

Postponed Indefinitely 5/6/08

Submitted by: ASSEMBLY MEMBERS TRAINI, TESCHE
Prepared by: Assembly Counsel
For reading: April 15, 2008

**ANCHORAGE, ALASKA
AO NO. 2008-61**

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
2 PROVISIONS OF ANCHORAGE MUNICIPAL CODE, TITLE 9, VEHICLES AND
3 TRAFFIC, AND TITLE 10, LICENSING, RELATING TO TOW OPERATOR
4 LICENSING; FILING OF REASONABLE TOWING AND STORAGE RATES BY ALL
5 LICENSED TOW OPERATORS; PUBLICATION OF RATES; PROHIBITED
6 PRACTICES; PARTICIPATION IN THE ROTATIONAL TOW PROGRAM; REQUIRED
7 SIGNAGE OF PARKING AND TOWING INFORMATION IN PUBLIC LOTS AND
8 RESIDENTIAL PARKING AREAS; UNLAWFUL VEHICLE TOWING AND
9 IMMOBILIZATION; ASSOCIATED FINES; AND ENFORCEMENT.

10
11
12 THE ANCHORAGE ASSEMBLY ORDAINS:

13
14 **Section 1.** Anchorage Municipal Code section 9.36.240, Trespass in Parking Lots, is
15 hereby amended to read as follows:

16
17 **9.36.240 Trespass in parking lots.**

18
19 A. It is unlawful for any driver, passenger, pedestrian or other person to enter
20 or remain within a public or private parking lot in violation of a clearly visible sign
21 posted by the owner or operator of such lot, which sign sets forth rules of
22 occupation of the lot during specified times.

23
24 B. It is unlawful for a person other than or a police officer to tow, impound, or
25 authorize the tow or impound, of a vehicle from a private business or residential
26 parking lot without the vehicle owner's consent unless clearly visible signage is
27 posted giving notice that vehicles parked in violation of the rules of occupation
28 will be towed. Signage shall be posted in compliance with section 9.54.050 and
29 provide sufficient information to assist vehicle owners in the prompt recovery of
30 any vehicle towed.

31
32 C. It is unlawful for a person other than a police officer to immobilize any
33 parked vehicle within a public or private parking lot by use of an impoundment
34 boot or similar mechanical device.

35
36 (AO No. 83-51)

37
38 **Section 2.** Anchorage Municipal Code section 9.48.130 is hereby amended to read
39 as follows:

9.48.130 Vehicular offenses amenable to disposition without court appearance by payment of a fine, offenses requiring court appearance, or offenses correctable without fine or appearance.

In accordance with AS 28.05.151, a citation issued for violation of any of the following sections of this title shall be subject to disposition with payment of a fine in lieu of a court appearance or as otherwise prescribed. Violations committed within highway work zones shall be subject to double the fine amount indicated. Pursuant to AS 28.05.151(e), an offense listed on this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle accident that results in the death of a person.

TABLE INSET:

Title	Section	Fee Amount
***	***	***
Trespass in parking lots	9.36.240A	50.00
<u>Unlawful tow or immobilization in parking lot</u>	<u>9.36.240B</u>	<u>\$ 500.00</u>
***	***	***

(CAC 9.48.060; AO No. 78-72; AO No. 88-12; AO No. 88-167; AO No. 88-180; AO No. 89-134; AO No. 90-24; AO No. 94-68(S), § 38, 8-11-94; AO No. 95-67(S), § 5, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-117, § 3, 6-29-95; AO No. 95-163(S), § 20, 8-8-95; AO No. 99-15, § 1, 2-9-99; AO No. 2000-130, § 2, 9-12-00; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-145(S-1), § 8, 12-11-01; AO No. 2003-157, § 2, 12-17-03; AO No. 2004-63, § 2, 4-13-04)

Section 3. Anchorage Municipal Code section 9.54.020 is hereby amended to read as follows: *(Sections not amended set out for context only)*

9.54.020 Parking in private areas.

A. *Parking in area adjacent to commercial enterprise.* It is unlawful for a person to park or cause to be parked a motor vehicle in a private area which is adjacent to a commercial enterprise, and which is owned or controlled by another person, if such private area has been signed, posted or otherwise clearly designated as a private area in accordance with this chapter.

1
2 B. *Parking in other areas.* It is unlawful for a person to park or cause to be
3 parked a motor vehicle in a private area which is not adjacent to a commercial
4 enterprise, and which is owned or controlled by another person or entity, without
5 the express permission of the property owner, or an authorized agent of the
6 property owner [SUCH PERSON].
7

8 *** *** ***
9

10 E. *Towing of vehicles; report by towing operator.* A person who owns,
11 possesses or controls a private area described in subsection A or B of this
12 section may cause any vehicle to be removed and towed to a motor vehicle
13 storage facility at the expense of the owner of the vehicle, only upon signature
14 approval of the owner of the private area, or authorized agent, executed at the
15 time the vehicle is removed. In meeting the requirement for signature approval in
16 this subsection, a tow operator shall not act as an authorized agent of the owner
17 of the private area. Signature authority will not be valid in the absence of area
18 signage in compliance with section 9.54.050. The vehicle may be retained at the
19 storage facility until the owner thereof pays the towing service charges lawfully
20 claimed by the towing operator. The vehicle may be sold if unclaimed, in the
21 manner provided by law. A towing operator which has removed a vehicle under
22 this subsection shall immediately, and in any event not more than two hours after
23 the arrival of the vehicle at a storage facility, inform the chief of police or his
24 authorized agent of:
25

- 26 1. The make, model year, if known, color and body type of the vehicle.
- 27 2. The license plate number of the vehicle.
- 28 3. The vehicle identification number (VIN number) of the vehicle.
- 29 4. The business name and location of the storage facility where the
- 30 vehicle is kept.
- 31 5. The location from which the vehicle was towed, the name and phone
32 number of the owner of the private area, or authorized agent, and the time
33 of vehicle [ITS] removal.
- 34 6. Any other information which the chief of police or his agent may
- 35 reasonably request to aid in the identification of the vehicle or its owner.
- 36

37 (AO No. 83-49)
38

39 **Section 4.** Anchorage Municipal Code section 9.54.025 is hereby amended to read
40 as follows:

41 **9.54.025 Participation fee for rotational tow program.**
42

1 A. Tow operators shall pay an annual fee of \$500.00, to participate in the
2 APD Rotational Tow Program, to the municipality by no later than January 15 of
3 the program year, pursuant to the rotational tow program guidelines.
4

5 B. The annual participation fee is non-refundable and not subject to pro-ration.
6

7 C. A contract or approval to participate in the program shall incorporate by
8 reference the maximum allowable rate schedule reviewed and approved by the
9 Anchorage Police Department as to reasonableness for towing and storage
10 charges. The Anchorage Police Department shall review and approve the
11 maximum allowable rates and charges within each category of vehicle and
12 service for towing, transport and storage. Penalty charges and fines imposed by
13 the tow operator are prohibited. All fees and charges imposed by the tow
14 operator shall be for vehicle and service categories listed in the approved rate
15 schedule. The actual rates charged by each participant in the program for the
16 towing, transport and storage service shall be determined at the sole discretion of
17 the participant, provided the actual rates do not exceed the maximum allowable
18 rates approved by the Anchorage Police Department for the applicable vehicle
19 and service category.
20

21 D. The fee schedule reviewed and approved by the Anchorage Police
22 Department as to reasonableness under this section shall be filed annually for
23 electronic publication by the municipal clerk.
24

25 (AO No. 2005-90, § 4, 1-1-05)
26

27 **Section 5.** Anchorage Municipal Code section 9.54.030, Rates, is hereby amended to
28 read as follows:
29

30 **9.54.030 Published Rates.**
31

32 A. Each towing operator shall maintain a published itemized list of all fees
33 that it charges for towing services and storage charges. Each towing operator
34 shall maintain a current copy of that list on file for electronic publication by
35 [WITH] the municipal clerk and shall conspicuously post that same list at the
36 towing operator's office and each impound lot used by the towing operator. All
37 such fees shall be reasonable. A tow operator's failure to comply with the
38 requirements of section 9.54.030 is grounds for revocation or suspension of the
39 municipal towing operator license.
40

1 1. Allowable fees and charges are limited to towing, transport and
2 storage services. Penalty charges and fines imposed by the tow operator
3 are prohibited.

4
5 2. Add-on fees imposed in violation of section 9.54.055 are prohibited
6 and shall constitute unlawful penalty charges and fines.

7
8 3. Towing operator fees and charges within the maximum allowable rate
9 schedule reviewed and approved by the Anchorage Police Department for
10 towing and storage charges under section 9.54.025 shall be deemed
11 reasonable. Towing operator fees and charges in excess of the maximum
12 allowable rate schedule reviewed and approved by the Anchorage Police
13 Department under section 9.54.025 are subject to review by the municipal
14 clerk for reasonableness.

15
16 4. The municipal clerk shall reject the application if the fees and charges
17 are unreasonable, or include unlawful add-on fees or other penalty
18 charges and fines, or do not comply with the requirements for tow
19 operators in title 9 and title 10.

20
21 B. It is unlawful for a towing operator to charge or collect a fee which is
22 greater than that which is filed and approved for publication by [WITH] the
23 municipal clerk for the time period in which [ON THE DATE THAT] the towing
24 services [TO WHICH THE FEE PERTAINS] are rendered. Any fee or charge
25 which constitutes or includes a fine or penalty is unlawful [SHALL BE DEEMED
26 UNREASONABLE].

27
28 C. Upon notice from the municipal clerk, [F]failure by the tow operator to
29 maintain a published [PUBLISH AN] itemized list of all fees charged and
30 conspicuously post that same list at the towing operator's office and impound lot
31 shall be subject to [RESULT IN] a fine of \$300.00, plus an additional [AND]
32 \$10.00 for each [ADDITIONAL] day that reasonable [THE] fees are not published
33 as required by law [, AFTER WRITTEN NOTICE IS SENT TO THE OPERATOR].

34
35 D. Changes to licensed [T]tow operator rates [CHANGES] may be submitted
36 within 60 days of publication of reasonable rates reviewed and approved by the
37 Anchorage Police Department under section 9.54.025 [BI-ANNUALLY ONLY
38 DURING THE MONTHS OF JANUARY AND JULY OF EACH YEAR. NO
39 EXCEPTION TO THESE PERIODS FOR SUBMISSION OF RATE CHANGES
40 SHALL BE ALLOWED].
41

E. The [PUBLISHED,] itemized list of fees submitted by the tow operator for publication by the municipal clerk shall be typed or computer generated only, and shall clearly delineate the fee charged by the tow operator, and the corresponding maximum rates and charges reviewed and approved by the Anchorage Police Department for towing, transport and storage under 9.54.025.

(AO No. 83-49; AO No. 2005-84(S), § 1, 1-1-06)

State law references: towing and storage lien, AS 28.10.502.

Section 6. Anchorage Municipal Code section 9.54.050, Tow-Away from Privately Owned Areas, is hereby amended to read as follows:

9.54.050 Tow-away from privately owned areas.

No vehicle may be towed from a privately owned area pursuant to Section 9.54.020.A unless the person who controls, owns or possesses that area has conspicuously posted it with signs as follows:

A. Signs shall be no smaller than 30 inches by 30 inches, with letters a minimum of two inches high.

B. Signs shall be posted no less than five feet and no more than six feet above the ground.

C. Signs shall be posted near each entrance and on the property in a conspicuous location[S] which will be clearly visible to a person seated in a vehicle entering or parked in the prohibited area during the day and during the night by [USE OF] artificial illumination, reflective materials or other method in use on the property.

D. Signs shall:

1. Describe the private area and timeframe in which parking is prohibited and a specific statement indicating who is authorized to park, such as "Customer Parking" or "Vehicles Displaying Valid Permit Only";

2. The name of the towing firm and 24-hour telephone number at which information about a towed vehicle's location may be obtained and the street address where the vehicle may be retrieved;

3. It is the responsibility of the private property owner to order, purchase and post signs, including all associated costs, in compliance with this section.

E. Authorization of towing services under section 9.54.020E by a property owner in the absence of posted notice meeting the requirements of section 9.54.050 shall result in a fine of \$300.00 to person giving signature authority for the tow, plus a fine to the tow operator in an amount equal to 150% of any vehicle towing and storage charges required to release a vehicle removed in violation of section 9.54.050. These fines are in addition to any other remedies and consequences provided by law.

(AO No. 83-49; AO No. 85-31; AO No. 2005-84(S), § 2, 1-1-06)

Section 7. Anchorage Municipal Code chapter 9.54, Towing Procedures, is hereby amended by adding a new section to read as follows:

9.54.055 Prohibited rates and practices.

A. Tow operators shall not impose towing and storage penalties. Examples of prohibited penalties include, without limitation, "aggressive client fee," "profanity fee," "wait time fee," special multipliers in excess of "normal fees," storage entrance and "gate fees" during normal business hours, unspecified additional handling and administrative fees, and nonspecific add-ons to the towing and storage rates submitted to the municipal clerk for publication.

1. Normal business hours shall be at reasonable times to facilitate timely vehicle retrieval.

2. The practice of accepting "cash only" as applied to all vehicle owners generally, irrespective of individual credit history, is prohibited.

3. The add-on of a bona fide fuel surcharge is not prohibited if submitted for review and publication by the municipal clerk.

B. The predatory practice of solicitation or payment of a fee in consideration of towing service authorization or referral is unlawful and shall render the signature authority required in section 9.54.020E null and void.

Section 8. Anchorage Municipal Code section 9.54.060, Enforcement of Chapter, is hereby amended to read as follows:

9.54.060 Enforcement of chapter.

In addition to any fines and other remedial action set out in title 9 or title 10 related to operation and licensing of tow operators and towing practices, a [A] person who is aggrieved by a violation of this chapter may pursue a civil remedy in any court of competent jurisdiction. A person who has been charged an unreasonable or prohibited fee may be entitled to recover three times the amount prohibited under this chapter, subject to order by the court [DEEMED TO BE UNREASONABLE].

(AO No. 83-49)

Section 9. Anchorage Municipal Code section 10.10.025, Term of License; Display; Transfer, to read as follows:

10.10.025 Term of license; display; transfer.

A. With the exception of sidewalk vendor and tow operator licenses, licenses issued under this title are valid for a maximum of two years and expire on October 1 unless otherwise provided in this chapter.

(AO No. 78-23; AO No. 92-98(S); AO No. 94-214(S), § 1, 12-13-94), is hereby amended to read as follows:

Section 10. Anchorage Municipal Code section 10.54.010, Definitions, is hereby amended to read as follows: (*Sections not amended set out for context only*)

10.54.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed below:

Impound means to take and hold a vehicle in legal custody. There are two types of impounds:

1. Public impound means the vehicle has been impounded at the direction of a law enforcement officer having jurisdiction over the public property where the vehicle was located.

1 2. Private impound means the vehicle has been impounded at the
2 direction of a person having control or possession of the private property
3 where the vehicle was located.
4

5 *Public nuisance* means any act or condition that annoys, injures or endangers
6 the safety, health, comfort or repose of the public.
7

8 *Tow operator* or *towing operator* shall mean any person or entity providing
9 towing services.
10

11 *Tow service* or *towing service* shall mean:
12

13 1. Transportation of a vehicle by a commercial towing vehicle
14 pursuant to Section 9.54.020 to a storage facility described in Section
15 9.54.040B. at the request of the person who owns, controls or possesses
16 the premises from which the vehicle is removed;
17

18 2. Transportation of a vehicle by a commercial towing vehicle
19 pursuant to contract or rotational tow program with the municipality;
20

21 3. Transportation of a vehicle by a commercial towing vehicle at the
22 request of a registered owner or other person authorized to request
23 transportation of the vehicle; or
24

25 4. All services related to such transportation by a commercial towing
26 vehicle, including but not limited to curbside release, release from storage,
27 and storage.
28

29 (AO No. 2005-83(S), § 1, 1-1-06)
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31 **Section 11.** Anchorage Municipal Code section 10.54.020, License required, is hereby
32 amended to read as follows:
33

34 **10.54.020 License required.**
35

36 A. No person may engage in the business of towing services of vehicles or
37 public nuisances parked, stopped or standing on private or public property within
38 the Municipality, without first having obtained a towing operator's
39 [CONTRACTOR'S] license from the municipal clerk.
40 *** *** ***

41 (AO No. 2005-83(S), § 1, 1-1-06)
42

Section 12. Anchorage Municipal Code section 10.54.030, Qualifications for a License, is amended to read as follows:

10.54.030 Qualifications for a license.

The State of Alaska requires a driver of a vehicle 10,001 pounds or more to have a current DOT physical and to carry a medical card at all times on duty. Qualifications for drivers making application for a CDL for vehicles in categories Class A, B, and C (GWVR 26,001 or more) are established by federal law at 49 CFR Part 391.11. A tow operator licensed under this chapter shall carry at all times a state medical card and commercial driver's license, if applicable under state or federal law.

(AO No. 2005-83(S), § 1, 1-1-06)

Section 13. Anchorage Municipal Code section 10.54.040, Application for License, is hereby amended to read as follows:

10.54.040 Application for license.

A. An application for a municipal towing operator license shall be made to the municipal clerk on a form approved by the municipal clerk and shall include the following items:

1. The name of the business to be licensed, the physical address of the business, the physical address of each impound lot used by the tow operator, and the 24-hour contact telephone number for vehicle retrieval information;
2. The name, mailing and physical addresses, and telephone numbers of the applicant, who shall be the owner and licensee of the business on the municipal license;
3. A copy of the applicant's state business license, current for the tow operator license application period, and which shall reflect [BE] the same [AS THE APPLICANT'S] name and [THE NAME OF THE] business identity as shown in the tow operator license application [TO BE LICENSED];
4. One or more current certificates of insurance, which provide proof the applicant and applicant's business is licensed, bonded [BOUNDED] and insured, with the following minimum insurance requirements:

1 a. Worker's compensation insurance as required by state law,
2 where applicable.

3
4 b. Commercial general liability insurance in limits of liability as
5 required by state law, where applicable.

6
7 c. Automobile liability insurance in limits of liability as required by
8 state law, where applicable.

9
10 d. Garage keepers legal liability insurance, including on-hook
11 coverage (perils - fire, theft, and collision) in limits of liability not
12 less than \$100,000.00 per location and \$25,000.00 per vehicle.

13
14 e. Each policy of insurance required in this section shall provide
15 for no less than 30 days' advance notice to the municipality prior to
16 cancellation.

17
18 5. A copy of the vehicle registration for each vehicle receiving a
19 municipal sticker.

20
21 6. The name of each driver employed or otherwise commercially
22 engaged by the tow operator license applicant, with a copy of each
23 driver's valid Alaska Drivers License, current DMV driving record dated
24 within 30 days of the tow operator application. If the initial issue date of
25 the Alaska Driver's License is less than one year from the tow operator
26 license application, the application shall include the driving record from
27 any prior jurisdiction under which the driver was licensed.

28
29 7. A copy of the inspection report under section 10.54.080 for each
30 registered vehicle.

31
32 8. An itemized list of reasonable fees for all towing services and
33 storage charges as prescribed in section 9.54.030.

34
35 9. The as-built and property information for the impound yard as
36 prescribed in section 10.54.050.

37
38 10 [6]. The annual nonrefundable [BIENNIAL (TWO-YEAR)] municipal
39 license application fee of \$100 (includes one registered vehicle), plus \$20
40 for each additional registered vehicle [\$200.00].

Section 14. Anchorage Municipal Code section 10.54.080, Commercial vehicle inspections, is hereby amended to read as follows:

10.54.80 Commercial vehicle inspections.

Each towing vehicle shall satisfactorily pass either [OBTAIN] a level one commercial vehicle inspection on an annual basis [each year] or a safety inspection by an ASE certified mechanic on a biennial basis.

(AO No. 2005-83(S), § 1, 1-1-06)

Section 15. Anchorage Municipal Code section 10.54.090, Signage, is hereby amended to read as follows:

10.54.090 Signage.

A. Each licensed tow operator shall post a sign at each business location, including impound yards, identifying the name, street address, [AND THE] phone number and other information required by chapter 9.54 for operation of the business.

(AO No. 2005-83(S), § 1, 1-1-06)

Section 16. This ordinance shall become effective on the sixty-first day after passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2008.

Chair

ATTEST:

Municipal Clerk

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

AO 2008-61

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT AMEND AMC TITLE 9, VEHICLES AND TRAFFIC, AND TITLE 10, LICENSING, RELATING TO TOW OPERATOR LICENSING ...	DATE PREPARED 4/11/08
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Dan Coffey, Assembly Chair
	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Julia Tucker, Assembly Counsel	HIS/HER PHONE NUMBER 343-4419
4	COORDINATED WITH AND REVIEWED BY	INITIALS
	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 4/15/08	7
		PUBLIC HEARING DATE REQUESTED

2008 APR 11 PM 3:17
 CLERK'S OFFICE
 M.C.