

Initiative and Referendum Procedures



ALASKA
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Division Community and Regional Affairs

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Prepared by:

Gina Atkinson,
Local Government Specialist
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Prepared by:

Elizabeth Manfred,
Local Government Specialist
Division of Community and Regional Affairs

INITIATIVE AND REFERENDUM PROCEDURES

The purpose of this booklet is to summarize the main steps in the initiative and referendum process for municipal residents in general law municipalities. The procedures that general law municipalities must follow are outlined in AS 29.26.100-190. General law municipalities include first, second, and third class boroughs and first and second class cities. Home rule municipalities have their own charters and may adopt their own procedures. Most home rule municipalities generally follow the steps outlined in this booklet. However, the charter should always be consulted to determine the exact procedures.

When residents want an ordinance enacted or a resolution passed and the governing body does not want to act on the issue, the initiative process can be used to get the question on the ballot at an election. Or, the governing body may have passed an ordinance or a resolution that residents want repealed. If the governing body fails to repeal the ordinance or resolution, residents may use the referendum process to get the question on the ballot at an election.

Initiative

An **initiative** is an ordinance or resolution that is proposed by citizens and voted on by municipal residents.

Referendum

A **referendum** is a repeal by the voters of an ordinance or resolution that was adopted by the governing body. The term referendum can also be used to describe the process where the council seeks the voters' opinion on a question. This handbook will deal with the repeal of an ordinance only.

Results of these elections are binding on the governing body and may not be changed for two years.

The following are the procedures for an initiative or referendum process:

I. SPONSORS APPLY FOR A PETITION

An application for an initiative or referendum petition must be filed with the clerk. The municipality may have a petition form, or the sponsor may have to write up an application with the assistance of the clerk. The application must include the ordinance or resolution to be **initiated** or **referred** and the name and address of a contact person and an alternate. At least 10 voters who agree to sponsor the petition must sign the application. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk.

II. CLERK DETERMINES WHETHER THE APPLICATION IS IN PROPER FORM AND WHETHER THE MATTER IS APPROPRIATE FOR AN INITIATIVE

The clerk has two weeks to certify the application if it is in proper form. For an initiative petition, the clerk must determine whether the subject of the initiative:

- not restricted by AS 29.26.100 and Article XI, Section 7 of the State Constitution (for example, it cannot be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, enact law that is clearly unconstitutional or enact local or special legislation)
- includes a single subject,
- relates to legislative rather than administrative matter, and
- would be enforceable as a matter of law.

For a referendum, the petition cannot apply to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety.

A clerk's decision on an application for an initiative or a referendum petition is subject to judicial review. Therefore, the clerk may want to seek advice from the municipal attorney.

III. CLERK PREPARES THE PETITION

If the application is acceptable, the clerk has two weeks to prepare the petition. Each petition must contain the following:

- summary of the ordinance or resolution to be **initiated** or **referred**;
- the complete ordinance or resolution sought to be **initiated** or **referred** as submitted by the sponsors;
- the date on which the petition is issued by the clerk;
- notice that the signatures must be secured within 90 days after the date the petition is issued;
- 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;
- 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 that the signatures to be those of the persons whose names they purport to be; and
- space for indicating the total number of signatures on the petition.

If the petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or referred. The clerk will notify the contact person in writing when the petition is available.

The contact person is then responsible for notifying the sponsors. Copies of the petition shall be provided to each sponsor who either appears in person and requests one or requests one be mailed to him or her.

IV. SPONSORS CIRCULATE THE PETITION FOR SIGNATURES

The signatures on an initiative or referendum petition must be secured within 90 days after the clerk issues the petition. The sponsor's statement about witnessing the signatures must be signed and dated by the sponsor. All signatures must be in ink or indelible pencil. The clerk figures out the number of signatures required and informs the contact person in writing. If the municipality has fewer than 7,500 residents, a petition must have signatures equal to at least 25% of the number of votes cast at the last regular election. For a municipality of 7,500 or more, 15% is required. A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition.

If the ordinance or resolution on an initiative or referendum petition affects only an area that is less than the entire area of the municipality, only voters residing in the affected area may sign the petition. Again, the clerk determines the number of signatures required on the petition using the above method for the affected area and informs the contact person in writing.

V. CLERK DETERMINES IF THERE ARE ENOUGH SIGNATURES ON THE PETITION

All copies of an initiative or referendum petition are filed as a single unit. After a petition is filed, the clerk has 10 days to certify whether or not the petition is sufficient. A petition is sufficient if it has at least the minimum number of legitimate signatures. The clerk rejects illegible signatures unless accompanied by a legible printed name. Signatures not accompanied by an legible residence address are rejected. If the petition is insufficient, the clerk must identify the insufficiency and notify the contact person by certified mail. The petitioners then have 10 days after the date on which the petition was rejected to obtain and file additional signatures.

An insufficient petition is rejected and filed as a public record unless supplemented by the additional signatures as outlined above. Within 10 days after a supplemental filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as public record. If the municipal clerk determines that 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 who will hear and decide the protest. Failure to secure sufficient signatures does not prevent a new initiative or referendum petition from being filed. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

VI. RESIDENTS VOTE ON THE ISSUE AT A REGULAR OR SPECIAL ELECTION

Unless the governing body adopts substantially the same measure that is on the initiative or repeals the one on the referendum, the clerk must submit the matter to the voters at the next regular election if one is scheduled 45 to 75 days after the certification of the petition. If there is not a regular election within the time frame, a **special election** must be scheduled. Special elections must be precleared by the United States Department of Justice. If a majority vote favors the ordinance or resolution, it is effective upon certification of the election unless a different effective date is provided in the ordinance or resolution. If a majority vote favors the repeal of the matter referred, it is repealed.

VII. EFFECT

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. 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. 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.

The initiative and referendum process is a powerful tool available to municipal residents to guarantee that they have a voice in local governance by giving them a procedure to create or repeal local laws. This procedure ensures that a majority of the voters agree with the initiative or referendum by mandating an election as the final step. The results of the election are binding on the governing body for two years.

REGIONAL OFFICES

Juneau

PO Box 110809
Juneau, AK 99811-0809
Telephone: (907) 465-4813
Fax: (907) 465-4761

Anchorage

550 W 7th Ave., Ste. 1640
Anchorage, AK 99501-3576
Telephone: (907) 269-4556
Fax: (907) 269-4563

Fairbanks

211 Cushman St.
Fairbanks, AK 99701-4639
Telephone: (907) 451-2749
Fax: (907) 451-2742

Bethel

PO Box 348
Bethel, AK 99559-0348
Telephone: (907) 543-3475
Fax: (907) 543-4152

Nome

PO Box 1769
Nome, AK 99762-0041
Telephone: (907) 443-5459
Fax: (907) 443-3596

Kotzebue

PO Box 350
Kotzebue, AK 99752-0350
Telephone: (907) 442-3696
Fax: (907) 442-2402

Dillingham

PO Box 790
Dillingham, AK 99576-0790
Telephone: (907) 842-1969
Fax: (907) 842-5140

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