

**ANCHORAGE, ALASKA  
AO No. 2023-38**

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**  
2 **ANCHORAGE MUNICIPAL CODE CHAPTERS 3.20, 3.30, 3.35, AND 14.60 TO**  
3 **UPDATE THE MUNICIPAL HEALTH AND SAFETY PROGRAM, ESTABLISH THE**  
4 **DIRECTOR OF HEALTH AND SAFETY AS THE PRINCIPAL WORKPLACE**  
5 **SAFETY OFFICER FOR THE MUNICIPALITY, AND ENFORCE THROUGH CIVIL**  
6 **FINES TO ENSURE COMPLIANCE WITH FEDERAL, STATE AND MUNICIPAL**  
7 **OCCUPATIONAL HEALTH AND SAFETY REGULATIONS TO PROTECT THE**  
8 **EMPLOYEES, ASSETS AND INTERESTS OF THE MUNICIPALITY.**  
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10  
11 **WHEREAS**, it is the responsibility of the Municipality to provide a safe working  
12 environment for all municipal employees to ensure compliance with best practices  
13 for workplace safety and health programs and to focus on empowering employees  
14 to prevent workplace injuries and illnesses, which in the long run can improve  
15 productivity and reduce costs; and

16  
17 **WHEREAS**, it is in the best interest of the Municipality to provide municipal  
18 employees with a safe working environment, including training in best standards and  
19 practices for preventing occupational accidents, injuries and illnesses; and

20  
21 **WHEREAS**, there is a Director of Health and Safety who is tasked with maintaining  
22 a municipal health and safety program aimed at promoting a culture of safety  
23 through implementation of reasonable measures and cooperation between  
24 management and leadership to achieve the goal of zero workplace incidents; and

25  
26 **WHEREAS**, although AMC section 3.20.070C. states "risk management and safety"  
27 is "within the office of the municipal manager," the Director of Health and Safety  
28 appears nowhere in the Administration's organizational chart, and the only other  
29 substantive reference to Municipal workplace safety in Anchorage Municipal Code  
30 (AMC) was adopted in 1987 and is under Personnel Rules in AMC section  
31 3.30.1610, which states that municipal employees "are responsible for following  
32 federal and state occupational safety and health regulations and municipal law and  
33 policy regarding occupational safety and health"; and

34  
35 **WHEREAS**, the Administration was contacted in September, 2021 by the Alaska  
36 Occupational Safety and Health Enforcement Section (AKOSH) and informed it  
37 would be issued citations totaling \$627,637 due to its extensive violation history, and  
38 that the Municipality would be enrolled in the Severe Violator Enforcement Program  
39 (SVEP); and

40  
41 **WHEREAS**, in March 2022, AKOSH agreed to reduce or reclassify several citations  
42 in exchange for the Municipality's agreement to obtain a third party safety consultant  
43 to meet the terms of SVEP; and  
44

1 **WHEREAS**; the Administration did not contract with a third party safety consultant  
2 until nearly a year later, when it submitted AM 109-2023 to the Assembly for  
3 approval of a contract with Beacon Occupational Health and Safety Services, Inc.  
4 for \$14,000 (not-to-exceed), which was unanimously approved at the Special  
5 Meeting of February 14, 2023; and

6  
7 **WHEREAS**, on February 24, 2023, the State of Alaska Department of Labor and  
8 Workforce Development, in a letter emailed to the Mayor and Assembly, asserted  
9 that the Municipality has “not only failed to obtain the third-party safety evaluation”  
10 but also failed to abate 26 citations, and stated

11  
12 This letter serves formal notice to the Municipality that if the  
13 outstanding items are not satisfied within 30 days of the date of the  
14 letter, AKOSH will be forced to take one or both of the following  
15 actions:

- 16 1. Rescind the Informal Settlement Agreement, restoring  
17 all violations and penalty amounts to their original state as  
18 issued.
- 19 2. Conduct a Failure to Abate inspection. Each citation that  
20 is found to not have been corrected may be assessed a  
21 penalty of up to \$14,502 per citation, per day, for a period  
22 of up to 30 days.;

23 and

24  
25 **WHEREAS**, AMC section 3.30.1610 does not provide the Director of Health and  
26 Safety any explicit responsibility or authority necessary to implement a  
27 comprehensive workplace health and safety program; and

28  
29 **WHEREAS**, it is the inherent responsibility of the Administration to empower the  
30 Director of Health and Safety to bring its various departments and agencies into  
31 compliance with federal and state occupational safety rules and regulations; and

32  
33 **WHEREAS**, the Anchorage Municipal Charter section 5.06(a) authorizes the  
34 Assembly to, by ordinance adopt or amend its administrative code, provide for “[t]he  
35 identity, function, and responsibility of each executive department and agency”; and

36  
37 **WHEREAS**, the Assembly desires to act swiftly to establish functions and  
38 responsibilities of the Director of Health and Safety and empower that position  
39 immediately in order to address the AKOSH citations, protect municipal workers,  
40 and mitigate the large fines coming due if action is not taken; now, therefore

41  
42 **THE ANCHORAGE ASSEMBLY ORDAINS:**

43  
44 **Section 1.** Anchorage Municipal Code section 3.20.010 is hereby amended to  
45 replace the 2020 Executive Branch Organization chart with the 2023 Executive  
46 Branch Organization chart, attached as Exhibit A:

47  
48 **3.20.010 - Executive and administrative order; organizational chart.**

49  
50 The executive branch of the municipal government shall be organized as  
51 provided in this chapter and the following plan:

[Replace chart with Exhibit A]

(AO No. 79-27; AO No. 82-49; AO No. 88-82; AO No. 90-15(S); AO No. 9111173(S); AO No. 94-135(S), § 2, 7-12-94; AO No. 2000-105(S), § 2, 6-27-00; 12AO No. 2000-141(S), § 2, 9-26-00; AO No. 2002-130, § 4, 9-10-02; AO No. 132003-109, § 1, 9-9-03; AO No. 2004-136, § 1, 12-7-04; AO No. 2005-142, § 141, 10-25-05; AO No. 2009-21, § 1, 2-24-09; AO No. 2009-101, § 1, 8-25-09; 15AO No. 2010-64, § 1(Exh. A), 9-28-10; AO No. 2010-93, § 1(Exh. A), 1-11-11; AO No. 2011-22(S), § 1, 3-29-11; AO No. 2011-25, § 1, 5-24-11; AO 17No. 2012-106, § 1(Exh. A), 11-13-12; AO No. 2013-34, § 1(Exh. A), 2-26-13; AO No. 2015-112(S), § 1, 1-1-16; AO 2018-108(S), § 1, 12-31-18)

**Section 2.** Anchorage Municipal Code 3.20.070 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**3.20.070 Executive branch organization.**

\*\*\*      \*\*\*      \*\*\*

C. Office of the municipal manager. Within the office of the municipal manager and reporting to the municipal manager or designee are: the office of equal opportunity, the office of emergency management; risk management[ AND]; health and safety; transportation inspection; culture, entertainment, and arts venues (including the Egan Center, the Dena'ina Civic and Convention Center, the Anchorage Museum at Rasmuson Center, the Anchorage Golf Course, the Sullivan Sports Arena, the Alaska Center for the Performing Arts, and the Boeke and Dempsey Ice Arenas); and the following departments:

\*\*\*      \*\*\*      \*\*\*

**Section 3.** Anchorage Municipal Code section 3.30.1610 is hereby amended to read as follows:

**3.30.1610 Workplace health and [S]safety program.**

All municipal employees, including those employed by a municipal authority or utility, are responsible for following federal and state occupational safety and health regulations and municipal law and policy regarding occupational safety and health.

(AO No. 86-207(S-1))

**Section 4.** Anchorage Municipal Code is amended by adding a new chapter 3.35, Workplace safety and health, to read as follows (*requiring no legislative formatting*):

**3.35 – WORKPLACE HEALTH AND SAFETY**

**3.35.010 Director of health and safety.**

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- A. The director of health and safety shall be the municipality's principal safety officer, and shall have the following authorities and responsibilities necessary to implement and the provisions of this chapter:
1. Enter without notice to inspect the premises of a department, agency, authority, or utility, during normal business hours and when departmental, agency, authority, or utility personnel are present;
  2. Review any municipal document or conduct employee interviews, including any interviews with agents of collective bargaining units and municipal contractors, which the director deems relevant to an investigation. Under no circumstances, however, shall the director make public comment upon or otherwise publicly disseminate any material or information received by the director during the course of an investigation which is accorded confidential or privileged status by federal, state or local law, or which would otherwise result in an unwarranted invasion of personal privacy if released;
  3. Any other provisions of law notwithstanding, have access to and examine and copy, without payment of a fee, any municipal or agency records, including records which are confidential by law, including, but not limited to, accident and injury reports, legal settlements and loss control documents, subject to applicable state or federal laws. The director shall not have access to legally privileged records held by the Municipal Attorney, legal counsel for any municipal department or other authority, or attorney-client records held by clients of the Municipal Attorney or other legal counsel to the municipality. The director shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure. The same access in the foregoing applies to personnel files, human resources department records, or any other records which are confidential by law but they may not be copied or removed; and
  4. Train, direct, supervise, and set minimum qualifications for department safety officers to implement and comply with municipal workplace safety and health program. Department safety officers shall report to both the director of health and safety as well as the director of their respective departments, however they shall be directed in the performance of their duties exclusively by the director of health and safety.
- B. The director shall submit quarterly reports to the assembly by memorandum which shall include key performance indicators as

1 they shall establish, all workplace safety and health claims and  
2 settlements by municipal department, department logs, and any  
3 other relevant matter.  
4

5 Cross reference—Executive branch organization, workplace safety and  
6 health, § 3.20.070F.  
7

8 **3.35.020 Workplace health and safety program.**  
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10 A. The functions and responsibilities of the director shall include but  
11 are not limited to the development, implementation, and updating of  
12 a unified, municipal safety and health program to include:  
13

- 14 1. Adoption of municipality-wide safety policies conforming to  
15 federal and state occupational safety regulations;  
16
- 17 2. Periodic unannounced safety and health walk-through  
18 inspections of all workplace facilities and correction of  
19 identified hazards;  
20
- 21 3. Periodic safety observations;  
22
- 23 4. A published matrix of specifically required training for  
24 employees and training frequency schedule;  
25
- 26 5. Investigation of accidents and injuries to root cause,  
27 communication of findings and correction of deficiencies;  
28
- 29 6. Investigation into employee inquiries, suggestions, and  
30 complaints;  
31
- 32 7. Maintenance of health and safety documents and files;  
33
- 34 8. Periodic inspections of all municipal owned motorized  
35 vehicles;  
36
- 37 9. Establishment and monitoring of a program for reporting and  
38 investigating “near miss” situations, as defined by the  
39 Occupational Safety and Health Administration;  
40
- 41 10. Maintenance of correct department log information and  
42 publication of the annual summary from January 1 through  
43 December 31 at each department location; and  
44
- 45 11. Procedures for reporting employee non-compliance to the  
46 employee’s supervisor, the safety department or the human  
47 resources department.  
48

49 B. The human resources department shall establish a policy for  
50 disciplinary action, up to and including dismissal, for failure to  
51 comply with the workplace health and safety program.

**3.35.030 Refusal to comply with the workplace health and safety program.**

A person who willfully hinders the lawful actions of the director of health and safety or other safety officer, or who willfully refuses to comply with the workplace safety program, is subject to a civil penalty as set forth in section 14.60.030 or, if such violation is not listed in the fine schedule set forth in section 14.60.030, a civil penalty as set forth in section 1.45.010.

**Section 5.** Anchorage Municipal Code section 14.60.030 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**14.60.030 Fine schedule.**

The fine schedule under this chapter is as follows:

Code Section	Offense	Penalty/Fine
***	***	***
2.60.180	Hindering ombudsman	75.00
<u>3.35.030</u>	<u>Refusal to comply with the workplace health and safety program</u>	<u>300.00</u>
***	***	***

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07; AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No. 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), § 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-09; AO-2010-35(S), § 7, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No. 2010-87(S), § 3, 12-7-10; AO No. 2011-46, § 4, 4-12-

1 11; AO No. 2011-59, § 10, 5-24-11; AO No. 2011-106(S), § 3, 11-8-11; AO  
 2 No. 2011-112, § 4, 11-22-11, eff. 12-22-11; AO No. 2012-10, § 1, 1-31-12;  
 3 AO No. 2012-77, § 29, 8-7-12; AO No. 2013-109(S-1), § 5, 12-3-13; AO No.  
 4 2013-130(S-1), § 1, 1-14-14; AO No. 2014-42, § 31, 6-21-14; AO No. 2014-  
 5 85, § 4, 8-5-14; AO No. 2014-110(S), § 2, 9-9-14; AO No. 2014-137(S), § 3,  
 6 11-18-14; AO No. 2015-23(S), § 20, 3-24-15; AO No. 2015-48, § 16, 5-14-15  
 7 ; AO No. 2015-54, § 1, 5-26-15 ; AO No. 2015-65, § 4, 6-9-15 ; AO No. 2015-  
 8 111(S-1), § 2, 1-1-16 ; AO No. 2016-16(S), § 4, 2-9-16 ; AO No. 2016-76(S),  
 9 § 7, 7-12-16 ; AO No. 2016-81(S), § 4, 8-25-16 ; AO No. 2016-83(S), § 9, 7-  
 10 26-16 ; AO No. 2016-82 , § 3, 8-9-16; AO No. 2016-116 , § 2, 10-18-16; AO  
 11 No. 2016-115(S) , § 2, 11-15-16; AO No. 2016-124(S) , § 11, 12-20-16; AO  
 12 No. 2017-26 , § 2, 5-1-17; AO No. 2017-29(S) , § 61, 6-1-17; AO No. 2017-  
 13 30 , § 3, 3-21-17; AO No. 2017-31(S) , § 5, 5-26-17; AO No. 2017-119(S) , §  
 14 4, 11-9-17; AO No. 2017-101 , § 2, 2-5-18; AO No. 2017-161(S) , § 3, 2-27-  
 15 18; AO No. 2017-16 , § 3, 2-14-17; AO No. 2017-129 , § 2, 1-23-18; AO No.  
 16 2018-63(S) , § 2, 8-28-18; AO No. 2018-100(S) , § 2, 1-1-19; AO No. 2018-  
 17 110 , § 2, 12-18-18; AO No. 2019-9(S) , § 2, 2-12-19; AO No. 2019-12 , § 2,  
 18 3-5-19; AO No. 2019-15(S) , § 2, 3-19-19; AO No. 2019-34 , § 5, 4-18-19;  
 19 AO No. 2019-50(S) , § 2, 6-6-19; AO No. 2019-66 , § 26, 6-18-19; AO No.  
 20 2019-74(S) , § 2, 6-18-19; AO No. 2019-79(S) , § 2, 7-9-19; AO No. 2019-  
 21 90(S) , § 7, 8-20-19; Ord. No. 2020-4(S) , § 3, 6-24-20; AO No. 2020-65 , §  
 22 2, 9-25-20; AO No. 2020-103 , § 2, 11-4-20)

23  
 24 **Section 6.** This ordinance shall be effective immediately upon passage and  
 25 approval by the Assembly.

26  
 27 PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of  
 28 \_\_\_\_\_, 2023.

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 32 \_\_\_\_\_  
 33 Chair

34  
 35 ATTEST:

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 38 \_\_\_\_\_  
 39 Municipal Clerk