

Submitted by: ASSEMBLY CHAIR HALL, ASSEMBLY
VICE CHAIR JOHNSTON, AND
MAYOR SULLIVAN

Prepared by: Dept. of Law and Employee
Relations

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ANCHORAGE, ALASKA
AO No. 2013-37

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

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Anchorage Municipal Code chapter 3.70, Employee Relations, was last updated as a whole in 1989 and some provisions are out of date; and

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

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

THE ANCHORAGE ASSEMBLY ORDAINS:

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

Chapter 3.70 EMPLOYEE RELATIONS*

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

3.70.010 Definitions.

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- 3.70.190 Bargaining units established; description.
- 3.70.195 Appointment of special officers.
- 3.70.196 Post retirement police and fire medical benefits.
- 3.70.200 Severability.

3.70.010 Definitions.

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

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

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

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

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

Board means the employee relations board of the municipality.

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 operations.

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

30
31 *Direct law enforcement* means all sworn officers within the police
32 department.

33
34 *Dues checkoff* means the obligation or practice of the government of
35 deduction from the salary of a public employee at the employee's [HIS] written
36 authorization of an amount for the payment of the employee's [HIS]
37 membership dues in an employee organization, and the obligation of the
38 municipality to transmit the sums so deducted to the employee organization.

39
40 *Election* means a proceeding conducted and supervised by the
41 employee relations board in which employees in a collective bargaining unit
42 cast secret written ballots for the purpose of determining a collective
43 bargaining representative or for any other purpose specified in this chapter.

44
45 *[ELECTRICAL GENERATION AND TRANSMISSION MEANS THOSE EMPLOYEE*
46 *SERVICES, AS DETERMINED BY THE BOARD, WHICH ARE ESSENTIAL TO THE*
47 *UNINTERRUPTED GENERATION AND TRANSMISSION OF ELECTRICAL POWER TO THE*
48 *COMMUNITY.]*

49
50 *[EMERGENCY MEDICAL SERVICES MEANS ALL EMPLOYEES IN THE SECTION OF*
51 *EMERGENCY MEDICAL SERVICES.]*

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

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

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

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

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

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

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

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

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

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

[PERSONAL STAFF MEANS THE AIDES, SECRETARIES AND CLERKS WORKING DIRECTLY FOR AN OFFICIAL OR SUPERVISORY EMPLOYEE.]

[POLICE MEANS ALL EMPLOYEES WITHIN THE POLICE DEPARTMENT]

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

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

Staff means all employees within the department, division, section or office affected.

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

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

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

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

3.70.020 Declaration of policy.

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

B. *Communications policy.* It is also the policy of the municipality that

continuing communications shall be promoted between the municipality and employee representatives and that no collective bargaining agreement will be ratified by the assembly unless it contains, as a part of the agreement, the following: "The parties agree that they will meet and confer in good faith at reasonable times and places concerning this agreement, and its interpretation or any other matter of mutual concern to employee representatives and the municipality. The parties further agree that either party may request in writing, that the parties confer within 14 days after the date of delivery of the request, in regard to specific matters. An unexcusable refusal to meet and confer in response to such request shall be a violation of this agreement. There shall be no obligation on the part of either party to reopen, modify, amend or otherwise alter the terminology or interpretation of this agreement or to make any other agreement as a result of any such conferences nor shall the requirement for such conferences alter the rights or obligations of the parties under this agreement."

C. Managed competition program. It is the policy of the municipality that no collective bargaining agreement will be ratified by the assembly unless it contains, as part of the agreement, provisions which allow the municipality to implement and practice the principles, strategies and tactics of a managed competition program, while recognizing and balancing the legitimate employment interests of municipal employees, and management's rights, as provided in 3.70.040 of this chapter. A managed competition program shall not be used to compete or contract for the delivery of direct law enforcement or direct fire protection services to the municipality.

D. Limitation on direct labor costs increases. It is the policy of the municipality that no collective bargaining agreement will be ratified by the assembly, if the percentage increase in direct labor costs associated with the agreement 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. 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.

F. Payments for services to union. It is the policy of the municipality that

no collective bargaining agreement will be ratified by the assembly unless it contains, as part of the agreement, 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 for 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. No collective bargaining agreement will be ratified by the assembly if it contains any provision establishing a holiday other than the holidays recognized by the municipality in AMC chapter 3.30.

H. 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 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 pay based on performance or longevity, by whatever name, including, but not limited to, performance based incentive pay, performance step programs, and pay increases based on longevity or service recognition, shall be eliminated.

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

3.70.030 Rights of employees.

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

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

3.70.040 Management rights.

A. It is the right of the municipality acting through its agencies to:

1. Determine the standards of service to be offered by its agencies;
2. Determine the standards of selection for employment;
3. Direct and supervise its employees;
4. Take disciplinary action;

5. Relieve its employees from duty because of lack of work or for other legitimate reasons;
6. Maintain the efficiency of governmental operations;
7. Determine the methods, means, equipment and personnel by which government operations are to be conducted including staffing and scheduling, and overtime;
8. Adopt and amend a classification plan and allocate and reallocate employees to positions within the plan;
9. Take all necessary actions to carry out its mission in emergencies; [AND]
10. Exercise complete control and discretion over scheduling its employees and its organization and the technology and/or equipment of performing its work;
11. Determine key and essential personnel and necessary equipment and supplies in the event of an emergency declaration.

- B. The municipality declares that there is nothing incompatible with the maintenance of these rights and collective bargaining as to the method of application of these rights on matters of wages, hours and other terms and conditions of employment. In exercising management rights, the municipality shall ensure that, where matters of wages, hours and other terms and conditions of employment are involved, all written agreements are observed unless contrary to law. Units appropriate for collective bargaining shall be determined by the employee relations board in accordance with criteria established by the assembly in this chapter.

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

3.70.050 Employee relations board.

- A. *Established; membership.* There is established an impartial body, the employee relations board of the municipality. The board is made up of three impartial members appointed by the mayor and confirmed by the assembly in public hearing. The board must include a member with a background in management, a member with a background in labor, and a member from the general public. The board shall annually select a chair from among its members to serve a term of one year. Confirmation hearings shall be preceded by at least two weeks' notice to representatives of each municipal bargaining unit of the proposed appointment. The employee relations board reports jointly to the mayor

and the assembly.

B. *Compensation of members; other employment.* None of the members of the board shall be employed by the municipality or by any of the groups covered by this chapter. [MEMBERS OF THE BOARD SHALL BE PAID \$50.00 PER DAY OR PORTION THEREOF WHEN SITTING AS THE BOARD.]

C. *Staff.* All staff costs for the board shall be borne by the municipality. For purposes of this section, staff costs are those costs necessary to pay the salaries of those municipal employees who normally serve as staff to the board, and to provide those employees with day-to-day office supplies. The municipality shall assume all costs incurred in connection with the official activities of the board unless specified differently elsewhere in this chapter. The board shall determine its staff needs and report such to the mayor and the assembly for approval and inclusion in the annual budget.

D. *Powers and duties.* The board shall administer the policies established by this chapter. Its duties shall include but are not limited to:

1. Determining in each case the unit appropriate for the purposes of collective bargaining, taking care to avoid unnecessary fragmentation of homogenous groups.

2. Conduct of representation elections.

3. Certification or decertification of employee organizations as exclusive representatives.

4. [RESOLUTION OF DISPUTES, INCLUDING] Administrative oversight of mediation[,] and fact-finding [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:

1. All executive employees and those appointed employees as

identified in section 3.30.012[.]A₂;

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];
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 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.

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

3.70.070 Recognition and certification of employee organizations.

- A. The municipality shall recognize and bargain with certified bargaining representatives selected according to the procedures set out in this chapter.
- B. Certification by the board shall conclusively establish that the certified organization is the proper bargaining representative for the bargaining unit. The municipality and the certified bargaining representatives shall bargain in good faith for the purpose of entering into written agreements with respect to wages, hours and other terms and conditions of employment, as provided in this chapter.
- C. If a change of certification occurs before the expiration of a current bargaining agreement, the municipality shall bargain with the newly certified bargaining representative for purposes of reaching a new agreement.

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

3.70.080 Certification of bargaining representative.

- A. *Generally.* The board shall determine the bargaining representative according to the procedures set out in this section. Upon such determination, the board shall certify the bargaining representative. As a condition of certification, the bargaining representative shall represent all employees within the unit without regard to membership in the organization. No closed shop shall be allowed. Nothing in this section bars inclusion in a collective bargaining agreement of a requirement that all members of the unit affiliate with the bargaining representative within 30 days after the date of their employment, or the date of certification, whichever is later.
- B. *Initiation of election.* Bargaining representatives shall be determined by election by employees within the bargaining unit by secret written ballot or by consent of the parties and approval by the board. An election on representation may be initiated by presentation to the board of

1 authorization cards dated no more than one hundred and eighty (180)
2 days before the date of presentation, containing the signatures of at
3 least 30 percent of the employees within the bargaining unit requesting
4 that the applicant be certified to represent the members of the
5 bargaining unit. No petition shall be entertained by the board if there
6 has been an election in the unit during the preceding 12 months. No
7 election may be directed by the employee relations board in a
8 bargaining unit in which there is in force and effect a valid collective
9 bargaining agreement, except during a 180-day period preceding the
10 expiration date. However, no collective bargaining agreement may bar
11 an election upon petition of persons in the bargaining unit, if more than
12 three years have elapsed since the execution of the agreement or the
13 last timely renewal, whichever was later.

14
15 C. *Time for presentation of petition for election.* A petition based on
16 authorization cards must be presented to the board not more than 180
17 days or not less than 150 days before the expiration of the current
18 agreement.

19
20 D. *Verification of petition for election.* Upon timely receipt of authorization
21 cards requesting a representation election, the board shall examine the
22 cards and other evidence to ensure that the signatures contained
23 thereon are genuine and that they represent signatures of members of
24 the bargaining unit entitled to vote. Upon verification, the board shall
25 post immediate notice that authorization cards have been received
26 requesting a representation election and that other prospective
27 bargaining representatives desiring their names be placed upon the
28 ballot have an additional period of 15 days in which to present
29 authorization cards reflecting the desires of ten percent of the
30 employees within the bargaining unit that such prospective bargaining
31 representative be certified as the bargaining representative. If the
32 board finds the same signatures on more than one authorization card, it
33 shall reject all cards on which the signature appears.

34
35 E. *Pre-election hearing.* No election may be held without first conducting a
36 pre-election hearing to determine the validity of all requests for
37 certification, the time and procedures for the election, and the contents
38 of the ballot. The pre-election hearing shall be conducted within one
39 week after the expiration of time for submission of authorization cards
40 for intervention of an additional party in the election. All parties which
41 have petitioned for certification, as well as the employer, shall have the
42 opportunity to appear and participate at pre-election hearings.

43
44 F. *Election ballot.* The ballot shall contain the name of each proposed
45 bargaining representative which has been presented to the board in
46 accordance with this section, as well as the name of the currently
47 certified bargaining representative. The ballot shall also contain a
48 choice for any employee to designate that the employee [HE] does not
49 desire to be represented by any bargaining representative.

50
51 G. *Notice of election.* Upon conclusion of the pre-election hearing, the

1 board shall notify all employees within the bargaining unit of an election
2 to be held on the question of representation within the bargaining unit.
3 Notice shall be given to each employee at least seven days prior to the
4 election. Additionally, notice shall be posted on municipal bulletin
5 boards in the areas in which employees of the bargaining unit work.
6 The notification shall specify each of the choices contained on the
7 ballot, that the ballot is to be a secret ballot, and the time, date and
8 place of the election. Defects of notice shall not invalidate an election
9 so long as there has been substantial compliance with the
10 requirements of this subsection.

11
12 H. *Date of election.* Representation elections shall be conducted so that
13 employees have reasonable opportunities to vote during normal
14 working hours. The election shall be held at least 120 days prior to the
15 expiration of a current bargaining agreement affecting the bargaining
16 unit.

17
18 I. *Supervision of elections.* All representation elections shall be
19 supervised by the board. An observer from each prospective bargaining
20 representative appearing on the ballot and a representative of the
21 employer may be present at each polling place. The board shall
22 establish the time, date and place for the election.

23
24 J. *Result of elections.* Certification shall require a majority of the valid
25 ballots cast. Where more than one organization is on the ballot and
26 none of the three or more choices receives a majority vote of the valid
27 ballots cast, a runoff election shall be held. The runoff ballot shall
28 contain the two choices which received the largest and second largest
29 number of valid ballots cast. The runoff election shall be conducted
30 within 14 days of the initial election. Notice and posting for the runoff
31 election shall be the same as for the regular election. If the votes for
32 three or more choices are equal, the runoff shall be between the
33 prospective bargaining representatives.

34
35 K. *Consent recognition.* The employer and a prospective bargaining
36 representative may consent to recognition of the bargaining
37 representative in the case of a bargaining unit which is not currently
38 represented. In such case, the parties shall petition the board for
39 certification. The petition shall include authorization cards having the
40 signatures of more than 50 percent of the members of the proposed
41 bargaining unit, dated no more than one hundred and eighty (180) days
42 before the date the petition is presented. The board shall determine
43 whether the prospective bargaining representative represents a
44 majority of the employees within the bargaining unit. If the board
45 determines that the bargaining unit is appropriate and the bargaining
46 representative represents a majority of the employees within the
47 bargaining unit, the board shall certify the prospective bargaining
48 representative as the certified bargaining representative for purposes of
49 collective bargaining. If the board determines that the applicant does
50 not represent a majority of the employees within the bargaining unit, an
51 election shall be held in the manner provided in this chapter, if the

election provisions of this chapter have been met.

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

3.70.090 Collective bargaining.

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

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

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

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

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

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

C. Collective bargaining shall commence at least 120 [90] days prior to the

contract expiration date. If neither party initiates collective bargaining prior to that time, the current contract shall be extended for an additional year.

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

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

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

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

b. After negotiations commence, neither party to the negotiations shall communicate with the assembly or any of its members concerning the negotiations except through the periodic reporting process described in this section.

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

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

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

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

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

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

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

3.70.100 Mediation and fact-finding.

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

B. If, on the 60 [30]th day prior to the contract expiration date, a collective bargaining agreement has not been executed between the parties, the parties shall select a fact finder from a list of nine names, three names from within the state and six names from outside the state, submitted by the American Arbitration Association unless otherwise mutually agreed to by the parties, to conduct a hearing and return findings of fact concerning the specific issue in question. The fact finder shall have the power to determine all relevant facts including but not limited to workload, productivity, economic feasibility, cost of living, the parties' bargaining history, relevant market comparisons in the public sector and relevant market comparisons in the private sector taking into account the cost of living in the markets compared[, THE EMPLOYER'S PAST PRACTICE] and impact on personnel [OR WORKPLACE MORALE]. The cost of the fact finder shall be shared equally by the parties. The fact finder shall within seven days of appointment conduct informal hearings and return [HIS] findings to the employer and bargaining representative. The fact finder shall submit a written report recommending terms and conditions to settle the dispute within 30 days following the fact-finding hearing. This report shall be the basis for post-fact-finding negotiation or mediation between the parties. If no settlement is reached, the fact-finding report shall become a public document 15 days after the first post-fact-finding negotiation or mediation meeting. [If, within 14 days after transmission of the findings of fact to the parties, an agreement has not been reached, the parties shall submit all unresolved matters to arbitration. Findings shall be made public upon delivery to the employer and bargaining representative.]

C. The deadlines in subsections A and B of this section may be extended up to 150 days by the parties by mutual consent as long as good faith bargaining continues.

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

3.70.110 Impasse resolutions.

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

No collective bargaining agreement may be extended more than 180 days without assembly approval. If 150 days after the expiration date of an agreement, if no new agreement has been reached, the assembly must impose the last best offer of one of the parties.

[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.]

1
2 [C. *SUBMISSION OF ISSUES TO ARBITRATION.*

- 3 1. *PRIOR TO EXPIRATION OF CONTRACT.* FOR BARGAINING UNITS OR
4 PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN
5 SUBSECTION A.1 OF THIS SECTION, IF THE PARTIES HAVE NOT
6 REACHED AGREEMENT SEVEN DAYS PRIOR TO EXPIRATION OF THE
7 CONTRACT, THE ISSUE IN DISPUTE SHALL BE SUBMITTED TO
8 ARBITRATION BEFORE THE PARTY SELECTED AS FACTFINDER IN
9 ACCORDANCE WITH SECTION 3.70.100.B.
- 10 2. *COMPLETION OF MEDIATION AND FACTFINDING.* FOR BARGAINING
11 UNITS OR PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORIES
12 DESCRIBED IN SUBSECTION A.2 OR A.3 OF THIS SECTION WHO HAVE
13 COMPLETED MEDIATION AND FACTFINDING UNDER SECTION 3.70.100,
14 THE ISSUES IN DISPUTE SHALL IMMEDIATELY BE SUBMITTED TO
15 ARBITRATION.
- 16 3. *AGREEMENT PRIOR TO ARBITRATOR'S AWARD.* THE PARTIES MAY
17 CONTINUE COLLECTIVE BARGAINING AND REACH AN AGREEMENT AT
18 ANY TIME PRIOR TO THE ISSUANCE OF THE ARBITRATOR'S AWARD.
- 19 4. *TIME LIMIT FOR ARBITRATION DECISION.* HEARINGS SHALL BE
20 CONCLUDED AND THE ARBITRATOR SHALL FORWARD HIS DECISION TO
21 BOTH PARTIES NOT LATER THAN 60 DAYS AFTER THE EXPIRATION DATE
22 OF THE COLLECTIVE BARGAINING AGREEMENT.
- 23 5. *SELECTION OF FACTFINDER/ARBITRATOR.* THE
24 FACTFINDER/ARBITRATOR SHALL BE SELECTED IN ACCORDANCE WITH
25 SECTION 3.70.100.B BY EACH PARTY EXERCISING ITS PREEMPTORY
26 CHALLENGE IN TURN UNTIL ONLY ONE FACTFINDER/ARBITRATOR
27 REMAINS.
- 28 6. *ARBITRATION PROCEDURE.* THE ARBITRATOR SHALL CONDUCT THE
29 ARBITRATION ACCORDING TO THE RULES OF VOLUNTARY RULES OF
30 LABOR ARBITRATION PUBLISHED BY THE AMERICAN ARBITRATION
31 ASSOCIATION, AS MAY BE MODIFIED BY AGREEMENT BETWEEN THE
32 PARTIES AT THE FIRST DAY OF HEARING.
- 33 7. *SCOPE OF ARBITRATOR'S AUTHORITY.* THE ARBITRATOR SHALL BE
34 LIMITED IN HIS AUTHORITY TO SELECTION ON A SUBJECT-BY-SUBJECT
35 BASIS FROM EACH OF THE PARTIES' LAST BEST OFFER. ON EACH
36 SUBJECT, THE ARBITRATOR SHALL SELECT ONE PARTY'S PROPOSAL IN
37 ITS ENTIRETY. THE ARBITRATOR SHALL NOT HAVE THE AUTHORITY TO
38 SELECT OR PREPARE HIS OWN OFFER NOR SELECT OR COMBINE
39 PORTIONS OF EITHER PARTIES' LAST BEST OFFERS ON A GIVEN
40 SUBJECT. IN EXERCISING HIS OR HER DISCRETION TO SELECT
41 BETWEEN COMPETING PROPOSALS BY SUBJECT, THE ARBITRATOR
42 SHALL BASE HIS OR HER DECISIONS SOLELY ON THE FACTS
43 DETERMINED IN ACCORDANCE WITH SECTIONS 3.70.100.B. AND
44 APPLICABLE LAW.
- 45 8. *SUBJECT DEFINITION.* FOR BARGAINING UNITS OR PORTIONS OF
46 BARGAINING UNITS WITHIN THE CATEGORY DESCRIBED IN SUBSECTION
47 A.1. OF THIS SECTION, THE FOLLOWING ADDITIONAL PROVISIONS
48 REGARDING SELECTION OF SUBJECTS APPLIES AS FOLLOWS:
- 49 A. UNLESS OTHERWISE AGREED BY THE PARTIES TO THE
50 COLLECTIVE BARGAINING PROCESS, THE FOLLOWING SHALL
51 CONSTITUTE SEPARATE SUBJECTS FOR PURPOSE OF INTEREST

ARBITRATION:

- (1) SCOPE OF THE BARGAINING UNIT AND THE DEFINITION OF BARGAINING UNIT WORK;
- (2) THE AMOUNT AND EFFECTIVE DATE OF ACROSS-THE-BOARD WAGE CHANGES WHICH BECOME EFFECTIVE DURING THE CONTRACT PERIOD EITHER EXPRESSED AS A LUMP SUM, FIXED PERCENTAGE, COST OF LIVING ADJUSTMENT OR AN ADJUSTABLE PERCENTAGE CHANGE, INCLUDING ANY RETROACTIVE PAY;
- (3) THE AMOUNT AND EFFECTIVE DATE OF WAGE CHANGES NOT APPLICABLE ACROSS-THE-BOARD;
- (4) HOURS OF WORK, WORK DAY, WORK WEEK AND SHIFT SCHEDULES;
- (5) OVERTIME;
- (6) MEDICAL AND DENTAL INSURANCE COVERAGE;
- (7) DISABILITY, LIFE AND OTHER INSURANCE COVERAGES;
- (8) HOLIDAYS, INCLUDING ANY PREMIUM PAY FOR 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.

- 1 9. *PAYMENT OF COSTS OF ARBITRATION.* COST OF THE ARBITRATOR
2 SHALL BE BORNE EQUALLY BY BOTH PARTIES.
- 3 10. *DECISION BY ARBITRATOR.*
- 4 A. THE DECISION OF THE ARBITRATOR FOR BARGAINING UNITS OR
5 PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORY
6 DESCRIBED IN SUBSECTION A.1 OF THIS SECTION SHALL BE
7 REDUCED TO WRITING AND SHALL BE FINAL AND BINDING UPON
8 THE PARTIES. THE COLLECTIVE BARGAINING AGREEMENT, IN
9 COMPLIANCE WITH THE ARBITRATOR'S DECISION, SHALL BE
10 PREPARED AND EXECUTED BY THE PARTIES. COLLECTIVE
11 BARGAINING AGREEMENTS AWARDED THROUGH BINDING
12 INTEREST ARBITRATION MAY NOT EXCEED TWO YEARS IN
13 DURATION FROM THE DATE OF THE ARBITRATOR'S AWARD.
14 DECISIONS OF THE ARBITRATOR MAY BE APPEALED TO THE
15 SUPERIOR COURT FOR THE STATE ONLY FOR ABUSE OF
16 DISCRETION, FRAUD OR MISCONDUCT ON THE PART OF THE
17 ARBITRATOR. ON APPEAL TO THE SUPERIOR COURT, LEGAL
18 DETERMINATIONS OF THE EMPLOYEE RELATIONS BOARD SHALL
19 BE REVIEWED DE NOVO BY THE SUPERIOR COURT.
- 20 B. THE DECISION OF THE ARBITRATOR FOR BARGAINING UNITS OR
21 PORTIONS OF BARGAINING UNITS WITHIN THE CATEGORIES
22 DESCRIBED IN SUBSECTION A.2 OR A.3 OF THIS SECTION
23 SHALL BE FINAL AND BINDING UPON THE PARTIES AFTER
24 APPROVAL BY EIGHT VOTES OF THE ASSEMBLY, OR IN THE CASE
25 OF THE ANCHORAGE TELEPHONE UTILITY AFTER APPROVAL BY
26 THREE VOTES OF THE DIRECTORS OF THE UTILITY. THE
27 INTERNAL AUDITOR OR ITS CONTRACTOR SHALL REVIEW AND
28 EXPRESS AN OPINION ON THE FINANCIAL ANALYSIS PREPARED
29 BY THE AFFECTED PARTIES OF THE PROJECTED COSTS AND
30 SAVINGS FROM THE CONTRACT TO BE REPLACED RESULTING
31 FROM THE ARBITRATOR'S RECOMMENDATION AND THE
32 MUNICIPALITY'S LAST BEST OFFER. IF THE ARBITRATOR'S
33 DECISION IS NOT APPROVED BY THE ASSEMBLY WITHIN 21
34 DAYS AFTER DELIVERY TO THE MUNICIPAL CLERK, OR SEVEN
35 DAYS FOLLOWING RECEIPT OF THE MUNICIPALITY'S FINANCIAL
36 ANALYSIS, WHICHEVER IS LATER, THE PARTIES SHALL BE
37 CONSIDERED AT IMPASSE. THE MUNICIPALITY MAY THEN
38 IMPLEMENT ITS LAST BEST OFFER AND THE AFFECTED
39 BARGAINING UNIT MAY EXERCISE ITS RIGHT TO STRIKE.
- 40 11. *APPEAL.* THE PARTIES TO ARBITRATION MAY APPEAL TO THE
41 EMPLOYEE RELATIONS BOARD AN ARBITRATOR'S DECISION IF THE
42 ARBITRATOR HAS EXCEEDED HIS JURISDICTION AND/OR AUTHORITY
43 UNDER THE APPLICABLE LABOR AGREEMENT OR THE PROVISIONS OF
44 CHAPTER 3.70 OR THE ARBITRATOR'S FAILURE TO RENDER A
45 DECISION. SAID APPEAL MUST BE FILED WITHIN 14 DAYS OF THE
46 ARBITRATOR'S DECISION OR FAILURE TO RENDER A DECISION. IF THE
47 EMPLOYEE RELATIONS BOARD DOES NOT RENDER A DECISION WITHIN
48 30 DAYS AFTER RECEIPT OF AN APPEAL THEN THE ARBITRATOR'S
49 DECISION SHALL REMAIN UNDISTURBED. THE EMPLOYEE RELATIONS
50 BOARD'S DECISION ON SUCH AN APPEAL SHALL BE LIMITED TO REMAND
51 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 include immediate discharge from employment.

E. *Loss of pay.* No compensation shall be paid by the municipality to any

employee with respect to any day or part thereof when such employee was engaged in a strike or other work action prohibited under this chapter.

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

3.70.130 Agreements.

- A. *Labor agreements.* Upon completion of negotiations between the municipality and the bargaining representative over a labor agreement, all of the terms and conditions shall be reduced to writing in a single agreement. The agreement shall then be presented to the appropriate employee unit for ratification and to the assembly for ratification in the same manner as a municipal ordinance. No provision of a contract may violate a municipal ordinance or the Charter or state or federal law except as authorized in Section 3.70.170.
- B. *Administrative agreements.* All administrative agreements shall be submitted to the assembly for review and approval within 30 days of execution by a duly authorized representative of an employee organization and the Mayor's Designee. Assembly approval of administrative agreements shall be in the same manner as a municipal ordinance. No administrative agreement may extend beyond the term of the collective bargaining agreement in effect at the time of the agreement.
- C. *Administrative letters.* All administrative letters shall be summarized periodically by the department and submitted to the assembly for review and acceptance in the form of an Assembly Information Memorandum prior to the effective date of the administrative letter rules. No administrative letter may extend beyond the term of the collective bargaining agreement in effect at the time of the letter.
- D. *Required acknowledgement and certification provisions:* To ensure that the requirement for Assembly ratification and approval under this Section 3.70.130 is acknowledged and understood, every collective bargaining contract agreement modification, written interpretation, or other change, alteration or amendment, no matter how denominated, shall include in the body of the document a provision that explicitly summarizes the requirements and remedial provisions of Section 3.70.130. and a certification under oath or affirmation by each duly authorized representative who signs on behalf of a party.
1. The certification shall in substance state that in executing the agreement the duly authorized representative, on behalf of the party to the agreement understands and acknowledges that the agreement must comply with Anchorage Municipal Code (AMC). The authorized representative acknowledges and agrees that AMC 3.70.130 requires Assembly approval of all modifications and amendments, no matter how denominated. The authorized representative acknowledges that absent Assembly approval,

any modification or amendment no matter how denominated, shall be deemed null and void, and any payments made shall be recoverable by the Municipality. Absent Assembly approval required by AMC 3.70.130, written clarifications and interpretations within the definition of "administrative letter" under AMC 3.70.010 are invalid. AMC 3.70.010 prohibits the use of administrative letters to vary the explicit terms of a labor agreement. Intentional actions in violation of this Section 3.70.130 are subject to fines and penalties under AMC Section 1.45.010 and implementation without Assembly approval is prohibited under the municipal penal code, Title 8.

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

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

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

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

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

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

3.70.140 Unfair labor practices.

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

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

2. Dominate or interfere with the formation, existence or administration of an organization.

3. Discriminate in regard to hire, tenure, employment or a term or condition of employment for the purpose of encouraging or discouraging membership in an organization.
4. Discharge or discriminate against an employee because the employee [HE] has signed or filed an affidavit, petition or complaint, or given testimony under the provisions of this chapter.
5. Refuse to bargain collectively in good faith over wages, hours and other terms and conditions of employment with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussion of grievances with the exclusive representative.

B. *Prohibited acts by employees and employee representatives.* An employee organization or bargaining representative or its agents or employees may not:

1. Restrain or coerce:
 - a. An employee in the exercise of the rights guaranteed under this chapter.
 - b. The municipality in the selection of its representative for the purpose of collective bargaining or the adjustment of grievances.
2. Refuse to bargain collectively in good faith over wages, hours and other terms and conditions of employment with the public employer if the bargaining representative has been designated in accordance with the provisions of this chapter as the exclusive representative of employees in the bargaining unit.
3. Authorize or engage in a strike, slow down, work stoppage or other activity prohibited under this chapter.
4. Hinder or prevent, by threats, intimidations, force or coercion of any kind, the pursuit of any lawful work or employment of the municipality.
5. Engage in a secondary boycott or hinder or prevent by threat, intimidation, force, coercion or sabotage, the obtaining, use or disposition of materials, supplies, equipment or services.
6. Engage in any illegal effort to interfere with productions, functions or services of the public employer.

C. *Complaints; informal conciliation.* If the municipality or an employee or prospective or current bargaining representative believes that an unfair labor practice has been committed, it may, within 30 days from

occurrence of the alleged unfair labor practice, file with the employee relations board a verified written complaint stating the nature of the violation and requesting that the board investigate the complaint. The board shall, upon receipt of such a complaint, conduct a preliminary investigation to determine whether probable cause exists in support of the complaint or accusation. If the board determines, after an informal investigation, that probable cause exists to support the complaint, it shall try to eliminate the unfair labor practice by informal methods of conference, conciliation and persuasion. Nothing said or done during such settlement attempts may be used as evidence in subsequent proceedings. If, after its informal inquiry, the board concludes that the complaint is unfounded, the board shall dismiss the complaint forthwith.

D. *Hearing.* If the board fails to eliminate a prohibited unfair labor practice through informal conciliation and conference attempts, the board shall, within 14 days [TWO WEEKS] of receipt of the complaint, serve formal notice of the complaint upon the respondent. Within two weeks after service of notice, a hearing shall be conducted to determine the validity of the complaint in accordance with administrative procedures adopted by the board. The parties and the public shall have reasonable notice of the time, date and place of the hearing. Each party shall have the opportunity to be heard and to cross examine all witnesses. Testimony shall be taken under oath and recorded electronically.

E. *Board order.* If, upon completion of the formal hearing of a complaint of unfair labor practice, a majority of the board determines that the person or party named in the written complaint has engaged in a prohibited practice, the board shall issue and serve on the person an order or decision requiring that party to cease and desist from the prohibited practice and to take affirmative actions which will carry out the provisions of this chapter. If the board finds that the complaint is not supported, the board shall state its findings of fact and issue an order dismissing the complaint or accusation.

F. *Enforcement by injunction.* The board may apply to the superior court for an order enjoining the prohibited acts specified in its order or decision.

G. *Other relief.* In addition to the other forms of relief for an unfair labor practice mentioned in this section, the board may order reinstatement of public employees, order payment of back pay and lost benefits, award reasonable costs and attorney fees, or take other appropriate action as will effectuate the policies and purposes of this chapter. Where the board finds the commission of a purposeful and flagrant unfair labor practice by an employee representative, it may petition to the superior court to decertify the exclusive bargaining representative.

H. *Intervention.* The board may, at its discretion, permit intervention in unfair labor practice hearings by other interested parties upon a showing by such parties that they are directly affected by the proceeding. Once the board has permitted intervention, such party may

appear, present evidence and cross examine witnesses at the hearing.

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

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

3.70.150 Dues checkoff.

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

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

3.70.160 Binding arbitration.

Binding arbitration of disputes which arise under a collective bargaining agreement during the term of any collective bargaining agreement will be permitted if the parties have agreed to that procedure for dispute resolution and have included within the agreement a clause providing for that procedure. The decision of the arbitrator shall be reduced to writing unless waived by the parties and shall be final and binding upon the parties. Past practices of the parties may be considered by the arbitrator in interpreting ambiguous contract language. In no case shall past practices be relied upon by the arbitrator to add a new provision to, or alter an unambiguous provision of a collective bargaining agreement. In accordance with the provisions of AMC section 3.70.040, past practice shall not be relied upon by an arbitrator to prohibit a workplace practice or procedure otherwise allowed by a collective bargaining agreement. If an unfair labor practice charge addressing the same or related matters is filed with the employee relations board and was deferred to

arbitration by the board, the board shall retain jurisdiction to hear any outstanding issues not resolved by the arbitrator.

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

3.70.170 Applicability of personnel regulations.

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

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

Terms and eligibility criteria of the municipal sponsored benefit programs, including available premiums, deductibles and coverages, shall be offered annually on a uniform basis to all eligible employees. Furthermore, unless specifically exempted by ordinance, all municipal employees shall be subject to the municipal leave policies and benefit programs as defined in AMC chapter 3.30 *et seq.*

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

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

Cross reference— Personnel rules, ch. 3.30.

3.70.180 Transition measures; effective date.

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

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

3.70.185 EMS integration plan. (Repealed.)

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

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

(AO No. 93-212(S-1), § 1, 12-14-93)

* * * * *

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

3.70.190 Bargaining units established; description.

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

The employer 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

1 of existing collective bargaining agreements for the current terms of said agreements.
2 This ordinance applies to all such agreements negotiated in the future.
3

4 **Section 4.** If any section of this ordinance, or portion thereof, or any section of the
5 code adopted by this ordinance, or portion thereof, is deemed contrary to law, that
6 portion shall be severable and the remainder shall continue in full force and effect.
7

8 **Section 5.** This ordinance shall be effective immediately upon passage and
9 approval by the Assembly.

10
11 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
12 _____, 2013.
13
14

15
16 _____
17 Chair of the Assembly
18
19

20 ATTEST:
21
22
23

24 _____
25 Municipal Clerk