



**CITY OF THORNE BAY  
ORDINANCE NO. 20-05-19-01**

**AN ORDINANCE AUTHORIZING A SPECIAL ELECTION TO BE HELD ON JUNE 30, 2020, ON THE QUESTION OF RECALL OF CERTAIN MEMBERS OF THE CITY COUNCIL, SETTING OUT THE FORM OF THE RECALL BALLOT, AND ESTABLISHING PROCEDURES FOR THE ELECTION**

**WHEREAS**, the City Council is the governing body for the City of Thorne Bay; and

**WHEREAS**, on March 11, 2020, applications for petitions to recall three members of the City Council were submitted to the City Clerk; and

**WHEREAS**, on March 25, 2020, the City Clerk determined that the applications met the requirements of AS 29.26.260 and prepared the recall petitions as provided in AS 29.26.270; and

**WHEREAS**, on April 7, 2020, the sponsors submitted the three recall petitions with signatures to the City Clerk for review; and

**WHEREAS**, on April 17, 2020, the City Clerk issued certifications that the recall petitions were sufficient and contained the signatures required to submit the questions on the recall of councilmembers Rosalyn Hert, Roger Longbotham, and Eric Rhodes to the registered voters of the City of Thorne Bay; and

**WHEREAS**, as required by AS 29.26.310, the City Clerk submitted the recall petitions to the City Council at the next regular meeting, which was held on April 28, 2020; and

**WHEREAS**, the timeframe for an election on the question of recall is set out in AS 29.26.320, which provides that if no regular election occurs within 75 days, the City Council shall hold a special election on the recall question within 75 days but not sooner than 45 days after the petition is submitted to the City Council; and

**WHEREAS**, this means that the special election may not be held earlier than June 12, 2020, and must be held by July 12, 2020;

**WHEREAS**, the City Clerk recommends that the special election be held on Tuesday, June 30, 2020; and

**WHEREAS**, AS 29.26.010 provides that the governing body of a municipality shall prescribe the rules for conducting an election, and TBMC 2.28.010 provides that the City Council shall prescribe the rules for conducting a city election; and

**WHEREAS**, on March 20, 2020, the City Council declared a local emergency in response to COVID-19 and has since taken additional emergency actions by the adoption of Resolution 20-04-21-01 on April 28, 2020, Thorne Bay COVID-19 ORDER 1, to help protect public health, welfare, and safety in the City of Thorne Bay; and

**WHEREAS**, President Trump declared a national emergency on March 13, 2020, and Governor Dunleavy declared a public health emergency in the State of Alaska on March 11, 2020; and

**WHEREAS**, these governmental declarations and actions remain in effect until the public health emergency no longer exists; and

**WHEREAS**, the City Council and the City Clerk have determined that it is in the best interests of the public to establish procedures for the June 30 special election intended to help protect the health, welfare, and safety of City officials, the voting public, and the public generally during the special election process.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF THORNE BAY, ALASKA:**

**Section 1. Classification.** This ordinance is a non-code ordinance.

**Section 2. Authorization and Date for Special Election.** A special election on the question of recall of City of Thorne Bay Councilmembers Rosalyn Hert, Roger Longbotham, and Eric Rhodes shall be held on June 30, 2020, in accordance with the procedures set out in this ordinance.

**Section 3. Notice of Special Election and Completion of Recall Ballot.** The City Clerk shall give at least 20 days' notice of the June 30, 2020, special election as required under TBMC 2.28.180 and AS 29.26.030. The recall ballot must be complete prior to the publication of the notice of election. Therefore, any statement of 200 words or less that a councilmember subject to recall wants to have included on the ballot must be filed with the City Clerk for publication and public inspection by no later than 4:30 pm on Monday, June 8, 2020.

**Section 4. Form of Recall Ballot.** In accordance with AS 29.26.330, the recall ballot for the special election shall read as follows:

## SPECIAL ELECTION BALLOT

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### BALLOT QUESTION NO. 1

**Grounds for recall stated on the recall petition:** Thorne Bay City Councilman Rosalyn Hert has misused her elected position, violated the public's trust and has demonstrated misconduct in office and incompetence. She was involved in at least one illegal meeting in violation of the Open Meetings Act when it was decided to suspend City Administrator Benner in violation of AS Sec. 44.62.310 and successive sections and subdivisions. That act violated the municipal code section 2.04.040. Her misconduct has jeopardized the city by leaving it susceptible to a lawsuit because of her malfeasance.

**Statement by Councilmember Rosalyn Hert:** [CLERK TO INSERT HERE STATEMENT BY ROSALYN HERT OF 200 WORDS OR LESS, IF THE STATEMENT IS FILED WITH THE CITY CLERK FOR PUBLICATION AND PUBLIC INSPECTION BY NO LATER THAN 4:30 PM ON MONDAY, JUNE 8, 2020, TO ENABLE THE CLERK TO COMPLETE THE BALLOT AND PROVIDE THE REQUIRED 20 DAYS NOTICE OF ELECTION]

#### QUESTION 1:

Shall Rosalyn Hert be recalled from the office of Thorne Bay City Council?

Yes

No

## SPECIAL ELECTION BALLOT

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### BALLOT QUESTION NO. 2

**Grounds for recall stated on the recall petition:** Thorne Bay City Councilman Roger Longbotham has misused his elected position, violated the public's trust and has demonstrated misconduct in office and incompetence. On February 24, 2020, while acting as a city councilman he assisted Eric Rhodes serving the city administrator Wayne Benner with a suspension order and escorted him from City Hall. That act violated the municipal code sections 2.04.040 and 2.14.030. His misconduct has jeopardized the city by leaving it susceptible to a lawsuit because of his malfeasance. He was also involved in at least one illegal meeting in violation of the Open Meetings Act when it was decided to suspend City Administrator Benner in violation of AS Sec. 44.62.310 and successive sections and subdivisions.

**Statement by Councilmember Roger Longbotham:** [CLERK TO INSERT HERE STATEMENT BY ROGER LONGBOTHAM OF 200 WORDS OR LESS, IF THE STATEMENT IS FILED WITH THE CITY CLERK FOR PUBLICATION AND PUBLIC INSPECTION BY NO LATER THAN 4:30 PM ON MONDAY, JUNE 8, 2020, TO ENABLE THE CLERK TO COMPLETE THE BALLOT AND PROVIDE THE REQUIRED 20 DAYS NOTICE OF ELECTION]

### QUESTION 2:

Shall Roger Longbotham be recalled from the office of Thorne Bay City Council?

Yes

No

## SPECIAL ELECTION BALLOT

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### BALLOT QUESTION NO. 3

**Grounds for recall stated on the recall petition:** Thorne Bay City Councilman Eric Rhodes has misused his elected position, violated the public's trust and has demonstrated misconduct in office and incompetence. On February 24, 2020, while acting as mayor pro tempore he served the city administrator, Wayne Benner, with a suspension order and escorted him from City Hall. That act violated the municipal code sections 2.04.040 and 2.14.030. His misconduct has jeopardized the city by leaving it susceptible to a lawsuit because of his malfeasance. He was also involved in at least one illegal meeting in violation of the Open Meetings Act when it was decided to suspend City Administrator Benner in violation of AS Sec. 44.62.310 and successive sections and subdivisions.

**Statement by Councilmember Eric Rhodes:** [CLERK TO INSERT HERE STATEMENT BY ERIC RHODES OF 200 WORDS OR LESS, IF THE STATEMENT IS FILED WITH THE CITY CLERK FOR PUBLICATION AND PUBLIC INSPECTION BY NO LATER THAN 4:30 PM ON MONDAY, JUNE 8, 2020, TO ENABLE THE CLERK TO COMPLETE THE BALLOT AND PROVIDE THE REQUIRED 20 DAYS NOTICE OF ELECTION]

### QUESTION 3

Shall Eric Rhodes be recalled from the office of Thorne Bay City Council?

Yes

No

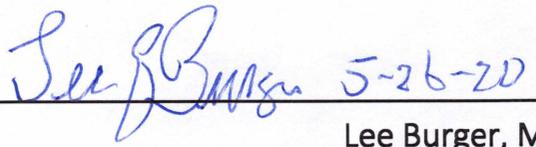
**Section 5. Procedures for Conduct of the Special Election.** The City Council establishes the following procedures for conduct of the special election on June 30, 2020. These procedures are intended to help protect the health, welfare, and safety of the voters, the City officials conducting the election, and the public generally, given the ongoing public health emergency declared in response to the COVID-19 pandemic.

1. There will be one location for voting on Tuesday, June 30, 2020, and that location will be at City Hall. The City Clerk will set up a voting location on the ground floor of City Hall at city administrator's office. This office has a window, and the City Clerk will handle all voting procedures with the voters through the window as described below in paragraph 4 of this section. Voters will remain outside to vote and will not enter City Hall to vote. All persons waiting outside to vote must practice safe social distancing by maintaining a distance of at least 6 feet apart and are requested to wear a face mask.
2. The voting location at City Hall described in paragraph 1 above will also be an absentee in-person voting location open on Monday, June 22 through Friday, June 26, for voters who wish to vote absentee in-person. Voting procedures for absentee in-person voters will be handled through the window in the same manner as described in paragraphs 1 and 4 of this section. All persons waiting outside to vote must maintain a distance of at least 6 feet apart and are requested to wear a face mask.
3. On Monday, June 29, 2020, there will be an absentee in-person voting location open at Davidson Landing for voters who wish to vote absentee in-person at that location. This location is not a precinct and is provided for absentee in-person voters as a convenience; this location will be open on June 29 only. The location will be set up and managed by the City Clerk as she determines necessary and reasonable to enhance safety. All persons waiting to vote at this location must maintain a distance of at least 6 feet apart and are requested to wear a face mask.
4. Voting at the City Hall location will be managed generally as follows: The City Clerk will be located inside the city administrator's office in City Hall. Voting will be handled by the City Clerk with the voters through the office window to the outside. Voters will be provided with a table, chair and voting booth outside of the office window. The City Clerk will have the voter show her any required identification, sign the register, vote their ballot, insert the ballot into a secrecy sleeve, and put the ballot into a secure ballot box or observe the Clerk putting the ballot into the ballot box. The City Clerk may modify this voting process as she determines necessary or appropriate.

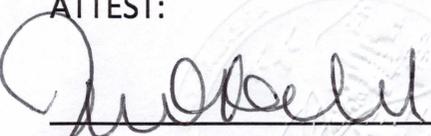
5. In the event the City Council determines that the special election date needs to be cancelled and rescheduled due to public health emergency considerations in response to the COVID-19 pandemic, the City Council may take appropriate actions to do so.
6. Except as provided in this ordinance, all other City election procedures, including the procedures for voting absentee by-mail, as provided in TBMC Chapter 2.28 will apply to the special election.

**Section 6. Effective Date.** This ordinance shall become effective upon adoption.

**PASSED AND APPROVED BY** a duly constituted quorum of the Thorne Bay City Council on Tuesday, May 26, 2020.

  
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Lee Burger, Mayor

ATTEST:

  
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Teri Feibel, CMC

[SPONSORED: PETITION SUBMITTED APRIL 7]  
[INTRODUCTION: MAY 5, 2020]  
[PUBLIC HEARING MAY 26, 2020]