

See AO 2009-35(5-1)

Submitted by: VICE CHAIR COFFEY
ASSEMBLY MEMBER SELKREGG
Prepared by: Assembly Counsel
For reading: March 24, 2009

**ANCHORAGE, ALASKA
AO NO. 2009-35**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 23.10,**
2 **GOVERNING BUILDING PERMITS, AND AMENDING ANCHORAGE MUNICIPAL**
3 **CODE SECTION 23.15.H.101.3 GOVERNING SIGN PERMITS, TO CLARIFY CODE**
4 **COMPLIANCE ENFORCEMENT AFTER WORK IS COMPLETED IN ACCORDANCE**
5 **WITH APPROVED PLANS AND SPECIFICATIONS.**
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7
8 THE ANCHORAGE ASSEMBLY ORDAINS:

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10 **Section 1.** Anchorage Municipal Code section 23.10.301.1 is set out for
11 context only and reads as follows:

12
13 **23.10.301.1 Permits required.**

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15 Any owner or authorized agent intending to construct, enlarge, alter, repair,
16 move, demolish, or change the occupancy of a building or structure, or to erect,
17 install, enlarge, alter, repair, remove, convert or replace any electrical, gas,
18 mechanical or plumbing system, the installation of which is regulated by this
19 code, or to cause any such work to be done, shall first make application to the
20 building official and obtain the required permit.

21 (AO No. 2007-174, § 1, 1-1-08)
22

23 **Section 2.** Anchorage Municipal Code section 23.10.303.1 is hereby amended
24 by amending subsection B and adding a new subsection C to read as follows (*language*
25 *indicating no amendment is included for context only*):
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27 **23.10.303.1 Issuance.**

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29 A. The application, plans, specifications, computations and other data filed by
30 an applicant for permit shall be reviewed by the building official. Such plans may
31 be reviewed by other departments of this jurisdiction to verify compliance with
32 any applicable laws under their jurisdiction. If the building official finds the work
33 described in an application for a permit and the plans, specifications and other
34 data filed conform to the requirements of this code, the technical codes, and
35 other pertinent laws and ordinances, and all permit fees have been paid, [;] the
36 building official shall issue a permit to the applicant.
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1 Exceptions:
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3 1. The building official may require a permittee to obtain a certificate
4 of occupancy for a previous permit with an expired conditional certificate
5 of occupancy prior to issuing another permit.
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7 2. The building official may require a permittee to reopen an expired
8 permit and obtain a certificate of occupancy or certificate of completion for
9 the expired permit prior to issuing another permit.
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11 3. The building official may require a permittee to remedy a stop work
12 order, notice of violation, or notice of permit requirement on a permittee's
13 other project or permit prior to issuing another permit.
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15 4. The building official may require a permittee to remedy a drainage
16 problem on permittee's previous expired or unexpired permit prior to
17 issuing another permit.
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19 5. The building official may require a permittee to remedy water
20 accumulation in a crawlspace of a previous permit prior to issuing another
21 permit.
22

23 B. When a permit is issued and plans are required, the building official shall
24 endorse in writing or stamp the plans and specifications APPROVED. Such
25 approved plans and specifications shall not be changed, modified or altered
26 without authorization from the building official, and all work regulated by this code
27 shall be done in accordance with the approved plans and specifications.
28

29 C. If all work is completed in accordance with the approved plans and
30 specifications, the building official shall issue any required certificate of
31 occupancy and no enforcement action against the permittee, or the permittee's
32 successor-in-interest, shall be authorized based on a subsequent determination
33 that the work approved under the permit is not in compliance with the code,
34 unless one or more of the following conditions exist:
35

36 1. Approval of the plans and specifications was a result of fraud,
37 misconduct in office, or negligence warranting municipal personnel
38 disciplinary action; or
39

40 2. Life and safety are jeopardized; or
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42 3. The plans and specifications submitted with the application
43 materially misrepresent the work; or
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1 4. The building or structure is not constructed substantially in
2 compliance with approved plans and specifications.

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4
5 D [G]. The building official may issue a permit for the construction of part of a
6 building, structure or building service equipment before the entire plans and
7 specifications for the whole building, structure or building service equipment are
8 submitted or approved, provided adequate information and detailed statements
9 have been filed complying with all pertinent requirements of the technical codes.
10 The holder of a partial permit shall proceed without assurance the permit for the
11 entire building, structure or building service will be granted.
12 (AO No. 2007-174, § 1, 1-1-08)

13
14 **Section 3.** Anchorage Municipal Code section 23.10.303.3 is hereby amended
15 to read as follows:

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17 **23.10.303.3 Validity of permit.**

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19 [THE ISSUANCE OR GRANTING OF A PERMIT SHALL NOT BE CONSTRUED
20 TO BE A PERMIT FOR, OR AN APPROVAL OF, ANY VIOLATION OF ANY OF
21 THE PROVISIONS OF THIS CODE OR OF ANY OTHER ORDINANCE OF THE
22 JURISDICTION. PERMITS PRESUMING TO GIVE AUTHORITY TO VIOLATE
23 OR CANCEL THE PROVISIONS OF THIS CODE OR OTHER ORDINANCES
24 OF THE JURISDICTION SHALL NOT BE VALID.] The issuance of a permit
25 based on construction documents and other data shall not prevent the building
26 official from requiring the correction of errors in the construction documents and
27 other data. The building official is also authorized to prevent occupancy or use of
28 a structure in violation of this code or of any other ordinances of this jurisdiction.
29 (AO No. 2007-174, § 1, 1-1-08)

30
31 **Section 4.** Anchorage Municipal Code section 23.15.H.101.3 is hereby
32 amended to read as follows (*language indicating no amendment is included for context*
33 *only*):

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35 **23.15.H.101.3 Permits required.**

36
37 A. A sign permit shall be required before any sign is erected. No permit shall
38 be issued unless the proposed sign fully conforms to all requirements of this
39 chapter and of Anchorage Municipal Code Title 21.

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41 B. If a sign is erected as approved under a valid sign permit, the building
42 official is estopped from determining that the sign approved under the permit is
43 not in compliance with this code unless:
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1. The permit was issued as a result of misconduct in office by a building official; or
2. Life and safety are jeopardized; or
3. The information submitted with the sign permit application misrepresents the work or demonstrates bad faith on the part of the applicant.

(AO No. 2007-174, § 1, 1-1-08)

(Note to Municipal Code Revisor: AMC 23.15.H.101.3 is a local amendment to the International Building Code, 2006 Edition, and instructional language concerning its addition is not set out and not intended for amendment.)

Section 5. This ordinance shall become effective upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2009.

Chair

ATTEST:

Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 146-2009

Meeting Date: March 24, 2009

1 **From: Vice Chair Dan Coffey**

2 **Subject: AO 2009-35 — AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL**
3 **CODE CHAPTER 23.10, GOVERNING BUILDING PERMITS, AND AMENDING**
4 **ANCHORAGE MUNICIPAL CODE SECTION 23.15.H.101.3 GOVERNING SIGN**
5 **PERMITS, TO CLARIFY CODE COMPLIANCE ENFORCEMENT AFTER WORK IS**
6 **COMPLETED IN ACCORDANCE WITH APPROVED PLANS AND SPECIFICATIONS.**

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8 The purpose of having building permits is to provide assurance that if the work conforms
9 to approved plans and specifications, it will meet code.

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11 Significant permit fees are paid to the Municipality by building permit and sign permit
12 applicants. When work is completed in conformity with approved plans and
13 specifications, the permit applicant should be entitled during construction to rely on
14 building permit approval.

15
16 Current building permit enforcement practices under Chapter 3 of AMC 23.10 are flawed.

17
18 AO 2009-35 clarifies building permit code and sign code so that the public, including the
19 permit applicant, can rely on the permit process as an assurance of building code
20 compliance.

21
22 Under proposed amendments to AMC 23.23.10.303, governing building permits, criteria
23 are established for after-the-fact compliance determinations by the building official. If all
24 work is completed in accordance with the approved plans and specifications, the building
25 official shall issue any required certificate of occupancy, and cannot subsequently
26 determine that the work is not in compliance with the code, unless one or more of these
27 conditions exist: 1) There was fraud or misconduct by the building official; 2) life and
28 safety are jeopardized; 3) there is material misrepresentation in the plans submitted with
29 the application; or 4) the building or structure is not constructed substantially in
30 compliance with the approved plans and specifications.

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32 Absent at least one of the specified conditions under the proposed ordinance, 1) the
33 building official is, and should be, estopped from making a subsequent determination that
34 the work, completed as approved under the permit, is not in compliance with code, and 2)
35 no enforcement action shall be authorized.

36
37 For sign permits, the application required by code, and unchanged in the proposed
38 ordinance, is comprehensive and specific. Required items include proposed location,
39 identity of owner, identity of contractor, and:
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- 1 • A drawing to scale showing the design of the sign, including dimensions, sign size,
2 method of attachment, structural specifications, source of illumination and showing
3 the relationship to any building or structure to which it is or is proposed to be
4 installed or affixed to which it relates;
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- 6 • For permanent, freestanding signs, a plot plan to scale, indicating location of the
7 sign relative to property lines, streets and sidewalks, utility easements, buildings,
8 driveways, parking spaces, existing signs (for B-1 and R-0 zones), and structures
9 identified by their principal use;
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- 11 • For B-1 and R-0 zones, a list of all existing signs on the property on which the
12 proposed sign is to be erected and a description of the size and square footage of
13 each such existing display surface area; and
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- 15 • Such other information as the building official determines is reasonably necessary
16 to an evaluation of the proposed sign's compliance with this code.
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18 A person submitting plans as required by code, who receives approval by the building
19 official to erect a sign, and who then follows those approved plans in completing the
20 work, should not be at risk of being cited by code enforcement and forced to rebuild or
21 remove the sign. Absent jeopardy to life and safety, misconduct in office by the building
22 official, or misrepresentation of the work by the applicant, the sign permit stands as
23 municipal approval when the sign is erected as approved in the permit.
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26 Respectfully submitted:
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29 Dan Coffey
30 Assembly Member, Section 4