

Submitted by: Assembly Member Bauer
Assembly Member TRAINI
Prepared by: Assembly Counsel
and Department of Law
For reading: October 31, 2006

CLERK'S OFFICE

APPROVED

Date: 11-14-06

ANCHORAGE, ALASKA
AO NO. 2006-153

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
ANCHORAGE MUNICIPAL CODE SECTION 9.28.030 TO ADOPT LANGUAGE
INADVERTENTLY DELETED IN AO 2006-89(S), RETROACTIVE TO JUNE 6,
2006.

WHEREAS, the Code Revisor noted an unintentional deletion of the lead-in line of
former Anchorage Municipal Code (AMC) subsection 9.28.030D. in AO 2006-
89(S), passed and approved as amended on June 6, 2006; and

WHEREAS, within the deletions to section 9.28.030, the intent was to amend the
lead-in line of subsection 9.28.030D., delete subsection D.1., then re-number and
re-letter the remaining subsections of former subsection 9.28.030D. to become
9.28.030C., as set out below;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 9.28.030, Insurance or Other
Security Required, is 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.

*** *** ***

C. Upon conviction under subsection B. of this section, the court:

1. May impose additional conditions of probation.

2. May not:

a. Suspend execution of sentence or grant probation
except on condition that the person serve a minimum
term of imprisonment and perform required community
work service as provided in subsection 1, of this
subsection; or

b. Suspend imposition of sentence.

3. Except in mitigated circumstances, the court shall impose
more than the mandatory minimum sentence. Mitigated

circumstances do not exist if any of the following circumstances are present:

- a. The defendant's driving conduct caused personal injury or property damage to another;
- b. The defendant failed to stop for a red light or stop sign;
- c. A container of alcoholic beverage was open in the passenger compartment of the defendant's vehicle;
- d. The defendant was on release under AS 12.30.020 or AS 12.30.040 or on probation for DUI or refusal charge or conviction;
- e. The defendant has been previously convicted of reckless driving or leaving the scene of an accident; or
- f. The defendant had a breath test result of 0.15 gram or more of alcohol per 210 liters of the defendant's breath as determined by a chemical test within four hours after the alleged offense was committed.

4. If the person has any interest in the vehicle used in the commission of the offense, the court shall order that:

- a. The vehicle be impounded for 30 days if the person has been previously convicted once; and
- b. The person's interest in the vehicle be forfeited to the municipality if the person has been previously convicted two or more times.

At sentencing the court shall order that any vehicle return bond which has been posted to secure the release of the vehicle be forfeited to the municipality if the vehicle subject to the vehicle return bond is not returned to the custody of the municipality within five days after the sentencing. At sentencing, the court shall order that any vehicle return bond posted to secure the release of the vehicle be exonerated when the vehicle has been returned to the custody of the municipality. At sentencing, the court may also order that any proceeds of any sale, transfer, or encumbrance of the vehicle be forfeited to the municipality if the vehicle has been sold, transferred, or encumbered while the vehicle has been subject to a vehicle return bond. 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. Impound fees shall include the actual cost of impound plus an administrative fee of \$390.00 to offset the municipality's processing costs. Any order of impoundment or forfeiture entered under this subsection is subject to the rights of lienholders, owners, lessors, lessees, and co-owners who are not the person convicted of driving without insurance as those rights are adjudicated in civil proceedings under section 9.28.026. If the municipality has brought a civil action under section 9.28.026 seeking impoundment or forfeiture as against all those with an interest in the vehicle except the person charged with a violation of this section, that civil action shall provide the sole forum in which lienholders, owners, lessors, lessees, and co-owners who claim an interest in the vehicle but are not the person charged with a violation of this section can seek relief.

D[C]. When a person's license is canceled, limited, suspended or revoked, that person shall be informed at the time of the action by the state department of public safety or the court that takes the action that, upon a conviction of driving in the municipality at a time when that person's driver's license or privilege to drive has been canceled, suspended or revoked, or upon a conviction of driving in violation of a limitation of the license, that person will be subject to the mandatory minimum sentence of imprisonment provided for the offense.

*** *** ***

(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; **AO No. 2006-89(S), § 2, 6-6-06**)
[emphasis added]

Section 2. The Code Revisor is instructed to continue re-lettering subsequent subsections of section 9.28.030 through subsection 9.28.030J.

Section 3. This ordinance shall be effective retroactively to June 6, 2006, upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 14th day of
November, 2006.

Dan Sullivan
Chair of the Assembly

ATTEST:

Linda L. Heim
Municipal Clerk
Deputy

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2006-153

Title: AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY
AMENDING ANCHORAGE MUNICIPAL CODE SECTION 9.28.030 TO
ADOPT LANGUAGE INADVERTENTLY DELETED IN AO 2006-89(S),
RETROACTIVE TO JUNE 6, 2006.

Sponsor: Assembly Members Bauer and Traini
Preparing Agency: Assembly Counsel & Department of Law
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)				
	FY06	FY07	FY08	FY09	FY10	
Operating Expenditures						
1000 Personal Services						
2000 Non-Labor						
3900 Contributions						
4000 Debt Service						
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -	
Add: 6000 Charges from Others						
Less: 7000 Charges to Others						
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -	
REVENUES:						
CAPITAL:						
POSITIONS: FT/PT and Temp						
PUBLIC SECTOR ECONOMIC EFFECTS:						
None; AO is corrective only.						

PRIVATE SECTOR ECONOMIC EFFECTS:
None; AO is corrective only.

Prepared by: Rhonda Fehlen Westover, Deputy Municipal Attor Telephone: 343-4545

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 804-2006

Meeting Date: October 31, 2006

1 **From:** ASSEMBLY MEMBERS BAUER AND TRAINI

2
3 **Subject:** AO 2006-153 — AN ORDINANCE OF THE ANCHORAGE
4 MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL
5 CODE SECTION 9.28.030 TO ADOPT LANGUAGE
6 INADVERTENTLY DELETED IN AO 2006-89(S), RETROACTIVE
7 TO JUNE 6, 2006.
8
9

10 During debate and amendments to AO 2006-89(S), the lead-in line for new subsection
11 9.28.030C. was inadvertently deleted. The deletion was identified as the Code Revisor was
12 preparing updates for submission to the Municipal Code Corporation. This ordinance
13 corrects the deletion and provides for retroactive application back to the effective date of
14 AO 2006-89(S).
15

16 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE OF**
17 **THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE**
18 **MUNICIPAL CODE SECTION 9.28.030 TO ADOPT LANGUAGE**
19 **INADVERTENTLY DELETED IN AO 2006-89(S), RETROACTIVE TO JUNE 6,**
20 **2006.**

21 Prepared jointly by: Assembly Counsel and Dept. of Law
22 Respectfully submitted, Assembly Members Bauer and Traini
23
24

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

AO 2006-153

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED	
	AMENDING AMC 9.28.030 TO ADOPT LANGUAGE		10/27/06	
	INADVERTENTLY DELETED IN AO 2006-89(S),			
	RETROACTIVE TO JUNE 6, 2006		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		Daniel A. Sullivan, Chairman	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER	
	Julia Tucker, Assembly Counsel		343-4419	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE	
	Mayor			
	Municipal Clerk			
	Municipal Attorney			
	Employee Relations			
	Municipal Manager			
	Anchorage Parks & Recreation			
	Fire			
	Health & Human Services			
	Merrill Field Airport			
	Municipal Light & Power			
	Office of Management and Budget			
	Police			
	Port of Anchorage			
	Office of Economic & Community Development			
	Solid Waste Services			
	Public Transportation			
	Anchorage Water & Wastewater Utility			
	Executive Manager			
	Planning Department			
	Chief Fiscal Officer			
	Heritage Land Bank			
	Information Technology Department			
	Project Management & Engineering			
	Purchasing			
	Other			
5	Special Instructions/Comments			
	<i>Addendum -</i> Consent Agenda - Introduction			
6	ASSEMBLY HEARING DATE REQUESTED		PUBLIC HEARING DATE REQUESTED	
	10/31/06		11/14/06	

M.O.A.
 2006 OCT 27 PM 1:54
 CLERK'S OFFICE