

# FAIRBANKS NORTH STAR BOROUGH ASSEMBLY VACANCY

## Process, Deadlines and Application

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This packet contains the information you will need to complete prior to applying for the vacant Assembly Seat E.



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Office of the Borough Clerk  
FNSB Juanita Helms Administration Bldg.  
907 Terminal Street  
Fairbanks, Alaska 99701  
(907) 459-1401 Office

## **BOROUGH ASSEMBLY VACANCY**

Borough Assembly, Seat E Serves At-large

**Assembly Qualifications:** Applicants for borough assembly must:

- Be a qualified voter of the State of Alaska at a residence within the borough.
- Have resided within the borough for a period of one year preceding filing for office.
- A person shall not occupy or be a candidate for more than one elective seat at a time.
- Meet requirements as set forth in FNSBC Title 5.

**Term:** The individual appointed to fill this vacancy shall serve until the next regular election or until a successor is elected and qualified.

**Required When Applying:**

- Completed Application/Declaration
- Statement of Interest (As specified on the Application/Declaration)
- Copy of your Public Official Financial Disclosure (POFD) statement electronically filed with Alaska Public Offices Commissions (APOC).

### **DEADLINE INFORMATION**

***Location:*** Borough Clerk's Office  
FNSB Juanita Helms Administration Building  
907 Terminal Street, Fairbanks, Alaska

***Application Deadline:*** 5:00 p.m., Wednesday, May 15, 2019

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#### **ENCLOSED:**

- Assembly Vacancy Application Process
- General Assembly/Meeting information Sheet
- FNSBC 3.04.040 Declaring and filling vacancies
- FNSBC Title 6, Division 1 Assembly Code of Ethics
- Application/Declaration Form

#### **POFD INFORMATION:**

All questions regarding POFD contact:  
Alaska Public Office Commission (APOC)  
Toll Free: 1-800-478-4176

<http://doa.alaska.gov/apoc/FilerResources/ElectronicFiling.html>

## ASSEMBLY VACANCY APPLICATION PROCESS

1. Assembly accepts resignation and officially declares Assembly Seat E vacant.
2. Vacancy and application notice will publish in the Daily News Miner and posted on the FNSB website.
3. Application period is for 14 days after the first publication. Deadline to submit an application is **5 p.m., Wednesday, May 15, 2019.**
4. A copy of all properly and fully completed applications that meet the legally required qualifications as determined by the Borough Clerk, will be provided to assembly members.
5. Each Assembly member shall review all applications and select two applicants that they wish to have interviewed. Each assembly member's selections shall be submitted to the Borough Clerk by **5:00 p.m., Friday, May 31, 2019.**
6. Applicants selected for an interview will be notified by telephone or via e-mail. All applicants selected for an interview must be available in person on **Tuesday, June 18, 2019 at 5:30 p.m.** for the interview process and for the Special Assembly meeting at **7:00 p.m., Tuesday, June 18, 2019** (or immediately following the interview process) at which time the Assembly will vote to select a new assemblymember.
7. The successful applicant will be immediately sworn in.
8. Selecting an applicant to replace the vacant seat is a deliberative process, an action that is subject to the Open Meetings Act; therefore all discussions voting take place in an open meeting.

*In order to ensure fairness and equity all deadlines and other requirements will be strictly enforced.*

## ASSEMBLY AND MEETING INFORMATION

### GENERAL

The Fairbanks North Star Borough is a second-class Borough incorporated on January 1, 1964. The legislative power of the borough is vested in the Assembly. The Assembly is composed of nine elected officials, each elected at-large by the qualified voters of the Fairbanks North Star Borough for three-year, staggered terms. At the first regular meeting in November an organizational meeting is held at which the Assembly shall elect from among its members a presiding officer and a deputy presiding officer. The presiding officer shall preside at assembly meetings and shall be a voting member of the Assembly with all of the powers and duties of that office. In addition, the presiding officer appoints Assembly standing committees, Assembly Liaison's and other appointments.

The Assembly is the legislative body of the Borough and is responsible for the appointment of the Borough Clerk and Deputy Borough Clerk. The Borough Attorney is appointed by the Mayor and the selection is confirmed by the Assembly. All other employees of the Borough work for the Borough Mayor.

Assemblymembers are required by Alaska Statutes to file an annual *Public Official Financial Disclosure Statement*.

**MEETINGS** - All meetings are subject to Alaska's Open Meetings Act (OMA)

#### *Regular Meetings & Special Meetings*

The Assembly meets twice a month at regular meetings which are scheduled on the second and fourth Thursdays of each month beginning at 6:00 p.m. Regular meetings follow a prescribed agenda and follow Rules and Procedure of the Assembly in Chapter 3.16 FNSBC; procedural questions not addressed in the rules shall be governed by Roberts Rules of Order. Special meetings may be called to deal with items of immediate concern when necessary.

#### *Finance Committee, Committee of the Whole & Work Sessions*

The committee meetings are held twice a month and are scheduled on the first and third Thursdays of each month beginning at 5:30 p.m. Any Assemblymember may attend, participate, debate and vote at any finance committee, but an Assemblymember who was not appointed to the committee shall not be counted in determining the presence of a quorum. Special Committee meetings or Work Sessions may be called to deal with items of immediate concern when necessary.

#### *Board of Adjustment*

The Assembly acts as the Board of Adjustment for the purpose of hearing appeals from decisions of the Planning Commission on request for conditional uses, variances and administrative decisions of borough employees made in the enforcement, administration or application of land use regulations. Meetings of the Board of Adjustment are called throughout the year on an as-needed basis.

#### *Budget*

Prior to public hearing the Finance Committee shall meet and make recommendations on the proposed fiscal year budget and/or propose a substitute appropriation. In addition to the first and third Thursdays, the Finance Committee also meets on at least two Saturdays during the month of April to review the proposed budget. The first and second Thursdays in May are reserved for public hearing and action on the budget for the upcoming fiscal year (July 1 - June 30).

### STIPEND/EXPENSES

Each Assemblymember receives a stipend of \$900 per month, and the presiding officer receives \$1,100 per month. Assemblymembers receive an allowance for meals when traveling on Borough business and the Borough pays for hotels and airfare. No other fringe benefits are provided.

## FNSBC Section 3.04.040

### Declaring and Filling Vacancies

- A. The assembly may declare an assemblymember's seat vacant when the assemblymember:
1. Resigns and the assembly accepts the resignation;
  2. Is convicted of a felony or an offense involving violation of the oath of office;
  3. No longer physically resides in the borough;
  4. Misses more than four consecutive regularly scheduled assembly meetings, or misses one-half of all regular assembly meetings of the assembly in a six-month period as defined in FNSBC [3.16.010](#).
- B. If less than 45 days remain in a term, the vacant seat shall not be filled.
- If a seat is declared vacant and more than 45 days remain in the term, then the presiding officer shall publish reasonable public notice of the vacancy and, for 14 days after the first publication thereof, receive applications from persons interested in being appointed to the vacant seat. The assembly may review the applications and/or interview applicants in any reasonable manner. Not later than 45 days after the seat is declared vacant, the assembly shall appoint from among the applicants a qualified person to fill the vacant seat.
- C. In appointing a person from among the applicants the assembly shall utilize the voting procedure specified in FNSBC [3.04.020](#)(D) for the election of the presiding officer and deputy presiding officer.
- D. Notwithstanding subsection (B) of this section, if the membership of the assembly is reduced to fewer than five assemblymembers, then the remaining assemblymembers shall appoint as many qualified persons to the assembly as is necessary to once again constitute a quorum. The assembly shall utilize any procedure which is reasonable under the circumstances in making the appointments required by this subsection and shall make said appointments not later than seven days after the quorum was reduced to less than five assemblymembers.
- E. Persons appointed to fill a vacancy shall serve until the next regular election, at which time a successor shall be elected to fulfill the remainder of the unexpired term of office. (Ord. 2015-72 § 2, 2015; Ord. 2006-01 § 2, 2006; Ord. 88-029 § 2, 1988; Ord. 86-035 § 5, 1986. 2004 Code § 2.08.040.)

**Title 6**  
**CODE OF ETHICS**  
**Division 1. Assembly Code of Ethics**

**Chapters:**

- 6.04 Definitions**
- 6.08 Purpose and Applicability**
- 6.12 Violations**
- 6.16 Gifts and Required Disclosure**
- 6.20 Procedures**
- 6.24 Penalties and Remedies**

**Chapter 6.04**  
**DEFINITIONS**

**6.04.010 Definitions.**

"Anything of value" means:

1. Anything having a monetary value in excess of \$100.00; or
2. Anything, regardless of its monetary value, perceived or intended by either the one who offers it or the one to whom it is offered to be sufficient in value to influence a public official in the performance or nonperformance of an official action; or
3. Anything, regardless of its monetary value, which, under the circumstances, a reasonably prudent person in the position of the public official to whom the thing is or may be offered, would recognize as being likely to be intended to influence the public official in the performance or nonperformance of an official action; and
4. The term "anything of value" includes, but is not limited to, a valuable act, advance, award, benefit, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these things will be conferred in the future.

"Board" means the assembly board of ethics.

"Clerk" means the borough clerk, the deputy borough clerk, and any designee of the borough clerk or deputy borough clerk. In the event a complaint is filed against the borough clerk or the deputy borough clerk then "clerk," as used in Chapter 6.20 FNSBC, Procedures, shall mean the borough attorney's office.

"Complainant" means a person filing a complaint with the board of ethics.

"Confidential information" means information gained by the borough in the course and scope of its business, including but not limited to personnel, financial and litigation information which is not generally made available to the public, or information concerning the acts of the assembly, including but not limited to executive sessions and ethics hearings not generally made available to the public.

"Conflict of interest" means a financial interest or an interest in anything of value, as defined in this chapter, or a professional interest in a relevant matter. It may also include the filing of a complaint by a public official or a member of the board.

"Entity" means a group of persons organized for any purpose including but not limited to a corporation, company, partnership, firm, association, organization, joint venture, joint stock company, foundation, institution, government, union, trust, society, church or club.

"Financial interest" means:

1. An interest held by a person or entity subject to this division or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive anything of value; or
2. The public official holds a position in an entity, as an officer, director, trustee, partner, or holds a position of management.

This definition, however, shall be interpreted and applied in a manner that distinguishes between minor and insubstantial conflicts that are unavoidable in a free society and those conflicts of interest that are substantial and material. Specifically, a public official shall not be disqualified from participation in matters in which the public official:

1. Has a financial interest which is insubstantial;
2. Has a financial interest that is possessed generally by the public or a large class of persons to which the public official belongs;
3. Merely performs some duty or has some influence which would have insubstantial or conjectural effect on the matter; or
4. Has an interest because it involves compensation and benefits for the performance of public official duties.

"Gift" means any benefit or thing or act of value which is conveyed to or performed for the benefit of a public official including any advance, award, contract contribution, deposit, employment, favor, forbearance gratuity, honorarium, loan, payment, service, subscription, or the promise that any of these things or acts of value will be conferred in the future, if such thing or act of value is conferred or performed without the lawful exchange of consideration which is at least equal in value to the thing or act conferred or performed.

"Human resources" means persons employed by the Fairbanks North Star Borough.

"Immediate family member" means spouse, child (step, biological or adoptive), parent (step, biological or adoptive), sibling, grandparent, father-in-law, mother-in-law, or a regular member of the public official's household.

"Investments" means the acquisition of property or other assets with the expectation of gain.

"Person" means and includes a corporation, company, firm, partnership, association, society, organization or business trust, joint venture, as well as a natural person.

"Public censure" means an official rebuke, which shall be part of the public records.

"Public official" means any person serving on the assembly, the borough clerk, or the deputy borough clerk and any individual serving in an acting capacity in either position.

"Respondent" means the person against whom a complaint is filed with the board of ethics.

"Subpoena" means a command to appear at a certain time and place to give testimony upon a certain matter. A subpoena duces tecum requires production of books, papers and other things. (Ord. 2016-40 § 37, 2016; Ord. 2013-01 § 2, 2013; Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.330.)

**Chapter 6.08**  
**PURPOSE AND APPLICABILITY**

**6.08.010 Title.**

This division shall be known as and may be cited as the Fairbanks North Star Borough assembly code of ethics. (Ord. 2016-40 § 38, 2016; Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.010.)

**6.08.020 Scope of division.**

This division shall apply to the members of the borough assembly, the borough clerk, and the deputy clerk. The individuals covered by this division shall not also be subject to the separate code of ethics for mayor and borough employees. (Ord. 2016-40 § 38, 2016; Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.020.)

**6.08.030 Purpose.**

The purpose of this division is to assist members of the assembly, the borough clerk and the deputy borough clerk in carrying out their responsibilities under their oaths of office to support and defend the Constitution of the United States, the Constitution of the State of Alaska, and the laws of the Fairbanks North Star Borough, to specify conduct that violates public expectations that they will honestly, faithfully, and impartially perform their duties as members of the Fairbanks North Star Borough assembly, as borough clerk, and as deputy borough clerk, to the best of their ability. (Ord. 2016-40 § 38, 2016; Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.030.)

**Chapter 6.12**  
**VIOLATIONS**

**6.12.010 Violations.**

Specific ethical violations are enumerated below for the guidance of public officials, but these do not necessarily encompass all the possible ethical considerations that might arise.

- A. Special Consideration. A public official shall not grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- B. Authority. A public official shall not exceed his or her authority, or breach the law, or ask or coerce others to do so in the course of his/her official public duties.
- C. Other Offices or Employment. A public official shall not hold or seek other office or employment which compromises the performance of his or her elected or appointed duties without disclosure of such office or employment. A public official shall disqualify himself or herself from any particular action which might be compromised by such office or employment.
- D. Use of Confidential Information.
  - 1. A public official shall not use or disclose confidential information without appropriate authorization.
  - 2. A public official shall not use or disclose information gained as a public official that is not yet published in any form by the borough or is not generally made available to the public to gain, directly or indirectly, anything of value.
  - 3. This provision shall not prevent any public official from reporting violations of this division or other illegal acts to the proper authorities.
- E. Solicitation of or Receipt of Anything of Value. A public official shall not solicit or accept anything of value from any person or entity other than the borough, directly or indirectly, in consideration of some action to be taken or not to be taken in the performance of the public official's duties. Gifts may be accepted as provided in Chapter 6.16 FNSBC.
- F. Disclosure of Gift. A public official shall not fail to disclose a gift as set forth in Chapter 6.16 FNSBC.
- G. Holding Investments or Property. A public official shall not hold any investment that might compromise the performance of the public official's duties without disclosure of the investment and self-disqualification from any particular action that might be compromised by the investment.
- H. Representation of Others.



1. A public official shall not represent any person in dealings with the borough in consideration of anything of value except:
  - a. In a contested case which involves a party other than the borough, and the interests represented by the public official are the borough's interests, are essentially the same as the borough's interests, or are not adverse to the borough's interests;
  - b. In a matter that involves only a ministerial action by a borough department, i.e., the performance of a duty that is normally done in the course of business in which the officer is left with no choice of his/her own;
  - c. When the representation is by a public official acting within the scope of his or her official public duties;
  - d. When the representation is merely for the purpose of obtaining information on behalf of a person or business and the public official receives no compensation for the representation beyond the salary and other compensation or reimbursement to which the public official is entitled for the performance of his or her official public duties;
2. A public official shall be disqualified from acting on any matter or proceeding coming before the assembly when the matter involves any person who is, or has been, a client, patient or other business associate of the public official within one year immediately preceding the date of the matter or proceeding and the matter or proceeding is directly related to the public official's representation of that client, patient or other business associate of the public official; or
3. A public official shall not, within one year immediately following conclusion of service on the assembly, represent, advise or assist a person for compensation regarding a matter that was under consideration by the assembly and in which the public official participated personally and substantially through the exercise of official action. For the purposes of this subsection, "matter" means a case, proceeding, application, contract or determination, but does not include the proposal, consideration or enactment of legislation.
- I. Financial Interest. A public official or a member of the public official's immediate family shall not have a financial interest in any matter being considered by the public official. A public official shall disclose a financial interest, if known. The public official shall be disqualified from further participation in any matter in which the public official has a financial interest.
- J. Borough Property. A public official shall not use borough-owned property, fiscal, or human resources for personal convenience, political purposes, or profit, except when such property is available to the public generally, or where such property is provided by specific borough policy in the conduct of official borough business.
- K. Giving Anything of Value. A public official shall not give anything of value in return for votes, promises, or other consideration that is prohibited by state law.
- L. Expenses. A public official shall provide required documentation to support requests for expense reimbursement or advancement. Expense reimbursement and advancements shall be made in accordance with borough policy.
- M. Donations. Except as specifically authorized by law, a public official shall not take any official action which will benefit any person or entity because of a donation of anything of value to the borough by the person or entity.
- N. Official Action. A public official shall not take any official public action that will benefit any person or entity when the public official would not have taken the action but for the public official's family relationship, friendship, or business relationship with the person or entity.
- O. Representation of Assembly Position.
  1. A public official shall not represent himself or herself as being the official authorized spokesperson for the assembly on a given issue unless specially authorized by the assembly.
  2. A public official when making a public statement or otherwise taking a public position shall state that he or she is expressing a personal opinion unless authorized to speak in behalf of the assembly.

- P. Aiding a Violation. A public official shall not knowingly aid another public official in the violation of this division.
- Q. Employment of Elected Public Official. An elected public official shall not accept employment with the Fairbanks North Star Borough while serving in office or within one year after conclusion of service.
- R. Disclosure of Conflict of Interest. A public official shall not fail to disclose a conflict of interest.
- S. Misrepresentation of a Material Fact. No person shall misrepresent a material fact in a response to a complaint filed under this division.
- T. Disclosure of Confidential Information. No person shall disclose confidential information relating to a proceeding under this division. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.120.)

## **Chapter 6.16**

### **GIFTS AND REQUIRED DISCLOSURE**

#### **6.16.010 Improper gifts and required disclosures.**

- A. A public official may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form, that is a benefit to his personal or financial interests, under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment or confer a benefit for past performance of official duties, actions or judgment.
- B. For purposes of this section an occasional, unsolicited gift of \$50.00 or less is presumed not to be given under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions, or judgment. For purposes of the disclosure requirements set forth in subsection (C) of this section, "gift" includes a series of gifts from the same donor within a 12-month period.
- C. Notice of the receipt by public official of a gift valued at more than \$50.00, including the name of the giver and a description of the gift and its approximate value, must be provided to the clerk's office for inclusion in the public record, within 30 days after the date of its receipt:
  - 1. If the public official may take or withhold official action that affects the giver;
  - 2. If the gift is connected to the public official's governmental status; or
  - 3. If reasonable doubt exists as to whether the gift is intended to influence the performance of official duties, actions, or judgment.
- D. The restrictions relating to gifts imposed by this section do not apply to a campaign contribution to a candidate for elective office if the contribution complies with laws and regulations governing elections and campaign disclosure.
- E. A public official who knows or reasonably ought to know that a family member has received a gift because of the family member's connection with the public official shall report the receipt of the gift by the family member to the clerk's office if the gift would have to be reported under this section had it been received by the public official or if receipt of the gift by the public official would be prohibited under this section. (Ord. 2009-21 § 2, 2009. 2004 Code § 2.10.130.)

## **Chapter 6.20**

### **PROCEDURES**

#### **6.20.010 Filing of a verified complaint.**

Any person may file a verified complaint with the clerk alleging that a public official has violated one or more provisions of FNSBC 6.12.010. The complaint must:

- A. Be a written statement of the charge setting out in ordinary and precise language the acts or omissions with which the respondent is charged, so that the respondent is able to prepare a defense;
- B. Specify the subsection(s) of FNSBC 6.12.010 that the respondent is alleged to have violated;

- C. No action may be taken on any complaint which is filed later than two years after a violation of this division is alleged to have occurred, and a complaint alleging a violation must be filed within two years from the date the complainant(s) knew or should have known of the action alleged to be a violation; provided, that in no event shall a hearing be initiated more than five years after the alleged violation occurred. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.150.)

**6.20.020 Form of verification.**

- A. The verification shall be substantially in the following form:
  - I, (complainant/respondent), have read the foregoing complaint/response, know the contents thereof, and the same are true to the best of my knowledge and belief.
- B. The complaint/response and the verification must be signed by the complainant/respondent before a notary public. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.160.)

**6.20.030 Confidentiality.**

- A. All proceedings in respect of a complaint filed under FNSBC 6.20.010 are confidential and may not be disclosed to any person except as required for the proper processing and handling of the complaint.
- B. It is not a violation of this section for a person to contact or retain an attorney or to participate in a criminal investigation.
- C. All proceedings and records shall remain confidential unless the respondent requests a public hearing or until the board of ethics files with the assembly its findings of fact and conclusions of law concerning the complaint. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.170.)

**6.20.040 Service of complaint.**

- A. Upon receipt of a verified complaint, the clerk shall:
  - 1. Stamp the complaint with the date and time received, number the complaint, establish a docket for further proceedings, and enter the complaint, including date and time received, on the docket.
  - 2. Review the complaint to determine that it complies with FNSBC 6.20.010, that it alleges facts sufficient to constitute a violation, and that the board has jurisdiction over the matter.
- B. If the clerk determines that the complaint complies with FNSBC 6.20.010 and that the board has jurisdiction, the clerk shall serve the complaint and notice on the respondent, personally, or by U.S. mail, certified return receipt requested.
- C. The clerk shall notify both the respondent and the complainant that the complaint has been accepted.
- D. The notice shall specify the following:
  - 1. The respondent must file a response to the complaint within 30 days from the date of the clerk's written notice;
  - 2. The respondent may file a challenge to sufficiency of the complaint, if any, within 15 days;
  - 3. The respondent has the right to submit affidavits or other written evidence in support of his or her response;
  - 4. Failure to submit a timely response shall be deemed an admission of the allegations in the complaint;
  - 5. The existence of the complaint shall be confidential until the board of ethics files its findings of fact and conclusions of law to the assembly concerning the complaint;
  - 6. The complainant and the respondent have the right to be represented at any hearing throughout these proceedings.
- E. If the clerk determines that the complaint fails to comply with FNSBC 6.20.010 or that the board does not have jurisdiction, the clerk shall dismiss the complaint, setting forth the grounds in a written decision. The clerk shall serve a copy of the decision on the complainant.

- F. A complainant may appeal a dismissal of a complaint to the board by filing an appeal with the clerk within 15 days after the date of the notice of dismissal. The appeal must state all facts and legal grounds for the appeal. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.180.)

**6.20.050 Response.**

- A. The respondent shall file a verified response within 30 days from the date of service of the complaint.
- B. If the respondent fails to respond timely, the allegations of the complaint shall be deemed admitted. The clerk shall notify the complainant and respondent the allegations of the complaint are deemed admitted.
- C. The respondent may appeal to the board any deemed admission of the allegations of the complaint, for good cause, by filing an appeal with the clerk within 15 days after the date on which the response was due. The appeal must state all facts and legal grounds for failure to respond timely. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.190.)

**6.20.060 Transmittal.**

The clerk will forthwith furnish to the board the complaint and response, if any, or any appeal and schedule a meeting of the board. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.200.)

**6.20.070 Board of ethics review and determination.**

- A. The board shall review and consider all complaints accepted by the clerk, and timely responses, or any appeal of the dismissal of the complaint.
- B. The board shall take any action or combination of actions which it deems appropriate and which it is lawfully empowered to take, including but not limited to the following:
1. Consider any timely appeals filed pursuant to FNSBC 6.20.040(F). Upon granting of the appeal, it shall notify the parties.
  2. If the respondent has admitted the allegation or failed to respond, the board may issue findings of fact and conclusions of law based on the written record.
- C. The board may, in its sole discretion, dismiss the complaint, or decide to proceed to resolution of the complaint if:
1. The complainant seeks to withdraw the complaint at any time before the board takes final action; or
  2. The complainant, after notice, materially fails to cooperate in the board's review and consideration of the complaint. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.210.)

**6.20.080 Pre-hearing conference.**

- A. Upon receipt of the response, or the time has passed and the respondent has failed to answer the allegations of the complaint, the clerk shall furnish copies of the complaint and response, if any, to the complainant, the respondent and the members of the board of ethics, including the notice convening the board and setting the time and place for a pre-hearing conference.
- B. The pre-hearing conference shall be held no later than 30 days after receipt of the response or the time for filing a response has run.
- C. Both the complainant and the respondent may be represented by counsel at all proceedings after the filing of the complaint. An attorney representing a party shall file with the clerk an entry of appearance, furnishing the clerk with his or her name, mailing address, telephone and facsimile numbers and email addresses, if any.
- D. At the pre-hearing conference, the following matters shall be considered:
1. Time and place for hearing on the complaint and response;
  2. Any stipulations of fact;
  3. Any motions to be filed;
  4. Any simplifications of the issues;
  5. Scheduling motions, discovery and any other relevant matters;
  6. Exchange of evidence which shall not be later than 10 days before the hearing; and

7. Any other matters that the board determines will provide a fair and orderly hearing. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.220.)

**6.20.090 Hearing notice.**

- A. If the board determines that a hearing on the complaint must be held, the clerk shall serve on the complainant and the respondent a notice of hearing setting out the time and place of hearing and the schedule for any preliminary matters. This notice shall include a statement of the right to provide written evidence and oral testimony. The complainant and the respondent shall also be informed of the right to be represented at the hearing.
- B. If the respondent has failed to answer the allegations of the complaint or has admitted the allegations, the board shall prepare findings of fact and conclusions of law based on the written record. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.230.)

**6.20.100 Subpoenas.**

- A. The board shall issue subpoenas and subpoenas duces tecum at the request of either the complainant or the respondent, and may issue subpoenas and subpoenas duces tecum to witnesses not called or named by either party but who are deemed by the board to have relevant information.
- B. A subpoena issued under this section may be enforced in the superior court in the manner provided under the Alaska Rules of Civil Procedure. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.240.)

**6.20.110 Motions – Depositions.**

- A. All motions shall be served in the manner set forth in the Alaska Rules of Civil Procedure and the answering party shall have 10 days from date of service to respond and moving party shall have five days to reply, unless another time has been agreed upon in the pre-hearing conference.
- B. Either party or the board's attorney may depose witnesses. Notices of deposition shall be served on the parties no less than three business days before the date scheduled for the deposition.
- C. Motions and depositions may not be used to extend the time for hearing. For good cause shown, either party may apply to the board for an extension of the time for hearing. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.250.)

**6.20.120 Service by mail and filing.**

- A. If service by mail is used, three days will be added for response time from the date of mailing. The party must certify the date mailed on the document.
- B. All documents shall be filed with the clerk. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.260.)

**6.20.130 Hearing.**

- A. All hearings shall be before the board of ethics. The chair of the board shall preside, unless another member of the board has been so designated by the board. The chair shall rule on admission and exclusion of evidence.
- B. The board may administer oaths, hold hearings, and take testimony. Upon motion by the board or application by a party to the hearing, the board may issue subpoenas to require the presence of witnesses and the production of records, books and papers at the hearing.
- C. The borough attorney, or designee, shall act as the attorney for the board and shall advise the board on matters of law.
- D. The complainant and the respondent may each present opening statements setting out the matters they intend to prove. The complainant shall proceed first with his or her evidence and the respondent shall follow, setting forth his or her evidence. The complainant and the respondent may make closing arguments.
- E. The board may obtain additional information by a request to the borough attorney or designee, to investigate the complaint and report all information to the board.
- F. The Alaska Rules of Evidence do not apply to the admission of evidence in a hearing, but the board's findings of fact must be based on reliable and relevant evidence.
- G. At the conclusion of the presentation of evidence and closing arguments, the board shall consider the allegations, the evidence supporting them and the respondent's evidence. If fewer than five members

of the board are available for deliberation the alternate shall be seated as a voting member until conclusion of the matter, including any appeals; otherwise, the alternate is excused at the conclusion of the hearing.

- H. The complainant, the respondent, and their counsel shall be excluded from all deliberations of the board. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.270.)

#### **6.20.140 Findings of fact and conclusions of law.**

- A. The board shall enter its findings of fact and conclusions of law no later than 30 days after the conclusion of the hearing. The board shall notify the parties and their attorneys if an extension is required to permit the board to prepare its findings of fact and conclusion of law.
- B. If the board finds that no violation has occurred, the board shall dismiss the complaint. The clerk shall serve the notice of dismissal on the complainant, the respondent and attorneys. The notice of dismissal remains confidential.
- C. If the board finds that a violation of FNSBC 6.12.010 has been committed, it shall prepare and submit its findings of fact and conclusions of law to the assembly.
- D. The findings of fact and conclusions of law are final and conclusive.
- E. The assembly may not change, modify or otherwise alter the findings of fact and conclusions of law as submitted.
- F. The assembly shall impose a penalty on the public official in accordance with FNSBC 6.24.010.
- G. If the board determines that no violation has occurred, or otherwise dismisses the complaint for substantive reasons, the board may, in its discretion, award full or partial attorney fees to a public official who reasonably incurred those costs defending the complaint. This award may be made only to the extent that the assembly has appropriated funds for that purpose. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.280.)

#### **6.20.150 Appeal of findings of fact and conclusions of law and penalty.**

- A. After the assembly has determined and imposed a penalty, appeal of the findings of fact and conclusions of law and the penalty may be taken to the superior court in accordance with the Alaska Rules of Appellate Procedure.
- B. Notice of an appeal must be filed with the superior court within 30 days of the imposition of the penalty. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.290.)

#### **6.20.160 Records retention.**

The clerk shall provide for the storage or destruction of all records of the proceedings of the board in accordance with the approved borough retention schedule. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.300.)

### **Chapter 6.24**

#### **PENALTIES AND REMEDIES**

##### **6.24.010 Penalties.**

- A. The borough clerk or deputy borough clerk who violates this division shall be disciplined by a majority vote of the assembly. In determining an appropriate penalty, the assembly may be guided by the provisions of the borough personnel code. Depending on the violation, disciplinary action may include termination.
- B. A member of the assembly who violates this division shall be subject to one or more of the following:
  - 1. Public censure.
  - 2. A civil fine of not more than \$1,000 for each violation of any of the subsections of FNSBC 6.12.010. If a public official has violated more than one subsection of FNSBC 6.12.010, the civil penalty may not exceed \$10,000 in the aggregate.
  - 3. Removal from office.

- C. Removal from office may only be imposed if the violation occurred in the assembly member's present term and by a vote of three-fourths of the assembly qualified to vote thereon.
- D. An assembly member who voted after the presiding officer or assembly determined, after full and complete disclosure, that the assembly member did not have a financial interest in accordance with FNSBC 6.12.010(I) shall not be subject to such penalties.
- E. A penalty imposed under this section is in addition to and not in lieu of any other penalty that may be imposed according to law. To the extent that violations under this code are punishable in a criminal action, that sanction is in addition to the civil remedies set out in this division. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.310.)

**6.24.020 Remedies.**

- A. The assembly may, upon notice of a violation by a public official, take any of the following actions:
  - 1. Void any action of the assembly materially and substantially connected to a violation of this division unless the required majority would exist without the vote of the disqualified member.
  - 2. In determining whether to void a grant, contract, or lease, the interest of third parties who may be damaged and the nature of the violation may be taken into account. The assembly shall give notice of intent to void a borough grant, contract, or lease under this section no later than 30 days after the board files its findings of facts and conclusions of law.
- B. Require that any loan received from the borough in violation of this division shall be immediately due and payable.
- C. Direct the borough attorney to pursue any other remedies available at law or in equity. (Ord. 2006-69 § 2, 2006. 2004 Code § 2.10.320.)



# APPLICATION/DECLARATION FOR FAIRBANKS NORTH STAR BOROUGH ASSEMBLY SEAT E VACANCY

- Submit completed application, a one page Statement of Interest and the Public Financial Disclosure Statement to the Borough Clerk at 907 Terminal Street, Fairbanks, by 5 p.m., Wednesday, May 15, 2019.
- Statement of interest must be typed and submitted with application on 8 ½ by 11 paper. Text shall be font size 12pt, double-spaced and limited to one page. Applications that do not adhere to the instructions will not be considered.

If selected for an interview, you must be available in person on Tuesday, June 18, 2019 at 5:30 p.m. for the interview process. Applicants selected for the interview process will be notified by the Borough Clerk via telephone or email.

**IN ORDER TO ENSURE FAIRNESS AND EQUITY ALL DEADLINES AND OTHER REQUIREMENTS WILL BE STRICTLY ENFORCED.**

\_\_\_\_\_  
Applicant Full Name

\_\_\_\_\_  
Residence Address

\_\_\_\_\_  
List other residence address(s) & dates if more than one within the last year

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_/\_\_\_\_\_  
Home Phone                      Cell Phone

\_\_\_\_\_  
Work Phone

### QUALIFICATIONS

- I am a qualified voter of the state of Alaska at a residence within the Fairbanks North Star Borough.
- I have resided within the Fairbanks North Star Borough for a period of one year preceding filing for office.
- I have complied with AS 39.50 Public Financial Disclosure.
- If appointed I will serve until the next regular election or until a successor is elected and qualified.

I hereby swear (affirm) that the above declaration and all statements contained therein are true and correct. A paper copy of my electronically filed POFD statement is included with this application/declaration.

\_\_\_\_\_  
Signature of Applicant

FOR OFFICE USE ONLY / VERIFICATION OF CANDIDATES QUALIFICATIONS			
Original Received _____ (Date/Time) _____ (Initials)	<input type="checkbox"/> POFD Received	<input type="checkbox"/> Statement of Interest Received	
<input type="checkbox"/> SOA Registered Voter/Precinct _____	<input type="checkbox"/> 1 Year Residence	Verified by:	

**The information provided above is public information.**

The Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.