

Sec AO 2011-91(S-2)

Submitted by: CHAIR OF THE ASSEMBLY AT THE  
REQUEST OF THE MAYOR

Prepared by: Dept. of Law

Substitute prepared for: September 13, 2011

AO 2011-91 Introduced: August 30, 2011

**ANCHORAGE, ALASKA  
AO NO. 2011-91(S-1)**

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 11 TO ADD PREVENTIVE AND PROTECTIVE MEASURES IN RESPONSE TO CRIMINALLY OFFENSIVE SEXUAL BEHAVIOR BY AN APPLICANT OR LICENSED CHAUFFEUR, PRESCRIBING RULES AND CONDITIONS TO GUIDE ADMINISTRATIVE ACTION, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

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WHEREAS, the high incidence of sexual assault in Alaska and in our community calls for effective pretrial measures to protect victims and the public, as well as legislative action and initiative to effectively address sexual assault, including support for increased public awareness and sexual assault prevention measures, as recognized by the Anchorage Assembly in AR 2010-114 and AR 2011-78; and

WHEREAS, the public must in part depend on municipal regulation of certain businesses through licensing and permits, to preserve health, safety, and general welfare of municipal residents and visitors, and to aid in crime prevention; and

WHEREAS, in the protection of health, safety, and general welfare, the Municipality of Anchorage regulates taxicab service and vehicles for hire, requiring chauffeurs to be licensed, vehicles to be regulated and numbered, and chauffeur conduct to be courteous, prudent and safe in manner; and

WHEREAS, the Assembly finds availability and use of a regulated vehicle, chauffeur's license, or uniform, to gain physical proximity or the trust of a victim for purposes of criminal sexual assault warrants immediate protective action by the Transportation Inspector to preserve public safety and trust through final adjudication, unless the Transportation Inspector determines judicial restrictions are in place that best protect the public; and

WHEREAS, the Anchorage Taxicab Permit Owners Association (ATPOA), whose members hold many of the taxicab permits issued by the Municipality of Anchorage, has offered electronic written comment and has no objection to this ordinance; and

WHEREAS, ACLU of Alaska has offered written comment, and additional clarification is incorporated below; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 11.10.010 is hereby amended to read as follows (*language indicating no amendment is included for context only and other definitions not affected are not set out*):

1  
2 **11.10.010 Definitions.**  
3

4 When used in chapters 11.10—11.40:

5 \*\*\* \*\*\* \*\*\*

6 E. Criminally offensive sexual behavior includes the offenses named in Article 4 of  
7 AS 11.41 or identified by similar name or elements under Anchorage municipal  
8 code or the law of another jurisdiction, and offenses included as sexual  
9 offenses under the law of another jurisdiction.

10  
11 \*\*\* \*\*\* \*\*\*

12 [*Code Revisor to re-letter remaining definitions to maintain alphabetical order.*]

13  
14 (AO No. 57-75; AO No. 78-177; AO No. 80-19(S); AO No. 81-149; AO No. 84-18; AO  
15 No. 87-8; AO No. 87-126(S); AO No. 94-21(S), § 1, 4-12-94; AO No. 97-134(S-1), § 1,  
16 12-9-97; AO No. 98-51(S), § 1, 5-4-99)

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18 **Section 2.** Anchorage Municipal Code section 11.10.100 is hereby amended to read as  
19 follows (*language indicating no amendment is included for context only and other subsections*  
20 *not affected are not set out*):

21  
22 **11.10.100 Hearings--Appeals.**  
23

24 \*\*\* \*\*\* \*\*\*

25 C. A person aggrieved by the denial, suspension, or revocation of a chauffeur's  
26 license by the Transportation Inspector pursuant to subsection A of this section,  
27 Section 11.10.110.A., or Section 11.10.085 may, within 15 days of the denial or  
28 revocation decision, and upon payment of the filing fee required by Section  
29 11.10.160, appeal that decision to the chairman of the Commission or his or her  
30 designee. After a hearing conducted pursuant to Chapter 3.60 of this Code, the  
31 chairman of the Commission or his or her designee may authorize the  
32 conditional or unconditional issuance or reinstatement of a denied, suspended,  
33 or revoked license upon an affirmative showing at a hearing by the appellant  
34 that he or she has been rehabilitated and has the ability to assume the  
35 responsibilities of a chauffeur, or that the Transportation Inspector exceeded his  
36 or her authority, or that continued suspension of or refusal to issue or reinstate  
37 the license would otherwise work a substantial injustice.

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39 \*\*\* \*\*\* \*\*\*

40 (AO No. 57-75; AO No. 78-177; AO No. 79-58; AO No. 80-19(S); AO No. 81-149; AO  
41 No. 84-18; AO No. 85-87; AO No. 87-126(S); AO No. 88-21; AO No. 93-220, § 5, 2-22-  
42 94; AO No. 98-51(S), § 1, 5-4-99)

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2 **Section 3.** Anchorage Municipal Code section 11.10.110 is hereby amended to read as  
3 follows (*language indicating no amendment is included for context only and other subsections*  
4 *not affected are not set out*):  
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6 **11.10.110 Denial, suspension, or revocation of license or permit.**  
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- 8 A. The Transportation Inspector shall have the power to suspend or revoke a  
9 chauffeur's license.  
10 1. The Transportation Inspector shall suspend or revoke a chauffeur's  
11 license if a chauffeur is convicted by a court of competent jurisdiction of  
12 an offense set forth in Section 11.30.040.  
13  
14 2. The Transportation Inspector may suspend or revoke a chauffeur's  
15 license upon receipt of evidence sufficient to cause the Transportation  
16 Inspector to conclude by a preponderance of the evidence (i.e., that it is  
17 more likely than not) that a chauffeur is incapable of controlling a motor  
18 vehicle safely. Such evidence may include violation of this title, Title 9 of  
19 this code, and/or any relevant medical or psychological evidence  
20 presented.  
21  
22 3. The Transportation Inspector shall deny, suspend, or revoke the  
23 chauffeur's license of any chauffeur failing or refusing to take a drug  
24 and/or alcohol test as authorized by Section 11.10.085.  
25  
26 4. The Transportation Inspector may suspend or revoke the chauffeur's  
27 license of a chronic violator. As used in this section, "chronic violator"  
28 means a chauffeur for which four citations have been issued during a  
29 period of 12 consecutive months, regardless of whether each of the four  
30 citations concerns the same or different provisions of this title or  
31 regulations enacted thereunder. Citations which have been dismissed on  
32 appeal do not count towards the sum of the four citations.  
33  
34 5. The Transportation Inspector shall suspend the chauffeur's license upon  
35 receipt of evidence or complaint sufficient to cause the Transportation  
36 Inspector to conclude by a preponderance of the evidence (i.e., that it is  
37 more likely than not) the chauffeur used a regulated vehicle, chauffeur  
38 license, or uniform to gain physical proximity or the trust of the victim for  
39 criminally offensive sexual behavior by the chauffeur. If the  
40 Transportation Inspector's conclusion is supported by the circumstances  
41 of an arrest, the suspension shall be immediate. The suspension shall  
42 continue until final judicial adjudication of the arrest, unless the



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2           F.       A chauffeur must surrender his or her chauffeur's license to the Transportation  
3                   Inspector within three (3) days of any suspension or revocation.

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5           (AO No. 57-75; AO No. 78-177; AO No. 80-19(S); AO No. 81-149; AO No. 84-18; AO  
6           No. 85-87; AO No. 87-8; AO No. 87-126(S); AO No. 88-21; AO No. 92-50; AO No. 93-  
7           220, § 6, 5-23-94; AO No. 93-220, § 7, 2-22-94; AO No. 93-220, §§ 8, 9, 8-21-94; AO  
8           No. 94-93(S), § 2, 5-16-94; AO No. 98-51(S), § 1, 5-4-99)

9  
10       **Section 4.** Anchorage Municipal Code section 11.30.040 is hereby amended to read as  
11       follows (*language indicating no amendment is included for context only and other subsections*  
12       *not affected are not set out*):

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14           **11.30.040    Issuance of chauffeur's license.**

15  
16           The Transportation Inspector shall issue a Municipal chauffeur's license to an  
17           applicant only if:

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19           \*\*\*

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20           C.       The applicant has not had his or her driver's license suspended or revoked  
21                   within one year prior to the application date;

22  
23           D.       There are no charges for criminally offensive sexual behavior in any jurisdiction  
24                   pending against the applicant [HAS NOT HAD HIS OR HER CHAUFFEUR'S LICENSE  
25                   REVOKED UNDER SECTION 11.10.120 WITHIN ONE YEAR PRIOR TO THE APPLICATION DATE];

26  
27           E.       The applicant has not had a felony or misdemeanor conviction entered by a  
28                   court of competent jurisdiction within five (5) years for [OF]:

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30                   1.       Assignment, prostitution, solicitation for the purpose of prostitution,  
31                   offering to secure another for the purpose of prostitution, maintaining a  
32                   vehicle for the purpose of prostitution or accepting money from a  
33                   prostitute for any of the aforementioned purposes;

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35                   2.       Sale, transportation, possession or use of any controlled substance as  
36                   defined in AS 11.71 or any similar law of another jurisdiction;

37  
38                   3.       Any felony or misdemeanor which includes as an element the use or  
39                   threat of force upon a person;

40  
41                   4.       Burglary, larceny, fraud, theft or embezzlement; [OR]  
42

5. Any offense which pertains to sexual abuse of a minor or sexual exploitation of a minor; or [AND]

6. Criminally offensive sexual behavior in any jurisdiction; and

F. Each representation made in the application is correct. Any false or misleading statement or misrepresentation as to a material matter in an application shall be grounds for denial of the application or revocation of the license.

G. The applicant is not required to register as a sex offender or child kidnapper:

1. in the State of Alaska pursuant to AS 12.63.010; or

2. in another jurisdiction pursuant to the laws of that jurisdiction, if the elements of the underlying offense are substantially similar to the State of Alaska offenses for which registration is required pursuant to AS 12.63.010.

(AO No. 57-75; AO No. 78-177; AO No. 79-58; AO No. 80-19(S); AO No. 84-18; AO No. 85-87; AO No. 87-8; AO No. 87-126(S); AO No. 98-51(S), § 3, 5-4-99; AO No. 2006-117, § 1, 8-29-06)

**Section 5.** The amendment to AMC section 11.30.040G is effective retroactively to July 1, 2011.

**Section 6.** This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Municipal Clerk

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