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Submitted by: Assembly Public Safety Committee
Prepared by: Assembly Office
For reading: JULY 13, 1999
ANCHORAGE, ALASKA
AO NO. 99-67(S)

AN ORDINANCE AMENDING SECTIONS 8.45.010 AND 14.20.020 OF THE ANCHORAGE MUNICIPAL CODE AND ADDING SECTION 25.70.070 TO THE ANCHORAGE MUNICIPAL CODE TO ALLOW THE TEMPORARY EXCLUSION FROM MUNICIPAL PROPERTY AND FACILITIES OF PERSONS WHO VIOLATE THE LAWS OF THE MUNICIPALITY OF ANCHORAGE, THE STATE OF ALASKA, OR THE UNITED STATES, PROVIDE FOR THE CHARGING AND PROSECUTION FOR TRESPASS OF THOSE WHO DO NOT COMPLY WITH ORDERS OF EXCLUSION, AND PROVIDE FOR HEARINGS ON ORDERS OF EXCLUSION BEFORE THE ADMINISTRATIVE HEARINGS OFFICER.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: That section 8.45.010 of the Anchorage Municipal Code is hereby amended to read as follows:

8.45.010 Trespas.

A. A person commits the crime of criminal trespass if the person:

4. Knowingly enters or remains on undeveloped public or private property:

a. In violation of a prominently posted notice against trespass or use; [OR]

b. When the person has had actual or constructive notice that the property is not open to him or her; [OR] or

c. After the person has been requested to leave by someone with the apparent authority to do so; or.

~~d. In the case of undeveloped public property, in violation of an order of exclusion after the person has been served with such order of exclusion pursuant to section 25.70.070.~~

For record on 7/13/99
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- 5 **5. Knowingly enters or remains on or in a public facility ~~on public~~**
- 6 **~~premises or property, or in a public vehicle~~ in violation of an order of**
- 7 **exclusion after the person has been served with such order of**
- 8 **exclusion pursuant to section 25.70.070. For purposes of this**
- 9 **section, the term "public facility" means the outdoor areas of**
- 10 **municipal property made available to the public for parks or**
- 11 **recreation uses, the outdoor portions of the North ½ of Block 42**
- 12 **Anchorage Original Townsite (old City Hall), the interior and**
- 13 **exterior of the downtown Transit Center, public transit vehicles**
- 14 **operated by the municipality, and outdoor school grounds**
- 15 **owned by or leased to the Anchorage School District.**
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20 **Section 2:** That the Anchorage Municipal Code is hereby amended to read as follows:

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22 **14.20.020 Jurisdiction.**

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24 A. Administrative hearings officers shall have jurisdiction of all [MATTERS]:

- 25
- 26 1. **Matters s[S]ubmitted to the officer on a charging document, signed by**
- 27 **a code enforcement officer in accordance with the procedures set**
- 28 **forth in this title, which alleges a violation of this Code or regulations**
- 29 **for which the civil penalty is included on the fine schedule set forth in**
- 30 **section 14.60.030 or AMCR 14.10.020; [OR]**
- 31
- 32 2. **Matters for which an administrative adjudication is authorized under**
- 33 **the Anchorage Municipal Code which are referred for an**
- 34 **administrative adjudication under the procedures set forth in chapter**
- 35 **3.60. When conducting hearings on matters referred for hearing**
- 36 **pursuant to chapter 3.60, the procedures in this title do not apply; and**
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- 38 3. **Hearings on orders of exclusion issued pursuant to section 25.70.070.**
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5 **Section 3:** That the Anchorage Municipal Code is hereby amended by adding a section,
6 to be numbered 25.70.070, which section reads as follows:
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8 **25.70.070 Orders of exclusion.**
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- 10 A. In addition to other measures provided for violation of this Code, the
11 Anchorage Municipal Code of Regulations, or any of the laws of the State of
12 Alaska or the United States, any **regularly sworn police officer defined**
13 **under AS 18.65.290(6)(A)** ~~peace officer as defined in AS 01.10.060(a)(7) or~~
14 ~~as designated by the mayor pursuant to section 1.45.030, any person~~
15 ~~charged with responsibility for enforcing provisions of this Code or the~~
16 ~~Anchorage Municipal Code of Regulations, or any person charged with~~
17 ~~maintaining security on or in property or facilities owned or managed by the~~
18 ~~municipality~~ may issue an order of exclusion. Such order of exclusion issued
19 to a person shall exclude such person from ~~a parcel of property or facility~~ **the**
20 **public facility where the act occurred** for a period of not more than ~~eighty~~
21 ~~(80)~~ **thirty (30) days.** **Orders of exclusion issued for acts occurring on**
22 **public transit vehicles shall apply to all public transit vehicles.** Such
23 order of exclusion shall be based on conduct in violation of this Code, the
24 Anchorage Municipal Code of Regulations, or the laws of the State of Alaska
25 or the United States occurring on or in ~~such parcel or property or facility~~ **the**
26 **public facility**, whether or not a citation is issued, an arrest is made, or a
27 charge is filed based on such conduct. ~~Such order of exclusion shall state~~
28 ~~that the period of exclusion shall begin fifteen (15) days from the date of~~
29 ~~service of the order.~~
30
31 B. Written notice shall be given to any person excluded from ~~any parcel of~~
32 ~~property or facility~~ **a public facility** under subsection 25.70.070.A. Such
33 notice shall specify the dates and places of exclusion and the violation, and
34 shall be signed by the issuing party. Warning of consequences for failure to
35 comply shall be prominently displayed on the notice.
36
37 C. A person receiving such notice may appeal to the administrative hearings
38 officer in accordance with the provisions of Title 14 of this Code to have the
39 written notice rescinded or the period shortened. Notwithstanding any other
40 provision of law, the appeal shall be filed within ten (10) days of receipt of the
41 exclusion notice, unless extended by the administrative hearings officer for
42 good cause shown. Upon receipt of any appeal, the administrative hearings
43 officer ~~shall~~ **may** order that the period of exclusion shall be stayed until the
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appeal is resolved. The standard of review of such an order is preponderance of the evidence, and the municipality shall bear the burden of proof. The order issued by the administrative hearings officer shall be appealable to the superior court pursuant to section 14.40.010.

Section 4: That this ordinance shall become effective ~~immediately upon 60 days~~ after passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 1999.

Chair

ATTEST:

Municipal Clerk