



## CITY OF WASILLA

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### COUNCIL MEMORANDUM #93-22

**Date:** April 13, 1993  
**From:** Irl Stambaugh, Chief of Police  
**Thru:** John Stein, Mayor  
**To:** City Council  
**Subject:** Ordinance Number 93-014

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The following information is provided in support of the adoption of City Ordinance 93-014.

It is appropriate for cities to adopt a traffic code for the purpose of enforcing local ordinances pertaining to traffic enforcement. Ordinance 93-014 adds three sections to Chapter 14:

14.01.010 Adoption of State Uniform Traffic Laws, which by reference adopts the State of Alaska traffic laws into the Wasilla Municipal Code as the "Wasilla Traffic Code,"

14.01.020 Adoption of State Penalties, which by reference adopts the State of Alaska bail schedule as set by the Alaska Supreme Court,

14.01.030 General Limitation On Penalties for Violation of Wasilla Traffic Code, which establishes a \$300.00 maximum on bail amounts.

The purpose for adopting these laws and incorporating them into the city code is to allow Wasilla police officers to issue citations using the appropriate Wasilla code. By our use of this code, the city will be able to recover revenue in the amount of 90% for each citation paid (the court retains 10% for administrative costs). If the city has not adopted such a code, the monies collected are retained by the State of Alaska.

It is not intended that the police department become a revenue generating enterprise, but rather that we are able to offset some of the costs associated with the department by recovering monies from citations that are written.

J

LAW OFFICE  
OF  
RICHARD DEUSER

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M E M O R A N D U M

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APR 9 1993

City of Wasilla, Alaska

TO: Chief Stambaugh and Mayor John Stein  
FROM: Richard Deuser, City Attorney  
RE: Proposed Ordinance No. 93-014 - Traffic Code  
DATE: April 9, 1993

Following our meeting of April 5, 1993, I have continued to perform further research. First, the traffic code is sprinkled throughout many different titles of the Alaska Statutes and many different titles of the Alaska Administrative Code. Consequently, Palmer's reference to Title 28 is incomplete, at best. I talked with Susan Miller, Staff Attorney for the Court system who is very knowledgeable about this subject. She is the author of the "Vehicle and Traffic Offenses Booklet." Among many other insights, Susan offered the observation that failure to at least catalog the appropriate titles and sections being adopted would risk invalidation of the ordinance on grounds of vagueness.

Susan Miller had other observations and research suggestions that bear on the larger picture of City enforcement of State laws and regulations. On the more specific task of re-writing Ordinance 93-014, I have developed the following suggestions based upon my own research as well as the comments of Susan Miller. Consider the following in place of Draft 14.01.010 and 14.01.020.

14.01.010 - Adoption Of State Traffic Statutes And Regulations. The City hereby adopts as the Traffic Code of the City of Wasilla, the "traffic laws" of the State of Alaska. As used herein, "traffic laws," is defined by A.S. 28.15.261 meaning statutes and regulations of the State of Alaska governing the driving of vehicles. Such statutes and regulations are intended to include, but are not limited to, those

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statutes and regulations found in A.S. Title 5 Chapter 25; A.S. Title 5, Chapter 30; A.S. Title 11, Chapter 46; A.S. Title 12 Chapter 25; A.S. Title 28; A.S. Title 42, Chapter 10; A.S. Title 45, Chapter 75; A.S. Title 46, Chapter 6; and regulations adopted pursuant to statutory authorization such regulations including, but not limited to, 3 AAC Chapter 35; 3 AAC Chapter 62; 11 AAC Chapter 12, Title 13 AAC; and Title 17 AAC. By specific reference to statutory titles and chapters and/or regulatory titles and chapters, the City Traffic Code is not intended to exclude other statutes and regulations which may fall within the general term "traffic laws," meaning the statutes and regulations of the State of Alaska governing the driving of vehicles. The adoption of the statutes and regulations of the State of Alaska, as stated herein, is effective for the statutes and regulations in effect as of the adoption of this ordinance and shall, in addition, apply to all changes made in such state laws and regulations that occur from time to time by amendment, repeal, or otherwise.

14.01.020 - Adoption Of State Penalties. The City of Wasilla adopts the penalties, fines, bail schedules, bail forfeiture schedules, and all statutory and/or regulatory limitations on penalties established by bail forfeiture schedules as set forth in any of the statutes or regulations referred to in Section .010, above, and further established by State of Alaska court rule, including, but not limited to, the State of Alaska Administrative Rule 43, Rule 43.1, and Rule 43.6 and District Court Rule of Criminal Procedure No. 8. Bail forfeiture schedules of the State of Alaska are hereby adopted as the fine schedule of the Wasilla Traffic Code. The adoption of the statutes, regulations and court rules of the State of Alaska, as stated

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herein, is effective for the statutes and regulations in effect as of the adoption of this ordinance and shall, in addition, apply to all changes made in such state laws, regulations and court rules that occur from time to time by amendment, repeal, or otherwise.

14.01.030 - General Limitation On Penalties for Violation Of Wasilla Traffic Code.

Pursuant to the provisions of A.S. 12.25.230(c), A.S. 45.75.133(e), and further pursuant to the terms of State of Alaska Administrative Rule 43.1 and Rule 43.6, a person charged with an offense for which a bail amount has been set by Court rule can dispose of the charge (by mail or in person) by paying the bail amount and checking the "no contest plea" box on the citation form. The person may also choose to appear in Court and contest the citation and, if found guilty, the maximum sentence which may be imposed is the bail amount. In any event, the maximum penalty for violation of a matter charged when cited as a violation of the City of Wasilla Traffic Code, as adopted herein, shall be no more than \$300.00 or, if a bail amount has been set pursuant to Court rule, the established bail amount, whichever is less. Therefore, a person charged or cited with the violation of a provision of the Wasilla Traffic Code as adopted herein, shall not be entitled to a right to a jury or to a Court appointed lawyer. A violation cited or charged pursuant to State law, rather than the City of Wasilla Traffic Code, may or may not include a right to a jury or a Court-appointed lawyer depending upon the nature of the State law or regulation at issue and such matter shall be determined by the appropriate Court Rule and practice applicable at the time of the charge or

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citation issued pursuant to State law and/or regulation.

The imposition of demerit points, revocation or suspension of licenses, or restrictions thereof, as maybe imposed by State law and/or regulation pursuant to its rules, regulations, and statutes, are independent of any penalty imposed by the Wasilla Traffic Code, as adopted and set forth in this ordinance.

Attention needs to be given to simultaneously amending Chapter 1.24 when adopting Ordinance 93-014. Consider the following in place of existing 1.24.010(B).

B. The general penalty provided in Subsection (A), above, is not applicable to violations of WMC 12.04, Animal Control, which shall be subject to the penalty provisions set forth below in Section 1.24.030; Subsection (A), above, is also not applicable to violations of WMC 14.01, Wasilla Traffic Code. The penalties for such Wasilla Traffic Code are set forth by the terms of WMC 14.01 et. seq. All penalty provisions conflicting with the penalty provisions provided for herein are hereby repealed.

In light of the re-writes suggested herein, the "Purpose Clause Section 2, of Ordinance 93-014" should probably be re-written to read:

To adopt the "Wasilla Traffic Code" as part of the Wasilla Municipal Code.

TO: Cheif Stambaugh & Mayor John Stein  
FROM: Richard Deuser, City Attorney  
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After you have an opportunity to think about this Memorandum, perhaps we should discuss it further before finalizing a draft to be presented for Council approval. Plans should be made to develop a citation form pursuant to District Court Criminal Rule 8.

Sincerely,

A handwritten signature in cursive script that reads "Richard Deuser".

Richard Deuser