

See AO 2006-89(S)

Submitted by: Assembly Member BAUER
Prepared by: Assembly Counsel
For reading: May 23, 2006

ANCHORAGE, ALASKA
AO NO. 2006-89

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
2 ANCHORAGE MUNICIPAL CODE SECTION 9.28.026, IMPOUNDMENT AND
3 FORFEITURE OF VEHICLE, TO MAKE IMPOUNDMENT OF A VEHICLE FOR
4 CITATION OR ARREST FOR CERTAIN SERIOUS TRAFFIC VIOLATIONS
5 MANDATORY EXCEPTING PROOF OF INSURANCE VIOLATIONS; AMENDING
6 AMC 9.28.030, INSURANCE OR OTHER SECURITY REQUIRED, TO CLARIFY THE
7 CRIMINAL OFFENSE AND PROVIDE A MINIMUM MONETARY PENALTY OF \$1,000
8 FOR EACH CONVICTION.
9

10
11 THE ANCHORAGE ASSEMBLY ORDAINS:

12
13 **Section 1.** Anchorage Municipal Code section 9.28.026, Impoundment and Forfeiture
14 of Vehicle, is hereby amended to read as follows:

15
16 **9.28.026 Impoundment and forfeiture of vehicle.**

17
18 A. Mandatory impound; discretionary impound.

19
20 1. A motor vehicle that is operated, driven or in the actual physical
21 control of an individual arrested for or charged with an alleged violation of
22 Section 9.28.019, pertaining to driving while license
23 suspended/revoked/cancelled, Section 9.28.020, pertaining to driving
24 while under the influence, an alleged violation of Section 9.28.022,
25 pertaining to refusal to submit to chemical tests, [SECTION 9.28.030,
26 PERTAINING TO FAILURE TO HAVE INSURANCE,] or Section 8.65.030,
27 pertaining to soliciting, shall [MAY] be impounded and may be forfeited to
28 the municipality in accordance with this section.

29
30 2. A motor vehicle that is operated, driven or in the actual physical
31 control of an individual arrested for or charged with an alleged violation of
32 Section 9.28.030B, pertaining to operating a motor vehicle without the
33 required security in effect at the time of operation, may be impounded
34 through a seizure of the vehicle incident to the citation or arrest, at the
35 discretion of the officer. If the driver alleges that the required security is in
36 effect and identifies an entity registered in the state to provide security, but
37 the driver fails to provide the officer with the required proof, the officer

shall not seize the vehicle for impoundment without first making a reasonable attempt to contact the entity for telephonic verification.

C. General provisions.

1. In the case of an alleged violation of Section 9.28.019, 9.28.020, 9.28.022, [SUBSECTION 9.28.030B], or Section 8.65.030, and in addition to the penalties set forth in those sections, the vehicle used in the alleged violation shall be impounded for 30 days if the person driving, operating, or in the actual physical control of the vehicle has not been previously convicted and shall be forfeited to the municipality if the person driving, operating, or in the actual physical control of the vehicle has been previously convicted. Impoundment may be accomplished through a seizure of the vehicle incident to an arrest or pursuant to a court order entered in the course of civil or criminal enforcement proceedings. Impoundment through a seizure of the vehicle incident to an arrest or citation for an alleged violation of Section 9.28.019, 9.28.020, 9.28.022 or 8.65.030 is mandatory. Impoundment through a seizure of the vehicle incident to an arrest or citation for an alleged violation of Section 9.28.030 is at the discretion of the arresting officer.

D. Impoundment.

2. A vehicle may be seized for impound under the circumstances set forth in subsection E.3 [D.3] of this section.

6. [A VEHICLE IMPOUNDED FOR A FIRST OFFENSE UNDER AMC 9.28.030B.1. OR B.2. MAY BE RELEASED TO THE OWNER UPON PAYMENT OF A \$200.00 ADMINISTRATIVE FEE, PLUS ANY FEES OWED TO THE TOWING AND STORAGE CONTRACTOR. THIS] Civil release of the vehicle does not affect or change the criminal proceedings incurred as a result of the violation.

E. Forfeiture.

3. A motor vehicle may be seized and towed to a secure location by a peace officer or a peace officer's designee upon an order issued by a court having jurisdiction over the motor vehicle upon a showing of probable cause that the motor vehicle was operated in violation of [MAY BE FORFEITED OR IMPOUNDED UNDER THIS SECTION.] Section

9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030. Seizure without a court order may be made if:

- a. The impoundment is incident to an arrest;
- b. The motor vehicle has been ordered impounded or forfeited and that order has not yet been executed; or
- c. There is probable cause to believe that the motor vehicle was operated, driven or in the actual physical control of an individual in violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030.

If the seizure occurs incident to an arrest or otherwise prior to a conviction or court ordered impoundment the vehicle may not be held more than two days without a court order obtained to continue its detention. For purposes of computing the two-day period, the day the vehicle was seized is not to be included. For purposes of computing the two-day period, Saturdays, Sundays, and legal holidays are not to be included. [A MOTOR VEHICLE IMPOUNDED UNDER THIS SUBSECTION MAY NOT BE HELD FOR MORE THAN TWO DAYS WITHOUT A COURT ORDER OBTAINED TO CONTINUE ITS DETENTION.]

(AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-163(S), §§ 10--19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No. 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12--14, 4-22-03; AO No. 2003-106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2, 6-1-04; AO No. 2004-61, § 1, 3-2-04)

Section 2. Anchorage Municipal Code Section 9.28.030, Insurance or Other Security Required, is amended by repealing subsections B and C, and adopting a new subsection B to read as follows:

9.28.030 Insurance or other security required.

A. The owner or operator of a motor vehicle shall have a current motor vehicle liability policy, or other security that complies with Alaska Statutes Title 28, when operating the vehicle within the municipality.

B. A person shall have proof of motor vehicle liability insurance in the person's immediate possession at all times when driving a motor vehicle, and shall present the proof for inspection upon the demand of a police officer.

However, a person charged with violating this section may not be convicted if the person produces in court or in the office of the municipal prosecutor proof of motor vehicle liability insurance previously issued to the person that was valid at the time of the person's arrest or citation.

[IT IS UNLAWFUL:

1. FOR ANY PERSON TO OPERATE A MOTOR VEHICLE WITHOUT PROOF OF THE REQUIRED SECURITY IN THE VEHICLE;
2. FOR ANY PERSON TO FAIL TO PRODUCE PROOF OF SECURITY TO A POLICE OFFICER UPON DEMAND; OR
3. FOR ANY PERSON TO OPERATE A MOTOR VEHICLE WITHOUT THE REQUIRED SECURITY IN EFFECT AT THE TIME OF OPERATION.]

[C]. [A PERSON CONVICTED OF VIOLATING SUBSECTIONS B.1. OR B.2. SHALL PAY A FINE OF \$100.00 UNLESS THE PERSON PRODUCES TO AN AUTHORIZED REPRESENTATIVE OF THE ANCHORAGE POLICE DEPARTMENT, OR AT TRIAL, PROOF OF THE REQUIRED SECURITY AND THE SECURITY HAD BEEN ISSUED TO THE PERSON PRIOR TO THE TIME OF THE OFFENSE AND WAS VALID AT THE TIME OF THE OFFENSE, IN WHICH INSTANCE THE FINE SHALL BE \$50.00.]

C [D]. Upon conviction under subsection B[.3.] of this section, the court:

1. Shall impose a minimum penalty [JAIL SENTENCE] of:
 - a. A fine of not less than \$1,000 if the person has not been previously convicted;
 - b [a]. A jail sentence of not [NOT] less than 72 consecutive hours with 72 hours suspended and a fine of not less than \$1,000 [\$250.00] if the person has been previously convicted;
 - c [b]. A jail sentence of not [NOT] less than 72 consecutive hours and a fine of not less than \$1,000 [\$500.00] if the person has been previously convicted twice;
 - d [c]. A jail sentence of not [NOT] less than 20 days and a fine of not less than \$1,000[.00] if the person has been previously convicted three times;

e [d]. A jail sentence of not [NOT] less than 60 days and a fine of not less than \$1,000 if the person has been previously convicted four or more times.

(CAC 9.12.010; AO No. 267-76; AO No. 78-72; AO No. 78-230(S); AO No. 83-168, 10-17-83; AO No. 89-52; AO No. 91-57(S); AO No. 2001-139, § 1, 7-1-02; AO No. 2002-125, § 7, 8-20-02; AO No. 2002-175, § 1, 1-14-03; AO No. 2003-73, §§ 15, 16, 4-22-03; AO No. 2003-106, §§ 9, 10, 7-1-03; AO No. 2003-157, § 1, 12-17-03)

Section 3. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2006.

Chair

ATTEST:

Municipal Clerk

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

AO 2006-89

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT IMOUNDMENT AND FORFEITURE OF VEHICLE	DATE PREPARED 5/23/06
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Dan Sullivan, Chair
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Julia Tucker - Assembly Counsel	HIS/HER PHONE NUMBER 343-4719
4	COORDINATED WITH AND REVIEWED BY	INITIALS
	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	
	LAID ON THE TABLE ITEM - CONSENT AGENDA-INTRODUCTION	
6	ASSEMBLY HEARING DATE REQUESTED 5/23/06	7
		PUBLIC HEARING DATE REQUESTED 6/6/06



MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM
NO. AIM 71-2006

Meeting Date: June 6, 2006

From: Assemblymember Bauer
Subject: Summary of Economic Effects for AO 2006-89

Attached to this memo is the Summary of Economic Effects for AO 2006-89, regarding an ordinance of the Anchorage Municipal Assembly amending AMC section 9.28.026, impounding and forfeiture of vehicle, to make impoundment of a vehicle for citation or arrest for certain serious traffic violations mandatory excepting proof of insurance violations; amending AMC 9.28.030, insurance or other security required, to clarify the criminal offense and provide a minimum monetary penalty of \$1000 for each conviction.

Prepared By: Steven B. King, Utility Budget Analyst
Reviewed By: Barbara E. Gruenstein and Guadalupe Marroquin
Submitted By: Assemblymember Bauer

MUNICIPALITY OF ANCHORAGE

Summary of Economic Effects -- General Government

An ordinance of the Anchorage Municipal Assembly amending AMC section 9.28.026, impounding and forfeiture of vehicle, to make impoundment of a vehicle for citation or arrest for certain serious traffic violations mandatory excepting proof of insurance violations; amending AMC 9.28.030, insurance or other security required, to clarify the criminal offense and provide a minimum monetary penalty of \$1000 for each conviction.

AO Number: 2006-89

Title:

Sponsor: Assemblymember Bauer

Preparing Agency: Assembly

Others Impacted: APD, Municipal Legal Department

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	FY06	FY07	FY08	FY09	FY10
Operating Expenditures					
1000 Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -
2000 Non-Labor	1,607	1,607	1,607	1,607	1,607
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ 1,607	\$ 1,607	\$ 1,607	\$ 1,607	\$ 1,607
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ 1,607	\$ 1,607	\$ 1,607	\$ 1,607	\$ 1,607

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

For the most part, the changes in the AO will serve to better reflect the policies already adhered to by the APD. The significant changes are in the fines imposed for lack of the required insurance or other security. First time offenses will result in an increase of \$1000 per incident; with a current average of 1,100 first time offenses per year this totals an increase of \$1,100,000. Second time offenses will result in an increase of \$750 per incident; with a current average of 650 second time offenses per year this totals an increase of \$487,500. Third time offenses will result in an increase of \$500 per incident; with a current average of 40 third time offenses per year this totals an increase of \$20,000. Subsequent offenses do not result in an increase fine from previous levels. This total equals \$1,607,500.

It is important to note that it is beyond the scope of this summary to determine the deterrent effect that this AO may have. As a result, the above numbers reflect an estimate of the increased fine revenue that would be collected if no behavior changes resulted from the enactment of this ordinance.

PRIVATE SECTOR ECONOMIC EFFECTS:

There are no significant private sector economic effects associated with this ordinance beyond the fines paid through incidents of non-compliance.

Prepared by: Steven B. King, Utility Budget Analyst
Reviewed by: Barbara Gruenstein and Guadalupe Marroquin

Telephone: 343-4714
Telephone: 343-4311 and 343-4376

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

AIM 71 -2006

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT SEE FOR AO 2006-89	DATE PREPARED 6/2/06	
		Indicate Documents Attached <input type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input checked="" type="checkbox"/> AIM	
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Dan Sullivan, Chair	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Steven B. King, Utility Budget Analyst	HIS/HER PHONE NUMBER 343-4717	
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		
	Addendum _ New Public Hearings Item I.		
6	ASSEMBLY HEARING DATE REQUESTED 6/6/06	7	PUBLIC HEARING DATE REQUESTED 6/6/06

2006 JUL -2 PM 12:58
CLERK'S OFFICE