

Submitted by: Paul Bauer Jr.  
Assembly Member  
Prepared by: Paul Bauer Jr.  
For reading: September 11, 2007

*Postponed indefinitely 11/27/07*

IMMEDIATE RECONSIDERATION FAILED 11-27-07

ANCHORAGE, ALASKA  
AO No. 2007-125

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY MAKING CERTAIN FINDINGS RELATED TO ILLEGAL IMMIGRATION AND AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ESTABLISH A NEW CHAPTER 8.95, LOCAL ENFORCEMENT AND ANTI-SANCTUARY, TO MANDATE A POLICY OF FULL COOPERATION BETWEEN THE MUNICIPALITY OF ANCHORAGE LAW ENFORCEMENT AND FEDERAL IMMIGRATION ENFORCEMENT AGENCIES; TO REQUIRE IMMIGRATION STATUS VERIFICATION OF ALL PERSONS DETAINED FOR VIOLATIONS OF STATE OR MUNICIPAL LAW; TO PROHIBIT RESTRICTIONS ON OFFICIAL COMMUNICATION BY MUNICIPAL OFFICIALS AND PERSONNEL WITH FEDERAL IMMIGRATION AUTHORITIES; TO REQUIRE NEGOTIATION OF A COOPERATIVE AGREEMENT WITH THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; AND TO PROVIDE FOR A PRIVATE REMEDY OF MANDAMUS AGAINST THE MUNICIPALITY TO ENFORCE PROVISIONS OF THE ORDINANCE.

WHEREAS, the term "Sanctuary City" describes cities in which the use of municipal resources and institutions for the enforcement of federal immigration matters is restricted, allowing the city to become a sanctuary for illegal immigrants who wish to avoid deportation; and

WHEREAS, on July 15, 2003, the Anchorage Assembly passed **AR 2003-223-as amended** which limited the use of municipal resources or institutions for the enforcement of federal immigration matters to uses "necessary to protect the safety of people; and

WHEREAS, passage of **AR 2003-223-as amended** has, in effect, made Anchorage a "Sanctuary City"; and

WHEREAS, pursuant to United States Code, Title 8, Chapter 12, Section 1101, the term "alien" means any person not a citizen or national of the United States; and

WHEREAS, United States Code Title 8, Section 1101, et seq. requires that certain conditions be met before an alien is authorized to be lawfully present in the United States, and illegal aliens, as described by federal law, do not meet such conditions; and

WHEREAS, the Congress of the United States enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, part of which is codified as United States Code, Title 8, Chapter 12, Section 1373; and

WHEREAS, United States Code, Title 8, Chapter 12, Section 1373(c), provides that the

Immigration and Naturalization Service shall respond to an inquiry by a local government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information; and

WHEREAS, the Immigration and Naturalization Service was abolished by Congress and its functions transferred pursuant to the Department of Homeland Security Reorganization Plan of November 25, 2002; and

WHEREAS, the federal government has established several systems available to the Municipality of Anchorage to accomplish this verification, including the Systematic Alien Verification for Entitlements (SAVE) Program and the Law Enforcement Support Center (LESC);

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

**SECTION 1.** Anchorage Municipal Code title 8 is amended to add a new chapter 8.95, *Local Enforcement and Anti-Sanctuary*, to read as follows:

**Chapter 8.95 LOCAL ENFORCEMENT AND ANTI-SANCTUARY**

**8.95.010**      **Compliance and Support for Enforcement of Federal Immigration Law.**

- A. All officials, agencies, and personnel of the Municipality of Anchorage shall fully comply with and, to the full extent permitted by law, support the enforcement of federal law prohibiting the entry into, presence or residence in the United States of aliens in violation of federal immigration law.
- B. Incident to any lawful detention for a violation of a state law or a municipal ordinance, municipal police officers shall inquire into the citizenship or immigration status of the detained person, regardless of the person's national origin, ethnicity, or race, where such inquiry does not expand the duration of the detention. In all such cases where a person indicates that he or she is not a citizen or national of the United States, the police department shall request verification of whether or not the person is lawfully present in the United States, pursuant to United States Code Title 8, subsection 1373(c). If the person is verified to be unlawfully present in the United States, the police department shall cooperate with any request by federal immigration authorities to detain the alien or transfer the alien to the custody of the federal government.

**8.95.020**      **Official Use of Individual Immigration Status Information.**

Pursuant to United States Code Title 8, sections 1373 and 1644, no official, personnel or agent of the Municipality of Anchorage, including officers and personnel of the Anchorage police department, may be prohibited or in any way restricted from sending to or receiving from the federal government information regarding the immigration status, lawful or unlawful, of an alien in the United States for the following official purposes:

- 1  
2 A. Determination of eligibility for any federal, state or local public benefit, service,  
3 or license which is available, in whole or in part, only to persons who are citizens  
4 of the United States or qualified aliens, pursuant municipal, state or federal law;  
5  
6 B. Verification of any claim of legal domicile within the the Municipality of  
7 Anchorage by a person who asserts that he or she is not a citizen, national, or  
8 legal resident alien of the United States; where legal domicile is required by law  
9 or contract.  
10

11 **8.95.030 Authorization for Cooperative Agreement with U.S. Department of**  
12 **Homeland Security**  
13

- 14 A. The Anchorage Police Department shall enter into a cooperative agreement with  
15 the United States Department of Homeland Security, pursuant to United States  
16 Code Title 8, subsection 1357(g), within ninty (90) days of passage of this  
17 ordinance, to designate specific Municipal law enforcement officers as officers  
18 qualified to exercise the enforcement powers of federal immigration officers in  
19 the United States; and to establish a protocol for the expedited transfer of verified  
20 illegal aliens into federal custody, as approved by the United States Attorney  
21 General.  
22  
23 B. The Anchorage Police Department may negotiate the cooperative agreement or  
24 participate in its implementation in partnership with other state or local law  
25 enforcement agencies.  
26

27 **8.95.040 Private Right of Action.**  
28

29 In addition to any other remedy which may be available under the laws of the State of  
30 Alaska, a natural or legal person lawfully domiciled in the Municipality of Anchorage  
31 and aggrieved by a specific instance of failure of a municipal department to comply with  
32 a requirement of this ordinance may file for a writ of mandamus to compel the non-  
33 cooperating Municipality of Anchorage to comply with such requirement.  
34

35 **8.95.050 Definitions.**  
36

- 37 A. For the purposes of this Ordinance, the phrase illegal alien means an alien who is  
38 not lawfully present in the United States, according to the terms of United States  
39 Code Title 8, Section 1101 et seq. The municipality shall not conclude that an  
40 individual is an illegal alien unless and until an authorized representative of the  
41 municipality has verified with the federal government, pursuant to United States  
42 Code Title 8, Section 1373(c), such individual's immigration status.  
43

44 **8.95.060 Construction and Severability.**  
45

- 46 A. The requirements and obligations of this chapter shall be implemented in a  
47 manner fully consistent with federal law regulating immigration and protecting  
48 the civil rights of all citizens and aliens.  
49

C. If any provision of this ordinance is declared invalid, such invalidity shall not affect other provisions of this ordinance which can be given effect without the invalid provision. The provisions of this ordinance are declared to be severable.

Municipal Clerk

CLERK'S OFFICE  
**AMENDED AND APPROVED**  
Date: 7-15-03

Submitted by: Vice-Chair TESCHE and  
Assemblymembers Shamberg, Taylor, Van Etten, Von  
Gemmingen, and Whittle  
Prepared by: Department of Assembly  
For reading: July 15, 2003

**ANCHORAGE, ALASKA**  
**AR NO. 2003-223 - as amended**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY RELATING TO THE USA PATRIOT  
ACT, THE BILL OF RIGHTS, THE CONSTITUTION OF THE STATE OF ALASKA, AND THE CIVIL  
LIBERTIES, PEACE, AND SECURITY OF THE CITIZENS OF OUR COUNTRY**

WHEREAS, the State of Alaska and the Municipality of Anchorage each recognizes the  
Constitution of the United States as our charter of liberty, and that the Bill of Rights enshrines the  
fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and  
privacy; and

WHEREAS, each of Alaska's duly elected public servants has sworn to defend and uphold the  
United States Constitution and the Constitution of the State of Alaska; and

WHEREAS, the Municipality of Anchorage again denounces and condemns all acts of terrorism,  
wherever occurring; and

WHEREAS, attacks against Americans such as those that occurred on September 11, 2001, have  
necessitated the crafting of effective laws to protect the public from terrorist attacks; and

WHEREAS, any new security measures of Federal, State, and local governments should be  
carefully designed and employed to enhance public safety without infringing on the civil liberties and rights  
of innocent citizens of the State of Alaska and the Nation; and

WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing  
Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001," also known as the USA  
PATRIOT Act, allow the Federal government more liberally to detain and investigate citizens and engage  
in surveillance activities that may violate or offend the rights and liberties guaranteed by our State and  
Federal constitutions, and

WHEREAS, the State of Alaska, the Fairbanks North Star Borough, the City and Borough of  
Juneau, and the Cities of Kenai, North Pole, Skagway, and Gustavus have joined well over 150 state and  
local governments in speaking out against terrorism and, at the same time reaffirming their support for  
individual rights and freedoms guaranteed under State and Federal constitutions.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

**Section 1:** That the Anchorage Assembly reaffirms its support of the government of the United  
States of America in its campaign against terrorism, and affirms its commitment that the campaign not be  
waged at the expense of essential civil rights and liberties of citizens of this country contained in the United  
States Constitution and the Bill of Rights.

**Section 2:** That it is the policy of the Municipality of Anchorage to oppose any portion of the USA  
PATRIOT Act that would violate the rights and liberties guaranteed equally under the State and Federal  
constitutions.

**Section 3:** That, in accordance with Municipal policy, an agency or instrumentality of the

Municipality, in the absence of reasonable suspicion of criminal activity under Alaska State law or under Municipal law, may not:

- (1) initiate, participate in, or assist or cooperate with an inquiry, investigation, surveillance, or detention;
- (2) record, file, or share intelligence information concerning a person or organization, including library lending and research records, book and video store sales and rental records, medical records, financial records, student records, and other personal data, even if authorized under the USA PATRIOT Act; or
- (3) retain such intelligence information; the State Attorney General shall review the intelligence information currently held by the State for its legality and appropriateness under the United States and Alaska Constitutions and permanently dispose of it if there is no reasonable suspicion of criminal activity.

**Section 4:** That an agency or instrumentality of the Municipality may not,

- (1) Unless necessary to protect the safety of people, use Municipal resources or institutions for the enforcement of Federal immigration matters, which are the responsibility of the Federal government;
- (2) collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership, unless the information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct; or
- (3) engage in racial profiling; law enforcement agencies may not use race, religion, ethnicity, or national origin as factors in selecting individuals to subject to investigatory activities except when seeking to apprehend a specific suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect.


**Section 5:** That the Anchorage Assembly implores the United States Congress to correct provisions in the USA PATRIOT Act and other measures that infringe on civil liberties, and opposes any pending and future Federal legislation to the extent that it infringes on Americans' civil rights and liberties.

**Section 6:** That copies of this resolution shall be sent to the Honorable George W. Bush, President of the United States; the Honorable John Ashcroft, Attorney General of the United States; the Honorable Frank Murkowski, Governor of Alaska; and to the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska Delegation in Congress.

PASSED AND APPROVED by the Anchorage Assembly this 15<sup>th</sup> day of July, 2003.

  
Chair

ATTEST:

  
Municipal Clerk

[REDACTED]

[REDACTED]

[REDACTED]

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

*AO 2007-125*

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

|          |  |  |                               |
|----------|--|--|-------------------------------|
| <b>1</b> | SUBJECT OF AGENDA DOCUMENT<br>An ordinance making certain findings related<br>TO Illegal immigration | DATE PREPARED<br>9/4/07  |                               |
|          |  | Indicate Documents Attached<br><input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM |                               |
| <b>2</b> | DEPARTMENT NAME<br>Assembly  | DIRECTOR'S NAME<br>Dan Coffey, Chair   |                               |
| <b>3</b> | THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY<br>[REDACTED]                                       | HIS/HER PHONE NUMBER<br>[REDACTED]   |                               |
| <b>4</b> | <b>COORDINATED WITH AND REVIEWED BY</b>  | <b>INITIALS</b>  | <b>DATE</b>                   |
| X        | Mayor  |  |                               |
|          | Municipal Clerk  |  |                               |
|          | Municipal Attorney   |  |                               |
|          | Employee Relations   |  |                               |
| X        | 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>   |  |                               |
|          | INTRODUCTION 9/11/07   |  |                               |
|          |  |  |                               |
|          |  |  |                               |
|          |  |  |                               |
| <b>6</b> | ASSEMBLY HEARING DATE REQUESTED  | <b>7</b>   | PUBLIC HEARING DATE REQUESTED |
|          |  |  | 9/25/07                       |