

CLERK'S OFFICE
AMENDED AND APPROVED ANCHORAGE, ALASKA
Date: 4-22-03 AO NO. 2003- 73

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 1.45.010, 8.05.060, AND 9.48.010 AND TITLE 8 TO INCREASE THE MAXIMUM PENALTY FOR CERTAIN OFFENSES; AMENDING CHAPTER 9.26 REGARDING SIGNS FOR MAXIMUM SPEED LIMITS; AMENDING CHAPTER 9.28 TO REDEFINE PREVIOUS CONVICTIONS FOR PURPOSES OF IMPOUNDMENT AND FORFEITURE OF VEHICLES; AND FURTHER AMENDING CHAPTER 9.28 TO REQUIRE PROOF OF VEHICLE INSURANCE PRIOR TO RELEASE OF VEHICLES.

THE ANCHORAGE ASSEMBLY ORDAINS

Section 1. Anchorage Municipal Code subsection 1.45.010A. is hereby amended to read as follows:
(the remainder of the section is not affected and therefore not set out)

1.45.010 **General penalties.**

A. Every act prohibited by this Code is unlawful. Unless another criminal penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than \$2,000.00 [300.00] or by imprisonment for not more than 30 days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

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(CAC 1.16.010; AO No. 80-131; AO No. 93-167(S-1), § 3, 4-13-94)

Section 2. Anchorage Municipal Code subsection 8.05.060A.2. is hereby amended to read as follows:
(the remainder of the section is not affected and therefore not set out)

8.05.060 **Pretrial diversion program.**

A. The department of law may offer to offenders a settlement diversion in lieu of trial or sentencing. The settlement shall be in accordance with the following table, shall include the offender's waiver of the right to a speedy trial, and shall be given in exchange for dismissal of the pending charges. Dismissal shall only be effective if there is first complete and timely compliance with the conditions provided in this section.

2. ***Other charges.***

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TYPE OF CHARGE	CWS HOURS	FINE DUE	DUE W/I	NCV
DWLR/S/C	40	250.00	60 days	6--12 months
DWOI	40	200.00	60 days	6--12 months
Must also get operator's license and show proof of <u>insurance</u> [SR22] to PTD. Must also check drivers history and comply with other DMV requirements as needed.				

Section 3. Anchorage Municipal Code Title 8 is hereby amended by increasing the maximum penalties for the municipal equivalents of State of Alaska Class A misdemeanors, Class B misdemeanors and violations. Where the maximum fine amount in Title 8 is specified as \$5000.00, it shall be change to \$10,000.00. Where the maximum fine amount in Title 8 is specified as \$1,000.00, it shall be changed to \$2,000.00. Where the maximum fine amount in Title 8 is specified as \$300.00, it shall be changed to \$500.00.

Section 4. Anchorage Municipal Code section 9.26.020 is hereby amended to read as follows:

9.26.020 **Maximum limits designated.**

Except when a special hazard exists that requires lower speed for compliance with Section 9.26.010, the limits specified in this section or established as authorized in this chapter shall be maximum lawful speeds, and no person may drive a vehicle at a speed in excess of such maximum speed limits:

- A. Fifteen miles per hour in any alley or public parking lot.
- B. ~~Less than~~ ^{Not more} 25 miles per hour on streets of less than 600 feet in total length, if determined to be warranted by the traffic engineer.
- C. Twenty-five miles per hour on all streets except as otherwise posted by the traffic engineer or the State of Alaska.

(CAC 9.26.020; AO No. 78-72; AO No. 78-146; AO No. 80-4; AO No. 99-100(S), § 1, 8-10-99)

Section 5. Anchorage Municipal Code section 9.26.030 is hereby amended to read as follows:

9.26.030 **Alteration of maximum limits.**

- A. When as a result of a comprehensive speed study the traffic engineer determines that the maximum speed permitted under this chapter is greater or less than is reasonable and prudent under the conditions existing upon a public street or part thereof, the traffic engineer may declare a reasonable and safe maximum speed limit on it which:
 - 1. Increases the limit, but not to more than 55 miles per hour or 90 kilometers per hour;
 - or
 - 2. Decreases the limit, but not to less than 20 miles per hour or 30 kilometers per hour.

B. A limit altered as authorized in this section is effective when an appropriate sign giving notice thereof is erected. The maximum speed limit may be declared effective at all times or at the times indicated upon the sign; and a different limit may be established for different times of day, different types of vehicles, varying weather conditions or other factors bearing on safe speed, which limits are effective when posted upon an appropriate sign.

C. It is unlawful for a person to drive a motor vehicle in excess of the speed limits established by signs lawfully erected by the traffic engineer or by the State of Alaska [PURSUANT TO THIS SECTION].

(CAC 9.26.030; AO No. 78-72; AO No. 78-146)

Section 6. A portion of Anchorage Municipal Code subsection 9.28.019C.6. is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*)

9.28.019 **Valid operator's license required.**

A vehicle ordered impounded pursuant to this subsection shall not be released until after the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle, and has paid or provided proof of payment of the impound fees and the storage fees. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 7. A portion of Anchorage Municipal Code subsection 9.28.019F. is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*)

9.28.019 **Valid operator's license required.**

A vehicle that is or has been the subject of an order under this subsection shall not be released pending trial until the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the vehicle return bond and towing and storage fees, including the administrative fee of \$360.00 to offset the municipality's processing costs.

Unless the following sentence applies, a vehicle that is or has been the subject of a vehicle return bond may only be released if the person seeking the release of the vehicle provides proof of insurance or an affidavit of insurance, and pays or provides proof of payment of the towing and storage costs, including the administrative fee of \$360.00 to offset the municipality's processing costs. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 8. A portion of Anchorage Municipal Code subsection 9.28.020C.7. is hereby amended to read

as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.020 **Driving under the influence--Prohibited; sentencing.**

A vehicle ordered impounded pursuant to this subsection shall not be released until after the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the impound fees and the storage fees. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 9. A portion of Anchorage Municipal Code subsection 9.28.020J. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.020 **Driving under the influence--Prohibited; sentencing.**

A vehicle that is or has been the subject of an order under this subsection shall not be released pending trial until the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the vehicle return bond and towing and storage fees, including the administrative fee of \$360.00 to offset the municipality's processing costs.

Unless the following sentence applies, a vehicle that is or has been the subject of a vehicle return bond may only be released if the person seeking the release of the vehicle provides proof of insurance or an affidavit of insurance, and pays or provides proof of payment of the towing and storage costs, including the administrative fee of \$360.00 to offset the municipality's processing costs. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 10. A portion of Anchorage Municipal Code subsection 9.28.022D.7. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.022 **Driving under the influence--Refusal to submit to chemical tests.**

A vehicle ordered impounded pursuant to this subsection shall not be released until after the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the impound fees and the storage fees. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 11. A portion of Anchorage Municipal Code section 9.28.022J. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.022 **Driving under the influence—Refusal to submit to chemical tests.**

A vehicle that is or has been the subject of an order under this subsection shall not be released pending trial until the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the vehicle return bond and towing and storage fees, including the administrative fee of \$360.00 to offset the municipality's processing costs.

Unless the following sentence applies, a vehicle that is or has been the subject of a vehicle return bond may only be released if the person seeking the release of the vehicle provides proof of insurance or an affidavit of insurance, and pays or provides proof of payment of the towing and storage costs, including the administrative fee of \$360.00 to offset the municipality's processing costs. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 12. Anchorage Municipal Code subsection 9.28.026C.10. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.026 **Impoundment and forfeiture of vehicle.**

10. Unless the release is pursuant to an agreement under section 9.28.026.C.9, the person seeking to redeem the vehicle must obtain an order authorizing release of the vehicle. A release shall not be granted unless the applicant can:

a. Unless, waived by the Municipality if the vehicle is inoperable, provide proof of insurance or an affidavit of insurance;

b.[a.] Provide proof of ownership or, if a lienholder, a legal right to repossess the vehicle; and

c.[b.] Pay or provide proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge of \$360.00 to offset the municipality's processing costs. If the court makes a specific finding following a contested hearing or pursuant to a stipulation between the parties that the seizure of the vehicle was legally unjustified, the vehicle shall be released at no cost if the person seeking to reclaim the vehicle reclaims the vehicle within five days after the issuance of the court's decision making such a finding. A vehicle ordered released at no charge under this subsection is subject to the provisions of AS 28.10.502 if the vehicle is not reclaimed within five days after the issuance of the court's decision. The provisions

of chapter 9.50 do not apply to vehicles seized under the authority of section 9.28.026.

Section 13. A portion of Anchorage Municipal Code subsection 9.28.026C.13.b. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.026 **Impoundment and forfeiture of vehicle.**

A vehicle that is subject to an order setting a vehicle return bond may be released pending hearing upon proof of insurance or an affidavit of insurance, proof of ownership of the vehicle, payment of the vehicle return bond, and payment of towing and storage fees, including the administrative fee of \$360.00 to offset the municipality's processing costs. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 14. Anchorage Municipal Code subsection 9.28.026C.18. is hereby repealed and reenacted to read as follows

9.28.026 **Impoundment and forfeiture of vehicle.**

18. For purposes of this section, convictions for violation of section 9.28.020 and 9.28.022 arising out of a single transaction and a single arrest are considered one previous conviction. "Previously convicted" means:

- a.** if charged with violating section 9.28.019, having been convicted in this or another jurisdiction of operating a motor vehicle while their license is canceled, suspended or revoked, or in violation of a limitation, under section 9.28.019 or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.
- b.** if charged with violating either section 9.28.020 or 9.28.022, having been convicted in this or another jurisdiction of operating a motor vehicle, aircraft, or watercraft while under the influence under Section 9.28.020 or another law or ordinance with substantially similar elements, or of refusal to submit to a chemical test under Section 9.28.022 or 28.35.032 or another law or ordinance with substantially similar elements.
- c.** if charge with violating section 9.28.030, having been convicted in this or another jurisdiction of operating a motor vehicle without the required security in effect at the time of operation under section 9.28.030 or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.

[18. FOR PURPOSES OF THIS SECTION, CONVICTIONS FOR VIOLATION OF ANY COMBINATION OF SECTION 9.28.019, 9.28.020, 9.28.022, OR 9.28.030 ARISING OUT OF A SINGLE TRANSACTION AND A SINGLE ARREST ARE CONSIDERED ONE PREVIOUS CONVICTION. THE TERM "PREVIOUSLY CONVICTED" MEANS HAVING BEEN CONVICTED IN THIS OR ANOTHER JURISDICTION OF SECTION 9.28.019, OR OPERATING A MOTOR VEHICLE, AIRCRAFT, OR WATERCRAFT WHILE UNDER THE INFLUENCE UNDER SECTION 9.28.020 OR ANOTHER LAW OR ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR OF REFUSAL TO SUBMIT TO A CHEMICAL TEST UNDER SECTION 9.28.022 OR 28.35.032 OR ANOTHER LAW OR ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR OF SECTION 9.28.030 OR ANOTHER LAW OR ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS.]

Section 15. A portion of Anchorage Municipal Code subsection 9.28.030D.5. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.030 Insurance or other security required.

A vehicle ordered impounded pursuant to this subsection shall not be released until after the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the impound fees and the storage fees. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 16. A portion of Anchorage Municipal Code subsection 9.28.030G.6. is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out)*

9.28.030 Insurance or other security required.

A vehicle that is or has been the subject of an order under this subsection shall not be released pending trial until the person seeking release of the vehicle has provided proof of insurance or an affidavit of insurance, proof of ownership of the vehicle and paid or provided proof of payment of the vehicle return bond and towing and storage fees, including the administrative fee of \$360.00 to offset the municipality's processing costs.

Unless the following sentence applies, a vehicle that is or has been the subject of a vehicle return bond may only be released if the person seeking the release of the vehicle provides proof of insurance or an affidavit of insurance, and pays or provides proof of payment of the towing and storage costs, including the administrative fee of \$360.00 to offset the municipality's processing costs. The insurance requirement may be waived by the Municipality if the vehicle is inoperable.

Section 17. Anchorage Municipal Code section 9.48.010 is hereby amended to read as follows: *(the remainder of the section is not amended and therefore not set out)*

9.48.010 Penalties.

A. Unless another penalty is expressly provided by this title, a person convicted of violating a provision of this title shall be punished by a fine of not more than \$500.00 [300.00].

1. Notwithstanding the provisions of subsection A. of this section, the penalty for failure to obey a red traffic signal, including the failure to stop for steady red signal or steady red arrow under Section 9.14.040 and failure to stop for a flashing red light under Section 9.14.060 shall be \$200.00.

B. Any person convicted of a violation of any provision of Chapter 9.38, pertaining to bicycles, shall be punished by a fine of not more than \$100.00 or by removal and detention of the license plate from such person's bicycle for a period not to exceed 60 days.

C. Any person convicted of violating the following sections shall be punished by imprisonment for not more than 90 [30] days, or by a fine of not more than \$2,000.00 [500.00], or by both such fine and imprisonment:

1 Chapter 9.10 (Accidents and Accident Reporting): Sections 9.10.020.B and 9.10.020.C if damage is \$1,000.00 or greater, and 9.10.080.

2 Chapter 9.12 (Driver's License): Section 9.12.050.

3 Chapter 9.14 (Traffic Signs, Signals and Markings): Section 9.14.090.

D. Any person convicted under the following sections shall be punished by imprisonment for not more than one year, or by a fine of not more than \$10,000.00 [5,000.00], or by both such fine and imprisonment:

1 Chapter 9.10 (Accidents and Accident Reporting): Section 9.10.020[.]A.

[2. CHAPTER 9.28 (DRIVER'S LICENSE): SECTION 9.28.019B.]

2. [3.] Chapter 9.28 (Serious Traffic Offenses): Sections 9.28.010, 9.28.011, 9.28.019B. 9.28.020 and 9.28.022[.]C.

E. Any person convicted under the following sections shall be punished by imprisonment for not more than ~~one year~~, or by a fine of not more than \$1,000.00, or by both such fine and imprisonment: 90 days

1. Section 9.28.030.

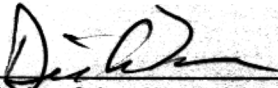
F. [E.] No provision of this title is intended to affect the authority of the court under state law to revoke, suspend or limit the operator's license of a person who has been convicted of violating a provision of this title.

Code reviser: renumber remaining subsections.

(CAC 9.48.010; AO No. 267-76; AO No. 78-72; AO No. 82-126; AO No. 82-186(S); AIM 33-83; AO No. 83-168; AO No. 84-60; AO No. 89-52; AO No. 99-15, § 2, 2-9-99)

Section 18. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 22nd day of April, 2003.


Chair of the Assembly

ATTEST


Municipal Clerk

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**MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM**

No. AM 390-2003

Meeting Date: April 22, 2003

From: Assembly Chair Traini

Subject: AO 2003- 73; AN ORDINANCE AMENDING SECTIONS 1.45.010, 8.05.060, AND 9.48.010 AND TITLE 8 TO INCREASE THE MAXIMUM PENALTY FOR CERTAIN OFFENSES; AMENDING CHAPTER 9.26 REGARDING SIGNS FOR MAXIMUM SPEED LIMITS; AMENDING CHAPTER 9.28 TO REDEFINE PREVIOUS CONVICTIONS FOR PURPOSES OF IMPOUNDMENT AND FORFEITURE OF VEHICLES; AND FURTHER AMENDING CHAPTER 9.28 TO REQUIRE PROOF OF VEHICLE INSURANCE PRIOR TO RELEASE OF VEHICLES.

The State of Alaska, through 2002 SLA CH. 131, has amended various statutes to increase the maximum fines that may be imposed upon criminal defendants convicted of Class A and B misdemeanors, as well as violations. The maximum fine for Class A misdemeanors has been increased from \$5,000.00 to \$10,000.00. The maximum fine for Class B misdemeanors has been increased from \$1,000.00 to \$2,000.00. The maximum fine for violations (also sometimes called infractions) has been increased from \$300.00 to \$500.00. This ordinance changes municipal codes to reflect the increases in those categories of municipal crimes which contain corresponding penalties.

The ordinance increases the maximum jail time for leaving the scene of an accident from 30 days to 90 days.

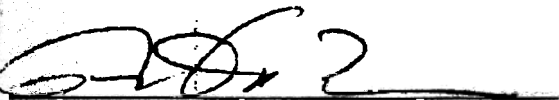
A recent magistrate's decision holds that the Municipality cannot cite under its own code those speeders on highways and streets where the speed limit signs are posted by the State (New Seward Highway, for example). The ordinance modifies chapter 9.26 so that the Municipality can cite speeders under its own code where the State, not the Municipality, posts maximum speed limit signs.

The Municipality previously enacted new laws providing for impound or forfeiture of vehicles where the driver is convicted of failing to have a license (DWLR/S/C) or failing to have insurance (DWOI). The level of penalty to be applied upon criminal conviction in the parallel civil case is dependent on whether the driver has previous convictions, which can include any combination of DUI, DWLR/S/C, or DWOI. This promotes the intended goal of getting repeat offenders of these laws off the streets, especially where these offenses often occur in multiple combinations. In application, however, certain

2 results may not have been intended by the Assembly. For instance, if convicted
3 failing to have insurance for the first time, a driver would have no impound penalty
4 the innocent car owner might get a civil impound or forfeiture if the driver had previous
5 convictions for DUI. This is primarily a result of differences in criminal and
6 proceedings and the different definitions of "previous conviction" used in
7 proceedings. In order to avoid this result, the ordinance matches the civil definition
8 "previous conviction" with that used in criminal proceedings.

9 The ordinance also authorizes the Municipality to require proof of insurance and
10 affidavit of insurance prior to releasing vehicles back to owners, unless the vehicle is
11 inoperable.

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13 I recommend passage of the ordinance.

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18 Assembly Chair Traini
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AM 390-2003

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