




Municipality of Anchorage
Mayor Dave Bronson

Office of the Mayor

Date: January 26, 2022
To: Anchorage Assembly
From: Mayor Dave Bronson 
Subject: Veto of Ordinance No. AO 2021-117, as amended

Pursuant to Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter (Charter), I hereby veto AO 2021-117, as amended, passed at the Assembly's special meeting of January 24, 2022.

I have reviewed the ordinance, heard the testimony, arguments and discussions presented for and against the ordinance, and understand the sentiments expressed during public testimony. It is apparent that AO 2021-117, as amended: (1) impermissibly infringes upon free speech; (2) is inconsistent with state laws related to the possession and carrying of firearms and knives; and (3) impermissibly transfers executive powers of executive branch to the Assembly. For these reasons, this veto should not be overridden.

First, public debate on public issues is a prized American privilege. Under Alaska law, the Charter, and municipal code, the Assembly is required to open meetings to public comment. The freedom to speak includes the freedom *not to speak* and extends to symbolic acts undertaken to communicate an idea. AO 2021-117, as amended, provides, "An individual may use a portion of their allocated time to engage in silent protest, but while doing so, must not prevent or delay other members of the public from providing testimony while the individual's silent protest continues." However, the autonomy promised by the Bill of Rights and repeatedly affirmed by Supreme Court jurisprudence protects the right not to speak or to provide expression through non-verbal means.¹

AO 2021-117, as amended, impermissibly encourages verbal expression while disfavoring non-verbal expression. In doing so, the ordinance infringes upon a speaker's ability to choose his or her own method of self-expression. For this reason, the ordinance must be vetoed.

Second, the ordinance provides the Chair of the Assembly the authority "to prohibit members of the public from bringing dangerous or distracting items to Assembly premises if it is being used to create an actual disturbance." Alaska Statute § 29.35.145 provides, however, that the "authority to regulate firearms and knives is reserved to the state, and... a municipality may

¹ *Education v. Barnette*, 319 U.S. 624, 645 (1943) ("The right of freedom of thought and of religion as guaranteed by the Constitution against State action includes both the right to speak freely and the right to refrain from speaking at all...").



Municipality of Anchorage
Mayor Dave Bronson

Office of the Mayor

not enact or enforce an ordinance regulating the possession... [or] carrying... of firearms or knives.” Because AO 2021-117 could be used by the Chair to restrict the possession or carrying of a firearm or knife if deemed “dangerous or distracting” and to be “causing an actual disturbance,” the ordinance is inconsistent with state law and must be vetoed.

Finally, AO 2021-117, as amended, is another attempt by the legislative body to divest power from the executive branch. As has been repeatedly stated, the touchstone of constitutional legitimacy lies in the maxim that legislative, executive, and judicial powers must remain separate and distinct. As James Madison explained in Federalist No. 47,² there is no political truth that has “greater intrinsic value.” This principle was accepted by the founding fathers of this great nation, and continues to be accepted today as canonical by scholars of democracy. The separation of powers doctrine applies to all levels of government. It is central to the framework of government here in Alaska, and it has been enshrined in Anchorage’s Charter since the formation of the Municipality.

In *Bradner v. Hammond*,³ the Alaska Supreme Court taught that “the underlying rationale of the doctrine of separation of powers is the avoidance of tyrannical aggrandizement of power by a single branch of government.” Anchorage’s executive and administrative power is vested in its mayor and encompasses most municipal departments, agencies, and boards and commissions.⁴ A review of Securitas Security Services USA, Inc.’s contract with the city provides, “The Contract Administrator is the Director, Maintenance and Operations Department or his designee.” As such, this contract is administered by the executive branch through the Maintenance and Operations Department. Any attempt by the Assembly to exercise control over the contractor is inappropriate. Therefore, I must veto the ordinance.

For the reasons stated above, I hereby veto AO 2021-117, as amended. I encourage the Assembly to review these concerns and ask that they work with me to develop a legally defensible and effective ordinance to accomplish the intended goals of AO 2021-117.

² The Federalist No. 47, at 239 (James Madison) (Lawrence Goldman ed., 2008).

³ *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

⁴ Charter, art. V; AS 29.20.220 and .250.