

CLERK'S OFFICE

APPROVED

Date: 4-10-07

Submitted by: CHAIR of the ASSEMBLY SULLIVAN;
ASSEMBLY MEMBER STOUT

Prepared by: Assembly Counsel

For reading: March 27, 2007

ANCHORAGE, ALASKA

AO NO. 2007-50

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 1.15, CODE OF ETHICS; 14.10, GENERAL PROVISIONS OF ADMINISTRATIVE ENFORCEMENT; AND 14.60, FINES, TO INCREASE THE MAXIMUM PENALTY FOR AN ETHICS VIOLATION AND PROVIDE FOR ADMINISTRATIVE ENFORCEMENT.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code Section 1.15.100, Sanctions, Referrals and Corrective Action, is amended to read as follows:

1.15.100 Sanctions, referrals and corrective action.

A. Based on its findings, the board shall make recommendations for implementation by the governing entity. Sanctions, referrals and corrective actions that may be recommended by the board for imposition by the governing entity based on findings of the board under this chapter include, but are not limited to, the following:

8. The hearing procedures and enforcement provisions of Title 14 shall be applicable to a person charged under this section. A court or administrative hearing officer that finds a person guilty of knowingly violating any provision of this chapter or of furnishing false, misleading or incomplete information to the board with the intent to mislead, may impose a civil fine pursuant to AMC 14.60.030 for each violation, in addition to any equitable remedies.

Section 2. Anchorage Municipal Code Section 14.10.020, Definitions, is amended to read as follows [*All definitions are set out for context relative to administrative procedures*]:

14.10.020 Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative hearings officer means a person appointed by the mayor and confirmed by the assembly to hear Code violation cases on citations, notices of violation or complaints.

Affirmative defense means any defense which declares positively or avers facts to be

1 true and which, if proved by the alleged violator, may serve as a complete defense to
2 the violation charged.

3
4 *Authorized representative* means an authorized agent, attorney or legal guardian.

5
6 *Charging document* means a citation, notice of violation or complaint alleging a
7 violation of this Code.

8
9 *Code enforcement officer* means any person properly designated to enforce any or
10 all provisions of this Code, including but not limited to municipal police officers,
11 municipal fire department officers, building safety officers, zoning enforcement
12 officers, [OR] health inspection officers, or other authorized representative of the
13 municipality.

14
15 *Decision* means a final order issued by an administrative hearing officer. A decision
16 must contain findings of fact, conclusions of law and directions for disposition or
17 compliance with the order.

18
19 *Hearing* means an administrative adjudication held pursuant to this chapter.

20
21 *Order* means a directive issued by an administrative hearing officer which is not a
22 final adjudicative decision.

23
24 *Violation* means a non-criminal offense punishable only by a fine, but not by
25 imprisonment or other penalty. Conviction of a violation does not give rise to any
26 disability or legal disadvantage based on conviction of a crime. A person charged
27 with a violation is not entitled:

- 28
29 1. To a trial by jury; or
30
31 2. To have a public defender or other counsel appointed at public expense to
32 represent the person.

33
34 AO No. 93-167(S-1), § 1, 4-13-94)

35
36 **Section 3.** Anchorage Municipal Code Section 14.60.020, Application of Fine Schedule,
37 is amended to read as follows:

38
39 **14.60.020 Application of fine schedule.**

40
41 A. Where a particular amount is provided as the civil fine under Section
42 14.60.030 or AMCR 14.10.020 the administrative hearings officer must impose that
43 amount as the penalty for the violation.

44
45 B. Where a range of amounts is set forth on the schedule the charging document
46 [CODE ENFORCEMENT OFFICER] shall identify a proposed penalty amount [IN
47 THE CHARGING DOCUMENT]. If the matter is disposed of without a hearing the
48 administrative hearings officer shall impose the recommended penalty.
49

 (AO No. 93-167(S-1), § 1, 4-13-94; AO No. 97-107, § 2, 11-17-97; AO No. 98-8, § 1, 1-27-98; AO No. 2001-74(S), § 2, 4-17-01)

Section 4. Anchorage Municipal Code section 14.60.030, Fine Schedule, is hereby amended to read as follows:

14.60.030 Fine schedule.

The fine schedule under this chapter is as follows:

TABLE INSET:

Code Section	Offense	Penalty/Fine
<u>1.15.100A.8</u> <u>[1.15.220]</u>	<u>Ethics Violations [JUDICIAL</u> <u>PENALTIES FOR ETHICS]</u>	<u>Shall not exceed \$5,000</u> <u>for each offense [\$ 75.00]</u>

 (AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06)

Section 5. This ordinance shall become effective upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 10th day of April, 2007.

Don Sullivan
 Chair

ATTEST:

John E. Smith
 Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 205-2007

Meeting Date: March 27, 2007

From: Dan Sullivan, Chair of the Assembly
Ken Stout, Assembly Member
Subject: AO 2007-50 — AN ORDINANCE OF THE ANCHORAGE MUNICIPAL
ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS
1.15, CODE OF ETHICS; 14.10, GENERAL PROVISIONS OF
ADMINISTRATIVE ENFORCEMENT; AND 14.60, FINES, TO INCREASE
THE MAXIMUM PENALTY FOR AN ETHICS VIOLATION AND
PROVIDE FOR ADMINISTRATIVE ENFORCEMENT.

AO 2007-50 increases the maximum monetary penalty for an ethics violation from \$75.00, as presently listed in AMC 14.60.030, Fine Schedule, to \$5,000. This increase is reasonable in light of monetary penalties assessed in other jurisdictions for comparable violations, including the State of Alaska.

This ordinance also provides the necessary link between final recommendations by the Ethics Board, and enforcement of a monetary penalty after a full evidentiary hearing before an administrative hearing officer. Minor amendments to enforcement procedures under Title 14, Administrative Enforcement, include broadening the definition of enforcement officer to include a special appointment to present the violation at hearing, if the sanction of a fine is the remedy approved under AMC 1.15 in response to receipt and review of the Ethics Board's final report and recommendations.

Increasing the range of monetary penalties allows the Ethics Board to give an indication of the gravity of an offense, and adds substantially more incentive for compliance than the present penalty amount of \$75.00.

Submitted by: Dan Sullivan, Assembly Chair
Ken Stout, Assembly Member-Section 5



MUNICIPALITY OF ANCHORAGE

ASSEMBLY INFORMATION MEMORANDUM

NO. AIM 45-2007

Meeting Date: April 10, 2007

From: Assemblymembers Sullivan and Stout

Subject: Summary of Economic Effects for AO 2007-50

Attached to this memo is the Summary of Economic Effects for AO 2007-50, regarding an ordinance of the Anchorage Municipal Assembly amending AMC chapters 1.15, code of ethics; 14.10, general provisions of administrative enforcement; and 14.60, fines, to increase the maximum penalty for an ethics violation and provide for administrative enforcement.

Prepared By: Steven B. King, Utility Budget Analyst

Reviewed By: Guadalupe Marroquin

Submitted By: Assemblymembers Sullivan and Stout

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

An ordinance of the Anchorage Municipal Assembly amending AMC chapters 1.15, code of ethics; 14.10, general provisions of administrative enforcement; and 14.60, fines, to increase the maximum penalty for an ethics violation and provide for administrative enforcement.

AO Number: 2007-50

Title:

Sponsor: Assemblymembers Sullivan and Stout

Preparing Agency: Assembly

Others Impacted: Board of Ethics

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>
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:

There are no significant public sector economic effects associated with this ordinance. Currently the number of ethics violations that result in a maximum penalty average less than five per year.

PRIVATE SECTOR ECONOMIC EFFECTS:

There are no significant private sector economic effects associated with this ordinance.

Prepared by: Steven B. King, Utility Budget Analyst

Date prepared:

Reviewed by: Guadalupe Marroquin

Telephone: 343-4714

Telephone: 343-4376

2007 APR -6 AM 11:17
M.B.A.
CLEANING OFFICE



MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATIONAL MEMORANDUM
AIM No. 53-2007

Meeting Date: April 10, 2007

To: Assembly
From: Board of Ethics
Subject: AO 2007-50 Code of Ethics Fines

The Board of Ethics reviewed Ordinance AO 2007-50 at their meeting on March 29, 2007. The Board agrees that increasing the maximum penalty for an ethics violation from \$75 to \$5,000 or even \$7500 is in line with comparable fines assessed by the State of Alaska and the Small Claims Court. The current fine of \$75 may actually be a financial disincentive and downplays the significance of the ethics code. The ability to assess a range of penalties will also give the Ethics Board the means by which to indicate the seriousness of an ethics code violation.

The Board of Ethics recommends approval of this ordinance.

Submitted by: Board of Ethics
Paul Davis, Chairman
Marrissa Flannery
Rev. Connie Jones
Dr. James Liszka
Dr. Greg Kimura

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

AO 2007-50

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED	
	AMEND AMC 1.15, CODE OF ETHICS; 14.10		03/19/07	
	GENERAL PROVISIONS OF ADMINISTRATIVE ENFORCEMENT; AND 14.60, FINES ...			
			Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" 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			
	Consent Agenda - Introduction			
6	ASSEMBLY HEARING DATE REQUESTED		PUBLIC HEARING DATE REQUESTED	
	3/17/07		4/10/07	

M.O.A.
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