

# FAIRBANKS NORTH STAR BOROUGH

## BOARD OF ETHICS

### PUBLIC INFORMATION PACKET FOR CODE OF ETHICS COMPLAINTS

## BOARD AND COMMISSION MEMBERS



---

Office of the Clerk  
Fairbanks North Star Borough  
907 Terminal Street  
Fairbanks, Alaska 99701  
(907) 459-1401 Office  
(907) 459-1224 Fax  
[April.Trickey@fnsb.gov](mailto:April.Trickey@fnsb.gov)  
Revised 01/2023

## **MISSION**

The Board of Ethics reviews and considers complaints made against elected officials, board of commission members, and the Clerk and Deputy Clerk, that allege violations of the Code of Ethics located in Title 6 of Fairbanks North Star Borough Code. hearing officer.

## **CODE OF ETHICS**

Holding public office or employment is a public trust and high moral and ethical standards are essential to the conduct of government. The Code of Ethics gives guidance in carrying out oaths of office to support and defend the Constitution of the United States and State of Alaska, and the laws of the Fairbanks North Star Borough. It also specifies conduct that violates public expectations that officials will honestly, faithfully, and impartially perform their duties to the best of their ability.

Citizens have a fundamental constitutional right to freedom of expression, including criticism of public officials. Public officials are also entitled to various rights, including the right to due process of law.

## **ASSEMBLY BOARD OF ETHICS**

The Assembly Board of Ethics consists of five public members and one alternate public member, nominated by the presiding officer and confirmed by the assembly and serve terms of office of three years.

## **CONFIDENTIALITY**

All documents and records, including the complaint, are confidential.

## **EX PARTE CONTACT PROHIBITED**

Ex parte contact with the Board of Ethics is when a complainant (person who filed a complaint) or respondent (person who the complaint is filed against) contacts the Board without the other party's knowledge. Contact includes but is not limited to in person, by phone, e-mail or text. Board members shall be impartial in all matter, both in fact and appearance. No board member shall receive or engage in ex parte contacts. All contact with the Board of Ethics shall go through the Clerk's Office.

The following procedures are established by the FNSB Assembly Board of Ethics for processing complaints against public officials under Chapter 6.20 of the Fairbanks North Star Borough Code. This is a summary of Chapter 6.20 of the FNSB Code. While every effort has been made to ensure accuracy, the actual code sections, not the summary, govern the filing of complaints. The adopted code is attached.

## **FILING 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 Section 6.28.010. The complaint must:

- 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.
- Specify the subsection(s) of Section 6.28.010 that the respondent is alleged to have violated.
- No action may be taken on any complaint which is filed later than 2 years after a violation of this ordinance is alleged to have occurred, and a complaint alleging a violation must be filed within 2 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 5 years after the alleged violation occurred.
- You may use the attached form or submit a complaint on 8 ½ x 11 letter size paper. Complaint must be legible.

### **Form of Verification**

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.

The complaint/response and the verification must be signed by the complainant/respondent before a notary public.

### **Confidentiality**

All proceedings in respect of a complaint filed under Section 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.

It is not a violation of this section for a person to contact or retain an attorney or to participate in a criminal investigation.

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.

## WHAT HAPPENS AFTER THE COMPLAINT IS FILED

The Clerk will review the complaint to determine that it complies with Section 6.20.010, that it alleges facts sufficient to constitute a violation, and that the board has jurisdiction over the matter.

If the Clerk determines that the complaint fails to comply with Section 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.

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.

If the Clerk determines that the complaint complies with Section 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.

The Clerk shall notify both the respondent and the complainant that the complaint has been accepted.

The notice shall specify the following:

- The respondent must file a response to the complaint within 30 days from the date of the Clerk's written notice;
- The respondent may file a challenge to sufficiency of the complaint, if any, within 15 days;
- The respondent has the right to submit affidavits or other written evidence in support of their response;
- Failure to submit a timely response shall be deemed an admission of the allegations in the complaint;

The complainant and respondent have the right to be represented at any hearing through out these proceedings. An attorney representing a party shall file with the Clerk an entry of appearance, to include their name, mailing address, telephone and facsimile number and email address, if any.

### Response

- The respondent shall file a verified response within 30 days from the date of service of the complaint.
- 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.
- 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.

## **BOARD OF ETHICS REVIEW AND DETERMINATION**

The Clerk will furnish to the board the complaint and response, if any, or any appeal and schedule a meeting of the board.

All meetings of the board with respect to a complaint shall be closed and confidential, except the respondent may request a public hearing.

### **Board of Ethics Review and Determination**

The board shall review and consider all complaints accepted by the Clerk, and timely responses, or any appeal of the dismissal of the complaint.

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:

- Consider any timely appeals filed pursuant to 6.20.040(E)(F). Upon granting of the appeal, it shall notify the parties.
- 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.

The board may, in its sole discretion, dismiss the complaint, or decide to proceed to resolution of the complaint if:

- The complainant seeks to withdraw the complaint at any time before the board takes final action; or
- The complainant, after notice, materially fails to cooperate in the board's review and consideration of the complaint.

### **Hearing Notice**

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.

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.

### **Pre-Hearing Conference**

The Clerk shall furnish copies of the complaint and response, if any to the complainant, the respondent and the members of board, including the notice convening the board and setting the time and place for a pre-hearing conference upon receipt of the response, or the time has passed and respondent has failed to answer the allegation of the complaint.

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.

At the pre-hearing conference the following matters shall be considered:

- Time and place for hearing on the complaint and response.
- Any stipulations of fact.
- Any motions to be filed.
- Any simplifications of the issue.
- Scheduling motions, discovery and any other relevant matters.
- Exchange of evidence which shall not later than 10 days before the hearing
- Any other matters that the board determines will provide a fair and orderly hearing.

### **Hearing**

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.

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.

The Borough Attorney, or designee, shall act as the attorney for the board and shall advise the board on matters of law.

The complainant and the respondent may each present opening statements setting out the matters they intend to prove. The complainant shall proceed first with their evidence and the respondent shall follow, setting forth their evidence. The complainant and the respondent may make closing arguments.

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.

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.

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 5 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.

The complainant, the respondent, and their counsel shall be excluded from all deliberations of the board.

## **Findings of Fact and Conclusions of Law**

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.

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.

If the board finds that a violation of Section 6.12.010 has been committed, it shall prepare and submit its findings of fact and conclusions of law to the assembly.

The findings of fact and conclusions of law are final and conclusive.

The Assembly may not change, modify or otherwise alter the findings of fact and conclusions of law as submitted.

The Assembly shall impose a penalty on the public official in accordance with Section 6.24.010.

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.

## **APPEAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND PENALTY**

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.

Notice of an appeal must be filed with the superior court within 30 days of the imposition of the penalty.



**FNSB ASSEMBLY CODE OF ETHICS -- COMPLAINT FORM**  
**Board and Commission Members**

**ALL DOCUMENTS AND RECORDS, INCLUDING  
THE COMPLAINT, ARE CONFIDENTIAL**

Complainant's Name: \_\_\_\_\_

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

Contact Number(s): \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Date(s) of the alleged violation: \_\_\_\_\_

The complaint must 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.

Specify the subsection(s) of Section 6.12.010 that the respondent is alleged to have violated.

No action may be taken on any complaint which is filed later than 2 years after a violation of this ordinance is alleged to have occurred, and a complaint alleging a violation must be filed within 2 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 5 years after the alleged violation occurred.

Submit the complaint on 8 1/2 x 11 paper and attach to this form. The text shall be double-spaced with form verification.

---

The verification shall be substantially in the following form:

I \_\_\_\_\_ (Complainant), have read the foregoing complaint know the contents thereof, and the same are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature

Subscribed to and affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary of Public in and for the State of Alaska  
My Commission Expires: \_\_\_\_\_



## Chapter 6.28

### CODE OF ETHICS FOR BOARDS AND COMMISSIONS

Sections:

**6.28.010 Code of ethics for boards and commissions.**

#### **6.28.010 Code of ethics for boards and commissions.**

A. *Purpose and Intent.* Members of the public serving as members of an appointed public body of the *Borough* provide their time and energy in public service to the *Borough* and exercise significant personal commitment, often at substantial financial sacrifice in terms of time taken from other professional endeavors. These appointed members are expected and permitted to earn a living and hold individual *financial interests*. However, matters coming before the appointed public body may *include* matters in which the appointed member of the public or a family member has a financial or private interest creating ethical issues which should be regulated in order to ensure that decisions of *boards* and commissions rest solely on what is in the public's interest.

B. *General Prohibited Conduct.* No *person* serving on a *board* or commission shall:

1. Solicit, offer or receive money or other thing of value in return for a vote, a *Borough* management decision, or the exercise of the *person's* official duties, except the compensation, expenses, benefits, or other remuneration paid by the *Borough*.
2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any *person* by the *Borough*.
3. Offer or accept any money or other thing of value for or in consideration of the use of the *person's* public position to obtain a contract for any *person* or business with the *Borough*.
4. Use for the *person's* own benefit, or for the benefit of another, *confidential information* acquired by reason of the *person's* public position and which is not available to the public.
5. Disclose or release *confidential information* gained through the *person's* public position unless authorized by law or order of the court.
6. Use the *person's Borough* position to take personal advantage of another.
7. Divert or permit the diversion of *Borough* personnel time, *Borough* services, vehicles, equipment, materials or other *property* for a purpose unrelated to *Borough* business.
8. Accept a *gift* from an individual or an *entity* with interests that may be substantially affected by the performance of the *person's* official *Borough* duties under circumstances where the timing and nature of the *gift* would cause a reasonable *person* to question the *person's* judgment in exercising official *Borough* duties on a matter affecting the donor.

9. Accept *gifts* from *persons* on a basis so frequent as to raise an appearance of the use of the *person's* public position for private gain.

10. *State* or suggest to another *person* that official action or vote on any *Borough* matter is conditioned on the retention or nonretention of services, *including* without limitation professional services, construction, and the procurement of supplies, from another *person* or *entity*.

C. *Ethics Provisions Specific to Certain Board and Commission Duties.* An appointed public body shall follow the requirements of *state* law, ordinance, regulation, and procedure governing specific actions of the appointed public body.

1. *Boards and Commissions with Quasi-Judicial Responsibilities.* Members of the public serving as members of an appointed body with such responsibilities shall:

- a. Make decisions solely on applicable law and the evidence in the record;
- b. Be impartial in fact and action in the performance of official duties, making decisions without personal gain or *financial interest*;
- c. Disclose any previous involvement in the case or with the parties;
- d. Disclose matters that would prevent the member from hearing the case under specific provisions applicable to the appointed public body;
- e. Disclose circumstances that could potentially interfere with impartiality, so that the member's participation may be fairly evaluated by the public body.

2. *Boards and Commissions Exercising Monetary or Management Discretion.*

- a. When action on a matter involves monetary discretion in the recommendation of policy or funding, voting members of advisory *boards* or commissions shall *include* a summary of personal contacts concerning the matter in the disclosure of *financial interest* and personal involvement to the appointed public body.
- b. If an appointed public body exercises monetary discretion, a member of the appointed public body or a member of their immediate family as defined in FNSBC [6.32.010](#) may not apply for, or receive substantial personal or *financial interest* in, a contract or project awarded or administered by the appointed public body during the member's service to the body, or for one year after leaving service.

D. *Disclosure Requirements.* A *board* or commission member shall place the public interest above any financial or private interest when taking official action. If an appointed member's private relationships or interests prevent the member from placing the public interest above a financial or private interest, the appointed member shall disclose this fact on the record. Prior to comment, deliberation or decision on a matter coming before the appointed public body, a member shall disclose any financial or private interest in the matter, *including* the *financial interest* or personal involvement of an *immediate family member* as defined in FNSBC [6.32.010](#). The nature of the financial or private interest shall be disclosed in sufficient detail to determine if the *financial interest* is substantial or the personal involvement is prejudicial. If the chairperson determines that a *financial interest* is substantial or the

personal involvement is prejudicial, the member may not participate in the matter coming before the appointed public body unless overruled by the other members by majority vote.

E. *Substantial Financial Interest.* Whether the financial or private interest disclosed is substantial shall be determined by the appointed public body on a case-by-case basis, with evaluation of these factors:

1. Whether the financial or private interest is a substantial part of the matter under consideration;
2. Whether the financial or private interest directly and substantially varies with the outcome of the official action;
3. Whether the financial or private interest is immediate and known or conjectural and dependent on factors beyond the official action;
4. Whether the financial or private interest is significant monetarily;
5. Whether the financial or private interest is of a type which is generally possessed by the public or a large class of *persons* to which the member belongs;
6. Other factors deemed appropriate by the chair under the specifics of the disclosure and the nature of the action before the appointed body.

F. *Restrictions on Employment.* It is a *conflict of interest* for an appointed member of a public body to represent, advise, or assist a *person* for compensation regarding a matter that was under consideration by the appointed body if the member participated personally in the matter through the exercise of official duty. In this subsection, "matter" *includes* a case, proceeding, application, contract, or determination but does not *include* consideration or comment on ordinances, resolutions, or other legislative measures if consideration by the appointed public body was only in the context of general application.

G. *Written Disclosure of Present Economic Interest.* All applications for a *board* or commission appointment shall require the applicant to disclose any economic interest which shall cause the official to have a personal or *financial interest* in the decisions of the *board* or commission for which the applicant is submitting the application. The appointed member shall file supplemental written statements with the *Borough Clerk* as new interests are acquired, and make disclosures on the record of the public body of potential conflicts as required when matters come before the public body.

H. *Acquisition of an Economic Interest in Borough Contracts and Business.* If the appointed member or a member of the immediate family as defined in FNSBC [6.32.010](#) takes any official action with respect to preparation of the solicitation, award, or *Borough* administration of a contract, the member or a member of the immediate family shall not acquire directly or indirectly an economic interest in a related *Borough* contract.

I. *Restrictions on Engaging Services to Influence Legislative or Administrative Action or Financial Contribution.* An appointed public body may not engage a lobbyist or other *person* or *entity* for compensation to influence financial support, legislative action, or administrative action from another appointed public body or an *elected* body of the *Borough*.

J. *Gifts.* Gifts to a member of an appointed body unrelated to the member's public service and gifts without monetary value are not covered by this chapter. Unless subject to supplemental restrictions governing the appointed public body, these unsolicited gifts are allowed and subject to disclosure as follows:

1. A gift or award of monetary value presented in recognition of meritorious, civic, or voluntary service to the Borough, so long as presented by a recognized civic or non-profit charitable organization presenting such a gift or award as part of an established tradition, and not given as financial inducement for official action. A member of an appointed body shall disclose a gift or award with a monetary value in excess of \$50.00 and file the disclosure with the Borough Clerk within 30 working days of receipt of the gift or award.
2. A perishable gift for immediate consumption or display, from member(s) of the public expressing general appreciation or holiday cheer, when shared among members of the appointed body or donated to charity. The chair of the appointed body shall disclose a gift under this category with a value in excess of \$150.00 and file the disclosure with the Borough Clerk within 30 working days of receipt.

K. *Political Activity.* A member of an appointed public body shall not:

1. Use official position on an appointed public body to solicit a contribution, endorsement, or other campaign support for any political candidate.
2. Use official position on an appointed public body to discourage or inhibit any person from exercising voter franchise.
3. Act in a manner to suggest that the member is acting in the member's official capacity or otherwise representing the appointed public body or the Borough, when engaging in political activity during personal time.

L. *Complaint Procedures.* Any person may file a verified complaint with the Clerk alleging that a board or commission member has violated one or more provisions of this section. This complaint shall comply with and follow the procedures set forth in FNSBC [6.20.010](#) through [6.20.150](#).

M. *Definitions.* In this chapter, unless the context otherwise requires, the definitions in Chapter [6.04](#) FNSBC shall apply. (Ord. 2021-10 § 2, 2021; Ord. 2016-63 § 2, 2016; Ord. 2011-08 § 3, 2011. 2004 Code § 2.21.190.)

---

---

**The Fairbanks North Star Borough Code is current through Ordinance 2022-64, passed December 15, 2022.**

Disclaimer: The Borough Clerk's Office has the official version of the Fairbanks North Star Borough Code. Users should contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[Borough Website: www.fnsb.gov](http://www.fnsb.gov)

[Code Publishing Company](#)

## Chapter 6.20 PROCEDURES

### Sections:

- 6.20.010 Filing of a verified complaint.**
- 6.20.020 Form of verification.**
- 6.20.030 Confidentiality.**
- 6.20.040 Service of complaint.**
- 6.20.050 Response.**
- 6.20.060 Transmittal.**
- 6.20.070 Board of Ethics review and determination.**
- 6.20.080 Pre-hearing conference.**
- 6.20.090 Hearing notice.**
- 6.20.100 Subpoenas.**
- 6.20.110 Motions – Depositions.**
- 6.20.120 Service by mail and filing.**
- 6.20.130 Hearing.**
- 6.20.140 Findings of fact and conclusions of law.**
- 6.20.150 Appeal of findings of fact and conclusions of law and penalty.**
- 6.20.160 Records retention.**

### **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 their 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. 2019-09 § 2, 2019; 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 their 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. 2019-09 § 2, 2019; 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 their evidence and the *respondent* shall follow, setting forth their 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. 2019-09 § 2, 2019; 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.)

---

---

**The Fairbanks North Star Borough Code is current through Ordinance 2022-64, passed December 15, 2022.**

Disclaimer: The Borough Clerk's Office has the official version of the Fairbanks North Star Borough Code. Users should contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[Borough Website: www.fnsb.gov](http://www.fnsb.gov)

[Code Publishing Company](#)