

## Chapter 26. Elections.

### Article

1. Regular and Special Elections (§§ 29.26.010 - 29.26.070)
2. Initiative and Referendum (§§ 29.26.100 - 29.26.190)
3. Recall (§§ 29.26.240 - 29.26.360)

### Article 1. Regular and Special Elections.

#### Section

- |                               |                                  |
|-------------------------------|----------------------------------|
| 010. Administration           | 050. Voter qualification         |
| 020. Nominations              | 060. Runoff elections            |
| 030. Notice of elections      | 070. Election contest and appeal |
| 040. Date of regular election |                                  |

#### **Sec. 29.26.010. Administration.**

The governing body shall prescribe the rules for conducting an election and shall appoint an election board composed of at least three judges for each precinct. A judge shall be a voter of the precinct for which appointed unless no voter is willing to serve. (§ 9 ch 74 SLA 1985)

#### **Sec. 29.26.020. Nominations.**

(a) Subject to other provisions of this title, the governing body shall provide by ordinance for nominations of elected officials by providing for declaration of candidacy or for petition requiring the signatures of not more than 10 voters, or for both.

(b) A person may be nominated for and occupy more than one office, but may not serve simultaneously as borough mayor and as a member of the assembly or, in a first class city, as city mayor and as a member of the council. (§ 9 ch 74 SLA 1985)

#### **Sec. 29.26.030. Notice of elections.**

(a) Subject to other provisions of this title, a municipality shall give at least 20 days notice of an election.

(b) This section applies to home rule and general law municipalities. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.040. Date of regular election.**

The date of a regular election is the first Tuesday of October annually, unless a different date or interval of years is provided by ordinance. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.050. Voter qualification.**

(a) A person may vote in a municipal election only if the person

- (1) is qualified to vote in state elections under AS 15.05.010;
- (2) has been a resident of the municipality for 30 days immediately preceding the election;
- (3) is registered to vote in state elections at a residence address within a municipality at least 30 days before the municipal election at which the person seeks to vote; and

(4) is not disqualified under art. V of the state constitution.

(b) Voter registration by the municipality may not be required. However, in order to vote for a candidate or on a ballot measure relating to a specific local election district or service area, a municipality may by ordinance require that a person be registered to vote in state elections at least 30 days before the municipal election at an address within the boundaries of that local election district or service area. The municipality has the responsibility to determine if a voter meets the requirements of the ordinance and this section.

(c) This section applies to home rule and general law municipalities. (§ 9 ch 74 SLA 1985; am §§ 7, 8 ch 80 SLA 1989; am § 88 ch 82 SLA 2000)

**Effect of amendments.** — The 2000 amendment, effective July 1, 2000, added the last sentence in (b). The 1989 amendment, effective August 30, 1989, in subsection (a), rewrote paragraph (1) and inserted "at a residence address within a municipality at least 30 days before the municipal election at which the person seeks to vote" in paragraph (3); and in subsection (b), rewrote the second sentence.

**Sec. 29.26.060. Runoff elections.**

(a) Unless otherwise provided by ordinance, a runoff election shall be held if no candidate receives over 40 percent of the votes cast for the office of

- (1) mayor; or
- (2) member of the governing body or school board if candidates run for a designated seat.

(b) Unless otherwise provided by ordinance, if candidates for the governing body or school board run at large, a runoff election for a seat shall be held if no candidate receives a number of votes greater than 40 percent of the total votes cast for all candidates divided by the number of seats to be filled.

(c) Unless otherwise provided by ordinance, a runoff election shall be held within three weeks after the date of certification of the election for which a runoff is required, and notice of the runoff election shall be published at least five days before the election date. The runoff election shall be between the two candidates receiving the greatest number of votes for the seat. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.070. Election contest and appeal.**

(a) The governing body may provide by ordinance the time and procedure for the contest of an election.

(b) Unless otherwise provided by ordinance, an election may be contested only by a voter by filing a written affidavit with the municipal clerk specifying with particularity the grounds for the contest. An election may be contested before or during the first canvass of ballots by the governing body.

(c) Unless otherwise provided by ordinance, the governing body shall declare the election results at the first meeting to canvass the election, record the results in the minutes of that meeting, and authorize the results to be certified.

(d) A contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse a result of the election, or the difference between the winning and losing vote on the result contested is more than two percent.

(e) A person may not appeal or seek judicial review of an election for any cause unless the person is a voter, has exhausted all administrative remedies before the governing body, and has commenced, within 10 days after the governing body has declared the election results, an action in the superior court in the judicial district in which the municipality is located. If court action is not commenced within the 10-day period, the election and election results are conclusive and valid. (§ 9 ch 74 SLA 1985)

**Article 2. Initiative and Referendum.**

**Section**

- |                               |                          |
|-------------------------------|--------------------------|
| 100. Reservation of powers    | 150. Protest             |
| 110. Application for petition | 160. New petition        |
| 120. Contents of petition     | 170. Initiative election |
| 130. Signature requirements   | 180. Referendum election |
| 140. Sufficiency of petition  | 190. Effect              |

**Sec. 29.26.100. Reservation of powers.**

The powers of initiative and referendum are reserved to the residents of municipalities, except the powers do not extend to matters restricted by art. XI, sec. 7 of the state constitution. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.110. Application for petition.**

(a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. An application shall be signed by at least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter

(1) is not restricted by AS 29.26.100;

- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition is subject to judicial review. (§ 9 ch 74 SLA 1985; am § 9 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, substituted "name and address of a contact person and an alternate to whom" for "address to which" in the first sentence in subsection (a).

### **Sec. 29.26.120. Contents of petition.**

(a) Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the municipal clerk. Each copy of the petition shall contain

- (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
- (3) the date on which the petition is issued by the clerk;
- (4) notice that signatures must be secured within 90 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
- (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
- (7) space for indicating the total number of signatures on the petition.

(b) If a petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(c) The clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed. (§ 9 ch 74 SLA 1985; am § 10 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, in subsection (c), added the first and second sentences and in the present third sentence inserted "by the clerk" and substituted the language beginning "who appears in the clerk's office" for "by the clerk."

### **Sec. 29.26.130. Signature requirements.**

(a) The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition. The statement provided under AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform the contact person in writing. Except as provided in (e) of this section, a petition shall be signed by a number of voters based on the number of votes cast at the last regular election held before the date written notice is given to the contact person that the petition is available, equal to

(1) 25 percent of the votes cast if a municipality has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition.

(e) If the ordinance or resolution that is the subject of an initiative or referendum petition affects only an area that is less than the entire area of a municipality, only voters residing in the affected area may sign the petition. The clerk shall determine the number of signatures required on the petition and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that area at the last regular election held before the date written notice is given to the contact person that the petition is available equal to

(1) 25 percent of the votes cast if the area has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if the area has 7,500 persons or more. (§ 9 ch 74 SLA 1985; am §§ 11, 12 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, rewrote the introductory clause of subsection (b) and added subsection (e).

### **Sec. 29.26.140. Sufficiency of petition.**

(a) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall

(1) certify on the petition whether it is sufficient; and

(2) if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected.

(c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after a supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record. (§ 9 ch 74 SLA 1985; am § 13 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, substituted "contact person" for "sponsors at the address provided under AS 29.26.110(a)" in paragraph (2) of subsection (a).

**Sec. 29.26.150. Protest.**

If the municipal clerk certifies an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the governing body. The governing body shall hear and decide the protest. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.160. New petition.**

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.170. Initiative election.**

(a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote, the clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after the certification of a petition and the governing body determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(b) If the governing body adopts substantially the same measure, the petition is void, and the matter initiated may not be placed before the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

(d) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution. (§ 9 ch 74 SLA 1985; §§ 1, 2 ch 3 SLA 2005)

**Effect of amendments.** — The 2005 amendments, effective June 20, 2005, amended subsection (a) to remove the special election mandate and authorize a best interest determination on whether to hold a special election on a certified initiative petition, order a special election by ordinance, change the timeline for conducting an election on an initiative petition, and made stylistic changes to subsection (b).

**Sec. 29.26.180. Referendum election.**

(a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after certification of a petition and the governing body determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held

on the matter before the next election that is already scheduled , but not sooner than 60 days after certification of the petition.

(b) If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the governing body may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the governing body repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election. (§ 9 ch 74 SLA 1985; §3 ch 3 SLA 2005)

**Effect of amendments.** — The 2005 amendment, effective June 20, 2005, amended subsection (a) to remove the special election mandate and authorize a best interest determination on whether to hold a special election on a certified referendum petition, order a special election by ordinance, and change the timeline for conducting an election on a referendum petition.

### **Sec. 29.26.190. Effect.**

(a) The effect of an ordinance or resolution may not be modified or negated within two years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

(b) If an ordinance or resolution is repealed in a referendum election or by the governing body after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of two years.

(c) If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified. (§ 9 ch 74 SLA 1985)

## **Article 3. Recall.**

### **Section**

240. Recall	310. Submission
250. Grounds for recall	320. Election
260. Application for recall petition	330. Form of recall ballot
270. Recall petition	340. Effect
280. Signature requirements	350. Successors
290. Sufficiency of petition	360. Application
300. New recall petition application	

### **Sec. 29.26.240. Recall.**

An official who is elected or appointed to an elective municipal office may be recalled by the voters after the official has served the first 120 days of the term for which elected or appointed. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.250. Grounds for recall.**

Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.260. Application for recall petition.**

(a) An application for a recall petition shall be filed with the municipal clerk and must contain

(1) the signatures and residence addresses of at least 10 municipal voters who will sponsor the petition;

(2) the name and address of the contact person and an alternate to whom all correspondence relating to the petition may be sent; and

(3) a statement in 200 words or less of the grounds for recall stated with particularity.

(b) An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. (§ 9 ch 74 SLA 1985; am § 14 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, in paragraph (2) of subsection (a), substituted "name and address of the contact person and an alternate to whom" for "address to which" and added "and" to the end.

**Sec. 29.26.270. Recall petition.**

(a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.26.260, the clerk shall prepare a recall petition. All copies of the petition must contain

(1) the name of the official sought to be recalled;

(2) the statement of the grounds for recall as set out in the application for petition;

(3) the date the petition is issued by the clerk;

(4) notice that signatures must be secured within 60 days after the date the petition is issued;

(5) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;

(6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

(7) space for indicating the number of signatures on the petition.

(b) The clerk shall notify the contact person in writing when the petition is available. That person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed. (§ 9 ch 74 SLA 1985; am § 15 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, in subsection (b), added the first two sentences and in the present third sentence inserted "by the

clerk" and substituted the language beginning "who appears in the clerk's office" for "by the clerk."

**Sec. 29.26.280. Signature requirements.**

(a) The signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under AS 29.26.270(a)(6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform the contact person in writing. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office at the last regular election held before the date written notice is given to the contact person that the petition is available. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters residing in the district equal to 25 percent of the number of votes cast in the district for that office at the last regular election held before the date the written notice is given to the contact person that the petition is available.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence shall be rejected.

(d) A petition signer may withdraw the signer's signature upon written application to the clerk before certification of the petition. (§ 9 ch 74 SLA 1985; am § 16 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, in subsection (b), substituted "the contact person in writing" for "each sponsor" at the end of the first sentence, substituted "written notice is given to the contact person that the petition is available" for "the petition was issued" at the end of the second sentence, and substituted "written notice is given to the contact person that the petition is available" for "petition was issued" at the end of the third sentence.

**Sec. 29.26.290. Sufficiency of petition.**

(a) The copies of a recall petition shall be assembled and filed as a single instrument. A petition may not be filed within 180 days before the end of the term of office of the official sought to be recalled. Within 10 days after the date a petition is filed, the municipal clerk shall

(1) certify on the petition whether it is sufficient; and

(2) if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected if

(1) the petition contains an adequate number of signatures, counting both valid and invalid signatures; and

(2) the supplementary petition is filed more than 180 days before the end of the term of office of the official sought to be recalled.

(c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the

petition is rejected and filed as a public record. (§ 9 ch 74 SLA 1985; am § 17 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, substituted "contact person" for "sponsors at the address provided under AS 29.26.260(a)(2)" in paragraph (2) of subsection (a).

**Sec. 29.26.300. New recall petition application.**

A new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected as insufficient. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.310. Submission.**

If a recall petition is sufficient, the clerk shall submit it to the governing body at the next regular meeting or at a special meeting held before the next regular meeting. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.320. Election.**

(a) If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election.

(b) If no regular election occurs within 75 days, the governing body shall hold a special election on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the governing body.

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question may not be submitted to the voters. The governing body may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming that official. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.330. Form of recall ballot.**

A recall ballot must contain

(1) the grounds for recall as stated in 200 words or less on the recall petition;

(2) a statement by the official named on the recall petition of 200 words or less, if the statement is filed with the clerk for publication and public inspection at least 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [ ] No [ ]". (§ 9 ch 74 SLA 1985; am § 18 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, substituted "at least 20 days" for " within 20 days" in paragraph (2).

**Sec. 29.26.340. Effect.**

(a) If a majority vote favors recall, the office becomes vacant upon certification of the recall election.

(b) If an official is not recalled at the election, and application for a petition to recall the same official may not be filed sooner than six months after the election. (§ 9 ch 74 SLA 1985)

**Sec. 29.26.350. Successors.**

(a) If an official is recalled from the governing body, the office of that official is filled in accordance with AS 29.20.180. If all members of the governing body are recalled, the governor shall appoint three qualified persons to the governing body. The appointees shall appoint additional members to fill remaining vacancies in accordance with AS 29.20.180.

(b) If a member of the school board is recalled, the office of that member is filled in accordance with AS 14.12.070. If all members are recalled from a school board, the governor shall appoint three qualified persons to the school board. The appointees shall appoint additional members to fill remaining vacancies in accordance with AS 14.12.070.

(c) A person who has been recalled may not be appointed under (a) or (b) of this section to the office from which the person was recalled. A person appointed under (a) or (b) of this section serves until a successor is elected and takes office.

(d) If an official other than a member of the governing body or school board is recalled, a successor shall be elected to fill the unexpired portion of the term. The election shall be held not more than 60 days after the date the recall election is certified, except that if a regular election occurs within 75 days after certification the successor shall be chosen at that election.

(e) Nominations for a successor may be filed until seven days before the last date on which a first notice of the election must be given. Nominations may not be filed before the certification of the recall election. (§ 9 ch 74 SLA 1985; am §19 ch 80 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 30, 1989, added the first sentence in subsection (c).

**Sec. 29.26.360. Application.**

AS 29.26.250 - 29.26.360 apply to home rule and general law municipalities. (§ 9 ch 74 SLA 1985)