

Submitted by: Assembly Members  
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and Weddleton

Prepared by: Municipal Clerk's Office  
and Assembly Counsel

For reading: November 5, 2019

**ANCHORAGE, ALASKA**  
**AO No. 2019-89(S), As Amended**

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**  
2 **ANCHORAGE MUNICIPAL CODE SECTION 2.70.020 TO MODIFY AND**  
3 **STREAMLINE THE PROCESS FOR APPOINTMENTS TO FILL A VACANCY**  
4 **ON THE ASSEMBLY.**  
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6  
7 **WHEREAS**, The Municipality of Anchorage experienced a vacancy in Seat E for  
8 West Anchorage and filled it with an interim appointee selected on July 10, 2018,  
9 and held a special election to fill the remainder of the term on August 7, 2018; and  
10

11 **WHEREAS**, the Municipality of Anchorage also experienced a vacancy in Seat  
12 **A[B]** for Eagle River/Chugiak and filled it with an interim appointee selected on  
13 December 20, 2018; and  
14

15 **WHEREAS**, Anchorage Municipal Charter sec. 7.02(b) states:  
16

17 If a vacancy occurs on the assembly, the remaining members may appoint  
18 a qualified person to fill the vacancy within 30 days. The person appointed  
19 shall serve until the next regular or special election, at which time a  
20 successor shall be elected to serve the balance of the term. If the vacancy  
21 occurs more than six months before the next regular election, the assembly  
22 shall provide for a special election to fill the vacancy not more than 60 days  
23 after the occurrence of the vacancy. If less than 30 days remain in a term  
24 when a vacancy occurs, the vacancy shall not be filled. However, if at any  
25 time, the membership is reduced to fewer than a quorum, the remaining  
26 members, within seven days, shall appoint a number of qualified persons  
27 sufficient to constitute a quorum;

28 and  
29

30 **WHEREAS**, during the interim selection process for vacancies on Seat E and Seat  
31 B in 2018, it became clear that the requirements for notice of the vacancy, inviting  
32 applications for an appointment, and affording objections to the sufficiency of an  
33 application, pursuant to Anchorage Municipal Code chapter 2.70, could make it  
34 difficult, and in some circumstances impossible, to comply with the time limits  
35 imposed by the Anchorage Municipal Charter of 30 days to fill a vacancy by  
36 appointment; and  
37

38 **WHEREAS**, the integrity of the appointment and election processes and  
39 compliance with the Charter are important and justify Code amendments that

1 reconcile inefficiencies and synchronize codified procedures with time limitations  
2 imposed by the Charter; now, therefore,

3  
4 **THE ANCHORAGE ASSEMBLY ORDAINS:**

5 **Section 1.** Anchorage Municipal Code section 2.70.020 is hereby amended to  
6 read as follows:

7  
8 **2.70.020 – Timeline for f[F]illing vacancies; procedure for filling**  
9 **vacancies; declining to fill the vacancy.**

10  
11 **A.** Whenever a vacancy on the assembly [WHICH MAY BE FILLED BY  
12 APPOINTMENT] occurs, the assembly shall meet on or before the  
13 next regular meeting and decide whether to fill the vacancy by  
14 special election or appointment, or both, in accordance with Charter  
15 § 7.02. If the assembly calls for a special election, the special  
16 election day shall be held in accordance with Title 28 and not more  
17 than 60 days after the occurrence of the vacancy. Filling a vacancy  
18 by appointment shall be conducted in accordance with subsection B.  
19 The assembly's action to fill a vacancy is in relation to the date of the  
20 next regular election or special election at which time the vacant seat  
21 is on the ballot as follows: [THE FOLLOWING PROCEDURE SHALL  
22 BE UTILIZED:]

23  
24 1. Fewer than 30 days remain in the term. If the vacancy occurs  
25 when fewer than 30 days remain in the term of the vacated  
26 seat, the vacancy shall not be filled, except under  
27 circumstances in subsection 4.

28  
29 2. Between 30 days and six months before the next regular  
30 election. The assembly may, but is not required to, appoint a  
31 qualified person to fill the vacancy within 30 days. The person  
32 appointed shall serve until the next regular or special election,  
33 at which time the vacant seat will be on the ballot and a  
34 successor shall be elected to serve the balance of the term, if  
35 any, or to a new term. Additionally the assembly may, but is  
36 not required to, call for a special election.

37  
38 3. More than 6 months before the next regular election. If the  
39 vacancy occurs more than six months before the next regular  
40 election, the assembly shall call for a special election to fill the  
41 vacancy. Additionally the assembly may, but is not required  
42 to, appoint a qualified person to fill the vacancy within 30  
43 days.

44  
45 4. Fewer members than quorum. Any time the membership is  
46 reduced to fewer than a quorum, within seven days the  
47 remaining members shall appoint a number of qualified  
48

1                    persons sufficient to constitute a quorum. The remaining  
2                    members shall determine the process for this appointment.

3  
4                    [AT OR BEFORE THE NEXT REGULAR ASSEMBLY  
5                    MEETING AFTER A VACANCY ON THE ASSEMBLY IS  
6                    DETERMINED TO EXIST, THE ASSEMBLY SHALL MEET  
7                    AND DECIDE IF IT WILL FILL THE VACANCY; AND  
8                    WHETHER THE VACANCY WILL BE FILLED BY SPECIAL  
9                    ELECTION OR BY ASSEMBLY APPOINTMENT. IF THE  
10                    ASSEMBLY DETERMINES IT WILL FILL THE VACANCY BY  
11                    SPECIAL ELECTION, IT SHALL DO SO BY CALLING A  
12                    SPECIAL ELECTION.]

13  
14                    B[2]. When [IF] the assembly [DECIDES IT WILL] fills a [THE] vacancy by  
15                    appointment, it shall [DO SO BY] set[TING] a deadline for  
16                    submission of applications [FOR APPOINTMENT TO FILL THE  
17                    VACANCY] and designate[ING] the assembly meeting at which  
18                    voting on the appointment will occur. This meeting must take place  
19                    within 30 days of the vacancy [ASSEMBLY VOTING WILL OCCUR].

20  
21                    1[a]. Announcement and invitation to apply. After the assembly  
22                    decides to appoint, the municipal clerk shall [IMMEDIATELY]  
23                    publish notice of the vacancy as soon as practicable and  
24                    invite any qualified person to submit an application for  
25                    appointment prior to the stated deadline. The notice of  
26                    vacancy, invitation to apply for appointment, and the deadline  
27                    for submission of applications shall be published in  
28                    accordance with the definition of “publish” in section 1.05.020,  
29                    for five [THE FIRST TEN] days [AFTER THE ASSEMBLY  
30                    DECIDES TO APPOINT].

31  
32                    2[b]. Applications. Applications for appointment shall be in a form  
33                    determined by the municipal clerk and contain sufficient  
34                    information to determine if the applicant is qualified. The clerk  
35                    may request additional information from an applicant to assist  
36                    in this determination. An applicant shall be notified in writing  
37                    if the application is deficient, similar to the provisions of  
38                    sections 28.30.030, and given notice of the applicant’s right to  
39                    appeal **the municipal clerk’s decision** to superior  
40                    court~~[pursuant to subsection C]~~. [A DECLARATION OF  
41                    CANDIDACY AS REQUIRED FOR ELECTION TO THE  
42                    ASSEMBLY AND SUCH OTHER INFORMATION RELEVANT  
43                    TO THE APPLICANT’S QUALIFICATIONS TO SERVE AS  
44                    THE APPLICANT MAY DESIRE. THE MUNICIPAL CLERK  
45                    SHALL PROCESS ALL APPLICATIONS IN ACCORDANCE  
46                    WITH THE PROVISIONS OF SECTIONS 28.30.030.E. AND  
47                    28.30.040. AN APPLICANT MAY WITHDRAW HIS OR HER  
48                    APPLICATION AT ANY TIME PRIOR TO APPOINTMENT.]  
49                    All applicants meeting the qualifications of the vacant office

1 prescribed by law shall be considered nominees for  
2 appointment to the office.

3  
4 3[c]. Interviewing applicants. The assembly may interview  
5 applicants at a work session, committee meeting, or at any  
6 regular or special meeting. The assembly is not required to  
7 interview all applicants, or to ask applicants the same  
8 questions. The assembly is not required to take public  
9 testimony at any interview. An applicant may withdraw his or  
10 her application at any time prior to appointment. [HOLD  
11 PUBLIC HEARINGS TO INTERVIEW ALL APPLICANTS  
12 QUALIFIED FOR APPOINTMENT.]

13  
14 4[d]. Procedural rules. At the assembly meeting set for voting on  
15 the appointment, the action to fill the vacancy shall be in the  
16 special orders section of the agenda, and subject to motions  
17 to change the order of the day. The assembly shall  
18 commence voting on the appointment immediately after a  
19 motion and second to fill the vacancy. [EXCEPT AS  
20 OTHERWISE PROVIDED IN THIS SECTION, VOTING BY  
21 THE ASSEMBLY SHALL COMPLY WITH ALL VOTING  
22 RULES OF THE ASSEMBLY AND THE ASSEMBLY SHALL  
23 APPOINT A QUALIFIED APPLICANT TO FILL THE  
24 VACANCY BY A MAJORITY VOTE AT ANY REGULAR OR  
25 SPECIAL MEETING WITHIN 30 DAYS AFTER THE  
26 VACANCY OCCURS. SUCCESSIVE VOTES OF THE  
27 ASSEMBLY SHALL BE TAKEN UNTIL A QUALIFIED  
28 APPLICANT IS CHOSEN TO FILL THE VACANCY. VOTES  
29 OF THE ASSEMBLY SHALL COMMENCE IMMEDIATELY  
30 UPON PASSAGE OF A MOTION FOR THE PREVIOUS  
31 QUESTION IN ACCORDANCE WITH ITS RULES OF  
32 PROCEDURE.] After the motion and second, [THEREAFTER]  
33 only privileged and incidental motions, motions to call [FOR]  
34 the previous question, and motions to reject all applications  
35 shall be in order. Any other motions are out of order. [OR  
36 PERMITTED AND T]The assembly shall conduct no other  
37 business at any meeting until an applicant is appointed or  
38 after [, UPON] passage of a motion to reject [DULY MADE  
39 AND SECONDED,] all applicants, [ARE REJECTED BY THE  
40 ASSEMBLY] in which case the vacancy shall not be filled.  
41 [AFTER EACH VOTE IS TAKEN AND ITS RESULTS  
42 ANNOUNCED, ADDITIONAL DISCUSSION AND DEBATE  
43 MAY RESUME UNTIL TERMINATED BY PASSAGE OF A  
44 MOTION FOR THE PREVIOUS QUESTION IN  
45 ACCORDANCE WITH THE ASSEMBLY'S RULES OF  
46 PROCEDURE.]

47

1           5[e]. Voting. Voting for [EACH VOTE ON AN] appointment  
2           [SUBJECT TO THIS SECTION] shall be in the following  
3           manner:

4  
5           a.     The municipal clerk shall prepare and distribute a  
6           paper ballot to each assembly member with the  
7           names of the qualified applicants for the vacant seat.

8  
9           b.     Upon a motion and second to fill the vacancy or to  
10          call the previous question, each assembly member  
11          shall vote for one applicant on the paper ballot. If an  
12          assembly member is participating telephonically the  
13          member shall not cast a voice vote per subsection  
14          2.30.075B.4.[, —i] Instead, the member shall  
15          communicate their vote to the municipal clerk,  
16          who[m] shall mark a ballot on behalf of that member.

17  
18          c.     After each assembly member has voted, the  
19          municipal clerk shall gather the ballots, tally the  
20          votes, and announce the total votes for each  
21          applicant.

22  
23          d.     A majority vote of all assembly members is required  
24          to appoint **in voting under subsections b. through**  
25          **d.** If no majority is cast for any applicant, the  
26          **applicant or applicant(s) receiving the lowest**  
27          **number of votes shall be eliminated. T[~~t~~he**  
28          assembly may resume debate or discussion and may  
29          interview applicants further. **Then another round of**  
30          **voting shall be conducted with the names of the**  
31          **remaining applicants on new ballots. Each**  
32          **assembly member shall vote for one applicant.**  
33          **Subsection c. and d. shall be repeated until there**  
34          **are only three applicants remaining, or until three**  
35          **rounds of voting are completed.**

36  
37          e.     The assembly may resume debate or discussion  
38          and may interview applicants further. Then, the  
39          municipal clerk shall distribute a ballot to be  
40          used for ranked choice voting with only the  
41          remaining applicants' names.

42  
43          f.     Each assembly member should then rank each  
44          applicant on the ranked choice ballot by writing  
45          "1" next to their first choice, "2" next to their  
46          second choice, and so forth until all applicants  
47          on the ballot have been ranked. After each  
48          member has ranked the applicants, the municipal  
49          clerk shall gather all ballots.

1  
2 **g.** **The municipal clerk shall tally the results with**  
3 **each ballot representing one vote for the highest-**  
4 **ranked applicant on that ballot. Inactive ballots as**  
5 **described in subsection h. are not counted. If an**  
6 **applicant has a majority, that applicant is**  
7 **appointed. If no applicant has a majority,**  
8 **applicants shall be eliminated as follows:**

9  
10 **i.** **The municipal clerk shall eliminate the**  
11 **applicant(s) with zero first-ranked choices,**  
12 **when applicable, and the applicant with the**  
13 **least amount of votes. If two or more**  
14 **applicants are tied, the clerk shall**  
15 **determine which one is eliminated as**  
16 **described in subsection (A).**

17  
18 **(A)** **In the event of a tie between**  
19 **applicants, the one with the least**  
20 **original second-ranked choices is**  
21 **eliminated. If the second-ranked**  
22 **choices are also tied, this process**  
23 **shall repeat with lower original**  
24 **rankings until the tie is broken. If**  
25 **there is still a tie after all ranks have**  
26 **been exhausted, the applicant to be**  
27 **eliminated shall be determined by**  
28 **coin flip.**

29  
30 **ii.** **The eliminated applicant(s) will be stricken**  
31 **from the ballots. Subsection g. shall then**  
32 **be repeated.**

33  
34 **h.** **An inactive ballot is one that does not rank any**  
35 **remaining applicant, contains an overvote at the**  
36 **highest continuing ranking, or contains 2 or more**  
37 **sequential skipped rankings before its highest**  
38 **continuing ranking. An overvoted ballot is one**  
39 **with two or more applicants assigned the same**  
40 **rank, and that rank is the highest on that ballot**  
41 **for a remaining applicant.**

42  
43 **[e.]** **This procedure shall continue up to three**  
44 **successive times. If after the third round of**  
45 **voting, and each subsequent round, no applicant**  
46 **receives a majority vote, then applicants shall be**  
47 **stricken from the ballot except those tied for the**  
48 **highest number of votes in the last round. If one**  
49 **applicant has the highest number of votes but**

~~**not a majority, that one and those receiving the  
second highest number of votes shall remain; all  
others shall be stricken.**~~

[BY SEPARATE, INDIVIDUAL BALLOT FOR EACH  
ASSEMBLY MEMBER PRESENT. EACH INDIVIDUAL  
BALLOT SHALL BE VOTED FOR ONLY ONE  
APPLICANT AT A TIME BY INSERTING THE  
APPLICANT'S NAME ON THE BALLOT. EACH  
BALLOT SHALL BE NUMBERED IN THE ORDER  
VOTED AND SHALL BE SIGNED BY THE ASSEMBLY  
MEMBER VOTING THE BALLOT.]

**g[f].** The municipal clerk shall retain all ballots cast as public  
records to be available only after concluding the  
appointment process.

~~**[C. Any decision by the municipal clerk under subsection B.  
regarding an applicant's qualifications may be appealed to the  
superior court for the state of Alaska.]**~~

(AO No. 87-139; AO No. 95-148, § 1, 7-25-95; AO No. 2009-134, § 1, 1-12-  
10)

**Section 2.** This ordinance shall be effective immediately upon passage and  
approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 5th day of  
November, 2019.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Municipal Clerk