

TITLE 4
ELECTIONS

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TITLE 4

ELECTION

Chapter 4.04 - General Provisions

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4.04.010 Administration of Elections.

The borough clerk shall conduct all borough elections and may establish such specific rules and procedures as may be required to supplement the general rules set out in this title and in applicable statutes.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.010, part, 1987)

4.04.020 Voter Qualification.

A person may vote in a borough election only if the person is a United States citizen who is qualified to vote in state elections, has been a resident of the borough for thirty days immediately preceding the election, is registered to vote in state elections at a residence address within the borough and precinct in which the person seeks to vote at least 30 days before the borough election at which the person seeks to vote, and is not disqualified under Article V of the State Constitution. For purposes of this section, a person is qualified to vote in state elections if the person would be permitted to vote in a state election held on the same day as the borough election.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.020, part, 1987)

4.04.030 General Election - Date.

On the first Tuesday of October of each year a general borough election will be held for the election of persons to vacant assembly, school board and other vacant elective offices established by the assembly and for the determination of such other matters as may be placed on the ballot by the assembly or as may be required by law.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.030, part, 1987)

4.04.040 Special Elections.

- (a) The borough assembly, by resolution or ordinance, may order that a special election be held.
- (b) The clerk shall schedule and conduct a special election when the assembly fails to order a special election required by law or borough code. If applicable law or the borough code requires a special election for the purpose of conducting a runoff election or for the submission of an initiative or referendum, and the assembly has not adopted a special election resolution or ordinance by a date sufficient in advance of the last Tuesday upon which the election may be held in conformance with applicable law or the borough code to permit the clerk to meet applicable requirements for notice of the election, the clerk shall schedule and conduct the election on the last Tuesday upon which such election may be held.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.040, part, 1987)

4.04.050 Election Expenses.

The borough shall pay all necessary election expenses, including those of securing places for polls and providing ballot boxes, ballots, voting booths, screens, national and state flags, voting machines, ballot counters, other supplies, and the wages of election judges and clerks. Salaries for election judges and clerks appointed for the election shall be set by the mayor unless the assembly establishes such wages when it appoints the election judges. However, all expenses of conducting a recount pursuant to an election contest shall be paid by the candidate or voters contesting the election, unless the results of the election are changed by the recount. If the recount is conducted pursuant to a contest by more than one person, such persons shall be jointly and severally liable for the expenses of the recount. The minimum cost for a recount is \$250 per election district.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.050, part, 1987)

4.04.060 Time Off for Voting.

Any qualified voter who does not have sufficient time outside the voter's working hours within which to vote at any borough election may, without loss of pay, take off as much working time as will enable the voter to vote. If any employee has two consecutive hours in which to vote, either between the opening of the polls and the beginning of the voter's regular shift or between the end of the voter's regular working shift and the closing of the polls, the voter is deemed to have sufficient time outside working hours within which to vote.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.060, part, 1987)

4.04.070 Majority Elections.

- (a) If no candidate for the school board, assembly, or the office of mayor receives in excess of 40% of the votes cast for the seat for which the candidates are running, a runoff election shall be held between the two candidates receiving the greatest number of votes for the seat. Notice of a runoff election shall be published at least five days before the election.
- (b) The election of a candidate to any other elected office established by the borough shall be by a plurality vote.
- (c) If more than one undesignated seat is vacant on a body, the candidate receiving the most votes is elected to one seat, and the candidates receiving the next highest vote tally in descending order are elected to the remaining seats until all seats are filled. If seats are available that have different terms, the candidate receiving the most votes is elected to the seat with the longest term while candidates who are elected with fewer votes are elected to seats with the shorter terms, said seats being allocated on the basis of the number of votes received by the elected candidates, with the terms awarded being allocated in accordance with the relative standing of the candidates. No candidate for a school board or Assembly seat may be elected unless the candidate receives in excess of 40% of the votes cast for the seat.
- (d) or the purpose of determining whether a candidate for a school board or assembly seat has received in excess of 40% or more of the votes cast for the seat, the number of votes cast for the seat shall be determined by dividing all votes cast for all seats to which the candidate could be elected, by the number of seats to which the candidate could be elected. The result of this computation shall be divided into the number of votes cast for the candidate to determine the percentage of votes received by the candidate.
- (e) If more than one seat remains unfilled because no candidate received the requisite number of votes to be elected to the seat, the runoff election shall be for all seats that are unfilled for that reason. The runoff shall be between the number of candidates equal to the number of unfilled seats plus one. The candidates in the runoff election shall be the required number of unelected candidates receiving the most votes for the seat.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.04.070, part, 1987)

4.04.080 Polling Places.

The clerk shall establish a polling place for each precinct. In any precinct in which there is one or more city or distinct community that is not connected by

road to the regular polling place, the clerk may establish an auxiliary polling place in one or more of the other communities.

(Ord. 92-12 (amended Ord. 90-6) Sec. 4.04.080, part, 1987)

TITLE 4

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Chapter 4.08 - Election Officials

Sections

4.08.010	Duties of Borough Clerk - General
4.08.020	Election Judges and Clerks
4.08.030	Filling Vacancies on Election Board
4.08.040	Oath
4.08.050	Canvass Committee

4.08.010 Duties of Borough Clerk - General.

- (a) The borough clerk shall perform the duties necessary for the conduct and administration of borough elections. The borough clerk may appoint assistant clerks for the purpose of assisting the borough clerk in the conduct and administration of borough elections, including the administration of in-person absentee voting.
- (b) The borough clerk may publish notices urging voter registration and may cooperate with the State of Alaska in encouraging borough residents to register and may register state voters when so authorized by the State of Alaska.

(Ord. 92-12 (amended Ord. 90-6) Sec. 4.08.010, part, 1987)

4.08.020 Election Judges and Clerks.

- (a) Before each borough election, the assembly shall appoint at least three judges for each precinct polling place and auxiliary polling place to constitute the election board for that polling place. For each polling place, the first person appointed by the assembly shall be the chair person for that board unless a different person is specifically designated by the assembly as the chair of that election board. The chair of the election board shall be primarily responsible for administering the election at that precinct polling place. The assembly may appoint two additional persons as election clerks for each precinct polling place. Two judges on each election board may also serve as election clerks. The borough clerk may appoint up to three additional election clerks at any polling place where necessary to facilitate the orderly conduct of the election or to relieve the judges or clerks of undue hardship.
- (b) Each judge or clerk must be a qualified voter of the borough and of the precinct for which appointed unless the clerk or assembly is unable to find a voter willing to serve. The clerk may appoint persons aged 16 or older

as additional election officials if they substantially meet the requirements to serve in the Youth Vote Ambassador Program under AS 15.10.108. Any person so appointed serves under the supervision of the precinct board chair.

(Ord. 21-03 (amended Ord. 92-12) Sec. 4.08.020, part, 1987)

4.08.030 Filling Vacancies on Election Board.

If an appointed judge or clerk fails to appear and subscribe to the oath on election day or becomes incapacitated during the time of the election or canvass, the remaining election board members present shall elect, by a majority voice vote, a qualified voter to fill the vacancy.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.08.030, part, 1987)

4.08.040 Oath.

(a) The borough clerk will choose an election judge from each election board to appear before the borough clerk or before any person authorized under AS 09.63.010 to administer oaths where the election judge shall affirm in writing the oath set forth in this section. If no person authorized to administer oaths is available in the area served by the polling place at which the person is to serve as an election judge, the oath may be affirmed in writing before two persons of voting age. This election judge shall then administer the same oath to all other election judges and clerks at the polling place of that board. The oath administered will be as follows:

I do solemnly swear that I will honestly and faithfully perform the duties of election judge (or clerk) according to law. I will endeavor to prevent fraud, deceit, or abuse in conducting the election. All of this I will perform to the best of my ability, so help me God.

(b) A person appointed by the borough clerk under section 4.08.010 as an assistant borough clerk for the election shall take the oath set out in subsection (a) before the borough clerk or shall submit to the borough clerk such a sworn oath in writing.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.08.040, part, 1987)

4.08.050 Canvass Committee.

The assembly shall appoint a canvass committee which will canvass all votes after the election judges have completed their tally of votes. The members of the canvass committee shall be qualified voters of the borough. In lieu of appointing private persons as members of the canvass committee, the assembly may declare itself to be the canvass committee.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.08.050, part, 1987)

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Chapter 4.12 - Candidates - Nominations

Sections

4.12.010	Candidates - Qualifications
4.12.020	Declaration of Candidacy - Form, Filing
4.12.030	Declaration of Candidacy - Time for Filing
4.12.040	Declaration of Candidacy - Record, Preservation
4.12.050	Declaration of Candidacy – Withdrawal
4.12.060	Conflict of Interest Statement Requirement.

4.12.010 Candidates - Qualifications.

- (a) No person may hold any elective office or be eligible to seek election thereto unless the person is a qualified voter and resident of the borough. A person who has been a resident of territory annexed to the borough or to a district is deemed to have resided in the borough during the time immediately preceding the annexation.
- (b) A qualified voter of the borough is a person who meets the requirements of section 4.04.020 of this title.
- (c) One person may not declare candidacy for more than one seat on the Aleutians East Borough Assembly and one person may not declare candidacy for more than one seat on the Aleutians East Borough School Board. One person may serve on both bodies simultaneously.

(Ord. 19-05 (amended Ord. 92-12) Sec. 4.12.010, part, 1987)

4.12.020 Declaration of Candidacy - Form, Filing.

A voter who is otherwise qualified may become a candidate for elected office by executing and filing a declaration of candidacy. The declaration must be on a form provided by the borough clerk and must be executed under oath before a person authorized to take oaths. The declaration must state, in substance:

- (a) The full name of the candidate and the manner in which the candidate wishes his or her name to appear on the ballot; provided nicknames not commonly derived from a given name of the person may not be used;

- (b) The full residence address of the candidate;
- (c) The full mailing address of the candidate;
- (d) The office or the body and seat for which the candidate is declaring;
- (e) That the candidate is a qualified voter and resident of the borough;
- (f) That the candidate will have been a resident of the borough for one year preceding the date of the election;
- (g) If the candidate is running for a seat on the school board, that the candidate is a resident of the district represented by the seat for which the candidate is filing. If the candidate seeks a seat on the borough assembly, that for a minimum of one year prior to the date of the election, the candidate has been a resident of the district represented by the seat for which the candidate is filing. If the candidate is filing for the office of mayor, that the candidate has been a resident of the borough for the three consecutive years immediately preceding the date of the election; for any other elected office, the clerk shall provide language that reflects the residency requirement, if any, for that office.
- (h) Any other information or statement requested by the borough clerk that is reasonably necessary to administer the declaration of candidacy process.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.12.020, part, 1987)

4.12.030 Declaration of Candidacy - Time for Filing.

- (a) Not earlier than 45 days nor later than 30 days prior to the date of the election, a candidate may file a declaration of candidacy with the borough clerk or an assistant borough clerk appointed for the purpose of the election.
- (b) A declaration of candidacy may be filed by facsimile transmission and is effective if the following conditions are met:
 - (1) The facsimile is received by the borough clerk or an assistant borough clerk appointed for the purposes of the election within the period prescribed in subsection (a).
 - (2) The facsimile is legible and there is no question regarding any part of the declaration.
 - (3) The original declaration is postmarked on a day that falls within the period set out in subsection (a), and the original is received by the borough clerk or an assistant borough clerk appointed for the

purposes of the election not more than 3 business days following the last day upon which declarations may be filed under subsection (a).

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.12.030, part, 1987)

4.12.040 Declaration of Candidacy - Record, Preservation.

- (a) The borough clerk shall maintain a record containing the name and address of every person for which a declaration of candidacy is filed whether or not timely filed, and the date, time, place and method of filing. If the last day upon which a filing may be received falls on a Saturday, Sunday or a holiday recognized by the borough, the last day for filing is extended through the next borough business day. A filing received after 5:00 p.m. on the last day for which a filing may be submitted is untimely and the name of the candidate may not be placed on the ballot for the office for which the untimely filing was made.
- (b) The declaration of candidacy of each candidate will be preserved by the borough clerk until the term for which the candidate declares has expired. The declaration of candidacy includes the original and the facsimile copy for candidates that filed by facsimile.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.12.040, part, 1987)

4.12.050 Declaration of Candidacy - Withdrawal.

A candidate who has filed a declaration of candidacy may withdraw the declaration by submitting a written and signed notice of withdrawal of candidacy to the borough clerk prior to the last day upon which a declaration of candidacy may be filed. A withdrawal may not be filed by facsimile. The name of a person who has filed a declaration of candidacy and submitted a timely withdrawal shall not appear on the ballot. The clerk, in the clerk's sole discretion, may remove from the ballot the name of a person who has filed a declaration of candidacy who has filed an untimely withdrawal of candidacy, but no such person has the right to have their name removed from the ballot.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.12.050, part, 1987)

4.12.060 Conflict of Interest Statement Requirement.

- A. No candidate's nomination petition for an elected municipal office may be accepted by the clerk unless the candidate has also filed a report of financial and business interest as required by Borough Code 1.28. In the event such petition has been accepted without such statement, the clerk shall return such items to the candidate.

- B. A write-in candidate who wins election shall execute a report of financial and business interest as required by Borough Code 1.28 prior to taking the oath of office.
- C. A person who has on file with the borough clerk a report of financial and business interest as required by Borough Code 1.28 for the current year shall not be required to file such a statement required under subsection A or B of this section. Candidates are required to comply with AS 15.13.010 through 15.13.130 as regards to election spending.

TITLE 4

ELECTIONS

Chapter 16 - Notice of Elections

Sections:

4.16.010	Notice of Election
4.16.020	Content of Notice
4.16.030	Notice of Filing
4.16.040	Defective Notice

4.16.010 Notice of Election.

The borough clerk shall give at least 20 days' notice of each general election and shall give 20 days' notice of each special election by posting notice thereof in two or more conspicuous places in each voting precinct of the borough and by publishing notice in a newspaper of general circulation within the borough. Notice may also be given by radio.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.16.010, part, 1987)

4.16.020 Content of Notice.

Notice of a general or special election must contain the following:

- (1) The type of election, whether general or special and the notice that it is a borough election,
- (2) The date of the election,
- (3) The seats to be filled and the propositions to be voted upon,
- (4) The time polling places will open and close,
- (5) The location of precinct polling places and auxiliary polling places, a boundary description of the voting precincts, or a reference to the Alaska Administrative Code sections establishing the precinct boundaries, or one or more maps depicting the boundaries of the voting precincts,
- (6) The location where voters may view or receive sample ballots,
- (7) The location or locations where voters may cast absentee ballots in person, and

(8) The address to which voters may write to request an absentee ballot.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.16.020, part, 1987)

4.16.030 Notice of Filing.

In addition to the notice required under section 20 of this chapter, the borough clerk may, in the clerk's sole discretion, provide notice of the seats to be filled and elected offices within the borough at the next general election, explain the procedures for becoming a candidate, the period for filing declarations of candidacy or nominating petitions, explaining the requirements for qualifying as a voter in the borough election, identifying the location of places where residents may register, urging residents to register and setting out such additional information as may facilitate residents in registering, voting, or becoming candidates for elected borough offices.

(Ord. 92-12, Sec. 4.16.030, part, 1987)

4.16.040 Defective Notice.

No defect in the notice required to be given under sections 10 and 20 of this chapter, except a defect in the date of the election, may be the basis, in whole or in part for an invalidation of the election or the election of any candidate to office or the passage or rejection of any proposition voted upon at the election. A defect in the notice of the date of the election may not be the basis of any invalidation if a corrective or corrected notice is given within a reasonable time prior to the election, even if such correction occurs less than 20 days prior to the election.

(Ord. 92-12, Sec. 4.16.040, part, 1987)

TITLE 4

ELECTIONS

Chapter 4.20 - Election Materials and Equipment

Sections:

4.20.010	Election Booths
4.20.020	Voter Instructions
4.20.030	Ballots--Printing and Inspection
4.20.040	Ballots--Form
4.20.050	Sample Ballots
4.20.060	Registration Index and Original Register--Distribution to Precinct Officials
4.20.070	Punch Card Ballots

4.20.010 Election Booths.

The borough clerk shall provide booths at each polling place, with appropriate supplies and conveniences to enable each voter to mark his or her ballot screened from observation. At least three sides of each booth shall be enclosed. Ballot boxes shall be placed outside of the voting booths within plain view of the judges, clerks, voters, and other persons at the polling places.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.010, part, 1987)

4.20.020 Voter Instructions.

The borough clerk shall furnish to each election board written instructions for the guidance of voters covering the following:

- (a) How to obtain ballots;
- (b) The manner for marking ballots;
- (c) The method for obtaining information;
- (d) The method for obtaining assistance in marking a ballot; and
- (e) How to procure new ballots to replace any ballot destroyed or spoiled by the voter.

The clerk will furnish a sufficient number of these instruction sheets to the election board in each precinct to permit voters who are waiting to vote to read the instructions.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.020, part, 1987)

4.20.030 Ballots - Printing and inspection.

In all borough elections, the borough clerk shall be responsible for the printing of ballots. The ballots will be printed and in the possession of the borough clerk, at least fifteen days prior to a general election and seven days before a special election and shall be subject to inspection by candidates or their agents.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.030, part, 1987)

4.20.040 Ballots - Form.

- (a) A ballot shall contain a list of candidates and the propositions and questions to be decided at the election.
- (b) The official ballots shall be printed on plain white paper. The ballots shall be consecutively numbered, the number being placed in an area of the ballot where it may be easily removed and on a portion of the ballot that can be seen when the manner in which the ballot is marked is concealed from view. At the top of the ballot, so as to be clearly visible when the ballot is folded so as to conceal the manner in which marked shall be printed the words: "Official Ballot of the Aleutians East Borough, Alaska," the date of the election, and whether a regular or special election.
- (c) All candidates for the same office shall be shown on one ballot. The title of each office to be filled shall be followed by the printed names of all candidates for that office and provision shall be made for write-in candidates equal in number to the positions to be filled, except there shall be no provision made for write-ins on a runoff election ballot. The names of candidates shall be printed as they appear upon the declarations and petitions except that any honorary or assumed title or prefix shall be omitted, but may include in the candidate's name any nickname or familiar form of a proper name of the candidate. The words "Vote for not more than ___" with the appropriate number replacing the blank, shall be placed before the lists of candidates for each office. The names of candidates shall be rotated as required in the Alaska Statutes applicable to state elections.
- (d) Following the names of the offices and candidates, there shall be placed on the ballot all propositions and questions to be voted upon. The words "Yes" and "No" or "For" and "Against" shall be placed below the statement of each proposition and question.
- (e) Somewhere on the ballot, so as to be clearly visible, will be printed the name and a facsimile signature of the clerk who had the ballots printed.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.040, part, 1987)

4.20.050 Sample Ballots.

The borough clerk will have a number of sample ballots printed. The sample ballots will be printed on nonwhite paper and clearly labeled as a "Sample Ballot" where the words "Official Ballot" appear on the official ballots. Sample ballots shall be available for inspection by voters prior to the date of the election and will be delivered to the election board in each precinct.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.050, part, 1987)

4.20.060 Registration Index and Original Register- Distribution to Precinct Officials.

Prior to the opening of the polls, the borough clerk shall deliver a registration index, and an original register to the election officials in every precinct. The original register will provide sufficient space to enable voters to sign their name and enter residential and mailing addresses. A record shall be kept in the original register of the names of persons who offer to vote but are refused, and a brief statement of the basis for the refusal. The signing of the register constitutes a declaration by the voter that he is qualified to vote.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.060, part, 1987)

4.20.070 Punch Card Ballots.

Punch card ballots may be used in part or entirely in place of paper ballots. Punch card ballots shall be printed, numbered, controlled, accounted for, counted and otherwise handled and processed in a manner similar to that required by state law and regulations for punch card voting in state elections. The borough clerk shall appoint a counting board to receive and tally punch card ballots. The borough clerk may appoint such additional boards and may establish such procedures as may be necessary to facilitate and ensure the security and accurate accounting for the ballots.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.20.070, part, 1987)

TITLE 4

ELECTIONS

Chapter 4.24 - Election Procedures

Sections:

4.24.010	Time For Opening and Closing Polls
4.24.020	Distribution of Ballots
4.24.030	Preparation of Ballot Box
4.24.040	Voting Procedure
4.24.050	Marking of Ballots by Voters
4.24.060	Challenging of Voters of Suspect Qualifications 4.24.070
	Questioning a Voter's Ballot
4.24.080	Questioned Ballots--Disposition
4.24.090	Ballots--Counting and Tallying
4.24.100	Defective and Unused Ballots
4.24.110	Election Certificate
4.24.120	Majority Decision of Election Board
4.24.130	Prohibition of Persuasion Near Election Polls

4.24.010 Time For Opening and Closing Polls.

- (a) On the day of any election, each election board shall open the polls for voting at eight o'clock in the morning, shall close the polls for voting at eight o'clock in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place not later than 7:30 in the morning of an election day. The hour shall be determined by the standard time, or daylight saving time, that is applicable to the polling place.
- (b) Fifteen minutes before the closing of the polls, a judge or clerk shall proclaim to all persons present in the polling place the time remaining before the polls close. When the polls are closed, the fact will be similarly announced. Thereafter, no ballots will be given out except to qualified voters present at the polls and waiting to vote when the polls are closed.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.010, part, 1987)

4.24.020 Distribution of Ballots.

- (a) The borough clerk shall deliver the ballots to the election board before the polls are opened on election day. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of it. A receipt for each package shall be taken from the election board to which it is delivered and

preserved by the borough clerk. No ballot may be taken from the polling place before the closing of the polls.

(b) The clerk shall keep the following records:

- (1) The number of ballots delivered to the various polling places.
- (2) The name of the persons to whom the ballots are delivered; and
- (3) The date and time the ballots are delivered.

(c) When the ballots are returned, the clerk shall record the following:

- (1) The number and character of the ballots returned;
- (2) The date and time when the ballots are returned; and
- (3) The name of the person returning the ballots.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.020, part, 1987)

4.24.030 Preparation of Ballot Box.

Before receiving any ballots the election board must, in the presence of all persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place. Thereafter, the box will be sealed and not opened again until the polls are finally closed. At the close of the polls and upon the receipt within the ballot box of all ballots timely voted, the ballot box will be personally opened by the election judges.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.030, part, 1987)

4.24.040 Voting Procedure.

- (a) A voter shall give the judges and clerks his or her name, and shall sign his or her name and write his or her residence and mailing address on the first available line of the registration book. If any judge or clerk present believes the person cannot be identified as a qualified voter, the judge or clerk immediately shall challenge the person and deny him or her the right to vote a regular ballot.
- (b) If the voter is not challenged, the voter shall be given one ballot and shall retire alone to a voting booth. There, without undue delay, the voter shall prepare the ballot by marking the appropriate boxes opposite the names of candidates of the voter's choice, whether printed on the ballot or written in by the voter on the blank lines provided for the purpose, and the appropriate boxes for questions and propositions. Before leaving the voting booth, the voter shall fold the ballot in a manner to conceal the manner in which the voter has marked the ballot, but displaying the number thereon, and deliver it to one of the judges or clerks, who shall tear the number off and deposit the ballot in the ballot box if the ballot

bears the same number as the ballot given to the voter by the judges and clerks. A judge or clerk shall announce that the voter has voted.

- (c) A voter who by accident or mistake mutilates or spoils a ballot shall, upon returning the same to the judges and clerks, be given another. A voter who is blind or otherwise incapable of marking a ballot without assistance shall be assisted in doing so by a judge, a clerk or a person of the voter's choosing who is present if the voter requests such assistance.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.040, part, 1987)

4.24.050 Marking of Ballots by Voters.

- (a) A voter may mark the ballot only by the use of cross marks, "X" marks, check, or plus signs that are clearly placed in the square opposite the name of the candidate the voter desires to designate.
- (b) A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
- (c) If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
- (d) If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
- (e) The mark shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended that particular square to be designated.
- (f) Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.
- (g) An incomplete erasure or incomplete correction invalidates only that section of the ballot in which it appears.
- (h) Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence that the ballot was so marked for the purpose of identifying the ballot.
- (i) Stickers bearing a candidate's name may be affixed to a paper ballot in lieu of writing in a candidate's name if write-in votes or ballots are otherwise permitted; provided, the voter must still place a mark in the box on the ballot opposite the candidate's name. Stickers may not be used on punch card ballots.

- (j) No voter may leave the polling place with the official ballot that he received to mark.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.050, part, 1987)

4.24.060 Challenging of Voters of Suspect Qualifications.

Every election judge and election clerk shall challenge, and every watcher and other person qualified to vote in the precinct may challenge a person attempting to vote if the challenger has good reason to suspect that the challenged person is not qualified to vote. All challenges shall be made in writing settling out the reason for the challenge. A challenged person before voting shall

subscribe to an oath and affidavit on a questioned ballot envelope provided by the borough 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 voted at the same election. He shall also state the place from which he came immediately before living in the precinct in which he now seeks to vote and the length of time of his residence in the former place. After the challenged person has taken the oath and signed the affidavit, the person may vote a questioned ballot. If the challenged person refuses to take the oath or sign the affidavit, the person may not vote.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.060, part, 1987)

4.24.070 Questioning a Voter's Ballot.

- (a) If a voter's polling place is in question, a voter shall be allowed to vote, but any election official may consider the ballot as a questioned ballot.
- (b) A person who resides in a precinct that is served by an auxiliary polling place shall vote a questioned ballot if the voter attempts to vote at a polling place other than the one established to serve the place of the voter's residence.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.070, part, 1987)

4.24.080 Questioned Ballots - Disposition.

After a challenged voter has cast his or her ballot, the challenged voter will insert the ballot into a small blank envelope and seal it. This envelope shall be placed in a larger envelope upon which is printed the signed oath and affidavit. The oath and affidavit envelope shall be sealed and inserted into a larger envelope with all other questioned ballots. All questioned ballots will be delivered to the borough clerk. The borough clerk will present these materials to the canvass committee and assist in determining the merits of the challenge.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.080, part, 1987)

4.24.090 Ballots - Counting and Tallying.

- (a) Immediately after the polls close and the last vote has been cast, the election judges will open the boxes containing the ballots cast. The ballots will be counted to determine whether the total number of ballots is equal to the total number of persons who voted as indicated in the original registry. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the registration book to have been cast in the precinct, the ballots shall be recounted until the election board finds that there is a discrepancy or that the number of ballots cast matches the number of ballots indicated by the registration tally. If a discrepancy is determined to exist, it shall be explained in detail on the tally paper or papers, and such explanation shall be signed by the judges.
- (b) The counting of the ballots will be public. The opening of the ballot box at the close of the polls shall be accomplished in full view of any persons present. The public may not be excluded from the area in which the ballots are counted. 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. The judges shall remove the ballots from the ballot box one by one, and tally the number of votes for each candidate and for or against each issue. The ballots shall be inspected for disqualifying marks or defects. The election judges shall cause the vote tally to be continued without adjournment until the count is complete.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.090, part, 1987)

4.24.100 Defective and Unused Ballots.

If a voter marks more names than there are persons to be elected to any office, or if for any reason it is impossible to determine from a ballot the voter's choice for any office to be filled, the ballot shall not be counted as to that office or issue. A failure to properly mark a ballot as to one or more candidates or issues shall not invalidate the entire ballot. No ballot shall be rejected if the election board can determine from an inspection of the ballot the person for whom the voter intended to vote and the office intended to be designated by the voter. Ballots not counted shall be marked "Defective" on the back thereof, and ballots to which objection has been made shall be marked "Objected To" on the back thereof. An explanation of the defect or objection shall be written on the back of the ballot and signed by the chairman. All such ballots shall be enclosed in an envelope marked on the outside with a description of its contents. All ballots not voted and all ballots mutilated or spoiled by voters shall be returned by the judges to the borough clerk, who shall give a receipt therefor and keep a record

of the number and character of ballots returned indicating when and by which judge each was returned.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.100, part, 1987)

4.24.110 Election Certificate.

After the votes are announced and counted, a certificate will be drawn stating the number of votes each candidate has received, and designating the office for which each candidate has run. The poll lists and tallies will be attached to the certificate. The certificate will be signed by the election judges. The registration index, original register, tallies or tally papers, oath of judges, oaths of voters, other papers, and the certificate will be placed in an envelope. The envelope will be marked "Election Returns, _____precinct" and delivered to the borough clerk.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.110, part, 1987)

4.24.120 Majority Decision of Election Board.

The decision of the majority of judges determines the action that the election board shall take regarding any question which arises during the course of the election.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.120, part, 1987)

4.24.130 Prohibition of Persuasion Near Election Polls.

During the hours the polls are open, no person who is in the polling place or within 100 feet of any entrance to the polling place, may attempt to persuade a person to vote for or against a candidate, proposition or question.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.24.130, part, 1987)

TITLE
ELECTION

Chapter 4.28 - Canvassing of Election Returns

Sections:

4.28.010	Canvass Committee--Meeting - Postponing Canvass
4.28.020	Canvass to be Made Public
4.28.030	Investigation of Challenged Ballots
4.28.040	Challenged Ballots--Subpoenas
4.28.050	Canvass Committee--Report - Contents
4.28.060	Results of Election--Public declaration
4.28.070	Certificate of Election

4.28.010 Canvass Committee -- Meeting - Postponing Canvass.

The canvass committee will meet on the first Monday after the election for which they are appointed and canvass all absentee, early and questioned ballots executed in the election. The canvass may be postponed from day to day for cause by the borough clerk or the canvass committee.

(Ord. 21-03 (amended Ord. 92-12) Sec. 4.28.010, part, 1987)

4.28.020 Canvass to be Made Public.

- (a) The canvass of the returns will be made in public by opening the returns, and announcing the results thereof in front of those who may be present.
- (b) Absentee ballots and questioned ballots the borough clerk determines should be counted shall be counted in the following manner by the borough clerk and two or more assistants appointed by the borough clerk: All ballot envelopes shall be removed from return envelopes and placed in a ballot box. The return and affidavit envelopes shall be delivered to the borough clerk. The absentee and questioned ballots shall then be removed one by one from the ballot box, taken out of the blank ballot envelopes and counted in the same manner as ballots cast at the polls are counted by an election board.
- (c) The canvass shall include a review and comparison of the tallies of paper ballots with the precinct election certificates to correct any mathematical error in the count of paper ballots.
- (d) If the borough clerk finds an unexplained error in the tally of paper ballots in any precinct election tally, the clerk may count the ballots from the

precinct. The borough clerk shall certify in writing to the canvass board any changes resulting from the count.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.28.020, part, 1987)

4.28.030 Investigation of Challenged Ballots.

- (a) The canvass committee may request the assistance of the borough clerk, borough attorney or the mayor to investigate the challenges made to ballots not counted by the borough clerk. Any borough voter may appear to give testimony concerning the challenged ballots. If the canvass committee denies a challenge, the ballot shall be placed in a ballot box and counted with other challenged ballots that are to be counted.
- (b) The canvass committee will deliver to the assembly the challenged ballots not counted and submit a report of its findings. The assembly may, by a majority vote of those present deny a challenge. If a challenge is not denied, the ballot challenged will not be opened and counted, but will be strung and preserved as other ballots. If a challenge is denied, the ballot will be counted; provided, in order to protect the secrecy of the ballot, if less than three questioned ballots are to be counted, such ballot or ballots shall not be counted unless the result of the election could be changed by the ballot or ballots to be counted. The borough clerk will notify a voter whose ballot is not counted that the challenge was upheld.
- (c) If the assembly is itself the canvass committee, it may still act separately 25 such a committee, and then review its own findings in the manner outlined in subsection (a).

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.28.030, part, 1987)

4.28.040 Challenged Ballots - Subpoenas.

The canvass committee and the assembly may order testimony of witnesses and issue subpoenas or subpoenas duces tecum while investigating challenged ballots. The subpoenas may be enforced by the court upon certification as provided by the state court rules of civil procedure concerning the enforcement of administrative and state agency subpoenas.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.28.040, part, 1987)

4.28.050 Canvass Committee -- Report - Contents.

The canvass committee shall immediately provide a copy of its report to the borough clerk for public posting in the clerk's office and shall submit the report of

its findings to the assembly prior to noon on the second Monday following the election. The report will show:

- (a) The number of ballots cast in the election;
- (b) The names of the candidates voted for and the proposition voted upon;
- (c) The office voted for;
- (d) The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
- (e) A proposed disposition of all regularly counted, challenged, absentee, voided and unused ballots; and
- (f) Other matters which the canvass committee may determine to be necessary.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.28.050, part, 1987)

4.28.060 Results of Election--Public Declaration.

- (a) If a contest is not initiated under the provisions of sections 4.36.010 through 4.36.060, the result of the election shall be publicly declared by the assembly and entered in the minutes of a special meeting of the assembly on the second Monday following the election. If the canvass committee has not delivered its report by noon on the second Monday following the election, the mayor shall call a special meeting to be held on the day the report is to be received or the first day thereafter that a special meeting may be held.
- (b) If a contest is held and determined, the result of the election shall be publicly declared by the assembly and entered in the minutes of a special meeting of the assembly within a week after the contest is determined.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.28.060, part, 1987)

4.28.070 Certificate of Election.

- (a) The borough clerk shall make and execute a certificate of the final results of the election as determined by the assembly.
- (b) The borough clerk shall make and deliver a certificate of election to every person elected. The certificate of election will be signed by the mayor and clerk. It will be authenticated by the corporate seal of the borough.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.28.070, part, 1987)

TITLE 4

Elections

Chapter 4.32 - Absentee Voting

Sections

4.32.010	Absentee Voting - Eligible Persons
4.32.020	Absentee Ballots - Application - Filing
4.32.030	Absentee Ballots - Delivery
4.32.040	Determination of Right by Clerk
4.32.050	Notation of Ballot Number and Date of Application
4.32.060	Completion and Return of Absentee Ballots
4.32.070	Absentee Voting at Clerk's Office - Surrender of Absent Voter's Ballot
4.32.080	Absentee Ballots - Executing Outside City
4.32.090	Absentee Voting by – Electronic Transmission
4.32.100	Absentee Ballots – By Personal Representative
4.32.101	Early Voting
4.32.110	Absentee Ballots – Receipts
4.32.120	Absentee Ballots – Voting Supplies
4.32.130	Liberal Construction

4.32.010 Absentee Voting--Eligible Persons.

Any qualified voter, who expects, on the day of the election, to be absent from his election precinct or who will be unable to vote in such precinct by reason of physical or medical disability or who will be at a place within the borough that is not connected by road to the polling place that serves the area in which the voter resides may cast an absentee ballot.

4.32.020 Absentee Ballots -- Application - Filing.

- (a) A person who seeks to vote by absentee ballot may request an application for an absentee ballot by phone, fax, email, in person, or by mailing a written application to the borough clerk or an assistant clerk appointed for the purposes of the election.
- (b) After receiving an application, a person who seeks to vote an absentee ballot may return their application either in person, by fax, or by mailing his written application to the borough clerk.
- (c) An application made by mail must be received by the borough clerk or assistant not more than thirty calendar days, or less than five business days before a borough election. An application made in person must be

filed with the borough clerk or assistant not more than fifteen calendar days before the borough election, and no later than noon on the day before a borough election.

- (d) The application must be signed by the applicant and show the applicant's place of residence. If the application requests that an absentee ballot be sent by fax or email, a fax number or email address must be supplied to the borough clerk.
- (e) Nothing in this section is intended to prevent the borough clerk or an assistant borough clerk appointed for purposes of the election from personally delivering an application to a person who, because of a physical incapacity, is unable to make application in person at the borough clerk's office for an absent voter's ballot.

(f) the absentee application form follows:

**ALEUTIANS EAST BOROUGH
APPLICATION FOR ABSENTEE BALLOT:**

I, _____, a qualified voter and resident of _____, Alaska, do hereby make application for an absentee ballot for the borough election to be held on _____, 20__.

Residence address: _____
Street, Community and Zip

Mailing address: _____
P O Box, Community and Zip

Reason for requesting absentee ballot:

Address to which absentee ballot should be mailed or fax number if requesting ballot be sent by fax, or email address if requesting ballot to be sent via email

___ Address: _____

___ Fax: _____

___ E-mail: _____

Date: _____

Signed: _____

Voter

Received by: _____ Date Received _____

Borough Official

Return this application via fax, in person, or by mail to:

Borough Clerk

Aleutians East Borough

P.O. Box ____

Sand Point, AK

Fax:

Email:

4.32.030 Absentee Ballots--Delivery.

- (a) If the assembly has, by resolution, designated a village an absentee voting station, the Borough Clerk shall distribute the absentee ballots, envelopes and other absentee voting material to absentee voting officials at absentee ballot stations recognized by the State of Alaska and established under A.S. 15.20.045(b) before the date upon which a person may first apply for an absentee ballot in person.
- (b) Upon timely receipt of a complete application for an absentee voter's ballot, the receiving clerk will file it. The clerk will then check the latest state registration listings to determine whether the applicant is registered pursuant to AS Chapter 15.07. If the applicant is properly registered, the clerk will deliver to the applicant, personally or by mailing to the address given by the applicant, or at an absentee voting station, or if by fax, a voter certification form, an official ballot for the election, an identification envelope and a return envelope. If the absent voter's ballot is personally delivered, it shall be executed in the clerk's presence at the time of delivery. If the application requests that an absentee ballot for a borough election be sent by fax or by email, the clerk shall send the absentee ballot and other absentee voting material to the applicant via the requested method (fax or email).

4.32.040 Determination of Right by Clerk.

Before delivering a ballot, the borough clerk must be satisfied that the applicant has a right to an absentee or early voting ballot, pursuant to section 4.32.010.

(Ord. 21-03 (amended Ord. 02-01) Section 4.32.040, part 1987)

4.32.050 Notation of Ballot Number and Date of Application.

Upon personal delivery or the mailing of an absent voter's ballot, the clerk will enter on the application of the absent voter, and on the space provided in the voter registration index, the number of and the date the ballot was delivered or mailed. Before the election the clerk will send the election judges a list of voters who have received the respective ballots under this section.

4.32.060 Completion and Return of Absentee Ballots.

The identification envelope and return envelope provided to the voter will be of such form, size and weight as prescribed by the borough clerk. The identification envelope will have printed on its face an affidavit substantially as follows:

"IDENTIFICATION ENVELOPE"

State of Alaska:

_____deposes and says: I am a resident of and a voter in precinct No.____ in the Aleutians East Borough, Alaska, and I hereby enclose my ballot in compliance with Chapter 4.32.

Voter _____

_____Residence address within the borough.

SUBSCRIBED AND SWORN to before me, this _____ day of _____, 199__, at _____(a.m. or p.m.). I hereby certify that in my presence this affiant enclosed said ballot and handed me this envelope sealed; that he/she signed this affidavit and I acknowledge the same, all in accordance with the law.

Official's Signature

(Seal)

Title of Officer

NOTICE: After receiving the sealed envelope from the person taking your affidavit when voting outside the office of the borough clerk of the Aleutians East Borough, you must immediately return it by mail, postage prepaid, to the Borough Clerk, P.O. Box 349, Sand Point, AK 99661.

MARKED BALLOT ENCLOSED TO BE
OPENED ONLY BY THE BOROUGH CLERK

(Ord. 02-01 (amended Ord. 92-12) Sec. 4.32.070, part, 1987)

4.32.070 Absentee Voting at Clerk's Office--Surrender of Absent Voter's Ballot.

A voter who receives an absent voter's ballot may, on any day prior to the day of the election, appear at the office of the borough clerk, Aleutians East Borough, Alaska, and execute his ballot under the scrutiny of the borough clerk or the clerk's designee in the following manner:

- (a) The voter will first display the ballot to the clerk to show that the ballot has not been previously marked. The voter then will proceed to mark the ballot in the voting booth at the clerk's office. The voter will place the ballot in

the envelope provided in a manner that permits the clerk to see the number. The voter will then hand the ballot to the clerk, who will examine it. If the clerk determines that the ballot is numbered correctly, the clerk will tear the printed number off and permit the voter to enclose the ballot in the identification envelope.

- (b) The voter will then make out and swear to the affidavit printed on the face of the envelope. The voter will seal the envelope and deliver it to the clerk before whom the ballot is marked.
- (c) The clerk will certify the affidavit printed on the identification envelope by writing or stamping the clerk's name across the seal. The clerk will deposit the envelope in a safe place, to be kept by the clerk to be counted as provided under this chapter.
- (d) If an absent voter returns to his voting precinct on election day, he will not be allowed to vote until he surrenders the absent voter's ballot and any other supplies mailed to him. The election judges will return the unused absent voter's ballot with the unused ballots.

4.32.080 Absentee Ballots -- Executing Outside City.

After receiving an absent voter's ballot, a voter may appear on any day prior and including the day of the election, before a notary public, clerk or officer of any borough, state, territory or district within the United States. Under the scrutiny of such officer, the voter may execute the ballot as set forth in section 4.32.080. However, the voter must mark the ballot with pen and ink or indelible pencil. The officer will then certify the affidavit printed on the identification envelope, enclose the envelope in the return envelope and seal it.

4.32.090 Absentee Voting by – Electronic Transmission.

- (a) The Clerk shall adopt procedures applicable to the delivery of absentee ballots by electronic transmission (e.g. fax and e-mail). The procedures shall:
 - (1) Require the voter to comply with the same time deadlines as for voting in person on or before the closing hour of the polls.
 - (2) Ensure the accuracy and, to the greatest degree possible, the integrity and secrecy of the ballot process.
 - (3) Provide reasonable conditions for electronically transmitting and receiving absentee ballots.

- (4) Include a provision requiring the transmission of a copy of the ballot to be used at the election (a photocopy of the computerized ballot card prepared for the election is deemed acceptable).
- (b) Absentee ballots that are completed and returned by a voter via electronic transmission shall be executed under oath as to the voter's identity: the statement under oath shall be witnessed by two United States citizens who are 18 years of age or older and contain the following statement:
 - (1) "I understand that by using electronic transmission to return my marked ballot, I am voluntarily waiving a portion of my right to a secret ballot to the extent necessary to process my ballot, but expect that my vote will be held as confidential as possible." The voter's statement shall be followed by the voter's signature and date of signature.
- (c) Electronically transmitted absentee ballots shall be counted in the same manner as other absentee ballots received by the Clerk.

(Ord. 02-01 (amended Ord. 01-03, Sec. 4.32.101), Section 4.32.090)

4.32.100 Absentee Voting – By Personal Representative.

- A. A qualified voter who is physically disabled may apply for an absentee ballot through a personal representative to the following election officials at the times specified:
 - 1. To the borough clerk's office, or assistant borough clerk's office, to the voter's residence in the borough on or after the 15th day before an election up to and including the day of election;
 - 2. To the nearest city clerk's office or assistant borough clerk's office, to the voter's residence in the borough after the 15th day before an election up to and including the day of election;
 - 3. To the election board chairman or his designee on election day in the precinct in which the voter is entitled to vote.
- B. Upon receipt of a written application by personal representative, the election officials authorized to issue the absentee ballot shall provide the ballot and other absentee voting material to the personal representative if the written application is signed by the applicant a statement signed by two qualified voters stating that the applicant will be unable to go to the polling place because of physical disability.
- C. 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, to place the ballot in the small envelope, to place the envelope in the larger envelope, and to 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 his signature. The voter shall then return the absentee ballot to his personal representative who shall deliver the ballot to the election official who provided the ballot. The absentee ballot must be returned to the election official within 3 days from the date it is obtained but not later than 8:00 p.m. on election day. An election ballot that is not returned to the election official 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.

- D. Each election official 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 election official shall record the date and time the absentee ballot is provided and the time the ballot is returned to the election official.

4.32.101 Early Voting.

- (a) Early voting before an election official shall not begin prior to fifteen (15) days before a regular or special election. A qualified voter may apply in person for an early voting ballot at the office of the borough clerk or the voter may apply at the city clerk's office or in a location at places and times determined by the borough clerk.
- (b) Prior to the election, the clerk or assistant clerk shall mark the precinct register of those voters who voted early or give to the election board in each precinct a list of voters from the precinct who have voter early.
- (c) Prior to the election, the clerk or assistant clerk shall mark the precinct registers of those voters who voted early to give to the election board in each precinct a list of voters who have voted early.

(Ord. 21-03, New Section 4.32.101)

4.32.110 Absentee Ballots - Receipts.

To be counted, an absent voter's ballot must be executed and postmarked prior to the time the polls close in the borough and be received by the clerk prior to the time the ballots are canvassed by the canvassing committee.

4.32.120 Absentee Ballots - Voting Supplies.

All supplies necessary for the voter to execute and return his ballot will be furnished by the clerk. No borough official may make any charge for services rendered to any voter under the provisions of this chapter.

4.32.130 Liberal Construction.

Section 4.32.010 through 4.32.120 will be liberally construed, so as to accomplish the purposes for which they are intended.

(Ord. 02-01 (amended Ord. 92-12) Chapter 4.32, part 1987)

TITLE 4

Elections

Chapter 4.36 - Contest of Election

Sections

- 4.36.010 Contest of Election
- 4.36.020 Recount Expenses--Appeal
- 4.36.030 Contest of Election--Investigation
- 4.36.040 Ballot Recount
- 4.36.050 Prohibited Practices Alleged
- 4.36.060 Sustained Charges--Recount
- 4.36.070 Determination of Tie Votes

4.36.010 Contest of Election.

- (a) A candidate who did not receive enough votes to be elected, may demand a recount of the votes cast for candidates running for the seat or office for which the candidate ran. An elected official who loses a recall election may demand a recount of the votes cast in question of the recall of that official. Ten or more voters may demand the recount of votes cast for and against a proposition or question.
- (b) Any losing candidate or any ten qualified voters may contest the election of any person or any ten qualified voters may contest the approval or rejection of any question or proposition or request a recount.
- (c) The losing candidate or the designated representative of ten qualified voters contesting the election must appear before the assembly at the meeting held on the second Monday following the election or such other special meeting as has been called for the purpose of receiving the report of the canvass committee. The candidate or representative shall deliver a sworn written notice of contest, which will state with particularity the provisions of the law or the borough code allegedly violated and the specific acts asserted as misconduct. The notice shall be in substantially the following form:

NOTICE OF ELECTION CONTEST

The undersigned believes that prohibited practices occurred at the borough election held on _____.

The undersigned states that the following provisions of law or ordinance were violated: _____

The undersigned states that the above provisions of the law or ordinance were violated in the following manner:

The foregoing statements are based on facts known by the undersigned or reasonably believed by the undersigned to be true.

Signature of Election Candidate
(or Representative of Voters)

SUBSCRIBED AND SWORN to before me, this _____ day of _____, 19__.

Notary Public in and for _____
My commission expires: _____

Signatures of voters contesting election.

<u>Signature</u>	<u>Printed Name</u>
_____	_____
_____	_____
_____	_____

etc.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.36.010, part, 1987)

4.36.020 Recount Expenses - Appeal.

- (a) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two percent.
- (b) No person may appeal or seek judicial review of a borough election for any cause or reason unless the person is qualified to vote in the borough, has exhausted all administrative remedies before the assembly and has commenced, within 10 days after the assembly has finally declared the election results, an action in the superior court in the judicial district in which the borough is located. If no such action is commenced within the 10-day period, the election and election results shall be conclusive and valid in all respects.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.36.020, part, 1987)

4.36.030 contest of Election - Investigation.

The borough assembly will order an investigation to be made by the borough attorney, borough clerk and mayor, if a notice of contest is received.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.36.030, part, 1987)

4.36.040 Ballot Recount.

If only a recount of ballots is demanded, the borough clerk and such assistants as the clerk may appoint shall recount the ballots in those precincts in which error is alleged.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.36.040, part, 1987)

4.36.050 Prohibited Practices Alleged.

When the contestant alleges prohibited practices the assembly will direct the borough clerk to produce the original precinct register books for the election and such other material as may be relevant to the contest.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.36.050, part, 1987)

4.36.060 Sustained Charges - Recount.

If the charges alleged by the contestant are sustained and it is shown that the outcome of the election could be changed if the illegal votes are purged, the defective ballots will be purged from the election returns if possible, and the canvassing committee shall make a recount without counting the illegal votes. The results of such recount will be reported immediately to the assembly. The assembly will then certify the correct election returns as provided in section 4.28.060.

(Ord. 92-12 (amended Ord. 88-1) Sec. 4.36.060, part, 1987)

4.36.070 Determination of Tie Votes.

If after a recount and/or appeal of the election results the following occurs:

- (1) Two or more candidates are tied for the seat or office;
- (2) more than two candidates tie for the highest number of votes with no candidate receiving excess of 40% of the votes cast for the same seat or office;

- (3) two or more candidates tie for the second highest number of votes with no candidate receiving excess of 40% of the votes cast for the same seat or office.

The borough clerk shall notify the candidates who tied. The borough clerk shall notify the candidates of a reasonably suitable time and place to determine the successful candidate by lot. All tied candidates shall be present at such time and place, either in person or by proxy, to participate in the determination. If any tied candidate fails for any reason to attend in person or by proxy, the mayor shall designate a disinterested person to participate as the proxy for the absent candidate. After the determination has been made by lot, the mayor shall so certify to the clerk and the assembly.

(Ord. 10-04 (amended Ord. 92-12) Sec. 4.36.070, part, 1987)

TITLE 4

ELECTIONS

Chapter 4.40 – Elections by Mail

Sections

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Section 4.40.010 By Mail Precincts.

- (a) Local communities may be designated as “absentee by-mail” precincts by resolution of the Assembly. In those precincts, no election workers shall be appointed. Local communities may, by request to and approval of the Assembly, change to or from an “absentee by-mail” precinct.
- (b) Voters wishing to vote absentee in person may do so at any designated polling place.
- (c) Any precinct designated as an “absentee by-mail” precinct in accordance with the provisions of subsection (a) above, will remain an “absentee by-mail” precinct until such time as the “absentee by-mail” status is removed by resolution of the Assembly.
- (d) Any ballot voted by mail and not at a designated polling place is considered an absentee ballot and therefore subject to the provisions of Aleutians East Borough Municipal Code Chapter 4.32.

(Ord. 01-04 New Section 4.40.010)

Section 4.40.020 By Mail Elections.

- (a) In addition to the designated “absentee by-mail” precincts provided in § 4.40.010, the Clerk may conduct entire special elections by mail.
- (b) When the clerk conducts an election by mail, the clerk shall send a ballot to each person whose name appears on the official voter registration list prepared under AS 15.07.125 for that election. The ballot shall be sent to the address stated on the official registration list unless the voter has notified the clerk in writing of a different address to which the ballot should

be sent. The clerk shall send ballots by first class, non-forwardable mail on or before the 22nd day before the election.

- (c) The clerk shall review ballots voted under this section using the same procedures established for the review of absentee ballots.
- (d) There shall be a return envelope supplied to each by-mail voter. The return envelope shall have printed upon it an affidavit by which the voter shall declare his or her qualification to vote, followed by provision for attestation by two attesting witnesses who are at least eighteen years of age. Specific instructions for voting a by-mail ballot will be mailed to each voter.

(Ord. 01-04 New Section 4.40.020)

4.40.030 Casting Ballots

- (a) Upon receipt of a mail-in ballot, the voter shall cast his ballot in the manner specified in AEB § 4.32.100. If the ballot is cast in the Clerk's Office, the clerk shall retain it for delivery to the canvas board. If the ballot is cast in another location, the voter shall return it by mail to the clerk immediately for delivery to the canvas board.
- (b) A voter who does not receive a mail-in ballot may cast his ballot in person as specified in AEB § 4.40.040.
- (c) A voter may return the mail-in ballot to an absentee voting official as provided in AEB § 4.40.050.

(Ord. 01-04 New Section 4.40.030)

4.40.040 Notice of Election – Election date – Public Notice.

- (a) The notice of election calling for the election must state that the election is to be conducted by mail and that there will be no polling place open for regular in-person voting on election day. In a by-mail election, election day is the deadline by which a voter's ballot must be received by the borough clerk.
- (b) For each election conducted by mail, the public notice posted in each precinct and the notice published in newspapers of general circulation in the area of the election jurisdiction will include the information specified in AEB § 4.40.050.

(Ord. 01-04 New Section 4.40.040)

4.40.050 Absentee voting officials – Duties.

- (a) The borough clerk may, with the approval of the city clerks in the borough, appoint city clerks or others in the area to act as absentee voting officials. The clerk shall supply adequate voting supplies and ballot to the city clerks serving as absentee voting officials. The clerk shall provide moderate compensate to the city clerks to cover added expenses of the administration of this service, which shall be agreed to by the city clerks.
- (b) The duties of the absentee voting officials shall be as follows:
1. Provide absentee voting in person on any date including the day of the election following the procedures in AEB § 4.40.040 and have until the day of the election to return the ballots.
 2. Sign a voter's by-mail oath and affidavit envelope as an authorized attesting official, except that the absentee voting official may not attest his or her own ballot.
 3. Accept receipt of a by-mail voter's hand-delivered voted ballot, which has been sworn to, attested and sealed in by-mail return envelope.
 4. Provide general voter assistance, including but not limited to, assistance to a qualified voter who cannot read, mark the ballot, or sign his name, and providing replacement ballots to voters who have improperly marked or damaged their ballots.
 5. Date-stamp all ballots received.
 6. Provide for the security and safekeeping of all ballots received and present those ballots to the clerk for canvassing.

(Ord. 01-04 New Section 4.40.050)

4.40.060 Storing Ballots.

The clerk shall provide for the secure storage of the mail-in ballots received from the voters and by-mail officials, until the date set by the clerk for the counting of the ballots.

(Ord. 01-04 New Section 4.40.060)