

Submitted by: Assemblymember Dan Coffey  
Prepared by: Department of Assembly  
For reading: February 1, 2005

*Postponed indefinitely 2/15/05*

**ANCHORAGE, ALASKA  
AO NO. 2005-25**

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUBMITTING A  
BALLOT PROPOSITION TO THE QUALIFIED VOTERS OF THE MUNICIPALITY OF  
ANCHORAGE AT THE REGULAR ELECTION OF APRIL 5, 2005, TO REPEAL IN ITS  
ENTIRETY ANCHORAGE MUNICIPAL CHARTER ARTICLE XXI, MUNICIPAL  
VEHICLE CODE ENFORCEMENT STANDARDS .**

WHEREAS, Passage of Proposition 3 in 1997 prohibited any persons other than a sworn police officer to enforce any parking violations and issue parking citations or vehicle impounds without a police officer's response to the scene and signature; and

WHEREAS, parking and right-of-way violations, obstructions to fire apparatus equipment, and junk vehicles on public streets have significantly increased in Anchorage, yet enforcement is limited to sworn police officers issuing citations in person, with a resultant impact on the public's health, safety, and welfare; and

WHEREAS, the Anchorage Police Department statistics from 2001 reveal that approximately 90% of the calls to the department for a Community Service Officer were to handle parking enforcement and where there was no practical reason for a police officer to also respond to the scene; and

WHEREAS, sworn police officers will continue to enforce vehicle violations, including but not limited to any and all civil or criminal statutes, codes, ordinances or regulations which apply to the regulation of vehicles and which currently exist or may exist in the future; and

WHEREAS, companion Ordinance Serial No. 2005-26 amends the definitions found in the Vehicle and Traffic Code to define a peace officer and will become effective upon passage of the ballot proposition set forth in this ordinance; and

WHEREAS, Charter Section 18.01 provides that the Charter may only be amended upon the concurrence of a majority of the qualified voters of Anchorage.

NOW THEREFORE THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** A ballot proposition containing substantially the following language shall be submitted to the qualified voters of the Municipality in the regular municipal election on April 5, 2005.

Proposition \_\_

**TO REPEAL ANCHORAGE MUNICIPAL CHARTER  
ARTICLE XXI. MUNICIPAL VEHICLE CODE  
ENFORCEMENT STANDARDS .**

Shall Anchorage Municipal Charter Article XXI. Municipal Code Enforcement Standards, as set forth below, be repealed in its entirety? [BRACKETED] language is deleted.

**[ARTICLE XXI. MUNICIPAL VEHICLE CODE ENFORCEMENT STANDARDS]**

**[SECTION 21.01. VEHICLE VIOLATION ENFORCEMENT.]**

[NO ENFORCEMENT OF ANY VEHICLE VIOLATION, WHETHER THE VEHICLE IS PARKED OR IN MOTION MAY BE PERFORMED BY THE MUNICIPALITY OF ANCHORAGE BY ANY PERSONS OTHER THAN A REGULARLY SWORN POLICE OFFICER WHO MEETS THE STANDARDS SET FORTH IN A.S. 18.65.290(5)(A) OR (B). SUCH ENFORCEMENT INCLUDES, BUT IS NOT LIMITED TO, ANY AND ALL CIVIL OR CRIMINAL STATUTES, CODES, ORDINANCES OR REGULATIONS WHICH APPLY TO THE REGULATION OF VEHICLES AND WHICH CURRENTLY EXIST OR MAY EXIST IN THE FUTURE.]

**[SECTION 21.02. PROHIBITED VEHICLE IMPOUND, TOWING AND TRANSPORTATION FROM PUBLIC STREETS AND EMERGENCY EXCEPTION.]**

[NO VEHICLE MAY BE IMPOUNDED, TOWED, OR TRANSPORTED FROM UPON THE PUBLIC STREETS IN THE MUNICIPALITY OF ANCHORAGE WITHOUT THE WRITTEN PERMISSION OF EITHER THE OWNER OR THE OPERATOR OF THE VEHICLE, A VALID COURT ORDER, OR UNLESS AN IMPOUND NOTICE IS PLACED ON THE VEHICLE BY A POLICE OFFICER QUALIFIED AS SET FORTH IN SECTION 21.01 ABOVE. THIS SHALL NOT PROHIBIT NECESSARY EMERGENCY ACTION IN THE EVENT THAT A VEHICLE PRESENTS AN IMMEDIATE THREAT TO LIFE OR PUBLIC SAFETY.]

**[SECTION 21.03. LIABILITY FOR IMPROPER IMPOUND, TOWING AND TRANSPORTATION; PRIVATE RIGHTS.]**

[TOWING, IMPOUNDING OR TRANSPORTING A VEHICLE WITHIN THE MUNICIPALITY OF ANCHORAGE, UNLESS SUCH IS IN CONFORMITY

1 WITH THE REQUIREMENTS OF THESE VEHICLE CODE STANDARDS,  
2 SHALL BE CONSIDERED A WRONGFUL TAKING OF PROPERTY AS TO  
3 THE OWNER OR OPERATOR FOR WHICH CIVIL DAMAGES TO THE  
4 FULL EXTENT PERMITTED BY LAW SHALL BE AVAILABLE. WITHOUT  
5 LIMITATION AS TO OTHER DAMAGES, ANY DAMAGES SUSTAINED  
6 BY A VEHICLE UPON OR AFTER BEING IMPOUNDED, TOWED, OR  
7 TRANSPORTED IN A FASHION NOT IN CONFORMITY WITH THESE  
8 VEHICLE CODE ENFORCEMENT STANDARDS SHALL CONCLUSIVELY  
9 BE PRESUMED TO BE THE FAULT OF ANY PERSONS IMPOUNDING,  
10 TOWING, OR TRANSPORTING THE VEHICLE. NOTHING IN THIS  
11 SECTION SHALL BE CONSTRUED TO DIMINISH OR INFRINGE UPON  
12 THE RIGHTS OF PRIVATE PROPERTY OWNERS TO ENFORCE THEIR  
13 OWN PROPERTY RIGHTS IN THIS REGARD.]

14  
15 **[SECTION 21.04. PROHIBITED ENFORCEMENT AND DELEGATION**  
16 **OF ENFORCEMENT; ENFORCEMENT IN PERSON; PROHIBITED**  
17 **ADMINISTRATIVE ENFORCEMENT.]**

18 [ENFORCEMENT OF ANY PART OF THE PRESENT OR FUTURE STATE  
19 OR ANCHORAGE MUNICIPAL VEHICLE LAWS OR CODES BY ANYONE  
20 OTHER THAN POLICE OFFICERS QUALIFIED AS SET FORTH IN  
21 SECTION 21.01 ABOVE IS PROHIBITED. THE ANCHORAGE ASSEMBLY  
22 MAY NOT DELEGATE VEHICLE RELATED ENFORCEMENT POWERS TO  
23 ANY AGENCY OTHER THAN THE POLICE OFFICERS AS DESCRIBED IN  
24 SECTION 21.01 ABOVE, NOR SHALL THEY DELEGATE BY ORDINANCE,  
25 CONTRACT, OR OTHERWISE SUCH POWERS TO ANYONE OTHER  
26 THAN POLICE OFFICERS QUALIFIED AS SET FORTH IN SECTION 21.01  
27 ABOVE. ANY AND ALL VEHICLE LAW OR CODE ENFORCEMENT  
28 ACTIVITY BY SUCH A POLICE OFFICER MUST BE PERFORMED IN  
29 PERSON. ANY VEHICLE LAW (SIC) OR CODE ENFORCEMENT POWERS  
30 WHICH MAY CURRENTLY EXIST, OTHER THAN THOSE VESTED IN  
31 POLICE OFFICERS AS DESCRIBED IN SECTION 21.01 ABOVE, ARE  
32 NULL AND VOID. REVIEW OF ALL VEHICLE LAW AND CODE  
33 ENFORCEMENT WITHIN THE MUNICIPALITY OF ANCHORAGE SHALL  
34 BE, AND REMAIN WITH, THE JUDICIAL BRANCH OF GOVERNMENT AS  
35 DESCRIBED IN ARTICLE IV OF THE ALASKA CONSTITUTION, WITH  
36 SUCH RIGHT OF APPEAL AS THE LAW PROVIDES. THIS LAW IS NOT  
37 TO BE CONSTRUED AS DEFINING THE JURISDICTION OF COURTS OR  
38 PRESCRIBING THEIR RULES, RATHER, THIS ORDINANCE DECLARES  
39 THAT THE MUNICIPALITY SHALL NOT ENFORCE ANY MOTOR  
40 VEHICLE ORDINANCE OR POLICY BY WAY OF ADMINISTRATIVE  
41 PROCESS.]  
42

**[SECTION 21.05. SUPREMACY OF MUNICIPAL VEHICLE CODE ENFORCEMENT STANDARDS.]**

[THESE MUNICIPAL VEHICLE CODE ENFORCEMENT STANDARDS SHALL SUPERSEDE ANY AND ALL MUNICIPALITY OF ANCHORAGE LAWS, ORDINANCES, ADMINISTRATIVE RULES OR JUDICIAL DECISIONS AND THE LIKE WHICH ARE INCONSISTENT WITH THEM.]

**[SECTION 21.06. PRIVATE RIGHTS; PARTIES; ESTOPPEL OF SOVEREIGN IMMUNITY; DAMAGES AND ATTORNEYS FEES.]**

[PRIVATE CITIZENS MAY ENFORCE THEIR RIGHTS UNDER THE PROVISIONS OF THIS INITIATIVE BY CIVIL ACTION. THE MUNICIPALITY OF ANCHORAGE SHALL BE A NAMED DEFENDANT IN ANY SUCH ACTION. THE MUNICIPALITY OF ANCHORAGE SHALL NOT BE ALLOWED TO ASSERT CLAIMS OF SOVEREIGN IMMUNITY UNDER ANY THEORY OF LAW OR EQUITY TO DEFEAT SUCH CITIZEN CLAIMS. PRIVATE CITIZENS WHO ARE THE PREVAILING PARTY IN ANY ENFORCEMENT ACTION AGAINST THE MUNICIPALITY OF ANCHORAGE SHALL RECEIVE TREBLE DAMAGES AND FULL ATTORNEY FEES AND COSTS.]

(Prop 3 of 4-15-97 election, effective 6-6-97)

YES [ ]

NO [ ]

**Section 2.** That Article XXI of the Home Rule Charter set out in the proposition of Section 1 of this ordinance shall be repealed only if approved by a majority of the qualified voters voting on the question at the regular municipal election of April 5, 2005.

**Section 3.** Section 1 of this ordinance shall become effective immediately upon passage and approval by a two-thirds vote of the Assembly as set forth in Charter Section 18.02. Section 2 shall become effective upon certification of the April 5, 2005, election, but only if the proposition is passed by a majority of the qualified voters voting on the question contained therein.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_

Chair

ATTEST:

\_\_\_\_\_

Municipal Clerk