 10-26-10)]~~

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1 **Section 4.** This ordinance shall be effective immediately upon ~~[30 days after]~~
2 passage and approval by the Assembly.
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4
5 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
6 _____, 2023.
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10 _____
11 Chair of the Assembly

12 ATTEST:

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15 _____
16 Municipal Clerk