

Postponed Indefinitely
6/19/01

Submitted by: Assemblymembers TESCHE,
Traini, Tremaine
Prepared by: Assembly Office
For Reading: MARCH 27, 2001

ANCHORAGE, ALASKA
AO 2001- 87

**AN ORDINANCE ENACTING A NEW SECTION 25.70.070 AUTHORIZING THE ISSUE OF
CONDUCT ORDERS IN CERTAIN PUBLIC AREAS TO REMEDY LISTED VIOLATIONS OF THE
ANCHORAGE MUNICIPAL CODE AND PROVIDING FOR APPEALS FROM THOSE ORDERS;
AMENDING SECTION 8.45.010 RELATING TO THE CRIME OF TRESPASS AND SECTION
14.20.020 REGARDING ADMINISTRATIVE HEARINGS**

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: AMC Chapter 25.70. is amended by enactment of a new section .070 to read:

25.70.070 Conduct Orders.

A. In addition to other measures allowed under law, a police officer who has probable cause to believe that act(s) constituting the violation of one or more of the ordinances listed in subsection B below has been committed, may issue a Conduct Order prohibiting the offending person from remaining in, or entering upon the public area where the offense was committed for a period of thirty (30) days from the date of the offense. The Conduct Order shall be personally delivered to the offender in writing as soon as practicable after the offense occurs, shall specify the dates and the public area to which the Order applies, and shall be signed by the issuing officer. The Order shall also explain the consequences for failure to comply with its terms, the rights of the respondent to appeal under subsection C below, and to obtain a stay of the Order under subsection D of this section.

B. A Conduct Order may be issued only for a violation of the following sections of the Anchorage Municipal Code and State law:

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| AMC 8.75.020.A. | Consuming alcoholic beverage in public place |
| AMC 8.75.120 | Public excretion |
| AMC 8.10.050.A. | Indecent exposure or exhibition |
| AMC 8.75.050.A. | Littering; defacing building or other structure |
| AMC 8.20.010.A. | Malicious destruction of property |
| AMC 8.30.120.A.1 | Disorderly conduct - solicitation for sexual penetration |
| AMC 8.30.120.A.1 | Disorderly conduct - noise |

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| AMC 8.30.120.A.6. | Disorderly conduct - fighting |
| AMC 8.30.120.A.7. | Disorderly conduct - spitting on an officer |
| AMC 8.20.030.C. | Application of graffiti to public property |
| AMC 8.65.020.A. | Prostitution, assignation |
| AMC 8.65.030.A. | Prostitution, solicitation |
| AMC 8.65.110.A. | Prostitution, loitering |
| AMC 8.75.010.A. | Providing alcohol to an intoxicated person or minor |
| AMC 8.75.040.A. | Fireworks |
| AMC 25.70.060.H. - Q. | Activities prohibited in parks |
| AMC 25.70.040 | Activities prohibited in parks |
| AS 11.71.060 | Misconduct involving a controlled substance in the 6 th degree |
| AS 11.76.105 | Possession of tobacco by minor |

C. Within fourteen (14) working days any person receiving a Conduct Order may appeal the Order to the Administrative Hearings Officer under Title 14 of this Code. At the hearing, the Municipality shall have the burden of proving by a preponderance of the evidence, that the respondent committed one or more of the offenses described in subsection B above. If the Hearings Officer finds the offense(s) did not occur, he shall vacate the Order immediately. If the Hearings Officer finds the offense(s) occurred, he shall uphold the Order.

D. At any time after issue of a Conduct Order and while the Order is in effect, the person aggrieved may petition the Administrative Hearings Officer for an immediate stay of the Order pending resolution of an appeal under subsection C above. The Administrative Hearings Officer shall expedite consideration of a petition for stay and shall grant a stay upon a showing of probable success on the merits of the appeal by the respondent.

E. In this section:

- 1** The term "police officer" is limited to a regularly sworn police officer as defined under AS 18.65.290.6.A.

2. The term "public area" is limited to the outdoor areas of municipal property made available to the public for parks or recreation uses, the outdoor areas of school grounds of the Anchorage School District, the indoor area of the downtown bus accommodation center as well as the outdoor portions of the North ½ of Block 42 AOT (old City Hall). "Public areas" do not include streets of any type regularly used for vehicular traffic or sidewalks on the perimeters of public areas.

Section 2: AMC 8.45.010.A.3. is amended by addition of a new subsection 5 to read:

8.45.010 Trespass.

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

5. Knowingly enters or remains in a "Public area" as defined under 25.70.070.E.2. after having been personally served with a Conduct Order issued under 25.70.070.A. while the Order is effective.

Section 3: AMC 14.20.020.A. is amended by addition of a new subsection 3 to read:

14.20.020 Jurisdiction.

A. Administrative hearings officers shall have jurisdiction over all matters:

3. Submitted to the Hearings Officer under section 25.70.070 of this Code as appeals from Conduct Orders or applications for a stay of a Conduct Order under subsection D of that section.

Section 4: This ordinance shall become effective 30 days after its passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this day of _____
2001

ATTEST:

Chair

Municipal Clerk

**Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
AGENDA DOCUMENT CONTROL SHEET**

AO 2001-87

| | | |
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| 1 | SUBJECT OF AGENDA DOCUMENT | DATE PREPARED <i>3-22-01</i> |
| | <i>Enacting new AMC Section 25.70.070, Issue of Conduct Orders</i> | INDICATE DOCUMENTS ATTACHED |
| | | <i>AO</i> |
| | | |
| 2 | DEPARTMENT NAME Assembly | DIRECTOR'S NAME Fay Von Gemmingen |
| 3 | THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY | HIS/HER PHONE NUMBER 4751 |
| 4 | COORDINATED WITH AND REVIEWED BY | INITIALS DATE |
| | Mayor | |
| | Heritage Land Bank | |
| | Merrill Field Airport | |
| | Municipal Light & Power | |
| | Port of Anchorage | |
| | Solid Waste Services | |
| | Water & Wastewater Utility | |
| | Municipal Manger | |
| | Cultural & Recreational Services | |
| | Employee Relations | |
| | Finance, Chief Fiscal Officer | |
| | Fire | |
| | Health & Human Services | |
| | Office of Management and Budget | |
| | Management Information Services | |
| | Police | |
| | Planning, Development & Public Works | |
| | Development Services | |
| | Facility Management | |
| | Planning | |
| | Project Management & Engineering | |
| | Street Maintenance | |
| | Traffic | |
| | Public Transportation Department | |
| | Purchasing | |
| | Municipal Attorney | |
| | Municipal Clerk | |
| | Other | |
| 5 | SPECIAL INSTRUCTIONS/COMMENTS | |
| | <i>For Introduction addendum 168</i> | |
| | | |
| 6 | ASSEMBLY MEETING DATE <i>3-27-01</i> | 7 PUBLIC HEARING DATE REQUESTED <i>4-17-01</i> |

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 M.O.A.
 CLERKS OFFICE