

ANCHORAGE, ALASKA
AO No. 2015-126

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE (AMC)**
2 **SECTION 9.28.030, INSURANCE OR OTHER SECURITY REQUIRED, AND**
3 **AMC SECTION 9.28.026, IMPOUNDMENT AND FORFEITURE OF VEHICLE,**
4 **ACCORDINGLY; AMENDING AMC SECTION 9.28.050, DRIVING A MOTOR**
5 **VEHICLE WITH A SCREEN DEVICE OPERATING, AND AMC SECTION**
6 **9.48.010, PENALTIES, AND THE TRAFFIC OFFENSES FINE SCHEDULE AT**
7 **AMC SECTION 9.48.130, ACCORDINGLY.**
8

9
10 **WHEREAS**, periodic review of the efficacy of municipal fines and penalties is
11 indicative of a responsive government; and
12

13 **WHEREAS**, the Anchorage Police Department and the Municipal Prosecutor's
14 office believe that a fine, as opposed to a threat of jail time, is an appropriate
15 deterrent to reduce driving without insurance; and
16

17 **WHEREAS**, both agencies also believe that a fine, as opposed to a threat of jail
18 time, is an appropriate deterrent to reduce driving while texting; and
19

20 **WHEREAS**, both agencies expend valuable resources investigating and
21 prosecuting these types of cases in the criminal system without significant
22 reimbursement through fines to the municipality; now, therefore,
23

24 **THE ANCHORAGE ASSEMBLY ORDAINS:**
25

26 **Section 1.** Anchorage Municipal Code section 9.28.030, Insurance or other
27 security required, is hereby amended to read as follows (*the remainder of the*
28 *section omitted is not affected and therefore not set out*):
29

30 **9.28.030 Insurance or other security required.**
31

32 A. The owner or operator of a motor vehicle shall have a current motor
33 vehicle liability policy, or other security that complies with Alaska
34 Statutes Title 28, when operating the vehicle within the municipality
35 and shall have proof of such insurance in the person's immediate
36 possession at all times when driving a motor vehicle. The owner or
37 operator of a motor vehicle shall present the proof for inspection
38 upon the demand of a police officer.
39

40 B. In this section, "proof" means

- 41 1. A copy of the insurance policy or certificate of self-insurance
42 that is in effect;
43 2. A printed card or electronic certification from an insurance

company, agent, or broker that a policy that complies with
Alaska Statutes Title 28 is in effect; or

3. The display on a mobile electronic device of verification
from an insurance company, agent, or broker that a policy
that complies with Alaska Statutes Title 28 is in effect.

[THE OWNER OR OPERATOR OF A MOTOR VEHICLE SHALL HAVE A CURRENT
MOTOR VEHICLE LIABILITY POLICY OR OTHER THE A PERSON SHALL HAVE
PROOF OF MOTOR VEHICLE LIABILITY INSURANCE IN THE PERSON'S
IMMEDIATE POSSESSION AT ALL TIMES WHEN DRIVING A MOTOR VEHICLE,
AND SHALL PRESENT THE PROOF FOR INSPECTION UPON THE DEMAND OF A
POLICE OFFICER. HOWEVER, A PERSON CHARGED WITH VIOLATING THIS
SECTION MAY NOT BE CONVICTED IF THE PERSON PRODUCES IN COURT, OR,
AT ANY TIME BEFORE THE SPECIFIED DATE FOR COURT APPEARANCE, IN
THE OFFICE OF THE MUNICIPAL PROSECUTOR OR TO A DESIGNATED
OFFICIAL AT THE ANCHORAGE POLICE DEPARTMENT, PROOF OF MOTOR
VEHICLE LIABILITY INSURANCE PREVIOUSLY ISSUED TO THE PERSON THAT
WAS VALID AT THE TIME OF THE PERSON'S ARREST OR CITATION. VIOLATION
OF THIS SUBSECTION B. SHALL BE PUNISHED BY A MANDATORY FINE OF
\$500.00, AND IF THE PERSON HAS ANY INTEREST IN THE VEHICLE USED IN
THE COMMISSION OF THIS OFFENSE THE COURT SHALL INCLUDE AN ORDER
OF IMPOUNDMENT OR FORFEITURE OF THE VEHICLE IN ACCORDANCE WITH
SUBSECTION C.4. IF THE VEHICLE IS ORDERED IMPOUNDED OR FORFEITED,
THE PROVISIONS OF THIS SECTION REGARDING SUCH VEHICLES SHALL
APPLY.]

- C. A person charged with violating this section may not be convicted
if the person produces proof of motor vehicle liability insurance
previously issued to the person that was valid at the time of the
person's citation. Such proof may be presented at the Anchorage
Police Department by the deadline stated on the citation, or after
that deadline by requesting a traffic trial and presenting proof in
court.

[UPON CONVICTION UNDER SUBSECTION A. OF THIS SECTION, THE
COURT:

1. MAY IMPOSE ADDITIONAL CONDITIONS OF PROBATION.
2. MAY NOT:
 - A. SUSPEND EXECUTION OF SENTENCE OR GRANT PROBATION
EXCEPT ON CONDITION THAT THE PERSON SERVE A
MINIMUM TERM OF IMPRISONMENT AND PERFORM
REQUIRED COMMUNITY WORK SERVICE AS PROVIDED IN
SUBSECTION 1, OF THIS SUBSECTION; OR
 - B. SUSPEND IMPOSITION OF SENTENCE.
3. EXCEPT IN MITIGATED CIRCUMSTANCES, THE COURT SHALL
IMPOSE MORE THAN THE MANDATORY MINIMUM SENTENCE.
MITIGATED CIRCUMSTANCES DO NOT EXIST IF ANY OF THE
FOLLOWING CIRCUMSTANCES ARE PRESENT:

- A. THE DEFENDANT'S DRIVING CONDUCT CAUSED PERSONAL INJURY OR PROPERTY DAMAGE TO ANOTHER;
 - B. THE DEFENDANT FAILED TO STOP FOR A RED LIGHT OR STOP SIGN;
 - C. A CONTAINER OF ALCOHOLIC BEVERAGE WAS OPEN IN THE PASSENGER COMPARTMENT OF THE DEFENDANT'S VEHICLE;
 - D. THE DEFENDANT WAS ON RELEASE UNDER AS 12.30.020 OR AS 12.30.040 OR ON PROBATION FOR DUI OR REFUSAL CHARGE OR CONVICTION;
 - E. THE DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF RECKLESS DRIVING OR LEAVING THE SCENE OF A CRASH; OR
 - F. THE DEFENDANT HAD A BREATH TEST RESULT OF 0.15 GRAM OR MORE OF ALCOHOL PER 210 LITERS OF THE DEFENDANT'S BREATH AS DETERMINED BY A CHEMICAL TEST WITHIN FOUR HOURS AFTER THE ALLEGED OFFENSE WAS COMMITTED.
4. IF THE PERSON HAS ANY INTEREST IN THE VEHICLE USED IN THE COMMISSION OF THE OFFENSE, THE COURT SHALL ORDER THAT:
- A. THE VEHICLE BE IMPOUNDED FOR 30 DAYS IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED ONCE; AND
 - B. THE PERSON'S INTEREST IN THE VEHICLE BE FORFEITED TO THE MUNICIPALITY IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED TWO OR MORE TIMES.

AT SENTENCING THE COURT SHALL ORDER THAT ANY VEHICLE RETURN BOND WHICH HAS BEEN POSTED TO SECURE THE RELEASE OF THE VEHICLE BE FORFEITED TO THE MUNICIPALITY IF THE VEHICLE SUBJECT TO THE VEHICLE RETURN BOND IS NOT RETURNED TO THE CUSTODY OF THE MUNICIPALITY WITHIN FIVE DAYS AFTER THE SENTENCING. AT SENTENCING, THE COURT SHALL ORDER THAT ANY VEHICLE RETURN BOND POSTED TO SECURE THE RELEASE OF THE VEHICLE BE EXONERATED WHEN THE VEHICLE HAS BEEN RETURNED TO THE CUSTODY OF THE MUNICIPALITY. AT SENTENCING, THE COURT MAY ALSO ORDER THAT ANY PROCEEDS OF ANY SALE, TRANSFER, OR ENCUMBRANCE OF THE VEHICLE BE FORFEITED TO THE MUNICIPALITY IF THE VEHICLE HAS BEEN SOLD, TRANSFERRED, OR ENCUMBERED WHILE THE VEHICLE HAS BEEN SUBJECT TO A VEHICLE RETURN BOND. A VEHICLE ORDERED IMPOUNDED PURSUANT TO THIS SUBSECTION SHALL NOT BE RELEASED UNTIL AFTER THE PERSON SEEKING RELEASE OF THE VEHICLE HAS PROVIDED PROOF OF INSURANCE OR AN AFFIDAVIT OF INSURANCE, PROOF OF OWNERSHIP OF THE VEHICLE AND PAID OR PROVIDED PROOF OF PAYMENT OF THE IMPOUND FEES AND THE STORAGE FEES. THE INSURANCE REQUIREMENT MAY BE WAIVED BY THE MUNICIPALITY IF THE VEHICLE IS INOPERABLE. IMPOUND FEES SHALL INCLUDE THE ACTUAL COST OF IMPOUND PLUS AN ADMINISTRATIVE FEE OF \$410.00 TO OFFSET THE MUNICIPALITY'S PROCESSING COSTS. ANY ORDER OF IMPOUNDMENT OR FORFEITURE ENTERED UNDER THIS SUBSECTION IS

SUBJECT TO THE RIGHTS OF LIENHOLDERS, OWNERS, LESSORS, LESSEES, AND CO-OWNERS WHO ARE NOT THE PERSON CONVICTED OF DRIVING WITHOUT INSURANCE AS THOSE RIGHTS ARE ADJUDICATED IN CIVIL PROCEEDINGS UNDER SECTION 9.28.026. IF THE MUNICIPALITY HAS BROUGHT A CIVIL ACTION UNDER SECTION 9.28.026 SEEKING IMPOUNDMENT OR FORFEITURE AS AGAINST ALL THOSE WITH AN INTEREST IN THE VEHICLE EXCEPT THE PERSON CHARGED WITH A VIOLATION OF THIS SECTION, THAT CIVIL ACTION SHALL PROVIDE THE SOLE FORUM IN WHICH LIENHOLDERS, OWNERS, LESSORS, LESSEES, AND CO-OWNERS WHO CLAIM AN INTEREST IN THE VEHICLE BUT ARE NOT THE PERSON CHARGED WITH A VIOLATION OF THIS SECTION CAN SEEK RELIEF.]

- D. A motor vehicle operated, driven, or in the actual physical control of an individual charged with a violation of this section may be impounded through a seizure of the vehicle in accordance with the provisions of 9.28.026.

[WHEN A PERSON'S LICENSE IS CANCELED, LIMITED, SUSPENDED OR REVOKED, THAT PERSON SHALL BE INFORMED AT THE TIME OF THE ACTION BY THE STATE DEPARTMENT OF PUBLIC SAFETY OR THE COURT THAT TAKES THE ACTION THAT, UPON A CONVICTION OF DRIVING IN THE MUNICIPALITY AT A TIME WHEN THAT PERSON'S DRIVER'S LICENSE OR PRIVILEGE TO DRIVE HAS BEEN CANCELED, SUSPENDED OR REVOKED, OR UPON A CONVICTION OF DRIVING IN VIOLATION OF A LIMITATION OF THE LICENSE, THAT PERSON WILL BE SUBJECT TO THE MANDATORY MINIMUM SENTENCE OF IMPRISONMENT PROVIDED FOR THE OFFENSE.]

- [E. IN THIS SECTION, THE TERM "PREVIOUSLY CONVICTED" MEANS HAVING BEEN CONVICTED IN THIS OR ANOTHER JURISDICTION, WITHIN TEN YEARS PRECEDING THE DATE OF THE PRESENT OFFENSE, OF A VIOLATION OF THIS SECTION OR ANOTHER LAW OR ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS.

- F. THE MAGISTRATE OR JUDGE WHO SETS THE CONDITIONS OF RELEASE FOR A PERSON ARRESTED UNDER THIS SECTION SHALL AT THE SAME TIME SET A VEHICLE RETURN BOND FOR THE VEHICLE ALLEGED IN AN ORAL STATEMENT OF A POLICE OFFICER TO HAVE BEEN USED IN THE COMMISSION OF THE OFFENSE IF THE RECORDS OF THE ALASKA DEPARTMENT OF PUBLIC SAFETY, DIVISION OF MOTOR VEHICLES OR THE RECORDS OF AN AGENCY WITH SIMILAR RESPONSIBILITIES IN ANOTHER STATE SHOW THAT THE PERSON ARRESTED FOR THE OFFENSE HAS ANY INTEREST IN THE VEHICLE. THE PURPOSE OF SETTING A VEHICLE RETURN BOND IS TO SECURE THE PRESENCE OF THE VEHICLE PENDING TRIAL AND TO PROVIDE SECURITY TO BE FORFEITED ALONG WITH THE PROCEEDS OF A SALE, TRANSFER, OR ENCUMBRANCE IF THE DEFENDANT'S INTEREST IN THE VEHICLE IS SOLD, TRANSFERRED, OR ENCUMBERED AFTER THE VEHICLE HAS BEEN RELEASED PENDING TRIAL. A PERSON WHO SECURES THE RELEASE OF A VEHICLE PURSUANT TO A VEHICLE RETURN BOND MUST RETURN THE VEHICLE TO THE CUSTODY OF THE MUNICIPALITY

UPON ORDER OF THE COURT. IF THE VEHICLE'S RELEASE HAS BEEN OBTAINED THROUGH THE POSTING OF A VEHICLE RETURN BOND AND THE VEHICLE IS NOT RETURNED IF REQUIRED BY THE TERMS OF THE VEHICLE RETURN BOND OR PURSUANT TO THE COURT'S ORDER AFTER A JUDGMENT OF CONVICTION, THE MUNICIPALITY MAY, IN ADDITION TO RETAINING THE FORFEITED BOND FUNDS, SEIZE THE VEHICLE TO IMPLEMENT THE IMPOUNDMENT OR FORFEITURE ORDERED BY THE COURT. IF THE PERSON HAS NOT BEEN PREVIOUSLY CONVICTED, THE MAGISTRATE OR JUDGE SETTING THE VEHICLE RETURN BOND SHALL ORDER THAT THE REQUIREMENT OF THE VEHICLE RETURN BOND SHALL AUTOMATICALLY EXPIRE 30 DAYS AFTER THE VEHICLE HAS BEEN SEIZED IF THE VEHICLE HAS NOT BEEN RELEASED PURSUANT TO A VEHICLE RETURN BOND. THE VEHICLE RETURN BOND SET UNDER THE AUTHORITY OF THIS SUBSECTION MAY ONLY BE POSTED BY A PERSON ALLEGED TO HAVE USED THE VEHICLE IN THE COMMISSION OF ONE OF THE OFFENSES DESCRIBED IN THIS SECTION OR BY A PERSON WHO AGREES TO RETURN THE VEHICLE UPON ORDER OF THE COURT UPON PENALTY OF FORFEITURE OF THE BOND. THE VEHICLE RETURN BOND SET UNDER THE AUTHORITY OF THIS SUBSECTION MAY BE POSTED AT THE MUNICIPALITY. A VEHICLE RETURN BOND MAY BE POSTED IN CASH ONLY. A VEHICLE RETURN BOND SHALL BE SET AT A MINIMUM OF:

1. TWO HUNDRED FIFTY DOLLARS, IF THE PERSON HAS NOT BEEN PREVIOUSLY CONVICTED.
2. FIVE HUNDRED DOLLARS, IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED AND THE VEHICLE IS 20 YEARS OLD OR OLDER.
3. ONE THOUSAND DOLLARS, IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED AND THE VEHICLE IS 15 YEARS OLD OR OLDER BUT LESS THAN 20 YEARS OLD.
4. ONE THOUSAND FIVE HUNDRED DOLLARS, IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED AND THE VEHICLE IS TEN YEARS OLD OR OLDER BUT LESS THAN 15 YEARS OLD.
5. TWO THOUSAND DOLLARS, IF THE PERSON HAS BEEN PREVIOUSLY 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.

A VEHICLE RETURN BOND MAY BE SET ABOVE THE MINIMUM IF THE VEHICLE APPEARS TO HAVE UNUSUALLY HIGH VALUE FOR ITS AGE. A VEHICLE THAT IS OR HAS BEEN THE SUBJECT OF AN ORDER UNDER THIS SUBSECTION SHALL NOT BE RELEASED PENDING TRIAL UNTIL THE PERSON SEEKING RELEASE OF THE VEHICLE HAS PROVIDED PROOF OF INSURANCE OR AN AFFIDAVIT OF INSURANCE, PROOF OF OWNERSHIP OF THE VEHICLE AND PAID OR PROVIDED PROOF OF PAYMENT OF THE VEHICLE RETURN BOND AND TOWING AND STORAGE FEES, INCLUDING THE ADMINISTRATIVE FEE OF \$410.00 TO OFFSET THE MUNICIPALITY'S PROCESSING COSTS. IF A

VEHICLE HAS NOT BEEN IMPOUNDED FOR A LONGER PERIOD THAN THE VEHICLE WOULD BE IMPOUNDED IF THE PERSON WERE CONVICTED, THE COURT SHALL NOT DELETE THE REQUIREMENT OF THE VEHICLE RETURN BOND OR EXONERATE A POSTED VEHICLE RETURN BOND UNTIL THE VEHICLE FOR WHICH BOND HAS BEEN POSTED IS RETURNED PURSUANT TO COURT ORDER. UNLESS THE FOLLOWING SENTENCE APPLIES, A VEHICLE THAT IS OR HAS BEEN THE SUBJECT OF A VEHICLE RETURN BOND MAY ONLY BE RELEASED IF THE PERSON SEEKING THE RELEASE OF THE VEHICLE PROVIDES PROOF OF INSURANCE OR AN AFFIDAVIT OF INSURANCE, AND PAYS OR PROVIDES PROOF OF PAYMENT OF THE TOWING AND STORAGE COSTS, INCLUDING THE ADMINISTRATIVE FEE OF \$410.00 TO OFFSET THE MUNICIPALITY'S PROCESSING COSTS. THE INSURANCE REQUIREMENT MAY BE WAIVED BY THE MUNICIPALITY IF THE VEHICLE IS INOPERABLE. A VEHICLE MAY BE RECOVERED WITHOUT PAYMENT OF THE TOWING AND STORAGE COSTS, INCLUDING THE ADMINISTRATIVE FEE, ONLY IF A COURT MAKES A SPECIFIC FINDING THAT THE SEIZURE OF THE VEHICLE WAS LEGALLY UNJUSTIFIED AND SUCH SPECIFIC FINDING FOLLOWS A CONTESTED HEARING OR IS PURSUANT TO A STIPULATION BETWEEN THE PARTIES. A SEIZURE IS "LEGALLY UNJUSTIFIED" ONLY IF THERE WAS: (1) NO REASONABLE SUSPICION FOR THE STOP OF THE VEHICLE LEADING TO AN ARREST FOR ONE OF THE OFFENSES DESCRIBED IN THIS SECTION BASED ON THE INDIVIDUAL ALLEGEDLY OPERATING, DRIVING, OR BEING IN ACTUAL PHYSICAL CONTROL OF THE VEHICLE; OR (2) NO PROBABLE CAUSE FOR THE ARREST OF AN INDIVIDUAL FOR ONE OF THE OFFENSES DESCRIBED IN THIS SECTION BASED ON THE INDIVIDUAL ALLEGEDLY OPERATING, DRIVING, OR BEING IN ACTUAL PHYSICAL CONTROL OF THE VEHICLE.

G. THE CONDITIONS OF RELEASE ESTABLISHED FOR A PERSON CHARGED UNDER THIS SECTION SHALL INCLUDE AT A MINIMUM AN ORDER THAT THE PERSON'S INTEREST, IF ANY, IN THE VEHICLE ALLEGED IN AN ORAL STATEMENT BY A POLICE OFFICER, CRIMINAL COMPLAINT, INFORMATION, OR INDICTMENT TO HAVE BEEN USED IN THE COMMISSION OF THE OFFENSE BE FORFEITED IF THE PERSON DOES NOT APPEAR AS ORDERED. THIS SUBSECTION APPLIES TO ANY RELEASE BEFORE JUDGMENT OF CONVICTION, INCLUDING ANY RELEASE ON THE PERSON'S OWN RECOGNIZANCE.

H. A VEHICLE THAT IS OR HAS BEEN THE SUBJECT OF AN ORDER SETTING A VEHICLE RETURN BOND UNDER SUBSECTION F. OF THIS SECTION AND HAS NOT BEEN RELEASED PURSUANT TO THAT ORDER IS SUBJECT TO THE PROVISIONS OF AS 28.10.502 IF NO CRIMINAL COMPLAINT, INFORMATION, OR INDICTMENT IS FILED BY THE DATE AND TIME OF THE SCHEDULED ARRAIGNMENT ALLEGING A VIOLATION OF THIS SECTION OR IF THE COUNT OF THE CRIMINAL COMPLAINT, INFORMATION, OR INDICTMENT ALLEGING A VIOLATION OF THIS SECTION IS AMENDED UPON MOTION OF THE PROSECUTION, IS DISMISSED BY THE PROSECUTION, OR IS RESOLVED BY THE ACQUITTAL OF THE PERSON ALLEGED TO HAVE VIOLATED THIS SECTION. THE PROVISIONS OF CHAPTER 9.50 DO NOT APPLY TO A VEHICLE THAT IS, OR HAS BEEN, THE SUBJECT OF AN ORDER

1 SETTING A VEHICLE RETURN BOND UNDER SUBSECTION G. OF THIS
2 SECTION. ANY VEHICLE RETURN BOND SET EXPIRES ON THE DATE AND
3 TIME OF THE SCHEDULED ARRAIGNMENT IF NO CRIMINAL COMPLAINT,
4 INFORMATION, OR INDICTMENT ALLEGING A VIOLATION OF THIS SECTION
5 IS FILED BY THE DATE AND TIME OF THE SCHEDULED ARRAIGNMENT.

6
7 I. VEHICLES ORDERED IMPOUNDED UNDER SUBSECTION C.4. WHICH ARE
8 NOT CLAIMED AT THE END OF THE COURT-ORDERED PERIOD OF
9 IMPOUNDMENT MAY BE DISPOSED OF PURSUANT TO THE PROVISIONS OF
10 AS 28.10.502. IF THE CONTENTS OF THE VEHICLE HAVE NOT BEEN
11 RECOVERED BEFORE SUCH DISPOSAL, THE CONTENTS MAY BE DISPOSED
12 OF WITH THE VEHICLE. PERSONAL PROPERTY IN A VEHICLE THAT IS
13 SUBJECT TO A VEHICLE RETURN BOND UNDER SUBSECTION F. AND HAS
14 NOT BEEN RELEASED PURSUANT TO THAT VEHICLE RETURN BOND CAN BE
15 RECOVERED ONLY BY THE OWNER OF THE VEHICLE AND ONLY UPON
16 PAYMENT OF A FEE CHARGED FOR MONITORING THE RECOVERY OF SUCH
17 PERSONAL PROPERTY. SUCH FEE SHALL BE SET BY CONTRACT BETWEEN
18 THE TOWING AND STORAGE CONTRACTOR AND THE MUNICIPALITY IF IT IS
19 NOT ESTABLISHED BY ORDINANCE. SUCH FEE SHALL BE RECOVERABLE
20 BY THE OWNER OF THE VEHICLE IF A COURT MAKES A SPECIFIC FINDING
21 THAT THE SEIZURE OF THE VEHICLE WAS LEGALLY UNJUSTIFIED
22 FOLLOWING A CONTESTED HEARING OR PURSUANT TO A STIPULATION
23 BETWEEN THE PARTIES.

24
25 J. A MOTOR VEHICLE THAT IS THE SUBJECT OF A VEHICLE RETURN BOND
26 UNDER SUBSECTION F. AND HAS NOT BEEN RELEASED PURSUANT TO
27 THAT VEHICLE RETURN BOND SHALL BE HELD IN THE CUSTODY OF THE
28 POLICE DEPARTMENT OR A PRIVATE CORPORATION AUTHORIZED BY THE
29 CHIEF OF POLICE TO RETAIN CUSTODY OF THE MOTOR VEHICLE, SUBJECT
30 ONLY TO THE ORDERS AND DECREES OF ANY COURT HAVING
31 JURISDICTION OVER ANY FORFEITURE OR IMPOUNDMENT PROCEEDINGS.
32 IF A MOTOR VEHICLE IS SEIZED UNDER THIS SECTION, THE CHIEF OF
33 POLICE OR AUTHORIZED DESIGNEE MAY:

- 34 1. REMOVE THE MOTOR VEHICLE AND ANY CONTENTS OF THE
35 MOTOR VEHICLE TO A PLACE DESIGNATED BY THE COURT; OR
36 2. TAKE CUSTODY OF THE MOTOR VEHICLE AND ANY CONTENTS OF
37 THE MOTOR VEHICLE AND REMOVE IT TO AN APPROPRIATE
38 LOCATION FOR DISPOSITION IN ACCORDANCE WITH LAW.

39
40 K. BEFORE DISPOSING OF ANY VEHICLE FORFEITED UNDER THIS SECTION,
41 THE CHIEF OF POLICE OR DESIGNEE SHALL MAKE AN INVENTORY OF THE
42 CONTENTS OF ANY MOTOR VEHICLE SEIZED. PROPERTY FORFEITED
43 UNDER THIS SECTION SHALL BE DISPOSED OF BY THE CHIEF OF POLICE
44 OR DESIGNEE IN ACCORDANCE WITH THIS SUBSECTION. PROPERTY
45 FORFEITED UNDER THIS SECTION INCLUDES BOTH THE VEHICLE THAT IS
46 THE SUBJECT OF THE FORFEITURE ACTION AND THE CONTENTS OF THE
47 VEHICLE IF THOSE CONTENTS HAVE NOT BEEN RECOVERED BEFORE THE
48 DATE OF THE DISPOSAL. THE CHIEF OF POLICE OR DESIGNEE MAY:

1. SELL THE PROPERTY AT AN AUCTION CONDUCTED BY AN AUCTIONEER NOT EMPLOYED BY THE IMPOUND CONTRACTOR AND USE THE PROCEEDS FOR PAYMENT OF ALL PROPER EXPENSES OF SEIZURE, CUSTODY, THE COSTS OF THE AUCTION, COURT COSTS, AND MUNICIPAL ATTORNEY FEES. THE MUNICIPALITY SHALL RECEIVE AT LEAST 30 PERCENT OF THE PROCEEDS OF ANY SALE OF FORFEITED VEHICLES FOLLOWING DEDUCTION FOR THE COSTS CHARGED BY THE AUCTIONEER FOR THE AUCTION OF THOSE VEHICLES REGARDLESS OF WHETHER THE COSTS OF IMPOUND AND STORAGE EXCEED THE VALUE OF THE VEHICLES SOLD;
2. TAKE CUSTODY OF THE PROPERTY AND USE IT FOR THE BENEFIT OF THE PUBLIC; OR
3. DESTROY THE PROPERTY.]

(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; AO No. 2010-76, § 6, 10-26-10; AO No. 2010-81(S-1), § 9, 12-7-10, eff. 1-1-11; AO No. 2011-113(S), § 64, 11-22-11, eff. 12-22-11; AO No. 2012-16, §§ 1, 4, 2-14-12, retro eff. 12-22-11)

Section 2. Anchorage Municipal Code section 9.28.026, Impoundment and forfeiture of vehicle, is hereby amended to read as follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.28.026 Impoundment and forfeiture of vehicle.

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C. General provisions.

1. In the case of an alleged violation of section 9.28.019, 9.28.020, 9.28.022, ~~[9.28.030]~~ or 8.65.030, and in addition to the penalties set forth in those sections, the vehicle used in the alleged violation shall be impounded for 30 days if the person driving, operating, or in the actual physical control of the vehicle has not been previously convicted and shall be forfeited to the municipality if the person driving, operating, or in the actual physical control of the vehicle has been previously convicted. Impoundment may be accomplished through a seizure of the vehicle incident to an arrest or pursuant to a court order entered in the course of civil or criminal enforcement proceedings. Impoundment through a seizure of the vehicle incident to an arrest is at the discretion of the arresting officer.

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3. Upon the request of the municipality or a claimant, a civil proceeding seeking impoundment or forfeiture shall be held

in abeyance until conclusion of any pending criminal charges arising out of the incident giving rise to the forfeiture or impoundment action under section 9.28.019, 9.28.020, 9.28.022, ~~[9.28.030,]~~ or 8.65.030.

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9. No vehicle shall be released unless the applicant:

- a. Provides proof of insurance in a form acceptable to the municipality;
- b. Provides proof of ownership or, if a lienholder, a legal right to repossess the vehicle; and
- c. Pays or provides proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge of \$410.00 to offset the municipality's processing costs for seizures of vehicles based on an alleged violation of section 9.28.019, 9.28.020, 9.28.022, ~~[9.28.030]~~ or 8.65.030.

i. Notwithstanding subsection C.9.c. above, where the municipality declines or dismisses the criminal charges that correspond to a seizure of a vehicle based on an alleged violation of section 9.28.019, 9.28.020, 9.28.022, or 8.65.030, the administrative charge shall be \$200.00.

ii. The administrative charge may be waived in exceptional cases or if it is in the best interests of the municipality. The administrative charge shall not be imposed if notice is not provided as required under subsection C.7. or the administrative hearing officer finds no probable cause under subsection C.13.

- d. Pays or provides proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge of \$200.00 to offset the municipality's processing costs for seizures of vehicles based on an alleged violation of section 9.28.030.
[NOTWITHSTANDING SUBSECTION C.9.C. ABOVE, WHERE THE MUNICIPALITY DECLINES OR DISMISSES THE CRIMINAL CHARGES THAT CORRESPOND TO A SEIZURE OF A VEHICLE BASED ON AN ALLEGED VIOLATION OF SECTION 9.28.019, 9.28.020, 9.28.022, 9.28.030 OR 8.65.030, THE ADMINISTRATIVE CHARGE SHALL BE \$200.00.]

- i. THE ADMINISTRATIVE CHARGE MAY BE WAIVED IN EXCEPTIONAL CASES OR IF IT IS IN THE BEST INTERESTS OF THE MUNICIPALITY. THE ADMINISTRATIVE CHARGE SHALL NOT BE IMPOSED IF NOTICE IS NOT PROVIDED AS REQUIRED UNDER SUBSECTION C.7. OR THE ADMINISTRATIVE HEARING OFFICER FINDS NO PROBABLE CAUSE UNDER SUBSECTION C.13.]

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11. Temporary release of vehicle pursuant to vehicle return bond.

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- b. The purpose of setting a vehicle return bond on the vehicle is to secure the presence of the vehicle and to provide security to be forfeited along with the proceeds of a sale, transfer, or encumbrance if the vehicle is sold, transferred, or encumbered after the vehicle has been released pending the final disposition in the criminal action against the driver of the seized vehicle or the final disposition in the civil action against claimants of the seized vehicle. If the vehicle's release has been obtained through the posting of a vehicle return bond and the vehicle is not returned according to the terms of release, or pursuant to the court's order, the municipality may, in addition to retaining the forfeited bond funds, seize the vehicle to implement the impoundment or forfeiture ordered by the court. A person who secures the release of a vehicle pursuant to a vehicle return bond must return the vehicle if required by the terms of the vehicle return bond or upon order of the court. If a vehicle has not been impounded for a longer period than the vehicle would be impounded if the person were convicted, the court shall not delete the requirement of the vehicle return bond or exonerate a posted vehicle return bond until the vehicle for which bond has been posted is returned pursuant to court order. A vehicle return bond shall be posted with the municipality and in cash only. A vehicle return bond shall be set at a minimum of:
- i. \$250.00, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 has not been previously convicted;
- ii. \$500.00, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 has been previously convicted and the vehicle is 20 years old or older;

- iii. \$1,000.00, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 has been previously convicted and the vehicle is 15 years old or older but less than 20 years old;
- iv. \$1,500.00, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 has been previously convicted and the vehicle is ten years old or older but less than 15 years old;
- v. \$2,000.00, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 has been previously convicted and the vehicle is five years old or older but less than ten years old; and
- vi. \$2,500.00, if the person charged with a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 has been previously convicted and the vehicle is less than five years old.

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- f. The court shall order the forfeiture of a vehicle return bond if a person charged under section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 obtains temporary release of a seized vehicle and does not appear before the court as ordered.

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D. *Impoundment.*

1. A motor vehicle operated, driven, or in the actual physical control of an individual arrested for, or charged with, an alleged violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 may be ordered impounded either upon conviction of the defendant of a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030, or upon the decision of a court in a separate civil proceeding. To obtain an order for impoundment in a contested proceeding, the municipality must establish by a preponderance of the evidence that the vehicle was operated, driven, or in the actual physical control of an individual who was acting in violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030.

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4. A vehicle ordered impounded under this section shall be held for a period of 30 days. An impoundment order may be made either upon conviction of the defendant of a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 or upon decision of a court in a separate civil proceeding.

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E. *Forfeiture.*

1. To obtain an order for forfeiture under this section in a contested proceeding, the municipality must establish by a preponderance of the evidence that:
 - a. The vehicle was operated, driven or in the actual physical control of an individual who was acting in violation of section 9.28.019, 9.28.020 or 9.28.022, ~~9.28.030,~~ or 8.65.030; and
 - b. The individual has been previously convicted.
2. A motor vehicle operated, driven or in the actual physical control of an individual arrested or charged with an alleged violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 may be forfeited to the municipality either upon conviction of the defendant of a violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 or upon decision of a court in a separate civil proceeding.
3. A motor vehicle may be seized and towed to a secure location by a peace officer or a peace officer's designee upon an order issued by a court having jurisdiction over the motor vehicle upon a showing of probable cause that the motor vehicle may be forfeited or impounded under this section, section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030. Seizure without a court order may be made if:
 - a. The impoundment is incident to an arrest;
 - b. The motor vehicle has been ordered impounded or forfeited and that order has not yet been executed; or
 - c. There is probable cause to believe the motor vehicle was operated, driven or in the actual physical control of an individual in violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030.

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4. A motor vehicle seized for the purpose of forfeiture or impoundment shall be held in the custody of the police department or a private corporation authorized by the chief of police to retain custody of the motor vehicle, subject only to the orders and decrees of the court having jurisdiction over any forfeiture or impoundment proceedings. If a motor vehicle is seized under this section, section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030, the chief of police, or authorized designee, may:
 - a. Remove the motor vehicle and any contents of the motor vehicle to a place designated by the court; or
 - b. Take custody of the motor vehicle and any contents of the motor vehicle and remove it to an appropriate location for disposition. No private corporation may make or perform a contract to tow, store, or retain

1 custody of motor vehicles seized or impounded
2 under this section, section 9.28.019, 9.28.020,
3 9.28.022, ~~[9.28.030,]~~ or 8.65.030 if any of the owners
4 of that private corporation have been convicted of a
5 felony or any crime involving larceny, theft, or
6 receiving and concealing stolen property within ten
7 years before the date of execution of the contract or
8 during the term of the contract. No private
9 corporation may make or perform a contract to tow,
10 store, or retain custody of motor vehicles seized or
11 impounded under this section, section 9.28.019,
12 9.28.020, 9.28.022, ~~[9.28.030,]~~ or 8.65.030 if any of
13 the employees of that private corporation have been
14 convicted of a felony or any crime involving larceny,
15 theft, or receiving and concealing stolen property
16 within five years before the date of execution of the
17 contract or during the term of the contract.

- 18 5. Following a forfeiture order under this section, section
19 9.28.019, 9.28.020, or 9.28.022, ~~[9.28.030,]~~ or 8.65.030, the
20 chief of police, or authorized designee, shall make an
21 inventory of the contents of any motor vehicle seized.
22 Personal property in a vehicle subject to a vehicle return
23 bond under subsection C.11. and not released pursuant to
24 that vehicle return bond may be recovered from a vehicle
25 only by the owner of the vehicle and only upon payment of
26 a fee charged for monitoring the recovery of such personal
27 property. Such fee shall be set by contract between the
28 towing and storage contractor and the municipality if it is not
29 established by ordinance. Such fee shall be recoverable by
30 the owner of the vehicle if a court makes a specific finding
31 the seizure of the vehicle was legally unjustified or pursuant
32 to a stipulation between the parties.

33 * * * * *

- 34 7. Property forfeited under this section, section 9.28.019,
35 9.28.022, ~~[9.28.030,]~~ or 8.65.030 shall be disposed of by the
36 chief of police, or authorized designee, in accordance with
37 this subsection. Property forfeited under this section,
38 section 9.28.019, 9.28.020, 9.28.022, ~~[9.28.030,]~~ or 8.65.030
39 includes both the vehicle that is the subject of the forfeiture
40 action and the contents of the vehicle, if those contents
41 have not been recovered before the date of the disposal.
42 The chief of police, or authorized designee, may:

43 * * * * *

- 44 d. Property forfeited and sold at auction pursuant to this
45 section, section 9.28.019, 9.28.020, 9.28.022,
46 ~~[9.28.030,]~~ and 8.65.030 shall be sold by an
47 auctioneer approved before the auction by the chief
48 of police, or authorized designee.

- i. Before the auction, the chief of police, or authorized designee, must approve in advance the auctioneer's costs or the method for determining the auctioneer's costs.
- ii. The impound contractor shall provide to the chief of police, or authorized designee, a copy of the auctioneer's report of the auction notarized by the auctioneer.
- iii. The municipal auditor shall certify the proper disposal of property forfeited under this section, section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ and 8.65.030.

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11. Property subject to the interest of a lienholder whose interest has not been forfeited may not be disposed of as provided in this section without the consent of the lienholder. A regulated lienholder's interest in a vehicle shall not be subject to forfeiture in any case where:

- a. The individual who allegedly used the vehicle in violation of section 9.28.019, 9.28.020, 9.28.022, ~~9.28.030,~~ or 8.65.030 is not the person whose dealings with the lienholder gave rise to the lien; or

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F. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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Previously convicted means:

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3. [IF CHARGED WITH VIOLATING SECTION 9.28.030 A. OR B., HAVING BEEN CONVICTED IN THIS OR ANOTHER JURISDICTION OF OPERATING A MOTOR VEHICLE WITHOUT THE REQUIRED SECURITY IN EFFECT OR PROOF OF SUCH SECURITY AT THE TIME OF OPERATION UNDER SECTION 9.28.030 OR ANOTHER LAW OR ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS WITHIN TEN YEARS PRECEDING THE DATE OF THE PRESENT OFFENSE.]

[4]. If charged with violation section 8.65.030C. or another law or ordinance with substantially similar elements within ten years preceding the date of the present offense.

4[5]. Convictions for violation of section 9.28.020 and 9.28.022 arising out of a single transaction and a single arrest are considered one previous conviction.

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(AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-163(S), §§ 10—19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No. 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12—14, 4-22-03; AO No. 2003-106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2006-89(S), § 1, 6-6-06; AO No. 2006-115, § 1, 9-12-06; AO No. 2007-60, § 2, 11-1-07; AO No. 2007-161, § 3, 12-11-07; AO No. 2008-126, § 1, 1-6-09; AO No. 2010-76, § 4, 10-26-10; AO No. 2010-81(S-1), § 8, 12-7-10, eff. 1-1-11; AO No. 2012-16, § 3, 2-14-12, retro eff. 12-22-11; Ord. No. 2012-55, § 1, 7-10-12)

Section 3. Anchorage Municipal Code section 9.28.050, Driving a motor vehicle with a screen device operating, is hereby amended to read as follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.28.050 Driving a motor vehicle with a screen device operating.

[C. VIOLATIONS OF THIS SECTION ARE PUNISHABLE UNDER SECTION 9.48.010D.]

(AO No. 2011-113(S), § 66, 11-22-11, eff. 12-22-11)

Section 4. Anchorage Municipal Code section 9.48.010, Penalties, is hereby amended to read as follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.48.010 Penalties.

C. Any person convicted of violating the following sections shall be punished by imprisonment for not more than 90 days, or by a fine of not more than \$2,000.00, or by both such fine and imprisonment:

[4. CHAPTER 9.28 (SERIOUS TRAFFIC OFFENSES): SECTIONS 9.28.030A.]

D. Any person convicted under the following sections shall be punished by imprisonment for not more than one year, or by a fine of not more than \$10,000.00, or by both such fine and imprisonment:

2. Chapter 9.28 (Serious Traffic Offenses): Sections 9.28.010, 9.28.011, 9.28.019B., 9.28.020, and 9.28.022C.[, AND 9.28.050.]

(CAC 9.48.010; AO No. 267-76; AO No. 78-72; AO No. 82-126; AO No. 82-186(S); AIM 33-83; AO No. 83-168; AO No. 84-60; AO No. 89-52; AO No. 99-15, § 2, 2-9-99; AO No. 2003-73, § 17, 4-22-03; AO No. 2004-151, § 2,

1-1-05; AO No. 2006-89(S), § 3, 6-6-06; AO No. 2009-61, § 7, 7-7-09; AO No. 2011-113(S), § 155, 11-22-11, eff. 12-22-11; AO No. 2012-16, §§ 2, 5, 2-14-12, retro eff. 12-22-11; AO No. 2014-42, § 24, 6-21-14)

Section 5. Anchorage Municipal Code section 9.48.130 is hereby amended to read as follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.48.130 Traffic offenses fine schedule.

In accordance with AS 28.05.151, a citation issued for violation of any of the following sections of this title shall be subject to disposition with payment of a fine in lieu of a court appearance or as otherwise prescribed. Violations committed within a highway work zone or a traffic safety corridor shall be subject to double the fine amount indicated. Pursuant to AS 28.05.151(e), an offense listed on this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle crash that results in the death of a person. Notwithstanding any other provision of this Code, fines stated as an amount per mile over a designated speed limit established under chapter 9.26 are calculated according to the fine schedule and not subject to the maximum fine amount in this section 9.48.010A.

Title	Section	Fine amount
*** **	*** **	*** **
SERIOUS TRAFFIC OFFENSES		
*** **	*** **	*** **
Driving w/o proof of insurance or other security	9.28.030A[B]	Corr./500.00
*** **	*** **	*** **
Driving with a screen device operating	9.28.050	500.00
*** **	*** **	*** **

(CAC 9.48.060; AO No. 78-72; AO No. 88-12; AO No. 88-167; AO No. 88-180; AO No. 89-134; AO No. 90-24; AO No. 94-68(S), § 38, 8-11-94; AO No. 95-67(S), § 5, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-117, § 3, 6-29-95; AO No. 95-163(S), § 20, 8-8-95; AO No. 99-15, § 1, 2-9-99; AO No. 2000-130, § 2, 9-12-00; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-145(S-1), § 8, 12-11-01; AO No. 2003-157, § 2, 12-17-03; AO No. 2004-63, § 2, 4-13-04; AO No. 2011-113(S), § 160, 11-22-11, eff. 12-22-11; AO No. 2012-16, § 6, 2-14-12, retro eff. 12-22-11; AO No. 2013-41(S-1), § 2, 4-23-13; AO No. 2014-42, § 26, 6-21-14)

Section 6. This ordinance shall be effective January 1, 2016.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of
_____, 2015.

Chair of the Assembly

ATTEST:

Municipal Clerk