

Submitted by: Assembly Vice Chair COFFEY
Prepared by: Assembly Counsel
For reading: December 20, 2005

CLERK'S OFFICE

Date: 1-31-06

**ANCHORAGE, ALASKA
AO NO. 2005-191**

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUBMITTING A BALLOT
2 PROPOSITION TO THE QUALIFIED VOTERS OF THE MUNICIPALITY OF ANCHORAGE AT THE
3 REGULAR ELECTION OF APRIL 4, 2006, TO AMEND ANCHORAGE MUNICIPAL CHARTER
4 ARTICLE XXI, MUNICIPAL VEHICLE CODE ENFORCEMENT STANDARDS.
5

6
7 WHEREAS, since passage of Proposition 3 in 1997, parking and right-of-way enforcement is
8 limited under Charter Article XXI to sworn and qualified police officers issuing citations in
9 person; and

10
11 WHEREAS, Assembly Ordinance No. 2005-26, passed and approved on July 12, 2005, amends
12 the definitions found in the Vehicle and Traffic Code to define peace officer to include police
13 officers and other municipal employees designated in writing by the Chief of Police, to become
14 effective upon passage of the ballot proposition set forth in this companion ordinance;
15

16 NOW THEREFORE THE ANCHORAGE ASSEMBLY ORDAINS:
17

18 **Section 1.** A ballot proposition in substantially the following form shall be placed on the
19 ballot and submitted to the qualified voters of the Municipality at the regular municipal election
20 of April 4, 2006, amending Charter Article XXI. Amendments are shown with **new language in**
21 **bold and underlined**. Language to be deleted is [CAPITALIZED AND IN BRACKETS].
22 (*Subsections 21.03, 21.05, and 21.06 are not affected, and therefore not set out.*)
23

24 **Proposition __**

25
26 **CHARTER AMENDMENT**

27
28 **AMENDMENTS TO MUNICIPALITY OF ANCHORAGE HOME RULE**
29 **CHARTER, ARTICLE XXI, MUNICIPAL VEHICLE CODE ENFORCEMENT**
30 **STANDARDS, TO AUTHORIZE TRAFFIC VIOLATION ENFORCEMENT BY**
31 **MUNICIPAL PEACE OFFICERS DESIGNATED IN WRITING BY THE CHIEF**
32 **OF POLICE.**

33
34 Shall the Municipality of Anchorage Home Rule Charter, Article XXI, Municipal
35 Vehicle Code Enforcement Standards, be amended as follows to authorize traffic
36 violation enforcement by municipal peace officers designated in writing by the
37 Chief of Police?
38

1 Section 21.01 Vehicle violation enforcement.

2
3 No enforcement of any vehicle violation, whether the vehicle is parked or
4 in motion may be performed by the Municipality of Anchorage by any
5 persons other than a regularly sworn police officer who meets the
6 standards set forth in **A.S. 18.65.290(7)** [A.S. 18.65.290(5)(A) or (B)] **or a**
7 **municipal employee designated in writing as a peace officer by the**
8 **Chief of Police**. Such enforcement includes, but is not limited to, any and
9 all civil or criminal statutes, codes, ordinances or regulations which apply
10 to the regulation of vehicles and which currently exist or may exist in the
11 future.

12 (Prop. 3 of 4-15-97 election, effective 6-6-97, § 1)

13
14 Section 21.02 Prohibited vehicle impound, towing and transportation
15 from public streets and emergency exception.

16
17 No vehicle may be impounded, towed, or transported from upon the public
18 streets in the Municipality of Anchorage without the written permission of
19 either the owner or the operator of the vehicle, a valid court order, or
20 unless an impound notice is placed on the vehicle by a police officer **or**
21 **peace officer** qualified as set forth in Section 21.01 above. This shall not
22 prohibit necessary emergency action in the event that a vehicle presents an
23 immediate threat to life or public safety.

24 (Prop. 3 of 4-15-97 election, effective 6-6-97, § 2)

25
26 Section 21.03 Liability for improper impound, towing and transportation;
27 private rights.

28 (No change.)

29
30 Section 21.04 Prohibited enforcement and delegation of enforcement;
31 enforcement in person; prohibited administrative
32 enforcement.

33
34 Enforcement of any part of the present or future state or Anchorage
35 municipal vehicle laws or codes by anyone other than police officers **or**
36 **peace officers** qualified as set forth in Section 21.01 above is prohibited.
37 The Anchorage Assembly may not delegate vehicle related enforcement
38 powers to any agency other than the police officers **or peace officers** as
39 described in Section 21.01 above, nor shall they delegate by ordinance,
40 contract, or otherwise such powers to anyone other than police officers **or**
41 **peace officers** qualified as set forth in Section 21.01 above. Any and all
42 vehicle law or code enforcement activity by such a police officer **or peace**
43 **officer** must be performed in person. Any vehicle **law** [LAY (SIC)] or

code enforcement powers which may currently exist, other than those vested in police officers or peace officers as described in Section 21.01 above, are null and void. Review of all vehicle law and code enforcement within the Municipality of Anchorage shall be, and remain with, the judicial branch of government as described in Article IV of the Alaska Constitution, with such right of appeal as the law provides. This law is not to be construed as defining the jurisdiction of courts or prescribing their rules, rather, this ordinance declares that the Municipality shall not enforce any motor vehicle ordinance or policy by way of administrative process. (Prop. 3 of 4-15-97 election, effective 6-6-97, § 4)

Section 21.05 Supremacy of municipal vehicle code enforcement standards.

(No change.)

Section 21.06 Private rights; parties; estoppel of sovereign immunity; damages and attorneys fees.

(No change.)

YES []

NO []

Section 2. The proposition set out in Section 1 of this ordinance shall be incorporated into the Home Rule Charter if, and only if, approved by a majority of the qualified voters voting on the question at the regular election of April 4, 2006.

Section 3. Section 1 of this ordinance shall become effective upon passage and approval by a two-thirds vote of the Assembly as set forth in Charter Section 18.02. Section 2 of this ordinance shall become effective upon certification of the April 4, 2006, election if, and only if, the proposition is passed by a majority of the qualified voters voting on the question contained therein.

PASSED AND APPROVED by the Anchorage Assembly this 31st day of January, 2006.

Anna L. Fairclough
Chair

ATTEST:

Beth S. Jansen
Municipal Clerk

CLERK'S OFFICE
AMENDED AND APPROVED
Date: 7-12-05

Submitted by: Assemblymembers Dan Coffey, Bauer, Birch, Fairclough, Jennings, Ossiander, Shamberg, Stout, Sullivan, Tesche
Prepared by: Department of Assembly
For reading: February 1, 2005

ANCHORAGE, ALASKA
AO NO. 2005-26

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
2 ANCHORAGE MUNICIPAL VEHICLE AND TRAFFIC CODE SECTION 9.04.010,
3 DEFINITIONS, TO REPEAL PARKING ENFORCEMENT OFFICER, DEFINE A
4 PEACE OFFICER, AND TO INCLUDE PARKING ENFORCEMENT BY POLICE
5 OFFICERS TOGETHER WITH TRAFFIC ENFORCEMENT; AND AMENDING
6 SECTION 9.30.240, ENFORCEMENT OFFICERS, TO INCLUDE A PEACE OFFICER
7 FOR VIOLATIONS OF CHAPTERS 9.30, 9.32, AND 9.34, AND PROHIBITING
8 PHOTO RADAR.
9

10
11 **Section 1.** Anchorage Municipal Code Section 9.04.010, Definitions, is amended to read as
12 follows:
13

14 **9.04.010 Definitions.**
15

16 The following words, terms and phrases, when used in this title, shall have the meanings
17 ascribed to them in this section, except where the context clearly indicates a different
18 meaning. (CAC 9.04.010; AO No. 78-72)
19

20 [~~PARKING ENFORCEMENT OFFICER~~ MEANS A PERSON DESIGNATED IN
21 WRITING BY THE TRAFFIC ENGINEER TO ENFORCE CHAPTERS 9.30, 9.32
22 AND 9.34.] (AO No. 283-76; AO No. 78-72)
23

24 ~~Peace officer means 1) every sworn police officer of the Anchorage Police Department or~~
25 ~~any police department employee designated in writing by the Police Chief; 2) a state or~~
26 ~~municipal fire inspector designated in writing by the Fire Chief for the purpose of issuing~~
27 ~~citations for vehicles parked illegally in fire lanes, obstructing fire hydrants, blocking fire~~
28 ~~department connections, or any other threat to public welfare and life safety due to~~
29 ~~obstructing access by emergency apparatus; 3) a person designated in writing by the~~
30 ~~Development Services Director for the purpose of issuing citations for vehicles parked~~
31 ~~illegally in a right-of-way; 4) a person designated in writing by the Traffic Engineer to~~
32 ~~enforce chapters 9.30, 9.32 and 9.34.~~

Peace officer means every sworn police officer of the Anchorage Police Department or any municipal employee designated in writing by the Chief of Police.

Police officer means every officer of the municipal police department or any officer authorized **in writing by the Chief of Police** to direct or regulate traffic or to make arrests for violations of traffic regulations or enforce parking violations as defined in AMC Chapters 9.30, 9.32 and 9.34. (CAC 9.04.400; AO No. 78-72)

Section 2. That Anchorage Municipal Code Section 9.30.240, Enforcement Officers, is amended to read as follows:

9.30.240 Enforcement officers; photo radar prohibited.

Notwithstanding any other provision of this Code, the provisions of chapters 9.30, 9.32 and 9.34 may be enforced by any police officer or peace officer, as defined in Section 9.04.010. The use of photo radar in the municipality is prohibited.

(AO No. 283-76; AO No. 78-72; AO No. 82-186(S); AIM 33-83; AO No. 89-50; AO No. 99-136, § 2, 10-26-99)

Section 3. AMC 9.04.010 definitions *peace officer* and *police officer*, and AMC 9.30.240 may only be amended or repealed by a two-thirds vote of the Assembly.

Section 4. This ordinance shall ~~become~~ shall become effective upon certification of the ~~April 5, 2005~~ **April 4, 2006**, general election, but only if the ballot proposition repealing Anchorage Charter Article XXI relating to municipal vehicle code enforcement standards is passed by a majority of the qualified voters voting on the question contained in the proposition.

PASSED AND APPROVED by the Anchorage Assembly this 12th day of July, 2005.

Anna J. Fairclough
Chair

ATTEST:

Barbara E. Gunders
Municipal Clerk

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

AO 2005-191

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED
	BALLOT PROPOSITION - AMEND CHARTER ARTICLE XXI, MUNICIPAL VEHICLE CODE ENFORCEMENT STANDARDS		12/13/05
			Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
2	DEPARTMENT NAME		DIRECTOR'S NAME
	Assembly		Anna Fairclough, Chair
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER
	Susan B. Lutz - Assembly Counsel's Office		343-4572
4	COORDINATED WITH AND REVIEWED BY		INITIALS
			DATE
	Mayor		
	Municipal Clerk		
	Municipal Attorney		
	Employee Relations		
	Municipal Manager		
	Cultural & Recreational Services		
	Fire		
	Health & Human Services		
	Merrill Field Airport		
	Municipal Light & Power		
	Office of Management and Budget		
	Police		
	Port of Anchorage		
	Public Works		
	Solid Waste Services		
	Transit		
	Water & Wastewater Utility		
	Executive Manager		
	Community Planning & Development		
	Finance, Chief Fiscal Officer		
	Heritage Land Bank		
	Management Information Services		
	Property & Facility Management		
	Purchasing		
	Other		
5	Special Instructions/Comments		
	CONSENT AGENDA - INTRODUCTION		
6	ASSEMBLY HEARING DATE REQUESTED		7
	12/20/05		
			1/24/06

2005 DEC 13 PM 12:16
 M.M.A.
 CLERK'S OFFICE