

ORDINANCE NO. 6077

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE
CHAPTER 22, ELECTIONS**

WHEREAS, a full review of Fairbanks General Code Chapter 22 Elections has not been performed in over a decade; and

WHEREAS, to the extent possible, the City of Fairbanks tries to maintain uniformity with the Fairbanks North Star Borough in its election procedures; and

WHEREAS, the FNSB recently amended its code of ordinances regarding elections by amending language pertaining to declarations of candidacy for write-in candidates, rules for contact persons on initiatives and referendums, and the deposit fee for recount applications; and

WHEREAS, write-in candidates should be required to submit a declaration of candidacy form to alert the clerk and the public of their candidacy; and

WHEREAS, contact persons on initiatives or referendums should not serve as election officials due to their perceived or actual conflict of interest; and

WHEREAS, the deposit fee for a recount application should more closely approximate the true cost of a recount on a per-precinct basis; and

WHEREAS, FGC Chapter 22 contains inaccurate titles, redundancies, and outdated election procedures.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. Fairbanks General Code Chapter 22 Elections is hereby amended as follows [new text in **bold/underline** font; deleted text in ~~striketrough~~ font]:

Chapter 22 - ELECTIONS

Sec. 22-1. – Definitions.

The following **definitions and clarifications apply to this chapter**~~words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

Days includes weekends and holidays.

Election includes any regular or special election **of the City of Fairbanks**~~for the city council.~~

Election officials means the city clerk or **the clerk's**~~his~~ designee, election judges and election clerks, and canvassing boards.

Oath includes affirmation.

Precinct means the territory established by the state.

Proposition includes question.

Publication means a newspaper of general circulation or posting in public places.

~~*Qualified voter is any voter who:*~~

- ~~(1) Is a citizen of the United States;~~
- ~~(2) Is 18 years of age or older;~~
- ~~(3) Has been a resident of the state and of the city for at least 30 days just before the election;~~
- ~~(4) Has registered at least 30 days before the city election as required by AS 15.07 at a residence address within the city and is not registered to vote in another jurisdiction; and~~
- ~~(5) Is not disqualified under Alaska Const. art. V, § 2 and AS 15.05.030.~~

Regular election means a general election to fill city offices as required by section 22-6.

Signature or subscription includes a mark intended as a signature or subscription.

Special election means any election held at a time other than when a regular election is held.

Swear includes affirm.

Voter means any person who presents himself for the purpose of voting, either in person or by absentee ballot.

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Sec. 22-5. - Qualifications of voters.

(a) A person is qualified to vote who:

- (1) Is a citizen of the United States;
- (2) Is 18 years of age or older;
- (3) Has been a resident of the state and of the city for at least 30 days preceding the election;
- (4) Has registered at least 30 days before the election with the state and is not registered to vote in another jurisdiction; and
- (5) Is not disqualified under Alaska Const. art. V, § 2 and AS 15.05.030.

~~(b) A person is qualified to vote in a service area election if he meets the requirements listed in subsection (a) of this section and has also resided within the service area for 30 days or more prior to the election.~~

(be) If a voter's polling place is in question, a voter shall be allowed to vote,; and anythe election official shall consider the ballot as a questioned ballot.

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Sec. 22-9. - Declaration of candidacy by affidavit.

(a) At least 95 days before each regular election, the city clerk shall publish in one or more newspapers of general circulation in the city a notice of offices to be filled at the election and the manner of declaring candidacy.

(b) Any qualified person may have their name placed on the ballot as a candidate for not more than one elective office by filing no earlier than July 15th at 8:00 a.m., nor later than July 29th at 5:00 p.m., with the city clerk, a sworn declaration of candidacy. If July 29 falls on a Saturday or a Sunday, the filing deadline will be 5:00 p.m. the following Monday. Candidates for elective council office shall file a conflict of interest statement in accordance with the provisions of AS 39.50 at the time of filing a declaration of candidacy. Each candidate shall file the name and address of the campaign treasurer with the state public offices commission in accordance with the provisions of AS 15.13 no later than seven days after the date of filing a declaration of candidacy. A \$25.00 filing fee shall accompany every declaration of candidacy.

(c) Declaration of candidacy affidavits shall be provided by the city clerk and shall include a provision for a statement by the candidate affirming theirhis qualifications to fill the office for which they arehe is filing.

(d) Any candidate desiring to withdraw their declaration of candidacy may do so at any time during the period for filing a declaration of candidacy and up to five business days following the closing date for filing. All declarations of candidacy which are not withdrawn shall be preserved by the city clerk for one year.

(e) Persons filing for elective office as a write-in candidate shall file a declaration of candidacy under this section. Write-in candidates may file only after the official filing period has closed and not later than 5:00 p.m. on the day immediately preceding the election.

~~(fe) A person commits the offense of making a false or misleading statement on a declaration of candidacy form when he makes a false or misleading statement on a declaration of candidacy form, knowing the statement to be false or misleading. Each declaration of candidacy~~ **Each declaration of candidacy form** will contain the following phrase immediately above the signature of the candidate, "I understand that false statements made on this form are criminal violations."

(gf) Each member of the city council shall have resided within the city for one year immediately prior to the filing of the declaration of candidacy.

(hg) The city clerk shall determine whether each candidate for city office is qualified as provided by law. At any time during the election the city clerk may disqualify any candidate whom the clerk finds is not qualified and immediately notify that candidate by certified mail.

Sec. 22-10. - Election officials.

(a) For precincts within the city, the city council and the borough assembly shall appoint at least three judges in each precinct to constitute the election board of that precinct. The city clerk is the election supervisor. One judge shall be designated as chairman and shall be ordinarily responsible for administering the election in that precinct. The city clerk may appoint up to three election clerks at any polling place where they are needed to conduct an orderly election and to relieve the election judges of undue hardship.

(b) All election officials should attend a training session unless personally and specifically excused for cause by the city clerk. If any appointed election official is not able or refuses to serve on election day, the city clerk may appoint a replacement for that official.

(c) Each election official serving at a precinct polling place must be a qualified voter and, if possible, a resident within the precinct ~~to~~for which ~~they are~~he is appointed.

(d) All election judges and clerks, before entering upon their duties, must subscribe to the oath required of all public officers by the state constitution in the manner prescribed by the city clerk.

(e) ~~A candidate or members of the candidate's immediate family shall not serve as officials for the election in which he is a candidate.~~ **Candidates and the contact persons or sponsors on an initiative or referendum shall not serve as election officials. Certain familial relationships may not exist between a candidate and a precinct election judge, election official, or member of a ballot counting team in regular, runoff, or special elections. Those familial relationships are:**

- (1) Mother, mother-in-law, stepmother;**
- (2) Father, father-in-law, stepfather;**
- (3) Sister, sister-in-law, stepsister;**
- (4) Brother, brother-in-law, stepbrother**
- (5) Spouse**
- (6) Grandparent; or**
- (7) Person sharing the same living quarters.**

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Sec. 22-12. - Distribution of ballots.

(a) The city clerk shall have the ballots in ~~his~~possession at least 15 days before each regular election or seven days before each runoff or special election. At that time the ballots may be inspected by any candidate whose name is on the ballot, or ~~their~~his authorized agent,; and any mistake discovered shall be corrected immediately. Sufficient ballots for the registered voters of each precinct shall be delivered to the election board for that precinct.

(b) The ballots shall be delivered in a separate sealed package, with the number of ballots enclosed clearly marked on the outside of the package. A receipt shall be taken from the election board member to whom each package is delivered in person or by mail; these receipts to be preserved with other records of the election for one year.

Sec. 22-13. - Election supplies and equipment.

(a) Before the opening of the polls, the city clerk shall furnish to the election board of each precinct the state voter registration list for that precinct and shall equip and supply each polling place with sufficient materials for that precinct's election, including those materials required by this section.

(b) The city clerk shall prepare instructions explaining to voters how to obtain ballots, how to mark them, and how to obtain new ballots to replace those destroyed or spoiled. These instructions shall be printed on cards in large, clear type and shall be distributed to the election boards to be prominently displayed in each polling place. The city clerk shall provide booths at each polling place with appropriate supplies and conveniences to enable each voter to mark ~~their~~**his** ballot screened from observation. Ballot boxes shall be placed outside the voting booths in plain view of the election officials, voters, and other persons at the polling place.

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Sec. 22-15. - Absentee voting.

(a) ~~Eligibility~~ Any qualified voter may vote an absentee ballot for any reason.

(b) **The city clerk will provide absentee ballots, small and large envelopes, and an affidavit by which a voter shall declare their qualification to vote, followed by a provision for attestation by a witness who is 18 years of age or older.** ~~Materials for absentee voting. There shall be a small blank VOTER. The return envelope shall have printed upon it an affidavit by which the voter shall declare his qualification to vote, followed by provision for attestation by a witnessing officer, or signature of an attesting witness, who is at least 18 years of age.~~

(c) ~~Absentee voting in person~~ **Absentee voting in person.**

- (1) A qualified voter may apply for an absentee ballot in person on any date after the ballots are prepared and available, up to and including the day before the date of the election.
- (2) On receipt of an application in person for an absentee ballot and exhibition of proof of identification as required in section 22-17, the city clerk shall issue the ballot to the applicant.
- (3) On receipt of an absentee ballot in person, the voter shall proceed **to the voting booth**~~in the presence of the city clerk~~ to mark the ballot in secret, to place the ballot in the small envelope, **and** to place the small envelope in the larger envelope **in the presence of the election official who will sign and date as the attesting official,**~~and to sign the voter's certificate on the larger envelope, sign and date his signature.~~ The **election official** ~~city clerk~~ shall then accept the ballot **and immediately place the ballot in the ballot box.**
- (4) The **election official** ~~city clerk~~ shall keep a record of the names and signature of **all** voters who cast absentee ballots ~~before him~~ and the dates on which the ballots were cast.

(d) ~~Absentee voting by personal representative~~ **Absentee voting by personal representative.**

- (1) A qualified voter may apply for an absentee ballot through a personal representative on the day of, or not more than 20 days before, the date of an election. The application shall be signed by the applicant and be accompanied by a letter from a licensed physician or a statement signed by two qualified voters stating that the applicant will be unable to go to the polling place because of physical disability.

- (2) The personal representative shall deliver the absentee ballot to the voter as soon as practicable. Upon receipt of an absentee ballot through a personal representative, the voter shall proceed to mark the ballot in secret, place the ballot in the small envelope, place the small envelope in the larger envelope, and sign the voter's certificate on the back of the envelope in the presence of the personal representative who shall sign as attesting witness and date theirhis signature. The voter shall then return the absentee ballot to theirhis personal representative who shall deliver the ballot to the election official who provided the ballot. The absentee ballot must be returned to the city clerk within three days from the date it is obtained but not later than 8:00 p.m. on election day. An absentee ballot that is not returned to the city clerk by the close of business on the third day from the day it is obtained may not be counted, but the voter may vote in the election.
- (3) The city clerk shall keep a record of the name and signature of each personal representative requesting an absentee ballot and the name of the person on whose behalf the ballot is requested. The city clerk shall record the date and time the absentee ballot is provided and the time the ballot is returned.
- (4) A candidate for office at that election may not act as a personal representative. An individual may serve as personal representative for not more than one physically disabled voter.

(e) ~~Absentee voting by mail~~ **Absentee voting by mail.**

- (1) A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first day of the calendar year in which the election is to be held~~more than 60 days or~~ not less than seven days before any election. The application shall include the address to which the absentee ballot shall be returned, ~~and the applicant's full Alaska~~ resident address, and the applicant's signature.
- (2) After receipt of an application by mail, the city clerk shall send the absentee ballot and other absentee voting material to the applicant by first class mail~~the most expeditious mail service.~~ The materials, including a pre-addressed mailing envelope, shall be sent as soon as they are ready for distribution. ~~A return envelope shall be sent with the materials addressed to the city clerk.~~
- (3) Upon receipt of an absentee ballot by mail, the voter, in the presence of ~~a notary public, other person qualified to administer oaths, or a person over the age of 18 years,~~ may proceed to mark the ballot in secret, place the ballot in the small envelope, place the small envelope in the larger envelope, and sign the voter's certificate on the back of the larger envelope, ~~in the presence of a~~ The witness who shall sign as attesting official and shall date theirhis signature.
- (4) To be counted in the election, an absentee ballot must be postmarked on or before election day and be received by the municipal clerk's office no later than the Tuesday following the election. Absentee ballot envelopes received after ~~the canvass board has completed absentee ballot counting~~ that time shall not be opened, but shall be marked "invalid" with the date of receipt noted thereon. Such envelopes shall be retained with other election records and destroyed ~~with them as provided by the municipal clerk's~~ in accordance with the city records retention schedule. Absentee ballot envelopes shall be examined by the canvas board ~~that~~ which shall determine whether the absentee voter is qualified to vote at the election and whether the ballot was properly cast.

(f) ~~Absentee voting by electronic transmission~~ **Absentee voting by electronic transmission.**

- (1) A qualified voter may apply for an absentee ballot to be sent by electronic transmission. Such request must be made by noon (Alaska Standard Time)~~not less than the day~~

immediately preceding the election. Absentee ballots will be electronically transmitted to the location designated in the application. If no location is designated, and if the request is received no later than seven days prior to the election, the ballot will be mailed in the manner provided for absentee ballots by mail. The Clerk may impose reasonable conditions for electronically transmitting absentee ballots.

- (2) A ballot electronically transmitted shall contain a copy of the ballot to be used at the election in a form suitable for transmission. A photocopy of the computerized ballot card to be used by persons voting in person at the polling places is acceptable.
- (3) **Electronically-transmitted ballots may be submitted by mail in accordance with the requirements of subsection (e)(4) of this section**~~The voter shall mark the ballot on or before the date of the election and shall use a mail service at least equal to first class and mail the ballot not later than the day of the election to the appropriate election official. The ballot may not be counted unless it is received by the close of business on the Tuesday following the election.~~
- (4) A voter may transmit the ballot electronically no later than the day before the election. The ballot shall be counted in the same manner as other absentee ballots, even though this procedure may reveal to one or more election officials the manner in which a particular absentee voter cast ~~their~~his or her ballot. However, it shall be unlawful to display a telefax ballot in a manner revealing the way in which a particular voter cast ~~their~~his or her ballot to any person other than the municipal clerk, a member of the clerk's staff, the election official in the course of ~~their~~his or her duties, or an attorney advising the clerk on legal questions concerning the ballot.

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Sec. 22-17. - Voting procedures at the polls.

(a) Before issuing any ballots, the election board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place. The ballot box then shall be closed and shall not be opened again or removed from the polling place until the polls have closed.

(b) The election judges shall keep an original register in which each voter, before receiving ~~their~~his ballot, shall sign ~~their~~his name and give both ~~their~~his residence and mailing address. A record shall be kept in the registration book in the space provided of the name of persons who offer to vote but who actually do not vote, and a brief statement of explanation. The signing of the register constitutes a declaration by the voter that they are~~he~~ is qualified to vote. If a ~~voter's~~person's name does not appear on the official registration list of the precinct in which the person seeks to vote, polling place is in question, a voter shall be allowed to vote and any election official shall consider the ballot as the person may vote a questioned ballot.

(c) Before being allowed to vote, each voter shall exhibit to an election judge one form of identification, including but not limited to an official voter registration card, driver's license, birth certificate, passport, or hunting or fishing license. An election judge may waive the identification requirement if ~~they~~he knows the identity of the voter. A voter who cannot exhibit a required form of identification shall be allowed to vote a questioned ballot.

(d) When the voter is qualified to vote, the election judge shall give ~~the voter~~^{him} an official ballot. The voter shall retire to a booth or private place to mark the ballot. The ballot must be voted at the polling place, and no ballot may be removed from the polling place until the election judges have completed their post-election duties.

(e) A qualified voter who cannot read, mark the ballot, or sign ~~their~~^{his} name may request an election ~~official~~^{judge}, a person, or not more than two persons of ~~their~~^{his} choice to assist ~~them~~^{him}. If ~~an~~^{the} election ~~official~~^{judge} is requested, **they shall assist the voter. If any other person(s) is requested, the person(s) shall state upon oath before the election official judge that they will not divulge the vote cast by the person whom they assists.**

(f) If a voter improperly marks or otherwise damages a ballot, ~~they~~^{he} shall return it to the election officials, concealing the manner in which it is marked from view, and shall request a new ballot. The election officials shall destroy the damaged ballot after having recorded its number and shall issue a new ballot to the voter. A voter may request replacement of a damaged ballot no more than three times.

(g) Fifteen minutes before closing the polls **and at the time of closing the polls, an election official shall announce both the designated closing time and the actual time at which the announcement is made** ~~the time remaining before such closure shall be proclaimed.~~ **Failure to make the announcement at 15 minutes prior to closing time shall not in any way invalidate the election or extend the time for closing of the polls. Upon closing, no person will be allowed to enter the polling place for the purpose of voting. Every qualified voter present and in line at the time prescribed for closing the polls may vote.** ~~When the polls are closed for the purposes of voting, that fact shall likewise be proclaimed; and thereafter no ballot shall be issued except to those voters who were present and waiting their turn to go through the voting procedure at the time prescribed for closing the polls.~~

(h) When the polls are closed and the last ballot has been cast, the election board shall account for all ballots by completing a ballot statement containing the number of official ballots supplied in a manner prescribed by the city clerk.

(i) The election board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted on the ballot statement.

(j) Poll watchers will be allowed at city precincts with the same rights and under the same restrictions as provided for under state law and Fairbanks North Star Borough ordinance.

Sec. 22-18. - Questioning procedure.

(a) Every election ~~official~~^{judge} and election clerk shall question, and any person qualified to vote in the precinct may question, a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote **in the election**. All questions **regarding a person's qualifications to vote** shall be made in writing, setting out the reason(s) for the question. A questioned person, before voting, shall subscribe to **an oath or affirmation** ~~ona declaration~~ in a form provided by the ~~election official~~^{city clerk}, attesting to the fact that in each particular the person meets all the qualifications of a voter, ~~that he is not disqualified, and that he has not~~ **already** voted at the same election. **If the question is to residence within the precinct or voting area, the questioned**

~~person~~He shall **also** state the place from which ~~they~~he came immediately before living in the precinct ~~where offering to vote~~in which he now offers to vote and the length of time of his residence in the former place. After the questioned person has executed the oath or affirmationdeclaration, the person may vote. If the questioned person refuses to execute the oath or affirmationdeclaration, the person ~~shall~~may not vote.

(b) If a voter's polling place is in question, ~~he shall be allowed to~~**the voter shall vote** vote, and any election official shall consider the ballot as a questioned ballot **after complying with subsection (a) of this section**. ~~The voter whose ballot is being questioned shall complete a statement concerning his residence on a form provided by the city clerk.~~

Sec. 22-19. - Disposition of questioned votes.

A voter who casts a questioned ballot shall vote ~~their~~his ballot in the same manner as prescribed for other voters. After the election official or judge removes the numbered stub from the ballot **and the voter votes the ballot**, the voter shall insert the ballot into a small blank envelope, seal it, and put the envelope into a larger envelope on which the statement ~~the voter~~he previously signed is located. These larger envelopes shall be sealed and deposited in the ballot box. When the ballot box is opened, these envelopes shall be counted and compared to the voting list, segregated, and delivered to the city clerk for delivery to the election canvass board. **The election canvass board shall review and judge the applicability of all questioned ballots**

Sec. 22-20. - Unused ballots.

The number of unused ballots shall be recorded, and all such ballots shall be disposed of as instructed by the clerk before ballot box is opened. All ballots not voted by voters shall be returned by the judges to the city clerk for destruction. The city clerk shall keep a record of the number of ballots returned to him, indicating when and by which judge each was returned. The number of ballots damaged by voters and replaced by election officials pursuant to section 22-17 shall **also** be recorded. **The record of unused ballots and damaged and replaced ballots shall be preserved for at least 30 days after certification of the election.**

Sec. 22-21. - Counting ballots.

(a) **In optical scan or other computer-read or electronic ballot precincts, when the polls have closed and the last vote has been cast, the election board shall immediately transmit election results to the clerk following the written instructions provided to each precinct. Once the election results have been transmitted, the election board shall open the ballot box and place all ballots in the tamper-proof containers provided. The election board shall remove all questioned ballots and place them in the container provided. The election board shall proceed with the ballot accountability and poll closing procedures provided by the clerk.** The opening of the ballot box and the counting of ballots shall be accomplished in full view of any persons present. However, the chairman of the election board shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed election officials may handle the ballots.

(b) **The clerk may issue rules prescribing the manner in which the precinct ballot count is to be accomplished so as to assure accuracy in the count and to expedite the process. The election board shall account for all ballots by completing a ballot statement containing (1) the number**

of officials ballots received; (2) the number of official ballots voted; (3) the number of official ballots spoiled; and (4) the number of official ballots unused and destroyed. The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters who signed the register. Discrepancies shall be noted, and the numbers shall be included in the certificate prescribed by the clerk. Immediately following the closing of the polls, the election officials shall open the ballot box and count the number of ballots cast with necessary adjustments to account for the number of ballots required to present to each voter all the offices and propositions on which he is entitled to vote. The number of ballots cast shall agree with the number of signatures on the precinct register. If a discrepancy exists which cannot be resolved, the election officials shall explain the discrepancy to the best of their ability in writing for delivery to the city clerk.

(c) Ballots may not be counted before 8:00 p.m., local time on the day of the election. If computer-counted ballots are used, the election officials shall make a preliminary inspection of the ballot cards, separating those obviously damaged or marked in a questionable manner. After the preliminary inspection is complete, all the ballots shall be placed in the container provided and a seal affixed. The sealed container shall be delivered to the counting center by two or more election judges. If election judges of a precinct are unable personally to deliver the ballots of their precinct to the counting center due to weather or road conditions, delivery may be arranged with all due and proper safeguards by the state or city police.

(d) If paper ballots are used, the election board shall tally the votes cast in the manner prescribed in this chapter. When the tally of votes is completed, a certificate of returns shall be prepared and signed by the election judges. After completion of the certificate of returns, the counted ballots shall be sealed in an envelope provided by the city clerk and shall be delivered to the city clerk.

Sec. 22-22. - Rules for determining mark.

All canvassing and counting of ballots will be conducted according to the following rules:

- (1) A failure to properly mark a ballot as to one or more candidates does not in itself invalidate the entire ballot.
- (2) A voter may mark ~~their~~his ballot only by using ~~punch marks as may be made through use of the provided ballot marking machine or, if paper ballots are used, a cross mark, "X" mark, diagonal, horizontal or vertical mark, solid mark, circle, or asterisk shall be made with pencil or pen and ink.~~ The marks will be counted only if they are substantially inside the ovals~~squares~~ provided, or touching the ovals~~square~~ so as to indicate clearly that the voter intended the particular ovals~~square~~ to be designated.
- (3) If a voter marks fewer names than there are persons to be elected to the office, the vote will be counted for each candidate properly marked.
- (4) If a voter marks more names than there are persons to be elected to the office, the votes for that office will not be counted.
- (5) Improper marks on the ballot will not be counted and will not invalidate marks for candidates properly made.
- (6) Any erasure or correction invalidates only that section of the ballot on which it appears.
- (7) Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the printed name is for the same office and has also been marked

or unless the election board determines, on the basis of other evidence, that the ballot was so marked as to be for the purpose of identifying the ballot.

- (8) In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and, in addition, mark the oval square opposite the candidate's name in accordance with subsection (2) of this section.
- (9) ~~Stickers bearing the candidate's name may~~ **cannot** be used on the ballot. **Use of stickers may cause that portion of the ballot to be invalidated.**

Sec. 22-23. - Tally of votes.

(a) ~~Tally of votes cast by paper ballot.~~ The city clerk shall issue instructions and shall provide forms and supplies for the tally of votes cast by paper ballot so as to assure accuracy to expedite the process. The election board shall canvass and count the votes according to the rules for determining mark on ballots prescribed in section 22-22. The election board shall canvass the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for delivery to the city clerk may remove a ballot from the immediate vicinity of the polls or have a marking device in hand.

(b) ~~Tally of votes by computer~~ **Tally of votes by computer.**

- (1) Election judges and clerks serving at the counting center shall be appointed in the same manner as those serving at the polling places. Any qualified voter of the city, **except a candidate for city office or a member of a candidate's immediate family or contact persons and sponsors on an initiative or referendum** may be appointed for this service.
- (2) Upon receipt of the ballot container, an election official shall test the seal and certify that it has not been broken. If there is a discrepancy, it shall be brought to the city clerk's attention **immediately at this time.**
- (3) After certification that the seal on the ballot container was intact upon receipt, a counting center official shall break the seal and remove the ballots. Those ballots that cannot be processed by the computer due to physical damage shall be stamped "DEFECTIVE" and shall be delivered to the ~~canvasser~~ **control** board.
- (4) Three election officials, as a board, shall prepare facsimiles of all defective ballots, recording ballot numbers in the manner prescribed by the city clerk in order to permit verification of duplication if necessary at a later date. Facsimile ballots shall be placed with the valid, non-defective ballots of the precinct to be delivered to the computer area for tally of votes. Defective ballots of which facsimiles have been prepared and rejected ballots shall be placed in an envelope bearing the number of the precinct at which they were cast and shall be **preserved by** ~~delivered to~~ the city clerk ~~to be preserved for one year.~~
- (5) Only those ballots **marked punched** in accordance with section 22-22 shall be counted.
- (6) Computer tally of votes cast shall be directed by the city clerk, **and shall be open to the public** ~~appointed by the assembly.~~ When the tally of votes has been completed, the voted ballots shall be sealed into containers and delivered to the city clerk to be preserved for one year. Ballot containers may not be opened unless the city clerk is ordered to do so by the **city council** ~~assembly~~ or by the court.
- (7) Write-in votes will only be tabulated **manually by person** when the total number of write-in votes for **any** office exceeds the smallest number of votes cast for **any** candidate **for that office** whose name is printed on the ballot.

Sec. 22-24. - Canvass of returns.

(a) Before each election, the city council~~assembly~~ shall appoint four or more~~at least three~~ qualified voters, who shall constitute the election canvass board for that election. All members of the election canvass board, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution~~constitution~~ of the State of Alaska~~state~~ in the manner prescribed by the city clerk.

(b) On the day following each election, or as soon as is practicable, the election canvass board shall meet in public session and canvass all election returns. ~~The canvass may be postponed for cause from day to day, but there shall be no more than three such postponements.~~ In full view of those present, the election canvass board shall judge the applicability of absentee and questioned ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. The canvass of the ballot vote counted by precinct election boards shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the precinct's certificate of results. All obvious errors found by the election canvass board in the transfer of totals from the precinct tally sheets to the precinct certificate of returns shall be corrected ~~by~~^{by} the canvass board ~~certificate of election returns and reported to the city council as having been corrected.~~ If in the opinion of the canvass board a mistake has been made in precinct returns which is not clearly an error in the transfer of results from the tallies to the certificate of results, the canvass board may recommend ~~to the governing body that~~ a recount of that precinct's results be made for that portion of the returns in question.

(c) ~~Questioned and absentee ballots shall be counted as follows:~~ The canvass board shall begin reviewing questioned and absentee ballots the day following the election. All ballots received must be reviewed and counted by the Tuesday following the election. No questioned or absentee ballot shall be counted if the voter has failed to properly execute the oath and affidavit, if the witness or the officer or other person authorized by law to administer the oath fails to affix theirhis signature, if the voter's registration has been cancelled under state law, or if the voter fails to enclose theirhis marked ballot inside the small envelope provided. The canvass board will review all questioned and absentee ballots to determine eligibility of the voter. If a ballot is rejected, the clerk shall send a statement to the voter stating why their ballot could not be processed. All rejected questioned and absentee ballots shall be enclosed in a separate envelope with statements of the basis for the rejection. If a questioned or absentee ballot is accepted, the canvass board shall place the valid ballot in a separate container to be opened and counted on the Tuesday following the election. ~~The city clerk or a member of the election canvass board may question the qualifications of an absentee voter when read from the voter's certificate on the back of the large envelope if he has good reason to suspect that the voter is not qualified to vote, is disqualified, or has voted at the same election. The person questioning the qualifications shall specify the basis of the question in writing. The canvassing board by majority vote may refuse to accept the question and count the ballot. If the ballot is refused, the city clerk shall return a copy of the statement of the question to the voter and shall enclose all rejected ballots in a separate envelope with statements of question. The envelope shall be labeled "rejected ballots" and shall be transmitted to the city council with the election certificates and other returns. If the ballot is not refused, the large envelope shall be opened and the smaller inner envelope shall be placed in a container and mixed with other blank absentee ballot envelopes, or in the case of counting questioned ballots, with other blank questioned ballot envelopes. The mixed smaller blank envelopes shall be drawn from the container, opened and the ballots counted according to the rules of determining properly marked ballots.~~

(d) Upon completion of the canvass, the canvassing board shall prepare a certificate of the results of votes cast by absentee ballots, questioned ballots, and ~~ballots of votes cast~~ by regular ballot and shall prepare and submit a written report of the results to the city council.

Sec. 22-25. – Votes required for election to office; Certification of the election.

(a) To be elected to the office of city mayor, a candidate must receive over forty percent of the votes cast for that office. A runoff election for the office of mayor shall be held between the two candidates receiving the highest number of votes if no candidate receives over forty percent of the votes cast.

(b) To be elected to the office of city council, a candidate must receive the greatest number of votes cast for that seat.

(ca) As soon as possible after completion of the canvass, the city council shall meet in public session to receive the report of the canvass board. If after considering the report the city council determines that the election was validly held, such conclusion shall be declared and entered upon the minutes of the meeting.

(db) If the canvass board reports a failure to comply with provisions of state law and city ordinance or illegal election practices have occurred and that such failure is sufficient to change the outcome of the election, the city council may exclude the votes cast in one or more precincts where such failure or illegal practices have occurred from the total returns or may declare the entire election invalid and order a new election.

(ee) If the canvass board reports an apparent discrepancy in the returns of one or more precincts, the city council may order a recount of the votes cast in those precincts. Such recount shall be conducted immediately by the canvassing board and the results reported ~~to~~ by the city council.

(fd) In case of failure to elect because of a tie vote, the city council shall immediately cause the canvass board to recount the votes. If there is still a failure to elect because of a tie vote in the regular election, the names of the two tied candidates shall be entered in ~~at~~ the runoff election. ~~If no candidate in a regular election received a majority of votes cast and there is a tie for the second highest number of votes cast, the city council shall immediately cause the canvass board to recount the votes. If there is still a tie for the second highest number of votes cast, the second name to be placed on the runoff ballot shall be determined fairly by lot from among the candidates tying in a meeting of the city council and under its direction.~~ In case of failure to elect in a runoff election because of a tie vote, the city council shall immediately cause the canvass board to recount the votes. If there is still a failure to elect because of a tie after completion of the recount, the election shall be determined fairly by lot from among the candidates tying in a meeting of the city council and under its direction.

(ge) Upon certification of a valid election, the city council shall direct the city clerk to deliver to each person elected to office a certificate of election signed by the city clerk and authenticated by the seal of the city.

Sec. 22-26. – Recount application~~Election recounts.~~

(a) A defeated candidate or ten qualified voters who believe there has been a mistake made by an election official or by the canvassing board in counting the votes in an election may file an application

requesting a recount. **The recount application shall be filed** with the city clerk no later than 5:00 p.m. on the Monday following the election or **one business day** 24 hours after completion of the canvass board, whichever is later. **The date on which the city clerk receives an application, rather than the date of mailing or transmission, determines whether the application is filed within the time allowed under this section.** The applicant shall include a deposit in cash or certified check for ~~\$100.00~~ **\$200.00 per election precinct to be recounted.** The deposit shall be applied against any costs incurred pursuant to subsection (e) of this section or refunded if there is no liability for recount costs.

(b) **Recount application forms shall be provided by the city clerk.** The application shall specify **with particularity the grounds for the contest** in substance the basis of the belief that a mistake has been made, the particular election precinct(s) or precincts for which the recount is to be held, the particular office, proposition or question for which the recount is to be held, and that the person making the application is a candidate or that the ten persons making the application are qualified voters **of the city.** The application for a recount shall bear the notarized signature of the candidate or the ten qualified voters seeking the recount.

(c) Upon receiving an application in substantially required form, the city clerk shall appoint a recount board of four or more qualified voters to conduct the recount of ballots as soon as possible of ~~the~~ **these** precinct(s) cited in the application for recount. The rules governing the counting of marked ballots by the election board shall be followed. **The city clerk shall make the final determination on which ballots or parts of ballots were properly marked.** Those requesting the recount, those whose election is recounted, and the public shall be allowed to attend the recount proceeding.

(d) Upon completion of recount, the recount board shall certify the results of the recount to the city council. The city council shall declare the final election results and direct the city clerk to deliver to each person elected to office a certificate of election signed by the city clerk and authenticated by the seal of the city.

(e) The applicant for the recount shall pay all costs and expenses incurred in a recount of an election demanded by the applicant if the recount fails to reverse any result of the election or **if** the difference between the winning and losing vote on the result **for which the recount is** requested for recount is more than one percent.

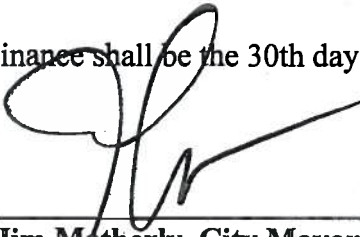
(f) ~~A candidate or any person who requested a recount who has reason to believe an error has been made in the recount involving any question, proposition, candidate or validity of any ballot may appeal to the superior court within ten days after the city council has declared the election results. If no such action is commenced within the ten-day period, the election and the election results shall be conclusive, final and valid in all respects.~~ **If two or more candidates having the highest number of votes for the same office, to which only one candidate is to be elected, are separated by ten votes or less, the city clerk shall initiate a recount of that race. The clerk shall cease a recount under this subsection if a defeated candidate concedes the election in writing no later than the close of business two days after completion of the canvass.**

Sec. 22-27. - Contest of election.

A defeated candidate or any ten qualified voters who **caused the recount of** contested an election may bring an action in the superior court within ten days after the city council has concluded that the election was validly held and the results entered upon the minutes. Such legal action shall be upon

the grounds set forth in AS 15.20.540 for contesting state elections. The judge shall render a decision as required by AS 15.20.560 for state elections. If no such action is commenced within the ten-day period, the election and the election results shall be conclusive, final, and valid in all respects.

Section 2. That the effective date of this Ordinance shall be the 30th day of June 2018.

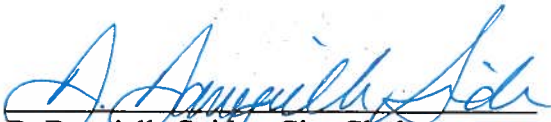



Jim Matherly, City Mayor

AYES: Bagwill, Cleworth, Rogers, Huntington, Therrien, Pruhs
NAYS: None
ABSENT: None
ADOPTED: June 25, 2018

ATTEST:

APPROVED AS TO FORM:



D. Danyielle Snider, City Clerk

Paul J. Ewers, City Attorney