

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor

Prepared by: Dept. of Law

For reading: June 23, 2009

CLERK'S OFFICE

AMENDED AND APPROVED

Date: 7-7-09

ANCHORAGE, ALASKA
AO No. 2009-85

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL
2 CODE SECTION 3.30.1511 F., EMPLOYER-REQUIRED GENERAL FURLOUGH
3 LEAVE WITHOUT PAY, AND MODIFYING AO 2009-60 TO CLARIFY THE
4 FURLOUGH REQUIREMENT FOR NON-REPRESENTED, FAIR LABOR
5 STANDARDS ACT-EXEMPT EMPLOYEES AND PROVIDE FOR A SALARY
6 REDUCTION FOR A DEFINED PERIOD.
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8
9 WHEREAS, AO 2009-60, adopting Anchorage Municipal Code section 3.30.1511 F.,
10 *Employer required general furlough leave without pay*, requiring furlough for all non-
11 represented Municipal employees was passed and approved by the Assembly on
12 May 12, 2009; and
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14 WHEREAS, Range 18 and 19 non-represented employees are exempt under the
15 FLSA, requiring an amendment, clarifying application to non-represented FLSA-
16 exempt employees, to Anchorage Municipal Code section 3.30.1511 F.; now,
17 therefore,
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19 THE ANCHORAGE ASSEMBLY ORDAINS:
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21 **Section 1.** Anchorage Municipal Code section 3.30.1511 F., adopted under AO
22 2009-60 on May 12, 2009, is hereby amended to read as follows (*the remainder of*
23 *the section is not affected and therefore not set out*):
24

25 **3.30.1511 Leave without pay.**
26

27 *** **

28 F. *Employer-required general furlough leave without pay.*
29

30 *** **

31 4. *[UNIFORM] Application of requirement.*
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33 a. A furlough leave without pay requirement shall be applied
34 equally to all non-represented employees throughout the
35 Municipality who are non-exempt employees under the
36 federal Fair Labor Standards Act (FLSA), so that all
37 FLSA non-exempt, non-represented, regular, full-time
38 employees are subject to the same total furlough leave
39 requirement.
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41 b. Unless otherwise approved by the Director, FLSA-
exempt, non-represented employees shall:

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- i. Take furlough leave without pay in full work-week blocks; and,
- ii. If necessary, have their salary reduced by the percentage required to make their total reduction in annual compensation under this ordinance as equal as practicable under the requirements of the FLSA to the reduction required of FLSA non-exempt, non-represented employees.
- iii. Any reduction in salary required for FLSA exempt employees shall be made in equal installments beginning the first full pay period following the effective date of this ordinance, and shall be completed no later than the first pay period after October 31 of each year.

*** *** ***

6. *Limitations on requirement.*

- a. Non-represented employees transferring to a represented, executive, or part-time position shall not be subject to additional furlough leave requirements under this subsection after the date of such transfer, except as may be otherwise required for the new position. Under these circumstances, the employee shall only be responsible for taking the furlough leave required prior to the transfer, subject to the provisions regarding FLSA-exempt non-represented employees in subsection 4.b. above.
- b. Non-represented employees acquiring regular status after the effective starting date for a furlough leave without pay requirement shall only be required to take a pro-rated amount of furlough leave, based on the number of pay periods remaining in the year.

7. *Duration.* Unless otherwise approved by the department head, furlough leave without pay for FLSA non-exempt non-represented employees shall not exceed ten (10) hours in any pay period and, once the total amount of furlough leave is determined, shall be pro-rated for the number of pay periods remaining in the year.

*** *** ***

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2 **Section 2.** This ordinance shall become effective **August 3, 2009** immediately
3 ~~upon passage and approval by the Assembly.~~

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5 PASSED AND APPROVED by the Anchorage Assembly this 7th day of
6 July, 2009.

7
8 Debbi Osslander
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10 Chair

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12 ATTEST:

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14 Shirley E. Gault
15
16 Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2009-85

Title: **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 3.30.1511 F., EMPLOYER-REQUIRED GENERAL FURLOUGH LEAVE WITHOUT PAY, AND MODIFYING AO 2009-60 TO CLARIFY THE FURLOUGH REQUIREMENT FOR NON-REPRESENTED, FAIR LABOR STANDARDS ACT-EXEMPT EMPLOYEES AND PROVIDE FOR A SALARY REDUCTION FOR A DEFINED PERIOD.**

Sponsor: ACTING MAYOR
 Preparing Agency: Employee Relations Department
 Others Impacted:

| CHANGES IN EXPENDITURES AND REVENUES: | | (In Thousands of Dollars) | | | | |
|----------------------------------------------|-------------|---------------------------|-------------|-------------|-------------|--|
| | <u>FY09</u> | <u>FY10</u> | <u>FY11</u> | <u>FY12</u> | <u>FY13</u> | |
| Operating Expenditures | | | | | | |
| 1000 Personal Services | | | | | | |
| 2000 Non-Labor | | | | | | |
| 3900 Contributions | | | | | | |
| 4000 Debt Service | | | | | | |
| TOTAL DIRECT COSTS: | \$ - | \$ - | \$ - | \$ - | \$ - | |
| Add: 6000 Charges from Others | | | | | | |
| Less: 7000 Charges to Others | | | | | | |
| FUNCTION COST: | \$ - | \$ - | \$ - | \$ - | \$ - | |
| REVENUES: | | | | | | |
| CAPITAL: | | | | | | |
| POSITIONS: FT/PT and Temp | | | | | | |

PUBLIC SECTOR ECONOMIC EFFECTS:
 Amendment to Anchorage Municipal Code; no economic impact.

PRIVATE SECTOR ECONOMIC EFFECTS:
 Amendment to Anchorage Municipal Code; no economic impact.

Prepared by: Employee Relations

Telephone: 343-4423

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 387-2009

Meeting Date: June 23, 2009

1 **From:** ACTING MAYOR

2
3 **Subject:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
4 SECTION 3.30.1511 F., EMPLOYER-REQUIRED GENERAL
5 FURLOUGH LEAVE WITHOUT PAY, AND MODIFYING AO 2009-60
6 TO CLARIFY THE FURLOUGH REQUIREMENT FOR NON-
7 REPRESENTED, FAIR LABOR STANDARDS ACT-EXEMPT
8 EMPLOYEES AND PROVIDE FOR A SALARY REDUCTION FOR A
9 DEFINED PERIOD.

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11
12 On May 12, 2009, the Assembly passed AO 2009-60, imposing an unpaid furlough
13 requirement of up to 62 hours annually for non-represented municipal employees.
14 After passage, it was discovered non-represented employees in Ranges 18 and 19
15 are FLSA-exempt, salaried, employees. There are fewer than 30 such employees
16 in the municipality; however, they are limited to furloughs in full-week blocks, unlike
17 the employees in the lower ranges, considered to be hourly, non-exempt,
18 employees under the federal Fair Labor Standards Act (FLSA).

19
20 Under FLSA, "salaried" employees, as FLSA-exempt employees, must be
21 compensated for an entire work week if they work any part of that week. The U.S.
22 Department of Labor has determined that unpaid furloughs of FLSA-exempt
23 employees have to be taken in full work-week blocks of time. Accordingly, partial
24 work-week furloughs are not appropriate for FLSA-exempt non-represented
25 employees.

26
27 This ordinance addresses the application of the furlough requirement to the FLSA-
28 exempt, non-represented employees in Ranges 18 and 19, by amending the
29 provisions in AO 2009-60. For FLSA-exempt employees, the 10-hour limitation per
30 pay period is eliminated, substituting a requirement for furloughs to be taken in full-
31 week increments. For an employee compensated on a 40-hour work week (for
32 payroll purposes), this results in a furlough leave requirement balance of up to
33 twenty-two (22) hours (based on a maximum 62 hour furlough requirement), after a
34 week of furlough leave is taken.

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36 The next issue is how to address the remaining, untaken, furlough hours. It is
37 permissible under the FLSA to reduce the salary of an exempt employee, such as
38 municipal executive employees, so long as the reduction complies with the
39 requirements of the FLSA. In an effort to treat Range 18 and 19 employees as
40 similarly as possible as other non-represented employees, this ordinance limits any
41 salary reduction for Range 18 and 19 employees to a finite period of time, so their

1 salary, at the end of the year, is restored to the pre-roll-back level. However, it is an
2 open question as to whether this is a permissible roll-back under the FLSA. If this
3 roll-back is not permissible under the FLSA, the Range 18 and 19 employees would
4 be limited to the one-week furlough.
5

6 As a result of these concerns, this ordinance provides for salary reductions for
7 Range 18 and 19 non-represented employees applicable only as far as is
8 practicable (subject to contract considerations) and subject to the requirements of
9 the FLSA (including those yet to be fully identified). This ordinance provides the
10 Director of Employee Relations the ability to modify the amount and extent of the
11 additional wage roll-back for these employees, including the ability to eliminate any
12 salary roll-back beyond the required furlough.
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14 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
15 **AMENDING ANCHORAGE MUNICIPAL CODE SECTION 3.30.1511 F.,**
16 **EMPLOYER-REQUIRED GENERAL FURLOUGH LEAVE WITHOUT PAY, AND**
17 **MODIFYING AO 2009-60 TO CLARIFY THE FURLOUGH REQUIREMENT FOR**
18 **NON-REPRESENTED, FAIR LABOR STANDARDS ACT-EXEMPT EMPLOYEES**
19 **AND PROVIDE FOR A SALARY REDUCTION FOR A DEFINED PERIOD.**
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21 Prepared by: Dept. of Law
22 Approved by: Lisa Arnold, Acting Director, Employee Relations
23 Concur: Sharon Weddleton, CFO
24 Concur: James N. Reeves, Municipal Attorney
25 Concur: Michael K. Abbott, Municipal Manager
26 Respectfully submitted: Matt Claman, Acting Mayor
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Content ID: 007891

Type: Ordinance - AO

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 3.30.1511 F., EMPLOYER-REQUIRED GENERAL FURLOUGH LEAVE WITHOUT PAY, AND MODIFYING AO 2009-60 TO CLARIFY THE

Title: FURLOUGH REQUIREMENT FOR NON-REPRESENTED, FAIR LABOR STANDARDS ACT-EXEMPT EMPLOYEES AND PROVIDE FOR A SALARY REDUCTION FOR A DEFINED PERIOD.

Author: cayouettejm

Initiating Dept: ER

Date Prepared: 6/19/09 12:15 PM

Director Name: Lisa Arnold

Assembly Meeting Date: 6/23/09

Date:

Public Hearing Date: 7/7/09

Date:

| Workflow Name | Action Date | Action | User | Security Group | Content ID |
|--------------------------|---------------------|---------------|------------------|-----------------------|-------------------|
| Clerk_Admin_SubWorkflow | 6/19/09 1:36 PM | Exit | Joy Maglaqui | Public | 007891 |
| MuniMgrCoord_SubWorkflow | 6/19/09 1:36 PM | Approve | Joy Maglaqui | Public | 007891 |
| MuniManager_SubWorkflow | 6/19/09 1:36 PM | Approve | Joy Maglaqui | Public | 007891 |
| Legal_SubWorkflow | 6/19/09 1:35 PM | Approve | Joy Maglaqui | Public | 007891 |
| Finance_SubWorkflow | 6/19/09 1:13 PM | Approve | Sharon Weddleton | Public | 007891 |
| OMB_SubWorkflow | 6/19/09 12:32 PM | Approve | Bruce Holmes | Public | 007891 |
| ER_SubWorkflow | 6/19/09 12:17 PM | Approve | Lisa Arnold | Public | 007891 |
| AllOrdinanceWorkflow | 6/19/09 12:16 PM | Checkin | Julie Cayouette | Public | 007891 |