

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 9-15-09

Submitted by: ASSEMBLY MEMBER COFFEY
Prepared by: Assembly Counsel
For reading: August 25, 2009

**ANCHORAGE, ALASKA
AO NO. 2009-107**

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
ANCHORAGE MUNICIPAL CODE SECTION 3.30.168, EMPLOYMENT OF
RELATIVES, RETROACTIVE TO AUGUST 1, 2009.**

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 3.30.168 is hereby amended to read as follows (*language indicating no amendment is included for context only*):

3.30.168 Employment of relatives.

A. *Definitions.* As used in this section,

Primary relative means any person who, by blood, marriage or adoption, including in-laws and step-relatives, is the child, sibling, parent, [AUNT, UNCLE, FIRST COUSIN,] grandparent, or grandchild of an applicant or employee and any person who lives in the same household as an applicant or employee.

Secondary relative means any person who, by blood, marriage or adoption, including in-laws and step-relatives, is the aunt, uncle, niece, nephew, or first cousin of an applicant or employee.

B. *Policy.* Except as otherwise provided in this section, an applicant who is otherwise qualified may not be denied appointment to a municipal position or continued employment with the municipality because the applicant's primary or secondary relative is employed by the municipality.

C. *Prohibitions.* The following prohibitions shall be applied and govern in the order listed. No person may be appointed to or continue to be employed in a position in any agency:

1. If the appointee or employee is a primary relative of the agency head or another employee higher than the agency head in the chain of command established by chapters 3.20 or 3.30; or
2. If the position will directly supervise or is directly supervised by a primary relative, provided:

- 1 a. The director may authorize in writing a temporary
2 appointment to or continued employment in a position
3 directly supervised by a relative, if the director finds the
4 appointment or continued employment is of short duration
5 and no reasonable alternative is available.
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7 b. Appointments and continued employment pursuant to this
8 subsection shall be re-evaluated and new findings made by
9 the director not less than every six months.

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11 3. Who is a primary or secondary relative of the appointing authority
12 and who is or would be in the same chain of command as the
13 appointing authority unless the appointment or continued
14 employment is first approved in writing by the agency head and the
15 director, provided:

- 16
17 a. With respect to new appointments of either current or new
18 employees, the director must first determine that appropriate
19 measures can be implemented so that the appointment or
20 continued employment is not likely to adversely affect or
21 unduly impair or conflict with the efficient functioning of the
22 agency, the chain of command, work product, work product
23 review or approval, work place morale, supervisory or lead
24 responsibilities in the agency, shift or work assignments, or
25 other relevant or material job related factors.

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27 *** **

28 4. Who is a primary or secondary relative of any other employee in the
29 municipality, if the director and the agency head have determined in
30 writing that a potential conflict of interest exists with: a) the work
31 product, b) work product review or approval, or c) other relevant or
32 material job related factors of the affected employees, and the
33 conflict of interest cannot be effectively managed.

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35 *** **

36 F. Applicants and employees with primary or secondary relatives in the same
37 agency as the applicant or employee or applicants and employees with a
38 primary or secondary relative covered by subsection C. of this section,
39 shall timely disclose to the director:

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41 1. The names and relationship to the reporting employee or applicant
42 of all primary and secondary relatives in the employ of the
43 municipality and its agencies, including the existence of such
44 relationships not previously reported;

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- 2. The creation of a relationship which results in another employee becoming a primary or secondary relative of the reporting applicant or employee together with the other employee's name and relationship; and
- 3. Any change in the information required to be provided under this subsection F.

(AO No. 79-195; AO No. 99-82(S), § 2, 6-15-99)
State law references: Nepotism, AS 39.90.020.

Section 2. This ordinance shall **become effective** ~~have retroactive application as of August 1, 2009,~~ upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 15th day of September, 2009.

Debbie Osseander
Chair

ATTEST:
Barbara S. Grewt
Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 485-2009

Meeting Date: August 25, 2009

1 **From:** ASSEMBLY MEMBER COFFEY
2 **Subject:** **AO 2009-107 – AN ORDINANCE OF THE ANCHORAGE MUNICIPAL**
3 **ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION**
4 **3.30.168, EMPLOYMENT OF RELATIVES, RETROACTIVE TO AUGUST**
5 **1, 2009.**
6

7 Municipal code requires amendment to better implement restrictions governing
8 nepotism: Some primary family relationships require a nepotism prohibition. Other
9 secondary family relationships, including aunts, uncles, nieces, nephews, and first
10 cousins, require scrutiny and management safeguards, not absolute prohibition.
11

12 For secondary relatives such as aunts and uncles, and certain in-laws, Alaska state law
13 recognizes that the work relationship needs to be managed, not prohibited.
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15 State law follows a two-tier approach. AS 39.90.020 prohibits a person who is the
16 spouse or a primary blood relative to the executive head of a principal state department
17 or agency to be employed in that department or agency. Nieces, nephews, aunts,
18 uncles and first cousins are not primary blood relatives under State Personnel Rule 2
19 AAC 07.999, and are outside the scope of this nepotism prohibition.
20

21 The State's nepotism prohibition under AS 39.90.020 is limited to father, mother, son,
22 daughter, brother, sister, grandfather, grandmother, grandson, or granddaughter, in a
23 full, half, or step relationship. For certain secondary relatives outside the scope of AS
24 39.90.020, the Executive Branch Ethics Act, AS 39.52, requires management of the
25 work relationship to safeguard against abuse of position.
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27 The purpose of amending AMC 3.30.168 is to better reconcile municipal policy and
28 State law. Under the proposed amendments:
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- 31 • The nepotism prohibition applies to the same primary relatives covered under
state law.
 - 32 • Management safeguards apply to employment of primary and secondary
33 relatives not in the same chain of command, and to secondary relatives within
34 the same chain of command.
 - 35 • In cases where management safeguards are not workable, the nepotism
36 prohibition will apply.
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38 Respectfully submitted:

39 Dan Coffey
40 Assembly Member, Section 4
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