

ANCHORAGE, ALASKA
AO No. 2011-52

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION
2 15.20.020 REGARDING ABATEMENT OF ILLEGAL CAMPSITES.

3
4
5 THE ANCHORAGE ASSEMBLY ORDAINS:

6
7 **Section 1.** Anchorage Municipal Code section 15.20.020 is hereby amended to
8 read as follows:

9
10 **15.20.020 Public nuisances prohibited; enumeration.**

11 * * * * * * * * * * * * * * *

12 B. Public nuisances include, but are not limited to, the following acts
13 and conditions:

14 * * * * * * * * * * * * * * *

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18 15. *Illegal campsites.* An illegal campsite is an area where one or
19 more persons are camping on public land in violation of section
20 8.45.010, Chapter 25.70, or any other provision of this code. An
21 illegal campsite is subject to abatement by the municipality. The
22 municipal official responsible for an abatement action may
23 accomplish the abatement with the assistance of a contractor,
24 association or organization. Notwithstanding any other provision
25 of this code [CHAPTER], the following procedure may be used [IS
26 REQUIRED] to abate an illegal campsite:

27
28 a. P[AT LEAST FIVE FULL BUSINESS DAYS P]rior to beginning the
29 removal of an illegal campsite, a notice of campsite
30 abatement shall be posted on each tent, hut, lean-to, or
31 other shelter designated for removal, or, if no structure
32 for shelter exists, a notice shall be affixed in a
33 conspicuous place near the bedding, cooking site, or
34 other personal property designated for removal. The
35 notice shall:

36
37 i. State the approximate location of the campsite,
38 the code provision under which the campsite is
39 illegal, and that the campsite may be removed
40 under one of the procedures set forth in
41 subparagraph B.15.b. [AT ANY TIME AFTER A

1 SPECIFIED DATE WITHOUT FURTHER NOTICE, AND THAT
2 ANY PERSONAL PROPERTY REMAINING IS ABANDONED
3 AND SHALL BE DISPOSED OF AS WASTE].

4
5 ii. Also be given orally to any persons in or upon the
6 illegal campsite or who identifies oneself [TO THE
7 RESPONSIBLE OFFICIAL] as an occupant of the
8 campsite.

9
10 iii. State [THE PROCESS FOR FILING] an appeal may be
11 filed with the court, and include the court's
12 address, except this statement is not required
13 where the municipality commences a forcible
14 entry and detainer action under subparagraph
15 B.15.b.iii. [AND FACSIMILE NUMBER FOR THE
16 ADMINISTRATIVE HEARING OFFICE].

17
18 iv. If personal property is to be stored, the notice
19 shall include contact and location information for
20 reclaiming it or disclaiming an interest in the
21 property.

22
23 b. A notice of campsite abatement shall identify whether it is
24 a 72-hour notice, 15-day notice, or notice to quit; and the
25 subsequent abatement activities of the municipality shall
26 comply with the respective procedure for removal of an
27 illegal campsite and the personal property thereon:

28
29 i. 72 hours notice. The municipality may post an
30 illegal campsite with a notice stating all personal
31 property not removed within 72 hours of the date
32 and time the notice is posted may be removed
33 and stored.

34
35 ii. 15 days notice. The municipality may post an
36 illegal campsite with a notice stating all personal
37 property not removed within 15 days of the date
38 and time the notice is posted may be removed
39 and disposed of as waste, unless sooner claimed
40 or disposal authorized by the owner. At the
41 expiration of this 15-day period the personal
42 property may be disposed of as waste if no person
43 has come forward to claim the property. If the
44 owner or person in possession of personal
45 property at the time the notice is posted responds
46 in writing of an intention to remove the personal
47 property, the municipality shall not remove
48 personal property for 15 days from the date of the
49 person's response. If the personal property is not

1 removed within that time, or in any case within 30
2 days of the date the notice was first posted, it
3 shall be conclusively presumed that the personal
4 property is abandoned and may be summarily
5 disposed of as waste.

6
7 iii. FED action. The municipality may post a "notice to
8 quit" and commence a forcible entry and detainer
9 action in court consistent with the procedures of
10 AS 09.45.060 – 09.45.160 and Alaska Rule of
11 Civil Procedure 85. At the conclusion of the
12 eviction hearing, the court shall include in its
13 decision the date after which personal property
14 remaining on the premises may be presumed
15 abandoned and disposed of by the municipality.

16
17 c. Storage of personal property removed from an illegal
18 campsite. The municipality may store in any reasonable
19 manner the personal property removed from an illegal
20 campsite. At the time of removal a notice shall be posted
21 at the location, unless previously posted notices are still
22 visible and accurate, with contact and location
23 information for reclaiming personal property or
24 disclaiming an interest in it. If no person comes forward
25 to claim the property the municipality may dispose of the
26 personal property 30 days from the date a notice in
27 paragraph B.15.b. was posted. If the person(s) in
28 possession of the personal property at the time it was
29 removed or the illegal campsite posted identify it and
30 disclaim any interest, the personal property may be
31 disposed of immediately. If a person reclaims stored
32 personal property, it shall be released upon payment of
33 an administrative fee not to exceed ten dollars. For
34 purposes of this section, the following criteria applies:

35
36 i. Junk, litter, garbage, debris, lumber, pallets,
37 cardboard not used to store other personal items,
38 and items that are spoiled, mildewed, or
39 contaminated with human, biological or hazardous
40 waste shall not be stored and may be disposed of
41 summarily.

42
43 ii. A weapon, firearm, ammunition or contraband, as
44 those terms are defined in section 7.25.020, shall
45 be delivered to the Anchorage Police Department
46 and processed in accordance with chapter 7.25.

47
48 iii. If not subject to paragraphs i. or ii. above, the
49 following items, when in fair and usable condition

1 and readily identifiable as such by persons
2 engaged in removing an illegal campsite, shall be
3 deemed valuable and eligible for storage:

- 4
5 (A) tents and similar self-contained shelter;
6 (B) sleeping bags,
7 (C) tarps,
8 (D) toiletries and cosmetics
9 (E) clocks and watches
10 (F) medication,
11 (G) personal papers and identification,
12 (H) photographs,
13 (I) luggage, backpacks and other storage containers,
14 (J) books and other reading materials,
15 (K) radios, audio and video equipment,
16 (L) generators,
17 (M) cooking equipment in clean condition,
18 (N) shoes and clothing, and
19 (O) property stored in a manner that reasonably
20 suggests the owner intended to keep it.
21

22
23 d. Within 24 hours after posting the notice of campsite
24 abatement, the municipal official responsible for posting
25 is directed to inform the director of the department of
26 health and human services, or a designee, of the notice
27 posting and illegal campsite location, and the department
28 of health and human services is directed to provide
29 written or electronic notification to community social
30 service agencies within the first work day after receipt of
31 the notice. The purpose of the notices under this
32 subsection is to encourage and accommodate the
33 transition of campsite occupants to housing and the
34 social service community network. Failure of notice
35 under this subsection shall not invalidate the abatement.
36 To facilitate the social service community network, the
37 notice will include:

- 38
39 i. The location of the camp; and
40
41 ii. The date for removal; and
42
43 iii. An estimate of the number of structures to be
44 removed and of the number of residents of the
45 camp.
46

47 e. [c.] Before abatement, the responsible municipal official shall
48 verify whether an appeal of the notice of campsite
49 abatement was filed [WITH THE ADMINISTRATIVE HEARING

1 OFFICE] within the applicable time period. If no timely
2 appeal was filed removal of the campsite may proceed
3 [FORTHWITH]. If an appeal [TO THE HEARING OFFICER] was
4 timely filed:[, THE MUNICIPALITY SHALL EITHER]:
5

6 i. [STAY] abatement of the campsite area is stayed
7 until the appeal is withdrawn, settled, or a decision
8 is issued and any subsequent appeal rights
9 expire; provided that [, OR]

10
11 ii. at any time after the expiration of the notice
12 period, the municipality may remove [ALL] personal
13 property and store it until either the appeal is
14 withdrawn, settled, or a decision is issued and any
15 subsequent appeal rights expire. Storage of
16 personal property and its release shall be in
17 accordance with subparagraph B.15.c. [IF
18 STORED, A WRITTEN NOTICE OF THE WHEREABOUTS OF
19 SUCH PROPERTY AND A CONTACT PHONE NUMBER
20 SHALL BE SERVED ON THE APPELLANT OR POSTED IN
21 THE AREA OF THE REMOVED CAMPSITE. STORED
22 PROPERTY MAY BE RELEASED TO THE APPELLANT
23 PRIOR TO A DECISION.]
24

25 f. [d.] At the time removal is to begin, if any individuals are
26 present at the campsite, they shall be verbally notified the
27 campsite is illegal and to be removed [FORTHWITH]. Prior
28 to actual removal:
29

30 i. The individuals shall be given at least 20 minutes
31 to gather their personal property and disperse
32 from the area; and
33

34 ii. The responsible municipal official or persons
35 working under their authority shall not prevent
36 individuals claiming personal property from
37 removing that property immediately, unless the
38 personal property is unlawful or otherwise
39 evidence of criminal activity.
40

41 [e.] IF THERE IS NO STAY ON ABATEMENT IN EFFECT, PERSONAL
42 PROPERTY REMAINING AT THE ILLEGAL CAMPSITE AFTER THE
43 NOTICE PERIOD AND THE 20-MINUTE WAIT PERIOD EXPIRE IS
44 ABANDONED AND MAY BE DISPOSED OF AS WASTE.]
45

46 g. [f.] Exceptions:
47

48 i. Nothing in this section shall prevent a peace
49 officer from conducting an investigation, search, or

1 seizure in a manner otherwise consistent with the
2 state and federal constitutions, or federal, state or
3 local law.

4
5 ii. Nothing in this section shall prevent lawful
6 administrative inspection or entry into an illegal
7 campsite, nor prevent clean-up of garbage, litter,
8 waste or other unsanitary or hazardous conditions
9 on public land at any time.

10
11 iii. Where exigent circumstances posing a serious
12 risk to human life and safety exist, the abatement
13 of a campsite may proceed without prior notice.
14 Personal property removed under this paragraph
15 shall be stored in accordance with subparagraph
16 B.15.c., to the extent reasonable and feasible
17 under the circumstances. [MAY ONLY BE DISPOSED
18 OF IN ACCORDANCE WITH CHAPTER 7.25 OR OTHER
19 APPLICABLE CODE PROVISION. WRITTEN NOTICE OF
20 THE WHEREABOUTS OF SUCH PROPERTY AND A
21 CONTACT PHONE NUMBER SHALL BE POSTED IN THE
22 AREA OF THE FORMER CAMPSITE.]

23
24 iv. When the public land where an illegal campsite is
25 located is clearly posted with no trespassing
26 signage, no camping signage, or as not being
27 open to the public, including posting of closed
28 hours, the abatement of the campsite may
29 proceed without additional notice, and after the
30 occupants of the illegal campsite are provided at
31 least one hour to remove their personal property.
32 Personal property [LOCATED ON AND] removed
33 [FROM NO TRESPASSING AREAS OF PUBLIC LAND
34 WITHOUT ADDITIONAL NOTICE] under this exception
35 may only be disposed of in accordance with
36 chapter 7.25 or subparagraph B.15.c. [WITH THE
37 PROCEDURES OF THIS SUBSECTION 15.20.020B.15.]

38
39 h. [g.] The right of action provided in section 15.20.130D. is not
40 available when the public nuisance is an illegal campsite
41 located on public property.

42
43 i. The municipality and its employees or agents shall not be
44 liable for damages as a result of an act or omission in the
45 storage, destruction, disposition or release of property
46 under this subsection B.15., but this does not preclude
47 an action for damages based on an intentional act of
48 misconduct or an act of gross negligence. The
49 municipality and its employees or agents shall not be

1 liable in any case release of property to a person when
2 the personal property lacks affirmative marks identifying
3 its owner.
4

5 j. [h.] *Appeal procedure.* A posted notice of campsite
6 abatement is a final administrative decision and appeals
7 shall be to the superior court within 30 days from the date
8 the notice of campsite abatement is posted, in
9 accordance with the Alaska court rules. [IF A CAMPSITE
10 OCCUPANT DOES NOT FILE A NOTICE OF APPEAL UNDER
11 SECTION 3.60.035 WITH THE MUNICIPAL ADMINISTRATIVE
12 HEARING OFFICE BY THE DATE INDICATED ON THE NOTICE. TO
13 BE FILED WITH THE ADMINISTRATIVE HEARING OFFICE, THE
14 NOTICE OF APPEAL MUST BE RECEIVED PRIOR TO THE TIME AND
15 DATE ON THE POSTED NOTICE AFTER WHICH ABATEMENT MAY
16 COMMENCE. AN APPEAL IS FILED WITH THE ADMINISTRATIVE
17 HEARING OFFICE UPON RECEIPT OF A WRITTEN NOTICE MAILED
18 OR TRANSMITTED BY FACSIMILE, OR UPON PERSONAL
19 APPEARANCE OF AN APPELLANT CAMPER WITH A WRITTEN OR
20 VERBAL REQUEST TO APPEAL. UPON RECEIVING A NOTICE OF
21 APPEAL, THE ADMINISTRATIVE HEARING OFFICE SHALL
22 SCHEDULE A HEARING AS SOON AS PRACTICABLE AND NO
23 LATER THAN FIVE (5) BUSINESS DAYS FOLLOWING RECEIPT OF
24 THE APPEAL. THE NOTICE OF THE ADMINISTRATIVE HEARING
25 SHALL BE SERVED ON THE APPELLANT PERSONALLY, BY MAIL
26 OR FACSIMILE IF SUCH INFORMATION FOR THAT PURPOSE IS
27 PROVIDED BY THE APPELLANT, OR POSTED AT THE SAME PLACE
28 OR AREA WHERE THE NOTICE OF ABATEMENT BEING APPEALED
29 WAS POSTED. THE ADMINISTRATIVE HEARING SHALL NOT
30 PROCEED UNLESS THERE IS PROOF OF SERVICE OR POSTING
31 AT LEAST TWO (2) BUSINESS DAYS PRIOR TO THE HEARING.
32 PROOF OF SERVICE OR POSTING MAY BE SUBMITTED BY
33 AFFIDAVIT, AND MAY BE ACCOMPLISHED BY ANY MUNICIPAL
34 EMPLOYEE OR A PERSON QUALIFIED FOR SERVICE OF PROCESS
35 UNDER THE ALASKA COURT RULES. IF THE ADMINISTRATIVE
36 HEARING OFFICER AFFIRMS THE NOTICE OF CAMPSITE
37 ABATEMENT, THE ABATEMENT IS STAYED FOR AT LEAST TWO
38 DAYS AFTER THE DATE OF DISTRIBUTION OF THE DECISION.
39 AFTER THIS AUTOMATIC STAY THE MUNICIPALITY MAY PROCEED
40 TO ABATE THE CAMPSITE AND ALL PERSONAL PROPERTY
41 FOUND THEREON DISPOSED OF AS WASTE. EXCEPT AS
42 OTHERWISE PROVIDED IN THIS SUBSECTION, THE APPEAL
43 HEARING SHALL BE CONDUCTED AS A QUASIJUDICIAL
44 PROCEEDING UNDER CHAPTER 3.60. WHEN AN APPEAL IS
45 TAKEN TO THE SUPERIOR COURT, THE APPELLANT MAY OBTAIN
46 A STAY OF PROCEEDINGS TO ENFORCE THE NOTICE OF
47 ABATEMENT BY FOLLOWING THE PROCEDURES SET FORTH IN
48 ALASKA RULE OF APPELLATE PROCEDURE 603(A).]
49

(GAAB 16.68.110, 18.15.020, 18.15.030, 18.20.030, 18.20.060; CAC 8.10.020, 8.10.050; AO No. 113-76; AO No. 78-48; AO No. 79-63; AO No. 93-173(S), § 3, 2-24-94; AO No. 95-42, § 3, 3-23-95; AO No. 2001-145(S-1), § 12, 12-11-01; AO No. 2003-130, § 4, 10-7-03; AO No. 2009-83(S), § 2, 7-7-09; AO No. 2010-43(S), § 1, 6-8-10; AO No. 2010-63, § 1, 9-14-10)

Section 2. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 26th day of April, 2011.

Debbie Osslander
Chair of the Assembly

ATTEST:

Barbara S. Gruent
Municipal Clerk

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 226-2011

Meeting Date: April 12, 2011

1 **From:** MAYOR
2

3 **Subject:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
4 SECTION 15.20.020 REGARDING ABATEMENT OF ILLEGAL
5 CAMPSITES.
6

7 On January 4, 2011, the superior court issued its decision in *Dale Engle, et al., v.*
8 *Municipality of Anchorage and Mark Mew*, Case No. 3AN-10-7047CI. The court
9 concluded some aspects of AMC subsection 15.20.020B.15., violated the due
10 process clause of the Alaska Constitution. Accordingly, the attached ordinance
11 addresses the court's conclusions and provides direction regarding time periods for
12 removal of a campsite and what personal property is to be stored when storage is
13 required. These amendments are designed to resolve the constitutional issues and
14 advance the Administration's efforts to address the important public safety concerns
15 presented by illegal campsites and facilitate their removal, with respect and due
16 regard for the rights of occupants. A summary of economic effects is not required
17 under AMC section 2.30.050B.1.b.i.
18

19 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
20 **AMENDING ANCHORAGE MUNICIPAL CODE SECTION 15.20.020 REGARDING**
21 **ABATEMENT OF ILLEGAL CAMPSITES.**
22

23 Prepared by: Dean T. Gates, Assistant Municipal Attorney
24 Approved by: Dennis A. Wheeler, Municipal Attorney
25 Concur: George J. Vakalis, Municipal Manager
26 Respectfully submitted: Daniel A. Sullivan, Mayor

Content ID: 010104

Type: Ordinance - AO

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 15.20.020 REGARDING ABATEMENT OF ILLEGAL CAMPSITES.

Author: gatesdt

Initiating Dept: Legal

Review Depts: Legal, MuniManager

Description: Illegal campsite abatement ordinance amendments

Date Prepared: 4/7/11 4:56 PM

Director Name: Dennis Wheeler

Assembly Meeting Date: 4/12/11

Public Hearing Date: 4/26/11

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Clerk_Admin_SubWorkflow	4/8/11 11:23 AM	Exit	Joy Maglaqui	Public	010104
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Finance_SubWorkflow	4/8/11 11:09 AM	Approve	Lucinda Mahoney	Public	010104
OMB_SubWorkflow	4/8/11 10:48 AM	Approve	Cheryl Frasca	Public	010104
Legal_SubWorkflow	4/7/11 5:11 PM	Approve	Dean Gates	Public	010104
AllOrdinanceWorkflow	4/7/11 5:09 PM	Checkin	Dean Gates	Public	010104