

Submitted by: Assembly Members Cross and Allard

Prepared by: Assembly Counsel

For reading: October 11, 2022

**ANCHORAGE, ALASKA
AO No. 2022-77(S)***

1 **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY SUBMITTING TO THE**
2 **QUALIFIED VOTERS OF THE MUNICIPALITY OF ANCHORAGE A BALLOT**
3 **PROPOSITION AMENDING THE ANCHORAGE MUNICIPAL CHARTER**
4 **REGARDING FILLING VACANCIES ON THE ASSEMBLY AND IN THE OFFICE**
5 **OF THE MAYOR, AND TO EXCLUDE THE COSTS FOR SPECIAL ELECTIONS**
6 **FOR THESE OFFICES FROM THE TAX INCREASE LIMITATION (“THE TAX**
7 **CAP”).**
8

9
10 **THE ANCHORAGE ASSEMBLY ORDAINS:**

11
12 **Section 1.** Pursuant to state law and the Anchorage Municipal Charter, a ballot
13 proposition in substantially the form and substance as set forth in Section 2 below
14 with proposed amendments to the Charter shall be submitted to the qualified voters
15 of the Municipality at the next regular election to be held April 4, 2023.

16
17 **Section 2.** The following proposition shall be presented to the voters:

18
19 **PROPOSITION NO. __**

20
21 This proposition will amend the Anchorage Municipal Charter regarding filling
22 vacancies on the Assembly and in the office of Mayor. It will (1) change the
23 period for holding a special election to fill a vacancy on the Assembly from
24 “not more than 60 days” after the occurrence of the vacancy to not more than
25 90 days, (2) revise the requirements for electing a successor when there is a
26 vacancy in the office of the Mayor, and (3) exclude costs for special elections
27 for these offices from the tax increase limitation calculation, or “tax cap.”

28
29 The proposition would amend Anchorage Municipal Charter Sections 7.02
30 and 14.03(b) as follows (additions shown in **underline and bold**, deletions
31 indicated by ~~brackets, strikethrough, and bold~~; current text of the Charter
32 omitted indicated by ***):

33
34 **Section 7.02. - Filling vacancies in elective office.**

35 ***

36 (b) If a vacancy occurs on the assembly, the remaining members
37 may appoint a qualified person to fill the vacancy within 30 days. The
38 person appointed shall serve until the next regular or special election,
39 at which time a successor shall be elected to serve the balance of

* Because Charter amendment propositions to current Charter language show new language in **bold and underline** and deletion by ~~bold, brackets and strikethrough~~, the changes made by this (S) version to the original AO are shown in **bold and italics**, including ~~deletions~~.

1 the term. If the vacancy occurs more than six months before the next
 2 regular election, the assembly shall provide for a special election to
 3 fill the vacancy no sooner than [NOT MORE THAN] 90 [60] days
 4 after the occurrence of the vacancy. If less than 30 days remain in a
 5 term when a vacancy occurs, the vacancy shall not be filled.
 6 However, if at any time, the membership is reduced to less [fewer]
 7 than a quorum, the remaining members, within seven days, shall
 8 appoint a number of qualified persons sufficient to constitute a
 9 quorum.

10
 11 (c) ~~If [A vacancy in the office of mayor shall be filled at a~~
 12 ~~regular or special election held not less than 90 days from the~~
 13 ~~time the vacancy occurs. If less than 90 days remain in the term~~
 14 ~~when the vacancy occurs, the vacancy shall not be filled. When]~~
 15 a vacancy occurs in the office of mayor, the chair of the assembly
 16 shall serve as acting mayor until a successor is elected and takes
 17 office. The acting mayor has the veto power, but may not vote on
 18 assembly action. The assembly by ordinance shall provide for further
 19 succession to the office of acting mayor. An elected successor
 20 shall serve the balance of the term, except as otherwise stated
 21 in this section, and shall take office 30 days after certification of
 22 the election. A vacancy in the office of mayor shall be filled
 23 through a special election held no sooner than 90 days but not
 24 more than 120 days after the occurrence of the vacancy, except:

25
 26 (1) If it is the final year of the mayor's term of office when the
 27 vacancy occurs and:

28 (A) less than 150 days remain until the next regular
 29 election: the vacancy shall not be filled and the
 30 acting mayor shall serve until the person elected
 31 mayor to a new term takes office.

32 (B) there are less than 270 days and 150 days or more
 33 until the next regular election: the vacancy shall be
 34 filled through a special election held no sooner than
 35 90 days and not more than 120 days after the
 36 occurrence of the vacancy, and the elected
 37 successor shall serve the balance of the term and
 38 the next full term, Charter section 5.01
 39 notwithstanding. There shall be no election for
 40 mayor at the next regular election.

41 (2) In other years, if the vacancy occurs 90 days or more but
 42 less than 150 days before the next regular election, a
 43 successor may be elected at a special election held
 44 concurrently with the regular election.

45
 46
 47 **Section 14.03. - Tax increase limitation.**

48 ***

49 (b) The limitations set forth in subsection (a) do not apply to the
 50 following:

(7) Taxes required to pay the costs of special elections to fill vacancies in the office of mayor or the assembly.

Shall the Anchorage Municipal Charter be amended as set forth above?

Yes [] No []

Section 3. The Municipal Clerk shall incorporate amendments to the AO and adjust the formatting for printing the proposition on the ballot to clearly show voters only the changes to the Charter language by the final passed and approved AO version as amended.

Section 4. The amendments to the Charter shall be effective 30 days after certification of the election, subject to approval of the proposition contained in Section 2 of this ordinance. The remainder of this ordinance shall be effective immediately upon passage and approval of the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2022.

Chair

ATTEST:

Municipal Clerk

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MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM ____-2022

Meeting Date: October 11, 2022

1 **From: ASSEMBLY MEMBERS CROSS and ALLARD**

2
3 **Subject: AO 2022-77(S): AN ORDINANCE OF THE ANCHORAGE**
4 **ASSEMBLY SUBMITTING TO THE QUALIFIED VOTERS OF THE**
5 **MUNICIPALITY OF ANCHORAGE A BALLOT PROPOSITION**
6 **AMENDING THE ANCHORAGE MUNICIPAL CHARTER**
7 **REGARDING FILLING VACANCIES ON THE ASSEMBLY AND IN**
8 **THE OFFICE OF THE MAYOR, AND TO EXCLUDE THE COSTS**
9 **FOR SPECIAL ELECTIONS FOR THESE OFFICES FROM THE TAX**
10 **INCREASE LIMITATION (“THE TAX CAP”).**

11
12 This proposed ordinance includes Charter amendments that were planned and
13 drafted for submittal by former Assembly Members Weddleton and Kennedy and
14 reflected in AO 2022-20(S-1) which was postponed indefinitely at the Assembly’s
15 August 23, 2022, meeting. These proposed amendments are practical, reasonable,
16 and take into consideration the impact on the municipal budget for costs of holding
17 special elections, and the potential for confusing municipal voters by holding a
18 special election to fill the mayor’s seat close in time to the regular election in the
19 final year of a mayoral term.

20
21 Mr. Weddleton and Ms. Kennedy described the proposed change to the mayoral
22 special election term as follows:

23
24 This amendment changes the rules for when the vacancy occurs in the final
25 year of a mayor’s term, in order to avoid the complications and voter
26 confusion that may occur if a special election and potential runoff election is
27 held too close to the regular election in a mayoral election year. Instead of
28 having a special election for the balance of the term and shortly thereafter a
29 regular election for the next term, this amendment will cancel the regular
30 election for mayor and have the winner at a special election fill the remaining
31 balance of the term AND the next full term. This is only when the vacancy
32 occurs in the final year of a mayor’s term and there are less than 270 days
33 before the next election.

34
35 The process for a regular election in April begins in January with publishing
36 the notice of vacancies. (E.g.: published on January 9 for the April 5, 2022
37 regular election.)

38
39 As an example, calculating from the April 5, 2022 election, the following dates
40 apply:

- 41 270 days prior = July 9, 2021
42 150 days prior = November 6, 2021
43 120 days prior = December 6, 2021

1 90 days prior = January 5, 2021

2
3 Helpful to keep in mind is the time required to conduct a special election for
4 a new mayor and have the person take office on July 1, a total of 169 days:

5 At least 90 days after the vacancy occurs

6 + about 14 days to date of certification of the election

7 + 21 days (3 weeks) after certification to conduct a runoff election, if
8 required

9 + 14 days after the runoff to certify

10 + 30 days after certification for the newly elected successor mayor to
11 take office.

12 = 169 days total.

13 Finally, some comments received took the view this proposed amendment
14 was complicated and confusing. To the contrary, if this language is added to
15 Charter, the following clear and precise logic statements apply when applying
16 it:

- 17 1. If a vacancy in the position of mayor occurs 150 days or less from the
18 date of a regular election, the vacancy is not filled except as a result
19 of the regular election. *[In non-mayoral election years, it is a special
20 election held concurrently with the regular election.]*
- 21 2. If a vacancy occurs more than 150 days before a regular election, a
22 special election will be held.
- 23 3. If the vacancy occurs less than 270 days before the regular *[mayoral]*
24 election, the special election takes the place of the upcoming regular
25 *[mayoral]* election for that position and that year only, with the winner
26 of the special election filling the remainder of the vacated term and the
27 upcoming three-year term. This maintains the normal mayoral election
28 cycle. All rules for a run-off election and certification processes will
29 apply as usual. The winner of the special election shall take office 30
30 days after certification or as soon as practicable.
- 31 4. Neither a regular or special election shall be held sooner than 90 days
32 after the vacancy is declared. This rule is currently in the Charter.

33
34 A visual representation of the different timelines that apply in the four different
35 scenarios that could be presented by a mayoral vacancy is attached, and will assist
36 voters considering this proposition.

37
38 And second, for the amendment adding a new subsection (b)(7) to Charter sec.
39 14.03 to allow taxes above the cap to cover the costs for special elections, Mr.
40 Weddleton described it:

41
42 A special election for mayor costs about \$650,000. Filling a vacant assembly
43 seat would be somewhat less than that as there is no runoff election for
44 assembly seats. This is a significant amount that would harm the budget. The
45 need for a special election is extraordinary, similar to legal judgements that
46 are also 'above' the tax cap.

47
48 In addition to the lack of a runoff election, Assembly seat special elections are not
49 areawide, so costs are lower also due to the lower quantity of ballots and other
50 resources needed.

1
2 We are proposing an S-version of the ordinance that adds two significant changes:
3

- 4 1. Makes the time restrictions for holding an election to fill a vacancy on the
5 assembly the same as for the mayor, using the same language “no sooner
6 than 90 days.” (p. 2 line 3). This wording is more clear and matches the
7 phrase used in Charter 7.02(c) on replacing the mayor. This change also
8 requires the special election to be held after 90 days have passed, while the
9 current language requires the special election before 90 days pass after the
10 vacancy occurs. The rationale is the same as for filling the mayor’s seat: the
11 minimum time of 90 days before the special election can be held allows for
12 candidates to organize and campaign before the election date.
- 13 2. The words “a special election held concurrently with” are added to the
14 proposed new subsection 7.02(c)(2). (p. 2 lines 43-44). This subsection
15 relates to holding the election to fill a vacancy in the mayor’s seat in the first
16 or second year of the mayor’s term, when it occurs close to the regular
17 municipal election date. In that case, it is still a special election, but held
18 concurrently with the regular election for assembly and school board seats.
19

20 The suggestions from Mr. Weddleton and Ms. Kennedy, and the S-version changes,
21 vastly improve the timelines required by the Home Rule Charter to be efficient and
22 practical, and provide the ability to cover the costs to conduct mandated special
23 elections without affecting the current applicable municipal budget.
24

25 **We request your support for the ordinance.**

26
27 Respectfully submitted: Kevin Cross, Assembly Member
28 District 2 – Eagle River, Chugiak, Eklutna and JBER

29
30 Jamie Allard, Assemblywoman
31 District 2 – Eagle River, Chugiak, Eklutna and JBER
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33 Attachments: Filling a Mayoral Vacancy with AO 2022-77.