

ORDINANCE SERIAL NO. 22-03

AN ORDINANCE AMENDING TITLE 2, CHAPTERS 2.04 AND 2.16, SECTIONS 2.04.020, 2.04.060 AND 2.16.010 OF THE ALEUTIANS EAST BOROUGH CODE OF ORDINANCES

WHEREAS, the legislative power of the Aleutians East Borough is vested in the Borough Assembly under Alaska State Statute Sec. 29.20.050; and

WHEREAS, dual office holding, a common law doctrine, prohibits the same person from holding incompatible offices; and

WHEREAS, the aim of this prohibition was to prevent the same person from holding multiple positions of public trust; and

WHEREAS, the simultaneous holding of more than one public office is a matter of public concern; and

WHEREAS, there is currently no concise code section making it clear that a single person may not hold dual offices; and

WHEREAS, such a code section will prevent certain dual office holders.

NOW, THEREFORE, BE IT ADOPTED THAT SECTION 2.04.020 OF THE BOROUGH CODE WHICH PREVIOUSLY READ IN ITS ENTIRETY:

2.04.020 Qualifications of Assembly and School Board Members.

The Assembly and school board members shall be qualified electors of the Borough, and shall have been a resident within the Borough for a minimum of one (1) year prior to holding office. An Assembly or school board member who ceases to be eligible to be a Borough voter immediately forfeits his office.

(Ord 14-04 (Amended Ord. 07-08), Sec. 2.04.020, part, 1987)

IS AMENDED TO REVISE THE SECTION HEADING AND SECTION TEXT AS FOLLOWS:

2.04.020 Qualifications of Assembly and School Board Members.

The Assembly and School Board members shall be qualified electors of the Borough, and shall have been a resident within the Borough for a minimum of one

(1) year prior to holding office. An Assembly or School Board member who ceases to be eligible to be a Borough voter immediately forfeits his office.

(Ord 14-04 (Amended Ord. 07-08), Sec. 2.04.020, part, 1987)

AND IS AMENDED TO INCLUDE THESE SENTENCES, READING:

In order to prevent dual office holding, no Borough department heads are eligible to run for or serve on the Borough Assembly or the School Board while employed by the Borough as a department head. Borough department heads include: the Borough Administrator, the Borough Clerk, the Borough Attorney, the Borough Maintenance Director, the Natural Resources Department Director and the Finance Director.

SO THAT THE ENTIRETY OF SECTION 2.04.020 NOW READS:

2.04.020 Qualifications of Assembly and School Board Members.

The Assembly and School Board members shall be qualified electors of the Borough, and shall have been a resident within the Borough for a minimum of one (1) year prior to holding office. An Assembly or School Board member who ceases to be eligible to be a Borough voter immediately forfeits his office.

In order to prevent dual office holding, no Borough department heads are eligible to run for or serve on the Borough Assembly or the School Board while employed by the Borough as a department head. Borough department heads include: the Borough Administrator, the Borough Clerk, the Borough Attorney, the Borough Maintenance Director, the Natural Resources Department Director and the Finance Director.

(Ord 14-04 (Amended Ord. 07-08), Sec. 2.04.020, part, 1987)

NOW, THEREFORE, BE IT ADOPTED THAT SECTION 2.04.060 OF THE BOROUGH CODE WHICH PREVIOUSLY READ IN ITS ENTIRETY:

2.04.060 Advisory Members.

- A. There shall be advisory members appointed on the Assembly with the rights and responsibilities as set out in this section.
- B. There shall be one for each of the communities in the Borough, which are without an Assembly member residing in its respective community.

- C. The term of an advisory member is one year and begins on January 1st of each year. A person appointed holds office until a successor has been appointed and seated.
- D. Advisory members may attend all Assembly meetings, work sessions, committee of the whole meeting and subcommittee meetings; except, an advisory member may not attend executive sessions except upon adoption by the Assembly or committee of the motion to permit the advisory members to attend the executive session.
- E. Advisory members may participate in the discussion of any matter that comes before the Assembly or committee, but may not move or second items during an Assembly meeting. Advisory Members may cast advisory votes on all matters except those subject to executive session discussions. Advisory votes shall not affect the outcome of a vote, but shall be recorded in the minutes.

Ord 18-09 (amended Ord. 14-04), Sec. 2.04.060(E), part, 1987

- F. Only a person appointed under this section may participate in Assembly meetings as an advisory member. An advisory member may not serve as a proxy or substitute for a regular member of the Assembly unless appointed or elected to fill an Assembly vacancy. Upon such election or appointment to a vacancy, the advisory seat held by that person becomes vacant.
- G. If an advisory member clearly expresses a position for or against a proposition, the minutes of the meeting shall reflect the position expressed.
- H. Advisory members will receive per diem, reimbursement and payments in lieu as may be provided for Assembly members.
- I. The presence or absence of an advisory member at an Assembly meeting, the existence of a vacancy in an advisory member seat, and an act or admission of an advisory member shall have no effect on any action of the Borough. An advisory member has no authority to act on behalf of the Borough and the meeting of advisory members does not constitute a meeting of the Assembly or any other body of the Borough for any purpose.
- J. Advisory members shall be governed by the same rules as elected members concerning meeting attendance as provided for in Chapter 2.20 and other applicable ordinances.
- K. The Assembly may appoint a student representative on the assembly as an advisory member. The mayor shall nominate one or more students for the assembly to consider for the appointment on a school calendar basis, with a term of one year beginning September 1. No student representative may serve

more than a single one-year term; and no student will be compensated with meeting fees.

The position shall be open to all Aleutians East Borough School District high school students, grades 9 through 12. Nominations shall be made by submission of letters of interest to their high school student council and principal. The student council shall nominate a student to be submitted to the mayor, with approval from their high school principal.

The student representative may not move or second items during an Assembly Meeting. The student may cast advisory votes on all matters except those subject to executive session discussions. The Advisory votes shall not affect the outcome of a vote. Advisory votes shall be recorded in the minutes.

(Ord 18-09, New Section 2.04.060(K))

(Ord. 14-04 (Amended Ord. 08-04), Sec. 2.04.060, part, 1987)

IS AMENDED TO INCLUDE THESE SENTENCES, READING:

L. In order to prevent dual office holding, no Borough department heads are eligible to serve as an appointed advisory member on the Assembly while employed by the Borough as a department head. Borough department heads include: the Borough Administrator, the Borough Clerk, the Borough Attorney, the Borough Maintenance Director, the Natural Resources Department Director and the Finance Director.

SO THAT THE ENTIRETY OF SECTION 2.04.060 NOW READS:

2.04.060 Advisory Members.

- A. There shall be advisory members appointed on the Assembly with the rights and responsibilities as set out in this section.
- B. There shall be one for each of the communities in the Borough, which are without an Assembly member residing in its respective community.
- C. The term of an advisory member is one year and begins on January 1st of each year. A person appointed holds office until a successor has been appointed and seated.
- D. Advisory members may attend all Assembly meetings, work sessions, committee of the whole meeting and subcommittee meetings; except, an advisory member may not attend executive sessions except upon adoption by the Assembly or committee of the motion to permit the advisory members to attend the executive session.

- E. Advisory members may participate in the discussion of any matter that comes before the Assembly or committee, but may not move or section items during an Assembly meeting. Advisory Members may cast advisory votes on all matters except those subject to executive session discussions. Advisory votes shall not affect the outcome of a vote, but shall be recorded in the minutes.

(Ord 18-09 (amended Ord. 14-04), Sec. 2.04.060(E), part, 1987)

- F. Only a person appointed under this section may participate in Assembly meetings as an advisory member. An advisory member may not serve as a proxy or substitute for a regular member of the Assembly unless appointed or elected to fill an Assembly vacancy. Upon such election or appointment to a vacancy, the advisory seat held by that person becomes vacant.
- G. If an advisory member clearly expresses a position for or against a proposition, the minutes of the meeting shall reflect the position expressed.
- H. Advisory members will receive per diem, reimbursement and payments in lieu as may be provided for Assembly members.
- I. The presence or absence of an advisory member at an Assembly meeting, the existence of a vacancy in an advisory member seat, and an act or admission of an advisory member shall have no effect on any action of the Borough. An advisory member has no authority to act on behalf of the Borough and the meeting of advisory members does not constitute a meeting of the Assembly or any other body of the Borough for any purpose.
- J. Advisory members shall be governed by the same rules as elected members concerning meeting attendance as provided for in Chapter 2.20 and other applicable ordinances.
- K. The Assembly may appoint a student representative on the assembly as an advisory member. The mayor shall nominate one or more students for the assembly to consider for the appointment on a school calendar basis, with a term of one year beginning September 1. No student representative may serve more than a single one-year term; and no student will be compensated with meeting fees.
The position shall be open to all Aleutians East Borough School District high school students, grades 9 through 12. Nominations shall be made by submission of letters of interest to their high school student council and principal. The student council shall nominate a student to be submitted to the mayor, with approval from their high school principal.
The student representative may not move or second items during an Assembly Meeting. The student may cast advisory votes on all matters except those subject to executive session discussions. The Advisory votes shall not affect the outcome of a vote. Advisory votes shall be recorded in the minutes.

(Ord 18-09, New Section 2.04.060(K))

- L. In order to prevent dual office holding, no Borough department heads are eligible to serve as an appointed advisory member on the Assembly while employed by the Borough as a department head. Borough department heads include: the Borough Administrator, the Borough Clerk, the Borough Attorney, the Borough Maintenance Director, the Natural Resources Department Director and the Finance Director.

(Ord. 14-04 (Amended Ord. 08-04), Sec. 2.04.060, part, 1987)

NOW, THEREFORE, BE IT ADOPTED THAT SECTION 2.16.010 OF THE BOROUGH CODE WHICH PREVIOUSLY READ IN ITS ENTIRETY:

2.16.010 Mayor as Executive.

- A. The Mayor is the chief executive officer of the Borough. He shall act as ceremonial head of the Borough, and sign documents on the Borough's behalf upon Assembly authorization.

TITLE 2
ADMINISTRATION
Chapter 2.16 - Mayor

2.16.010 Mayor as Executive

- A. The Mayor is the chief executive officer of the Borough. He shall act as ceremonial head of the borough, and sign documents on the Borough's behalf upon Assembly authorization.
- B. The Mayor shall:
 - 1. Appoint an Administrator who shall serve at his direction to oversee and supervise all departments of the Borough.
 - 2. Suspend or remove by written order Borough employees and administrative officers, except as otherwise provided.
 - 3. Supervise enforcement of Borough law;
 - 4. Prepare the annual budget and capital improvement program for the Assembly;
 - 5. Execute the budget and capital program as adopted;
 - 6. Make monthly financial reports to the Assembly on Borough finances and operations.

7. Report to the Assembly at the end of each fiscal year on the finances and administrative activities of the Borough;
8. Prepare and make available for public distribution an annual report on Borough affairs;
9. Serve as Borough personnel officer unless delegated to the Borough Administrator or the Assembly authorizes him to appoint a personnel officer other than the Borough Administrator; and
10. Execute other powers and duties specified in AS Title 29 or lawfully prescribed by the Assembly.

(Ord. 18-02 (Amended Ord. 14-04), Sec. 2.16.010, part, 1987)

IS AMENDED TO REMOVE THE FOLLOWING LANGUAGE AT THE BEGINNING OF THIS SECTION, READING:

TITLE 2
ADMINISTRATION
Chapter 2.16 - Mayor

2.16.010 Mayor as Executive

- A. The Mayor is the chief executive officer of the Borough. He shall act as ceremonial head of the borough, and sign documents on the Borough's behalf upon Assembly authorization.

AND IS AMENDED TO INCLUDE THESE SENTENCES, READING:

- B. In order to prevent dual office holding, no Borough department heads are eligible to run for or serve as Mayor while employed by the Borough as a department head. Borough department heads include: the Borough Administrator, the Borough Clerk, the Borough Attorney, the Borough Maintenance Director, the Natural Resources Department Director and the Finance Director.

SO THAT THE ENTIRETY OF SECTION 2.16.010 NOW READS:

2.16.010 Mayor as Executive.

- A. The Mayor is the chief executive officer of the Borough. He shall act as ceremonial head of the Borough, and sign documents on the Borough's behalf upon Assembly authorization.

B. In order to prevent dual office holding, no Borough department heads are eligible to run for **or serve as** Mayor while employed by the Borough as a department head. Borough department heads include: the Borough Administrator, the Borough Clerk, the Borough Attorney, the Borough Maintenance Director, the Natural Resources Department Director and the Finance Director.


C. The Mayor shall:

1. Appoint an Administrator who shall serve at his direction to oversee and supervise all departments of the Borough;
2. Suspend or remove by written order Borough employees and administrative officers, except as otherwise provided;
3. Supervise enforcement of Borough law;
4. Prepare the annual budget and capital improvement program for the Assembly;
5. Execute the budget and capital program as adopted;
6. Make monthly financial reports to the Assembly on Borough finances and operations;
7. Report to the Assembly at the end of each fiscal year on the finances and administrative activities of the Borough;
8. Prepare and make available for public distribution an annual report on Borough affairs;
9. Serve as Borough personnel officer unless delegated to the Borough Administrator or the Assembly authorizes him to appoint a personnel officer other than the Borough Administrator; and
10. Execute other powers and duties specified in AS Title 29 or lawfully prescribed by the Assembly.

(Ord. 18-02 (Amended Ord. 14-04), Sec. 2.16.010, part, 1987)

INTRODUCED: Oct. 14, 2021

ADOPTED: Nov. 10, 2021


Alvin D. Osterback, Mayor

Date: 11/10/2021

ATTEST:


CLERK

Date: 11/10/2021

