

ANCHORAGE ALASKA
AO 2002-102

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING A NEW CHAPTER 24.35 TO
THE ANCHORAGE MUNICIPAL CODE AUTHORIZING THE MAYOR TO CLOSE OR RESTRICT
USE OF PUBLIC RIGHTS-OF-WAY IN THE INTERESTS OF NATIONAL SECURITY

THE ANCHORAGE ASSEMBLY ORDAINS

Section 1: That this legislation shall be known as the "Security Road Closure Ordinance
of 2002."

Section 2: That Anchorage Municipal Code Title 24, Streets and Rights-of-Way, is amended
by enactment of a new Chapter 24.35 to read as follows:

Chapter 24.35

SECURITY ROAD CLOSURES

24.35.010	Security Road Closures Authorized
24.35.020	Government Orders
24.35.030	Road Closure During Emergencies Declared by the Mayor
24.35.040	Other Road Closures Necessary to Protect National Security
24.35.050	Road Closures Authorized by Other Provisions of this Code
24.35.060	Prior Road Closures

24.35.010 **Security road closures authorized.**

In the event of war, public emergency, or in response to an immediate and credible threat
to public safety and property, the Mayor may close or otherwise restrict traffic on public rights -of-
ways as allowed in this Chapter.

24.35.020 **Government orders.**

On the lawful order of military or civilian authorities of the United States government or the
State of Alaska, the Mayor shall close or otherwise restrict traffic on any public highway, street, or
right of way as necessary to carry out that order. A road closure or restrictions placed by the
Mayor under this section shall remain in effect until the Mayor is informed by the United States
government or the State of Alaska its order has been rescinded or modified.

24.35.030 Road closure during emergencies declared by the Mayor.

- A. Upon a declaration of an Emergency under Section 5.02(d) of the Home Rule Charter, the Mayor may also close or otherwise restrict traffic on public rights of ways and as allowed in Chapter 3.80 of this Code.
- B. The Mayor's authority to close or otherwise restrict traffic on public rights of ways under this section terminates upon approval of a resolution adopted by the Assembly under Sec. 5.02(d) of the Charter declaring that an Emergency no longer exists.

24.35.040 Other Road closures necessary to protect National security.

Where not otherwise specifically authorized under this Code and to protect National security, the Mayor may also close or otherwise restrict traffic on public rights-of-way only if the procedures set forth in A-C of this section are followed.

- A. The Mayor may close any public road or restrict access on any public rights-of-way in the interests of National security for no more than thirty (30) days with such process and under such terms and conditions as he alone determines appropriate.
- B. Should the Mayor determine that National security requires the closure of a public road or restrictions on access to public rights-of-way extending for more than thirty (30) but not more than (90) days from the date of initial action, he shall within thirty (30) days of his initial action, meet with the Assembly in executive session and explain the underlying facts and analysis for his decision.
- C. Should the Mayor wish to maintain closure of a public road or otherwise restrict public access to a right-of-way for any period beyond ninety (90) days in the interests of National security, the procedures of this subsection must be followed.
- 1 Prior notice of at least fifteen (15) days before the ninetieth day after the initial action must be given to area affected. Notice shall be posted on and adjacent to the roadway involved and published in a newspaper of general circulation. The notice shall also advise the public of the time and place set for a public meeting under 2 of this subsection and the availability of relevant public documents which were consulted in making the proposed action.
 - 2 Upon at least fifteen days' notice before the ninetieth day after the initial action, a public meeting must be conducted in the area affected. The meeting shall be attended by the person or persons primarily responsible for making the decision to extend the road closure or restricted access beyond ninety days. The public shall be given a reasonable opportunity to comment on the action during the meeting.
 3. With the notice of the public meeting required under 2 of this subsection, the public shall be given free and unrestricted access to all records and documents upon

which decision is based, unless that access is otherwise prohibited by Federal or State law.

4. Before a final decision closing or restricting access to a public road or right-of-way in the interests of National security beyond ninety (90) days under this subsection, the Mayor shall issue written findings that support and explain the decision. The findings shall be based on substantial evidence in the public record and shall reflect meaningful consideration of less restrictive or alternate measures otherwise available to the Mayor. The Mayor's action shall reflect his considered opinion that an immediate and credible threat to public safety and property requires the road closure beyond the ninety (90) day period described above.

24.35.050 Road closures authorized by other provisions of this code.

Road closures or limitations imposed on public access to roads or public rights-of-way specifically authorized by other provisions of this Code are not affected by this Chapter.

24.35.060 Prior road closures.

Within a reasonable time after this Chapter takes effect, the Mayor shall promptly remove any restriction on the use of, or access to any public road or right-of-way imposed no more than ninety (90) days prior to the effective date of this Chapter unless that action was lawfully taken by the Mayor under the authorities cited in sections .020, .030, and .050 above.

Section 3: That Anchorage Municipal Code Section 9.06.020 is amended to read as follows:

9.06.020 General duties of traffic division.

It shall be the duty of the traffic division with such aid as may be rendered by other members of the police department to enforce this title in those portions of the municipality where municipal police protection is provided and all of the state vehicle laws applicable to street traffic in the portions of the municipality where municipal police protection is provided, to make arrests for traffic violations, to investigate accidents and to cooperate with the traffic engineer and other officers of the municipality in the administration of the traffic laws in those portions of the municipality where municipal police protection is provided, and in developing ways and means to improve traffic conditions, and to carry out those duties especially imposed upon the division by this title, provided that nothing in this section shall be construed to prohibit the traffic division, the police department or the state troopers from enforcing or administering the law or making arrests pursuant to provisions of this title in any part of the municipality.

This Chapter does not authorize the Traffic Engineer or any other Municipal official or employee to close public streets or otherwise restrict public access to municipal rights-of-way in the interests of National security. Those actions are governed by Chapter 24.35 of this Code and the authorities cited in that section.

Section 4: That Anchorage Municipal Code Section 9.08.010(B) is amended to read as follows

9.08.010 **Authority of police and fire department officials.**

- B. Officers of the police department, or officers assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws. This Chapter does not authorize the Traffic Engineer or any other municipal official or employee to close public streets or otherwise restrict public access to municipal rights-of-way in the interests of National security. Those actions are governed by Chapter 24.35 of this Code and the authorities cited in that section.

Section 5: That the existing provisions of Anchorage Municipal Code Section 9.14.010 shall be set forth in a new subsection A to that section and a new AMC 9.14.010(B) is enacted to read as follows:

9.14.010 **Authority of traffic engineer to install traffic control devices.**

- B. This Chapter does not authorize the Traffic Engineer or any other municipal official or employee to close public streets or otherwise restrict public access to municipal rights-of-way in the interests of National security. Those actions are governed by Chapter 24.35 of this Code and the authorities cited in that section.

Section 6: That this ordinance shall take effect immediately upon passage and approval

PASSED and approved by the Anchorage Assembly this day of ____, 2002

Chair

ATTEST:

Municipal Clerk

EGJ/2002ORDINANCES/AO21

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2002-102

Title: Enacting a New Chapter 24.35 Authorizing the Mayor to Close or Restrict
Use of Public Rights-of-Way in the Interests of National Security

Sponsor: Assemblymember Tesche

Preparing Agency: Department of Assembly

Others Impacted: All Departments

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	<u>FY02</u>	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$	\$	\$	\$	\$
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$	\$	\$	\$	\$

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

If properly implemented, there are no substantial public sector effects anticipated

PRIVATE SECTOR ECONOMIC EFFECTS:

If properly implemented, there are no substantial public sector effects anticipated.

Prepared by: Elvi Gray-Jackson

Telephone: 4751

Approved by: 

Director/Municipal Clerk

Date 7-3-02



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. 572-2002

Meeting Date: June 25, 2002

From: Assemblymember Tesche

**Subject: ENACTING A NEW CHAPTER AUTHORIZING THE MAYOR TO CLOSE OR RESTRICT
USE OF PUBLIC RIGHTS-OF-WAY IN THE INTERESTS OF NATIONAL SECURITY**

Particularly when State or Federal authorities have not acted and absent a formal emergency under Section 5.02(d) of the Charter, the Municipal Code does not authorize or prohibit the Mayor from restricting access to public roads and rights of way for reasons of National security. Recent terrorist attacks on the United States suggest that local, as well as State and Federal officials may have a legitimate role in official actions such a road closures taken in the interests of National security. If enacted, AO 2002-102 would set forth clear procedures and standards to guide the Mayor in responding appropriately to credible threats to public safety and property which require road closures in the interests of National security.

The new ordinance is not intended to restrict or otherwise modify existing authority given the Mayor under to restrict access to roads or public rights-of-way during an emergency declared under Section 5.02(d) of the Home Rule Charter. Similarly, road closures already authorized under the Municipal Code for purposes other than National security such as road construction or control of traffic, are unaffected by the new legislation.

For up to thirty days, AMC 24.35.040(A) would allow the Mayor to close any public street or restrict access to any public rights-of-way in the interests of National security under such procedures and terms and conditions as he alone deems appropriate. Under this subsection, the decision to close or restrict access to a public rights-of-way for no more than thirty days in the interests of National security rests exclusively with the Mayor and is not restricted or conditioned by procedural prerequisites.

For a road closure longer than thirty days but no longer than ninety days, AMC 24.35.040(B) similarly gives the Mayor considerable leeway, but does require him to meet with the Assembly in executive session to explain the facts and analysis which support that action. The executive session must occur within thirty days of the initial road closure. Assembly approval of the Mayor's action is not required nor may the Assembly impose conditions or restrictions on the Mayor's decision to keep a road closed for up to ninety days allowed under the ordinance.

For a road closure lasting more than ninety days, a public process set out in AMC24.35.040.C. would be required. That process requires advance public notice of the action, access by the public to the public record upon which the proposed action is based, a public meeting with the decision maker(s) and that written findings be first made which explain and support the action taken by the Mayor. The time frames set out in the ordinance should not be circumvented by serial road closures ordered for the same reasons.

Particularly because of the long-term neighborhood and community impacts resulting from road closures beyond ninety days, AO 2002-102 balances the need for an open public process with the need for appropriate executive action in the interests of National security. Section 24.35.060 would apply the new ordinance to recent road closures ordered in the interests of National security which have lasted for more than ninety days unless authorized under other powers already reserved to the Mayor.

Enactment of AO 2002-102 is recommended.

submitted,

Assemblymember

EGJ/2002MEMORANDUMS/AM36

AO 2002-102

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

As 2002-102

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED	
	An Ordinance Enacting a New Chapter 24.35 to the AMC	2-Jul-02	
	Authorizing the Mayor to Close or Restrict Use of Public	Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM	
	Rights-Of-Way in the Interests of National Security		
2	DEPARTMENT NAME	DIRECTOR'S NAME	
	Assembly	Greg Moyer	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER	
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 Manager		
	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>6/25/02 Laid on the Table</i> <div style="text-align: right;"> 2002 JUL 3 PM 12:14 CLERK'S OFFICE M.O.A. </div>		
6	ASSEMBLY HEARING DATE REQUESTED	7	PUBLIC HEARING DATE REQUESTED
	<i>6/25/02</i>		<i>7-16-02</i>