

CITY OF THORNE BAY  
ORDINANCE 21-02-02-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, AMENDING TITLE 2.28-ELECTIONS, ADDING SECTION 2.28.015-POLLING LOCATIONS, AMENDING SECTIONS 2.28.260-TIME FOR OPENING AND CLOSING POLLS, 2.28.390-CANVASS COMMITTEE-MEETING-POSTPONING CANVASS, 2.28.440 – RESULTS OF ELECTION – PUBLIC DECLARATION, 2.28.470-SECTION B – ABSENTEE BALLOT – VOTING, FILING

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA

- Section 1. Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3. Amendment of Section. The title and chapter of Title 2-Administration and Personnel, Chapter 2.28-Elections, Section 2.28.015 and 2.28.470 (b) is hereby amended and added to the Thorne Bay City Code and shall read as shown on pages 5-24 of Ordinance 21-02-02-01.
- Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED February 2, 2021

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Cindy Edenfield, Mayor

ATTEST:

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Teri Feibel, CMC

[Introduction: January 19, 2021]  
[Public Hearing: February 2, 2021]  
[Sponsored: Wes Craske & Jon Stram]

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## CHAPTER 2.28 - ELECTIONS

### 2.28.010 ADMINISTRATION OF ELECTIONS.

The city council shall prescribe the general rules for conducting city elections.

(Ord. 96-24 § 4(part), 1996)

### 2.28.015 POLLING LOCATIONS

THERE SHALL BE TWO POLLING PLACES ESTABLISHED WITHIN THE MUNICIPAL BOUNDARIES OF THORNE BAY.

1. THORNE BAY CITY HALL
2. DAVIDSON LANDING

### 2.28.020 VOTER QUALIFICATION.

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

- A. Is qualified to vote in state elections under AS 15.05.010;
- B. Has been a resident of the city for thirty days immediately preceding the election;
- C. Is registered to vote in state elections at a residence within the city limits at least thirty days before the city election at which the person seeks to vote; and
- D. Is not disqualified under Article V. of the State Constitution.

(Ord. 96-24 § 4(part), 1996)

### 2.28.030 GENERAL ELECTION-TIME.

On the first Tuesday of October of each year a general election will be held in the city, for the purpose of filling vacant city offices. The determination of other matters may be placed on the ballot.

(Ord. 96-24 § 4(part), 1996)

### 2.28.040 SPECIAL ELECTION-TIME.

The city council, by resolution, may order that a special election be held.

(Ord. 96-24 § 4(part), 1996)

**2.28.050 EXPENSES.**

- A. The city 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 and other supplies, and any wages due to judges. Salaries for the election judges shall be set by the council.
- B. When the results of an election are contested, 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 a result of the election, or the difference between the winning and losing vote on the result contested is more than two percent.
- C. If an election is established by petition all costs and expenses incurred shall be the responsibility of those petitioning for a special election. If the subject or question brought by petition is placed on the ballot in a general election the cost to be paid by petitioner will be any additional ballot/judge/election expenses over and above the general election expenses. (Ord. 96-24 § 4(part), 1996) (Ord. 13-12-03-01)

**2.28.060 TIME OFF FOR VOTING.**

Any qualified voter who is an employee of the city who does not have time to vote at any city and borough, state or national election may, without loss of pay, take off working time that will enable him to vote. It is the policy of the city to encourage employers to make allowances for residents to exercise their voting rights without penalty of loss of pay, particularly where employment may conflict with normal voting hours.

(Ord. 96-24 § 4(part), 1996)

**2.28.065 THE CANDIDATE WITH THE HIGHEST NUMBER OF VOTES CAST FOR THE SEAT DECLARED SHALL BE THE WINNER OF THAT COUNCIL SEAT.**

Write in votes (unless declared) shall not be considered in computations for determining the number of votes necessary to be elected as a declared candidate. In case of a tie vote refer to section 2.28.620 of this chapter.

**2.28.066 WRITE-IN CANDIDATES.**

A write-in candidate shall complete and file with the city clerk a declaration of intent by 12 pm the Friday preceding the election.

**2.28.068 WRITE-IN VOTES NOT COUNTED.**

If a write-in candidate does not file a declaration of intent for candidacy the votes cast for that candidate will not be counted towards determining the winning candidate.

**2.28.080 ADMINISTRATION.**

The city clerk is the supervisor of elections and is responsible for the administration of city elections. The election duties of the city clerk include, among other duties, obtaining from the state of Alaska a list of voters registered in accordance with AS 15.07.040. The clerk may publish notices urging voter registration and may cooperate with the state of Alaska in encouraging city residents to register. (Ord. 96-24 § 4(part), 1996)

**2.28.090 ELECTION JUDGES.**

- A. Before each city election, the council shall appoint three judges for each city polling place to constitute the election board for the polling place. A judge shall be a registered voter of the City. If the council is unable to locate a registered voter in the city who is willing and able to serve on the election board, they may appoint a qualified individual registered to vote in the state. One judge in each polling place shall be designated chairman by the City Clerk and shall be responsible for the election in that polling place. The city clerk may appoint up to two additional election judges at any polling place when necessary to facilitate the orderly conduct of the election or to relieve the judges of undue hardship.
- B. Candidates for office and their immediate family members (parents, spouse, children, and siblings) shall not serve as judges.] (Ord. 96-24 § 4(part), 1996)

**2.28.100 ELECTION BOARD-VACANCY FILLING.**

If an appointed judge fails to appear and subscribe to the oath on Election Day or becomes unable to work during the time of the election or canvass, the City Clerk shall appoint, a qualified voter to fill the vacancy. (Ord. 96-24 § 4(part), 1996)

### **2.28.110 ELECTION OFFICIAL-OATH.**

The city clerk will choose an election judge from each polling place to appear before the city clerk and take the oath set out in this section. This election official will administrate the same oath to all other election judges and clerks at his polling place. The oath will be as follows:

"I do solemnly [swear or affirm] that I will honestly and faithfully perform the duties of election [judge or clerk] to the best of my ability."

(Ord. 96-24 § 4(part), 1996)

### **2.28.120 CANVASS COMMITTEE.**

- A. A canvass committee shall canvass all votes after the election judges have completed their tally of votes.
- B. The council shall serve as the canvass committee for special and general elections.
- C. Before each mayoral election the council shall appoint three registered voters from the general public to serve as the canvass committee for the mayoral and mayoral runoff-elections. Members of the council and candidates' immediate family members (parents, spouse, children, and siblings) shall be disqualified from service.

(Ordinance 19-12-17-01; added Subsection (c); Prior Ord. 13-12-03-01; Ord.96-24 § 4(PART), 1996)

### **2.28.130 QUALIFICATIONS-GENERAL ELECTION.**

No person shall hold any elective city office or be eligible to seek election to any elective office, unless he is a qualified voter of the city.

(Ord. 96-24 § 4(part), 1996)

### **2.28.135 QUALIFICATIONS-MAYORAL ELECTION.**

No person shall hold the office of mayor or be eligible to seek election to mayor unless a member of the city council.

(Ordinance 19-12-17-01, added Section 2.28.125; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(PART), 1996)

**2.28.140 DECLARATION OF CANDIDACY-FILING FOR GENERAL ELECTION.**

A person who wishes to become a candidate for an elected office shall complete and file a declaration of candidacy. The declaration shall be completed under oath before the city clerk and on a form provided by the city clerk. The declaration shall state definitely:

- A. The full name of the candidate and the manner it is to appear on the ballot;
- B. The full residence address of the candidate;
- C. The full mailing address of the candidate;
- D. The office for which the candidate declares;
- E. That the candidate is a qualified voter and resident of the city;
- F. That the candidate agrees to serve if elected to the office of councilmember for a term of three years or the remainder of the term of office elected.
  - 1. The City Clerk shall post a notice containing the date, time and place of filing a declaration of candidacy in at least three (3) locations within the City, in a newspaper of general circulation if there is one in the area, and may post a notice on the City's website, before a candidate may submit a declaration.
  - 2. A person seeking elective office shall file a Declaration of Candidacy form along with a Financial Disclosure Statement to the Office of the City Clerk.
  - 3. A declaration of candidacy filing period shall be filed with the City Clerk not earlier than 50 days and not later than 30 days before the election. No declaration of candidacy may be filed on weekends.

**2.28.150 DECLARATION OF CANDIDACY-FILING FOR MAYORAL ELECTION.**

- A. A council member who wishes to become a candidate for mayor shall complete and file a declaration of candidacy.
- B. The declaration shall be completed under oath before the city clerk. The declaration shall state definitely:
  - 1. The full name of the candidate and the manner it is to appear on the ballot;
  - 2. The full residence address of the candidate;
  - 3. The full mailing address of the candidate;
  - 4. That the candidate agrees to serve if elected to the office of mayor for a term of two years.
- C. A declaration of candidacy for the office of mayor shall be filed with the city clerk not earlier than the certification of the general election nor later than four days after certification of the general or general runoff election.

D. In the event that only one council member files a declaration of candidacy for the office of mayor, the council shall certify that candidate as winner of the mayoral election by default, and no mayoral election shall be held.

(Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(PART), 1996)

### **2.28.160 DECLARATION OF CANDIDACY-RECORD.**

The city clerk will maintain a record containing the name and address of every person who filed a declaration of candidacy and also the date and time of the filing. (Ord. 96-24 § 4(part), 1996)

### **2.28.170 DECLARATION OF CANDIDACY-TIME FOR WITHDRAWING CANDIDACY.**

A candidate may withdraw his declaration of candidacy through the last day for filing declarations, by submitting a written notice of withdrawal with the city clerk.

(Ord. 96-24 § 4(part), 1996)

### **2.28.180 NOTICE OF ELECTION.**

The city clerk shall give at least twenty days' notice of each general, mayoral or special elections by posting notices in three locations within the city; If the city has two or more precincts or polling places within the city limits, the clerk shall post notices of elections in each voting precinct or polling place.

(Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(part), 1996)

### **2.28.190 ELECTION NOTICE CONTENTS.**

Notices for general, mayoral or special elections must contain the following:

- A. The date of the election;
- B. The offices to be filled or the propositions to be voted upon;
- C. The time the polling places will open and close;
- D. The location of city polling places;
- E. A boundary description of the voting precinct or a reference to the Alaska Administrative Code sections establishing precinct boundaries;
- F. The procedure for declaring candidacy; and
- G. Whether the election is general, mayoral or special.

(Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(part), 1996)

### **2.28.200 ELECTION BOOTHS.**

At each polling place the city clerk shall provide voting booths and enough supplies and materials to enable each voter to mark his ballot unobserved. At least three sides of each voting booth shall be within plain view of the judges, clerks, voters and other persons at the polling places. (Ord. 96-24 § 4(part), 1996)

### **2.28.210 FURNISHING INSTRUCTION CARDS.**

The city clerk will furnish to each election Judge written instructions on voting procedures for the guidance of voters, including but not limited to.

1. How to obtain ballots;
2. The manner for marking them;
3. The method for obtaining information; and
4. How to obtain a new ballot to replace any ballot destroyed or spoiled.

(Ord. 96-24 § 4(part), 1996)

### **2.28.220 BALLOTS-PRINTING AND INSPECTION.**

In all city elections, the city clerk will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk, at least fifteen days before the general election. Ballots shall be available for inspection by the candidates or the public through a public records request. (Ord. 96-24 § 4(part), 1996)

### **2.28.230 BALLOTS-FORM.**

- A. A ballot shall show the list of candidates and issues to be decided at the election.
- B. Before the list of candidates for each office there will be placed the words "vote for not more than one,"
- C. Under the title of each office and below the printed names of the candidates, there will be printed the number of candidates to be elected to the office.
- D. Somewhere on the ballot, so as to be clearly visible, will be printed the words:
  1. "OFFICIAL BALLOT";
  2. The date of the election; and
  3. The City Seal along with the signature of the clerk who had the ballots printed.
- E. The ballots will be printed on plain white paper and numbered in consecutive order. The names of the candidates will be printed 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 on each side will be printed.

- F. The names of candidates shall be printed as they appear upon the declarations of candidacy filed with the city clerk, in the order received, except that any honorary or assumed title or prefix shall be omitted.
- G. 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" shall be placed below the statement of each proposition and question. (Ord. 96-24 § 4(part), 1996)

#### **2.28.240 SAMPLE BALLOTS.**

The city 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." Sample ballots will be delivered to the election board in each voting place. (Ord. 96-24 § 4(part), 1996)

#### **2.28.250 DIVISION OF ELECTIONS PRECINCT LISTS-DISTRIBUTION TO PRECINCT OFFICIALS.**

Prior to the opening of the polls, the city clerk shall deliver a division of elections precinct list to the election judges. The precinct list will provide enough space to allow voters to sign their name. The signing of the precinct list is a declaration by the voter that he is qualified to vote. A record shall be kept in a separate register of the names of persons who are required to vote a questioned ballot. (Ord. 96-24 § 4(part), 1996)

#### **2.28.260 TIME FOR OPENING AND CLOSING POLLS.**

- A. On the day of any election, each election board shall open the polls for voting at eight in the morning **FOR REGULAR MUNICIPAL ELECTIONS AND SEVEN IN THE MORNING DURING A PRESIDENTIAL VOTING YEAR**, shall close the polls for voting at eight 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 at seven thirty in the morning of an election day.

- B. Ten minutes before the closing of the polls, a judge or clerk shall announce to all persons present the time remaining before the polls close. When the polls are closed, no ballots will be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed. (Ord. 96-24 § 4(part), 1996)

### **2.28.270 DISTRIBUTION OF BALLOTS.**

- A. The city clerk shall deliver the ballots to the election judges 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 of each package shall be taken from the election judges to which it is delivered and saved by the city clerk. No ballots shall 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 time the ballots are delivered.
- C. When the ballots are returned, the clerk shall record the following:
  - 1. The number of the ballots returned;
  - 2. The time when the ballots are returned;
  - 3. The name of the person returning the ballots;
  - 4. The condition of the ballots. (Ord. 96-24 § 4(part), 1996)

### **2.28.280 PREPARATION OF BALLOT BOX.**

Before receiving any ballots, the election judges or City Clerk must, in the presence of all persons present at the polling place, open and exhibit the ballot box to be used at the polling place. After showing the box, the box will be sealed and not opened again until the polls are finally closed. At the close of the polls and after deposit into the ballot box of all ballots properly voted upon, the ballot box will be personally opened by the election judges or City Clerk in the presence of all persons present at the polling place. (Ord. 96-24 § 4(part), 1996)

**2.28.290 VOTING PROCEDURE.**

- A. A voter shall give the judges his/her name and sign his/her name adjacent to his printed name in the precinct list. If any judge present believes the person is not qualified to vote, he/she immediately shall question the voter.
- B. If the voter is not questioned, he/she shall be given one ballot with the ballot number torn off by the election judge and shall retire alone to a voting booth. There the voter without delay shall prepare his ballot by marking the boxes opposite the names of candidates of this choice, whether printed on the ballot or written in by him on the blank lines provided for the purpose. The voter also marks the boxes for questions and propositions. Before leaving the voting booth, the voter shall fold his ballot and deliver it to the ballot box.
- C. A voter who by accident or mistake spoils his ballot shall, upon returning the spoiled ballot to the judges, be given another ballot. The number of the spoiled ballot shall be recorded on the ballot accountability sheet by the judges and the spoiled ballot shall be destroyed in front of the voter. A voter who is blind or otherwise incapable of marking his ballot shall be assisted in doing so by a judge if he/she requests such assistance. (Ord. 96-24 § 4(part), 1996)

**2.28.300 MARKING OF BALLOTS BY VOTERS.**

- A. A voter may mark his ballot only by the use of cross marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks or plus signs that are clearly spaced 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 mostly inside the square provided or touching the square so as to indicate clearly that the voter intended the particular square to be designated.
- F. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates made properly. No ballot shall be rejected if the election

judges can determine the candidate for whom the voter intended to vote or proposition to be chosen.

- G. An erasure or 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.
- I. Write-in votes are invalidated if the voter fails to mark the square provided.
- J. Write-in candidates will not be counted towards determining the winning candidate unless the candidate has filed a declaration of intent with the city clerk not earlier than the last day of filing period for declaration of candidacy and not later than 12 pm on the Friday before the election. The declaration of intent shall state:
  - 1. The full name of the candidate.
  - 2. The full residence and mailing address of the candidate;
  - 3. The seat in which the candidate wishes to be written in on the ballot by the voter;
  - 4. The date of the election in which the candidate seeks election;
  - 5. A certification by the candidate that the candidate:
    - a) Is a qualified voter;
    - b) Is a resident of the City
    - c) Qualifies or shall qualify as of the date of election, for the office to which the candidate seeks election;
    - d) Shall serve if elected; and
    - e) Is not a candidate for any other office to be voted on at the election.

### **2.28.320 QUESTIONING A VOTER'S BALLOT.**

If a voter's right to vote is questioned by an election judge, City Clerk or other qualified voter in the city, the voter shall be allowed to vote, and any election official shall consider the ballot a questioned ballot. (Ord. 96-24 § 4(part), 1996)

### **2.28.330 QUESTIONED BALLOTS-DISPOSITION.**

Before voting a questioned ballot, the voter shall take an oath and sign an affidavit provided by the election judge or city clerk attesting to the fact the voter is a qualified voter. After the questioned voter has taken the oath and signed the

affidavit, the voter may vote. After a questioned voter has cast his ballot, the questioned voter will insert the ballot into an envelope with the signed oath and affidavit taped or glued to the outside of the envelope. If the questioned person refuses to take the oath or sign the affidavit, the person may not vote. The election judges shall deliver the oath and affidavit envelope to the city clerk. The city clerk will present these materials to the canvass committee and assist the canvass committee in determining the validity of the question. (Ord. 96-24 § 4(part), 1996)

### **2.28.340 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. 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 precinct list and questioned ballot list. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the precinct list and questioned ballot list, the ballots shall be recounted until the election board finds that there is an unexplained error or that the number of ballots cast matches the number of ballots indicated by the precinct list and questioned ballots list. If a discrepancy is determined to exist between the number of votes cast and the precinct list and questioned ballot list, it shall be explained in detail on the tally paper or papers, and the explanation shall be signed by the election judges.
- B. The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done in full view of any person's present. The public may not be excluded from the area in which the ballots are counted. However, the election board chairman and/or the City Clerk 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.
- C. Write-in votes shall be tallied but not used to determine percentage for the winning vote unless the person written in has filed a declaration of intent with the City Clerk as set forth in section 2.28.300 (j) of this chapter.

**2.28.350 DEFECTIVE AND UNUSED BALLOTS.**

If a voter shall mark more names than there are persons to be elected to any office, or if for any reason it is impossible to determine from his ballot any 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 judges can determine the person for whom the voter intended to vote. Ballots not counted shall be marked "Defective" on the back. An explanation of the defect 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 the label "defective ballots." All ballots not voted on shall be returned by the judges to the city clerk, who shall give a receipt for them and keep a record of the number and condition of ballots returned to him, indicating when and by which judge each was returned. (Ord. 96-24 § 4(part), 1996)

**2.28.360 ELECTION CERTIFICATE.**

After the votes are announced and counted, a certificate will be drawn stating the number of votes each person has received and designating the office for which he has run. The poll lists and tallies will be attached to the certificate. The certificate will be signed by the election judges. The precinct list tallies or tally papers, oath of judges, oaths of voters, other papers, and the certificate will be delivered to the city clerk. (Ord. 96-24 § 4(part), 1996)

**2.28.370 MAJORITY DECISION OF ELECTION JUDGES.**

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

**2.28.380 PROHIBITIONS NEAR ELECTION POLLS.**

During the hours the polls are open, no person who is in the polling place or within two hundred 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. 96-24 § 4(part), 1996)

**2.28.390 CANVASS COMMITTEE-MEETING-POSTPONING CANVASS.**

The canvass committee will meet on the first Friday after ~~the~~ ANY MUNICIPAL election and canvass all absentee and questioned ballots executed in the election. The canvass may be postponed from day to day for cause but not exceeding three days in total. (Ord. 96-24 § 4(part), 1996)

**2.28.400 CANVASS TO BE MADE PUBLIC.**

- A. The canvass of all absentee and questioned ballots will be made in public by opening the returns and announcing the results thereof in front of those present.
- B. Absentee ballots shall be counted by the city clerk and two or more assistants in the following manner: All ballot envelopes shall be removed from return envelopes and placed in a ballot box. The return envelopes shall be delivered to the city clerk. The absentee ballots shall one by one be removed from the ballot box, taken out of the ballot envelopes and counted, in the same manner in which ballots cast at the polls are counted.
- C. The canvass shall include a review and comparison of the tallies of paper ballots with the election certificates to correct any mathematical error in the count of paper ballots.
- D. If the city clerk finds an unexplained error in the tally of paper ballots, he may count the ballots from the ballot box. (Ord. 96-24 § 4(part), 1996)

**2.28.410 INVESTIGATION OF QUESTIONED BALLOTS.**

The canvass committee may request the assistance of the city clerk to investigate the questioned ballots. Any city elector may appear to give testimony concerning the questioned ballots. The City Clerk will check with the Division of Elections to determine whether the questioned ballot voter was a registered voter of the City. The council may accept or reject a questioned ballot. If a questioned ballot is rejected, the ballot rejected will not be opened or counted, but will be saved as are other ballots. If a questioned ballot is accepted, the ballot accepted will be counted with the absentee ballots. The city clerk will notify a voter whose ballot is not counted that the ballot was rejected. (Ord. 96-24 § 4(part), 1996)

### 2.28.420 QUESTIONED BALLOTS-SUBPOENAS.

The council may order testimony of witnesses and issue subpoenas while investigating questioned ballots. The subpoenas may be enforced by the court upon certification as provided by the state of civil procedure concerning the enforcement of administrative and state agency subpoenas.

(Ord. 96-24 § 4(part), 1996)

### 2.28.430 CANVASS COMMITTEE-REPORT-CONTENTS.

The canvass committee will submit a report of its findings at a special meeting on the first Monday following the election. The report will show:

- A. The number of ballots cast in the election;
- B. The names of the persons voted for and the propositions 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 voted on at the election;
- E. A proposed disposition of all absentee, write-in, questioned and voided ballots; and
- F. Other matters which the canvass committee may determine to be necessary. (Ord. 96-24 § 4(part), 1996)

### 2.28.440 RESULTS OF ELECTION-PUBLIC DECLARATION.

- A. If a contest is not begun under the provisions of Article VIII of this chapter, the results of the **REGULAR OR MAYORAL** election shall be publicly declared by the council and entered in the minutes of a special meeting of the council on the first Monday following the **REGULAR OR MAYORAL MUNICIPAL** election.
- B. If a contest is declared and resolved, the result of the election shall be publicly declared by the council and entered in the minutes of a special meeting of the council within a week after the contest is resolved. (Ord. 96-24 § 4(part), 1996)

### 2.28.450 CERTIFICATE OF ELECTION.

The city council will authorize the city 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 display the corporate seal of the city. (Ord. 96-24 § 4(part), 1996)

**2.28.460 ABSENTEE VOTING-ELIGIBLE PERSONS.**

Any qualified voter, who expects to be absent from the city or who will be unable to vote by reason of physical disability on the day of any election, may cast an absentee ballot. (Ord. 96-24 § 4(part), 1996)

**2.28.470 ABSENTEE BALLOT-APPLICATION-FILING.**

- A. A person who seeks to vote by absentee ballot may file either in person or by mailing his written application to the city clerk.
- B. An application made by mail must be received by the city clerk, no less than five days before a city election. An application made in person must be filed with the city clerk not earlier than 30 days before the city election date, and no later than **CLOSING OF THE POLLS ON ELECTION DAY** ~~the close of business on the day before a~~ city election.
- C. The application must be signed by the applicant and show his place of residence.
- D. Nothing in this section is intended to limit the city clerk in personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the city clerk's office for an absent voter's ballot. (Ord. 96-24 § 4(part), 1996)

**2.28.480 ABSENTEE BALLOT-DELIVERY.**

Upon receipt of an application for an absentee voter's ballot, the clerk will check the latest state registration listings to determine whether the applicant is a qualified voter. If the applicant is a qualified voter, the clerk will deliver to the applicant, personally or by mailing to the address given by the applicant, an official ballot for the election, an identification envelope and a return envelope. If the absentee voter's ballot is personally delivered, it shall be completed before the clerk at the time of delivery. (Ord. 96-24 § 4(part))

**2.28.490 ABSENTEE BALLOT-NOTATION OF BALLOT NUMBER AND DATE OF APPLICATION.**

Upon personal delivery or the mailing of absent voter's ballot, the clerk will enter on the space provided in the absentee voter by mail register, the number of the

ballot and the date the ballot was delivered or mailed. On election day, the clerk will give the election judges a list of voters who have voted absentee in the form of the ballot accountability register and it will clearly indicate who voted by mail absentee and who voted in person absentee prior to polls being opened. (Ord. 96-24 § 4(part), 1996)

### **2.28.500 ABSENTEE BALLOT-COMPLETION-RETURN.**

The identification envelope and return envelope provided to the voter will be of a form, size and weight as determined by the city clerk. The identification envelope for by mail ballots will have printed on its face an affidavit as follows:

-----  
 "IDENTIFICATION ENVELOPE"  
 State of Alaska)  
 ) SS:

I \_\_\_\_\_, State that: I am a resident of and a voter in the city of \_\_\_\_\_, Alaska, and I hereby enclose my ballot. \_\_\_\_\_ VOTER  
 (SEAL) Residence address within the city \_\_\_\_\_ SUBSCRIBED AND SWORN before me, this day of \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_ m. (note time zone). I hereby certify in my presence this affiant enclosed a ballot and handed me this envelope sealed; that he signed this affidavit and I acknowledged his signature and affidavit, 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 city clerk of the City of \_\_\_\_\_, you must immediately return it by mail, postage prepaid, to the City Clerk, P.O. Box 19110, Thorne Bay, Alaska 99919

MARKED BALLOT ENCLOSED TO BE OPENED ONLY BY CANVASSING  
 COMMITTEE -----

### **2.28.510 ABSENTEE BALLOT-EXECUTION IN CITY.**

A voter who receives an absentee voter's ballot may, on any day prior to the day of the election, appear at the office of the city clerk, and execute his ballot 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. He 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 to him in a manner that permits the clerk to see the number of the ballot. The voter will then hand the envelope to the clerk, who will examine it. If the clerk determines that the ballot is numbered correctly, he 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. He will seal the envelope and deliver it to the clerk.
- C. The clerk will certify the affidavit printed on the identification envelope by writing or stamping his name across the seal. The clerk will deposit the envelope in a safe place in his office, to be kept by him and delivered to the canvassing committee.

If an absentee voter returns to the city on Election Day, he will not be allowed to vote unless he surrenders the absentee voter's ballot and any other supplies mailed to him. (Ord. 96-24 § 4(part), 1996)

#### **2.28.520 ABSENTEE BALLOT-EXECUTION OUTSIDE CITY.**

- A. After receiving an absentee voter's ballot, the voter may appear on any day prior to and including the day of the election, before a notary public, post master, clerk or officer of any city, state, territory or district within the United States. Before the officer he may complete his ballot as set out in Section 2.28.510 of this chapter.
- B. Absentee ballots executed outside of the City may be faxed to ensure receipt by the City Clerk prior to canvass. Ballot by fax must contain a disclaimer that the voter understands his/her vote cast will not be secret.

(Ord. 96-24 § 4(part), 1996)

#### **2.28.530 ABSENTEE BALLOT-RECEIPT.**

To be counted an absentee voter's ballot must be executed before the polls close in the city and be received by the clerk prior to the time the ballots are canvassed by the canvassing committee.

(Ord. 96-24 § 4(part), 1996)

**2.28.540 ABSENTEE BALLOT-VOTING SUPPLIES.**

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

(Ord. 96-24 § 4(part), 1996)

**2.28.550 LIBERAL CONSTRUCTION.**

This article will be liberally interpreted, so as to accomplish the purposes set forth.

(Ord. 96-4 § 4(part), 1996)

**2.28.560 CONTEST OF ELECTION.**

- A. Any candidate or any ten qualified voters may contest the election of any person and the approval or rejection of any question or proposition.
- B. A candidate or elector who believes that prohibited practices occurred at an election will appear before the council at the special council meeting held on the first Monday following the election. He will deliver a sworn written notice of contest, which will state with particularity the provisions of the law which he believes were violated and the specific acts he believes to be misconduct.

- C. A notice shall read:

"NOTICE OF ELECTION CONTEST"

The undersigned believes that prohibited practices occurred at the election held on \_\_\_\_\_

The undersigned states that the following laws were violated:

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

Signature of Person Contesting

SUBSCRIBED AND SWORN to before me, this day of , 20 .

Notary Public in and for Alaska; My Commission Expires:

(Ord. 96-24 § 4(part), 1996)

**2.28.570 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 city election for any cause or reason unless the person is qualified to vote in the city, has exhausted his administrative remedies before the city council and has commenced, within ten days after the council has finally declared the election results, an action in the superior court in the city's judicial district. If no such action is commenced within the ten-day period, the election and election results shall be conclusive, final and valid in all respects. (Ord. 96-24 § 4(part), 1996)

### **2.28.580 CONTEST OF ELECTION-INVESTIGATION.**

The city council will order an investigation to be made by the city clerk and/or the mayor, if a notice of contest is received. Investigation proceedings will be public. (Ord. 96-24 § 4(part), 1996)

### **2.28.590 BALLOT RECOUNT.**

If only a recount of ballots is demanded, the election board where the error allegedly occurred shall recount the ballots.

(Ord. 96-24 § 4(part), 1996)

### **2.28.600 PROHIBITED PRACTICES ALLEGED.**

When the contestant alleges prohibited practices, the council will direct the city clerk to produce the original register books for the election. (Ord. 96-24 § 4(part), 1996)

### **2.28.610 SUSTAINED CHARGES-RECOUNT.**

If the charges alleged by the contestant are upheld, the canvassing committee will make a recount and report immediately to the council. The council will then certify the correct election returns as provided in Section 2.28.440 of this chapter. (Ord. 96-24 §4(part), 1996)

### **2.28.620 DETERMINATION OF TIE-VOTES.**

If after a recount and appeal two or more candidates tie in having 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. (Ord. 96-24 §4(part), 1996)