

Title 4

ELECTIONS

*Title 4 was repealed in its entirety and replaced by Ordinance 11-03 on April 19, 2011.
Approved by DOJ on September 30, 2011*

Chapters:

- 4.10 Elections--General**
- 4.15 Voters**
- 4.20 Candidates**
- 4.23 Initiative, Referendum and Recall**
- 4.25 Election Officials**
- 4.30 Elections**
- 4.37 Absentee Voting**
- 4.40 Canvassing Procedures**
- 4.50 Election Contest**
- 4.90 Miscellaneous Provisions**

Chapter 4.10 BOROUGH ELECTIONS - IN GENERAL

Chapter 4 was repealed in its entirety and replaced by Ordinance 11-03 on April 19, 2011. Approved by DOJ on September 30, 2011

Section 4.10.010	General Policies
Section 4.10.020	Elections By Mail
Section 4.10.030	Administration of elections
Section 4.10.040	General election date
Section 4.10.050	Expenses of election
Section 4.10.060	Forty percent of votes cast required to win
Section 4.10.070	Language assistance
Section 4.15.020	Standards for determination of residency
Section 4.15.030	Canvassing Committee decision on residency

4.10.010 General policies.

It is the general policy of the Borough:

- A. To encourage voting by all qualified voters who are residents of the Borough, balancing a policy of broad franchise with safeguarding the rights of genuine residents.
- B. To make voting as straightforward as possible, consistent with preserving the highest practicable standards of electoral practices.
- C. To encourage qualified voters who have residency for three or more years to participate in Borough government by making the process for applying for candidacy as straightforward as possible, consistent with preserving the highest practicable standards.
- D. To make the electoral process transparent and open.
- E. To encourage accountability by elected officials to the qualified voters who are residents of the Borough.
- F. To exercise local control over Borough government to the greatest extent permitted by law.
- G. To use electronic services where possible to provide notices, Canvassing Committee reports and election results combined with traditional notices to reach all qualified voters.

4.10.020 Elections by mail.

- A. It is the general policy of the Borough to conduct elections by U.S. Mail wherever possible.
- B. The Assembly for cause may vary the processes used to conduct elections by mail.
- C. The Assembly for cause may conduct an election partly by mail and partly by voting at precincts. If the Assembly exercises this option, it shall by resolution prescribe procedures for voting at precincts.

D. Any qualified voter who is a resident of the Borough as an alternative to voting by mail may vote an absentee ballot under §4.37 or in person at the Borough offices under §4.37.60.

4.10.030 Administration of elections.

The Borough Clerk is the supervisor of elections and shall prepare and maintain election materials and records. The Clerk shall begin preparations for a general election at least forty-five days prior to the date of the election and for a special election as expeditiously as possible. The Clerk is responsible for contacting the State of Alaska, Division of Elections, and making certain the Borough has on hand before any election the most current official voter registration list. The Borough Clerk shall act as Clerk to the Canvassing Committee.

4.10.040 General election date.

On the first Tuesday of October of each year a general election will be held in the Borough for the election of vacant municipal offices and the determination of such other matters as may be placed on the ballot.

4.10.050 Expenses of election.

A. The Borough shall pay all necessary election expenses, including those of mailing ballot packages to registered voters, prepaying postage to mail ballots back to the Borough, printing and managing the ballots. Salaries for the election judges and clerks shall be set by the Assembly.

B. In the event of a runoff under §4.10.060, The Borough shall bear the costs of the runoff election.

C. Expenses of any recount shall be paid as follows:

1. If the election vote total is closer than two percent (2.00%) of all votes cast, the expense shall be borne by the Borough.
2. Except as provided in subsection (1), 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.
3. In the event of an election contest under §4.50, the investigator shall award expenses as a part of the decision of the election contest.

4.10.060 Forty percent of votes cast required to win.

The candidate for an office who receives at least forty percent (40%) of the votes cast and the greatest number of votes is elected to the office. If no candidate receives forty percent of the votes cast, a runoff election between the two candidates receiving the greatest number of votes will be held within thirty (30) days.

4.10.070 Language assistance.

Borough officials shall make ample effort to provide oral information in Native languages and assistance at every stage of the election process including voter

registration assistance, election notices, information on issues and candidates, and assistance at the polling place when needed.

Chapter 4.15 – VOTERS

Sections:

Section 4.15.020 Standards for determination of residency

Section 4.15.030 Canvassing Committee decision on residency

4.15.010 Voter qualification.

A person may vote in a municipal election only if the person:

- (1) is qualified to vote in state elections under AS 15.05.010;
- (2) has been a resident of the municipality for 30 days immediately preceding the election;
- (3) is registered to vote in state elections at a residence address within a municipality at least 30 days before the municipal election at which the person seeks to vote; and
- (4) is not disqualified under Article V of the state constitution.

4.15.020 Standards for determination of residency.

A. To determine whether a person is a resident of the Borough, the Canvassing Committee may consider all evidence, including but not limited to:

- (1) where the person spends most of his or her time;
- (2) the location of people and things that are typically identified with one's "home," such as family members, pets, and vehicles;
- (3) sincere statements or actions of the person as to where he or she intends to make a primary residence (where he or she manifests an intent to make a permanent home);
- (4) where the person receives his or her mail;
- (5) where the person and the person's spouse have registered to vote and how long they have been registered to vote there (and whether they have actually voted);
- (6) whether the person's daily life is connected to that address, including mail, bills, and bank accounts.

B. The Canvassing Committee may also consider evidence that tends to show that the claim of residency is untrue, contradictory or inconsistent with other actions or inactions of the person.

4.15.030 Canvassing Committee decisions on residency.

A. Not later than three (3) business days following a decision, the Borough Clerk shall send written notice of any decision of the Canvassing Committee regarding

residency to the affected voter at the address shown on the Division of Elections voter roll.

B. A voter who is dissatisfied with the decision of the Canvassing Committee may appeal that decision to the Borough Assembly. Notice of appeal must be given within fourteen (14) days of the date notice is mailed to the voter by the Borough Clerk. A timely appeal to the Borough Assembly shall be an item of new business at the next regular or special meeting of the Assembly. (Amended by Ordinance 12-07 6/12/2012)

C. A voter dissatisfied with the decision of the Borough Assembly following an appeal may seek judicial review in the Superior Court for the Third Judicial District at the venue nearest to the Borough (currently Dillingham, Alaska). Such an appeal must be filed within fourteen (14) days of the decision under subsection B. Unless the voter chooses otherwise, to the greatest extent permitted by applicable laws and rules, that appeal should be a trial de novo under Rule of Appellate Procedure 609(b). (Amended by Ordinance 12-07 6/12/2012)

D. An appeal from a decision of the Canvassing Committee or the Borough Assembly shall not delay certification of the election unless there is a mathematical possibility that the appeal, individually or in combination with other timely, pending appeals, could affect the outcome of an election.

Chapter 4.20 CANDIDATES

Sections:

- 4.20.010 Candidate qualifications**
- 4.20.020 Nomination procedures**
- 4.20.030 Nomination acceptance**
- 4.20.040 Conflict of Interest statement**
- 4.20.050 Reporting election spending**
- 4.23.010 Initiative and referendum**
- 4.23.020 Recall of elected Borough officials**
- 4.23.030 Expenditures on initiatives, referenda and recalls**
- 4.25.010 Election duties of Borough Clerk – in general**
- 4.25.020 Election judges and clerks**

4.20.010 Candidate qualifications.

A. No person shall hold any elective office or be eligible to seek election thereto, unless he is a qualified voter of the Borough and has physically resided in the district within which he or she seeks to be elected for at least one (1) year immediately preceding election day. *(amended by Ordinance 11-06 passed August 16, 2011; approved by DOJ September 30, 2011)*

B. A qualified voter of the Borough is a person defined in §4.15.010.

4.20.020 Nominations procedures.

A. Nomination for elective officers shall be made by petition. Each voter signing a petition shall state on petition, in addition to his or her mailing address, his or her place of residence, by street and number, or lot and block, or other sufficient means.

B. Nominating petitions shall be in substantially the following form:

“We, the undersigned qualified voters of the Lake and Peninsula Borough in the State of Alaska, hereby nominate and sponsor _____, whose residence is _____, for the office of _____, Seat _____, to be voted for at the election to be held on the _____ day of _____, 20____. We individually certify that we are qualified to vote for a candidate for the office this candidate seeks, and that we have not signed other nominating petitions for this office exceeding in number the vacancies in this office to be filled in this election.”

C. Nominating petitions must be completed and filed with the Borough Clerk not earlier than one hundred twenty (120) days nor later than forty-five (45) days before the election. The Borough Clerk shall record on the petition itself and preserve the name and address of the person by whom each nominating petition is filed. All petitions in proper form with sufficient signatures, and all deficient petitions which are not withdrawn by the persons filing them, shall be preserved by the Borough Clerk.

D. A nominating petition to be effective must contain the signatures of twenty-five (25) qualified voters.

E. Within four (4) days after the filing of a nominating petition, the Borough Clerk shall notify the candidate named in the petition and the person who filed the petition whether or not it is in proper form and signed by twenty-five (25) voters, return it to the person who filed it with a statement certifying wherein the petition is deficient. A new petition for the same candidate may be filed within the time for filing petitions.

F. Any candidate nominated may withdraw his nomination not later than twenty (20) days before the election.

4.20.030 – Nomination acceptance

Attached to a petition of nomination shall be an acceptance by the candidate in substantially the following form:

ACCEPTANCE OF NOMINATION

I hereby accept the above nomination and agree to serve if elected. I certify

(1) I have filed a conflict of interest statement and report of financial and business interests as required by AS 30.50;

(2) I meet the candidacy residency requirements of §4.20.010 or will meet the requirements by the date of the election; and

(3) I acknowledge I am required to file campaign spending reports provided in AS 15.13.

Signature of Candidate: _____
Date and hour of filing: _____
This petition is filed by: _____
Whose address is: _____
Received by: _____

4.20.040 Conflict of Interest statement.

No candidate's petition for an elected Borough office may be accepted by the Clerk unless the candidate has also filed a report of financial and business interest as required by AS 30.50.010-200. In the event such petition has been accepted without such statement, the Clerk shall return it to the candidate.

4.20.050 Reporting election spending.

All candidates for elected office are required to comply with AS 15.13.010-130 regarding election spending. Copies of all reports required to be filed with the State of Alaska shall be filed with the Borough Clerk. All such reports filed with the Borough Clerk shall be available for public inspection by any interested person.

Chapter 4.23 INITIATIVE, REFERENDUM AND RECALL

Sections:

- 4.23.010 Initiative and referendum**
- 4.23.020 Recall of elected Borough officials**
- 4.23.030 Expenditures on initiatives, referenda and recalls**

4.23.010 Initiative and referendum.

Initiatives and referenda regarding Borough ordinances shall be governed by AS 29.26.100 - .190.

4.23.020 Recall of elected Borough officials.

Recall of Borough elected officials shall be governed by AS 29.26.240 - .360.

4.23.030 Expenditures on initiatives, referenda and recalls.

The reporting requirements of AS 15.13.140 shall apply to initiatives, referenda and recalls in the Borough. Copies of all reports shall be filed with the Borough Clerk as well as the State of Alaska. All such reports filed with the Borough Clerk shall be available for public inspection by any interested person.

Chapter 4.20 ELECTION OFFICIALS

Sections:

4.25.010 Election duties of Borough Clerk – in general

4.25.020 Election judges and clerks

4.25.010 Election duties of Borough Clerk--in general.

The Borough Clerk or the Clerk's designee will perform the duties necessary for the administration of municipal elections. The election duties of the Borough Clerk include, but are not limited to, obtaining from the State of Alaska a list of voters registered pursuant to AS 15.07.040 not earlier than sixty (60) days before the scheduled election. The Clerk may publish notices urging voter registration and may cooperate with the State of Alaska in encouraging borough residents to register.

4.25.020 Election judges and clerks.

A. If an election is being conducted by U.S. Mail as provided in §4.10.020, no election judges shall be appointed.

B. If the election is not to be conducted by mail, then before the Borough election, the Assembly shall appoint at least three qualified Alaska voters as judges to serve as the election board at each polling place and select one of the judges to chair the board. Judges shall not be candidates for office. If an appointed judge fails to appear and subscribe to the oath on election day or becomes incapacitated during the time of the election or the counting of the ballots, the remaining judges shall appoint a qualified voter to fill the vacancy.

Chapter 4.30 ELECTIONS

Sections:

- 4.30.010 Notice of election**
- 4.30.020 Contents of election notice**
- 4.30.030 Form of ballots**
- 4.30.040 Ballots – printing and inspection**
- 4.30.050 Manner of voting**
- 4.30.060 Conduct of elections**
- 4.30.070 Marking of ballots by voters**
- 4.30.080 Returning cast ballots received by mail**
- 4.30.090 Election by mail precincts**
- 4.30.100 Storage of ballots**
- 4.37.010 Eligibility for absentee voting**
- 4.37.020 Absentee voting procedure**
- 4.37.030 Absentee ballot delivery**
- 4.37.040 Determination of right to vote by Borough Clerk**
- 4.37.050 Notation of ballot number**
- 4.37.060 Absentee voting at Borough office**
- 4.37.070 Effect of issuance of absentee ballot**
- 4.37.080 Absentee voting by facsimile**
- 4.37.090 Prohibition on absentee voting by e-mail**
- 4.37.100 Completion and return of absentee ballots**
- 4.37.110 Absentee ballots –receipt**
- 4.37.120 Absentee ballots –voting supplies**
- 4.37.130 Liberal construction**

4.30.010 – Notice of election.

The Borough Clerk, subject to any direction from the Borough Assembly, shall give at least thirty (30) days notice of each general election and thirty (30) days notice of each special election by posting notices in two or more conspicuous places in each voting precinct of the Borough, and by publishing the notice in a newspaper of general circulation within the Borough, providing there is such a newspaper. The notice of election shall be distributed to public and commercial radio stations serving the Borough. Notices shall be distributed to all post offices in the Borough, together with sample ballots and sample instructions for voting.

4.30.020 – Contents of election notice.

Notice for general or special elections must contain the following:

- A. The date of the election;
- B. The office to be filled or the propositions to be voted upon;
- C. The dates during which votes may be cast by U.S. Mail and the deadline by which ballots must be postmarked and must be received by the Borough Clerk;

- D. The location of U.S. Post Offices from which completed ballots can be returned by mail;
- E. A boundary description of the voting precincts, or a reference to sections of the Alaska Administrative Code establishing the precinct boundaries;
- F. The procedure for declaring candidacy;
- G. Whether the election is general or special; and
- H. A statement describing voter qualifications.

4.30.030 Form of ballots.

- A. A ballot shall consist of a list of candidates and issues to be decided at the election. The names shall be in random order.
- B. Preceding the list of candidates for each office there will be placed the words, "Vote for not more than three," or "Vote for not more than one," or such other number as there are seats to be filled.
- C. Under the title of each office and below the printed names of the candidates, there will be printed blank lines for write-in candidates equal to the number of candidates to be elected to the office.
- D. Somewhere on the ballot, so as to be clearly visible, shall be printed:

OFFICIAL BALLOT

The date of the election

Facsimile signature of Clerk who had the ballots printed

- E. The ballots shall be printed on plain white paper and numbered consecutively. The names of the candidates will be printed in capital letters the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates a square not less than one-quarter of an inch per side shall be printed.
- F. The names of candidates shall be printed as they appear upon the petitions filed with the Borough Clerk, except that any honorary or assumed title or prefix shall be omitted. The positions of the names of candidates shall be changed from one ballot to the next as required by the laws of the State of Alaska for state elections.
- G. Following the names of the offices and candidates, there shall be placed on the ballot all propositions, initiatives, referenda and recalls to be voted upon. The words "Yes" and "No" shall be placed below the statement of each proposition and question.

4.30.040 Ballots – printing and inspection.

In all Borough elections the Borough Clerk will be responsible for the printing of ballots. The ballots will be printed and in the possession of the Borough Clerk at least forty (40) days prior to the election and ten (10) days before the mailing date under §4.30.060 and subject to the inspection of candidates or their agents.

4.30.050 Manner of voting.

Voters may vote by U.S. Mail, by absentee voting under 4.37 or in person at the Borough offices under §4.37.060.

4.30.060 Conduct of elections.

A. 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 twenty (20) days before the day of the election.

B. There shall be a return envelope included in the mailing to each 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. The Clerk shall require each the voter to provide a State of Alaska voter identification number, or date of birth. Specific instructions for voting a by-mail ballot shall be mailed to each voter.

4.30.070 Marking of ballots by voters.

A. A voter may mark his ballot only by the use of cross marks, "X" marks, checks, filling the square or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.

B. Failure to properly mark a ballot as to one or more candidates does not 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 on that ballot for candidates for that office shall not be counted.

E. A 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 the ballot in lieu of writing in a name if write-in votes or ballots are otherwise permitted.

4.30.080 Returning cast ballots received by mail.

A voter who has cast his or her ballot which was received by mail can either return it to the Clerk in the postage paid envelope, return it to the Clerk in person, or return it to a State of Alaska election worker in a polling place on or before 8 p.m. the day of the election. If the ballot is postmarked it must be postmarked on or before election day. After the day of the election, ballots may not be accepted unless received by mail.

4.30.090 Election by mail precincts.

Precincts shall be determined under current Alaska Administrative Code regulations (currently 6 AAC 137). Completed ballots received by the Clerk shall be stored, unopened, sorted by precinct.

4.30.100 Storage of ballots.

Ballots received by the Clerk shall be stored in the Clerk's office in a secure location. No person except the Clerk may see or touch the ballots, except as authorized by this Title.

Chapter 4.37 ABSENTEE VOTING

Sections:

- 4.37.010 Eligibility for absentee voting**
- 4.37.020 Absentee voting procedure**
- 4.37.030 Absentee ballot delivery**
- 4.37.040 Determination of right to vote by Borough Clerk**
- 4.37.050 Notation of ballot number**
- 4.37.060 Absentee voting at Borough office**
- 4.37.070 Effect of issuance of absentee ballot**
- 4.37.080 Absentee voting by facsimile**
- 4.37.090 Prohibition on absentee voting by e-mail**
- 4.37.100 Completion and return of absentee ballots**
- 4.37.110 Absentee ballots –receipt**
- 4.37.120 Absentee ballots –voting supplies**
- 4.37.130 Liberal construction**

4.37.010 Eligibility for absentee voting.

Any qualified voter who expects to be absent from his election precinct or who will be unable to vote by U.S. Mail on or before the day of any election may cast an absentee ballot.

4.37.020 Absentee voting procedure.

- A. A person who seeks to vote absentee may request an application for an absentee ballot by phone, fax, e-mail, in person, or by mailing a request for the application to the Borough Clerk.
- 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 not more than twenty (20) days or less than three (3) days before a Borough election. An application made in person must be filed with the Borough Clerk or an absentee voting official at an absentee ballot station not more than fifteen (15) days before the Borough election and no later than 5:00 p.m. on the date of the 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 e-mail, a fax number or e-mail address must be supplied.
- E. Nothing in this section is intended to prevent the Borough Clerk from personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the Borough Clerk's office for an absentee voter's ballot.
- F. The absentee application form follows:

LAKE AND PENINSULA 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: _____

PO 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 e-mail address if requesting ballot be sent via e-mail

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
Lake and Peninsula Borough
P.O. Box 495
King Salmon, Alaska 99613
Fax: (907) 246-6602

4.37.030 – Absentee ballot delivery

A. If the Assembly has, by resolution under §4.10.020(b) chosen not to conduct an election by U.S. Mail, then the Assembly may designate an absentee voting station, and 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 AS 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 an application for an absentee ballot, the receiving Clerk or absentee voting official will check the latest state registration listings to determine whether the applicant is registered pursuant to AS 15.07 and a resident of the Borough. If the applicant is properly registered, the applicant will be given an official ballot for the election and other absentee voting materials such as an identification envelope if voting in person, by mail, or at an absentee voting station, or if voting by fax, a voter certification form. If the application requests that an absentee ballot for a borough election be sent by fax or by e-mail, the Clerk shall send the absentee ballot and other absentee voting material to the applicant via the requested method (fax or e-mail).

4.37.040 Determination of right to vote by Borough Clerk.

Before delivering a ballot, the Borough Clerk or absentee voting official shall determine the applicant's right to an absentee ballot, pursuant to §4.15.010. If the voter does not appear on the State of Alaska election roll for the Borough, the Borough Clerk shall treat the ballot as a questioned ballot to be presented to the Canvassing Committee under §4.40.

4.37.050 Notation of ballot number.

Upon personal delivery, mailing, faxing or e-mailing of an absentee ballot, the Clerk or absentee voting official 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, mailed, faxed or e-mailed. Before the election, the Clerk will send any election judges a list of voters who have received absentee ballots under this section.

4.37.060 Absentee voting at Borough office.

A voter who receives an absentee ballot may, on any day prior to the day of the election, appear at the office of the Borough Clerk and execute his ballot under the scrutiny of the Borough Clerk or his designee in the following manner:

A. The voter will first display to the Clerk the ballot to show that it has not been previously marked. The voter shall then mark the ballot in private at the Clerk's office. The voter will place the ballot in the envelope provided to the voter in a manner that permits the Clerk to see the number. If the Clerk determines that the ballot is numbered correctly, he will tear the printed number off the ballot and permit the voter to enclose the ballot in the identification envelope.

B. The voter will then fill 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 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 in the Clerk's office, to be kept by him and delivered to the Canvassing Committee.

4.37.070 Effect of issuance of absentee ballot.

If a voter who has applied for and received an absentee ballot, that voter will not be permitted to vote by U.S. Mail under §4.10.20 unless and until the voter returns to the Clerk the unused absentee ballot, or causes the absentee ballot to be destroyed under circumstances satisfactory to the Clerk.

4.37.080 – Absentee voting by facsimile.

The Clerk shall adopt procedures applicable to the delivery of absentee ballots by facsimile in the Borough. The regulation shall:

- A. Require the voter to comply with the same time deadlines as for voting in person on or before the closing hour of the polls;
- B. Ensure the accuracy and, to the greatest degree possible, the integrity and secrecy of the ballot process.

- 1. An absentee ballot that is completed and returned by the voter by fax must contain the following statement:

“I understand that by using the fax 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 reasonably possible.” Followed by the voter’s signature and date of signature, and

- 2. Be accompanied by a statement executed under oath as to the voter’s identity; the statement under oath must be witnessed by two citizens who are 18 years of age or older.

4.37.090 Prohibition on absentee voting by e-mail.

Submission of an application for an absentee voting by email is prohibited. Delivery of an absentee ballot by e-mail is permitted when requested by the applicant under §4.37.030(b). Submission of an absentee ballot by e-mail is prohibited.

4.37.100 Completion and return of absentee ballots.

The identification envelope and return envelope provided to the voter if voting by mail or by person 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 Lake and Peninsula Borough, Alaska, and I hereby
enclose my ballot in compliance with Chapter 4.08 of the Borough Code of
Ordinances.

Voter's Signature

Residence Address within Borough

(SEAL)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__, at _____(a.m. or p.m.). I hereby certify that in my presence this affiant enclosed this ballot and handed me this envelope sealed; that the affiant signed this affidavit and I acknowledged the same, all in accordance with the law.

Official's Signature

Title

NOTICE: After receiving the sealed envelope from the person taking your affidavit when voting outside the office of the Borough Clerk of the Lake and Peninsula Borough, you must immediately return it by mail, postage prepaid, to the Borough Clerk, Lake and Peninsula Borough, P.O. Box 495, King Salmon, Alaska, 99613.

MARKED BALLOT ENCLOSED
TO BE OPENED ONLY BY CANVASSING COMMITTEE

If voting by fax, the Clerk shall keep the returned ballots in a ballot box only to be opened by the Canvassing Committee.

4.37.110 Absentee ballots--receipt.

To be counted, an absentee ballot must be executed 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.

4.37.120 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.

4.37.130 Liberal construction.

Sections 4.37.010 through 4.37.120 shall be liberally construed so as to accomplish the purpose for which they are intended.

Chapter 4.40 CANVASSING PROCEDURES

Sections:

- 4.40.010 Clerk duties prior to Canvassing Committee meeting**
- 4.40.020 Canvassing Committee meeting; notice; postponement**
- 4.40.030 Canvass to be public**
- 4.40.040 Canvassing Committee procedure**
- 4.40.050 Canvassing Committee report**
- 4.40.060 Tie votes**
- 4.40.070 Certification of election**
- 4.40.080 Issuance of certificate of election**

4.40.010 Clerk duties prior to Canvassing Committee meeting.

A. Prior to the meeting of the Canvassing Committee, the Clerk shall review ballots received and segregate those ballots where the return envelope appears to be defective, sorting the defects into categories of defects.

B. Prior to the meeting of the Canvassing Committee, the Clerk shall perform such due diligence with regard to return as he/she deems necessary. The Clerk may perform due diligence for any good reason, including but not limited to:

- (1) The ballot was mailed to and received from an address outside of the Borough.
- (2) There is an independent basis for doubting the veracity of a claim of residency.

4.40.020 Canvassing Committee meeting; notice; postponement.

Unless the Assembly provides otherwise by ordinance, the Canvassing Committee shall consist of the Borough Assembly, excluding any Assembly members who are standing for election or re-election. The Canvassing Committee will meet the Monday prior to the fourth Tuesday in October and canvass all absentee and challenged ballots executed in the election. The canvass may be postponed from day to day for cause but not exceeding five days in total, except that if the Canvassing Committee issues subpoenas under §4.40-040(B)(5), the five day interval shall not start to run until there has been compliance with those subpoenas. (*amended by Ordinance 16-07, May 20, 2016*)

4.40.030 Canvass to be public.

The canvass of all ballots will be made in public by opening the return envelopes, and announcing the results thereof in front of whomever may be present.

4.40.040 Canvassing Committee procedure.

A. Each member of the Canvassing Committee shall take an oath in the following form to honestly, faithfully, impartially and promptly carry out the duties of a member of the Canvassing Committee:

I swear to honestly, faithfully, impartially and promptly carry out my duties as a member of the Canvassing Committee.

B. Prior to opening any return envelopes or counting any ballots, the Canvassing Committee shall take up any return envelopes the Clerk has segregated under §4.40.010(A) and (B), and determine whether the return envelopes comply with these ordinances:

(1) The Canvassing Committee may consider these return envelopes in batches by kind of defect. Any member of the Canvassing Committee may request a specific return envelope be considered separately. The Canvassing Committee may inspect the return envelopes, but may not open the return envelopes. The Canvassing Committee shall determine by majority vote whether the return envelopes are defective. Defective return envelopes shall be segregated and not opened or counted. Envelopes determined to not be defective shall be returned to the appropriate precinct group.

(2) The Canvassing Committee shall consider any challenges to any ballot or any voter's qualifications, including but not limited to residency, on a case-by-case basis. The Canvassing Committee may request the assistance of the Borough Clerk, Borough Attorney, the Mayor, or Borough Manager to investigate the challenges made. Any borough voter may appear to give testimony concerning the challenged ballots. The Canvassing Committee by a majority vote shall affirm or deny a challenge. If a challenge is upheld, 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 with the other ballots.

(3) Any voter may challenge any return envelope for cause. That voter may present evidence in support of the challenge. The person whose return envelope is challenged and the Borough may present evidence in response. The Canvassing Committee by a majority vote shall affirm or deny a challenge. If a challenge is upheld, 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 with the other ballots.

(4) All evidence presented to the Canvassing Committee shall be under oath. The Borough Clerk, the Borough Attorney, or any Notary Public shall be authorized to administer oaths.

(5) The Canvassing Committee 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 state rules of civil procedures concerning the enforcement of administrative and state agency subpoenas. Final allowance or disallowance of the specific challenged ballot may be continued under §4.40.020 pending response to the subpoena.

(6) The Borough Clerk will notify any voter whose ballot is not counted that the voters ballot was rejected, state the reason or reasons why it was not counted, and advise the voter that the voter may appeal the decision to the next meeting of the Borough Assembly.

C. When all challenges to return envelopes, absentee ballots, facsimile ballots and in-person ballots, and to voter qualifications, have been resolved, the Canvassing Committee shall systematically open the return envelopes and count the votes.

1. The Canvassing Committee shall apply the standards set out at §4.30.070

when examining and counting ballots.

2. The Clerk shall administer the vote count in such a manner that if a voter's ballot is rejected entirely under §4.30.070, the voter whose ballot has been rejected can be notified under (B)(6) of this section. Otherwise, votes shall be counted in such a manner as to preserve the secrecy of the ballot.

3. Absentee, facsimile, and in-person ballots shall be counted in the same U.S. Mail ballots.

D. The Clerk may appoint one or more registered Alaska voters to assist in the canvass. Each person so appointed shall consistently and uniformly take the oath required of Canvassing Committee members. Each such person may assist in the process of opening, counting and storing ballots, but shall have no right to otherwise participate in the canvass.

4.40.050 – Canvassing Committee report.

The canvass committee will submit a report of its findings to the Assembly the day after the Canvass Committee meeting. The report will show:

- A. The number of ballots cast in the election;
- B. The names of the persons voted for and the proposition and or questions voted upon;
- C. The offices voted for;
- D. The number of votes cast for each candidate and the number of votes cast for or against each proposition or question voted on at the election;
- E. A proposed disposition of all challenged, absentee, write-in and voided ballots; and
- F. Such other matters the canvass committee may determine to be appropriate.
- G. The Canvassing Committee report is a public document.

The Canvassing Committee report may consist of the Canvassing Committee minutes, if the minutes meet the requirements of this section.
(amended by Ordinance 16-07, May 20, 2016)

4.40.060 Tie votes.

If, after a runoff election, two candidates tie with the highest number of votes for the same office, the Mayor shall notify the candidates who are tied. The Mayor shall notify the candidates of a reasonably suitable time and place to determine the successful candidate by lot. After the determination has been made by lot, the Mayor shall so certify. If the tie vote involves the Mayor, the Deputy Mayor shall perform the tasks assigned to the Mayor under this section.

4.40.070 Certification of election.

A. If a contest is not initiated under the provisions of §4.50, the result of the election shall be publicly declared by the Assembly and entered into the minutes of a special meeting of the Assembly on the first Monday following the meeting of the Canvassing Committee.

B. If a contest is held and determined, the result of the election shall be publicly declared by the Assembly and entered into the minutes of a special meeting of the Assembly within a week after the contest is determined.

4.40.080 Issuance of certificate of election.

The Borough Assembly as a part of the certification of the election under §4.40.070 shall authorize the Borough Clerk to make and deliver a certificate of election to every person elected. The certificate of election will be signed by the Mayor and Clerk. It shall be authenticated by the corporate seal of the Borough.

Chapter 4.50 ELECTION CONTEST

Sections:

- 4.50.010 Contest of election**
- 4.50.020 Contest of election; investigation**
- 4.50.030 Report of Investigation**
- 4.50.040 Assembly action on report**
- 4.50.050 Appeal**

4.50.010 Contest of election.

- A. Any qualified voter may contest the election of any person, the approval or rejection of any question or proposition or the recall of any elected official.

- B. A candidate or elector who believes that prohibited practices occurred at an election shall appear before the Assembly at the meeting held on the first meeting held following issuance of the report of the Canvass Committee. He or she shall deliver a sworn written notice of election contest in substantially the form set out in this section which states with particularity the provisions of the law allegedly violated and the specific acts asserted as misconduct.

NOTICE OF ELECTION CONTEST

The undersigned believes that prohibited practices occurred at the election held on _____, 20___. The undersigned states that the following provisions of law were violated:

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

Signature

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__.

Notary Public in and for Alaska
My commission expires: _____

C. Timely filing of a Notice of Election Contest shall bar certification of the election as to those issues contested, pending outcome of the election contest.

D. No appeal may be taken to a court regarding a claim of a prohibited practice or violation of election ordinances unless and until the election contest has been determined by the Borough Assembly under §4.50.040.

4.50.020 Contest of election; investigation.

The Borough Assembly shall order an investigation to be made by the Borough Attorney, Borough Clerk, Mayor or Borough Manager if a notice of contest is received. Investigation proceedings will be public. If the only issue raised is a recount, then the recount shall be conducted by the Canvassing Committee under §4.15.030.

4.50.030 Report on Investigation.

A. The person or persons charged with performing any investigation under §4.50.020 shall issue a written report on investigation. The report shall determine if the allegations are true and if they justify a recount, a new election or the change in the outcome of the election. The report shall recommend the person or persons to bear the expenses of the investigation, including the investigator's time.

B. In performing the investigation, the investigator(s) may order testimony of witnesses and issue subpoenas or subpoenas duces tecum while investigating contest of election. The subpoenas may be enforced by the court upon certification as provided state rules of civil procedures concerning the enforcement of administrative and state agency subpoenas.

C. The report on investigation shall be delivered to the Assembly not later than thirty (30) days following the Borough Assembly order under §4.50.020.

4.50.040 Assembly action on report.

At the next regular or special meeting following receipt of the Report on Investigation, the Assembly shall vote to accept or reject the Report, or to direct further investigation. If the Report is accepted, any remedial measures directed by the Report shall be implemented. If further investigation is ordered, the Assembly shall set a deadline for completion of further investigation.

4.50.050 Appeal.

Any person affected by the Assembly action on a Report may appeal the decision of the Assembly to the Superior Court. Any such appeal shall be taken within ten (10) days of Assembly action. Failure to timely appeal waives the right to appeal. Absent a timely court appeal, the Assembly may certify the election under §4.40.060.

Chapter 4.90 MISCELLANEOUS PROVISIONS

Sections:

- 4.90.010 Sale of alcohol**
- 4.90.020 Retention of election records**
- 4.90.030 Definitions**

4.90.010 - Sale of alcohol.

Where not otherwise forbidden by local option, the Borough does not forbid the sale of alcohol in the Borough on Election Day.

4.90.020 Retention of election records.

Records of an election shall be retained and destroyed in accord with the Borough's Records Retention Policy. The interval for which records shall be retained shall be measured from issuance of a Certificate of Election.

4.90.030 – Definitions.

(a) "Borough Assembly" or "Assembly" means the lawfully elected Borough Assembly of Lake and Peninsula Borough.

(b) "Borough Attorney" means the person appointed under §2.35.010 - .020, or his or her designee.

(c) "Borough Clerk" or "Clerk" means the person appointed under §2.28.010 - .040, or his or her designee.

(d) "Borough Manager" means the person appointed under §2.21.010 - .080, or his or her designee.

(e) "Borough Mayor" or "Mayor" means the person elected under §2.16.010 - .060.