

Submitted by: Chair of the
Assembly at the Request of
the Mayor, Assembly
Members Zaletel and
Constant

Prepared by: Department of Law

For reading: January 28, 2020

**ANCHORAGE, ALASKA
AO No. 2020-17**

**AN ORDINANCE PROVIDING FOR TIME-LIMITED CLOSURE OF MUNICIPAL
PROPERTY FOR THE CLEANING OF WASTE AND OTHER HAZARDS.**

WHEREAS, pursuant to Anchorage Municipal Code section 25.10.060, the municipality exercises the same control over municipal land as it could if it held the land as a private person; and

WHEREAS, this control includes the right to take any and all actions not prohibited by law; and

WHEREAS, such rights impliedly include the ability to close any parcel of land, or portion thereof, which is normally open to the public as required to clean and clear the property; and

WHEREAS, recent jurisprudence highlights the important of making this right explicit in Municipal Code, thus clarifying that the right of the Municipality to close municipal land in order to clean and clear the property is a distinct right separate and apart from the right to levy civil or criminal penalties for prohibited behaviors on Municipal property; and

WHEREAS, the right to close municipal land to public access does not abrogate the rights of the public to notice and an opportunity to be heard prior to any deprivation of private property left behind on municipal land; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 25.10.060 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

25.10.060 USE OF MUNICIPAL LAND.

- A. The municipality shall use municipal land in any manner not prohibited by law.
- B. Except as otherwise provided by law, and in addition to all other municipal powers, the municipality shall exercise the same control over municipal land and its use as it could if it held the land as a private person.

1. The municipality's powers explicitly include the right to close any parcel of municipal land, or any portion thereof, which is normally open to the public to access by the public as required to clean and clear the property of litter, garbage, rubbish, junk, or other refuse resulting from prohibited or permitted use. In the event that such property contains a prohibited campsite, a vacant or abandoned vehicle, or any other use or personal property protected from immediate disposal by law, closure may not occur until the campsite, vehicle, use or property has been removed in compliance with municipal code.
- C. Revocable licenses and permits for the use of municipal land may be issued by a department or agency which has been delegated management authority under the provisions of section 25.10.050. Permits for the improvement, use, excavation or encroachment of public street, right-of-way and utility easements shall be issued under the authority set forth in title 24.
- D. In addition to the authority otherwise granted by this section, the director of a municipal department or agency responsible for managing municipal land under section 25.10.050 may promulgate regulations pursuant to chapter 3.40 governing the use of that land by others.
- E. Regulations promulgated by the director of parks and recreation charging use permit fees for parks or facilities managed by the department shall not require payment of fees based in whole or in part on a percentage of revenues received through concessions operated on the property. Instead, regulations setting fees required in connection with use permits issued by the department shall state a specific sum to be paid for activities identified in use permits issued by the department. The fee structure may also provide for an optional amount of fee reduction, refund, or future credit available to the user in consideration for maintenance responsibilities satisfactorily rendered by the user.

(AO No. 79-170; AO No. 2007-43, § 1, 1-1-08)

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

PASSED AND APPROVED by the Anchorage Assembly this 10th day of March, 2020.

Chair

ATTEST:

Municipal Clerk