

Submitted by: Chair of the Assembly at the
Request of the Mayor

Prepared by: Dept. of Law

For reading: July 12, 2011

Postponed Indefinitely 7/26/11

**ANCHORAGE, ALASKA
AO No. 2011-80**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ADD**
2 **NEW OFFENSES FOR SITTING OR LYING DOWN ON SIDEWALKS IN THE**
3 **DOWNTOWN IMPROVEMENT DISTRICT AND FOR PEDESTRIAN**
4 **INTERFERENCE, AMENDING SECTION 8.75.170 REGARDING PROHIBITED**
5 **PANHANDLING, AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030**
6 **ACCORDINGLY.**

7
8 **THE ANCHORAGE ASSEMBLY ORDAINS:**
9

10 **Section 1.** Anchorage Municipal Code is amended by adding a new section
11 8.75.180 to read as follows:
12

13 **8.75.180 Sitting or lying down on public sidewalks in downtown**
14 **improvement district.**
15

16 A. *Prohibition.* No person shall sit or lie down upon a public sidewalk, or
17 upon a blanket, chair, stool, or any other object placed upon a public
18 sidewalk, during the hours between six (6:00) a.m. and ten (10:00) p.m.
19 in the Downtown Improvement District, defined as the area bounded by
20 1st Avenue on the North, Gambell Street on the East, 9th Avenue on the
21 South, and L Street on the West.
22

23 B. *Exceptions.* The prohibition in subsection A shall not apply to any
24 person:

- 25 1. Sitting or lying down on a public sidewalk due to a medical
26 emergency;
- 27 2. Who, as the result of a disability, utilizes a wheelchair, walker, or
28 similar device to move about;
- 29 3. Operating or patronizing a commercial establishment conducted
30 on the public sidewalk pursuant to a sidewalk encroachment
31 permit under section 24.30.020; or a person participating in or
32 attending a parade, festival, performance, race, rally,
33 demonstration, meeting, or similar event conducted on the
34 public sidewalk pursuant to a right-of-way special activity permit
35 under regulation section 9.14.004 or a parade permit under
36 regulation chapter 9.36.;
- 37 4. Sitting on a chair or bench located on the public sidewalk which
38 is supplied by a public agency or by the abutting private property
39 owner; or
- 40 5. Sitting on a public sidewalk within a passenger loading zone
41 while waiting for public or private transportation.

1
2 Nothing in any of these exceptions shall be construed to permit any
3 conduct which is prohibited by section 8.30.125, pedestrian
4 interference, or any conduct otherwise prohibited by this code.
5

6 C. No person shall be charged under this section unless the person
7 engages in conduct prohibited by this section after having been notified
8 by a law enforcement officer that the conduct violates this section.
9

10 D. Violation of this section shall be punished by a fine of not more than
11 \$100.00.
12

13 E. As an alternative to the remedies, procedures and penalties provided in
14 this Title and Section 1.45.010, a violation of this section may be
15 charged as a civil violation subject to and prosecuted in accordance
16 with Title 14 and in such case shall be punishable by a civil penalty in
17 accordance with Chapter 14.60.
18

19 **Section 2.** Anchorage Municipal Code is amended by adding a new section
20 8.30.125 to read as follows:

21 **8.30.125 Pedestrian interference.**

22 A. The following definitions apply in this section:

23 1. "Obstruct pedestrian or vehicular traffic" means to walk, stand,
24 sit, lie, or place an object in such a manner as to block passage
25 by another person or a vehicle which such other person or
26 vehicle has a right to make, or to require another person or a
27 driver of a vehicle to take evasive action to avoid physical
28 contact. Acts authorized as an exercise of one's constitutional
29 rights, and acts authorized pursuant to a sidewalk encroachment
30 permit under section 24.30.020, a right-of-way special activity
31 permit under regulation section 9.14.004, or a parade permit
32 under regulation chapter 9.36. shall not constitute obstruction of
33 pedestrian or vehicular traffic.

34 2. "Public place" means a place to which the public or a substantial
35 group of persons has access and includes, but is not limited to,
36 streets, highways, sidewalks, alleys, transportation facilities,
37 parking areas, convention centers, sports arenas, schools,
38 plazas, parks, and playgrounds.
39

40 B. It is unlawful for any person to, in a public place, intentionally and
41 substantially obstruct pedestrian or vehicular traffic.

42 C. Violation of this section shall, upon conviction, be punished by a fine of
43 not more than \$2,000.00 or imprisonment for not more than 90 days, or

both such fine and imprisonment.

Section 3. Anchorage Municipal Code section 8.75.170 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

8.75.170 Prohibited panhandling.

*** **

B. It is [SHALL BE] unlawful to engage in an act of panhandling:

1. After sunset and before sunrise.
2. W[hen] either the panhandler or the person being solicited is located at any of the following locations:
 - a. at a bus stop;
 - b. in any public transportation vehicle or public transportation facility;
 - c. in a vehicle which is parked or stopped on a public street or alley;
 - d. in a sidewalk café; or
 - e. within 20 feet in any direction from an automatic teller machine or entrance to a bank.
3. In the Downtown Improvement District, defined as the area bounded by 1st Avenue on the North, Gambell Street on the East, 9th Avenue on the South, and L Street on the West.

C. It shall be unlawful to engage in an act of panhandling in an aggressive manner as set forth in 1–6 of this subsection:

*** **

D. *Penalty.* A fine of no more than \$300.00 shall be imposed for any act of panhandling prohibited by [THIS] subsection B. Violations of subsection C. shall, upon conviction, be punished by a fine of not more than \$2,000.00 or imprisonment for not more than 90 days, or both such fine and imprisonment. [FIRST OFFENSE UPON CONVICTION SHALL BE NO LESS THAN \$50.00 OR EIGHT HOURS OF COMMUNITY SERVICE; SECOND OFFENSE UPON CONVICTION SHALL BE NO LESS THAN \$100.00 OR 16 HOURS OF COMMUNITY SERVICE; AND THIRD OFFENSE UPON CONVICTION SHALL BE NO LESS THAN \$300.00 OR]

1. As an alternative to the remedies, procedures and penalties provided in this section and section 1.45.010, a violation of subsection B. may be charged as a civil violation subject to and prosecuted in accordance with Title 14 and in such case shall be punishable by a civil penalty in accordance with Chapter 14.60. This alternative is not available for violations of subsection C.
2. A defendant may offset fines imposed for a violation of subsection B. by voluntary participation in an approved

community service program, alcohol, drug or other appropriate rehabilitation program, or job training program, if any such programs are available.

3. A court imposing fines for a violation of subsection C. may order the defendant to complete an approved community service program; alcohol, drug or other appropriate rehabilitation program; or job training program, if any such programs are available.

4. For each hour of community service completed, the court or administrative hearing officer shall offset the fine by an amount equal to the current minimum wage required by the Alaska Wage and Hour Act, AS 23.10.

5. Upon presenting proof of completion of an alcohol, drug, or other appropriate rehabilitation program to the court or administrative hearing officer, [A]ny fees paid toward rehabilitation treatment shall [MAY] offset any fines imposed [PAID FOR FIRST OR SUBSEQUENT OFFENSES].

(AO No. 2004-109, § 1, 8-17-04)

Section 4. Anchorage Municipal Code section 14.60.030 is amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

14.60.030 Fine schedule.

The fine schedule under this chapter is as follows:

TABLE INSET:

<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>
***	***	***
<u>8.75.170B.</u>	<u>Prohibited panhandling</u>	<u>up to 300.00</u>
<u>8.75.180</u>	<u>Sitting/lying down on sidewalks in Downtown Improvement District</u>	<u>up to 100.00</u>
***	***	***

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-

1 11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO
2 No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-
3 152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-
4 22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05;
5 AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No.
6 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO
7 No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80,
8 § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07;
9 AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No.
10 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), §
11 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-
12 09; AO-2010-35(S), § 4, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No.
13 2010-87(S), § 3, 12-7-10)

14
15 **Section 5.** This ordinance shall become effective thirty (30) days after passage
16 and approval by the Anchorage Assembly.

17
18 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
19 _____, 2011.

20
21
22 _____
23 Chair of the Assembly

24 ATTEST:

25
26
27 _____
28 Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects – General Government

AO Number: 2011-80

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ADD NEW OFFENSES FOR SITTING OR LYING DOWN ON SIDEWALKS IN THE DOWNTOWN IMPROVEMENT DISTRICT AND FOR PEDESTRIAN INTERFERENCE, AMENDING SECTION 8.75.170 REGARDING PROHIBITED PANHANDLING, AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030 ACCORDINGLY.

Sponsor: MAYOR
 Preparing Agency: Department of Law
 Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:					
	(In Thousands of Dollars)				
	FY10	FY11	FY12	FY13	FY14
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:					
CAPITAL:					
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:

There may be a modest increase in revenue due to fines for the newly enacted offenses, but it is likely insignificant. It is not possible to predict how many citations may issue or penalties be imposed. Enforcement costs would fall within existing budgeted resources.

PRIVATE SECTOR ECONOMIC EFFECTS:

None.

Prepared by: Dean T. Gates

Telephone: 343-4545

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 402-2011

Meeting Date: July 12, 2011

1 **From:** MAYOR
2

3 **Subject:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
4 TITLE 8 TO ADD NEW OFFENSES FOR SITTING OR LYING
5 DOWN ON SIDEWALKS IN THE DOWNTOWN IMPROVEMENT
6 DISTRICT AND FOR PEDESTRIAN INTERFERENCE, AMENDING
7 SECTION 8.75.170 REGARDING PROHIBITED PANHANDLING,
8 AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030
9 ACCORDINGLY.
10

11 *The administration proposes several amendments to the Anchorage Municipal Code*
12 *designed to increase safety and enjoyment for citizens and visitors to the city, and*
13 *safeguard the vitality of the downtown area.*
14

15 Section 1 adds a new offense prohibiting sitting or lying down on public sidewalks in
16 the Downtown Improvement District during hours when downtown is typically active
17 with vehicle and pedestrian traffic. The prohibition will allow for free and convenient
18 passage of pedestrians in this important tourism and economic hub of the state. It
19 exempts reasonable justifications such as a medical condition, disability, or under
20 permits for sidewalk encroachments or special events, or when waiting in a
21 passenger loading zone, such as a bus stop. Before a person can be cited for a
22 violation, they must continue their conduct after receiving a warning that they are
23 violating this new section. This section is modeled on laws from other jurisdictions
24 which have withstood legal challenges.
25

26 Section 2 of the ordinance adds a new offense, pedestrian interference, penalized
27 as a misdemeanor. Pedestrian interference addresses situations where a person
28 intentionally blocks or impedes the travel of others in a substantial way; the
29 language is modeled after an ordinance in the Seattle Municipal Code which was
30 upheld in court. Adoption of this offense provides another tool for protecting the
31 public convenience and safety in our increasingly urban city, without unduly
32 burdening those who seek to peaceably exercise their First Amendment rights.
33

34 Section 3 amends the existing panhandling ordinance to add prohibitions on
35 panhandling at nighttime and at anytime within the Downtown Improvement District.
36 It is also restructured to make it easier for peace officers to identify and cite the
37 specific conduct prohibited, revises the penalties section so a civil fine can be
38 imposed in lieu of a criminal citation, and is amenable to disposition by the
39 administrative hearing officer. Aggressive panhandling, as a more serious offense,
40 is reclassified to the misdemeanor level.
41

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2
3 This ordinance furthers the Municipality's significant government interests in
4 protecting citizens and visitors from fear of others approaching and asking for
5 immediate donations of money in circumstances where it's unduly intimidating, or
6 from persons intentionally obstructing their passage, and in protecting the aesthetics
7 and significant economic vitality of the downtown central business district, a hub of
8 the state's billion-dollar tourism industry. This ordinance does not require any
9 increased expenditure, and any revenues are anticipated to be minimal, thus a
10 summary of economic effects is not required.

11
12 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
13 **AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ADD NEW**
14 **OFFENSES FOR SITTING OR LYING DOWN ON SIDEWALKS IN THE**
15 **DOWNTOWN IMPROVEMENT DISTRICT AND FOR PEDESTRIAN**
16 **INTERFERENCE, AMENDING SECTION 8.75.170 REGARDING PROHIBITED**
17 **PANHANDLING, AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030**
18 **ACCORDINGLY.**

19
20 Prepared by: Dean T. Gates, Asst. Municipal Attorney
21 Approved by: Dennis A. Wheeler, Municipal Attorney
22 Concur: George J. Vakalis, Municipal Manager
23 Respectfully submitted: Daniel A. Sullivan, Mayor
24