

Submitted by: Assembly Chair Constant
Assembly Vice Chair Zaletel
Assembly Ethics & Elections
Committee
Prepared by: Municipal Clerk's Office
Reviewed by: Assembly Counsel's Office
For reading: November 21, 2023

**ANCHORAGE, ALASKA
AO No. 2023-124**

**AN OMNIBUS ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY
AMENDING AND UPDATING ANCHORAGE MUNICIPAL CODE TITLE 28,
ELECTIONS.**

WHEREAS, the Municipal Clerk's Office, with the assistance of Assembly Counsel, the Anchorage Election Commission, and the Assembly Ethics and Elections Committee, conducts a regular review of the election code, Anchorage Municipal Code Title 28, *Elections*, each year; and

WHEREAS, following the 2023 Regular Election, the Municipal Clerk's Office drafted proposed updates to provisions of the Elections Code to streamline administration correct mistaken cross-references; and

WHEREAS, the Assembly Ethics and Elections Committee reviewed this ordinance at their meeting on October 25, 2023, and the Election Commission reviewed and recommended a change to the draft at their meeting on October 25, 2023, that is incorporated herein; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 28.10.040 is hereby amended to add *(the remainder of the section is not affected and therefore not set out)*:

28.10.040 Definitions

The following words, terms, and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*** *** ***

Valid signature means a signature that has been compared with one or more signatures in the voter's voter registration file or on the voter's government-issued identification and determined to be by the same writer, through evaluation by an election official trained to perform this function using the standards set forth in this title.

*** *** ***

Voter registration file means a voter's registration file maintained by the State of Alaska, Division of Elections, pursuant to Alaska Statutes Chapter 15.07.

1 *** *** ***
 2
 3 (GAAB 7.05.010; AO No. 85-75; AO No. 90-81; AO No. 91-166; AO No. 2002-
 4 179(S), § 1, 1-7-03; AO No. 2004-176, § 1, 6-1-05; AO No. 2013-130(S-1), § 2,
 5 1-14-14; AO No. 2016-10(S), § 1, 2-9-16; AO No. 2017-29(S), § 1, 6-1-17; AO
 6 No. 2018-4(S), § 1, eff. retroactively 12-1-17; AO No. 2020-5(S), § 1, 2-11-20;
 7 AO No. 2020-131(S), § 2, 1-14-21; AO No. 2021-110(S), § 1, 12-28-21; AO
 8 No. 2022-98, As Amended, § 2, 12-6-22)

9
 10 **Section 2.** Anchorage Municipal Code section 28.80.050 is hereby amended to
 11 read as follows (*the remainder of the section is not affected and therefore not set out*):
 12

13 **28.80.050 – Rules for counting votes.**

14 *** *** ***

15 12. A write-in vote shall not be counted for an individual candidate:

- 16
 17 a. In a runoff election, because the only qualified candidates in a
 18 runoff are the names printed on the ballot; no write-in candidate
 19 is qualified;
 20
 21 b. For a service area supervisory board candidate if the candidate
 22 has not registered as a qualified write-in pursuant to section
 23 28.30.020; or
 24
 25 c. Except as set forth in paragraph 12.b [13.B.] above, unless the
 26 aggregate of all votes cast for all write-in candidates for the
 27 particular office is
 28
 29 i. The highest number of votes received by any candidate
 30 for the office; or
 31
 32 ii. The second highest number of votes received by any
 33 candidate and within the margin requiring an automatic
 34 recount in section 28.90.025C;
 35

36 In which case the write-in votes will be allocated to the individual
 37 candidates in an automatic recount.

38
 39 *** *** ***

40 (GAAB 7.05.160—7.05.170; CAC 2.68.260; AO No. 85-75; AO No. 2001-43, §
 41 4, 2-27-01; AO No. 2002-180, §§ 3—5, 3-24-03; AO No. 2013-130(S-1), § 6, 1-
 42 14-14; AO No. 2016-12, § 3, 1-26-16; AO No. 2017-29(S), § 40, 6-1-17; AO
 43 No. 2018-4(S), § 18, eff. retroactively 12-1-17; AO No. 2020-5(S), § 5, 2-11-
 44 20; AO No. 2020-131(S), § 10, 1-14-21; AO No. 2021-110(S), § 13, 12-28-21;
 45 AO No. 202-98, As Amended, § 9, 12-06-22)

46
 47 **Section 3.** Anchorage Municipal Code section 28.85.040 is hereby amended to
 48 read as follows (*the remainder of the section is not affected and therefore not set out*):
 49

50 **28.85.040 - Certification of election.**
 51

- 1 A. The election commission and the municipal clerk shall report the results
2 of the commission's ballot review and election results at an assembly
3 meeting as soon as practicable.
- 4 B. If, after considering the information, the assembly determines that the
5 election was validly held, the assembly shall certify the results of the
6 election in accordance with the reports of the election commission and
7 municipal clerk.
- 8 C. The certification shall be subject to the outcome of any recount
9 under chapter 28.90 and any appeal or judicial review [ELECTION
10 CONTEST] under chapter 28.300 [100]. Certification of the election is
11 not subject to an assembly motion to reconsider.

12 *** *** ***

13 (GAAB 7.05.190; CAC 2.68.580; AO No. 252-76; AO No. 77-330; AO No. 85-
14 75; AO No. 2001-43, § 5, 2-27-01; AO No. 2004-176, § 10, 6-1-05; AO
15 No. 2017-29(S), § 45, 6-1-17; AO No. 2020-5(S), § 6, 2-11-20; AO No. 2020-
16 131(S), § 11, 1-14-21)

17
18 **Section 4.** Anchorage Municipal Code section 28.90.025 is hereby amended to
19 read as follows (*the remainder of the section is not affected and therefore not set out*):
20

21 **28.90.025 – Recount by order of the assembly or municipal clerk;
22 automatic recount.**

23 *** *** ***

- 24
25 D. The municipal clerk shall initiate a recount within seven days of the
26 certification of the election if the results show that the aggregate of all
27 votes cast for a write-in candidate meet the requirements of section
28 28.80.050B.12 [28.80.050B.13.C.] and must be allocated to the
29 individual write-in candidates.
30

31 *** *** ***

32 (AO No. 2016-68, § 1, 6-21-16; AO No. 2020-5(S), § 7, 2-11-20; AO No. 2020-
33 131(S), § 12, 1-14-21; AO No. 2021-110(S), § 13, 12-28-21)
34

35 **Section 5.** Anchorage Municipal Code section 28.100.020 is hereby amended to
36 read as follows (*the remainder of the section is not affected and therefore not set out*):
37

38 **28.100.020 Contest procedure.**

- 39
40 A. Notice of contest of an election shall be submitted in writing to the
41 municipal clerk at any time not later than noon on [WITHIN NINE DAYS
42 AFTER] the day of the first meeting for which the Assembly has issued
43 a public notice that it may take up the question of whether to certify the
44 election. A person that signs and submits an election contest form
45 containing false statements is guilty of unsworn falsification in the
46 second degree under AS 11.56.210 or AMC 8.30.170
47 [CERTIFICATION OF THE ELECTION].

- 48
49 B. The notice of contest shall:

- 50
51 1. Specify the election being contested,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- 2. Include a statement of [T]the grounds for [OF] the contest specified with particularity, and of the relief sought,
- 3. Shall be verified and bear the notarized signatures of the candidate or the qualified voters bringing the contest. The verification shall be in the form prescribed by state law.
- 4. Shall contain the printed or typed names and residence addresses of the candidate or qualified voters, and
- 5. Shall designate two persons as representatives and include the phone numbers, mailing addresses, and residence addresses of the representatives.

C. The assembly shall vote whether to hear the contest or to certify the results of the [CONTESTED] election at a meeting held pursuant to AMC 28.85.040B. [IN ACCORDANCE WITH THE REPORTS OF THE ELECTION COMMISSION AND MUNICIPAL CLERK.] If the assembly decides to hear the contest, it may appoint one or more persons to take evidence concerning the grounds for the contest and report to the assembly.

(GAAB 7.05.200; CAC 2.68.550; AO No. 85-75; AO No. 2004-176, § 12, 6-1-05; AO No. 2013-130(S-1), § 9, 1-14-14; AO No. 2017-29(S), § 47, 6-1-17; AO No. 2020-131(S), § 13, 1-14-21)

Section 6. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2023.

_____ Chair

ATTEST:

_____ Municipal Clerk



**MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM**

No. AM 908-2023

Meeting Date: November 21, 2023

1 **From: Assembly Chair Constant**

2
3 **Subject: AN OMNIBUS ORDINANCE OF THE ANCHORAGE MUNICIPAL**
4 **ASSEMBLY AMENDING AND UPDATING ANCHORAGE**
5 **MUNICIPAL CODE TITLE 28, ELECTIONS.**
6
7

8 In the past several years, after each year's regular municipal election and before the
9 processes begin for the next one, the Municipal Clerk coordinates a comprehensive
10 review of Title 28, Election Code, the Observer's Handbook, associated forms, and
11 the practices and procedures in administering and conducting the municipal election.
12 This effort is with assistance of the Assembly Ethics and Election Committee, the
13 Election Commission, Assembly Counsel's Office, and the MOA's Election Team.
14 The review may result in recommended amendments to the Code to clarify the law,
15 address unanticipated issues, and improve election procedures. The Assembly has
16 enacted amendments to Title 28 every year but one since 2012.
17

18 The proposed ordinance includes the recommended Code updates and
19 improvements for 2023, and is the fewest amount of changes since the Municipality
20 shifted to a Vote by Mail election system in 2017. The changes were presented and
21 discussed with the Assembly Ethics and Elections Committee and the Election
22 Commission on October 25, 2023, when both bodies held meetings the same day.
23

24 The proposed amendments updating the Elections Code include the following:

25
26 • **AMC 28.10.040 Definitions – Defining “Voter registration file”**
27

28 There are two references to the voter registration file in Title 28 and a definition would
29 provide clarification.
30

31 *Voter registration file* means a voter's registration file maintained by the State
32 of Alaska, Division of Elections, pursuant to Alaska Statutes Chapter 15.07.
33

34 • **AMC 28.85.040 – Certification of election.**
35

36 Subsection C. is amended to change wording to be consistent with the changes to
37 AMC 28.100.020 discussed next. Generally, with those changes a contest is to be
38 submitted before the Assembly certifies the election, and the Assembly is to render
39 a decision on the contest application before certifying the election. The Assembly
40 may decide the contest on its face lacks merit and proceed to certify, or order an
41 investigation and hearing before making its decision at a later meeting, postponing
42 certification. If the contest is for a specific race or proposition vote, the uncontested

1 ones in the election can be certified, and those being contested certified after
2 completion of the Assembly's decision on the contest. Either way, the certified results
3 are only subject to an Assembly decision on a contest that has been appealed to the
4 court pursuant to AMC Chapter 28.300, or to the results of a recount.

5
6 • **AMC 28.100.020 – Contest Procedure.**

7
8 When first enacted in 1985, code provisions required election contests to be
9 submitted to the Assembly for possible action at the same meeting where the
10 Assembly would vote to certify the election. Election contests, the Election
11 Commission's report, and the Clerk's report would go to the Assembly at the same
12 time.

13
14 The Code was changed in 2020 to provide that election contests could be submitted
15 within nine days after the certification of the election. This provided both the person
16 or group attempting to contest the election and the election staff additional time after
17 the meeting of the Election Commission to gather facts for and against the contest to
18 present to the Assembly. However, the 2020 amendments did not provide direction
19 to the Assembly on how to handle contests filed after it has already voted to certify
20 the election.

21
22 By the time Anchorage elections are before the Assembly for certification, the
23 Election Team has been processing the election for over five weeks which is
24 sufficient time for observers or interested voters to identify if there are sufficient
25 grounds for filing a contest. Thus, Subsection A. is amended to allow a notice of
26 contest be submitted at any time during the election process up to noon on the day
27 of the Assembly meeting for certification, rather than require a contest to be
28 submitted only after the certification. Since the Assembly decides whether to hear
29 the contest and investigate further, or to certify the election pursuant to Subsection
30 C., this timing dovetails better with the process, and is similar to state law governing
31 other municipal elections in Alaska. AS 29.26.070(b).

32
33 At the meeting to determine whether to certify the election, the Assembly may
34 consider a contest on its face and evaluate it under similar standards as a motion to
35 dismiss: whether the facts asserted as grounds for the contest are accepted as true
36 and it would be sufficient to change the result? Under this standard, the Assembly
37 votes whether to hear the contest further, and if yes it may appoint a person to make
38 further inquiry into the asserted facts and report back. If no: the Assembly then votes
39 whether the certify the election results. A dissatisfied person who submitted an
40 election contest still has recourse at that point to appeal the certified results to the
41 superior court under AMC chapter 28.300. In addition, if the contest is for a particular
42 race or question, the Assembly may exclude the votes cast for that race or question
43 and certify the other races or proposition questions in the election per AMC section
44 28.85.040D.

45
46 A requirement to include a statement of the grounds for the contest "specified with

1 particularity” is added, similar language as state statute applicable to other
2 municipalities in the state. (AS 29.26.070(b)). This will enable dismissal of generally
3 stated contests with no facts, and so that the Assembly has evidence upon which to
4 determine if an investigation is merited. Further, language is added to require a
5 contest only accepted as a notarized verification statement, and under penalty of
6 unsworn falsification. These are common requirements in other jurisdictions and will
7 deter frivolous or meritless claims submitted in a contest.

8
9 **• Citation Corrections**

10
11 Two citation references in AMC Section 28.80.050 and AMC 28.90.025. are
12 corrected. There are no substantive changes to these provisions made by these
13 corrections.

14
15 There are no economic effects associated with this ordinance and so a summary of
16 economic effects is not provided.

17
18 **We respectfully request support for this ordinance.**

19
20 Prepared by: Municipal Clerk’s Office
21 Reviewed by: Assembly Counsel’s Office
22 Respectfully submitted: Christopher Constant, Assembly Chair
23 District 1, North Anchorage