

See AO 2002-144(S-1)

Submitted by: Assemblymember TESCHE
Prepared by: Department of Assembly
For reading: November 26, 2002

**ANCHORAGE, ALASKA
AO NO. 2002-144(S)**

**AN ORDINANCE ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 8.80,
ESTABLISHING A FEE FOR POLICE PROTECTION SERVICES.**

WHEREAS, the Alaska Legislature in 2002 enacted Ch. 111 SLA 2002, which authorizes a municipality by ordinance to impose a fee on the owner of residential property, if there is an excessive number of police responses to the property during a calendar year; and

WHEREAS, the fee authorized under Ch. 111 SLA 2002 may not exceed the actual cost to the municipality for the excessive responses; and

WHEREAS, the Assembly finds that it is appropriate and in the public interest that where there is an excessive number of police responses to a residential property in a calendar year, and the owner of the residential property fails to take appropriate action to correct the cause of the excessive number of police responses, the owner of the property bears the cost of the excessive number of police responses; and

WHEREAS, the Assembly finds that each of the following is an excessive number of police responses to a residential property during a calendar year: (i) more than eight times the number of dwelling units in the residential property; or (ii) more than eight police responses to a single dwelling unit in the residential property; and

WHEREAS, the Assembly finds that the average cost of each excessive police response to a residential property is \$500.00.

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code Chapter 8.80 is hereby enacted to read as follows:

**Chapter 8.80
FEE FOR POLICE PROTECTION SERVICES**

8.80.010 Definitions; interpretation.

As used in Chapter 8.80:

"Dwelling unit" means a structure or portion thereof providing independent and complete cooking, living, sleeping and toilet facilities for a group of persons living as a single housekeeping unit.

"Excessive police response," means, each police response (i) to a residential property in excess of eight times the number of dwelling units in the residential property; or (ii) to a single dwelling unit in a residential property in excess of eight.

"Lot" means a parcel of land shown as an individual unit on the most recent plat of record.

"Mobile home" means a detached single dwelling unit fabricated at a factory and capable of being transported to location of use on its own chassis and wheels, identified by a model number and serial number by its manufacturer, and designed primarily for placement on an impermanent foundation.

"Mobile home park" means a lot, or adjacent lots in the same ownership, used for occupancy by more than two mobile homes.

"Owner," when used in reference to a residential property, means the record owner or owners of the residential property as shown in the real property records.

"Police response" means that one or more police officers goes to a residential property in response to a call for assistance, a complaint, an emergency or a potential emergency; provided that the term "police response" does not include a response to:

1. receipt of false information as defined in section 8.30.050, unless the false information was provided by an occupant or owner of the residential property;
2. a false alarm as defined in section 8.40.010, unless the false alarm was caused, permitted or allowed by an occupant or owner of the residential property in violation of section 8.40.020; or
3. a call involving potential child neglect, potential domestic violence as defined in AS 18.66.990, or potential stalking under AS 11.41.260 or 11.41.270.

"Residential property" means a parcel, tract or lot containing one or more dwelling units, including a mobile home park.

8.80.020 **Fee for police protection services.**

A. Subject to subsection B, the owner of a residential property shall pay the municipality a fee of \$500.00 per excessive police response to the residential property during a calendar year.

B. The owner of a residential property shall be liable for the fee established by subsection A only if:

1. The municipality has notified the owner in writing as provided in section 8.80.030 that the fee will apply to any excess police responses to the residential property during the calendar year;

2. The time allowed for appropriate corrective action under section 8.80.040 has expired; and

3. The owner has not taken appropriate corrective action as required by section 8.80.040

C. If a residential property has more than one owner, all owners shall be jointly and severally liable for any fee imposed under this section.

D. For residential property owned as a condominium, a fee based on excessive police responses to a single dwelling unit shall be assessed against the owner of the dwelling unit. Otherwise the fine shall be assessed against the homeowners' association; provided that if there is no homeowners' association, the fee shall be assessed jointly and severally against the owners of all dwelling units in the condominium.

8.80.030 **Notice to property owner.**

A. The municipality may notify the owner of a residential property in writing when the number of police responses in the current calendar year (i) to the residential property equals eight times the number of dwelling units in the residential property; or (ii) to a single dwelling unit in the residential property equals eight.

B. A notice under this section shall be given in a manner that is reasonably calculated to provide actual notice to the owner of the residential property. At a minimum, the notice shall be sent by certified mail, return receipt requested, to the mailing address of the owner as shown on the municipality's real property tax records, and if the residential property has a different street address, to that street address. The municipality also shall give notice by certified mail, return receipt requested at another address where it appears more likely that the owner will receive actual notice at that address. Such other address may include, without limitation, an address identified from the telephone directory, public

records, or prior police contacts with the residential property or the owner. The notice also shall be posted at the principal entrance to the residential property.

C. The notice shall

1. Identify the residential property that is the subject of the notice by street address and legal description;

2. State (i) whether the notice is based on the number of police responses during the current calendar year to the residential property or to a single dwelling unit in the residential property, identifying the dwelling unit in the latter case, and (ii) the number of police responses on which the notice is based;

3. State that if the owner does not take appropriate corrective action, the owner will be liable for a fee for each excessive police response to the residential property during the calendar year;

4. State the amount of the fee per excessive police response to the residential property; and

5. State the name and telephone number of a representative of the municipality to contact concerning the notice.

8.80.040 **Corrective action.**

A. An owner of a residential property shall have 30 days from the date of mailing of the notice required under section 8.80.030 to promptly take appropriate corrective action in response to the notice. Appropriate corrective action shall be action that reasonably would be expected to correct the cause of the police responses to the residential property, and may include, without limitation, written notice to quit under AS 09.45.100 - 09.45.110.

B. There shall be no fee for additional police responses to the residential property that is the subject of the notice during the 30-day period allowed under subsection A if the owner takes appropriate corrective action during the 30-day period. The owner shall be considered to have taken appropriate corrective action if there are no additional police responses to the residential property from the end of the 30-day period until the earlier of the (i) end of the calendar year, or (ii) the date 90 days after the end of the 30-day period allowed under subsection A.

8.80.050 **Lien on property.**

A. A fee imposed under section 8.80.020 is a lien on the residential property to which there have been an excessive number of police responses.

B. The lien becomes effective upon the recording of a notice of the lien that describes the residential property that is the subject of the lien, states the amount of fees for which the lien has been recorded, and states that the lien has been recorded pursuant to this section.

C. When notice of a lien has been recorded under subsection B of this section, the lien has priority over all other liens except:

1 Liens for property taxes, special assessments, and sales and use taxes;

2. Liens that were perfected before the recording of the lien under this section; and

3. Mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this section.

Section 2. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this day
of _____ 2002.


Chair

ATTEST:

Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. AM 990-2002

Meeting Date: November 26, 2002

From: Assemblymember Tesche

Subject: AN ORDINANCE ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 8.80, ESTABLISHING A FEE FOR POLICE PROTECTION SERVICES

AO 2002-144 implements AS 29.35.125, proposed by Representative Gretchen Guess in the last regular legislative session and enacted by Ch. 111 SLA 2002. AS 29.35.125(a) authorizes a municipality by ordinance to impose a fee on the owner of residential property for excessive police responses to the property during a calendar year, if the owner fails to take appropriate action to correct the cause of the excessive police responses. The purpose of AS 29.35.125 is to make the owner of residential property bear the cost of excessive police responses to the property, and to provide an incentive to the owner to correct the cause of the excessive responses, including the eviction of a problem tenant.

Each municipality may decide how many police responses to a residential property are excessive for its own community. The fee per excessive response may not exceed the actual cost, as determined by the municipality. Based on information provided by the Anchorage Police Department, AO No. 2002-144 provides that the cost of an excessive police response to a residential property is \$500.00.

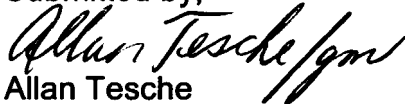
The public hearing on AO No. 2002-144 was held on October 22, 2002. After the closing of the public hearing, action on the ordinance was postponed so that several amendments to the ordinance could be prepared. Submitted with this memorandum is a substitute ordinance, AO No. 2002-144(S), which revises several provisions of the original ordinance. The revisions are as follows:

1. Based on information provided by the Anchorage Police Department, the substitute ordinance reduces the number of police responses to a residential property in a calendar year that are considered excessive to either (i) more than eight times the number of dwelling units in the residential property; or (ii) more than eight police responses to a single dwelling unit in the residential property.
2. Under AS 29.35.125, police responses involving child neglect, domestic violence or stalking are not counted in determining whether the number of police responses is excessive. The substitute ordinance also excludes responses to the receipt of false information, and to false alarms.

3. The substitute ordinance adds a provision to address how charges for excessive police responses will be charged against condominiums. Where the excessive responses are to one unit, the fee is charged to the unit owner. Where the excessive responses are to more than one unit, the fee is charged to the homeowners association.
4. The Anchorage Police Department suggested that the definition of the term "police response" be broadened from just the "dispatching" of a police officer (assumed to refer only to a radio dispatch from the police communications center), to include all instances in which a police incident or case number is linked to an occurrence at a specific residential property. AS 29.35.125(a) only authorizes a fee in connection with a police officer "going to" a residential property an excessive number of times, although this need not be limited to visits in response to radio dispatches. The substitute ordinance revises the definition of "police response" to adopt the broader language in AS 29.35.125(a), to cover all instances in which a police officer goes to a residential property, rather than only instances in which a police officer is dispatched to a residential property.
5. The Anchorage Police Department also commented that if the provision in section 8.80.030.A for notification of a property owner is mandatory, the Department will not be able to concentrate limited resources on the highest properties that it considers to be the highest priorities for enforcement. To provide the requested flexibility, the substitute ordinance changes the word "shall" in the first line of section 8.80.030.A to "may." Despite this change, section 8.80.020.B.1 still makes notification a prerequisite to the imposition of a fee under the ordinance.
6. The substitute ordinance clarifies the last sentence of section 8.80.040.B to establish that the owner is considered to have taken corrective action only if there are not any additional police responses to the property during the test period. The former language might have been interpreted to provide that the owner is considered to have taken corrective action if there were no more than eight additional police responses during the test period.

Enactment of AO 2002-144(S) is recommended.

Submitted by,


Allan Tesche

Assemblymember

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

Ad 2002-144(S)

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED	
	AO 2002-144(S)		25-Nov-02	
			Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
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	
	X Mayor			
	Heritage Land Bank			
	Merrill Field Airport			
	Municipal Light & Power			
	Port of Anchorage			
	Solid Waste Services			
	X Water & Wastewater Utility			
	X Municipal Manager			
	Cultural & Recreational Services			
	Employee Relations			
	X Finance, Chief Fiscal Officer			
	Fire			
	Health & Human Services			
	X 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			
	X Municipal Attorney			
	Municipal Clerk			
	Other			
5	Special Instructions/Comments			
	<i>Added down - Old Business</i>			
6	ASSEMBLY HEARING DATE REQUESTED		PUBLIC HEARING DATE REQUESTED	