

Submitted by: Assembly Member Perez-Verdia
Prepared by: Assembly Counsel
For reading: January 12, 2021

**ANCHORAGE, ALASKA
AO No. 2021-10**

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 2.70 TO PROVIDE FOR A TEMPORARY APPOINTMENT TO FILL THE ASSEMBLY CHAIR'S SEAT WHEN SERVING AS ACTING MAYOR.

WHEREAS, Section 7.02(c) of the Home Rule Charter of the Municipality of Anchorage states in pertinent part: "When a vacancy occurs in the office of mayor, the chair of the assembly shall serve as acting mayor until a successor is elected and takes office. The acting mayor has the veto power, but may not vote on assembly action."; and

WHEREAS, Anchorage Municipal Code section 3.20.030A. directs that a newly elected mayor "shall take office by taking and subscribing to the oath required by section 17.07 of the Charter on July 1, or as soon thereafter as practicable"; and

WHEREAS, currently, Acting Mayor Quinn-Davidson began this service on October 23, 2020 and is expected to continue until July 1, 2021, a period of more than 8 months; and

WHEREAS, historically there are other examples of the Chair serving as Acting Mayor for an extended period, such as in 2009 Assembly Chair Matt Claman served as Acting Mayor from January 3 to July 1, a period of almost 6 months; and

WHEREAS, during service as Acting Mayor, the Assembly Chair is unavailable to participate in action or decisions as an Assembly Member and the commitment to mayoral duties precludes ongoing constituent relations, advocacy and services with the residents of the Chair's district. Community councils within the Chair's district have consistently supported having two representatives on the Assembly during these months with an Acting Mayor; and

WHEREAS, the temporary absence of the Assembly Chair while serving as Acting Mayor is not one of the circumstances in the closed definition of "vacancy" in Charter 7.01(a), which is an exclusive list that legally disallows any other circumstances not listed to determine an elective office becomes vacant; and

WHEREAS, there is no Charter or Code provision for temporarily filling the Assembly Chair's District seat during the unavailability due to the period of service as Acting Mayor, and currently no legal basis or authority to do so; and

WHEREAS, the Anchorage Assembly desires to utilize the process for an appointment during a vacancy on the Assembly to fill the Assembly Chair's District seat during a period of service as Acting Mayor, providing the residents of the

1 affected District the full representation, services, and advocacy they deserve; now,
2 therefore,

3
4 **THE ANCHORAGE ASSEMBLY ORDAINS:**

5
6 **Section 1.** Anchorage Municipal Code chapter 2.70, Vacancies in Elected Office,
7 is hereby amended to add a new section to read as follows:

8
9 **2.70.025 Appointment during Chair's service as Acting Mayor.**

10
11 When the chair of the assembly serves as acting mayor in accordance with
12 Charter 7.02, it is not a vacancy. However, during this period of unavailability
13 of the chair, the assembly may appoint a qualified person to fill the chair's
14 assembly district seat during the period of service as acting mayor. The
15 appointee shall not be entitled to hold the position of acting chair or acting
16 vice-chair, but has all other powers, duties and obligations of the assembly
17 seat. The assembly shall make the appointment following the process in
18 subsection 2.70.020B., except the assembly meeting for voting on the
19 appointment is not required to take place within 30 days of the assembly chair
20 beginning service as acting mayor.

21
22 **Section 2.** This ordinance shall be effective immediately upon passage and
23 approval by the Assembly.

24
25 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
26 _____, 2021.

27
28
29
30
31 Chair _____

32 ATTEST:

33
34
35 _____
36 Municipal Clerk
37

MUNICIPALITY OF ANCHORAGE



ASSEMBLY MEMORANDUM

No. AM 43-2021

Meeting Date: January 12, 2021

1 **From: Assembly Member Perez-Verdia**

2
3 **Subject: AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY**
4 **AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 2.70 TO**
5 **PROVIDE FOR A TEMPORARY APPOINTMENT TO FILL THE**
6 **ASSEMBLY CHAIR'S SEAT WHEN SERVING AS ACTING MAYOR.**
7

8 The resignation of the Mayor in October 2020 triggered the process for the Assembly
9 Chair to become the Acting Mayor until a successor is elected and takes office, per
10 Anchorage Municipal Charter section 7.02(c). Subsequently, the Anchorage
11 Assembly considered a resolution to hold a special election not less than 90 days
12 from the Mayor's resignation, or after January 21, 2021, and declined to do so. Thus,
13 the new Mayor will be chosen by the voters at the regular municipal election to be
14 held on April 6, 2021, and take office on July 1, 2021 per Anchorage Municipal Code
15 section 3.20.030A. Acting Mayor Quinn-Davidson will return to her Assembly seat at
16 that time, after serving more than 8 months at the helm.
17

18 In the meantime, the Assembly will have up to 10 votes instead of its usual 11, and
19 the approximately 52,891 residents of District 3, West Anchorage, and its several
20 community councils will have one elected representative to vote on Assembly action
21 on their behalf and provide constituent services and advocacy, instead of two. On the
22 other hand, District 3 may benefit from having their elected official, with the platform
23 and principles she ran on, elevated to the mayor's seat with the executive power for
24 the whole Municipality. There has been much inquiry and public dialogue regarding
25 whether a person can be appointed to fill in for Ms. Quinn-Davidson in her Assembly
26 seat during this period she is serving as Acting Mayor.
27

28 Assembly Counsel has advised, and the Department of Law concurs, that the Charter
29 and Code provide an appointment process to fill a vacancy on the Assembly until a
30 successor is elected, but the service of the Chair as Acting Mayor does not create a
31 vacancy as defined. Charter section 7.01(a), "Determining Vacancies," has an
32 exclusive list of circumstances that create a vacancy in elective office that would
33 trigger an appointment process for a vacated Assembly seat. However, a legal and
34 technical reading of this language disallows implying the service of the chair as acting
35 mayor is a "vacancy." Thus, there is currently no legal process for an appointment to
36 fill Ms. Quinn-Davidson's seat until she returns.
37

38 This proposed ordinance amends the Code with a new section that allows the
39 Assembly, but does not require it, to appoint a person to fill in for the Assembly Chair
40 during service as the Acting Mayor. This is a common-sense solution to the situation,
41 to provide District 3 with the representation of two persons and provide the Assembly
42 as a whole with 11 members to exercise the legislative power. The Charter is silent
43 with respect to an extended absence that is not a vacancy, by its express terms it

1 neither authorizes nor prohibits this proposal for an interim appointment. Charter
2 section 4.01 states in part "The legislative power of Anchorage is vested in an
3 assembly of 11 members." While the chair serves as acting mayor in the executive
4 branch the legislative power is reduced to the remaining 10 members, supporting this
5 proposal.
6

7 In the two instances in the history of the Municipality of Anchorage where the Chair
8 served as Acting Mayor, the length of service was approximately 6 months and 8
9 months. By comparison, Charter section 7.02(b) directs that the Assembly may fill a
10 bona fide vacancy of an Assembly Seat by an appointment within 30 days to serve
11 until a successor is elected to fill the balance of the term. And, if more than six
12 months remain in the Seat's term, a special election must be held within 60 days to fill
13 it.
14

15 Clearly, the framers of our Charter believed it was important to have a vacant
16 Assembly seat filled quickly. It is logical then, that a 6- or 8-month temporary
17 absence from an Assembly seat should also be temporarily filled even though it is not
18 technically a "vacancy." This ordinance provides a solution without altering the
19 Charter's vacancy edicts, nor the system of the Chair serving as Acting Mayor and
20 returning to the Assembly Seat after a new Mayor is elected and takes office.
21

22 The Spenard Community Council discussed a draft of the ordinance at a recent
23 meeting and passed a resolution of support.
24

25 There are no economic effects from this ordinance, so a summary is not submitted.
26

27 **I request your support for the ordinance.**
28

29 Prepared by: Assembly Counsel
30 Respectfully submitted: Kameron Perez-Verdia, Assembly Member
31 District 3, West Anchorage
32

33 Attachments: Spenard Community Council Resolution 2021-1
34

Spenard Community Council Resolution

2021-1

A Resolution to Support Amending the Anchorage Municipal Code Chapter 2.70 to Provide for a Temporary Appointment to Fill the Assembly Chair’s Seat when Serving as Acting Mayor

WHEREAS, Anchorage’s current Acting Mayor began service on October 23, 2020, and is expected to continue until July 1, 2021, a period of more than 8 months; and

WHEREAS, the appointment of the Assembly Chair to serve as Acting Mayor has left one “District 3 - West Anchorage” seat open without full representation for the district for that timeframe; and

WHEREAS, the Spenard Community Council is within the boundaries of District 3 West Anchorage; and

WHEREAS, the Anchorage Assembly will consider an ordinance on January 12, 2021, to amend the Anchorage Municipal Code Chapter 2.70 to provide for a temporary appointment to fill the Assembly Chair’s seat when serving as Acting Mayor; and

NOW THEREFORE BE IT RESOLVED THAT the Spenard Community Council supports the Anchorage Assembly to adopt the ordinance under consideration; and

NOW THEREFORE BE IT RESOLVED THAT the Spenard Community Council supports the Anchorage Assembly to appoint a qualified person to fill the chair’s assembly district seat during the period of service as acting mayor.

Resolved, this 6th day of January 2021.



Spenard Community Council President

1/6/21

Date

Vote: 11 in favor, and 0 opposed.