ANCHORAGE, ALASKA
AO No. 2023-125

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.30, OFFENSES AGAINST PUBLIC ORDER, TO EXPAND THE SCOPE OF CRIMINAL ACTIVITY PUNISHABLE AS AN ELECTION VIOLATION AND TO INSERT A NEW SECTION 8.30.190 CODIFYING THE OFFENSE OF TAMPERING WITH A PUBLIC RECORD IN THE THIRD DEGREE.

WHEREAS, the Assembly and Municipal Ombudsman have recently investigated the facts and circumstances surrounding use of an IT Department internal policy statement in an election complaint filed by an election observer; and

WHEREAS, the available evidence indicates that the former IT Director initiated and directed the revision and posting of an OIT USB policy statement and provided a copy of that policy to the above referenced election observer in the space of one morning on April 11, 2023; and

WHEREAS, the available evidence indicates that the only person, outside of the IT Department, the former IT Director communicated the existence of this policy statement to was the election observer by way of an email from his municipal email account to the observer’s personal email; and

WHEREAS, almost within an hour of having received the IT Director’s email, the election observer filed a renewed complaint to election officials, citing the OIT USB policy statement; and

WHEREAS, on April 14, 2023 at 11:31am, the former IT Director sent another email from his municipal email account to the observer’s personal account with the text “See this proposed code update being introduced at the next assembly.” Followed by what appears to be the entry for AO 2023-45 copied from Assembly’s Agenda for its special meeting on April 18, 2023; and

WHEREAS, once again, shortly after receiving the IT Director’s email, the election observer filed a complaint form with election officials, alleging election misconduct and citing exclusively the information provided to them in the email from the IT Director; and

WHEREAS, all of the election observer’s allegations were ultimately determined to be baseless; and

WHEREAS, the Municipal Charter vests the responsibility for administration and adjudication of elections in the Assembly as the legislative branch of the Municipal Government; and
WHEREAS, the Assembly is bound by duty, not only to their office, but to the people of the Municipality of Anchorage, to investigate any attempt to subvert the electoral process and to propose legislative solutions to ensure the security of our elections; and

WHEREAS, the Ombudsman’s report specifically recommended that the “Assembly and Administration work together to develop and implement in Municipal Code penalties for tampering or attempting to tamper with Municipal elections”; and

WHEREAS, beyond accepting the IT Director’s resignation, the Mayor has declined to take any action regarding these allegations;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 8.30.180 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

8.30.180 Election violations.

A. Unless another penalty is provided in Title 28 of this Code, a person who knowingly violates any provision of Title 28 regarding the conduct of municipal elections is guilty of a class A misdemeanor.

B. Voter violations. It shall be unlawful for any person to:

1. Knowingly vote or attempt to vote more than once in an election;

2. Knowingly provide false information on an application for voter registration under any provision of this title;

3. Knowingly make or attest to a false declaration as to his or her qualifications as a voter;

4. Knowingly cause or permit himself or herself to be registered using the name of another person;

5. Knowingly cause himself or herself to be registered under two or more different names;

6. Knowingly cause himself or herself to be registered in two or more locations;

7. Offer to pay another person to assist in registering voters, where payment is based on a fixed amount of money per voter registration;

8. Accept payment for assisting in registering voters, where payment is based on a fixed amount of money per voter registration; or
9. Knowingly cause[S] any person to be registered or cause[S] any registration to be transferred or canceled except as authorized under Title 28, is guilty of a class A misdemeanor.

C. Public employee violations. It shall be unlawful for any person employed by, or retained under contract with, the municipality to intentionally:

1. Use or authorize the use of municipal resources for political or partisan activity subject to exceptions provided under 1.15.110C;

2. Engage in political activity while at the workplace or in the performance of work duties beyond the extent allowed under 1.15.110E.

D. Violation of this section is a class A misdemeanor.

(AO No. 2017-29(S), § 57, 6-1-17)

Section 2. Anchorage Municipal Code chapter 8.30 is hereby amended insert a new section (requiring no legislative drafting):

8.30.190 Tampering with a public record in the third degree.

A. A person commits the crime of tampering with public records in the third degree if, with the intent to impair, mislead, or unduly influence a public official or decision-making body in performance of their duty, the person:

1. Destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record;

2. Creates or disseminates a public record without proper authority;

3. Falsifies an existing or creates a fraudulent public record; or

4. Omits or otherwise prevents the making of an accurate public record in violation of a duty imposed by law or by the nature of their position.

B. Violation of this section is a class A misdemeanor.

Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this ______ day of __________________, 2023.
Chair

ATTEST:

Municipal Clerk
From: Assembly Chair Constant and Vice Chair Zaletel

Subject: AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.30, OFFENSES AGAINST PUBLIC ORDER, TO EXPAND THE SCOPE OF CRIMINAL ACTIVITY PUNISHABLE AS AN ELECTION VIOLATION AND TO INSERT A NEW SECTION 8.30.190 CODIFYING THE OFFENSE OF TAMPERING WITH A PUBLIC RECORD IN THE THIRD DEGREE.

In the past several years, after each year’s regular municipal election and before the processes begin for the next one, the Municipal Clerk coordinates a comprehensive review of Title 28, Election Code, the Observer’s Handbook, associated forms, and the practices and procedures in administering and conduction the municipal election. In addition to this effort, this year the Assembly conducted a legislative inquiry in response to findings and recommendations made by the Ombudsman in their Final Investigative Report Concerning Ombudsman Complaint 2023-0550.

The proposed ordinance makes several minor, but substantive, changes to Chapter 8.30 of the Anchorage Municipal Code, Offenses Against Public Order, to address recent apparent attempts to subvert the results of the 2023 Regular Election.

The proposed amendments to Chapter 8.30 include the following:

- **AMC 8.30.180 – Election violations.**
  
  The ordinance proposes the addition of a new subsection C, which would make both the diversion of municipal resources for political or partisan activity as well as engaging in political activity in the municipal workplace misdemeanor offenses under the code. This conduct is already forbidden under the ethics code, however codifying these prohibitions under Title 8 will enhance their enforceability.

- **AMC 8.30.190 – Tampering with a public record in the third degree.**
  
  The ordinance proposes the codification of a new misdemeanor offense which would forbid the manipulation of public records when done with the intent to impair or mislead a public official or body, in performance of their duty.

There are no economic effects associated with this ordinance and so a summary of economic effects is not provided.

We respectfully request support for this ordinance.
Prepared by:  Assembly Counsel’s Office
Respectfully submitted:  Christopher Constant, Assembly Chair
District 1, North Anchorage

Meg Zaletel, Assembly Vice Chair
District 4, Midtown