

Submitted by: Chairman of the Assembly at  
the Request of the Mayor  
Prepared by: Department of Law  
For reading: January 7, 2003

ANCHORAGE, ALASKA  
AO NO. 2003-4

1 AN ORDINANCE REPEALING ANCHORAGE MUNICIPAL CODE CHAPTER 11.80  
2 REGULATING NOTICE OF COMMERCIAL PASSENGER AIRLINES'  
3 BEREAVEMENT/EMERGENCY OPERATING POLICIES AND PROCEDURES.

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5  
6 WHEREAS, Anchorage Ordinance No. 2002-56(S), effective April 9, 2002, enacted  
7 regulations governing notice of commercial passenger airlines' bereavement policies and procedures  
8 as Anchorage Municipal Code §11.80.010; and

9  
10 WHEREAS, Anchorage Municipal Code chapter 11.80 is pre-empted by federal law  
11 regulating commercial passenger airlines; now therefore

12  
13 THE ANCHORAGE ASSEMBLY ORDAINS:

14  
15 Section 1. Anchorage Municipal Code chapter 11.80 is hereby repealed.

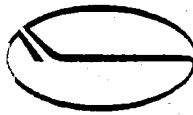
16  
17 Section 2. This ordinance shall become effective immediately upon passage and approval by  
18 the Assembly

19  
20 PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_ day of \_\_\_\_\_, 2003.

21  
22  
23  
24 \_\_\_\_\_  
Chair of the Assembly

25 ATTEST:

26  
27 \_\_\_\_\_  
28 Municipal Clerk



## AIR TRANSPORT ASSOCIATION

RECEIVED  
MUNICIPAL ATTORNEY  
HD  
02 DEC 11 AM 10:20

**ROBERT P. WARREN**  
*Senior Vice President, General Counsel  
and Secretary*

December 4, 2002

Hon. George Wuerch  
Mayor, City of Anchorage  
632 W. 6<sup>th</sup> Street  
P.O. Box 196650  
Anchorage, AK 99519-6650

Re: Anchorage Ordinance No. 2002-56(S)

Dear Mayor Wuerch,

In April, the Anchorage Municipal Assembly passed this ordinance, which requires commercial airlines serving Anchorage to publish their bereavement fares and emergency travel policies in a local Anchorage newspaper, or to publish a statement that they have no such fares if that is the case. The ordinance also requires airlines "at all times" to publish this information on their internet sites. Finally, the Mayor is authorized to publish in a local newspaper a list of airlines that do not comply with this ordinance.

Although this ordinance was passed with good intentions, it nonetheless is preempted by Federal law and is unenforceable. The Airline Deregulation Act contains an express preemption provision whose purpose is to prevent states and local jurisdictions from attempting to regulate the economic and competitive practices of U.S. airlines. 49 USC § 41713.<sup>1</sup> The U.S. Supreme Court has given this provision a broad sweep, and it has invalidated efforts to regulate airline advertising. *Morales v. Trans World Airlines*, 504 U.S. 375 (1992). Furthermore, to the extent consumer interests may be at issue, the U.S. Department of Transportation has the authority to protect consumers from unfair and deceptive trade practices.

On behalf of the airlines serving Anchorage, we respectfully request that you inform the Anchorage Assembly that this ordinance is unlawful and request that appropriate steps be taken to remove this ordinance from the Anchorage Municipal Code. We further request

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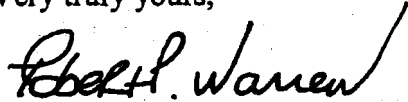
<sup>1</sup> "A State, political subdivision of a State, . . . may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route or service of an air carrier that may provide air transportation under this subpart." 49 USC §41713(b)(1). An exception for intrastate Alaskan air transportation (§ 41713(b)(2)) is not applicable here, nor is the "proprietary powers" exception of § 41713(b)(3).

Hon. George Wuerch  
December 4, 2002  
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that your office exercise its discretion and not publish a list of airlines that fail to comply with this ordinance.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert P. Warren". The signature is fluid and cursive, with a long, sweeping line extending from the end of the name.

Robert P. Warren  
Senior Vice President, General Counsel and Secretary

cc: William Greene  
Anchorage Municipal Attorney

**MUNICIPALITY OF ANCHORAGE**  
**ASSEMBLY MEMORANDUM**

No. AM 21 -2003

Meeting Date: January 7, 2003

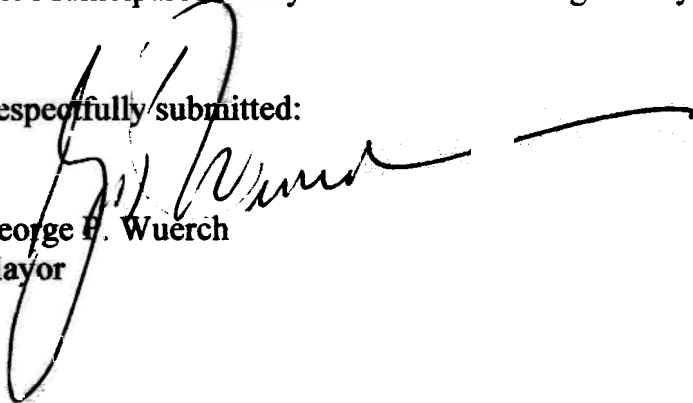
**From: Mayor**

**Subject: Repeal of Notice Regulations for Commercial Passenger Airlines**

Attached is a letter from the Air Transport Association of America, Inc. advising that Anchorage Municipal Code chapter 11.80 is pre-empted by federal law and should be repealed.

The Municipal Attorney concurs with the legal analysis and advice provided in the referenced letter.

Respectfully submitted:

  
George F. Wuerch  
Mayor

Prepared by:

  
William A. Greene  
Municipal Attorney

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

*Ar2003-4*

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED	
	AO Appealing Notice of Commercial Passenger Airlines	January 2, 2003	
	Bereavement/Emergency Operating Policies & Procedures	Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
<b>2</b>	DEPARTMENT NAME Legal	DIRECTOR'S NAME William A. Greene	
<b>3</b>	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY William A. Greene	HIS/HER PHONE NUMBER 343-4534	
<b>4</b>	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
X	Mayor	<i>[Signature]</i>	
	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		
X	Municipal Attorney	<i>[Signature]</i>	<i>1/2/03</i>
	Municipal Clerk		
	Other		
<b>5</b>	Special Instructions/Comments	URGENT	
	<i>Redundant - Introduction</i>	<div style="text-align: center; font-size: 2em; font-weight: bold; color: red;">URGENT</div>	
		<div style="position: absolute; right: 0; top: 0; text-align: right;">             2003 JAN -2 AM:43              CLERK'S OFFICE              M.L.A.           </div>	
<b>6</b>	ASSEMBLY HEARING DATE REQUESTED 01/07/03	<b>7</b>	PUBLIC HEARING DATE REQUESTED <i>1/28/03</i>