

2.70.020 - Filling vacancies.

Whenever a vacancy on the assembly which may be filled by appointment occurs, the following procedure shall be utilized:

1. At or before the next regular assembly meeting after a vacancy on the assembly is determined to exist, the assembly shall meet and decide if it will fill the vacancy and whether the vacancy will be filled by special election or by assembly appointment. If the assembly determines it will fill the vacancy by special election, it shall do so by calling a special election.
2. If the assembly decides it will fill the vacancy by appointment, it shall do so by setting a deadline for submission of applications for appointment to fill the vacancy and designating the assembly meeting at which assembly voting will occur.
 - a. After the assembly decides to appoint, the municipal clerk shall immediately publish notice of the vacancy and invite any qualified person to submit an application for appointment prior to the stated deadline. The notice of vacancy, invitation to apply for appointment and the deadline for submission of applications, shall be published for the first ten days after the assembly decides to appoint.
 - b. Applications for appointment shall contain a declaration of candidacy as required for election to the assembly and such other information relevant to the applicant's qualifications to serve as the applicant may desire. ***The municipal clerk shall process all applications in accordance with the provisions of sections 28.30.030.E. and 28.30.040.*** An applicant may withdraw his or her application at any time prior to appointment. All applicants meeting the qualifications of the vacant office prescribed by law shall be considered nominees for appointment to the office.
 - c. The assembly may hold public hearings to interview all applicants qualified for appointment.
 - d. Except as otherwise provided in this section, voting by the assembly shall comply with all voting rules of the assembly and the assembly shall appoint a qualified applicant to fill the vacancy by a majority vote at any regular or special meeting within 30 days after the vacancy occurs. Successive votes of the assembly shall be taken until a qualified applicant is chosen to fill the vacancy. Votes of the assembly shall commence immediately upon passage of a motion for the previous question in accordance with its rules of procedure. Thereafter only privileged and incidental motions, motions for the previous question and motions to reject all applications shall be in order or permitted and the assembly shall conduct no other business at any meeting until an applicant is appointed or, upon passage of a motion duly made and seconded, all applicants are rejected by the assembly. After each vote is taken and its results announced, additional discussion and debate may resume until terminated by passage of a motion for the previous question in accordance with the assembly's rules of procedure.
 - e. Each vote on an appointment subject to this section shall be 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. The municipal clerk shall retain all ballots as public records.

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

28.30.030 - Declaration of candidacy.

- E. *Notification of deficiency.* No later than four days after a declaration of candidacy has been filed, the municipal clerk shall notify the candidate that the declaration is in proper form, or return the declaration to the candidate with a statement why it is deficient. A declaration found to be deficient may be refiled, with or without corrections, within the time for filing declarations of candidacy.

28.30.040 - Review and challenge of candidate qualifications.

- A. The municipal clerk shall determine whether each candidate for municipal office is qualified as provided by law. At any time before the election the municipal clerk may disqualify any candidate whom the municipal clerk finds is not qualified. A candidate who is disqualified may request a hearing before the municipal clerk under chapter 3.60. The hearing shall be held no later than five days after the request unless the candidate agrees in writing to a later date.
- B. In addition to the process described in subsection A., any person may question the eligibility of a candidate who has filed a declaration of candidacy or nominating petition, by filing a complaint with the municipal clerk. A complaint regarding the eligibility of a candidate must be received by the municipal clerk not later than the close of business on the 10th day after the filing deadline for the office for which the candidate seeks election.
 - 1. The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less of the grounds, described in particular, on which the candidate's eligibility is being questioned.
 - 2. The municipal clerk will review only those issues in the complaint related to candidate qualifications established by the United States Constitution, the Alaska Constitution, Alaska Statutes, or municipal law. Grounds cited in the complaint other than those related to candidate qualifications established by law or grounds related to issues under the authority of the Alaska Public Offices Commission under AS 15.13 will not be considered by the municipal clerk.
 - 3. Upon receipt of a complaint, the municipal clerk will review any evidence relevant to the issues identified in the complaint which is in the custody of the municipal clerk's office including the candidate's declaration of candidacy, or nominating petition, and, in the discretion of the municipal clerk, any other public record. Based on the review of the public documents, the municipal clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate.
 - 4. The municipal clerk will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, and, based on the municipal clerk's review of the public documents, a statement as to whether a preponderance of evidence supports or does not support the eligibility of the candidate.
 - 5. If the municipal clerk determines that a preponderance of evidence supports the eligibility of the candidate, the municipal clerk will issue a final determination upholding the candidate's eligibility.
 - 6. If the municipal clerk determines that a preponderance of evidence does not support the eligibility of the candidate, notice to the candidate will identify any additional information or evidence that must be provided by the candidate in support of his or her eligibility, and the date by which the requested information must be received by the municipal clerk. The municipal clerk will consider any additional information provided by the candidate in issuing a final determination as to the candidate's eligibility.
 - 7. If the information requested by the municipal clerk under H. of this section is not received from the candidate by the specified deadline, the municipal clerk will issue a final determination regarding the candidate's eligibility based on the public records initially reviewed.
 - 8. Upon issuing a final determination as to the candidate's eligibility, the municipal clerk will send notice of the determination in writing to the person making the complaint and to the candidate. The determination of the municipal clerk is final.

(GAAB Ord. No. 75-82; AO No. 80-101; AO No. 85-75; AO No. 2013-130(S-1), § 3, 1-14-14)