

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

Prepared by: Dept. of Law

For reading: October 12, 2010

CLERK'S OFFICE

APPROVED

ANCHORAGE, ALASKA

AO No. 2010-76

Date: 10-26-10

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS**
2 **9.28.019, 9.28.022, 9.28.026, 9.28.027, 9.28.030, AND 9.28.035, REGARDING**
3 **SERIOUS TRAFFIC OFFENSES, TO AUTHORIZE THE IMMEDIATE FORFEITURE**
4 **OF BONDS IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR POST-**
5 **DEPRIVATION DUE PROCESS, AND OTHER AMENDMENTS TO IMPROVE THE**
6 **EFFICIENCY OF THE VEHICLE IMPOUND AND FORFEITURE PROGRAM.**

7
8 **WHEREAS**, chapter 9.28 provides for the temporary release of a vehicle with the
9 posting of a bond pending the outcome of the underlying criminal proceeding
10 involving allegations of impaired driving, scofflaw, driving without a valid license, or
11 driving without insurance; and

12
13 **WHEREAS**, the posted bond can be forfeited to the municipality upon the failure of
14 the person posting the bond to return the vehicle once a conviction is entered, but the
15 bond forfeiture process requires a court order in the criminal case or requires the
16 municipality to file a separate civil case; and

17
18 **WHEREAS**, the court does not routinely order the bond forfeiture in a criminal case
19 without motion by the Municipality, and the filing fee and other costs to seek bond
20 forfeiture through the civil court process are often greater than the value of the bond
21 itself, making pursuit of the bond a negative proposition; and

22
23 **WHEREAS**, this process results in vehicles not being removed from the streets as
24 intended by the program, and offenders realize a gain by not returning the vehicles;
25 and

26
27 **WHEREAS**, the municipality can save taxpayer and state court system resources by
28 instituting a streamlined bond forfeiture process, achieve the program goals of
29 deterrence and removal of nuisance vehicles from our streets, and still provide due
30 process for persons aggrieved by a bond forfeiture; now, therefore,

31
32 **THE ANCHORAGE ASSEMBLY ORDAINS:**

33
34 **Section 1.** Anchorage Municipal Code section 9.28.019 is amended to read as
35 follows (*the remainder of the section is not affected and therefore not set out*):

36
37 **9.28.019 Valid operator's license required.**

38
39 *** **

40 F. The magistrate or judge who sets the conditions of release for a person
41 arrested under this section shall at the same time set a vehicle return
42 bond for the vehicle alleged in an oral statement of a police officer to
43 have been used in the commission of the offense if the records of the
44 Alaska Department of Public Safety, division of motor vehicles or the

1 records of an agency with similar responsibilities in another state show
2 that the person arrested for the offense has any interest in the vehicle.
3 The purpose of setting a vehicle return bond is to secure the presence
4 of the vehicle pending trial and to provide security to be forfeited along
5 with the proceeds of a sale, transfer, or encumbrance if the defendant's
6 interest in the vehicle is sold, transferred, or encumbered after the
7 vehicle has been released pending trial. A person who secures the
8 release of a vehicle pursuant to a vehicle return bond must return the
9 vehicle to the custody of the municipality, if required by the terms of the
10 vehicle return bond, or upon order of the court. If the vehicle's release
11 has been obtained through the posting of a vehicle return bond, and
12 the vehicle is not returned according to the terms of the vehicle return
13 bond or pursuant to the court's order after a judgment of conviction, the
14 municipality may, in addition to retaining [OBTAINING] the forfeited bond
15 funds, seize the vehicle to implement the impoundment or forfeiture
16 ordered by the court. If the person has not been previously convicted,
17 the magistrate or judge setting the vehicle return bond shall order that
18 the requirement of the vehicle return bond shall automatically expire 30
19 days after the vehicle has been seized if the vehicle has not been
20 released pursuant to a vehicle return bond. The vehicle return bond set
21 under the authority of this subsection may only be posted by a person
22 alleged to have used the vehicle in the commission of one of the
23 offenses described in this section or by a person who agrees to return
24 the vehicle upon order of the court upon penalty of forfeiture of the
25 bond. The vehicle return bond set under the authority of this subsection
26 may be posted at the municipality. A vehicle return bond may be
27 posted in cash only. A vehicle return bond shall be set at a minimum of:

- 28
- 29 1. Two hundred fifty dollars, if the person has not been previously
- 30 convicted.
- 31 2. Five hundred dollars, if the person has been previously
- 32 convicted and the vehicle is 20 years old or older.
- 33 3. One thousand dollars, if the person has been previously
- 34 convicted and the vehicle is 15 years old or older but less than
- 35 20 years old.
- 36 4. One thousand five hundred dollars, if the person has been
- 37 previously convicted and the vehicle is ten years old or older but
- 38 less than 15 years old.
- 39 5. Two thousand dollars, if the person has been previously
- 40 convicted and the vehicle is five years old or older but less than
- 41 ten years old.
- 42 6. Two thousand five hundred dollars, if the person has been
- 43 previously convicted and the vehicle is less than five years old.
- 44

45 *** **

46 (CAC 9.12.010; AO No. 267 76; AO No. 78-72; AO No. 78-230(S); AO No. 83-
47 168, 10-17-83; AO No. 89-52; AO No. 91-57(S); AO No. 2001-72, § 1, 7-1-02;
48 AO No. 2002-125, § 1, 8-20-02; AO No. 2003-73, §§ 6, 7, 4-22-03; AO No.
49 2003-106, §§ 1, 2, 7-1-03; AO No. 2009-61, § 4, 7-7-09)

1 **Section 2.** Anchorage Municipal Code section 9.28.020 is amended to read as
2 follows (*the remainder of the section is not affected and therefore not set out*):
3

4 **9.28.020 Operating under the influence-Prohibited; sentencing.**

5 *** **

6 J. The magistrate or judge who sets the conditions of release for a person
7 arrested for driving under the influence shall at the same time set a
8 vehicle return bond for the vehicle alleged in an oral statement of a
9 police officer to have been used in the commission of the offense if the
10 records of the Alaska department of public safety, division of motor
11 vehicles or the records of an agency with similar responsibilities in
12 another state show that the person arrested for the offense has any
13 interest in the vehicle. The purpose of setting a vehicle return bond is to
14 secure the presence of the vehicle pending trial and to provide security
15 to be forfeited along with the proceeds of a sale, transfer, or
16 encumbrance if the defendant's interest in the vehicle is sold,
17 transferred, or encumbered after the vehicle has been released
18 pending trial. A person who secures the release of a vehicle pursuant
19 to a vehicle return bond must return the vehicle to the custody of the
20 municipality if required by the terms of the vehicle return bond, or upon
21 order of the court. If the vehicle's release has been obtained through
22 the posting of a vehicle return bond and the vehicle is not returned
23 according to the terms of the vehicle return bond or pursuant to the
24 court's order after a judgment of conviction, the municipality may, in
25 addition to retaining [OBTAINING] the forfeited bond funds, seize the
26 vehicle to implement the impoundment or forfeiture ordered by the
27 court. If the person has not been previously convicted, the magistrate
28 or judge setting the vehicle return bond shall order that the requirement
29 of the vehicle return bond shall automatically expire 30 days after the
30 vehicle has been seized if the vehicle has not been released pursuant
31 to a vehicle return bond. The vehicle return bond set under the
32 authority of this subsection may only be posted by a person alleged to
33 have used the vehicle in the commission of the offense of driving under
34 the influence or by a person who agrees to return the vehicle upon
35 order of the court upon penalty of forfeiture of the bond. The vehicle
36 return bond set under the authority of this subsection may be posted at
37 the municipality. A vehicle return bond may be posted in cash only. A
38 vehicle return bond shall be set at a minimum of:
39

- 40
- 41 1. Two hundred fifty dollars, if the person has not been previously
42 convicted.
 - 43 2. Five hundred dollars, if the person has been previously
44 convicted and the vehicle is 20 years old or older.
 - 45 3. One thousand dollars, if the person has been previously
46 convicted and the vehicle is 15 years old or older but less than
47 20 years old.
 - 48 4. One thousand five hundred dollars, if the person has been
49 previously convicted and the vehicle is ten years old or older but
50 less than 15 years old.

- 1 5. Two thousand dollars, if the person has been previously
2 convicted and the vehicle is five years old or older but less than
3 ten years old.
4 6. Two thousand five hundred dollars, if the person has been
5 previously convicted and the vehicle is less than five years old.
6

7 *** *** ***

8 (AO No. 267-76; AO No. 78-72; AO No. 78-230(S); AO No. 80-122; AO No.
9 81-75; AO No. 82-126; AO No. 83-168, 10-17-83; AO No. 89-52; AO No. 91-
10 56(S); AO No. 91-190; AO No. 94-68(S), § 11, 8-11-94; AO No. 95-84(S-1), §§
11 1--9, 4-27-95; AO No. 95-163(S), §§ 1--5, 8-8-95; AO No. 97-72, § 1, 6-10-97;
12 AO No. 97-87, § 1, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-150, §
13 1, 8-28-01; AO No. 2001-145(S-1), § 6, 12-11-01; AO No. 2002-125, § 2, 8-
14 20-02; AO No. 2003-73, §§ 8, 9, 4-22-03; AO No. 2003-106, §§ 3, 4, 7-1-03;
15 AO No. 2006-152, §§ 1, 2, 1-1-07; AO No. 2008-122, § 1, 12-16-08; AO No.
16 2009-61, § 5, 7-7-09)
17

18 **Section 3.** Anchorage Municipal Code section 9.28.022 is amended to read as
19 follows (*the remainder of the section is not affected and therefore not set out*):
20

21 **9.28.022 Driving under the influence--Refusal to submit to chemical**
22 **tests.**
23

24 *** *** ***

25 J. The magistrate or judge who sets the conditions of release for a person
26 arrested for refusal to submit to chemical tests shall at the same time
27 set a vehicle return bond for the vehicle alleged in an oral statement of
28 a police officer to have been used in the commission of the offense if
29 the records of the Alaska department of public safety, division of motor
30 vehicles or the records of an agency with similar responsibilities in
31 another state show that the person arrested for the offense has any
32 interest in the vehicle. The purpose of setting a vehicle return bond is to
33 secure the presence of the vehicle pending trial and to provide security
34 to be forfeited along with the proceeds of a sale, transfer, or
35 encumbrance if the defendant's interest in the vehicle is sold,
36 transferred, or encumbered after the vehicle has been released
37 pending trial. A person who secures the release of a vehicle pursuant
38 to a vehicle return bond must return the vehicle to the custody of the
39 municipality if required by the terms of the vehicle return bond, or upon
40 order of the court. If the vehicle's release has been obtained through
41 the posting of a vehicle return bond and the vehicle is not returned
42 according to the terms of the vehicle return bond or pursuant to the
43 court's order after a judgment of conviction, the municipality may, in
44 addition to retaining [OBTAINING] the forfeited bond funds, seize the
45 vehicle to implement the impoundment or forfeiture ordered by the
46 court. If the person has not been previously convicted, the magistrate
47 or judge setting the vehicle return bond shall order that the requirement
48 of the vehicle return bond shall automatically expire 30 days after the
49 vehicle has been seized if the vehicle has not released pursuant to a
50 vehicle return bond. The vehicle return bond set under the authority of

1 this section may only be posted by a person alleged to have used the
 2 vehicle in the commission of the offense of refusal to submit to
 3 chemical tests or to a person who agrees to return the vehicle upon
 4 order of the court upon penalty of forfeiture of the bond. The vehicle
 5 return bond set under the authority of this section may be posted at the
 6 municipality. A vehicle return bond may be posted in cash only. A
 7 vehicle return bond shall be set at a minimum of:

- 8
- 9 1. Two hundred fifty dollars, if the person has not been previously
- 10 convicted;
- 11 2. Five hundred dollars, if the person has been previously
- 12 convicted and the vehicle is 20 years old or older;
- 13 3. One thousand dollars, if the person has been previously
- 14 convicted and the vehicle is 15 years old or older but less than
- 15 20 years old;
- 16 4. One thousand five hundred dollars, if the person has been
- 17 previously convicted and the vehicle is ten years old or older but
- 18 less than 15 years old;
- 19 5. Two thousand dollars, if the person has been previously
- 20 convicted and the vehicle is five years old or older but less than
- 21 ten years old; and
- 22 6. Two thousand five hundred dollars, if the person has been
- 23 previously convicted and the vehicle is less than five years old.
- 24

25 *** **

26 (AO No. 82-126; AO No. 83-168, 10-17-83; AO No. 91-56(S); AO No. 91-190;
 27 AO No. 95-84(S-1), §§ 10--17, 4-27-95; AO No. 95-163(S), §§ 6--9, 8-8-95;
 28 AO No. 97-87, § 2, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2002-125, §
 29 4, 8-20-02; AO No. 2003-73, §§ 10, 11, 4-22-03; AO No. 2003-106, §§ 5, 6, 7-
 30 1-03; AO No. 2008-122, § 2, 12-16-08; AO No. 2009-61, § 6, 7-7-09)

31
 32 **Section 4.** Anchorage Municipal Code section 9.28.026 is amended to read as
 33 follows (*the remainder of the section is not affected and therefore not set out*):

34
 35 **9.28.026 Impoundment and forfeiture of vehicle.**

36 *** **

- 37
- 38 11. Temporary release of vehicle pursuant to vehicle return bond.
- 39
- 40 a. A registered owner or lienholder may obtain temporary release
- 41 of a vehicle seized by the municipality pursuant to this
- 42 subsection.
- 43 b. The purpose of setting a vehicle return bond on the vehicle is to
- 44 secure the presence of the vehicle and to provide security to be
- 45 forfeited along with the proceeds of a sale, transfer, or
- 46 encumbrance if the vehicle is sold, transferred, or encumbered
- 47 after the vehicle has been released pending the final disposition
- 48 in the criminal action against the driver of the seized vehicle or
- 49 the final disposition in the civil action against claimants of the
- 50 seized vehicle. If the vehicle's release has been obtained

1 through the posting of a vehicle return bond and the vehicle is
2 not returned according to the terms of release, or pursuant to
3 the court's order, the municipality may, in addition to retaining
4 [OBTAINING] the forfeited bond funds, seize the vehicle to
5 implement the impoundment or forfeiture ordered by the court.
6 A person who secures the release of a vehicle pursuant to a
7 vehicle return bond must return the vehicle if required by the
8 terms of the vehicle return bond or upon order of the court. If a
9 vehicle has not been impounded for a longer period than the
10 vehicle would be impounded if the person were convicted, the
11 court shall not delete the requirement of the vehicle return bond
12 or exonerate a posted vehicle return bond until the vehicle for
13 which bond has been posted is returned pursuant to court order.
14 A vehicle return bond shall be posted with the municipality and
15 in cash only. A vehicle return bond shall be set at a minimum
16 of:

- 17 i. \$250.00₁ if the person charged with a violation of
18 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
19 8.65.030 has not been previously convicted;
20 ii. \$500.00₁ if the person charged with a violation of
21 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
22 8.65.030 has been previously convicted and the vehicle
23 is 20 years old or older;
24 iii. \$1,000.00₁ if the person charged with a violation of
25 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
26 8.65.030 has been previously convicted and the vehicle
27 is 15 years old or older but less than 20 years old;
28 iv. \$1,500.00₁ if the person charged with a violation of
29 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
30 8.65.030 has been previously convicted and the vehicle
31 is ten years old or older but less than 15 years old;
32 v. \$2,000.00₁ if the person charged with a violation of
33 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
34 8.65.030 has been previously convicted and the vehicle
35 is five years old or older but less than ten years old; and
36 vi. \$2,500.00₁ if the person charged with a violation of
37 Section 9.28.019, 9.28.020, 9.28.022, 9.28.030, or
38 8.65.030 has been previously convicted and the vehicle
39 is less than five years old.

40
41 c. A vehicle return bond may be set above the minimum if the
42 vehicle appears to have unusually high value for its age. A
43 vehicle may not be released pursuant to a vehicle return bond
44 unless release is in compliance with subsection C.9.

45 d. If the person who secured the release of the vehicle does not
46 cause the vehicle to be returned to impoundment for the
47 purpose of impoundment or forfeiture in accordance with the
48 terms of release, the bond is forfeited to the municipality. The
49 municipality may also seek a court order forfeiting the bond and
50 forfeiting [AN ORDER ENTERED BY THE COURT, UPON MOTION OF THE

1 MUNICIPALITY, THE COURT SHALL ORDER ALL OF THE VEHICLE RETURN
 2 BOND FORFEITED TO THE MUNICIPALITY AND SHALL ORDER] the
 3 proceeds of any sale, transfer, or encumbrance [ARE FORFEITED]
 4 to the municipality if the vehicle has been sold, transferred, or
 5 encumbered while subject to a vehicle return bond. Upon
 6 motion to the court, the court shall order forfeiture of the bond
 7 and any proceeds. For purposes of this subsection, it shall be
 8 presumed the amount of proceeds of any sale, transfer, or
 9 encumbrance is the assessed or appraised value of the seized
 10 vehicle as defined in subsection F. below.

11 *** **

12 (AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO
 13 No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-
 14 163(S), §§ 10--19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-
 15 27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No.
 16 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12--14, 4-22-03; AO No. 2003-
 17 106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2,
 18 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2006-89(S), § 1, 6-6-06; AO No.
 19 2006-115, § 1, 9-12-06; AO No. 2007-60, § 2, 11-1-07; AO No. 2007-161, § 3,
 20 12-11-07; AO No. 2008-126, § 1, 1-6-09)

21
 22
 23 **Section 5.** Anchorage Municipal Code section 9.28.027 is amended to read as
 24 follows (*the remainder of the section is not affected and therefore not set out*):

25
 26 **9.28.027 Failure to return a vehicle [THAT HAS BEEN] released under a**
 27 **vehicle return bond.**

28
 29 A. It is unlawful for the person who has secured the release of a vehicle
 30 under a vehicle return bond under Section 9.28.019, 9.28.020,
 31 9.28.022, 9.28.026, 9.28.030, 9.28.035, or 8.65.030 to willfully fail to
 32 return that vehicle when ordered by a court. Each day a vehicle is not
 33 returned constitutes a separate offense under this section.

34
 35 B. The municipality may retain a vehicle return bond, if the terms of the
 36 bond agreement are breached, without further court order or prior
 37 notice to the person posting the bond, if the person posting the bond
 38 acknowledged, at the time of posting the bond, the municipality's right
 39 to do so. Persons aggrieved by retention of a vehicle return bond may:

- 40
 41 1. Request relief from the Municipal Attorney; and
 42 2. Appeal the decision of the Municipal Attorney to the
 43 Administrative Hearing Officer under Chapter 3.60.

44
 45 (AO No. 95-84(S-1), § 19, 4-27-95; AO No. 2001-72, § 3, 7-1-02; AO No.
 46 2001-139, § 3, 7-1-02; AO No. 2003-155, § 3, 6-1-04; AO No. 2004-61, § 1, 3-
 47 2-04; AO No. 2007-60, § 3, 4-10-07; AO No. 2007-161, § 4, 12-11-07)

1 **Section 6.** Anchorage Municipal Code section 9.28.030 is amended to read as
2 follows (*the remainder of the section is not affected and therefore not set out*):
3

4 **9.28.030 Insurance or other security required.**
5 *** **

6 F. The magistrate or judge who sets the conditions of release for a person
7 arrested under this section shall at the same time set a vehicle return
8 bond for the vehicle alleged in an oral statement of a police officer to
9 have been used in the commission of the offense if the records of the
10 Alaska department of public safety, division of motor vehicles or the
11 records of an agency with similar responsibilities in another state show
12 that the person arrested for the offense has any interest in the vehicle.
13 The purpose of setting a vehicle return bond is to secure the presence
14 of the vehicle pending trial and to provide security to be forfeited along
15 with the proceeds of a sale, transfer, or encumbrance if the defendant's
16 interest in the vehicle is sold, transferred, or encumbered after the
17 vehicle has been released pending trial. A person who secures the
18 release of a vehicle pursuant to a vehicle return bond must return the
19 vehicle to the custody of the municipality upon order of the court. If the
20 vehicle's release has been obtained through the posting of a vehicle
21 return bond and the vehicle is not returned if required by the terms of
22 the vehicle return bond or pursuant to the court's order after a judgment
23 of conviction, the municipality may, in addition to retaining [OBTAINING]
24 the forfeited bond funds, seize the vehicle to implement the
25 impoundment or forfeiture ordered by the court. If the person has not
26 been previously convicted, the magistrate or judge setting the vehicle
27 return bond shall order that the requirement of the vehicle return bond
28 shall automatically expire 30 days after the vehicle has been seized if
29 the vehicle has not been released pursuant to a vehicle return bond.
30 The vehicle return bond set under the authority of this subsection may
31 only be posted by a person alleged to have used the vehicle in the
32 commission of one of the offenses described in this section or by a
33 person who agrees to return the vehicle upon order of the court upon
34 penalty of forfeiture of the bond. The vehicle return bond set under the
35 authority of this subsection may be posted at the municipality. A
36 vehicle return bond may be posted in cash only. A vehicle return bond
37 shall be set at a minimum of:
38

- 39 1. Two hundred fifty₁ dollars if the person has not been previously
40 convicted.
- 41 2. Five hundred dollars₁ if the person has been previously
42 convicted and the vehicle is 20 years old or older.
- 43 3. One thousand dollars₁ if the person has been previously
44 convicted and the vehicle is 15 years old or older but less than
45 20 years old.
- 46 4. One thousand five hundred dollars₁ if the person has been
47 previously convicted and the vehicle is ten years old or older but
48 less than 15 years old.
- 49 5. Two thousand dollars₁ if the person has been previously
50 convicted and the vehicle is five years old or older but less than

ten years old.

6. Two thousand five hundred dollars, if the person has been previously convicted and the vehicle is less than five years old.

*** **

(CAC 9.12.010; AO No. 267-76; AO No. 78-72; AO No. 78-230(S); AO No. 83-168, 10-17-83; AO No. 89-52; AO No. 91-57(S); AO No. 2001-139, § 1, 7-1-02; AO No. 2002-125, § 7, 8-20-02; AO No. 2002-175, § 1, 1-14-03; AO No. 2003-73, §§ 15, 16, 4-22-03; AO No. 2003-106, §§ 9, 10, 7-1-03; AO No. 2003-157, § 1, 12-17-03; AO No. 2006-89(S), § 2, 6-6-06; AO No. 2006-153, § 1, 6-6-06)

Section 7. Anchorage Municipal Code section 9.28.035 is amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

9.28.035 Abatement of vehicles operated by delinquent offenders.

*** **

J. A registered owner may obtain temporary release of a vehicle upon:

- 1. Proof of insurance of the motor vehicle in a form acceptable to the municipality;
- 2. Proof of ownership or a legal right to repossess the vehicle;
- 3. Payment of an administrative fee of \$390.00, towing and storage fees and post in cash a vehicle return bond in the amount \$1,000.00.

K [4]. Notwithstanding the determination of a vehicle as a public nuisance under this section, t[T]he vehicle return bond shall be returned to a registered owner or lienholder who was not operating a motor vehicle in violation of this section [BUT FAILS TO SHOW THE MOTOR VEHICLE WAS LEGALLY UNJUSTIFIED UNDER SUBSECTION I. ONLY] if the registered owner complies with subsection G.1.

L [5]. The vehicle return bond in shall be forfeited to the municipality if a registered owner or lienholder who was operating a motor vehicle in violation of this section fails to show the seizure of the motor vehicle was legally unjustified under subsection I. and the registered owner or lienholder fails to return the vehicle to the municipality in accordance with the terms of release or upon order of the court. The court shall, upon motion by the municipality, also order seizure of the vehicle.

M [K]. A motor vehicle forfeited under subsection I. may be disposed of as set forth in Section 9.28.026 E.7.

N [L]. Proof a registered owner or lienholder did not know or could not reasonably have known the vehicle was operated in violation of this section is not a defense to the requirements of release under subsection G. or H., as applicable, or to an action under subsection I.

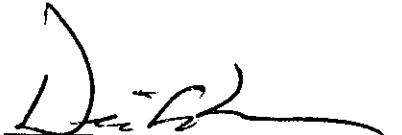
O [M]. The administrative fee under subsection G. or H., as applicable, may be waived in exceptional cases or if it is in the best interests of the municipality. The administrative fee shall not be imposed if notice is not provided as required under subsection E. or the administrative hearing officer finds no probable cause under subsection F.

(AO No. 2007-161, § 5, 12-11-07)


Section 8. Notwithstanding other provisions in Chapter 9.28, return bonds filed prior to December 31, 2009 shall be subject to immediate forfeiture without court order upon 30 days written notice to the last known address of the person or entity posting the bond. Persons aggrieved under this section may file an appeal under Chapter 3.60 within one year of forfeiture.

Section 9. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 26th day of October, 2010.


Chair of the Assembly

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2010-76

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 9.28.019, 9.28.022, 9.28.026, 9.28.027, 9.28.030, AND 9.28.035, REGARDING SERIOUS TRAFFIC OFFENSES, TO AUTHORIZE THE IMMEDIATE FORFEITURE OF BONDS IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR POST-DEPRIVATION DUE PROCESS, AND OTHER AMENDMENTS TO IMPROVE THE EFFICIENCY OF THE VEHICLE IMPOUND AND FORFEITURE PROGRAM.

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		\$ (10)	\$ (1)	\$ (1)	\$ (1)	
2000 Non-Labor						
3900 Contributions						
4000 Debt Service						
TOTAL DIRECT COSTS:	\$ -	\$ (10)	\$ (1)	\$ (1)	\$ (1)	
Add: 6000 Charges from Others						
Less: 7000 Charges to Others						
FUNCTION COST:	\$ -	\$ (10)	\$ (1)	\$ (1)	\$ (1)	
REVENUES:		\$ 10	\$ 1	\$ 1	\$ 1	

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

Bonds will be forfeited to MOA upon failure of person to return a vehicle to the MOA, rather than going through the expense and time of filing actions in court to get the same result.

PRIVATE SECTOR ECONOMIC EFFECTS:

None.

Prepared by: Dennis A. Wheeler

Telephone: 343-4545

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 539-2010

Meeting Date: October 12, 2010

1 **From: MAYOR**

2
3 **Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE**
4 **SECTIONS 9.28.019, 9.28.022, 9.28.026, 9.28.027, 9.28.030, AND**
5 **9.28.035, REGARDING SERIOUS TRAFFIC OFFENSES, TO**
6 **AUTHORIZE THE IMMEDIATE FORFEITURE OF BONDS IN**
7 **CERTAIN CIRCUMSTANCES, TO PROVIDE FOR POST-**
8 **DEPRIVATION DUE PROCESS, AND OTHER AMENDMENTS TO**
9 **IMPROVE THE EFFICIENCY OF THE VEHICLE IMPOUND AND**
10 **FORFEITURE PROGRAM.**

11
12
13 This ordinance changes the process for bond forfeiture when an impounded vehicle
14 is not returned to the Municipality. Owners of vehicles impounded as a result of
15 drunk driving or similar offenses may get a vehicle released on a temporary basis
16 while the criminal case against the driver is pending. To release a vehicle from
17 impound, the owner posts a cash bond with the municipality. If the court orders the
18 vehicle to be impounded, the terms of the bond require the vehicle to be returned
19 for the number of days ordered by the court. In the event a court orders the vehicle
20 to be forfeited, the terms of the bond require the vehicle to be surrendered to the
21 Municipality for sale at auction. With some exceptions, the person posting the bond
22 gets their money back when the vehicle is surrendered.

23
24 If a vehicle is not returned, as ordered by the court, the Municipality must ask the
25 court to forfeit the cash bond to the Municipality. The Municipality must pay a filing
26 fee and open a civil action with the court to accomplish this. The cost of preparing
27 the documents for a civil action, the labor to litigate and complete the case
28 (averaging up to 5 hours), plus the \$90.00 court filing fee, is generally equal to or in
29 excess of the value of the bond, as bonds may be as low as \$250.

30
31 The ordinance proposes an amendment to the code allowing the Municipality to
32 achieve the same result, but without the expense. If a vehicle is not returned as
33 required by a court, the bond is automatically forfeited without the time and expense
34 for the Municipality of filing a lawsuit in court to recover the bond.

35
36 The ordinance also provides a mechanism to protect people who file bonds by
37 giving them a process to informally or formally address errors or problems arising
38 under this new approach.

39

1
2 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
3 **AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 9.28.019, 9.28.022,**
4 **9.28.026, 9.28.027, 9.28.030, AND 9.28.035, REGARDING SERIOUS TRAFFIC**
5 **OFFENSES, TO AUTHORIZE THE IMMEDIATE FORFEITURE OF BONDS IN**
6 **CERTAIN CIRCUMSTANCES, TO PROVIDE FOR POST-DEPRIVATION DUE**
7 **PROCESS, AND OTHER AMENDMENTS TO IMPROVE THE EFFICIENCY OF**
8 **THE VEHICLE IMPOUND AND FORFEITURE PROGRAM.**
9

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

Content ID: 009455**Type:** Ordinance - AO

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 9.28.019, 9.28.022, 9.28.026, 9.28.027, 9.28.030, AND 9.28.035, REGARDING SERIOUS TRAFFIC OFFENSES, TO AUTHORIZE THE IMMEDIATE

Title: FORFEITURE OF BONDS IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR POST-DEPRIVATION DUE PROCESS, AND OTHER AMENDMENTS TO IMPROVE THE EFFICIENCY OF THE VEHICLE IMPOUND AND FORFEITURE PROGRAM.**Author:** maglaquijp**Initiating Dept:** Legal**Review Depts:** MuniManager**Date Prepared:** 10/1/10 11:05 AM**Director Name:** Dennis A. Wheeler**Assembly Meeting Date:** 10/12/10**Public Hearing Date:** 10/26/10

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	10/1/10 12:02 PM	Exit	Joy Maglaqui	Public	009455
MuniManager_SubWorkflow	10/1/10 12:02 PM	Approve	Joy Maglaqui	Public	009455
MuniManager_SubWorkflow	10/1/10 12:01 PM	Checkin	Joy Maglaqui	Public	009455
Legal_SubWorkflow	10/1/10 11:14 AM	Approve	Rhonda Westover	Public	009455
AllOrdinanceWorkflow	10/1/10 11:13 AM	Checkin	Rhonda Westover	Public	009455