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Relations

For reading: March 26, 2013

**ANCHORAGE, ALASKA
AO No. 2013-37(S-1)**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.70,**
2 **EMPLOYEE RELATIONS, WITH COMPREHENSIVE UPDATES SECURING LONG**
3 **TERM VIABILITY AND FINANCIAL STABILITY OF EMPLOYEE AND LABOR**
4 **RELATIONS.**

5
6 **WHEREAS**, Anchorage Municipal Code chapter 3.70, Employee Relations, was last
7 updated as a whole in 1989 and some provisions are out of date; and

8
9 **WHEREAS**, the Municipality and the labor organizations which represent municipal
10 employees must negotiate collective bargaining agreements which secure the long
11 term financial stability of the Municipality by allowing delivery of the highest value
12 services at the lowest reasonable cost to the citizens of Anchorage; and

13
14 **WHEREAS**, the Municipality and the labor organizations which represent municipal
15 employees must negotiate collective bargaining agreements which recognize and
16 balance the legitimate employment interests of the municipal workforce and the
17 legitimate interests of the citizens of Anchorage; now, therefore,

18
19 **THE ANCHORAGE ASSEMBLY ORDAINS:**

20
21 **Section 1.** Anchorage Municipal Code chapter 3.70, with the exception of section
22 3.70.190 addressed in Section 2 of this ordinance, is hereby amended to read as
23 follows (*some unaffected sections are included for context; the remainder of the*
24 *chapter is not affected and therefore not set out):*

25
26 **Chapter 3.70 EMPLOYEE RELATIONS***

27
28 ***Cross references:** Personnel rules, Ch. 3.30; Anchorage police and fire
29 retirement system, Ch. 3.85; exemptions from disclosure of certain public
30 records, § 3.90.040; employee relations board, § 4.40.070.

31
32
33 3.70.010 Definitions.

34 3.70.020 Declaration of policy.

35 3.70.030 Rights of employees.

36 3.70.040 Management rights.

37 3.70.050 Employee relations board.

38 3.70.060 Collective bargaining units.

39 3.70.070 Recognition and certification of employee organizations.

40 3.70.080 Certification of bargaining representative.

- 1 3.70.090 Collective bargaining.
 2 3.70.100 Mediation and fact-finding.
 3 3.70.110 Impasse resolutions.
 4 3.70.120 Work stoppage prohibited [STRIKES].
 5 3.70.130 Agreements.
 6 3.70.140 Unfair labor practices.
 7 3.70.150 Dues checkoff.
 8 3.70.160 Binding arbitration.
 9 3.70.170 Applicability of personnel regulations.
 10 3.70.180 Transition measures; effective date.
 11 3.70.185 EMS integration plan. (Repealed)
 12 3.70.190 Bargaining units established; description.
 13 3.70.195 Appointment of special officers.
 14 3.70.196 Post retirement police and fire medical benefits.
 15 3.70.200 Severability.

16
 17
 18 **3.70.010 Definitions.**

19
 20 The following words, terms and phrases, when used in this chapter, shall have
 21 the meanings ascribed to them in this section, except where the context clearly
 22 indicates a different meaning:
 23

24 *Administrative agreement* means a written document executed by the
 25 mayor's designee and an employee organization, which changes,
 26 modifies/alters, amends, clarifies or interprets an explicit term or any written
 27 provision of a labor agreement, which has any financial consequences and
 28 which must be approved by the employee organization and by the assembly in
 29 the manner provided in AMC Section 3.70.130.
 30

31 *Administrative letter* means a written document, including, but not
 32 limited to, a memorandum or letter of understanding, a side letter or
 33 agreement, or a letter of agreement addressing the management of the labor
 34 force under the existing terms of the current labor agreement. Administrative
 35 letters may not be used to vary the explicit terms of a labor agreement and
 36 may not result in any financial consequences for the Municipality. An
 37 administrative letter shall be executed by a duly authorized representative[s] of
 38 an employee organization and shall be approved by the assembly in the
 39 manner provided in AMC Section 3.70.130 in order to become effective.
 40

41 *Bargaining representative* means the organization, association or labor
 42 union recognized through certification by the board as the proper party to
 43 represent the bargaining unit in collective bargaining and processing of
 44 grievances with the municipality.
 45

46 *Bargaining unit* means the collective group of employees to be
 47 represented in collective bargaining and processing of grievances by one
 48 bargaining representative.
 49

50 *Board* means the employee relations board of the municipality.
 51

1 *Classification plan* means a system of job titles, [AND] job classification
2 specifications and FLSA designations [DESCRIPTIONS] corresponding to
3 designated pay ranges and includes an orderly arrangement into classes of
4 employees and a list of class titles, class codes and ranges assigned to each
5 class.

6
7 *Collective bargaining* means the performance of the mutual obligations
8 of the municipality and the employee organization to meet at reasonable times
9 and negotiate in good faith with respect to wages, hours and other terms and
10 conditions of employment and the execution of a written contract incorporating
11 an agreement reached. These obligations do not compel either party to agree
12 to a proposal or require the making of a concession.

13
14 *Confidential employee* means an employee who, in the normal course
15 of the employee's [HIS] duties, has access to or assists in the preparation or
16 utilization of information used in collective bargaining negotiations, arbitrations,
17 grievances, employee relations board proceedings or labor-related litigation
18 and board hearings, or whose duties require direct and/or system access to
19 confidential information which contributes significantly to the deliberative
20 process and development of municipal labor, employee relations, benefits,
21 payroll or budgetary policy.

22
23 *Direct fire protection services* means all employees who perform direct
24 firefighting, EMS, fire prevention and emergency dispatch operations.

25
26 *Direct labor costs* means total compensation including wages,
27 allowances, special pay and pay enhancements, employer paid contributions
28 to retirement programs, and the actual cost paid for taxes and to provide
29 benefits provided to municipal employees pursuant to a collective bargaining
30 agreement.

31
32 *Direct law enforcement* means all police officers under AS
33 18.65.290(7)(A), community service officers, and emergency dispatch
34 personnel within the police department.

35
36 *Dues checkoff* means the obligation or practice of the government of
37 deduction from the salary of a public employee at the employee's [HIS] written
38 authorization of an amount for the payment of the employee's [HIS]
39 membership dues in an employee organization, and the obligation of the
40 municipality to transmit the sums so deducted to the employee organization.

41
42 *Election* means a proceeding conducted and supervised by the
43 employee relations board in which employees in a collective bargaining unit
44 cast secret written ballots for the purpose of determining a collective
45 bargaining representative or for any other purpose specified in this chapter.

46
47 [ELECTRICAL GENERATION AND TRANSMISSION MEANS THOSE EMPLOYEE
48 SERVICES, AS DETERMINED BY THE BOARD, WHICH ARE ESSENTIAL TO THE
49 UNINTERRUPTED GENERATION AND TRANSMISSION OF ELECTRICAL POWER TO THE
50 COMMUNITY.]
51

1 [EMERGENCY MEDICAL SERVICES MEANS ALL EMPLOYEES IN THE SECTION OF
2 EMERGENCY MEDICAL SERVICES.]

3
4 Emergency declaration means an emergency as declared by the mayor
5 as described in AMC section 3.80.010 et seq.

6
7 *Employee* means any person holding a position in the [ADMINISTRATIVE]
8 service of the municipality. Such term does not include members of citizen
9 commissions or advisory groups appointed under authority of article V of the
10 Charter or Assembly appointees to the municipal audit committee or board of
11 equalization. The term "employee" shall not include supervisory employees.

12
13 *Employee organization* means an organization of employees of any
14 kind, having as its purpose the representation [IMPROVEMENT OF TERMS AND
15 CONDITIONS OF EMPLOYMENT] of public employees through collective bargaining,
16 grievance and arbitration, or any other procedure where permitted under this
17 chapter.

18
19 *Employer* means the municipality. Such term does not include the
20 numerous citizen advisory boards and commissions which exist under the
21 authority of article V of the Charter.

22
23 *Fact-finding* means investigation of a dispute by a duly appointed
24 individual, panel or board, with the fact finder submitting a report to the parties
25 or the public describing the issues, and reporting the facts relating thereto.

26
27 [FIRE PROTECTION MEANS ALL EMPLOYEES WITHIN THE DIVISION OF FIRE
28 SERVICES]

29
30 Holiday means a holiday officially recognized by the municipality as
31 defined by AMC chapter 3.30.

32
33 *Labor agreement* means a collective bargaining agreement that is the
34 result of an exchange of mutual promises between the mayor of the
35 municipality and an employee organization, and which becomes a binding
36 contract for the period of time set forth therein. A labor agreement must be
37 approved by the employee organization and by the assembly.

38
39 Managed competition program means a program intended to procure
40 the delivery of the most reliable, efficient and effective municipal services to
41 the citizens of Anchorage, through municipal sponsorship of regulated
42 competition for the delivery of selected services.

43
44 *Mediation* means effort by an impartial third party to assist in reaching
45 an agreement or reconciling a dispute regarding wages, hours and other terms
46 and conditions of employment between representatives of the employer and
47 the exclusive bargaining representative through interpretation, suggestion and
48 advice. Mediation may include recommending to the assembly concerning the
49 terms of a collective bargaining agreement.

50
51 [PERSONAL STAFF MEANS THE AIDES, SECRETARIES AND CLERKS WORKING

1 DIRECTLY FOR AN OFFICIAL OR SUPERVISORY EMPLOYEE.]

2
3 [POLICE MEANS ALL EMPLOYEES WITHIN THE POLICE DEPARTMENT]

4
5 [PORT OPERATION MEANS THOSE EMPLOYEE SERVICES, AS DETERMINED BY
6 THE BOARD, WHICH ARE ESSENTIAL TO THE CONTINUED TRANSSHIPMENT OF
7 COMMODITIES THROUGH THE PORT OF ANCHORAGE.]

8
9 [SEWER TREATMENT MEANS THOSE EMPLOYEE SERVICES, AS DETERMINED BY
10 THE BOARD, WHICH ARE ESSENTIAL TO CONTINUED OPERATION OF THE SEWER
11 TREATMENT SYSTEM OF THE MUNICIPALITY.]

12
13 *Staff* means all employees within the department, division, section or
14 office affected.

15
16 *Supervisory employee* means an individual having responsibility on
17 behalf of the municipality regularly to supervise other employees and/or
18 participate in the performance of some or all of the following functions with
19 respect to other employees: [TO] hire, transfer, suspend, lay off, recall,
20 promote, discharge, assign, approve time and attendance, reward, discipline,
21 direct or adjust grievances, or effectively [TO] recommend such action, if, in
22 connection with [THE] such functions, the exercise of such responsibility is not
23 of a merely routine or clerical nature but requires the exercise of independent
24 judgment.

25
26 [WATER TREATMENT MEANS THOSE EMPLOYEE SERVICES, AS DETERMINED BY
27 THE BOARD, WHICH ARE ESSENTIAL TO CONTINUED OPERATION OF THE WATER
28 TREATMENT SYSTEM OF THE MUNICIPALITY.]

29
30 (AO No. 69-75; AO No. 88-76; AO No. 77-376; AO No. 84-221(S); AO No. 88-
31 131(S); AO No. 89-46(S-1); AO No. 2008-135(S), § 1, 9-29-09)

32
33 **Cross references:** Definitions and rules of construction generally, § 1.05.020.

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35
36 **3.70.020 Declaration of policy.**

37
38 A. *Generally.* While retaining the management rights enumerated at
39 section 3.70.040, the municipality declares that it is its policy to promote
40 harmonious and cooperative relations between the municipality and its
41 employees and to protect the public by ensuring orderly and effective
42 operations of government, while maintaining financially sound
43 principles. These policies are to be effectuated by good faith
44 discussions between the municipality and employee organizations
45 recognizing the right of employees to organize for the purpose of
46 collective bargaining; by negotiating with and entering into written
47 agreements with employee organizations on matters of wages, hours
48 and other terms and conditions of employment; by using mediation as a
49 means to resolve disputes in accordance with the provisions of this
50 chapter or whenever both parties choose to do so; and by maintaining
51 merit system principles among municipal employees.

1
2 B. *Communications policy.* It is also the policy of the municipality that
3 continuing communications shall be promoted between the municipality
4 and employee representatives and that no collective bargaining
5 agreement will be ratified by the assembly unless it contains, as a part
6 of the agreement, the following: "The parties agree that they will meet
7 and confer in good faith at reasonable times and places concerning this
8 agreement, and its interpretation or any other matter of mutual concern
9 to employee representatives and the municipality. The parties further
10 agree that either party may request in writing, that the parties confer
11 within 14 days after the date of delivery of the request, in regard to
12 specific matters. An unexcusable refusal to meet and confer in
13 response to such request shall be a violation of this agreement. There
14 shall be no obligation on the part of either party to reopen, modify,
15 amend or otherwise alter the terminology or interpretation of this
16 agreement or to make any other agreement as a result of any such
17 conferences nor shall the requirement for such conferences alter the
18 rights or obligations of the parties under this agreement."
19

20 C. *Managed competition program.*
21

22 **1. Purpose. Managed competition provides a structured,**
23 **transparent process that allows an open and fair comparison of**
24 **public sector employees and independent contractors in their**
25 **ability to deliver services to our citizens. This strategy recognizes**
26 **the high quality and potential of public sector employees, and**
27 **seeks to tap their creativity, experience and resourcefulness by**
28 **giving them the opportunity to structure organizations and**
29 **processes in ways similar to best practices in competitive**
30 **businesses. The benefit of the competitive process is the ability of**
31 **the public agency to positively influence expectations about local**
32 **government and gain public support. A properly designed**
33 **competitive process can enable the public agency to deliver**
34 **services as capably and efficiently as any private vendor.**
35

36 **2. Policy. It is the policy of the municipality that the assembly**
37 **will not approve a collective bargaining agreement unless it**
38 **contains, as part of the agreement, collective bargaining**
39 **agreements shall not contain provisions which prevent allow the**
40 **municipality from to implementing and practicing the principles,**
41 **strategies and tactics of a managed competition program, while**
42 **recognizing and balancing the legitimate employment interests of**
43 **municipal employees, and management's rights, as provided in**
44 **3.70.040 of this chapter. A managed competition program shall not be**
45 **used to compete or contract for the delivery of direct law enforcement**
46 **or direct fire protection services to the municipality.**
47

48 D. **Limitation on direct labor costs increases.** It is the policy of the
49 municipality that **the assembly shall not approve a collective**
50 **bargaining agreement no collective bargaining agreement will be**

~~ratified by the assembly, if the percentage increase in direct labor costs associated with the agreement on a per employee basis in any coming calendar year will exceed the average percentage change in the CPI-U for Anchorage, Alaska, in the preceding five calendar year period on an average annual basis, plus one percent. The CPI-U is the United States Department of Labor, Bureau of Labor Statistics annual average for all items for all urban consumers published for Anchorage, Alaska. The CPI U is the year end index provided by the State of Alaska, Department of Labor.~~

E. Employee benefits. It is the policy of the municipality that benefits and eligibility criteria offered to municipal employees pursuant to a benefit program sponsored and defined by the municipality shall be the same for all eligible employees. Expenditures by the municipality for employee benefits provided under a plan other than a municipal sponsored plan shall not exceed the actual cost of providing the benefits under the alternate plan, or the cost of providing the equivalent benefit through a plan sponsored by the municipality, whichever cost is lower. The municipality shall not sponsor or participate in any plan, which offers benefits or requires expenditures that would cause the municipality to incur any penalty, by special tax or otherwise, under federal or state law or regulation unless such a tax or fee was agreed to in advance by the municipality. **For purposes of this subsection, benefit programs for standardization include health or dental plans, life, disability, or dependent life insurance plans, and optional retirement savings plans, but not retirement or existing pension plans.**

F. Payments for services to union. It is the policy of the municipality that ~~no collective bargaining agreements will be ratified by the assembly unless it contains, as part of the agreement, collective bargaining agreements shall contain~~ a provision requiring the union to reimburse the municipality for any payments made by the municipality to a municipal employee for time spent performing services or the union and that union representatives employed by the municipality maintain accurate time records which reflect the performance of such services.

G. Uniform holidays. It is the policy of the municipality that all holidays recognized by the municipality shall be uniform for all municipal employees. The assembly will not approve a collective bargaining agreement if it contains any provision establishing a holiday other than the holidays recognized by the municipality in AMC chapter 3.30.

H. Qualification based pay enhancements limited. It is the policy of the municipality that employee pay rates, payable pursuant to the terms of a collective bargaining agreement, shall be based only upon **officially recognized and approved bona-fide** position requirements and enhanced qualifications which directly affect employee performance in a classification. All wage rates shall be readily ascertainable and consistent with the municipal classification schedule. All extra regular

1 pay based on performance or longevity, by whatever name, including,
2 but not limited to, performance based incentive pay, performance step
3 programs, ***education pay***, and pay increases based on longevity or
4 service recognition, shall be eliminated, with the following exceptions:

5
6 **1. Longevity Pay under section 3.30.127D. and its equivalent in**
7 **collective bargaining agreements shall continue for eligible**
8 **employees as defined and determined under section**
9 **3.30.127 or the respective collective bargaining agreement.**
10 **Future collective bargaining agreements shall not contain**
11 **independent longevity pay provisions, but may incorporate**
12 **chapter 3.30 by reference.**

13
14 **2. Service Recognition under section 3.30.127E. and its**
15 **equivalent in collective bargaining agreements shall**
16 **continue for eligible employees as defined and determined**
17 **under 3.30.127 or the respective collective bargaining**
18 **agreement. Future collective bargaining agreements shall**
19 **not contain independent service recognition pay provisions,**
20 **but may incorporate chapter 3.30 by reference.**

21
22 **3. Performance Incentive Programs. Programs such as the**
23 **Performance Incentive Program (AMEA), Performance Pay**
24 **Incentive (APDEA), Performance Incentive Pay (IAFF),**
25 **Performance Step Program (IUOE Local 302), and similar**
26 **education and performance programs shall not be offered in**
27 **contracts negotiated after [effective date of this ordinance].**
28 **Pay under these programs shall be maintained for**
29 **employees on the payroll as of the effective date of this**
30 **ordinance at levels earned by the employee at the expiration**
31 **of the applicable existing contract, except incentive pay**
32 **requiring periodic renewal shall end with the expiration of**
33 **the applicable contract. *Educational incentives, if offered,***
34 **shall be as provided in chapter 3.30.**

35
36 **4. Education pay. Programs providing additional pay for**
37 **educational achievement shall be maintained for employees**
38 **on the payroll as of the effective date of this ordinance at**
39 **levels earned by the employee at the expiration of the**
40 **applicable existing contract. Future collective bargaining**
41 **agreements shall not contain independent education pay**
42 **provisions, but may incorporate chapter 3.30 by reference.**

43
44 **5. Other incentive pay. Incentive pay programs not included**
45 **in subsections H.1-4 shall expire concurrent with the**
46 **associated collective bargaining agreement, unless**
47 **otherwise negotiated.**

1
2 **3.70.030 Rights of employees.**
3

4 Employees shall have the right to organize and to be represented by employee
5 organizations for the purpose of collective bargaining with the municipality
6 concerning the terms and conditions of their employment and for the purpose
7 of resolving grievances arising under collective bargaining agreements, both
8 as provided in this chapter.
9

10 (AO No. 69-75; AO No. 89-46(S-1))
11

12 **3.70.040 Management rights.**
13

- 14 A. It is the right of the municipality acting through its agencies to:
15
16 1. Determine the standards of service to be offered by its agencies;
17
18 2. Determine the standards of selection for employment;
19
20 3. Direct and supervise its employees;
21
22 4. Take disciplinary action;
23
24 5. Relieve its employees from duty because of lack of work or for
25 other legitimate reasons;
26
27 6. Maintain the efficiency of governmental operations;
28
29 7. Determine the methods, means, equipment and personnel by
30 which government operations are to be conducted including
31 staffing and scheduling, and overtime;
32
33 8. Adopt and amend a classification plan and allocate and
34 reallocate employees to positions within the plan;
35
36 9. Take all necessary actions to carry out its mission in
37 emergencies; [AND]
38
39 10. Exercise complete control and discretion over scheduling its
40 employees and its organization and the technology and/or
41 equipment of performing its work;
42
43 11. Determine key and essential personnel and necessary
44 equipment and supplies in the event of an emergency
45 declaration.
46
47
48 B. The municipality declares that there is nothing incompatible with the
49 maintenance of these rights and collective bargaining as to the method
50 of application of these rights on matters of wages, hours and other
51 terms and conditions of employment. In exercising management rights,

1 the municipality shall ensure that, where matters of wages, hours and
 2 other terms and conditions of employment are involved, all written
 3 agreements are observed unless contrary to law. Units appropriate for
 4 collective bargaining shall be determined by the employee relations
 5 board in accordance with criteria established by the assembly in this
 6 chapter.

7
 8 (AO No. 69-75; AO No. 77-376; AO No. 89-46(S-1))

9
 10 **3.70.050 Employee relations board.**

- 11
 12 A. *Established; membership.* There is established an impartial body, the
 13 employee relations board of the municipality. The board is made up of
 14 three impartial members appointed by the mayor and confirmed by the
 15 assembly in public hearing. The board must include a member with a
 16 background in management (**seat A**), a member with a background in
 17 labor (**seat B**), and a member from the general public (**seat C**). **Unions**
 18 **in collective bargaining agreements with the municipality may,**
 19 **collectively, present a list of 5 names to the Mayor for selection of**
 20 **seat B. Names shall be submitted 45 days prior to expiration of**
 21 **seat B's term or within 30 days of seat B's vacancy; otherwise the**
 22 **Mayor may select someone of his own choosing.** The board shall
 23 annually select a chair from among its members to serve a term of one
 24 year. Confirmation hearings shall be preceded by at least two weeks'
 25 notice to representatives of each municipal bargaining unit of the
 26 proposed appointment. The employee relations board reports jointly to
 27 the mayor and the assembly.
- 28
 29 B. *Compensation of members; other employment.* None of the members
 30 of the board shall be employed by the municipality or by any of the
 31 groups covered by this chapter. [MEMBERS OF THE BOARD SHALL BE PAID
 32 \$50.00 PER DAY OR PORTION THEREOF WHEN SITTING AS THE BOARD.]
- 33
 34 C. *Staff.* All staff costs for the board shall be borne by the municipality. For
 35 purposes of this section, staff costs are those costs necessary to pay
 36 the salaries of those municipal employees who normally serve as staff
 37 to the board, and to provide those employees with day-to-day office
 38 supplies. The municipality shall assume all costs incurred in connection
 39 with the official activities of the board unless specified differently
 40 elsewhere in this chapter. The board shall determine its staff needs and
 41 report such to the mayor and the assembly for approval and inclusion in
 42 the annual budget.
- 43
 44 D. *Powers and duties.* The board shall administer the policies established
 45 by this chapter. Its duties shall include but are not limited to:
- 46
 47 1. Determining in each case the unit appropriate for the purposes
 48 of collective bargaining, taking care to avoid unnecessary
 49 fragmentation of homogenous groups.
- 50
 51 2. Conduct of representation elections.

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3. Certification or decertification of employee organizations as exclusive representatives.
 4. [RESOLUTION OF DISPUTES, INCLUDING] Administrative oversight of mediation[, **and** fact-finding **and arbitration** ~~[AND ARBITRATION]~~ activities.
 5. Determination of the occurrence of and remedy for unfair labor practices.
 6. Final determination regarding disputes between management and the unions regarding positions exempted from collective bargaining as identified in section 3.70.060C. [DESIGNATION, IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, OF THOSE PERSONNEL WITHIN THE SUPERVISORY AND CONFIDENTIAL CATEGORIES.]
 7. Conduct of such hearings and inquiries as are necessary to carry out the functions of the board.
 8. Exercise of the power to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence[, AND COMPEL BY THE ISSUANCE OF SUBPOENAS THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF RELEVANT DOCUMENTS. THE BOARD MAY DELEGATE SUCH POWERS TO ANY MEMBER OF THE BOARD OR ANY PERSON APPOINTED BY THE BOARD FOR THE PERFORMANCE OF ITS FUNCTION, AS AUTHORIZED BY THIS SECTION].
- E. All parties shall have the right to subpoena witnesses and documents using a form provided by the municipal clerk and submitted to the clerk for issuance at least five working days before the date of the hearing.
- F. *Implementation of chapter.* The board shall conduct hearings, issue cease and desist orders, require appropriate remedies for unfair labor practices, conduct elections and take affirmative action to effectuate the policies of this chapter.
- G [F]. *Authority to prescribe additional regulations.* The board shall recommend to the assembly [PROMULGATE] rules and regulations necessary to perform its duties to effectuate the purposes of this chapter.
- H [G]. *Effect of decisions.* Decisions of the board shall be binding upon all parties to a proceeding unless stayed by order of the superior court pursuant to the filing of an appeal. Any party to a proceeding before the board may petition the superior court to enforce an order of the board.
- I [H]. *Removal of members.* Board members may be removed from office in accordance with section 4.05.060

(AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO No. 2005-113, § 1, 9-27-05)

Cross references: Code of ethics, ch. 1.15; public meetings, ch. 1.25; boards and commissions, tit. 4.

3.70.060 Collective bargaining units.

- A. *Generally.* The employee relations board shall decide in each case the unit appropriate for the purpose of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided. Supervisory and confidential employees shall not be members of a bargaining unit.
- B. *School district.* School district employees' bargaining units shall be as determined by the school board and all responsibility for collective bargaining shall be that of the school board.
- C. *Exempt employees.* The following employees shall be exempt from collective bargaining, no matter where located:
1. All executive employees and those appointed employees as identified in section 3.30.012[.A.];
 2. All supervisory employees ~~no matter where located~~ [AS DESIGNATED BY THE BOARD UPON PETITION OF THE MUNICIPALITY];
 3. The office of the mayor[, EXCEPT THAT EMPLOYEES CURRENTLY ELIGIBLE FOR COLLECTIVE BARGAINING OR BARGAINING UNIT MEMBERS WHOSE POSITIONS ARE REASSIGNED TO THAT OFFICE SHALL ONLY BE EXCLUDED FROM BARGAINING UNIT MEMBERSHIP WITH THE APPROVAL OF THE BOARD];
 4. The staffs of the municipal manager, the executive manager, and the office of emergency management[, EXCEPT EMPLOYEES CURRENTLY ELIGIBLE FOR COLLECTIVE BARGAINING OR BARGAINING UNIT MEMBERS WHOSE POSITIONS ARE REASSIGNED TO THOSE OFFICES SHALL ONLY BE EXCLUDED FROM BARGAINING UNIT MEMBERSHIP WITH THE APPROVAL OF THE BOARD];
 5. The staff of the municipal attorney;
 6. The staff of the internal auditor;
 7. The [PORTION OF THE] treasurer's staff [CHARGED WITH BILLING AND COLLECTING PROPERTY TAXES, COLLECTIONS ADMINISTRATION, AND DIRECT ADMINISTRATIVE ASSISTANCE];

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8. The ombudsman, the staff of the office of the ombudsman, the municipal clerk and the staff of the municipal clerk, and the staff of the equal rights commission;
 9. The staff of the department of employee relations;
 10. Confidential employees *no matter where located* [WHO IN THE NORMAL COURSE OF THEIR DUTIES HAVE ACCESS TO OR ASSIST IN THE PREPARATION OF LABOR RELATIONS MATERIALS USED IN NEGOTIATIONS, ARBITRATIONS, GRIEVANCES AND BOARD MEETINGS];
 11. The staff of any *[MUNICIPAL]* information technology department or division, *no matter where located* [INCLUDING: A. THE STAFF OF THE MUNICIPALITY], except for the reprographics section;
 - B. THE STAFF OF THE ANCHORAGE WATER AND WASTEWATER UTILITY INFORMATION TECHNOLOGY DIVISION; AND
 - C. THE STAFF OF THE MUNICIPAL LIGHT AND POWER UTILITY SYSTEMS DIVISION EXCEPT FOR THE RADIO SHOP.]
 12. The staff of the assembly;
 13. The staff of the police and fire retirement board;
 14. The staff of *the* [HERITAGE LAND BANK AND] Real Estate *Department [Services]*; [AND]
 15. The staff of the office of management and budget; *and*
 16. The staff of the central payroll office within the finance department *no matter where located; and*
 17. *Those employees whose duties primarily consist of payroll functions, including time adjustments, time evaluation, or time entry for other employees.*

38 (AO No. 69-75; AO No. 77-94; AO No. 247-76; AO No. 78-82; AO No. 78-113;
39 AO No. 78-166; AO No. 79-27; AO No. 81-82; AO No. 82-49; AO No. 85-8; AO
40 No. 88-47(S); AO No. 88-82; AO No. 88-131(S); AO No. 88-148; AO No. 89-
41 46(S-1); AO No. 89-125; AO No. 98-115(S), § 5, 7-1-98; AO No. 2002-69, § 4,
42 5-14-02; AO No. 2003-61, § 1, 1-1-03; AO No. 2004-138, § 1, 10-26-04; AO
43 No. 2007-45, § 1, 4-10-07; AO No. 2008-90(S), § 3, 1-1-09)

44
45 **3.70.070 Recognition and certification of employee organizations.**

- 46
47 A. The municipality shall recognize and bargain with certified bargaining
48 representatives selected according to the procedures set out in this
49 chapter.
50
51 B. Certification by the board shall conclusively establish that the certified

1 organization is the proper bargaining representative for the bargaining
2 unit. The municipality and the certified bargaining representatives shall
3 bargain in good faith for the purpose of entering into written agreements
4 with respect to wages, hours and other terms and conditions of
5 employment, as provided in this chapter.
6

- 7 C. If a change of certification occurs before the expiration of a current
8 bargaining agreement, the municipality shall bargain with the newly
9 certified bargaining representative for purposes of reaching a new
10 agreement.
11

12 (AO No. 69-75; AO No. 89-46(S-1))
13

14 **3.70.080 Certification of bargaining representative.** 15

- 16 A. *Generally.* The board shall determine the bargaining representative
17 according to the procedures set out in this section. Upon such
18 determination, the board shall certify the bargaining representative. As
19 a condition of certification, the bargaining representative shall represent
20 all employees within the unit without regard to membership in the
21 organization. No closed shop shall be allowed. Nothing in this section
22 bars inclusion in a collective bargaining agreement of a requirement
23 that all members of the unit affiliate with the bargaining representative
24 within 30 days after the date of their employment, or the date of
25 certification, whichever is later.
26

- 27 B. *Initiation of election.* Bargaining representatives shall be determined by
28 election by employees within the bargaining unit by secret written ballot
29 or by consent of the parties and approval by the board. An election on
30 representation may be initiated by presentation to the board of
31 authorization cards dated no more than one hundred and eighty (180)
32 days before the date of presentation, containing the signatures of at
33 least 30 percent of the employees within the bargaining unit requesting
34 that the applicant be certified to represent the members of the
35 bargaining unit. No petition shall be entertained by the board if there
36 has been an election in the unit during the preceding 12 months. No
37 election may be directed by the employee relations board in a
38 bargaining unit in which there is in force and effect a valid collective
39 bargaining agreement, except during a 180-day period preceding the
40 expiration date. However, no collective bargaining agreement may bar
41 an election upon petition of persons in the bargaining unit, if more than
42 three years have elapsed since the execution of the agreement or the
43 last timely renewal, whichever was later.
44

- 45 C. *Time for presentation of petition for election.* A petition based on
46 authorization cards must be presented to the board not more than 180
47 days or not less than 150 days before the expiration of the current
48 agreement.
49

- 50 D. *Verification of petition for election.* Upon timely receipt of authorization
51 cards requesting a representation election, the board shall examine the

1 cards and other evidence to ensure that the signatures contained
2 thereon are genuine and that they represent signatures of members of
3 the bargaining unit entitled to vote. Upon verification, the board shall
4 post immediate notice that authorization cards have been received
5 requesting a representation election and that other prospective
6 bargaining representatives desiring their names be placed upon the
7 ballot have an additional period of 15 days in which to present
8 authorization cards reflecting the desires of ten percent of the
9 employees within the bargaining unit that such prospective bargaining
10 representative be certified as the bargaining representative. If the board
11 finds the same signatures on more than one authorization card, it shall
12 reject all cards on which the signature appears.

13
14 E. *Pre-election hearing.* No election may be held without first conducting a
15 pre-election hearing to determine the validity of all requests for
16 certification, the time and procedures for the election, and the contents
17 of the ballot. The pre-election hearing shall be conducted within one
18 week after the expiration of time for submission of authorization cards
19 for intervention of an additional party in the election. All parties which
20 have petitioned for certification, as well as the employer, shall have the
21 opportunity to appear and participate at pre-election hearings.

22
23 F. *Election ballot.* The ballot shall contain the name of each proposed
24 bargaining representative which has been presented to the board in
25 accordance with this section, as well as the name of the currently
26 certified bargaining representative. The ballot shall also contain a
27 choice for any employee to designate that the employee [HE] does not
28 desire to be represented by any bargaining representative.

29
30 G. *Notice of election.* Upon conclusion of the pre-election hearing, the
31 board shall notify all employees within the bargaining unit of an election
32 to be held on the question of representation within the bargaining unit.
33 Notice shall be given to each employee at least seven days prior to the
34 election. Additionally, notice shall be posted on municipal bulletin
35 boards in the areas in which employees of the bargaining unit work.
36 The notification shall specify each of the choices contained on the
37 ballot, that the ballot is to be a secret ballot, and the time, date and
38 place of the election. Defects of notice shall not invalidate an election
39 so long as there has been substantial compliance with the requirements
40 of this subsection.

41
42 H. *Date of election.* Representation elections shall be conducted so that
43 employees have reasonable opportunities to vote during normal
44 working hours. The election shall be held at least 120 days prior to the
45 expiration of a current bargaining agreement affecting the bargaining
46 unit.

47
48 I. *Supervision of elections.* All representation elections shall be
49 supervised by the board. An observer from each prospective bargaining
50 representative appearing on the ballot and a representative of the
51 employer may be present at each polling place. The board shall

1 establish the time, date and place for the election.
2

3 J. *Result of elections.* Certification shall require a majority of the valid
4 ballots cast. Where more than one organization is on the ballot and
5 none of the three or more choices receives a majority vote of the valid
6 ballots cast, a runoff election shall be held. The runoff ballot shall
7 contain the two choices which received the largest and second largest
8 number of valid ballots cast. The runoff election shall be conducted
9 within 14 days of the initial election. Notice and posting for the runoff
10 election shall be the same as for the regular election. If the votes for
11 three or more choices are equal, the runoff shall be between the
12 prospective bargaining representatives.
13

14 K. *Consent recognition.* The employer and a prospective bargaining
15 representative may consent to recognition of the bargaining
16 representative in the case of a bargaining unit which is not currently
17 represented. In such case, the parties shall petition the board for
18 certification. The petition shall include authorization cards having the
19 signatures of more than 50 percent of the members of the proposed
20 bargaining unit, dated no more than one hundred and eighty (180) days
21 before the date the petition is presented. The board shall determine
22 whether the prospective bargaining representative represents a majority
23 of the employees within the bargaining unit. If the board determines that
24 the bargaining unit is appropriate and the bargaining representative
25 represents a majority of the employees within the bargaining unit, the
26 board shall certify the prospective bargaining representative as the
27 certified bargaining representative for purposes of collective bargaining.
28 If the board determines that the applicant does not represent a majority
29 of the employees within the bargaining unit, an election shall be held in
30 the manner provided in this chapter, if the election provisions of this
31 chapter have been met.
32

33 (AO No. 69-75; AO No. 89-46(S-1))
34

35 **3.70.090 Collective bargaining.** 36

37 A. After determination of the appropriate bargaining unit and bargaining
38 representative in accordance with the provisions of this chapter and
39 subject to the other provisions of this chapter, the mayor's authorized
40 negotiation team shall enter into negotiations with the bargaining
41 representative of the employee unit in a timely fashion, not to exceed
42 30 days after certification by the board, concerning the wages, hours
43 and other terms and conditions of employment.
44

45 1. Notwithstanding anything to the contrary contained in this title,
46 substance abuse testing and all issues and other matters related
47 to or affecting such testing shall not be subject to collective
48 bargaining under this chapter, provided however, nothing in this
49 subsection shall prohibit employee grievance and arbitration of
50 discipline and/or discharge pursuant to substance abuse testing
51 policy and procedures.

1
2 2. The right of the municipality to contract with other entities for the
3 performance of its work shall not be encumbered by a
4 requirement that any such entity be signatory to an agreement
5 with any labor organization.

6
7 3. No collective bargaining agreement may exceed a term of three
8 years from its effective date.

9
10 4. In all collective bargaining, the team of representatives
11 authorized to negotiate on behalf of the municipality shall include
12 an attorney and a representative of the chief fiscal officer.

13
14 B. Negotiating sessions shall be private unless otherwise agreed to by the
15 parties; however, the parties to the negotiations shall periodically and
16 jointly report to the assembly as specified by the assembly but not less
17 than once every 30 days. The joint report shall be made in the form of
18 an Assembly Information Memorandum, and shall state either that
19 negotiations are currently proceeding and the parties are not at
20 impasse, or that the parties are not making progress. If the parties are
21 not making progress, the report shall state what steps are being taken
22 to move the progress forward, such as mediation and fact-finding. The
23 report shall not include information about the substance of the
24 negotiations, unless the parties agree to include that information in the
25 report. The assembly may, on its own motion, make these reports
26 public. [SUCH REPORTS MAY BE MADE PUBLIC BY THE ASSEMBLY WHEN
27 DEEMED APPROPRIATE.]

28
29 C. Collective bargaining shall commence at least 120 [90] days prior to the
30 contract expiration date. If neither party initiates collective bargaining
31 prior to that time, the current contract shall be extended for an
32 additional year.

33
34 D. The assembly shall set general labor relations policy and direction for
35 contract negotiations.

36
37 1. For contracts being reopened or expiring, the office of the mayor
38 shall notify the assembly of impending collective bargaining at
39 least 30 to 45 days before the commencement of collective
40 bargaining in order to allow assembly action on policy and
41 directions for contract negotiations.

42
43 2. The assembly shall be notified by the office of the mayor when
44 negotiations commence.

45
46 a. The mayor and the affected labor organization or
47 employee group shall both keep the assembly apprised of
48 the course of negotiations as set forth in subsection B of
49 this section.

50
51 b. After negotiations commence, neither party to the

1 negotiations shall communicate with the assembly or any
2 of its members concerning the negotiations except
3 through the periodic reporting process described in this
4 section.

5
6 3. When collective bargaining results in an agreement requiring
7 assembly approval under 3.70.130:

8
9 a. An Assembly Memorandum summarizing the contract
10 changes shall accompany the proposed agreement.

11
12 b. A summary of economic effects, including wages and
13 benefits cost (example: health, retirement) and private
14 sector impact, substantiated by financial reviews
15 prepared by the CFO and the internal auditor shall
16 accompany the proposed agreement. This summary
17 shall include a three year projection of total operating
18 budget, including the impact of the percentage change in
19 direct labor costs under the proposed agreement
20 compared to the projected percentage change in total
21 revenue for the same three year period.

22
23 c. The Assembly shall have a 30-day period for public
24 review and comment on the labor agreement terms and
25 conditions, summary of economic effects, and contract
26 changes, before action by the assembly.

27
28 E. Upon agreement of both parties, collective bargaining may be
29 undertaken at any time.

30
31 F. Subsections A through E of this section are subject to the limitations of
32 section 3.70.140.

33
34 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO
35 No. 98-5(S), § 1, 2-10-98; AO No. 2009-27(S), § 1, 4-14-09)

36
37 **3.70.100 Mediation and fact-finding.**

38
39 A. If, 120 90 [60] days prior to the contract expiration date, the parties
40 have not agreed to a collective bargaining agreement, the board shall
41 select and assign a neutral mediator who shall mediate all further
42 negotiation sessions between the parties until directed otherwise by the
43 board. The board may assign a mediator to assist the parties sooner at
44 the request of both parties. A mediator's function shall be to bring the
45 parties together under such circumstances as will tend to effectuate
46 settlement of the dispute, but neither the mediator nor the board has
47 any power of compulsion in mediation proceedings. The cost of
48 mediation shall be borne 50% by the municipality and 50% by union.
49 The parties may collectively agree to a mediator without input from the
50 board.
51

- 1 B. If, on the ~~90~~ ~~60~~ [30]th day prior to the contract expiration date, a
 2 collective bargaining agreement has not been executed between the
 3 parties, the parties shall select a fact finder from a list of nine names,
 4 three names from within the state and six names from outside the state,
 5 submitted by the American Arbitration Association unless otherwise
 6 mutually agreed to by the parties, to conduct a hearing and return
 7 findings of fact concerning the specific issue in question. The fact finder
 8 shall have the power to determine all relevant facts including but not
 9 limited to workload, productivity, economic feasibility, cost of living, the
 10 parties' bargaining history, relevant market comparisons in the public
 11 sector and relevant market comparisons in the private sector taking into
 12 account the cost of living in the markets compared[, THE EMPLOYER'S
 13 PAST PRACTICE] and impact on personnel [OR WORKPLACE MORALE]. The
 14 cost of the fact finder shall be shared equally by the parties. The fact
 15 finder shall within seven days of appointment conduct informal hearings
 16 and return [HIS] findings to the employer and bargaining representative.
 17 The fact finder shall submit a written report recommending terms and
 18 conditions to settle the dispute within 30 days following the fact-finding
 19 hearing. This report shall be the basis for post-fact-finding negotiation
 20 or mediation between the parties. If no settlement is reached, the fact-
 21 finding report shall become a public document 15 days after the first
 22 post-fact-finding negotiation or mediation meeting. [If, within 14 days
 23 after transmission of the findings of fact to the parties, an
 24 agreement has not been reached, the parties shall submit all
 25 unresolved matters to arbitration. Findings shall be made public
 26 upon delivery to the employer and bargaining representative.]
 27
 28 C. The deadlines in subsections A and B of this section may be extended
 29 up to 150 days by the parties by mutual consent as long as good faith
 30 bargaining continues.

31
 32 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))

33
 34 **3.70.110 Impasse resolutions.**

35
 36 If, five (5) days after public release of the fact-finding report, no
 37 agreement has been reached, the "last best offers" of the parties
 38 presented at fact-finding will be sent to the assembly for consideration.
 39 The assembly, following public hearing, must impose either one of the
 40 parties' last best offers in its entirety with no alterations as one final
 41 contract binding upon both parties. At any time prior to assembly
 42 approval of a final contract, the parties may reach agreement on specific
 43 terms or the entire contract, subject to approval pursuant AMC section
 44 3.70.130.

- 45
 46 **A.** No collective bargaining agreement may be extended more *than that*
 47 180 days without assembly approval. If 150 days after the expiration
 48 date of an agreement, if no new agreement has been reached, the
 49 assembly *shall must* impose the last best offer of one of the parties.

50
 51 [A. SERVICE CLASSES. FOR PURPOSES OF THIS SECTION, EMPLOYEES PERFORM

SERVICES IN ONE OF THE FOLLOWING THREE CLASSES:

1. SERVICES WHICH MAY NOT BE GIVEN UP FOR EVEN THE SHORTEST PERIOD OF TIME;
2. SERVICES WHICH MAY BE INTERRUPTED FOR A LIMITED PERIOD BUT NOT FOR AN INDEFINITE PERIOD OF TIME; AND
3. SERVICES IN WHICH ABSENT EXTRAORDINARY CIRCUMSTANCES, WORK STOPPAGES MAY BE SUSTAINED FOR EXTENDED PERIODS WITHOUT SERIOUS EFFECTS ON THE PUBLIC.]

[B. *LIMITATIONS ON ENGAGING IN STRIKE.* THE CLASS DESCRIBED IN SUBSECTION A.1 OF THIS SECTION IS COMPOSED OF POLICE, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES. THE CLASS DESCRIBED IN SUBSECTION A.2 OF THIS SECTION IS COMPOSED OF SEWER AND WATER TREATMENT, ELECTRICAL GENERATION AND TRANSMISSION AND PORT OPERATION. EMPLOYEES IN THIS CLASS FOR A LIMITED TIME MAY ENGAGE IN A STRIKE PURSUANT TO SUBSECTION C.9 OF THIS SECTION. THE LIMIT IS DETERMINED BY THE INTERESTS OF THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC. THE BOARD MAY APPLY TO THE SUPERIOR COURT FOR AN ORDER ENJOINING THE STRIKE. A STRIKE MAY NOT BE ENJOINED UNLESS IT CAN BE SHOWN THAT IT HAS BEGUN TO THREATEN THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC. A COURT IN DECIDING WHETHER OR NOT TO ENJOIN THE STRIKE SHALL CONSIDER THE TOTAL EQUITIES IN THE PARTICULAR CLASS. FOR PURPOSES OF THIS SECTION, THE TERM "TOTAL EQUITIES" INCLUDES NOT ONLY THE IMPACT OF THE STRIKE ON THE PUBLIC BUT ALSO THE EXTENT TO WHICH EMPLOYEE ORGANIZATIONS AND PUBLIC EMPLOYERS HAVE MET THEIR OBLIGATIONS UNDER THIS CHAPTER. ALL OTHER EMPLOYEES FALL WITHIN THE CATEGORY DESCRIBED IN SUBSECTION A.3 OF THIS SECTION. IF THERE ARE EXTRAORDINARY CIRCUMSTANCES UNDER WHICH THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC IS THREATENED, THE BOARD MAY ALSO APPLY TO THE SUPERIOR COURT FOR AN ORDER ENJOINING A STRIKE BY THIS CLASS.]

B.[C.] Submission of issues to arbitration.

1. ***Prior to expiration of contract.*** [FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN SUBSECTION A.1 OF THIS SECTION, IF] If the parties have not reached agreement seven days prior to expiration of the contract, the issue in dispute shall be submitted to arbitration before the party selected as factfinder in accordance with section 3.70.100.B.
2. ***Completion of mediation and factfinding.*** For bargaining units or portions of bargaining units [WITHIN THE CATEGORIES DESCRIBED IN SUBSECTION A.2 OR A.3 OF THIS SECTION] who have completed mediation and factfinding under section 3.70.100, the issues in dispute shall immediately be submitted to arbitration.
3. ***Agreement prior to arbitrator's award.*** The parties may continue collective bargaining and reach an agreement at any time prior to the issuance of the arbitrator's award.
4. ***Time limit for arbitration decision.*** Hearings shall be

1 concluded and the arbitrator shall forward his decision to
2 both parties not later than 60 days after the factfinder's
3 report [EXPIRATION DATE OF THE COLLECTIVE
4 BARGAINING AGREEMENT].

5 5. ***Selection of factfinder/arbitrator.*** The factfinder/arbitrator
6 shall be selected in accordance with section 3.70.100B by
7 each party exercising its preemptory challenge in turn until
8 only one factfinder/arbitrator remains.

9 6. ***Arbitration procedure.*** The arbitrator shall conduct the
10 arbitration according to the rules of Voluntary Rules of
11 Labor Arbitration published by the American Arbitration
12 Association, as may be modified by agreement between the
13 parties at the first day of hearing.

14 7. ***Scope of arbitrator's authority.*** The arbitrator shall be
15 limited in his authority to selection of one [ON A SUBJECT-
16 BY-SUBJECT BASIS FROM EACH] of the parties' last best
17 offer in its entirety. [ON EACH SUBJECT, THE ARBITRATOR
18 SHALL SELECT ONE PARTY'S PROPOSAL IN ITS
19 ENTIRETY.] The arbitrator shall not have the authority to
20 select or prepare his own offer nor select or combine
21 portions of either parties' last best offers on a given
22 subject. In exercising his or her discretion to select
23 between competing proposals [BY SUBJECT], the arbitrator
24 shall base his or her decisions solely on the facts
25 determined in accordance with sections 3.70.100B. and
26 applicable law.

27 [8. ***SUBJECT DEFINITION.*** FOR BARGAINING UNITS OR PORTIONS OF
28 BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN SUBSECTION
29 A.1. OF THIS SECTION, THE FOLLOWING ADDITIONAL PROVISIONS
30 REGARDING SELECTION OF SUBJECTS APPLIES AS FOLLOWS:

31 A. UNLESS OTHERWISE AGREED BY THE PARTIES TO THE
32 COLLECTIVE BARGAINING PROCESS, THE FOLLOWING SHALL
33 CONSTITUTE SEPARATE SUBJECTS FOR PURPOSE OF INTEREST
34 ARBITRATION:

35 (1) SCOPE OF THE BARGAINING UNIT AND THE DEFINITION
36 OF BARGAINING UNIT WORK;

37 (2) THE AMOUNT AND EFFECTIVE DATE OF ACROSS-THE-
38 BOARD WAGE CHANGES WHICH BECOME EFFECTIVE
39 DURING THE CONTRACT PERIOD EITHER EXPRESSED AS
40 A LUMP SUM, FIXED PERCENTAGE, COST OF LIVING
41 ADJUSTMENT OR AN ADJUSTABLE PERCENTAGE
42 CHANGE, INCLUDING ANY RETROACTIVE PAY;

43 (3) THE AMOUNT AND EFFECTIVE DATE OF WAGE CHANGES
44 NOT APPLICABLE ACROSS-THE-BOARD;

45 (4) HOURS OF WORK, WORK DAY, WORK WEEK AND SHIFT
46 SCHEDULES;

47 (5) OVERTIME;

48 (6) MEDICAL AND DENTAL INSURANCE COVERAGE;

49 (7) DISABILITY, LIFE AND OTHER INSURANCE COVERAGES;

50 (8) HOLIDAYS, INCLUDING ANY PREMIUM PAY FOR

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- HOLIDAYS WORKED;
- (9) PROMOTIONS, TRANSFERS AND DEMOTIONS;
- (10) LEAVE, INCLUDING ANNUAL, SICK AND OTHER PAID AND UNPAID LEAVE;
- (11) GRIEVANCE AND ARBITRATION PROCEDURES;
- (12) PREMIUM, SPECIALTY, SHIFT DIFFERENTIAL AND INCENTIVE PAY;
- (13) LAYOFF AND RECALL PROCEDURES;
- (14) UNION RECOGNITION, SECURITY, DUES AND OTHER UNION BUSINESS;
- (15) SENIORITY;
- (16) CLOTHING, TOOLS, AND EQUIPMENT;
- (17) SAFETY.]

[B. ALL SUBJECTS NOT LISTED IN SUBSECTION C.8.A. OF THIS SECTION SHALL BE GROUPED ON A SUBJECT-BY-SUBJECT BASIS AS MUTUALLY AGREED BY THE PARTIES.]

[C. ANY DISPUTE BETWEEN THE PARTIES REGARDING THE INCLUSION OR EXCLUSION OF ANY GIVEN ISSUE OR ISSUES IN ANY SUBJECT CATEGORY PROVIDED FOR IN SUBSECTIONS C.8.A. AND C.8.B. OF THIS SECTION SHALL FIRST BE REFERRED TO AND DECIDED BY THE ARBITRATOR NO LATER THAN 30 DAYS IN ADVANCE OF THE FIRST FACT FINDING HEARING BEFORE THE ARBITRATOR UNDER SECTION 3.70.100.B. AND SHALL BE DECIDED BY THE ARBITRATOR WITHIN SEVEN DAYS. IN MAKING HIS/HER DECISION, THE ARBITRATOR SHALL AVOID MINUTE DISSECTION OF ISSUES THAT WOULD THWART OR PROLONG ARBITRAL RESOLUTION.]

[D. ANY PARTY MAY APPEAL AN ADVERSE ARBITRATOR'S DECISION UNDER SUBSECTION C.8.C. OF THIS SECTION TO THE EMPLOYEES RELATIONS BOARD WITHIN FIVE DAYS OF THE ARBITRATOR'S DECISION. THE EMPLOYEE RELATIONS BOARD SHALL RENDER A DECISION ON SUCH AN APPEAL AT LEAST SEVEN DAYS BEFORE THE FACT FINDING HEARING.]

9. ***Payment of costs of arbitration. Cost of the arbitrator shall be borne equally by both parties.***

10. **Decision by arbitrator. The decision of the arbitrator shall be reduced to writing. The collective bargaining agreement, in compliance with the arbitrator's decision, shall be prepared and presented to the assembly for approval. The internal auditor or its contractor shall review and express an opinion on the financial analysis prepared by the affected parties of the projected costs and savings from the contract to be replaced resulting from the arbitrator's recommendation and the municipality's last best offer. The decision of the arbitrator [FOR BARGAINING UNITS OR PORTIONS OF BARGAINING UNITS] shall be final and binding upon the parties only after approval by eight votes of the assembly. If the arbitrator's decision is not approved by the assembly by the later of:**

A. 21 days after delivery to the municipal clerk,

- 1 **B. seven days following receipt of the municipality's**
 2 **financial analysis, or**
 3 **C. within 21 days after a mayoral veto,**

4
 5 **then the parties shall be considered at impasse. The**
 6 **municipality may then implement its last best offer.**

7
 8 [A. THE DECISION OF THE ARBITRATOR FOR BARGAINING UNITS OR
 9 PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY
 10 DESCRIBED IN SUBSECTION A.1 OF THIS SECTION SHALL BE
 11 REDUCED TO WRITING AND SHALL BE FINAL AND BINDING UPON
 12 THE PARTIES. THE COLLECTIVE BARGAINING AGREEMENT, IN
 13 COMPLIANCE WITH THE ARBITRATOR'S DECISION, SHALL BE
 14 PREPARED AND EXECUTED BY THE PARTIES. COLLECTIVE
 15 BARGAINING AGREEMENTS AWARDED THROUGH BINDING
 16 INTEREST ARBITRATION MAY NOT EXCEED TWO YEARS IN
 17 DURATION FROM THE DATE OF THE ARBITRATOR'S AWARD.
 18 DECISIONS OF THE ARBITRATOR MAY BE APPEALED TO THE
 19 SUPERIOR COURT FOR THE STATE ONLY FOR ABUSE OF
 20 DISCRETION, FRAUD OR MISCONDUCT ON THE PART OF THE
 21 ARBITRATOR. ON APPEAL TO THE SUPERIOR COURT, LEGAL
 22 DETERMINATIONS OF THE EMPLOYEE RELATIONS BOARD SHALL
 23 BE REVIEWED DE NOVO BY THE SUPERIOR COURT.]

24 [B. THE DECISION OF THE ARBITRATOR FOR BARGAINING UNITS OR
 25 PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORIES
 26 DESCRIBED IN SUBSECTION A.2 OR A.3 OF THIS SECTION
 27 SHALL BE FINAL AND BINDING UPON THE PARTIES AFTER
 28 APPROVAL BY EIGHT VOTES OF THE ASSEMBLY, OR IN THE CASE
 29 OF THE ANCHORAGE TELEPHONE UTILITY AFTER APPROVAL BY
 30 THREE VOTES OF THE DIRECTORS OF THE UTILITY. THE
 31 INTERNAL AUDITOR OR ITS CONTRACTOR SHALL REVIEW AND
 32 EXPRESS AN OPINION ON THE FINANCIAL ANALYSIS PREPARED
 33 BY THE AFFECTED PARTIES OF THE PROJECTED COSTS AND
 34 SAVINGS FROM THE CONTRACT TO BE REPLACED RESULTING
 35 FROM THE ARBITRATOR'S RECOMMENDATION AND THE
 36 MUNICIPALITY'S LAST BEST OFFER. IF THE ARBITRATOR'S
 37 DECISION IS NOT APPROVED BY THE ASSEMBLY WITHIN 21 DAYS
 38 AFTER DELIVERY TO THE MUNICIPAL CLERK, OR SEVEN DAYS
 39 FOLLOWING RECEIPT OF THE MUNICIPALITY'S FINANCIAL
 40 ANALYSIS, WHICHEVER IS LATER, THE PARTIES SHALL BE
 41 CONSIDERED AT IMPASSE. THE MUNICIPALITY MAY THEN
 42 IMPLEMENT ITS LAST BEST OFFER AND THE AFFECTED
 43 BARGAINING UNIT MAY EXERCISE ITS RIGHT TO STRIKE.]

44 [11. *APPEAL.* THE PARTIES TO ARBITRATION MAY APPEAL TO THE
 45 EMPLOYEE RELATIONS BOARD AN ARBITRATOR'S DECISION IF THE
 46 ARBITRATOR HAS EXCEEDED HIS JURISDICTION AND/OR AUTHORITY
 47 UNDER THE APPLICABLE LABOR AGREEMENT OR THE PROVISIONS OF
 48 CHAPTER 3.70 OR THE ARBITRATOR'S FAILURE TO RENDER A DECISION.
 49 SAID APPEAL MUST BE FILED WITHIN 14 DAYS OF THE ARBITRATOR'S
 50 DECISION OR FAILURE TO RENDER A DECISION. IF THE EMPLOYEE
 51 RELATIONS BOARD DOES NOT RENDER A DECISION WITHIN 30 DAYS

AFTER RECEIPT OF AN APPEAL THEN THE ARBITRATOR'S DECISION SHALL REMAIN UNDISTURBED. THE EMPLOYEE RELATIONS BOARD'S DECISION ON SUCH AN APPEAL SHALL BE LIMITED TO REMAND OF THE MATTER BACK TO THE ARBITRATOR FOR REMEDY CONSISTENT WITH THE EMPLOYEE RELATIONS BOARD'S PREVIOUS OPINIONS.]

(AO No. 69-75; AO No. 81-70; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1); AO No. 90-159; AO No. 91-29; AO No. 91-43(S-2); AO No. 91-173(S); AO No. 97-143(S-1), § 1, 12-9-97)

3.70.120 Work stoppage prohibited [STRIKES].

A. Employees may not engage in strikes, slow downs or intentional work disruptions. Upon a finding by the mayor that employees are engaging or about to engage in a strike or other activity prohibited by this chapter, the municipal attorney may petition to the Superior Court for an injunction, restraining order, or such other order as may be appropriate.

B. *Prohibited acts by employees and employee representatives.* No employee, employee organization, bargaining representative, labor union, association or officer thereof shall engage in, cause, instigate, encourage or condone a strike, slowdown, walkout or other form of voluntary unauthorized work disruption [COLLECTIVE WORK ACTION] against the municipality. [REGARDING ANY SERVICE SPECIFIED IN SECTION 3.70.110.A.1. NO SUCH PERSON OR ORGANIZATION SHALL TAKE SUCH ACTION WITH RESPECT TO SERVICES SPECIFIED IN SECTION 3.70.110.A.2 OR A.3 PRIOR TO COMPLETION OF THE PROCESS DESCRIBED IN SECTION 3.70.110.C OR THEREAFTER, IF THE COURT DETERMINES THAT SUCH ACTION HAS BEGUN TO THREATEN THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC.] The municipality shall not engage in a lockout or other procedure designed to prevent willing employees from working. No party shall cause, instigate or encourage a strike by refusing to bargain in good faith over mandatory subjects as defined in this Code.

C. [B] *Prohibited acts by supervisory personnel.* No person exercising on behalf of the municipality any authority, supervision or direction over an employee may authorize, approve, condone or consent to a strike, slowdown, walkout or other form of voluntary unauthorized work disruption by employees.

[C. *BOARD DETERMINATION REGARDING ILLEGAL STRIKES.* AT ANY TIME THAT THE BOARD IS NOTIFIED OF AN ILLEGAL STRIKE, THE BOARD SHALL CONVENE AS SOON AS POSSIBLE TO DETERMINE THE EXISTENCE OF SUCH STRIKE. THE BOARD SHALL GIVE NOTICE TO THE EMPLOYER AND THE BARGAINING REPRESENTATIVE FOR THE BARGAINING UNIT OF THEIR RIGHT TO APPEAR AND BE HEARD IN THE COURSE OF THE BOARD'S DETERMINATION. IF THE BOARD DETERMINES THAT AN ILLEGAL STRIKE IS OR HAS OCCURRED THE BOARD MAY APPLY TO THE SUPERIOR COURT FOR AN ORDER ENJOINING THE STRIKE.]

D. *Violations.* An employee who violates the prohibitions contained in this section shall be subject to appropriate disciplinary action, which may

1 include immediate discharge from employment.

- 2
3 E. *Loss of pay.* No compensation shall be paid by the municipality to any
4 employee with respect to any day or part thereof when such employee
5 was engaged in a strike or other work action prohibited under this
6 chapter.

7
8 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))

9
10 **3.70.130 Agreements.**

- 11
12 A. *Labor agreements.* Upon completion of negotiations between the
13 municipality and the bargaining representative over a labor agreement,
14 all of the terms and conditions shall be reduced to writing in a single
15 agreement. The agreement shall then be presented to the appropriate
16 employee unit for ratification and to the assembly for ratification in the
17 same manner as a municipal ordinance. No provision of a contract may
18 violate a municipal ordinance or the Charter or state or federal law
19 except as authorized in Section 3.70.170.

- 20
21 B. *Administrative agreements.* All administrative agreements shall be
22 submitted to the assembly for review and approval within 30 days of
23 execution by a duly authorized representative of an employee
24 organization and the Mayor's Designee. Assembly approval of
25 administrative agreements shall be in the same manner as a municipal
26 ordinance. No administrative agreement may extend beyond the term of
27 the collective bargaining agreement in effect at the time of the
28 agreement.

- 29
30 C. *Administrative letters.* All administrative letters shall be summarized
31 periodically by the department and submitted to the assembly for review
32 and acceptance in the form of an Assembly Information Memorandum
33 prior to the effective date of the administrative letter rules. No
34 administrative letter may extend beyond the term of the collective
35 bargaining agreement in effect at the time of the letter.

- 36
37 D. *Required acknowledgement and certification provisions:* To ensure that
38 the requirement for Assembly ratification and approval under this
39 Section 3.70.130 is acknowledged and understood, every collective
40 bargaining contract agreement modification, written interpretation, or
41 other change, alteration or amendment, no matter how denominated,
42 shall include in the body of the document a provision that explicitly
43 summarizes the requirements and remedial provisions of Section
44 3.70.130. and a certification under oath or affirmation by each duly
45 authorized representative who signs on behalf of a party.

- 46
47 1. The certification shall in substance state that in executing the
48 agreement the duly authorized representative, on behalf of the
49 party to the agreement understands and acknowledges that the
50 agreement must comply with Anchorage Municipal Code (AMC).
51 The authorized representative acknowledges and agrees that

1 AMC 3.70.130 requires Assembly approval of all modifications
 2 and amendments, no matter how denominated. The authorized
 3 representative acknowledges that absent Assembly approval,
 4 any modification or amendment no matter how denominated,
 5 shall be deemed null and void, and any payments made shall be
 6 recoverable by the Municipality. Absent Assembly approval
 7 required by AMC 3.70.130, written clarifications and
 8 interpretations within the definition of "administrative letter"
 9 under AMC 3.70.010 are invalid. AMC 3.70.010 prohibits the use
 10 of administrative letters to vary the explicit terms of a labor
 11 agreement. Intentional actions in violation of this Section
 12 3.70.130 are subject to fines and penalties under AMC Section
 13 1.45.010 and implementation without Assembly approval is
 14 prohibited under the municipal penal code, Title 8.

15
 16 2. No labor contract, agreement, modification, written
 17 interpretation, or other change, alteration or amendment, no
 18 matter how denominated, shall be ratified or approved by the
 19 Assembly unless the agreement includes the required
 20 acknowledgement provision and certifications.

21
 22 3. Implementation of any labor agreement or administrative
 23 agreement, no[T] matter how denominated, without prior
 24 Assembly ratification, is prohibited.

25
 26 E. *Remedial actions:* In the event that the provisions of this section are
 27 violated by administrative action, any labor agreement, agreement,
 28 modification, written interpretation, or other change, alteration or
 29 amendment, no matter how denominated, shall be null and void, with
 30 no[T] force or effect.

31
 32 F. *Grievances.* Notwithstanding the requirements in subsections A.—C.
 33 above, grievance settlements, including arbitration decisions, pertaining
 34 to specific employees shall not be submitted to the assembly, except
 35 where the grievance settlement requires an appropriation to a
 36 department budget.

37
 38 1. A proposed grievance settlement requiring an appropriation shall
 39 be submitted for assembly review and approval by resolution in
 40 accordance with assembly rules.

41
 42 (AO No. 69-75; AO No. 84-221(S); AO No. 89-46(S-1); AO No. 2008-135(S), §
 43 2, 9-29-09)

44
 45 **3.70.140 Unfair labor practices.**

46
 47 A. *Prohibited acts by municipality.* The municipality or its agents may not:

48
 49 1. Interfere, restrain or coerce an employee in the exercise of the
 50 employee's [HIS] rights guaranteed under this chapter.

- 1 2. Dominate or interfere with the formation, existence or
2 administration of an organization.
- 3
- 4 3. Discriminate in regard to hire, tenure, employment or a term or
5 condition of employment for the purpose of encouraging or
6 discouraging membership in an organization.
- 7
- 8 4. Discharge or discriminate against an employee because the
9 employee [HE] has signed or filed an affidavit, petition or
10 complaint, or given testimony under the provisions of this
11 chapter.
- 12
- 13 5. Refuse to bargain collectively in good faith over wages, hours
14 and other terms and conditions of employment with an
15 organization which is the exclusive representative of employees
16 in an appropriate unit, including but not limited to the discussion
17 of grievances with the exclusive representative.
- 18
- 19 B. *Prohibited acts by employees and employee representatives.* An
20 employee organization or bargaining representative or its agents or
21 employees may not:
22
- 23 1. Restrain or coerce:
24
- 25 a. An employee in the exercise of the rights guaranteed
26 under this chapter.
- 27
- 28 b. The municipality in the selection of its representative for
29 the purpose of collective bargaining or the adjustment of
30 grievances.
- 31
- 32 2. Refuse to bargain collectively in good faith over wages, hours
33 and other terms and conditions of employment with the public
34 employer if the bargaining representative has been designated
35 in accordance with the provisions of this chapter as the exclusive
36 representative of employees in the bargaining unit.
- 37
- 38 3. Authorize or engage in a strike, slow down, work stoppage or
39 other activity prohibited under this chapter.
- 40
- 41 4. Hinder or prevent, by threats, intimidations, force or coercion of
42 any kind, the pursuit of any lawful work or employment of the
43 municipality.
- 44
- 45 5. Engage in a secondary boycott or hinder or prevent by threat,
46 intimidation, force, coercion or sabotage, the obtaining, use or
47 disposition of materials, supplies, equipment or services.
- 48
- 49 6. Engage in any illegal effort to interfere with productions,
50 functions or services of the public employer.
- 51

- 1 C. *Complaints; informal conciliation.* If the municipality or an employee or
2 prospective or current bargaining representative believes that an unfair
3 labor practice has been committed, it may, within 30 days from
4 occurrence of the alleged unfair labor practice, file with the employee
5 relations board a verified written complaint stating the nature of the
6 violation and requesting that the board investigate the complaint. The
7 board shall, upon receipt of such a complaint, conduct a preliminary
8 investigation to determine whether probable cause exists in support of
9 the complaint or accusation. If the board determines, after an informal
10 investigation, that probable cause exists to support the complaint, it
11 shall try to eliminate the unfair labor practice by informal methods of
12 conference, conciliation and persuasion. Nothing said or done during
13 such settlement attempts may be used as evidence in subsequent
14 proceedings. If, after its informal inquiry, the board concludes that the
15 complaint is unfounded, the board shall dismiss the complaint forthwith.
16
- 17 D. *Hearing.* If the board fails to eliminate a prohibited unfair labor practice
18 through informal conciliation and conference attempts, the board shall,
19 within 14 days [TWO WEEKS] of receipt of the complaint, serve formal
20 notice of the complaint upon the respondent. Within two weeks after
21 service of notice, a hearing shall be conducted to determine the validity
22 of the complaint in accordance with administrative procedures adopted
23 by the board. The parties and the public shall have reasonable notice of
24 the time, date and place of the hearing. Each party shall have the
25 opportunity to be heard and to cross examine all witnesses. Testimony
26 shall be taken under oath and recorded electronically.
27
- 28 E. *Board order.* If, upon completion of the formal hearing of a complaint of
29 unfair labor practice, a majority of the board determines that the person
30 or party named in the written complaint has engaged in a prohibited
31 practice, the board shall issue and serve on the person an order or
32 decision requiring that party to cease and desist from the prohibited
33 practice and to take affirmative actions which will carry out the
34 provisions of this chapter. If the board finds that the complaint is not
35 supported, the board shall state its findings of fact and issue an order
36 dismissing the complaint or accusation.
37
- 38 F. *Enforcement by injunction.* The board may apply to the superior court
39 for an order enjoining the prohibited acts specified in its order or
40 decision.
41
- 42 G. *Other relief.* In addition to the other forms of relief for an unfair labor
43 practice mentioned in this section, the board may order reinstatement
44 of public employees, order payment of back pay and lost benefits,
45 award reasonable costs and attorney fees, or take other appropriate
46 action as will effectuate the policies and purposes of this chapter.
47 Where the board finds the commission of a purposeful and flagrant
48 unfair labor practice by an employee representative, it may petition to
49 the superior court to decertify the exclusive bargaining representative.
50
- 51 H. *Intervention.* The board may, at its discretion, permit intervention in

1 unfair labor practice hearings by other interested parties upon a
2 showing by such parties that they are directly affected by the
3 proceeding. Once the board has permitted intervention, such party may
4 appear, present evidence and cross examine witnesses at the hearing.
5

- 6 I. *Payment of costs of hearings.* All costs associated with unfair labor
7 practice hearings shall be borne by the party against which the board
8 rules. If the board takes no specific action or makes no decision, the
9 costs shall be shared equally. The board may, in its discretion, award
10 reasonable costs and attorneys' fees to the prevailing party in matters
11 involving unfair labor practice.
12
- 13 J. *Evidence.* The board shall apply the relaxed [NOT BE BOUND BY THE
14 TECHNICAL] rules of evidence in its conduct of the hearing but shall
15 conduct all such hearings in a manner that comports with due process.
16
- 17 K. *Appeals.* Decisions of the board may be appealed directly to the
18 superior court for the state to be reviewed only for gross error.
19
- 20 L. *Expedited proceedings.* The board may conduct expedited unfair labor
21 practice proceedings in cases where it deems it appropriate to do so.
22

23 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))
24

25 **3.70.150 Dues checkoff.**

26
27 Upon written authorization of an employee within a bargaining unit, a copy of
28 which shall be provided to the employer, the municipality may deduct monthly
29 from the payroll of the employee the amount of dues and other fees as
30 certified by the secretary of the exclusive bargaining representative and
31 authorized by the employee, and deliver that amount to the chief fiscal officer
32 of the exclusive bargaining representative. Dues checkoff may be revoked
33 upon failure by the certified bargaining representative to pay, within a
34 reasonable time specified by the board, cost allocations arising out of any
35 proceeding conducted by the board in accordance with this chapter.
36

37 (AO No. 69-75; AO No. 89-46(S-1))
38

39 **3.70.160 Binding arbitration.**

40
41 Binding arbitration of disputes which arise under a collective bargaining
42 agreement during the term of any collective bargaining agreement will be
43 permitted if the parties have agreed to that procedure for dispute resolution
44 and have included within the agreement a clause providing for that procedure.
45 The decision of the arbitrator shall be reduced to writing unless waived by the
46 parties and shall be final and binding upon the parties. Past practices of the
47 parties may be considered by the arbitrator in interpreting ambiguous contract
48 language. In no case shall past practices be relied upon by the arbitrator to
49 add a new provision to, or alter an unambiguous provision of a collective
50 bargaining agreement. In accordance with the provisions of AMC section
51 3.70.040, past practice shall not be relied upon by an arbitrator to prohibit a

1 workplace practice or procedure otherwise allowed by a collective bargaining
 2 agreement. If an unfair labor practice charge addressing the same or related
 3 matters is filed with the employee relations board and was deferred to
 4 arbitration by the board, the board shall retain jurisdiction to hear any
 5 outstanding issues not resolved by the arbitrator.

6
 7 (AO No. 69-75; AO No. 88-131(S); AO No. 88-148; AO No. 89-46(S-1))

8
 9 **3.70.170 Applicability of personnel regulations.**

10
 11 Each collective bargaining agreement made after the effective date of the
 12 ordinance from which this chapter is derived shall incorporate by reference the
 13 then current personnel regulations of the municipality. The provisions of the
 14 personnel regulations may only be substituted by negotiated agreements upon
 15 specific approval of the assembly. In the case of any changes made to the
 16 personnel regulations during the term of any collective bargaining agreement
 17 which conflict with the terms of any collective bargaining agreement, such
 18 personnel regulations shall not be applicable to that agreement.

19
 20 No collective bargaining agreement may vary from the federal Fair Labor
 21 Standards Act (FLSA) definitions and calculation for overtime compensation.
 22 Overtime compensation will be paid at a rate of one and one-half times the
 23 employees' *eligible regular* rate of pay. Overtime compensation eligibility is
 24 defined in AMC chapter 3.30 *et seq.*

25
 26 Terms and eligibility criteria of the municipal sponsored benefit programs,
 27 including available premiums, deductibles and coverages, shall be offered
 28 annually on a uniform basis to all eligible employees. All municipal employees
 29 shall be subject to the municipal leave policies and benefit programs as
 30 defined in AMC chapter 3.30 *et seq.*

31
 32 [ANY PROVISIONS OF THIS SECTION NOTWITHSTANDING, AN EMPLOYEE WHO BELIEVES
 33 THAT HE CONSISTENTLY PERFORMS WORK OF A HIGHER ORDER THAN STATED IN HIS
 34 JOB DESCRIPTION MAY, AFTER EXHAUSTION OF ADMINISTRATIVE REMEDIES, SEEK
 35 REALLOCATION WITHIN THE CLASSIFICATION PLAN AS PROVIDED BY APPLICABLE
 36 GRIEVANCE PROCEDURES.]

37
 38 (AO No. 69-75; AO No. 77-376; AO No. 82-56; AO No. 89-46(S-1))

39
 40 **Cross reference—** Personnel rules, ch. 3.30.

41
 42 **3.70.180 Transition measures; effective date.**

43
 44 This chapter applies to negotiations in progress on the effective date of the
 45 ordinance from which this chapter is derived and to negotiations commenced
 46 thereafter less than 120 days prior to expiration of the current contract
 47 between the parties, or where there is no current contract between the parties.
 48 With respect to such negotiations, the effective date of this chapter, or the date
 49 of commencement of negotiations, whichever is later, shall be deemed the
 50 120th day prior to contract expiration for purposes of the negotiation process
 51 as provided in this chapter.

1
2 (AO No. 69-75; AO No. 89-46(S-1))
3

4 **3.70.185 EMS integration plan. (Repealed.)**
5

6 [A. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, THE EMS
7 INTEGRATION PLAN IDENTIFIED AS PLAN B-110 AND PRESENTED TO THE
8 ASSEMBLY IN PUBLIC SESSION ON NOVEMBER 23, 1993, SHALL NOT BE A
9 SUBJECT OF BARGAINING. IMPLEMENTATION OF THAT PLAN SHALL NOT BE
10 MODIFIED OR LIMITED IN ANY MANNER BY APPLICATION OF THIS CHAPTER. IN
11 THE EVENT OF CONFLICT BETWEEN PROVISIONS OF PLAN B-110 AND THE FIRE
12 AND EMERGENCY MEDICAL SERVICES BARGAINING UNIT COLLECTIVE
13 BARGAINING AGREEMENT, THE PROVISIONS OF PLAN B-110 SHALL PREVAIL.
14 SHOULD EITHER THE MUNICIPALITY OR IAFF LOCAL 1264 QUESTION THE
15 EXISTENCE OF A CONFLICT BETWEEN PLAN B-110 AND THE COLLECTIVE
16 BARGAINING AGREEMENT, THE QUESTION SHALL BE REFERRED TO A THREE-
17 MEMBER PANEL CONSISTING OF TWO MEMBERS OF THE EMS BOARD, AS
18 DESIGNATED BY THE BOARD CHAIRPERSON, AND THE ASSEMBLY'S FIRE/EMS
19 CONSULTANT. THE PANEL SHALL ADVISE THE PARTIES IN WRITING IN A TIMELY
20 MANNER WHETHER OR NOT A CONFLICT EXISTS. DECISIONS OF THE PANEL MAY
21 BE APPEALED TO THE SUPERIOR COURT OF STATE.]
22

23 [B. NOTWITHSTANDING ANYTHING TO THE CONTRARY, CONTRACTUAL ISSUES
24 RAISED BY PLAN B-110, RELATED TO COMPENSATION FOR EMS SERVICES,
25 MAY BE OPENED FOR NEGOTIATIONS AFTER JULY 17, 1995, AT THE REQUEST
26 OF THE CITY OR THE IAFF. THIS IS NOT A GENERAL OPENER BUT IS LIMITED TO
27 COMPENSATION ISSUES ARISING AS A RESULT OF PLAN B-110.]
28

29 (AO No. 93-212(S-1), § 1, 12-14-93)
30

31 * * * * *
32

33 **Section 2.** Anchorage Municipal Code section 3.70.190 is repealed and reenacted
34 to read as follows (in accordance with AMC 1.05.050B., the full text of the repealed
35 section 3.70.190 is attached as Exhibit A):
36

37 **3.70.190 Bargaining units established; description.**
38

39 **A.** Bargaining units as established in section 3.70.080 will have
40 classification titles established through either the collective bargaining process,
41 section 3.70.090, or through administrative agreements, section 3.70.130, as
42 needed for efficiency of government operations.
43

44 **B.** When the municipality evaluates a position through the
45 classification process and determines the position should move out of
46 the current bargaining unit to either non-represented or to a different
47 bargaining unit, the municipality shall meet and confer with the
48 bargaining unit. If the municipality and the current bargaining unit are
49 unable to come to an agreement, the position shall be forwarded to the
50 Employee Relations Board for final determination. ~~The employer
51 reserves the right of its supervisory employees to temporarily reassign~~

~~union job duties and responsibilities to improve efficiencies or cover operational problems.~~

(AO No. 88-76; AO No. 142-76; AO No. 84-207; AO No. 86-7; AO No. 86-55; AO No. 88-131(S); AO No. 88-62; AO No. 89-46(S-1); AO No. 94-100, § 1, 1-24-94; AO No. 95-152, § 1, 7-7-95; AO No. 2001-170, § 2, 10-30-01; AO No. 2002-76, §§ 1, 2, 7-16-02)

Section 3. This ordinance does not amend alter or void any of the negotiated terms of existing collective bargaining agreements for the current terms of said agreements. This ordinance applies to all such agreements negotiated in the future. **The time limits of sections 3.70.090, .100, and .110 will be extended appropriately for current collective bargaining agreements expiring in 2013.**

Section 4. **A managed competition program consistent with the policies and purposes in section 3.70.020C will be developed by the administration within 180 days of approval of this ordinance and presented to the assembly.**

Section 5[4]. If any section of this ordinance, or portion thereof, or any section of the code adopted by this ordinance, or portion thereof, is deemed contrary to law, that portion shall be severable and the remainder shall continue in full force and effect.

Section 6[5]. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2013.

Chair of the Assembly

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 217-2013

Meeting Date: March 26, 2013

1 **From: MAYOR**

2
3 **Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE**
4 **CHAPTER 3.70, EMPLOYEE RELATIONS, WITH COMPREHENSIVE**
5 **UPDATES SECURING LONG TERM VIABILITY AND FINANCIAL**
6 **STABILITY OF EMPLOYEE AND LABOR RELATIONS.**
7

8 The Municipality's current labor relations ordinance, AMC 3.70, was originally adopted
9 in 1969 and substantially amended in 1977 and 1989. It is critically out of date in
10 regard to current municipal operations and modern effective management techniques.
11 In addition, the current code does not fully recognize the Assembly's ultimate
12 responsibility to the citizens of Anchorage to effectively budget and control spending.
13 The result is an amalgamation of nine collective bargaining agreements (CBAs),
14 excessively complex and inconsistent personnel management systems, and rapidly
15 increasing labor and administrative expenses, out-stripping inflation and revenue.
16

17 Similar defects in public sector collective bargaining have created a crisis nationwide in
18 regard to public labor relations. Many municipalities and cities, as well as some states,
19 are locked in legal and political struggles with their public employee labor unions, some
20 with the goal of eliminating collective bargaining and terminating current contracts.
21 That is not the course being proposed here. Through this ordinance, we hope to avoid
22 a similar struggle in Anchorage by revising the current code to allow for the gradual
23 reformation of Municipal labor relations to control labor and administrative costs while
24 still recognizing current agreements and legitimate reasonable collective bargaining
25 expectations, going forward.
26

27 **Background**

28
29 Public entities, unlike private corporations, are not subject to federal labor relations
30 laws such as the National Labor Relations Act (NLRA). Public labor relations are
31 controlled by state law. Alaska state law (PERA, AS § 23.40.010, *et seq.*) allows
32 Municipalities to "opt out" and create their own labor relations structure. The
33 Municipality exercised this option in 1975 and is largely free to modify its labor relations
34 framework as local circumstances require. *See, Anchorage Municipal Employees Ass'n*
35 *v. Municipality of Anchorage, 618 P.2d 575, 581 (Alaska 1980).*
36

1 The ordinance does NOT amend, alter, or void any currently existing labor agreement
2 during its current term. This ordinance applies to all such agreements negotiated in the
3 future. This ordinance does not exempt the Municipality from any applicable safety
4 laws or regulations, nor does it eliminate any Municipal safety team. For the purpose
5 of scheduling shifts, holidays, and station assignments, seniority remains a
6 management tool.

7
8 **Direct labor cost cap** AMC 3.70.01, .020D, .130D

9
10 In recognition of sustaining effective operations and financially sound principles,
11 amendments are proposed under AMC 3.70.020. Under the ordinance, the total direct
12 labor costs of all future contracts as a component of total operating costs will be
13 compared to revenue projections prior to approval, and limited by increases in the CPI-
14 U, based on a 5 year average plus 1 percent. For example, the 5 year average for
15 2008-2012 is 2.6%. Contracts executed in 2013 cannot increase more than the
16 maximum allowed 3.6% per year (5 year average of 2.6% plus 1%). The limitation on
17 direct labor costs sets a ceiling for costs and is not considered a floor for future contract
18 negotiations. Any agreement needs to take into consideration the attainable tax
19 revenue as calculated in Title 12. Additional safeguards to reflect actual labor contract
20 costs are included in AMC 3.70.130D as it requires cost projections be reported to the
21 Assembly. **The “per employee basis” term is used to indicate that additional**
22 **personnel added through expanded operations are not included in the “direct**
23 **labor cost” cap.**

24
25 **Pay incentives limited to qualifications and job duties** AMC 3.70.020H

26
27 In addition, a limitation under section AMC 3.70.020H has been placed on pay
28 enhancement provisions. This change is to provide transparency in regard to actual
29 wages, standardize pay enhancement methodology, and to recognize a clear division
30 between increases in pay rate based on enhanced qualifications, and increases in pay
31 rate based on performance, the latter being eliminated. Longevity pay (for employees
32 on the payroll as of 12/31/1980) and service recognition pay (generally for employees
33 on the payroll after 12/31/1980 and before 7/1/2011) will continue for employees in
34 those programs. However current “performance” incentives will be frozen at earned
35 levels at the end of contract. Any “performance” incentive subject to renewal will expire
36 at the end of the earned period. **A purpose of this provision is to assure**
37 **transparency through easily ascertainable wage rates.**

38
39 The increased costs of future collective bargaining agreements will include the current
40 cost of contracts, plus CPI-U, plus 1%. Future negotiations will include the topic of pay
41 enhancements for items such as education, certification, special team assignments,
42 acting pay, and shift differentials **directly related to qualifications and duties.**

43
44 **Standardized benefit programs** AMC 3.70.020E, .170

45
46 Current benefit programs today result in over 600 different types of eligibility criteria to
47 administer employee benefit plans. The proposed amendments in AMC 3.70.020E and
48 3.70.170 require uniformity and consistency in those benefit programs sponsored by
49 the Municipality. The standardization of employee benefit plans reduces the current
50 administrative complexities of multiple plans, with inappropriate rewards, and allows
51 greater flexibility to adjust to market conditions while efficiently providing competitive,

1 uniform benefits to all employees. **This provision includes municipally sponsored**
2 **insurance programs.** PERS participation and currently existing pension plans will not
3 be affected; nor will benefits to current retirees.

4 **Consistency of leave programs AMC 3.70.170**

5
6
7 **Changes to AMC 3.70.170 also require standardization of Municipal leave plans**
8 **to the extent practical under AMC 3.30 et seq. This provision recognizes that**
9 **AMC 3.30 will need to be amended to address the particular concerns of public**
10 **safety and 24 hour schedule workers.**

11 12 **Managed Competition AMC 3.70.010, .020C**

13
14 Changes to AMC 3.70.010, 3.70.020 and 3.70.090A.2 allow the implementation of a
15 managed competition program, a type of program which has been successfully
16 implemented in municipalities throughout the country. Direct law enforcement and fire
17 protection services, including EMS, fire prevention, and emergency dispatch, are
18 exempted from any managed competition program that is ultimately implemented.
19 These amendments only enable the changes to the managed competition program,
20 additional provisions under Title 7, Purchasing, will be necessary to fully implement a
21 managed competition program. A managed competition plan will be proposed by the
22 administration within 180 days of passage of this ordinance.

23
24 The purpose of managed competition is not to eliminate bargaining unit work, but to
25 make it competitive with private service sectors. Commonly, the existing bargaining
26 unit is the successful bidder. Managed competition provides a structured, transparent
27 process that allows an open and fair comparison of public sector employees and
28 independent contractors in their ability to deliver services to our citizens. This strategy
29 recognizes the high quality and potential of public sector employees, and seeks to tap
30 their creativity, experience and resourcefulness by giving them the opportunity to
31 structure organizations and processes in ways similar to best practices in competitive
32 businesses. The benefit of the competitive process is the ability of the public agency to
33 positively influence expectations about local government and gain public support. A
34 properly designed competitive process can enable the delivery of services as capably
35 and efficiently as any private vendor.

36 37 **Reform of impasse process AMC 3.70.100, .110, .120**

38
39 The ordinance is revised to clarify the impasse process resulting in a more effective
40 process for arbitrations and strikes. Under the amended provisions of AMC 3.70.110,
41 upon reaching impasse after mediation, fact-finding, and arbitration, -the arbitrator's
42 decision must be approved by at least 8 members of the Assembly. If the arbitrator's
43 decision is not approved, the Municipality's Last Best Offer (LBO) may be implemented
44 in accordance with 3.70.110B.10. The ability of the union to strike has been replaced
45 with less disruptive means to resolve contract negotiation disputes while still ensuring
46 delivery of public services.

47
48 The Alaska Superior Court has recently reaffirmed decisions of the US and Alaska
49 Supreme Courts ruling that public employees have no inherent right to strike, and the
50 courts have repeatedly reaffirmed the power of the legislative branch to control
51 appropriations. Public labor contract negotiations are inherently different from the

1 private sector due to the political nature of the procedure. Eliminating any right to strike
2 puts both labor and management on equal footing and keeps public services from
3 being endangered.

4
5 AMC 3.70.100 is amended to require both parties to split the cost of mediation if it is
6 required. The purpose of this amendment is to assure that both parties come to the
7 mediation with an equal stake in the outcome. Under the current ordinance, the
8 Municipality bears the entire cost of mediation.

9
10 AMC 3.70.100 and .110 are amended to limit contract continuations to 180 days.

11 12 **Transparency AMC 3.70.020F**

13
14 Greater transparency and consistency is also proposed under AMC 3.70.020F. The
15 ordinance standardizes rules regarding shop steward and union officer time-keeping
16 and compensation for union activity, and transfers payment obligation to the unions.
17 The requirement that the Municipality not pay for shop steward time spent exclusively
18 on union activities has been codified.

19 20 **Employee Relations Board AMC 3.70.050**

21
22 AMC 3.70.050 currently establishes the impartial Employee Relations Board (ERB)
23 with the power to recognize and establish bargaining units and to resolve disputes as
24 to what positions are exempted from collective bargaining. In the proposed ordinance,
25 the ERB powers and policies are further defined and consistent with other municipal
26 boards and commissions. The unions will be able to propose candidates for one of the
27 ERB seats.

28 29 **Clarification of employees exempt from collective bargaining AMC 3.70.010, .060**

30
31 AMC 3.70.060, collective bargaining units, is updated with modified definitions of
32 "confidential" and "supervisory" employees along with clarifications of executive staff, to
33 provide a clear line between represented employees and management. This will help
34 avoid placement of employees in positions that subject them to conflicting loyalties.

35 36 **Standardization AMC 3.70.020G, .170**

37
38 A number of changes in AMC 3.70.170 are aimed at requiring more uniformity in
39 Municipal collective bargaining agreements. Standardized holidays are noted in
40 section AMC 3.70.020G along with items in section AMC 3.70.170. This includes
41 applying FLSA (wage and hour) standards to the extent possible, and a more uniform
42 implementation of the personnel rules. As a practical matter, the differences in the
43 individual CBAs and personnel rules, and numerous different ways of calculating pay,
44 result in complex, nonstandard rules across the municipality which creates additional
45 administrative costs to maintain. These provisions make it clear that overtime will be a
46 multiplication factor of 1 ½ times the hourly rate, allowing for the personnel rules and
47 negotiation to determine overtime eligibility. **This provision requires FLSA to be the**
48 **"default" standard when terms are not otherwise defined by AMC 3.30 et seq. or**
49 **by negotiation.**

50
51 To implement standardization, and to allow more flexibility in changing working

1 conditions through collective bargaining, the application of “past practice” in arbitration
2 has been limited in the ordinance.

3
4 **Housekeeping** AMC 3.70.010, .090, .130, .185, .190

5
6 Although the Municipality currently recognizes nine bargaining units, AMC 3.70.190
7 only names five. AMC 3.70.190 is currently inconsistent and out of date, and therefore,
8 unnecessary reporting is proposed for deletion. The modified language reaffirms the
9 established collective bargaining units while maintaining flexibility for future changes.
10 Inclusion of positions in a bargaining unit will be handled through the bargaining
11 process unless identified as exempt in 3.70.

12
13 Additional revisions clarify and eliminate unused definitions and repeal unnecessary,
14 outdated section AMC 3.70.185. The ordinance also proposes changes to incorporate
15 prior assembly guidance that limits labor agreements to three years, forbids union
16 signatory clauses, and increases scheduling flexibility.

17
18 **Conclusion**

19
20 The intent of these revisions is to place the power of appropriation firmly with the
21 Assembly and to apply uniform standards in specific areas ensuring all municipal
22 employees are under the same set of rules with not favoring one group over another. It
23 supports a relationship with the labor unions and reinforces the need to be fiscally
24 responsible and competitive.

25
26 **THE ADMINISTRATION RECOMMENDS APPROVAL.**

27
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