

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

Prepared by: Department of Law

For reading: October 13, 2009

CLERK'S OFFICE

APPROVED

ANCHORAGE, ALASKA

Date:

11-17-09

AO No. 2009-122

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE  
2 SECTION 8.15.010 AND THE FINE TABLE IN SECTION 14.60.030 TO ADD A  
3 CIVIL VIOLATION ALTERNATIVE FOR THEFTS UNDER \$50, EXCLUDING  
4 ALCOHOLIC BEVERAGES.  
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8 THE ANCHORAGE ASSEMBLY ORDAINS:  
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10 **Section 1.** Anchorage Municipal Code section 8.15.010 is amended to add a new  
11 subsection to read as follows:  
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13 **8.15.010 Theft defined.**  
14

15 A. A person commits theft if:

- 16 1. With the intent to deprive another of property or to appropriate  
17 property of another to oneself or a third person, the person  
18 obtains the property of another; or  
19 2. The person commits theft of lost property under AMC 8.15.020;  
20 or  
21 3. The person commits theft by deception under AMC 8.15.030; or  
22 4. The person commits theft of services under AMC 8.15.040; or  
23 5. The person commits theft by shoplifting under AMC 8.15.050.  
24

25 B. Penalties. The crime of theft as defined in AMC 8.15.010A is  
26 punishable by a fine of not more than:

- 27 1. \$2,000.00 or imprisonment of not more than six months, or both  
28 such fine and imprisonment, if the value of the property or  
29 services is \$5.00 or more but less than \$50.00.  
30 2. \$10,000.00 or imprisonment of not more than one year, or both  
31 such fine and imprisonment, if the value of the property or  
32 services is \$50.00 or greater.  
33

34 C. As an alternative to the remedies, procedures and penalties provided in  
35 this section and section 1.45.010, if the value of the property or  
36 services is \$5.00 or more but less than \$50.00, a violation of this  
37 section may be charged as a civil violation, subject to and prosecuted  
38 in accordance with Title 14 and shall be punishable by a civil penalty in  
39 accordance with chapter 14.60.  
40

1. This subsection shall not apply if the merchandise or thing of value is an alcoholic beverage; the penalties applicable for theft of an alcoholic beverage are set out in section 8.15.010 B.

(AO No. 98-59(S), § 1, 5-19-98; AO No. 2003-73, § 3, 4-22-03)

**Section 2.** 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>
***    ***    ***		
8.15.010 A.	Theft under \$50.	Up to \$500

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

**Section 3.** This ordinance shall become effective 30 days after its passage and approval by the Assembly.

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PASSED AND APPROVED by the Anchorage Assembly this 17<sup>th</sup> day of November, 2009.

Debbie Orrander  
Chair of the Assembly

ATTEST:

Burton S. Jones  
Municipal Clerk

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**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects -- General Government**

AO Number: 2009-122

Title: **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 8.15.010 AND THE FINE TABLE IN SECTION 14.60.030 TO ADD A CIVIL VIOLATION ALTERNATIVE FOR THEFTS UNDER \$50, EXCLUDING ALCOHOLIC BEVERAGES.**

Sponsor: MAYOR  
 Preparing Agency: Department of Law  
 Others Impacted: Anchorage Police Department, Administrative Hearing Office

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

**PUBLIC SECTOR ECONOMIC EFFECTS:**

APD will be expected to issue more civil citations for thefts under \$50, instead of criminal citations. If the person cited requests a hearing, the Administrative Hearing Officer (AHO) will conduct the hearing, make a determination, and assess a fine if the person cited is found to have committed the act of theft. Law anticipates the number of requested hearings to be relatively low and expect the hearing load to be absorbed by the AHO.

Law anticipates a drop in the number of criminal cases referred to Prosecution. This, in turn, reduces the number of cases requiring Indigent Defense counsel under municipal contract. This will free up prosecutors to handle more significant cases and will generate modest savings on the costs of the Indigent Defense contract.

Civil fines should be assessed similar to criminal fines, making this AO revenue neutral.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

No anticipated increase in the incidence of thefts.

Prepared by: Department of Law

Telephone: 343-4545

# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 561-2009

Meeting Date: October 13, 2009

1 **From: MAYOR**

2  
3 **Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE**  
4 **SECTION 8.15.010 AND THE FINE TABLE IN SECTION 14.60.030**  
5 **TO ADD A CIVIL VIOLATION ALTERNATIVE FOR THEFTS UNDER**  
6 **\$50, EXCLUDING ALCOHOLIC BEVERAGES.**  
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8 This ordinance amends Anchorage Municipal Code sections 8.15.010 and  
9 14.30.060, updating the code and alleviating pressures caused by case load  
10 increases.

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12 The other purpose of the proposed amendment is to provide a practical mechanism  
13 for prosecution of minor shoplifts. All prosecuting agencies screen cases sent to  
14 them by law enforcement. Screening is a two step process: First, the case is  
15 reviewed to determine whether there is evidence to support the elements of the  
16 offense. Second, the discretionary decision whether expenditure of public  
17 resources is appropriate. Less serious cases are often declined as disproportionate  
18 to resources, and as case loads increase in relation to resources, such cases are  
19 more frequently declined.

20  
21 Case loads in the Municipal Prosecutor's Office (MPO) steadily increased in recent  
22 years as the number of Officers at APD increased. The number of cases referred to  
23 the MPO in 2008 was 10% higher than the number in 2007. By early February  
24 2009, the number was about 150 more than the number of cases received as of the  
25 same date in 2008. Under these circumstances, shoplifts involving small amount so  
26 are very likely to be declined even more often.

27  
28 By reducing the fine to \$500.00, the amendment provides for a more expeditious  
29 and less costly means of dealing with such cases. Specifically, the cases either go  
30 before the Administrative Hearing Officer under Title 14, or are filed in state court as  
31 minor offenses. In either case, the defendant is not entitled to appointed counsel or  
32 a jury trial. Moreover, defendants who fail to take any action on their cases are  
33 subject to default procedures, under the minor offense rules in District Court.

34  
35 An earlier version of this ordinance raised objections, if applied to the thefts of  
36 alcoholic beverages. This objection has merit, given the public safety ramification of  
37 the consumption of alcoholic beverages. Accordingly, theft of alcoholic beverages  
38 is specifically excluded from this amendment.

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40 An additional objection was raised concerning repeat offenders. There is again,  
41 some merit to the objection. However, for very serious repeat offenders, there are

1 provisions under state law for felony penalties; offenders meeting the criteria under  
2 the state statute may be prosecuted by the state with potential penalties far greater  
3 than those imposed under Municipal ordinance.  
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5  
6 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**  
7 **AMENDING ANCHORAGE MUNICIPAL CODE SECTION 8.15.010 AND THE FINE**  
8 **TABLE IN SECTION 14.60.030 TO ADD A CIVIL VIOLATION ALTERNATIVE FOR**  
9 **THEFTS UNDER \$50, EXCLUDING ALCOHOLIC BEVERAGES.**

10  
11 Prepared by: Dept. of Law  
12 Approved by: Dennis A. Wheeler, Municipal Attorney  
13 Concur: George J. Vakalis, Municipal Manager  
14 Respectfully submitted: Daniel A. Sullivan, Mayor  
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**Content ID:** 008231

**Type:** Ordinance - AO

**Title:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 8.15.010 AND THE FINE TABLE IN SECTION 14.60.030 TO ADD A CIVIL VIOLATION ALTERNATIVE FOR THEFTS UNDER \$50, EXCLUDING ALCOHOLIC BEVERAGES..

**Author:** westoverrf

**Initiating Dept:** Legal

**Review Depts:** MuniManager

**Description:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 8.15.010 AND THE FINE TABLE IN SECTION 14.60.030 TO ADD A CIVIL VIOLATION ALTERNATIVE FOR THEFTS UNDER \$50, EXCLUDING ALCOHOLIC BEVERAGES.

**Keywords:** Civil violations, thefts under \$50, alcoholic beverages

**Date Prepared:** 10/9/09 11:06 AM

**Director Name:** Dennis A. Wheeler

**Assembly Meeting Date:** 10/13/09

**Public Hearing Date:** 10/27/09

<b>Workflow Name</b>	<b>Action Date</b>	<b>Action</b>	<b>User</b>	<b>Security Group</b>	<b>Content ID</b>
Clerk_Admin_SubWorkflow	10/9/09 11:18 AM	Exit	Joy Maglaqui	Public	008231
MuniManager_SubWorkflow	10/9/09 11:18 AM	Approve	Joy Maglaqui	Public	008231
Legal_SubWorkflow	10/9/09 11:11 AM	Approve	Rhonda Westover	Public	008231
AllOrdinanceWorkflow	10/9/09 11:10 AM	Checkin	Rhonda Westover	Public	008231