

ANCHORAGE, ALASKA  
AO No. 2007-161

1 AN ORDINANCE REPEALING AO 2007-60, RE-ENACTING ANCHORAGE  
2 MUNICIPAL CODE SECTIONS 9.48.080, 9.28.026, AND 9.28.027 AND ADDING A  
3 NEW SECTION 9.28.035 FOR ABATEMENT OF VEHICLES AS A PUBLIC  
4 NUISANCE IF A PERSON ACCUMULATES DELINQUENT TRAFFIC FINES  
5 EXCEEDING ONE THOUSAND DOLLARS (\$1,000).  
6

7  
8 WHEREAS, there are more than one thousand (1,000) residents of Anchorage who owe  
9 more than \$1,000 in fines for moving violations of municipal traffic laws; and  
10

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

16 WHEREAS, the Assembly finds traffic offenders who do not pay the fines imposed upon  
17 them suffer no penalties for their offenses, and are therefore less likely to change their  
18 dangerous driving behavior;  
19

20 WHEREAS, the Assembly finds the danger posed by traffic offenders to the community  
21 is present whether the traffic offenders are driving vehicles which they own or which are  
22 entrusted to them by others;  
23

24 WHEREAS, the Assembly finds the incidence of traffic offenses causing injury of  
25 innocent victims is diminished by (1) declaring it a public nuisance for a driver to operate  
26 a motor vehicle when the driver owes more than \$1,000 in fines for moving violations of  
27 municipal traffic laws, and (2) authorizing the seizure and forfeiture of a vehicle operated  
28 by a person who causes a public nuisance; now, therefore,  
29

30 **THE ANCHORAGE ASSEMBLY ORDAINS:**  
31

32 **Section 1.** Anchorage Ordinance (AO) 2007-60, adding a new section 9.48.080B.,  
33 and amending sections 9.28.026 and 9.28.027, approved on April 10, 2007, is hereby  
34 repealed in its entirety.  
35

36 **Section 2.** Anchorage Municipal Code section 9.48.080 is hereby re-enacted to read  
37 as follows:  
38

39 **9.48.080** **Traffic citations--Failure to obey.**  
40

A. It is unlawful for any person to fail to obey a written traffic citation, received from a sworn police officer, requiring a person to either:

1. Appear in court; or
2. Submit payment for; or
3. Correct an alleged violation within the time allowed,

regardless of the disposition of the charge for which such citation was originally issued.

B. A violation under this section may be resolved through:

1. The administrative hearing procedures in title 14, applying the scheduled penalty set forth in section 14.60.030; or
2. The courts, applying the scheduled penalty set forth in section 9.48.130.

(CAC 9.48.080; AO No. 78-72; AO No. 93-167(S-1), § 8, 4-13-94; AO No. 2007-60 §1, 4-10-07).

**Editor's note:** AO No. 2007-60 repealed in its entirety by AO 2007-\_\_\_\_ on \_\_\_\_\_, 2007.

**Section 3.** Anchorage Municipal Code section 9.28.026 is re-enacted to read as follows:

**9.28.026      Impoundment and forfeiture of vehicle.**

A. *Mandatory impound; discretionary impound.*

1. A motor vehicle 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, section 9.28.022, pertaining to refusal to submit to chemical tests, or section 8.65.030, pertaining to soliciting, may be impounded and may be forfeited to the municipality in accordance with this section.
2. A motor vehicle operated, driven or in the actual physical control of an individual arrested for or charged with an alleged violation of section 9.28.030B., pertaining to operating a motor vehicle without the required security in effect at the time of operation, may be impounded through a seizure of the vehicle incident to the citation or arrest, at the discretion of the officer.

1           B.     It shall be presumed a vehicle operated by or driven by or in the actual  
2                 physical control of an individual arrested for or charged with an alleged  
3                 violation of section 9.28.030, section 9.28.019, section 9.28.020,  
4                 section 9.28.022, or section 8.65.030, has been so operated by the  
5                 registered owners thereof or has been operated by another person with the  
6                 knowledge and consent of the registered owners. A vehicle so operated is  
7                 declared to be a public nuisance for which the registered owners hold legal  
8                 responsibility, subject only to the defenses as set forth by law. The  
9                 purposes of this section and the impoundment and forfeiture provisions of  
10                sections 9.28.019, 9.28.020, 9.28.022, 9.28.030, and 8.65.030 include  
11                protecting the public, removing public nuisances, deterring driving under  
12                the influence, and protecting the public from uninsured motorists, but do  
13                not include the generation of revenue for the municipality.

14  
15           C.     *General provisions.*

- 16               1.     In the case of an alleged violation of section 9.28.019, 9.28.020,  
17                      9.28.022, 9.28.030B., or 8.65.030, and in addition to the penalties  
18                      set forth in those sections, the vehicle used in the alleged violation  
19                      shall be impounded for 30 days if the person driving, operating, or  
20                      in the actual physical control of the vehicle has not been previously  
21                      convicted and shall be forfeited to the municipality if the person  
22                      driving, operating, or in the actual physical control of the vehicle  
23                      has been previously convicted. Impoundment may be  
24                      accomplished through a seizure of the vehicle incident to an arrest  
25                      or pursuant to a court order entered in the course of civil or  
26                      criminal enforcement proceedings. Impoundment through a  
27                      seizure of the vehicle incident to an arrest is at the discretion of the  
28                      arresting officer.
- 29               2.     A case seeking civil impoundment or forfeiture is heard and  
30                      decided by the Alaska State Court.
- 31               3.     Upon the request of the municipality or a claimant, a civil  
32                      proceeding seeking impoundment or forfeiture shall be held in  
33                      abeyance until conclusion of any pending criminal charges arising  
34                      out of the incident giving rise to the forfeiture or impoundment  
35                      action under section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or  
36                      8.65.030.
- 37               4.     Upon motion by the municipality, if it appears there is reasonable  
38                      cause for the seizure of a vehicle or for the filing of a complaint for  
39                      impound or forfeiture, the court shall find:
- 40                      a.     Reasonable cause exists, or any such action was taken  
41                              under a reasonable good faith belief it was proper;
- 42                      b.     The claimant is not entitled to costs or damages; and
- 43                      c.     The municipality is not liable to suit or judgment for the  
44                              seizure, suit or prosecution.
- 45                      d.     A claimant who fails to establish the claimant's interest is  
46                              exempt from forfeiture pursuant to subsection C.6. shall

1 pay reasonable costs and expenses of the municipality for  
2 the investigation and prosecution of the civil action,  
3 including reasonable attorney fees.

4 5. The civil impoundment or forfeiture of a seized vehicle under this  
5 section shall be through a civil action filed in Alaska State Court.  
6 The municipality may not bring an action for impoundment or  
7 forfeiture unless the action is brought within six months from the  
8 final disposition of the underlying criminal action against the  
9 driver operator of the seized vehicle.

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

14 a. The claimant had a recorded interest in the motor vehicle at  
15 the time of the alleged violation or, if the interest was  
16 recorded after the alleged violation, the interest was  
17 acquired in good faith and not for purposes of avoiding  
18 impound or forfeiture;

19 b. A person other than the claimant was in possession of the  
20 vehicle and was responsible for or caused the act resulting  
21 in the impound or forfeiture;

22 c. The claimant did not know and could not reasonably have  
23 known the person would operate the vehicle in violation of  
24 section 9.28.019, 9.28.020, 9.28.022, 9.28.030 or 8.65.030;  
25 and

26 d. In cases where the municipality filed a civil action to forfeit  
27 a seized vehicle, the claimant took reasonable steps to  
28 prevent, as the phrase is defined in subsection F. below, the  
29 person charged with violating section 9.28.019, 9.28.020,  
30 9.28.022, 9.28.030, or 8.65.030 from violating  
31 section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030.

32 e. A claimant who is a regulated lienholder meets its burden  
33 of proof under this subsection by filing with the court a  
34 copy of the vehicle's certificate of title or other security  
35 instrument reflecting the lien, together with an affidavit  
36 stating the amount of the lien and stating the claimant is a  
37 regulated lienholder and was not in possession of the  
38 vehicle at the time of the act resulting in the seizure of the  
39 vehicle. The presumptions provided in this subsection shall  
40 not apply to regulated lienholders.

41 f. For purposes of this section, when a person other than the  
42 claimant was in possession of the vehicle and was driving  
43 with a suspended, revoked, or cancelled license or in  
44 violation of a limited license or without a valid driver's  
45 license, it is presumed the claimant did have reasonable  
46 cause to believe the vehicle would be used in violation of

- section 9.28.019.
- g. Also for purposes of this section, when the claimant and driver are not the same person and the claimant and driver have a familial relationship, such as husband and wife, father and daughter, mother and stepson, etc., or the claimant and driver live at the same address, it shall be presumed the claimant is responsible and the vehicle was operated by the driver, in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030, with the knowledge and consent of the claimant.
  - h. If a claimant was in the vehicle at the same time the vehicle was being operated by the driver in violation of section 9.28.020 or 9.28.022, it shall be presumed the claimant knew and consented to operation of the vehicle in violation of Section 9.28.020 or 9.28.022.
  - i. A claimant is not required by this subsection to take steps the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the impound or forfeiture) to physical danger.
  - j. For purposes of this section, corporations and other entities are deemed to have knowledge of the acts, omissions, and driving record of directors, officers, and other managers, regardless of whether the directors, officers, or other managers are acting within the scope of employment.
7. Within two days of seizure, parties with an interest in the vehicle, including lienholders, as shown on the vehicle ownership records of the State of Alaska, Division of Motor Vehicles, or an agency with similar responsibilities in another state, shall be served with notice of seizure by certified mail sent to the address of record as shown in the vehicle ownership records of the State of Alaska, or an agency with similar responsibility in another state, or residence address as indicated in the police report.
- a. For purposes of computing the two-day period, the day the vehicle was seized is not included. For purposes of computing the two-day period, Saturdays, Sundays, and Municipal holidays, are not included. This period may be reasonably extended for those instances when vehicle ownership records are not accessible from the State of Alaska, Division of Motor Vehicles, or an agency with similar responsibilities in another state.
  - b. The notice of seizure shall notify parties of the right to a post-seizure probable cause hearing if such hearing is requested, in writing, within ten days after the date the notice of the seizure is mailed, as evidenced by the postmark.
  - c. If notice is not provided, as required by this subsection, the

- 1 municipality shall waive the administrative fee.
- 2 d. If a registered owner was personally served at the time of
- 3 impoundment with a notice containing all the information
- 4 required by this section, no further notice is required to be
- 5 sent to that registered owner.
- 6 e. A notice of seizure that notifies a registered owner who was
- 7 arrested for, or charged with, an alleged violation of
- 8 section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030
- 9 of the right to contest seizure under Alaska Criminal
- 10 Rule 37(c) meets the requirement of subsection 7.b.
- 11 8. The municipality may enter into an agreement with the registered
- 12 owner or lienholder of the vehicle to resolve a civil impound or
- 13 forfeiture action arising under section 9.28.019, 9.28.020,
- 14 9.28.022, 9.28.030 or 8.65.030 and permit release of the vehicle.
- 15 Any such agreement shall include:
- 16 a. Acceptance by the owner or lienholder of responsibility for
- 17 meeting the requirements of subsection C.9.;
- 18 b. Agreement the owner or lienholder shall take reasonable
- 19 steps to prevent the individual arrested for or charged with
- 20 driving under the influence or with refusal to submit to
- 21 chemical tests from operating the vehicle until properly
- 22 licensed; and
- 23 c. Acknowledgment by the owner or lienholder that failure to
- 24 fulfill the obligations under the agreement may result in
- 25 forfeiture of the vehicle at the option of the municipality.
- 26 This requirement shall not apply to a regulated lienholder
- 27 required by other law or by the terms of the agreement
- 28 creating the lien to permit the individual to recover the
- 29 vehicle upon payment of the lien or cure of any default.
- 30 9. No vehicle shall be released unless the applicant:
- 31 a. Provides proof of insurance in a form acceptable to the
- 32 municipality;
- 33 b. Provides proof of ownership or, if a lienholder, a legal right
- 34 to repossess the vehicle; and
- 35 c. Pays or provides proof of payment of any costs imposed,
- 36 including the impound fees, storage fees and any court
- 37 costs imposed. The impound fee shall be the actual cost of
- 38 impound plus an administrative charge of \$390.00 to offset
- 39 the municipality's processing costs for seizures of vehicles
- 40 based on an alleged violation of section 9.28.019, 9.28.020,
- 41 9.28.022 or 8.65.030.
- 42 i. The administrative charge may be waived in
- 43 exceptional cases or if it is in the best interests of
- 44 the municipality. The administrative charge shall
- 45 not be imposed if notice is not provided as required
- 46 under subsection C.7. or the administrative hearing

- 1 officer finds no probable cause under subsection  
2 C.13.
- 3 d. An administrative charge of \$200.00 shall be imposed for  
4 seizures of vehicles based on an alleged violation of  
5 section 9.28.030.
- 6 i. The administrative charge may be waived in  
7 exceptional cases or if it is in the best interests of  
8 the municipality. The administrative charge shall  
9 not be imposed if notice is not provided as required  
10 under subsection C.7. or the administrative hearing  
11 officer finds no probable cause under  
12 subsection C.13.
- 13 e. Notwithstanding the finding of the administrative hearing  
14 officer, if the court makes a specific finding or pursuant to  
15 a stipulation between the parties, the seizure of the vehicle  
16 was legally unjustified, the vehicle shall be released at no  
17 cost if the person seeking to reclaim the vehicle reclaims  
18 the vehicle within five (5) days after the issuance of the  
19 court's decision making such a finding.
- 20 f. A vehicle ordered released at no charge under this  
21 subsection is subject to the provisions of AS 28.10.502 if  
22 the vehicle is not reclaimed within five days after the  
23 issuance of the court's decision. The provisions of  
24 chapter 9.50 do not apply to vehicles seized under the  
25 authority of section 9.28.026.
- 26 10. An acquittal or a conviction of a lesser offense in a criminal  
27 proceeding for a violation of chapter 9.28 provides a defense in a  
28 civil proceeding seeking impoundment or forfeiture of the vehicle,  
29 if that civil proceeding is based on the same conduct that forms the  
30 basis for the criminal charge.
- 31 11. Temporary release of vehicle pursuant to vehicle return bond.
- 32 a. A registered owner or lienholder may obtain temporary  
33 release of a vehicle seized by the municipality pursuant to  
34 this subsection.
- 35 b. The purpose of setting a vehicle return bond on the vehicle  
36 is to secure the presence of the vehicle and to provide  
37 security to be forfeited along with the proceeds of a sale,  
38 transfer, or encumbrance if the vehicle is sold, transferred,  
39 or encumbered after the vehicle has been released pending  
40 the final disposition in the criminal action against the driver  
41 of the seized vehicle or the final disposition in the civil  
42 action against claimants of the seized vehicle. If the  
43 vehicle's release has been obtained through the posting of a  
44 vehicle return bond and the vehicle is not returned pursuant  
45 to the court's order, the municipality may, in addition to  
46 obtaining the forfeited bond funds, seize the vehicle to

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

- 13 i. Two hundred fifty dollars (\$250.00) if the person  
14 charged with a violation of section 9.28.019,  
15 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has not  
16 been previously convicted;
- 17 ii. Five hundred dollars (\$500.00) if the person  
18 charged with a violation of section 9.28.019,  
19 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been  
20 previously convicted and the vehicle is twenty (20)  
21 years old or older;
- 22 iii. One thousand dollars (\$1,000.00) if the person  
23 charged with a violation of section 9.28.019,  
24 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been  
25 previously convicted and the vehicle is fifteen (15)  
26 years old or older but less than twenty (20) years  
27 old;
- 28 iv. One thousand five hundred dollars (\$1,500.00) if  
29 the person charged with a violation of  
30 section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or  
31 8.65.030 has been previously convicted and the  
32 vehicle is ten (10) years old or older but less than  
33 fifteen (15) years old;
- 34 v. Two thousand dollars (\$2,000.00) if the person  
35 charged with a violation of section 9.28.019,  
36 9.28.020, 9.28.022, 9.28.030, or 8.65.030 has been  
37 previously convicted and the vehicle is five (5)  
38 years old or older but less than ten (10) years old;  
39 and
- 40 vi. Two thousand five hundred dollars (\$2,500.00) if  
41 the person charged with a violation of  
42 section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or  
43 8.65.030 has been previously convicted and the  
44 vehicle is less than five (5) years old.
- 45 c. A vehicle return bond may be set above the minimum if the  
46 vehicle appears to have unusually high value for its age. A



- 1 vehicle may not be released pursuant to a vehicle return  
2 bond unless release is in compliance with subsection C.9.
- 3 d. If the person who secured the release of the vehicle does  
4 not cause the vehicle to be returned to impoundment for the  
5 purpose of impoundment or forfeiture in accordance with  
6 an order entered by the court, upon motion of the  
7 municipality, the court shall order all of the vehicle return  
8 bond forfeited to the municipality and shall order the  
9 proceeds of any sale, transfer, or encumbrance are forfeited  
10 to the municipality if the vehicle has been sold, transferred,  
11 or encumbered while subject to a vehicle return bond. For  
12 purposes of this subsection, it shall be presumed the  
13 amount of proceeds of any sale, transfer, or encumbrance is  
14 the assessed or appraised value of the seized vehicle as  
15 defined in subsection F. below.
- 16 e. Personal property in a vehicle subject to a vehicle return  
17 bond under this subsection and not released pursuant to that  
18 vehicle return bond can be recovered from a vehicle only  
19 by the owner of the vehicle and only upon payment of a fee  
20 charged for monitoring the recovery of such personal  
21 property. Such fee shall be set by contract between the  
22 towing and storage contractor and the municipality if it is  
23 not established by ordinance. Such fee shall be recoverable  
24 by the owner of the vehicle if a court makes a specific  
25 finding that seizure of the vehicle was legally unjustified or  
26 pursuant to a stipulation between the parties.
- 27 f. The court shall order the forfeiture of a vehicle return bond  
28 if a person charged under section 9.28.019, 9.28.020,  
29 9.28.022, 9.28.030, or 8.65.030 obtains temporary release  
30 of a seized vehicle and does not appear before the court as  
31 ordered.
- 32 12. For purposes of this section, time shall be calculated as set forth in  
33 Alaska Rule of Civil Procedure 6, unless otherwise stated.
- 34 13. When a timely request for a post-seizure probable cause hearing is  
35 made, a hearing shall be held before an administrative hearing  
36 officer. The hearing shall be held within three days after the  
37 request is received, excluding weekends and municipal holidays.  
38 The hearing may be postponed upon agreement of the parties.
- 39 a. The purpose of the hearing is to determine whether there  
40 was probable cause to seize the vehicle. The administrative  
41 hearing officer shall not make a final adjudication of  
42 impoundment or forfeiture of the vehicle. Findings by the  
43 administrative hearing officer shall not collaterally estop  
44 the issue of probable cause or any other factual or legal  
45 issue from being decided by the court.
- 46 b. The post-seizure probable cause hearing shall be by

- telephone unless otherwise requested by the administrative hearing officer or upon a showing of prejudice to either party.
- c. If the law enforcement officer provides a signed police report or affidavit with the name and badge number or other identifying mark of the law enforcement officer to the administrative hearing officer, the law enforcement officer need not be present at the hearing unless requested by the person requesting the hearing or the administrative hearing officer.
    - i. In the case where the presence of the law enforcement officer is requested, the hearing may be postponed an additional seven (7) days in order to allow the law enforcement officer to be present.
    - ii. If the law enforcement officer is unavailable because of vacation, sickness, or other similar reason, the hearing may be postponed a reasonable time period in order to accommodate the law enforcement officer's unavailability.
  - d. If the person requesting a hearing fails to appear, the person shall waive the right to a hearing.
  - e. If the administrative hearing officer finds there was no probable cause to seize the vehicle:
    - i. The vehicle shall be released without municipal administrative fees; and
    - ii. The registered owner or lienholder may make a claim to the municipality for towing and storage.
14. The burden of proof for an action brought pursuant to this section is preponderance of the evidence.
15. For purposes of this section, the parties may agree to extend, reduce or otherwise alter the time limits set by this section.
16. The owner of a vehicle or the designated agent of the owner of a vehicle that is the subject of an impoundment or forfeiture action may relinquish to the municipality any ownership interest possessed by the owner as part of an agreement to resolve the action.
17. Nothing in this section shall be construed to place upon a regulated lienholder a duty to inquire into the driving record of any loan applicant or any member of the loan applicant's family or household, and failure to do so shall not be usable as evidence against the regulated lienholder in any forfeiture proceeding or other civil action.
18. Upon motion of the municipality, the court shall void the transfer of title or any interest in a seized vehicle occurring subsequent to the seizure of the vehicle pursuant to this section.
  - a. If the vehicle is temporarily released pursuant to a vehicle

return bond and the transferee is able to establish by a preponderance of the evidence the transferee did not know the municipality seized the vehicle, the court shall order the transferor to forfeit the proceeds from the sale, transfer, or encumbrance to the municipality.

- b. For purposes of this subsection, it shall be presumed the amount of proceeds of any sale, transfer, or encumbrance is the assessed value of the seized vehicle.

D. *Impoundment.*

1. A motor vehicle 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, 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, 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, or 8.65.030.
2. A vehicle may be seized for impound under the circumstances set forth in subsection E.3.
3. A vehicle seized incident to an arrest may be held by the municipality for up to two (2) days before the owner or lienholder may obtain release of the seized vehicle.
  - a. For purposes of computing the two-day period, the day the vehicle was seized is not included. For purposes of computing the two-day period, Saturdays, Sundays and municipal holidays are not included.
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, or 8.65.030 or upon decision of a court in a separate civil proceeding.
5. Vehicles ordered impounded under this section not claimed at the end of the 30-day, court-ordered period of impoundment may be disposed of pursuant to the provisions of AS 28.10.502.
  - a. If the contents of the vehicle have not been recovered before such disposal, the contents may be disposed of with the vehicle.
  - b. Personal property in a vehicle subject to a vehicle return bond under subsection C.11. above, and not released pursuant to that vehicle return bond may 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.

c. The fee for monitoring the recovery of personal property shall be set by contract between the towing and storage contractor and the municipality if it is not established by ordinance.

d. The fee for monitoring the recovery of personal property shall be recoverable by the owner of the vehicle if a court makes a specific finding the seizure of the vehicle was legally unjustified or pursuant to a stipulation between the parties.

6. Civil release of the vehicle does not affect or change the criminal proceedings incurred as a result of the violation.

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, or 8.65.030; and

b. The individual has been previously convicted.

2. A motor vehicle 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, 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, 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, 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 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, or 8.65.030.

d. A vehicle seized incident to an arrest may be held by the municipality for up to two (2) days before the owner or lienholder can obtain release of the seized vehicle.

e. For purposes of computing the two-day period, the day the

vehicle was seized is not included. For purposes of computing the two-day period, Saturdays, Sundays, and municipal holidays are not included.

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, 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, 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, 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, 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 subject to a vehicle return bond under subsection C.11. and not released pursuant to that vehicle return bond may 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 the seizure of the vehicle was legally unjustified or pursuant to a stipulation between the parties.

6. A claimant may petition the court for sale of a motor vehicle before final disposition of court proceedings. The court shall grant a petition for sale upon a finding the sale is in the best interest of the municipality. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.
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, 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:
  - a. Sell the property at an auction conducted by an auctioneer not employed by the impound contractor and use the proceeds for payment of all proper expenses of seizure, custody, the costs of the auction, court costs, and municipal attorney fees, provided if such sale is arranged for by the impound contractor, the municipality shall receive at least thirty percent (30%) of the proceeds of any sale of forfeited vehicles following deduction for the costs charged by the auctioneer for the auction of those vehicles regardless of whether the costs of impound and storage exceed the value of the forfeited vehicles sold;
  - b. Take custody of the property and use it in the enforcement of the municipal and state criminal codes; or
  - c. Destroy the property.
  - d. Property forfeited and sold at auction pursuant to this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, and 8.65.030 shall be sold by an auctioneer approved before the auction by the chief of police, or authorized designee.
    - i. Before the auction, the chief of police, or authorized designee, must approve in advance the auctioneer's costs or the method for determining the auctioneer's costs.
    - ii. The impound contractor shall provide to the chief of police, or authorized designee, a copy of the auctioneer's report of the auction notarized by the auctioneer.
    - iii. The municipal auditor shall certify the proper disposal of property forfeited under this section, section 9.28.019, 9.28.020, 9.28.022, 9.28.030, and 8.65.030.
    - iv. The chief of police may adopt rules and regulations to implement this section.

8. Upon a showing a claimant is entitled to remittance in accordance with this section, the court shall order that:
  - a. If the claimant is entitled to the motor vehicle, it shall be delivered to the claimant immediately subject to subsection 9.28.026.C.9.; or
  - b. If the claimant is entitled to remittance of some value less than the total value of the motor vehicle, the claimant is entitled at the claimant's choice to receive either the value of the claimant's interest after the sale of the vehicle at an auction following deduction of the costs of the auction or, upon request and payment of the difference in value by the claimant, the motor vehicle itself.
  - c. When a vehicle is subject to forfeiture under this section, and when the vehicle is sold and the lienholder interest exceeds the sale price, the owner may be held responsible for the difference and the municipality's costs.
9. The storage and impound costs as well as any court costs imposed for vehicles seized under this section shall be borne by the person redeeming such vehicle as owner or in behalf of the owner or as having an interest in the vehicle. The amount of such costs shall be determined as provided in subsection C.9.
10. In a contested forfeiture proceeding concerning a vehicle titled in the names of more than one owner on the certificate of title, the court shall apply this subsection.
  - a. If one owner does not avoid forfeiture, the court may order the forfeiture of the entire interest of all the owners in a vehicle titled in the names of more than one owner in the disjunctive. Title in the disjunctive is significant by the use of the word "or" between the names of the owners listed on the certificate of title.
  - b. If such owner does not avoid forfeiture, the court shall order the forfeiture of the interest of any owner in a vehicle titled in the names of more than one owner in the conjunctive. Title in the conjunctive is signified by use of the word "and" between the names of the owners listed on the certificate of title. Owners of a vehicle titled in the names of more than one owner in the conjunctive are presumed to own the vehicle in equal shares.
  - c. In circumstances described in this subsection, the court shall order the vehicle be sold at public auction and further order the proceeds from the sale of the vehicle be held by the treasury division of the municipality's finance department.
  - d. After deduction of the reasonable costs of the auction, an amount of the proceeds of the auction for the sale of that vehicle which is equal to the interests of the owners whose

interests have not been forfeited shall be returned to those owners, if those owners apply to the treasury division of the municipality's finance department within sixty (60) days of the auction.

- i. If the owners whose interests have not been forfeited do not apply within that period, those funds become the property of the municipality subject to the rights of any other claimant to those funds.

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

- a. The individual who allegedly used the vehicle in violation of section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or 8.65.030 is not the person whose dealings with the lienholder gave rise to the lien; or
- b. The vehicle the individual was driving, operating, or was in actual physical control of at the time of the alleged violation was not the vehicle involved in the event giving rise to the conviction.

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

*Administrative hearing officer* means a person designated to conduct post-seizure probable cause hearings.

*Assessed or appraised value of a motor vehicle* means the value set out in the National Automobile Dealers Association Book (NADA) for the same or similar make and model and accessorized motor vehicle. In the event there is no NADA value for a motor vehicle, the value shall be set at a minimum of \$500.00.

*Driver* has the same meaning as set forth in section 9.04.010.

*Legally unjustified* means there was:

1. No reasonable suspicion for the stop of the vehicle leading to an arrest for soliciting, driving without a valid license, driving under the influence, operating a motor vehicle that is public nuisance under section 9.28.035, or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle; or
2. No probable cause for the arrest of an individual for soliciting,



1 driving without a valid license, driving under the influence,  
2 operating a motor vehicle that is public nuisance under  
3 section 9.28.035, or operating without the required security based  
4 on the individual allegedly operating, driving, or being in actual  
5 physical control of the vehicle.

6  
7 *Person* has the same meaning as set forth in section 9.04.010.

8  
9 *Previously convicted* means:

- 10 1. If charged with violating section 9.28.019, having been convicted  
11 in this or another jurisdiction of operating a motor vehicle while  
12 their license is canceled, suspended or revoked, or in violation of a  
13 limitation, under section 9.28.019 or another law or ordinance with  
14 substantially similar elements within ten years preceding the date  
15 of the present offense.
- 16 2. If charged with violating either section 9.28.020 or 9.28.022,  
17 having been convicted in this or another jurisdiction of operating a  
18 motor vehicle, aircraft, or watercraft while under the influence  
19 under section 9.28.020 or another law or ordinance with  
20 substantially similar elements, or of refusal to submit to a chemical  
21 test under section 9.28.022 or 28.35.032 or another law or  
22 ordinance with substantially similar elements.
- 23 3. If charged with violating section 9.28.030, having been convicted  
24 in this or another jurisdiction of operating a motor vehicle without  
25 the required security in effect at the time of operation under  
26 section 9.28.030 or another law or ordinance with substantially  
27 similar elements within ten years preceding the date of the present  
28 offense.
- 29 4. If charged with violating section 8.65.030C. or another law or  
30 ordinance with substantially similar elements within ten years  
31 preceding the date of the present offense.
- 32 5. Convictions for violation of section 9.28.020 and 9.28.022 arising  
33 out of a single transaction and a single arrest are considered one  
34 previous conviction.

35  
36 *Reasonable steps to prevent* means the claimant has the burden of  
37 showing, by a preponderance of the evidence, that:

- 38 1. The claimant secured the keys to the vehicle or the vehicle itself in  
39 a way that should have prevented the person charged with violating  
40 this chapter from obtaining access to the vehicle; or
- 41 2. Informed the police, before seizure of the vehicle, the vehicle was  
42 being operated in violation of this chapter; or
- 43 3. Permitted the person charged with violating this chapter to operate  
44 the vehicle only after examining what appeared to be a valid  
45 driver's license; or
- 46 4. Expressly prohibited operators of the vehicle, who are not

registered owners of the vehicle, from permitting other third-parties to operate the vehicle.

*Registered owner* means the owner of the vehicle at the time of offense, as shown in the vehicle ownership records of the State of Alaska, Division of Motor Vehicles or another agency with similar responsibilities in another state, but may include subsequent good faith purchasers.

*Regulated lienholder* means an entity whose lien on the vehicle is a result of lending activities subject to regulation by the National Credit Union Administration, the comptroller of the currency or other federal banking regulators, the Federal Trade Commission, or the state department of commerce and economic development.

*Vehicle* shall have the same meaning as set forth in section 9.04.010.

(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 4.** Anchorage Municipal Code section 9.28.027 is re-enacted to read as follows:

**9.28.027**      **Failure to return a vehicle 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, 9.28.035, or 8.65.030 to willfully fail to return that vehicle when ordered by a court. Each day 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 5.** Anchorage Municipal Code is amended to add a new section 9.28.035 to read as follows:

**9.28.035**      **Abatement of vehicles operated by delinquent offenders.**

A. Any motor vehicle operated by a person who accumulates delinquent traffic fines totaling more than \$1,000 is a public nuisance subject to abatement as provided in this section. The purpose of abatement is to remove motor vehicles operated by repeat traffic offenders who have not been subject to the deterrent and rehabilitative effects of sentencing, and who therefore pose a heightened danger to the public. The purpose of abatement is not to generate revenue.

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

*Arrest* means traffic stops by a peace officer for the purpose of issuing a citation and detentions based upon reasonable suspicion of criminal activity.

*Delinquent traffic fine* means an unpaid traffic fine referred to the municipality for collection by the Alaska Court System.

*Traffic fine* means a fine issued by the municipality for a moving violation. Traffic fine does not include fines for parking violations.

C. A motor vehicle that is a public nuisance may be abated through seizure by order of the court upon a showing of probable cause the motor vehicle was operated in violation of subsection A. Abatement without a court order may be made if seizure is incident to an arrest and there is probable cause to believe the motor vehicle was operated in violation of subsection A.

D. A vehicle seized under subsection C. may be held by the municipality for up to two (2) days before the registered owner or lienholder may obtain release of the seized vehicle. For purposes of computing the two-day period, the day the vehicle is seized is not included and Saturdays, Sundays, and municipal holidays are not included.

E. Notice of the seizure shall be provided as set forth in section 9.28.026C.7.

F. A post-seizure probable cause hearing shall be provided as set forth in section 9.28.026C.13. unless seizure is pursuant to a court order.

G. If the registered owner or lienholder was not the person operating the motor vehicle in violation of this section, the registered owner or lienholder may obtain release of the motor vehicle upon:

1. Agreement the registered owner or lienholder shall take reasonable steps to prevent the operation of the motor vehicle in violation of this section;
2. Proof of insurance of the motor vehicle in a form acceptable to the municipality;
3. Proof of ownership or a legal right to repossess the vehicle; and
4. Payment of an administrative fee of \$390.00, towing and storage fees, and any court costs imposed.

H. If the registered owner or lienholder was the person operating the motor vehicle in violation of this section, the registered owner or lienholder may obtain release of the motor vehicle upon:

1. Complete payment of all delinquent traffic fines;
2. Proof of insurance of the motor vehicle in a form acceptable to the municipality;
3. Proof of ownership or a legal right to repossess the vehicle; and
4. Payment of an administrative fee of \$390.00, towing and storage fees, and any court costs imposed.

I. A motor vehicle seized under this section may be forfeited to the municipality upon order of the court. The municipality may not bring an action for forfeiture unless the action is brought within six months from the date of seizure of the vehicle.

1. To obtain an order for forfeiture the municipality must establish by a preponderance of the evidence the motor vehicle was operated in violation of this section.
2. A registered owner or lienholder may avoid forfeiture and obtain release of the motor vehicle without fees or costs after showing by a preponderance of the evidence the motor vehicle was legally unjustified as defined under section 9.28.026F.
3. If the registered owner or lienholder fails to show the motor vehicle was legally unjustified, the court shall order the motor vehicle forfeited to the municipality, if the motor vehicle is not retrieved under subsection G. or H., as applicable, within five (5) days of the order.
4. A registered owner or lienholder may, after the commencement of an action under this section, retrieve the motor vehicle under subsection G. or H., as applicable.

J. A registered owner may obtain temporary release of a vehicle upon:

1. Proof of insurance of the motor vehicle in a form acceptable to the municipality;

2. Proof of ownership or a legal right to repossess the vehicle;
3. Payment of an administrative fee of \$390.00, towing and storage fees and post in cash a vehicle return bond in the amount \$1,000.
4. The vehicle return bond shall be returned to a registered owner or lienholder who was not operating a motor vehicle in violation of this section but fails to show the motor vehicle was legally unjustified under subsection I. only if the registered owner complies with subsection G.1.
5. The vehicle return bond in shall be forfeited to the municipality if a registered owner or lienholder who was operating a motor vehicle in violation of this section fails to show the motor vehicle was legally unjustified under subsection I. and the registered owner or lienholder fails to return the vehicle to the municipality upon order of the court. The court shall, upon motion by the municipality, also order seizure of the vehicle.

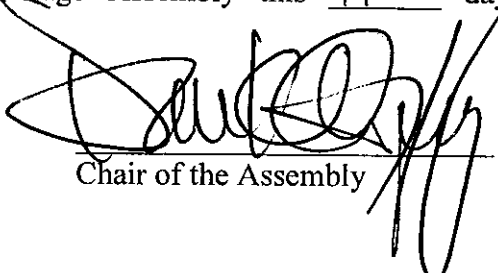
K. A motor vehicle forfeited under subsection I. may be disposed of as set forth in section 9.28.026E.7.

L. Proof a registered owner or lienholder did not know or could not reasonably have known the vehicle was operated in violation of this section is not a defense to the requirements of release under subsection G. or H., as applicable, or to an action under subsection I.

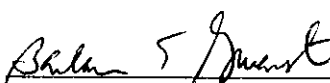
M. The administrative fee under subsection G. or H., as applicable, may be waived in exceptional cases or if it is in the best interests of the municipality. The administrative fee shall not be imposed if notice is not provided as required under subsection E. or the administrative hearing officer finds no probable cause under subsection F.

**Section 6.** This ordinance shall be effective ~~on January 1, 2008~~ **immediately.**

PASSED AND APPROVED by the Anchorage Assembly this 11<sup>th</sup> day of December, 2008.

  
Chair of the Assembly

ATTEST:

  
Municipal Clerk

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

AO Number: 2007-161

Title: An ordinance Re-enacting Anchorage Municipal Code Sections 9.48.080 and 9.28.026 and 9.28.027 and Adding a New Section 9.28.035 for abatement of vehicles as a public nuisance if a person has accumulated delinquent traffic fines exceeding one thousand dollars (\$1,000)

Preparing Agency: Finance

Others Impacted:

**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	See below	See Below	See below	See below	See below
3900 Contributions					
4000 Debt Service					
<b>TOTAL DIRECT COSTS:</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
<b>FUNCTION COST:</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>REVENUES:</b>	<b>See below</b>	<b>See Below</b>	<b>See below</b>	<b>See below</b>	<b>See below</b>

**CAPITAL:**

**POSITIONS:**

**PUBLIC SECTOR ECONOMIC EFFECTS:**

The purpose of abatement is to remove vehicles operated by persons who, by not paying their traffic fines, are a danger to the public because they have not subjected themselves to the rehabilitative efforts of the court. The purpose of abatement is not to generate revenue.

Cross reference: 4/10/07 Summary of Economic Effects which accompanied the original ordinance (i.e., AO 2007 - 60). The financial impacts are the same under the revised ordinance as they were under the original ordinance.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

There is no significant private sector economic effects associated with this ordinance, with the exception of a possible increase in fees collected by towing and storage companies.

Prepared by: Daniel Moore, Municipal Treasurer

Telephone: 343-4092

Agency Concurrence: Sharon Weddleton, Chief Fiscal Officer  
Department Director

Date: 343-6610

OMB Concurrence: Janet Mitson, OMB Director  
OMB Director

Date: 343-6783



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 733-2007

Meeting Date: November 27, 2007

FROM: MAYOR

1 SUBJECT: AN ORDINANCE REPEALING AO 2007-60, RE-ENACTING  
2 ANCHORAGE MUNICIPAL CODE SECTIONS 9.48.080, 9.28.026,  
3 AND 9.28.027 AND ADDING A NEW SECTION 9.28.035 FOR  
4 ABATEMENT OF VEHICLES AS A PUBLIC NUISANCE IF A  
5 PERSON HAS ACCUMULATED DELINQUENT TRAFFIC FINES  
6 EXCEEDING ONE THOUSAND DOLLARS (\$1,000).  
7

8 The Administration requests approval of an ordinance repealing AO 2007-60, re-enacting  
9 sections 9.48.080, 9.28.026, and 9.28.027 and adding section 9.28.035 to establish public  
10 nuisance abatement of vehicles for delinquent offenders owing \$1,000 or more in unpaid  
11 traffic citations.  
12

13 This ordinance is necessary to conform to Senate Bill 145, passed late in the 2007  
14 legislative session and signed into law by Governor Palin on July 31, 2007. The prior  
15 ordinance (AO 2007-60, approved April 10, 2007) is repealed to delete reference to  
16 commitment of a misdemeanor and to instead assert a public nuisance violation. The prior  
17 ordinance reference to "three or more" delinquent traffic citations has also been deleted to  
18 make consistent with State law and to streamline enforcement of the new program.  
19

20 Under the new ordinance, any motor vehicle operated by a person who accumulates  
21 delinquent traffic fines totaling more than \$1,000 is a public nuisance, subject to abatement  
22 in section 9.28.035. The purpose of abatement is to remove vehicles operated by persons  
23 who, by not paying their traffic fines, are a danger to the public because they have not  
24 subjected themselves to the rehabilitative efforts of the court. The purpose of abatement is  
25 not to generate revenue.  
26

27 As previously provided in support of AO 2007-60: *The Anchorage Police Department*  
28 *sees a sufficiently high correlation between motor vehicle accidents caused by driver*  
29 *misconduct and drivers involved who have accumulated significant delinquent fines for*  
30 *moving violations. As a public safety measure, the ordinance is intended to deter or*  
31 *prevent that conduct by placing at risk of forfeiture the very instrument abused by*  
32 *scofflaws who threaten public safety. Safe highways for Anchorage motorists, not*  
33 *increased revenue, is the goal. See AM 237-2007, attached hereto.*  
34

35 The re-enacted sections include minimal changes for clarification of the impound/forfeiture  
36 procedures.  
37

1 THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE  
2 REPEALING AO 2007-60, RE-ENACTING ANCHORAGE MUNICIPAL CODE  
3 SECTIONS 9.48.080, 9.28.026 AND 9.28.027, AND ADDING A NEW SECTION  
4 9.28.035 FOR ABATEMENT OF VEHICLES AS A PUBLIC NUISANCE IF A PERSON  
5 HAS ACCUMULATED DELINQUENT TRAFFIC FINES EXCEEDING ONE  
6 THOUSAND DOLLARS (\$1,000).

7  
8 Prepared by: Daniel Moore, Municipal Treasurer  
9 Approved by: Sharon Weddleton, Chief Fiscal Officer  
10 Concur: James N. Reeves, Municipal Attorney  
11 Concur: Denis C. LeBlanc, Municipal Manager  
12 Respectfully submitted: Mark Begich, Mayor

13  
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# 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 Allan Tesche  
15 Assemblymember, Section 1  
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**Content Information****Content ID :** 005739**Type:** Ordinance - AO**Title:** Scofflaw Ordinance**Author:** smiko**Initiating Dept:** APD**Select Routing:** Standard**Review Depts:** Legal, OMB, Finance, MuniManager**Description:** Scofflaw Ordinance**Date Prepared:** 11/20/07 4:19 PM**Assembly Meeting Date:** 11/27/07**Public Hearing Date:** 12/11/07

M.O.A.  
 2007 NOV 26 AM 10:18  
 CLERK'S OFFICE

**Workflow History**

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOrdinanceWorkflow	11/20/07 4:21 PM	Checkin	smiko	Public	005739
APD_SubWorkflow	11/20/07 4:22 PM	Approve	rheun	Public	005739
Finance_SubWorkflow	11/20/07 5:35 PM	Approve	weddletonsb	Public	005739
OMB_SubWorkflow	11/26/07 8:07 AM	Approve	mitsonjl	Public	005739
Legal_SubWorkflow	11/26/07 9:54 AM	Approve	gatesdt	Public	005739
MuniMgrCoord_SubWorkflow	11/26/07 10:04 AM	Approve	maglaquijp	Public	005739
MuniManager_SubWorkflow	11/26/07 10:04 AM	Approve	maglaquijp	Public	005739



CONSENT AGENDA - INTRODUCTION