

Submitted by: ASSEMBLY MEMBER SHAMBERG
ASSEMBLY MEMBER Tesche
Prepared by: Assembly Member Tesche
For reading: March 27, 2007

CLERK'S OFFICE
AMENDED AND APPROVED
Date: 4-10-07

ANCHORAGE, ALASKA
AO NO. 2007-60

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY ENACTING A**
2 **NEW SECTION OF THE ANCHORAGE MUNICIPAL CODE 9.48.080(B) MAKING IT**
3 **UNLAWFUL FOR ANY PERSON TO OPERATE A MOTOR VEHICLE IF THAT**
4 **PERSON HAS ACCUMULATED THREE OR MORE DELINQUENT TRAFFIC FINES**
5 **TOTALING MORE THAN \$1,000; PROVIDING FOR FORFEITURE AND**
6 **IMPOUNDMENT OF VEHICLES DRIVEN IN VIOLATION OF THAT SUBSECTION;**
7 **AMENDING SECTIONS 9.28.026 AND 9.28.027; AND PROVIDING FOR AN**
8 **EFFECTIVE DATE.**

9
10 WHEREAS, there are approximately one thousand (1,000) residents of Anchorage who
11 owe more than \$1,000 in fines for moving violations of municipal traffic laws; and

12
13 WHEREAS, the Assembly finds that there is a direct correlation between the failure of
14 an offender to pay multiple traffic fines for moving violations and the commission by that
15 same offender of additional moving violations that endanger public safety and cause
16 major accidents resulting in harm to innocent people; and

17
18 WHEREAS, the Assembly finds that the incidence of traffic offenses causing injury of
19 innocent victims will be diminished by (1) making it a misdemeanor for a driver to
20 operate a motor vehicle when the driver owes more than \$1,000 in fines for moving
21 violations of municipal traffic laws, and (2) authorizing the impoundment and forfeiture of
22 a vehicle operated by a person who commits that misdemeanor;

23
24 NOW THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

25
26 **Section 1.** Anchorage Municipal Code Section 9.48.080, Traffic citations--Failure to
27 Obey, is hereby amended to read as follows:

28
29 **9.48.080 Traffic citations--Failure to obey.**

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31 A. It is unlawful for any person to violate a [HIS] written promise, to either
32 appear in court, submit payment for or correct an alleged violation within the time
33 allowed, given to an officer upon the issuance of a traffic citation, regardless of
34 the disposition of the charge for which such citation was originally issued. A
35 violation under this section may be resolved through the administrative hearing
36 procedures in Title 14 applying the scheduled penalty set forth in Section
37 14.60.030 or through the courts applying the scheduled penalty set forth in

Section 9.48.130. It shall be a defense to an accusation of a violation of this section that the alleged violator did not execute a written promise.

B. Notwithstanding subsection A, no person may operate, drive, or remain in physical control of a motor vehicle on a public street if they have accumulated three or more delinquent traffic fines, the total of which is equal to or greater than \$1,000 for moving violations committed within the municipality. A person who violates this subsection is guilty of a misdemeanor. A motor vehicle operated, driven by or in the physical control of an individual in violation of this section shall be subject to impoundment and forfeiture under Section 9.28.026 of this Code. Civil impoundment under this subsection through a seizure need not be incident to an arrest by a police officer.

(CAC 9.48.080; AO No. 78-72; AO No. 93-167(S-1), § 8, 4-13-94)

State Law Reference—Municipal impoundment and forfeiture, AS 28.01.015(a) (5)

Section 2. Anchorage Municipal Code Section 9.28.026, Impoundment and Forfeiture of Vehicle, is hereby amended to read as follows: (*certain subsections not amended are set out for context*)

9.28.026 Impoundment and forfeiture of vehicle.

A. Mandatory impound; discretionary impound.

1. A motor vehicle that is operated, driven or in the actual physical control of an individual arrested for or charged with an alleged violation of Section 9.28.019, pertaining to driving while license suspended/revoked/cancelled, Section 9.28.020, pertaining to driving while under the influence, an alleged violation of Section 9.28.022, pertaining to refusal to submit to chemical tests, subsection 9.48.080B pertaining to operation of a motor vehicle on a public street with three or more delinquent traffic fines totaling greater than \$1,000 or greater, or Section 8.65.030, pertaining to soliciting, may be impounded and may be forfeited to the municipality in accordance with this section.

B. It shall be presumed that a vehicle operated by or driven by or in the actual physical control of an individual arrested for or charged with an alleged violation of Section 9.28.030, Section 9.28.019, Section 9.28.020, Section 9.28.022, subsection 9.48.080B, or Section 8.65.030, has been so operated by the registered owners thereof or has been operated by another person with the knowledge and consent of the registered owners. A vehicle so operated is

declared to be a public nuisance for which the registered owners hold legal responsibility subject only to the defenses as set forth by law. The purposes of this section and the impoundment and forfeiture provisions of Sections 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.080B, and 8.65.030 include protecting the public, removing public nuisances, deterring driving under the influence, and protecting the public from uninsured motorists, but do not include the generation of revenue for the municipality.

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., subsection 9.48.080B, 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 is at the discretion of the arresting officer.

3. Upon the request of the municipality or a claimant, a civil proceeding seeking impoundment or forfeiture shall be held in abeyance until conclusion of any pending criminal charges arising out of the incident giving rise to the forfeiture or impoundment action under Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.080B, or 8.65.030.

6. A claimant of an ownership or security interest in the motor vehicle may avoid impound or avoid forfeiture of the claimant's interest in the civil action if the claimant establishes, by a preponderance of the evidence:

a. The claimant has an interest in the motor vehicle at the time of the alleged violation or, if acquired after the alleged violation, the interest was acquired in good faith and not for purposes of avoiding impound or forfeiture;

b. A person other than the claimant was in possession of the vehicle and was responsible for or caused the act which resulted in the impound or forfeiture;

1
2 c. The claimant did not know and could not reasonably have
3 known the person would operate the vehicle in violation of Section
4 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.080B, or
5 8.65.030; and

6
7 d. In cases where the municipality filed a civil action to forfeit a
8 seized vehicle, the claimant took reasonable steps to prevent, as
9 the phrase is defined in subsection F. below, the person charged
10 with violating Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
11 8.65.030 from violating Section 9.28.019, 9.28.020, 9.28.022,
12 9.28.030, subsection 9.48.080B, or 8.65.030.

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16 g. Also for purposes of this section, when the claimant and driver
17 are not the same person and the claimant and driver have a familial
18 relationship, such as husband and wife, father and daughter,
19 mother and stepson, etc., or the claimant and driver live at the
20 same address, it shall be presumed the claimant is responsible and
21 the vehicle was operated by the driver, in violation of Section
22 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.080B, or
23 8.65.030, with the knowledge and consent of the claimant.

24 h. If a claimant was in the vehicle at the same time the vehicle
25 was being operated by the driver in violation of Section 9.28.020 or
26 9.28.022, it shall be presumed the claimant knew and consented to
27 operation of the vehicle in violation of Section 9.28.020, subsection
28 9.48.080B, or 9.28.022.

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32 8. The municipality may enter into an agreement with the registered
33 owner or lienholder of the vehicle to resolve a civil impound or forfeiture
34 action arising under Section 9.28.019, 9.28.020, 9.28.022, 9.28.030
35 subsection 9.48.080B, or 8.65.030 and permit release of the vehicle. Any
36 such agreement shall include:

37 a. Acceptance by the owner or lienholder of responsibility for
38 meeting the requirements of subsection C.9.;

39 b. Agreement the owner or lienholder shall take reasonable steps
40 to prevent the individual arrested for or charged with driving under
41 the influence or with refusal to submit to chemical tests from
42

operating the vehicle until properly licensed; and

c. Acknowledgment by the owner or lienholder that failure to fulfill his or her obligations under the agreement may result in forfeiture of the vehicle at the option of the municipality. This requirement shall not apply to a regulated lienholder required by other law or by the terms of the agreement creating the lien to permit the individual to recover the vehicle upon payment of the lien or cure of any default.

9. No vehicle shall be released unless the applicant:

a. Provides proof of insurance in a form acceptable to the municipality;

b. Provides proof of ownership or, if a lienholder, a legal right to repossess the vehicle; and

c. Pays or provides proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge of \$390.00 to offset the municipality's processing costs for seizures of vehicles based on an alleged violation of Section 9.28.019, 9.28.020, 9.28.022, subsection 9.48.080B, or 8.65.030.

11. Temporary release of vehicle pursuant to vehicle return bond.

a. A registered owner or lienholder may obtain temporary release of a vehicle seized by the municipality pursuant to this subsection.

b. The purpose of setting a vehicle return bond on the vehicle is to secure the presence of the vehicle and to provide security to be forfeited along with the proceeds of a sale, transfer, or encumbrance if the vehicle is sold, transferred, or encumbered after the vehicle has been released pending the final disposition in the criminal action against the driver of the seized vehicle or the final disposition in the civil action against claimants of the seized vehicle. If the vehicle's release has been obtained through the posting of a vehicle return bond and the vehicle is not returned pursuant to the court's order, the municipality may, in addition to obtaining the forfeited bond funds, seize the vehicle to implement the

1 impoundment or forfeiture ordered by the court. A person who
2 secures the release of a vehicle pursuant to a vehicle return bond
3 must return the vehicle upon order of the court. If a vehicle has not
4 been impounded for a longer period than the vehicle would be
5 impounded if the person were convicted, the court shall not delete
6 the requirement of the vehicle return bond or exonerate a posted
7 vehicle return bond until the vehicle for which bond has been
8 posted is returned pursuant to court order. A vehicle return bond
9 shall be posted with the municipality and in cash only. A vehicle
10 return bond shall be set at a minimum of:

11
12 i. Two hundred fifty dollars (\$250.00) if the person charged
13 with a violation of Section 9.28.019, 9.28.020, 9.28.022,
14 9.28.030, subsection 9.48.040B, or 8.65.030 has not been
15 previously convicted;

16
17 ii. Five hundred dollars (\$500.00) if the person charged with
18 a violation of Section 9.28.019, 9.28.020, 9.28.022,
19 9.28.030, subsection 9.48.040B, or 8.65.030 has been
20 previously convicted and the vehicle is twenty (20) years old
21 or older;

22
23 iii. One thousand dollars (\$1,000.00) if the person charged
24 with a violation of Section 9.28.019, 9.28.020, 9.28.022,
25 9.28.030, subsection 9.48.040B, or 8.65.030 has been
26 previously convicted and the vehicle is fifteen (15) years old
27 or older but less than twenty (20) years old;

28
29 iv. One thousand five hundred dollars (\$1,500.00) if the
30 person charged with a violation of Section 9.28.019,
31 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or
32 8.65.030 has been previously convicted and the vehicle is
33 ten (10) years old or older but less than fifteen (15) years
34 old;

35
36 v. Two thousand dollars (\$2,000.00) if the person charged
37 with a violation of Section 9.28.019, 9.28.020, 9.28.022,
38 9.28.030, subsection 9.48.040B, or 8.65.030 has been
39 previously convicted and the vehicle is five (5) years old or
40 older but less than ten (10) years old; and

41
42 vi. Two thousand five hundred dollars (\$2,500.00) if the

person charged with a violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 has been previously convicted and the vehicle is less than five (5) years old.

f. The court shall order the forfeiture of a vehicle return bond if a person charged under Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 obtains temporary release of a seized vehicle and does not appear before the court as ordered.

D. *Impoundment.*

1. A motor vehicle that is operated, driven, or in the actual physical control of an individual arrested for, or charged with, an alleged violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 may be ordered impounded either upon conviction of the defendant of a violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030, or upon the decision of a court in a separate civil proceeding. To obtain an order for impoundment in a contested proceeding, the municipality must establish by a preponderance of the evidence that the vehicle was operated, driven, or in the actual physical control of an individual who was acting in violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030.

4. A vehicle ordered impounded under this section shall be held for a period of thirty (30) days. An impoundment order may be made either upon conviction of the defendant of a violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 or upon decision of a court in a separate civil proceeding.

E. *Forfeiture.*

1. To obtain an order for forfeiture under this section in a contested proceeding, the municipality must establish by a preponderance of the evidence that:

a. The vehicle was operated, driven or in the actual physical control of an individual who was acting in violation of Section 9.28.019, 9.28.020 or 9.28.022, 9.28.030, subsection 9.48.040B, or

8.65.030; and

b. The individual has been previously convicted.

2. A motor vehicle that is operated, driven or in the actual physical control of an individual arrested or charged with an alleged violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 may be forfeited to the municipality either upon conviction of the defendant of a violation of Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 or upon decision of a court in a separate civil proceeding.

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 may be forfeited or impounded under this section, Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, 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, subsection 9.48.040B, or 8.65.030.

4. A motor vehicle seized for the purpose of forfeiture or impoundment shall be held in the custody of the police department or a private corporation authorized by the chief of police to retain custody of the motor vehicle, subject only to the orders and decrees of the court having jurisdiction over any forfeiture or impoundment proceedings. If a motor vehicle is seized under this section, Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030, the chief of police, or authorized designee, may:

a. Remove the motor vehicle and any contents of the motor vehicle to a place designated by the court; or

b. Take custody of the motor vehicle and any contents of the motor vehicle and remove it to an appropriate location for disposition. No private corporation may make or perform a contract to tow, store, or retain custody of motor vehicles seized or impounded under this section, Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 if any of the owners of that private corporation have been convicted of a felony or any crime involving larceny, theft, or receiving and concealing stolen property within ten years before the date of execution of the contract or during the term of the contract. No private corporation may make or perform a contract to tow, store, or retain custody of motor vehicles seized or impounded under this section, Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 if any of the employees of that private corporation have been convicted of a felony or any crime involving larceny, theft, or receiving and concealing stolen property within five years before the date of execution of the contract or during the term of the contract.

5. Following a forfeiture order under this section, Section 9.28.019, 9.28.020, or 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030, the chief of police, or authorized designee, shall make an inventory of the contents of any motor vehicle seized. Personal property in a vehicle that is subject to a vehicle return bond under subsection C.11. and has not been released pursuant to that vehicle return bond can be recovered from a vehicle only by the owner of the vehicle and only upon payment of a fee charged for monitoring the recovery of such personal property. Such fee shall be set by contract between the towing and storage contractor and the municipality if it is not established by ordinance. Such fee shall be recoverable by the owner of the vehicle if a court makes a specific finding that the seizure of the vehicle was legally unjustified or pursuant to a stipulation between the parties.

7. Property forfeited under this section, Section 9.28.020, 9.28.022, 9.28.030, or 8.65.030 shall be disposed of by the chief of police, or authorized designee, in accordance with this subsection. Property forfeited under this section, Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, or 8.65.030 includes both the vehicle that is the subject of the forfeiture action and the contents of the vehicle if those contents have not been recovered before the date of the disposal. The chief of police, or authorized designee, may:

1
2 a. Sell the property at an auction conducted by an auctioneer not
3 employed by the impound contractor and use the proceeds for
4 payment of all delinquent fines for moving violations committed
5 within the municipality and all proper expenses of seizure, custody,
6 the costs of the auction, court costs, and municipal attorney fees,
7 provided that if such sale is arranged for by the impound contractor,
8 the municipality shall receive at least thirty percent (30%) of the
9 proceeds of any sale of forfeited vehicles following deduction for
10 the costs charged by the auctioneer for the auction of those
11 vehicles regardless of whether the costs of impound and storage
12 exceed the value of the forfeited vehicles sold;

13
14 b. Take custody of the property and use it in the enforcement of
15 the municipal and state criminal codes; or

16
17 c. Destroy the property.

18
19 d. Property forfeited and sold at auction pursuant to this section,
20 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection
21 9.48.040B, and 8.65.030 shall be sold by an auctioneer approved
22 before the auction by the chief of police, or authorized designee.

23 ***

24 iii. The municipal auditor shall certify the proper disposal of
25 property forfeited under this section, Section 9.28.019,
26 9.28.020, 9.28.022, 9.28.030, subsection 9.48.040B, and
27 8.65.030.

28 ***

29 11. Property subject to the interest of a lienholder whose interest has not
30 been forfeited may not be disposed of as provided in this section without
31 the consent of the lienholder. A regulated lienholder's interest in a vehicle
32 shall not be subject to forfeiture in any case where:

33
34 a. The individual who allegedly used the vehicle in violation of
35 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, subsection
36 9.48.040B, or 8.65.030 is not the person whose dealings with the
37 lienholder gave rise to the lien; or

38 ***

39
40
41 F. *Definitions.* The following words, terms and phrases, when used in this
42 section, shall have the meanings ascribed to them in this subsection, except

where the context clearly indicates a different meaning:

Previously convicted means:

6. If charged with violating Section 9.48.040B. or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.

(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; AO No. 2006-89(S), § 1, 6-6-06; AO No. 2006-115, § 1, 9-12-06)

Editor's note: AO No. 97-87 occasioned by 1996 Proposition 3 Initiative enacting Chapter XXI.

Cross references: Administrative adjudication procedures, Ch. 3.60.

State law references: Authority, AS 28.35.030.

Section 3. Anchorage Municipal Code Section 9.28.027, Failure to Return a Vehicle that has Been Released Under a Vehicle Return Bond, is hereby amended to read as follows:

9.28.027 Failure to return a vehicle that has been released under a vehicle return bond.

It is unlawful for the person who has secured the release of a vehicle under a vehicle return bond under section 9.28.019, 9.28.020, 9.28.022, 9.28.026, 9.28.030, subsection 9.48.080B, or 8.65.030 to willfully fail to return that vehicle when ordered by a court or a municipal administrative hearing officer. Each day that a vehicle is not returned constitutes a separate offense under this section.

(AO No. 95-84(S-1), § 19, 4-27-95; AO No. 2001-72, § 3, 7-1-02; AO No. 2001-139, § 3, 7-1-02; AO No. 2003-155, § 3, 6-1-04; AO No. 2004-61, § 1, 3-2-04)

Section 4. Anchorage Municipal Code Section 14.60.030, Fine Schedule, is 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
***	***	***
9.48.080	Failure to resolve citation (traffic)	150.00
<u>9.48.080.B</u>	<u>Delinquent traffic fines for three or more moving violations totaling \$1,000 or greater</u>	<u>Impound and forfeiture under AMC 9.28.026</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 on November 1, 2007.

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

Dan Sullivan
Chair

ATTEST:

Sharon S. Mendenhall
Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 237-2007

Meeting Date: April 10, 2007

From: Assemblymember Shamberg
Assemblymember Tesche

Subject: AO 2007-60 — AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY ENACTING A NEW SECTION OF THE ANCHORAGE MUNICIPAL CODE 9.48.080(B) MAKING IT UNLAWFUL FOR ANY PERSON TO OPERATE A MOTOR VEHICLE IF THAT PERSON HAS ACCUMULATED THREE OR MORE DELINQUENT TRAFFIC FINES TOTALING MORE THAN \$1,000; PROVIDING FOR FORFEITURE AND IMPOUNDMENT OF VEHICLES DRIVEN IN VIOLATION OF THAT SUBSECTION; AMENDING SECTIONS 9.28.026 AND 9.28.027; AND PROVIDING FOR AN EFFECTIVE DATE.

If enacted, AO 2007-60 would allow for impoundment and forfeiture of motor vehicles driven on public streets if the driver has accumulated more than \$1,000 in delinquent fines for moving violations committed within the municipality. The additional remedy provided to law enforcement by the ordinance resembles those already available for offenses such as driving under the influence (DUI), driving without a valid license, and certain prostitution related crimes.

AO 2007-60 would become effective on October 1, 2007, giving the Alaska Legislature ample time during the current session to pass legislation enabling municipalities to enact and enforce local ordinances such as AO 2007-60. CSHB 169 is currently before the Judiciary Committee of the House of Representatives, is expected to pass the House in the next several weeks, and then heads to the Senate. Enactment of AO 2007-60 with a delayed effective date, rather than postponement of the legislation until the legislature acts, is preferred because it provides legislators with clear policy guidance from affected local governments during their legislative process.

The Finance Department reported that as of February 7, 2007, 42 persons have accumulated more than \$3,000 each in delinquent fines for traffic offenses committed within the municipality. Heading the list is one "frequent flyer" who has accumulated \$9,310 in delinquent fines for moving violations. APD sees a sufficiently high correlation between motor vehicle accidents caused by driver misconduct and drivers involved who have accumulated significant delinquent fines for moving violations.

1 As a public safety measure, the ordinance is intended to deter or prevent that conduct
2 by placing at risk of forfeiture the very instrument abused by scofflaws who threaten
3 public safety. Safer highways for Anchorage motorists, not increased revenue, is the
4 goal of AO 2007-60.
5

6 Passage of AO 2007-60 is recommended.
7 Respectfully submitted,
8
9

10 Janice Shamberg
11 Assemblymember, Section 6
12
13

14 Alllan Tesche
15 Assemblymember, Section 1
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MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM
NO. AIM 46-2007

Meeting Date: April 10, 2007

From: Assemblymembers Shamberg and Tesche
Subject: Summary of Economic Effects for AO 2007-60

Attached to this memo is the Summary of Economic Effects for AO 2007-60, regarding an ordinance of the Anchorage Municipal Assembly enacting a new section of the AMC 9.48.080(B) making it unlawful for any person to operate a motor vehicle if that person has accumulated three or more delinquent traffic fines totaling more than \$1,000; providing for forfeiture and impoundment of vehicles driven in violation of that subsection; amending sections 9.28.026 and 9.28.027; and providing for an effective date.

Prepared By: Steven B. King, Utility Budget Analyst
Submitted By: Assemblymembers Shamberg and Tesche

MUNICIPALITY OF ANCHORAGE

Summary of Economic Effects -- General Government

An ordinance of the Anchorage Municipal Assembly enacting a new section of the AMC 9.48.080(B) making it unlawful for any person to operate a motor vehicle if that person has accumulated three or more delinquent traffic fines totaling more than \$1,000; providing for forfeiture and impoundment of vehicles driven in violation of that subsection; amending sections 9.28.026 and 9.28.027; and providing for an effective date.

AO Number: 2007-60

Title:

Sponsor: Assemblymembers Shamberg and Tesche

Preparing Agency: Assembly

Others Impacted: APD and Department of Treasury

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	FY07	FY08	FY09	FY10	FY11
Operating Expenditures					
1000 Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -
2000 Non-Labor	See below	See below	See below	See below	See below
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:	See below	See below	See below	See below	See below
CAPITAL:					
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:

Public safety, as opposed to increased revenue, is the specific goal of this ordinance and thus it is written as a deterrent to prevent conduct that would result in the stated penalties.

If this deterrent was successful in encouraging existing repeat offenders to reduce their debt to below the \$1,000 mark, the Municipality would collect around \$1 million (these revenues would come from the 1,071 individuals who owe between \$1,000 and \$1,500; the 383 who owe between \$1,500 and \$2,000; and the 163 who owe more than \$2,000). If all the unpaid fines were collected from these individuals close to \$2 million would be collected.

There could be an associated cost to the Anchorage Police Department for the towing activities (personnel costs). Other administrative costs will be the responsibility of the offender; however, some of those fines and fees could remain uncollected and would thus be an additional cost to the Municipality.

PRIVATE SECTOR ECONOMIC EFFECTS:

There are no significant private sector economic effects associated with this ordinance (there is a possibility of increased revenues for towing and storage companies).

Prepared by: Steven B. King, Utility Budget Analyst

Date prepared: 4/5/2007

Reviewed by: Guadalupe Marroquin

Telephone: 343-4714

Telephone: 343-4376

2007 APR -6 AM 11:17
 COUNCIL OFFICE
 M.O.A.

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

AO 2007-60

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED	
	ENACTING A NEW SECTION AMC 9.48.080 B. MAKING IT UNLAWFUL FOR ANY PERSON TO	3/29/07	
	OPERATE A MOTOR VEHICLE IF THAT PERSON HAS ACCUMULATED THREE OR MORE DELINQUENT	Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM	
2	DEPARTMENT NAME TRAFFIC FINES ...	DIRECTOR'S NAME	
	Assembly	Daniel A. Sullivan, Chairman	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER	
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		
	ADDENDUM - CONSENT AGENDA-INTRODUCTION		
6	ASSEMBLY HEARING DATE REQUESTED	7	PUBLIC HEARING DATE REQUESTED
	3/27/07		4/10/07

M.O.A.
 2007 MAR 29 PM 2:37
 CLERK'S OFFICE