

CLERK'S OFFICE  
**AMENDED AND APPROVED**  
Date: 6-26-07

Submitted by: ASSEMBLY MEMBER TRAINI and  
VICE CHAIR OSSIANDER  
Prepared by: Assembly Counsel  
For reading: February 27, 2007

**ANCHORAGE, ALASKA**  
**AO NO. 2007-43**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION**  
2 **25.10.060, USE OF MUNICIPAL LAND, BY ENACTING A NEW SUBSECTION (E)**  
3 **PROHIBITING IMPOSITION OF PERMIT FEES BASED ON A PERCENTAGE OF**  
4 **CONCESSION REVENUE, AND ALLOWING FEE REDUCTIONS WHERE USERS**  
5 **ASSUME MAINTENANCE RESPONSIBILITIES.**

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8 THE ANCHORAGE ASSEMBLY ORDAINS:

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10 **Section 1.** Anchorage Municipal Code section 25.10.060, Use of Municipal Land, is  
11 hereby amended to read as follows:

12 **25.10.060 Use of municipal land.**

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14 A. The municipality shall use municipal land in any manner not prohibited by  
15 law.

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17 B. Except as otherwise provided by law, and in addition to all other municipal  
18 powers, the municipality shall exercise the same control over municipal land and  
19 its use as it could if it held the land as a private person.

20  
21 C. Revocable licenses and permits for the use of municipal land may be  
22 issued by a department or agency which has been delegated management  
23 authority under the provisions of Section 25.10.050. Permits for the improvement,  
24 use, excavation or encroachment of public street, right-of-way and utility  
25 easements shall be issued under the authority set forth in Title 24.

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27 D. In addition to the authority otherwise granted by this section, the director  
28 of a municipal department or agency responsible for managing municipal land  
29 under Section 25.10.050 may promulgate regulations pursuant to Chapter 3.40  
30 governing the use of that land by others.

31  
32 E. Regulations promulgated by the Director of Parks and Recreation  
33 charging use permit fees for parks or facilities managed by the department shall  
34 not require payment of fees based in whole or in part on a percentage of  
35 revenues received through concessions operated on the property. Instead,  
36

1 regulations setting fees required in connection with use permits issued by the  
2 department shall state a specific sum to be paid for activities identified in use  
3 permits issued by the department. The fee structure may also provide for an  
4 optional amount of fee reduction, refund, or future credit available to the user in  
5 consideration for maintenance responsibilities satisfactorily rendered by the user.

6  
7 (AO No. 79-170)

8  
9 **Section 2.** This ordinance shall become effective ~~immediately upon its passage and~~  
10 ~~approval by the Assembly~~ **January 1, 2008.**

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12 PASSED AND APPROVED by the Anchorage Assembly this 26<sup>th</sup> day of  
13 June, 2007.

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Chair

ATTEST:

21  
22   
23 Municipal Clerk

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

AO 2007-43

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	SUBJECT OF AGENDA DOCUMENT AMEND AMC 25.10.060, USE OF MUNICIPAL LAND, ... PROHIBITING IMPOSITION OF PERMIT FEES BASED ON A PERCENTAGE OF CONCESSION REVENUE ...	DATE PREPARED 2/20/07
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
<b>2</b>	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Dan Sullivan, Chairman
<b>3</b>	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Julia Tucker, Assembly Counsel	HIS/HER PHONE NUMBER 343-4419
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<b>INITIALS</b>
	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	
<b>5</b>	<b>Special Instructions/Comments</b>	
	Consent Agenda - Introduction	
<b>6</b>	ASSEMBLY HEARING DATE REQUESTED 2/27/07	<b>7</b> PUBLIC HEARING DATE REQUESTED 5/1/07



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

NO. AM 191-2007

Meeting Date: March 13, 2007

**From:** Assembly Member Ossiander  
**Subject:** **AO 2007-43 — AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING AMC 25.10.060, USE OF MUNICIPAL LAND, TO PROHIBIT IMPOSITION OF PERMIT FEES BASED ON A PERCENTAGE OF CONCESSION REVENUE, AND ALLOWING FEE REDUCTIONS WHERE USERS ASSUME MAINTENANCE RESPONSIBILITIES.**

Policy guidelines for imposition of "fees and charges upon users" of certain municipal services and activities were approved by the Anchorage Assembly in 1986 with passage of AR No. 86-43(S), attached. The "target rate cost recovery" guidelines for determining and implementing fees and charges were set out in sections 1-10 of the resolution and do not enunciate any provision for determining fees based on a percentage of gross receipts from concessions or any other source.

AO 2007-43 amends AMC 25.10.060 to disallow user fees for parks and facilities to be based on a percentage of gross receipts from concessions, a practice not in conformity with assembly-approved policy guidelines. Some current fee-setting practices within the Parks & Recreation Department will need to be revised under this ordinance.

It is important to make sure that user fees are structured so as not to be a tax. Courts have for the most part distinguished taxes from user fees by analyzing the operation and effect, rather than whether the charge is called a "fee" or a "tax." Generally the primary purpose of a tax is to obtain revenue for the government, while the primary purpose of a fee is to cover the expense of providing a service or regulation and supervision of certain activities. A fee charged for a permit should be related to the cost to regulate, inspect and permit an activity. There must be a fair, approximate and reasonable comparison between the fee charged to the user and the cost of regulating.

AO 2007-43 authorizes the Parks & Recreation Department to impose a fixed and fair fee on the users of a facility by reason of their use and not based on variable proceeds collected as a percentage of gross receipts from concession revenue. Recognition of in-kind contributions, in lieu of or to offset a fee, acknowledges and encourages the continuation of current practice regarding in-kind maintenance services.

Respectfully submitted:

Debbie Ossiander  
Assemblymember, Section 2

AMENDED AND APPROVED

DATE

5-13-86

Submitted by: Chairman of the Assembly  
at the Request of the Mayor  
Prepared by: Office of Management and  
Budget  
For Reading: April 29, 1986

ANCHORAGE, ALASKA  
AR NO. 86-43(S)

A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE ESTABLISHING POLICY  
GUIDELINES FOR THE ESTABLISHMENT OF FEES AND CHARGES AND RATES FOR  
FEES AND CHARGES

WHEREAS, the Municipality of Anchorage imposes fees and charges upon users of certain municipal services and upon individuals and businesses engaged in certain activities, and

WHEREAS, revenues from fees and charges are an important source of support for municipal services and activities, and

WHEREAS, such fees and charges should be designed to achieve the public good, and should be levied in a manner equitable to users and taxpayers, and

WHEREAS, the Assembly believes that guidelines expressing the policy of the Assembly regarding fees and charges of general government agencies will contribute to improved efficiency, fairness, and increased revenues from this source of funds.

NOW, THEREFORE, the Anchorage Assembly resolves:

Section 1. The fee policy guidelines presented in Section 2 through Section 10 shall be used in determining when fees or charges are appropriate, the target rate of cost recovery for various types of fees or charges, and the level at which fees or charges shall be set.

Section 2. For purposes of implementing these guidelines, the term "costs" shall mean the total of all direct and indirect expenses necessary to provide the service or activity. In some cases, a return on public sector investment in technology may be an additional cost eligible for recovery.

and submit to the Assembly for approval

Section 3. The Administration shall develop/cost recovery target rates for categories of fees and charges. In determining these target rates of cost recovery (i.e., the proportion of costs to be recovered), consideration shall be given to:

- (a) the purpose of the activity or service and why a fee is being charged;

Am 306-86 AIM 115-86  
Am 306-86A

- (b) the user's ability to pay;
- (c) the degree of community versus individual benefit from the service or activity;
- (d) the effect of the fee level on usage;
- (e) the economic benefit being received by the user;
- (f) other relevant issues.

Section 4. To the extent possible, in cases of regulation and/or inspection activities which support private enterprises, the fee target level shall be set to recover at least 100% of costs.

Section 5. When the cost recovery target for a fee would result in a substantial increase over the existing fee, such increases may be phased in over a multi-year period. If such a phased implementation is planned for a fee or charge requiring Assembly action, a schedule detailing the timing and amount of fee increases and justification for the phasing shall be presented to the Assembly as part of the fee change request.

Section 6. To the extent possible, fees and charges would increase at a rate that allows maintenance of the target level of cost recovery established under Section 3. Whenever possible fees and charges should be designed to automatically keep pace with changes in the cost of providing a service or activity.

Section 7. A fee shall be established only if it has been determined that the benefits associated with the fee (monetary or non-monetary) exceed administrative costs of calculating, levying and collecting that fee. Similarly, fee changes shall be proposed and implemented only if the benefits of such changes exceed the administrative costs associated with such changes.

Section 8. To the extent possible, proposals for the establishment or revision of fees shall be presented to the Assembly once a year at a time which will allow fee decisions to be included in budget preparation.

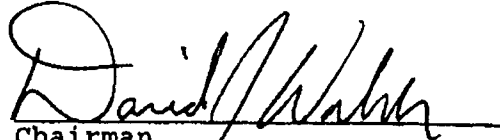
Section 9. When an increased level of service is desired, consideration shall be given to funding the increase through fees or service charges. Increased fees shall be considered as an alternative to service cutbacks in times of fiscal retrenchment. Provided, however, that nothing in this section shall be interpreted as modifying or amending proposition 24 or AO 84-208.

Section 10. All general government fees and charges which are subject to this policy shall be in conformance with these guidelines by no later than 1990.

AR: Policy Guidelines  
Page 3

Section 11. This resolution shall take effect  
immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 13th  
day of May, 1986.

  
Chairman

ATTEST:

  
Municipal Clerk

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

AM 191-2007

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	SUBJECT OF AGENDA DOCUMENT AMEND AMC 25.10.060, USE OF MUNICIPAL LAND	DATE PREPARED 3/6/07
		Indicate Documents Attached <input type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM
<b>2</b>	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Dan Sullivan, Chairman
<b>3</b>	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Julia Tucker, Assembly Counsel	HIS/HER PHONE NUMBER 343-4419
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<b>INITIALS</b>
	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	
	<b>Executive Manager</b>	
	Community Planning & Development	
	Finance, Chief Fiscal Officer	
	Heritage Land Bank	
	Management Information Services	
	Property & Facility Management	
	Purchasing	
	<b>Other</b>	
<b>5</b>	<b>Special Instructions/Comments</b>	
	NEW PUBLIC HEARINGS - REF. AO 2007-43	
<b>6</b>	ASSEMBLY HEARING DATE REQUESTED 5/1/07	PUBLIC HEARING DATE REQUESTED 5/1/07

M.C.A.  
 2007 MAR -6 PM 2:16  
 CLERK'S OFFICE





**MUNICIPALITY OF ANCHORAGE**  
**ASSEMBLY INFORMATION MEMORANDUM**  
**NO. AIM 37 -2007**

**Meeting Date:** May 1, 2007

**From:** Assemblymembers Traini and Ossiander  
**Subject:** Summary of Economic Effects for AO 2007-43

Attached to this memo is the Summary of Economic Effects for AO 2007-43, regarding an ordinance amending Anchorage Municipal Code section 25.10.060, use of municipal land, by enacting a new subsection (E) prohibiting imposition of permit fees based on a percentage of concession revenue, and allowing fee reductions where users assume maintenance responsibilities.

Prepared By: Steven B. King, Utility Budget Analyst  
Reviewed By: Guadalupe Marroquin  
Submitted By: Assemblymembers Traini and Ossiander

**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects -- General Government**

An ordinance amending Anchorage Municipal Code section 25.10.060, use of municipal land, by enacting a new subsection (E) prohibiting imposition of permit fees based on a percentage of concession revenue, and allowing fee reductions where users assume maintenance responsibilities.

AO Number: 2007-43

Title:

Sponsor: Assemblymembers

Preparing Agency: Assembly

Others Impacted: Department of Parks and Recreation

**CHANGES IN EXPENDITURES AND REVENUES:**

(In Thousands of Dollars)

	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>
<b>Operating Expenditures</b>					
1000 Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -
2000 Non-Labor	-	-	-	-	-
3900 Contributions					
4000 Debt Service					
<b>TOTAL DIRECT COSTS:</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
<b>FUNCTION COST:</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

**REVENUES:**

**CAPITAL:**

**POSITIONS: FT/PT and Temp**

**PUBLIC SECTOR ECONOMIC EFFECTS:**

There are no significant public sector economic effects associated with this ordinance. The section recognizing in kind contribution in lieu of fee recognizes current practice. Since the park department still retains the ability to set fees there should not be an economic impact.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

There are no significant private sector economic effects associated with this ordinance. The section recognizing in kind contribution in lieu of fee recognizes current practice. Since the park department still retains the ability to set fees there should not be an economic impact.

Prepared by: Steven B. King, Utility Budget Analyst

Date prepared: 3/9/2007

Reviewed by: Guadalupe Marroquin

Telephone: 343-4714

Telephone: 343-4376

M.O.A.  
2007 MAR 12 PM 2:54  
CERMS OFFICE