

Municipality of Anchorage Reapportionment 2021-2022

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1. Introduction/Overview

The following document provides a basic outline of the decision-making process before the Assembly in implementing the Charter requirements for reapportionment in accord with Anchorage Charter Section 4.01 – Power, Composition and Apportionment. This also includes the Proposition 12 Charter Amendment authorized by voters in the 2020 regular election, which goes into effect upon adoption of the state final redistricting plan resulting in the addition of a 12th member to the Assembly. Through a series of committee meetings and work sessions, public hearings, and then Assembly action, a new apportionment plan will be delivered with all due haste.

The US Constitution requires a decennial census, after which the States engage in redistricting for their Congressional districts, and most also include changing state and local election districts. The Charter of the Municipality of Anchorage provides that “the assembly shall be reapportioned whenever it becomes malapportioned.” The Charter further says that the assembly shall determine whether it is malapportioned within two months from adoption of a final State of Alaska redistricting plan. If the assembly determines that it is malapportioned, it must reapportion itself within six months of that determination.

Section 4.01. - Power, composition and apportionment.



The legislative power of Anchorage is vested in an assembly of 11 members. Election districts, if established, shall be formed of compact and contiguous territory containing as nearly as practicable a relatively integrated socioeconomic area. The assembly shall be reapportioned whenever it becomes malapportioned. The assembly shall determine and declare by resolution whether or not it is malapportioned within two months from:

(1) Adoption of a final state redistricting plan under art. VI, sec. 10, Constitution of the State of Alaska;

If the assembly determines that it is malapportioned, it shall, within six months of the determination, reapportion itself in the manner provided by law.

(AO No. 2006-154, prop. 10, 4-17-07)

Anchorage Municipal Charter Section 4.01

There are two substantial issues of note, unique to this census cycle. One is the delay of the census due to the COVID-19 Pandemic. The second is Proposition 12 passed by voters in 2020 adding a 12th member to the Assembly.

First, it is worth noting that the COVID-19 global pandemic caused a substantial delay in the delivery of US Census data required to meaningfully engage in the process from December 21, 2020 to August 12, 2021. The eight-month delay of the final delivery date of that data created the likelihood of cascading delays in the implementation of a new district plan from 2022 to 2023. The Alaska Redistricting Board set an ambitious goal of November 10 as its target for adoption of a final State redistricting map.

Second, in 2020, the voters approved Proposition 12 adding a 12th member to the Assembly. This requires more substantial redistricting, increasing District 1 nearly double while reducing the remaining districts by a proportionate decrease divided among them. Proposition 12 included an effective date clause: on the date of the publication of the final state redistricting plan, tentatively set for November 10, 2021.

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If approved by a majority of the voters voting on the question at the April 7, 2020 Regular Election, the amendments to the Charter above shall be effective upon the adoption of a final state redistricting plan by the Redistricting Board of the State of Alaska following the official reporting of the 2020 Census of the United States, and applicable to the next reapportionment of the Assembly per Charter § 4.01.

Language from Proposition 12

2. Preliminary Options

Scenario A: April 2022 Election

This scenario requires swift action and has a limited opportunity for success because of the compressed timeline. Elections have a specific set of deadlines established in Municipal Code that must be achieved in a code driven timeline. To meet the timeline, the Clerk must publish a Notice of Vacancy by January 9, 2022. In order for the Notice of Vacancy to meet this deadline, all mapping and addressing processes must be completed in a timely enough manner to enter and effectuate updates to the address list. This would necessitate Assembly adoption of a reapportionment map by December 1 to allow time for the technical work of the Municipal ARC GIS team and Clerk to upload and test for accuracy.

Scenario B: April 2023 Election

The Charter mandates that within 6 months of the declaration of malapportionment, the Assembly shall reapportion itself in the manner provided by law. The State Redistricting Commission has identified November 10, 2021 as the proposed date of delivery of its final adopted plan. That would give the Assembly up to 60 days to declare malapportionment and then 6 months to reapportion itself. The far horizon allowed by the Charter would be July 2022 for the Assembly to finalize its reapportionment. It thus follows that under any scenario, new district boundaries will be in place by the election of 2023. The process will proceed with all due haste.

Scenario C: Review of all valid options presented to it.

It is difficult to anticipate other scenarios that may arise. The reapportionment committee and ultimately the Assembly will review all valid options brought properly before it.

Additionally: Truncation of Terms

Some members have raised the question of whether reapportionment would require truncation of terms. There is an Alaska Supreme Court case specifically on point to the question of whether the Assembly would be required to re-elect all seats in 2022 or 2023, depending on when the final reapportionment plan is adopted. The case is *Kentopp v Anchorage* from 1982.

According to counsel, *Kentopp* says that the court gives deference to the legislature in how the legislature wants to effectuate apportionment. The court will not declare an error in the Assembly's judgment in choosing among several constitutionally permissible reapportionment plans. It is a case specific to an Assembly's apportionment plan and one worth reading.

In *Kentopp*, the Assembly's reapportionment plan in January 1981 did not modify the staggered terms of the Assembly Members, but it did redraw the boundaries of all six districts. Even with this substantial

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change, under the Assembly's adopted plan none of the members seats were voted on until the 1982 election, when terms of five members ended. Then the other six members seats were voted on in 1983. The Assembly's plan was upheld by the court, and truncation was not constitutionally required.

The court held that:

*Deference similar to that owed the Governor in fashioning a state reapportionment plan is due the Anchorage Assembly in its decisions regarding the adoption of a municipal reapportionment plan. Whenever a legislature is composed of members elected in staggered terms, the temporary disenfranchisement of transferred voters is an inevitable consequence of the reapportionment does not constitute invidious discrimination in violation of the constitutional guarantee to equal representation.**

Kentopp specifically addressed truncation of terms related to reapportionment plans, and the Alaska Supreme Court held that the timing of elections is a political question for the assembly to make and not one that triggers any constitutional concerns.

So, the idea that the law requires that ALL seats MUST be voted on at the election following reapportionment is incorrect. The Alaska Supreme Court declared in Kentopp that it will not lightly make a decision that interferes with the reapportionment process as long as there is a periodic readjustment of legislative representation. The "temporary disenfranchisement of transferred voters is an inevitable consequence of the reapportionment" as we shift from 6 districts with 11 members to 6 districts with 12 members. Or to say another way, the change in District 1 almost doubles in size, and the other 5 districts affected by a proportionate decrease divided amongst them. In the Kentopp analysis, some voters were transferred from one district to another as a result of reapportionment, but waiting 1 or 2 years until they were able to elect a member in their new district was a permissible consequence.

*Kentopp v. Anchorage, 652 P.2d 453, 462 (Alaska 1982).

3. Committee

It is the intent of the Chair to establish a four-member committee that will lead the process for the Assembly. The committee will be called the Committee for Reapportionment. It will be independent of other committees and will set out a meeting calendar and a proposed timeline at its earliest opportunity.

4. Contractor

It is the intent of the Chair to select a contractor to facilitate the reapportionment process. The contractor will assist in initial analysis, map making, facilitating the public process, and aiding the Assembly in the process of aligning new district boundaries.