

TITLE 5
ELECTIONS

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CHAPTER 5.10

CITY OF EDNA BAY ELECTIONS

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Section 5.10.010 - Administration.

The city 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 (45) days before the date of the election and for a special election as expeditiously as possible. The clerk shall contact the State of Alaska, Division of Elections, and making certain the city has on hand, before any election, the most current official voter registration list. The city clerk shall act as clerk to the election board.

Section 5.10.020 - Voter qualifications.

A person shall be qualified to vote in city elections who:

- (a) Is a United States citizen who is qualified to vote in State of Alaska elections;
- (b) Has been a resident of the City of Edna Bay and a registered voter in Alaska for at least thirty (30) days immediately preceding the election;
- (c) Is not disqualified under Article V of the Constitution of the State of Alaska which provides that: "No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed."

[Ord. 17-10CO]

Section 5.10.030 - Residence criteria.

When determining residence for the purpose of qualifying voters the following criteria will apply:

- (a) No person may be considered to be a resident by reason of being present nor may residency be lost solely by reason of absence while in the civil or military service of the state or of the United States, or by absence because of marriage to a person engaged in the civil or military service of the state or the United States, while a student at an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of the state, of the United States or of the high seas, while residing upon an Indian, Native Alaskan, or military reservation, or while residing in an Alaska Pioneer's Home.
- (b) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever absent, the person has the intention to return. If a person resides in one (1) place, but does business in another, the former is the place of residence. Temporary construction camps do not constitute a dwelling place.
- (c) A change of residence is made only by the act of moving joined with the intent to remain in another place. There can only be one (1) residence.
- (d) A person does not lose his residence if he leaves his home and goes to another country, state or place in Alaska for temporary purposes only and with the intent of returning.
- (e) A person does not gain residency by coming to the city without the present intention to establish his permanent dwelling in this city.
- (f) A person loses residence in this city by voting in an election of another city or state, either in person or by absentee ballot, and will not be eligible to vote in this city's municipal elections until again qualified under this chapter.
- (g) The term of residence is computed by including the day on which the person's residence begins and excluding the day of election.
- (h) The address of a voter as it appears on his official state voter registration card is presumptive evidence of the person's voting residence. If the person has changed his voting residence, this presumption is negated only by the voter executing an affidavit on a form prepared by the supervisor of elections setting out his new voting residence.

Section 5.10.040 - General elections.

The regular general election for council members and other elected city officials shall be held each year on the first Tuesday in October. Questions or propositions may be placed on the ballot at this time.

Section 5.10.045 - Special elections.

If a special election is required by act of the city council, the city council shall resolve that a special election on the question proposed by the council's ordinance or resolution be held no sooner than ten (10) weeks following the council's action.

Section 5.10.050 - Tie Break election.

- (a) As necessary in the event of a tie vote for the last available seat being filled during a General Election (as defined in Section 5.10.080), and after a recount of ballots that confirms the tie vote the council shall in its first meeting after the election call a Tie Break Election that must be noticed no later than two (2) weeks after the order and concluded in thirty (30) days.
- (b) The Tie Break Election must follow all normal election procedures. There shall be no write in candidate during the Tie Break Election.

[Ord. 17-10CO]

Section 5.10.060 - Election notices.

- (a) Election notices shall be prepared and posted in three (3) public places by the city clerk for forty five (45) days preceding the date of an election, and shall contain the following, as is appropriate:
 - 1) Whether the election is general, special or tie break;
 - 2) Date of election
 - 3) Location of the city polling place(s);
 - 4) Time the polling place(s) will open and close;
 - 5) Offices to be filled or a statement of any questions or propositions to be placed on the ballot;
 - 6) A statement describing voter qualifications; and
 - 7) Time for filing declarations of candidacy.

Section 5.10.070 - Determining election winner.

- (a) All candidates shall be listed for the same office: "City Council".
- (b) 3-year term seats shall be sequentially assigned to the candidates receiving the most votes progressively (For example, "A" first, "B" second, and so forth...) until all available 3-year seats are filled. Vacant seats with 2-year terms are filled next, followed by those with a 1-year term.

[Ord. 17-10CO]

Section 5.10.080 - Tie votes.

- (a) If there are seats available for all candidates running for office, ties shall be determined by lot/coin toss during the canvass meeting by any city or election official not running for office during the current election.

1) When a tie occurs between an incumbent and a candidate, and one of the two seats is a vacancy, the incumbent shall receive the seat with a 3-year term and the other candidate fill the remaining term of the vacant seat.

2) In the event of a tie vote for the last available seat, a Tie Break election will be held. If the Tie Break election results in a tie, the winner will be determined by coin toss or straw pull.

(b) Referendums, ballot initiatives, or recall votes resulting in a tie shall fail.

[Ord. 17-10CO]

Section 5.10.090 - Qualifications for city council.

(a) All elections of council officials shall be non-partisan.

(b) A person filing for office for a city seat must be:

1) A United States citizen who is qualified to vote in state elections;

2) A resident of the City of Edna Bay for one (1) year immediately preceding the election for which declaring candidacy;

3) Not disqualified under Article V of the Constitution of the State of Alaska which provides that: "No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed."

Section 5.10.100 - Filing for office.

(a) A person who wishes to become a candidate for an elective office shall complete and file a declaration of candidacy with the city clerk and submit a petition with signatures of ten (10) qualified voters (as defined in Section 5.10.020). This shall be filed no sooner than forty-five (45) days and no later than twenty (25) days before the election.

(b) A person filing for a city council seat must meet the qualifications of Section 5.10.090.

Section 5.10.110 - Withdrawal, written notice.

A candidate may withdraw their candidacy no later than the last day for filing candidacy declarations, by filing a written notice of withdrawal with the city clerk.

Section 5.10.120 - Publishing names.

The city clerk shall post in three (3) public places at least ten (10) days preceding the day of election, a sample ballot with candidate names and any questions to be voted on.

Section 5.10.130 - Election judges.

- (a) The council shall each year choose three (3) city voters as volunteer judges to be the election board at each polling place and select one (1) of the judges to chair the board. The judges shall not be council members or 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.
- (b) The city clerk shall give the following written oath to all election judges on or before Election Day:

I, _____ do solemnly swear that I will honestly, faithfully and promptly perform the duties of election judge to the best of my ability and that I am familiar with the City's election ordinances.

SIGNED _____

ATTEST: _____

City Clerk

CHAPTER 5.20

ELECTION EQUIPMENT AND MATERIALS

Sections:

- 5.20.010 Election booths**
- 5.20.020 Furnishing instruction cards**
- 5.20.030 Ballots; printing; sample ballots**
- 5.20.040 Ballots; form**
- 5.20.050 Other materials**

Section 5.20.010 - Election booths.

The election supervisor shall provide a booth at each polling place, with enough supplies and materials to enable each voter to mark a ballot hidden from observation. At least three (3) sides of the booth shall be hidden or protected from the judges and clerks, voters, and other persons at the polling places.

Section 5.20.020 - Furnishing instruction cards.

- (a) The election supervisor shall prepare for each polling place instructions for the guidance of voters covering the following:
 - 1) How to obtain a ballot;
 - 2) How to mark a ballot;
 - 3) How to obtain additional information, and;
 - 4) How to obtain a new ballot to replace any ballot destroyed or spoiled.
- (b) The election supervisor shall furnish these instruction sheets to the election judges in the voting place.

Section 5.20.030 - Ballots; printing; sample ballots.

In all city elections, the city clerk as election supervisor will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk at least twenty (20) days before the day set for a general or special election. There shall be at least three (3) ballots printed on color paper, watermarked with the words "SAMPLE BALLOT", laminated and posted in three (3) public places until election day and then given to the judges at the polling place.

Section 5.20.040 - Ballots; form.

- (a) The ballots shall state at the top whether the election is regular, special or tie break, and be printed "OFFICIAL BALLOT" with the date of the election.
- (b) The ballots shall include instructions on how they are to be marked.

- (c) The ballots shall be printed on plain white paper and numbered in consecutive order to assure simplicity and secrecy and to prevent fraud. The clerk shall assure that there are one-third (1/3) more ballots printed and numbered than there are registered voters in the City of Edna Bay, in order to provide replacement ballots for ballots that may be spoiled by voters and for those persons who cast questioned ballots because their names do not appear on the master voter registration list.
- (d) A ballot shall show the list of candidates and issues to be decided at the election.
- (e) Before the list of candidates there shall be placed the words "vote for not more than three," or "vote for not more than two," or such other number as are to be elected.
- (f) The name of each candidate shall be listed in random order on each ballot, and followed by a blank line or lines for write-in candidates. In regular and special elections the number of blank lines provided shall be equal to the number of persons who are to be elected to city council.
- (g) The names of the candidates shall 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 ($\frac{1}{4}$) of an inch on each side shall be printed.
- (h) The first and last names of candidates shall be printed as they appear upon the declaration of candidacy filed with the city clerk, except that the middle name or initial and any honorary or assumed title or prefix shall be omitted.
- (i) Following the names of the offices and candidates, there shall be placed on the ballot in the form prescribed by law all propositions and questions to be voted upon, if any. Provision shall be made for marking the propositions or questions "Yes" or "No."

[Ord. 17-10CO]

Section 5.20.050 – Other materials.

At least ten (10) days prior to the day of the election, the clerk shall obtain or prepare the following materials:

- (a) An updated master voter registration list, containing the names, in alphabetical order, of all registered voters eligible to vote in the election;
- (b) Tally sheets;
- (c) A form for the report of preliminary election results;
- (d) Envelopes bearing the oath and affidavit of eligibility for questioned ballots;
- (e) Two (2) large envelopes for each polling place, one (1) marked "Spoiled Ballots" and the other marked "Questioned Ballots";

CHAPTER 5.30
ELECTION PROCEDURES

Sections:

- 5.30.010 Time for opening and closing polls**
- 5.30.020 Distribution of ballots**
- 5.30.030 Distribution of other election materials**
- 5.30.040 Preparation of ballot box**
- 5.30.050 Voting; general procedure**
- 5.30.060 Voting; spoiled ballots**
- 5.30.070 Voting; questioned ballots**
- 5.30.080 Assisting voter by judges**
- 5.30.090 Prohibitions**
- 5.30.100 Administration of oaths**
- 5.30.110 Majority decision of election board**
- 5.30.120 Ballots; counting and tallying**
- 5.30.130 Rules for counting ballots**
- 5.30.140 Report of election results**
- 5.30.150 Posting certificates of preliminary election results**

Section 5.30.010 - Time for opening and closing polls.

- (a) On the day of any election, the election board shall open the polls for voting at 8:00 a.m., shall close the polls for voting at 8:00 p.m., and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at 7:30 in the morning on an election day.
- (b) Fifteen (15) minutes before the closing of the polls, an election judge shall announce to all persons present the time remaining before the polls close. A judge shall announce when the polls close. As soon as 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.

Section 5.30.020 - Distribution of ballots.

- (a) Before the polls open on Election Day the election supervisor shall deliver the ballots and sample ballots prepared under Chapter 5.20 from the city safe to the election chairperson at the polling place. The ballots must be kept in the sealed package, in plain view of all present until the polls open at 8:00 a.m. No ballots may be taken from the polling place before the closing of the polls and must be kept in plain view under the care of an elections judge at all times, until the marked and unmarked ballots are delivered to the elections supervisor at the closing of the polls.
- (b) The election supervisor shall keep the following records:
 - 1) The number of ballots delivered to the polling place;

- 2) The time the ballots are delivered; and
 - 3) The name of the election judge chairperson to whom the ballots are delivered;
- (c) When the ballots are returned, the election supervisor shall record the following:
- 1) The number of ballots returned;
 - 2) The time when the ballots are returned;
 - 3) The name of the election judge chairperson returning the ballots; and
 - 4) The condition of the ballots.

Section 5.30.030 - Distribution of other election materials.

- (a) On Election Day, the election supervisor shall also furnish the election board judges at the polling place with a voting booth and a ballot box (with a lock or sealing materials); and the following materials:
- 1) The most current master voter registration list;
 - 2) Envelopes bearing the oath and affidavit of eligibility for questioned ballots;
 - 3) An envelope for the collection of spoiled ballots and an envelope for the collection of questioned ballots;
 - 4) A copy of the notice of election;
 - 5) The city's elections ordinances;
 - 6) A sufficient number of instruction sheets; and,
 - 7) A sufficient supply of pens, pencils, and envelopes.
- (b) The election supervisor shall supply the election board chairperson with tally sheets and forms for the report of preliminary election results.

Section 5.30.040 - Preparation of ballot box.

Before receiving any ballots, the election board 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 shall 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 shall be personally opened by the election judges.

Section 5.30.050 - Voting; general procedure.

- (a) A voter shall tell the judges or clerk(s) their name, and then sign next to their printed name on the master voter registration list. The signing of the master voter registration list is a declaration that the voter is qualified to vote. If the voter is not known to any judge or clerk present, the judge or clerk may require the voter to produce a state voter registration card or other identification. If, in the opinion of the judge or clerk, there is doubt, they shall immediately question the voter.
- (b) If the voter is not questioned, the judge or clerk shall give the voter a single ballot and note its number on the master voter registration list next to the voter's name. The voter shall then go alone to a voting booth. There the voter, without delay, shall prepare their ballot. Before leaving the voting booth, the voter shall fold their ballot in a manner displaying the number on the ballot and deliver it to one (1) of the judges or clerks, who shall, without unfolding the ballot or allowing any person to see how it is marked, remove the number stub and return the ballot to the voter if the ballot bears the same number as the ballot given to the voter by the judges and clerks. The voter shall then, in the presence of the election judge, deposit the ballot in the ballot box unless the voter requests the election judge to deposit the ballot on the voter's behalf.

Section 5.30.060 - Voting; spoiled ballots.

If a voter improperly marks or otherwise damages a ballot, and discovers any mistake before the ballot is placed in the ballot box, it shall be returned to an election official, concealing from view the manner in which it is marked, and a new ballot shall be requested. The election official shall write the words, "Spoiled Ballot," on the outside of the folded ballot, record its number, and place it in an envelope with other spoiled ballots for return to the election supervisor. The judge or clerk shall then issue a new ballot to the voter. A voter may request replacement of a spoiled ballot no more than two (2) times for a total of three (3) ballots.

Section 5.30.070 - Voting; questioned ballots.

- (a) Every election judge and election clerk may question, and any other person qualified to vote in the city may question a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote. If the questioned voter completes a ballot, the questions regarding a person's qualifications to vote shall be made in writing on the individual question ballot envelope setting out the reason the person has been questioned.
- (b) If a voter's name is not on the master voter registration list or a voter's eligibility to vote is questioned or there is some other question regarding a voter's eligibility, and the voter believes that he or she is registered and eligible to vote, then the voter shall sign an envelope bearing the Oath and Affidavit of Eligibility attesting to the fact that in each particular the person meets all the qualifications of a voter, is not disqualified, and has not voted at the same election. After the questioned person has executed the Oath and Affidavit of Eligibility the person may cast a questioned ballot. If the questioned person refuses to execute the Oath and Affidavit of Eligibility, the person may not vote.

- (c) A voter who casts a questioned ballot shall vote his ballot in the same manner as prescribed for other voters. After the election judge removes the numbered stub from the ballot, the voter shall insert the ballot into the envelope on which the Oath and Affidavit of Eligibility the voter previously signed is located. These envelopes shall be sealed and deposited in the ballot box. When the ballot box is opened, these envelopes shall be segregated, counted, compared to the voting list, sealed in the questioned ballots envelope and delivered to the election supervisor along with other election materials and the ballot statement when the election board completes the tally and account of ballots. The merits of the question shall be determined by the city council, meeting as the election review committee on the first Friday following the election.

Section 5.30.080 - Assisting voter by judges.

A qualified voter who cannot read, mark the ballot, or sign their name or who because of blindness or other physical disability, or who because of unfamiliarity with the system of voting needs assistance, may request an election judge of their choice to assist. If the election judge is requested, the judge shall assist the voter.

Section 5.30.090 - Prohibitions.

- (a) No voter may leave the polling place with the official ballot that the voter received to mark.
- (b) No voter may exhibit a ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot.
- (c) No election official may, while the polls are open, open any ballot received from a voter, or mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked the ballot, or allow the same to be done by another person.
- (d) No election official may allow a ballot which they know to have been unlawfully exhibited by a voter to be placed in the ballot box. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and placed in the spoiled ballot box.
- (e) During the hours that the polls are open, no judge or clerk may discuss any political party, candidate or issue while on duty.
- (f) During the hours that polls are open, no person who is in the polling place or within two hundred (200) feet of any entrance to the polling place may attempt to persuade a person to vote for or against a candidate, proposition or question. The election judges shall post warning notices of the required distance in the form and manner prescribed by the supervisor of elections.

Section 5.30.100 - Administration of oaths.

Any election judge may administer to a voter the Oath and Affidavit of Eligibility.

Section 5.30.110 – Elections Supervisor.

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

Section 5.30.120 - Ballots; counting and tallying.

- (a) Immediately after the polls close and last vote has been cast, the election judges shall make note of the numbers of the unused ballots, and then destroy them prior to the opening of the boxes containing the ballots. The ballot boxes may not be opened until all of the unused ballots have been destroyed. Unused ballots must be destroyed in plain public view. Ballots may not be counted before 8:00 p.m. on the date of the election. 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 persons present. The public may not be excluded from the area in which the ballots are counted. However, the election supervisor 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 (1) by one (1), and tally the number of votes for each candidate and for or against each proposition or question. 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.
- (b) The election judges shall account for all ballots by completing a ballot statement containing:
 - 1) The number of ballots received;
 - 2) The number of ballots voted;
 - 3) The number of ballots spoiled;
 - 4) The number of ballots unused.
- (c) The judges shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. If any discrepancies in numbers of ballots received and ballots accounted for are found, the ballots shall be recounted until the election judges find that the number of ballots accounted for are the same as the number received or that there is an unexplained error. If a discrepancy is determined to exist between the ballots received and those accounted for it shall be explained in detail on the ballot statement and the explanation signed by the election judges.

Section 5.30.130 - Rules for counting ballots.

- (a) The election board shall count ballots according to the following rules:
 - 1) A voter may mark their ballot only by the use of a mark clearly indicated in the square opposite the name of the candidate the voter desires to designate.
 - 2) A failure to properly mark a ballot as to one (1) or more candidates or propositions does not itself invalidate the entire ballot.

- 3) If a voter marks more names than there are seats to be elected the votes for that section will not be counted.
 - 4) The mark specified in subsection (a)(1) of this section shall be counted only if it is mostly inside the square provided.
 - 5) Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.
 - 6) An erasure or correction invalidates only that section of the ballot in which it appears.
 - 7) Write-in votes are not invalidated if the voter fails to mark the square provided if in the opinion of the judges the voter intended to vote for the person whose name was written-in as a write-in vote. To be counted, write-in candidates must also be marked with an "X" within the box next to their name.
 - 8) No ballot shall be rejected if the election judges can determine the person for whom the voter intended to vote.
 - 9) No candidate shall receive more than one vote per ballot.
- (b) The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot section may not be counted unless marked in compliance with these rules.
- (c) The election judges shall write the word "Defective" on the back of each ballot which they determine should not be counted, in whole or in part, for any of the reasons (other than failure of the voter to mark any choice with respect to a particular seat or proposition) stated in subsection (a) of this section. If only a portion of the ballot is invalid, the valid votes shall be counted and the judges shall specify on the back of the ballot exactly which portion or portions have not been counted.
- (d) If a particular objection is made to the counting of all or any part of a ballot, but the election judges determine that the votes shown should be counted, the judges shall write the words "Objected to" on the back of the ballot and specify the portion or portion of the ballot to which the objection applies.
- (e) All defective ballots and all ballots objected to shall be sealed in a single envelope marked "Defective Ballots," which shall be delivered to the election supervisor.

[Ord. 15-04CO]

Section 5.30.140 - Report of election results.

- (a) When the count of ballots is completed, the election judges shall make a certificate in duplicate of the results using the Report of Preliminary Election Results form. The report shall include the number of votes cast for each candidate, for and against each proposition, yes or no on each question and any additional information the election judges deem relevant or prescribed by the election supervisor. All election judges shall immediately upon completion of the report sign both copies of the report. The election judges shall immediately upon completion of the certificate deliver to the election

supervisor one (1) of the two (2) original certificates and the master voter registration list, register of voters, tallies, oaths of judges, Oaths and Affidavits of Eligibility, questioned ballots, defective ballots, spoiled ballots and other election documents in one (1) sealed package, and in a separate sealed package, all ballots properly cast. An election judge shall keep the duplicate of the report of election in a safe place and present it to the council on the Friday following the election when they meet.

- (b) The election supervisor shall place all election materials received from the election judges in the city safe until the council meets on the Friday following the election.

Section 5.30.150 - Posting certificates of preliminary election results.

The clerk shall post copies of the certificate of preliminary election results in three (3) public places the day after the preliminary election results are known. The notice shall include:

- (a) The time and place of the council meeting to be convened to consider the election results;
- (b) That the results do not reflect the votes of absentee and questioned ballots and are not final until the council formally certifies the election; and
- (c) That anyone has the opportunity to contest the election at the meeting.

CHAPTER 5.40
ABSENTEE VOTING

Sections:

- 5.40.010** **Absentee voting; eligible persons**
- 5.40.020** **Absentee ballots; application; filing**
- 5.40.030** **Ballot and envelope form**
- 5.40.040** **Absentee voting procedures**
- 5.40.050** **Absentee ballots; delivery**
- 5.40.080** **Voting at the polls, absentee voters; surrender of materials**
- 5.40.090** **Retention of absentee ballots; delivery**
- 5.40.100** **Liberal construction**

Section 5.40.010 - 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.

Section 5.40.020 - Absentee ballots; application; filing.

- (a) A person who seeks to vote by absentee ballot may file either in person or by mailing a written application to the city clerk.
- (b) An application made in person or by mail must be received by the city clerk no more than forty-five (45) days before and no later than noon on the day preceding a city election.
- (c) The application must be signed by the applicant and show their place of residence.
- (d) No absentee voter's ballot may be mailed to any address in the city. Any voter present in the city who requires an absentee ballot shall personally obtain the ballot from the city clerk.

Section 5.40.030 - Ballot and envelope form.

The ballot provided to absentee voters shall be identical to the ballots prepared for regular voters and used on Election Day. The ballot envelope shall have printed upon its back the Oath and Affidavit of Eligibility witnessed by a notary or postmaster. The ballot envelope shall be smaller than the return envelope so it may be easily enclosed in the return envelope.

Section 5.40.040 - Absentee voting procedures.

- (a) The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with Section 5.20.040 together with a ballot envelope and an unstamped return envelope.
- (b) The clerk shall not issue an absentee ballot sooner than twenty (20) days before the election.

- (c) Upon issuing an absentee ballot to a voter the clerk shall enter in the blank register the following information:
- 1) The number of the ballot issued;
 - 2) The name of the voter to whom it was issued;
 - 3) And the date on which the ballot was issued.
- (d) Before the opening of the polls on Election Day the clerk shall deliver to the election judges a list of the voters who have requested to vote absentee.
- (e) To be counted, an absentee voter's ballot must be postmarked before the polls close in the city and be received by the clerk prior to the time the ballots are canvassed by the council.
- (f) No city official may make any charge for services rendered to any voter under the provisions of this chapter. However, the voter must provide the necessary postage.

Section 5.40.050 - Absentee ballots; delivery.

- (a) Upon receipt of an application for an absentee voter's ballot, the clerk shall check the latest state registration listings to determine whether the applicant is registered in accordance with AS 15.70. If the applicant is properly registered, the clerk shall provide to the applicant as specified on the application, an official ballot for the election, a ballot envelope and a return envelope. The Clerk shall keep a record of the number of the ballot.
- (b) Upon receiving and marking the ballot, the voter shall fold the ballot and seal it in the ballot envelope. The voter shall then complete and swear to the affidavit printed on the back of the ballot envelope and mail it to the city in the return envelope.

Section 5.40.080 - Voting at the polls, absentee voters; surrender of materials.

- (a) If a voter issued an absentee ballot returns to the city on election day, they shall not vote at the polling place unless they first surrender to the election judges the absentee ballot, ballot envelope, and return envelope issued to them. Unused absentee ballots, ballot envelopes and return envelopes shall be returned to the election supervisor by the election judges with other ballots not used at the polling place.
- (b) If the absentee ballot cannot be produced at the time the voter casts their ballot in person, the absentee ballot for that voter will automatically be recorded as disqualified and the ballot cast at the polling place will be a question ballot.

Section 5.40.090 - Retention of absentee ballots; delivery.

The city clerk as election supervisor shall retain all absentee ballots received in the city safe until the time the city council meets as the election review committee to canvass the election. At this time the clerk shall deliver all absentee ballots received to the election review committee to be counted and included in the final vote tally of the election. Absentee ballots must be received by the time of the meeting to be counted.

Section 5.40.100 - Liberal construction.

This chapter shall be liberally interpreted, so as to accomplish the purposes set forth.

CHAPTER 5.50

REVIEW OF ELECTION RESULTS

Sections:

- 5.50.010 Election review committee; meeting**
- 5.50.020 Review to be public**
- 5.50.030 Procedure for questioned ballot review**
- 5.50.050 Absentee ballots**
- 5.50.060 Counting absentee and questioned ballots**
- 5.50.070 Defective ballots**
- 5.50.080 Certifying results**
- 5.50.090 Contest of election**
- 5.50.100 Certificate of election**
- 5.50.110 Retention of election records**

Section 5.50.010 - Election review committee; meeting.

- (a) The city council acting as the election review committee shall meet on the first Friday after the election and canvass all absentee and questioned and defective ballots executed in the election. If the committee is unable to obtain a quorum or complete the count on the Friday after the election, the canvass will be rescheduled the following day and each day thereafter until completed.
- (b) The city clerk shall submit to the committee the election judges' report of preliminary election results, the master voter registration list, the register, all regular ballots, oath and affidavit envelopes containing questioned ballots, defective ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.

Section 5.50.020 - Review to be public.

- (a) The review of all absentee and questioned and defective ballots shall be made in public by opening the returns, and announcing the results thereof in front of those present.
- (b) The review shall include a review and comparison of the tallies of ballots with the election reports to correct any mathematical error in the count of ballots.
- (c) If the election supervisor finds an unexplained error in the tally of ballots, the election review committee may count the ballots from a ballot box.

Section 5.50.030 - Procedure for questioned ballot review.

- (a) The election supervisor shall contact the state division of elections and the local voter registrars by the Thursday following the election and determine if persons casting questioned ballots because of failure of their names to appear on the master voter registration list were in fact registered to vote in state elections and in the City of Edna Bay. The election supervisor shall record the names of these questioned voters in fact registered to vote and shall submit their names as registered to vote when their questioned

ballots are examined with other questioned ballots according to the procedures in (b)(4) of this section.

- (b) The council meeting as the election review committee shall examine each questioned ballot envelope and shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the committee may request the assistance of the clerk, and shall hear testimony of the voter who cast the questioned ballot and of any other city resident who has information useful to the committee's decision. If the committee determines that the voter was eligible to vote, the oath and affidavit envelope shall be placed with the other absentee oath of affidavit envelopes until the review committee is ready to open and count the ballots. If the committee upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials.
 - 1) A questioned ballot may not be counted if:
 - A. The voter has failed to properly mark the certificate;
 - B. A witness failed to attest the certificate;
 - C. The voter did not enclose the marked ballot inside the small envelope.
 - 2) Any person present at the questioned ballot review may challenge the name of a questioned voter when read from the voter's certificate on the back of the large envelope if he has good reason to suspect that the questioned voter is not qualified to vote, is disqualified, or has voted at the same election. The person making the challenge shall specify the basis of the challenge in writing. The election review committee by majority vote may refuse to accept and count the questioned ballot of a person properly challenged under grounds listed in (1) of this subsection.
 - 3) If a questioned ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the questioned voter. The election supervisor shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and shall be placed in the city safe.
 - 4) If a questioned ballot is not rejected, the ballot envelope shall be opened, the ballot number compared with records and removed, and the ballot shall be placed in the ballot box. Once the absentee ballots have also been added to the ballot box, the ballots shall then one (1) by one (1) be removed from the ballot box and counted in the same manner in which ballots cast at the polls are counted.

Section 5.50.050 - Absentee ballots.

- (a) The election review committee shall examine each absentee ballot return envelope. The return envelope shall be opened, the ballot number compared with the record and removed, and the ballot shall be placed in a ballot box and mixed with other ballots if the committee determines that:

- 1) The voter is registered to vote;
- 2) The voter is a resident of the City of Edna Bay;
- 3) The ballot was postmarked before the close of the polls.

(b) If the committee determines that a voter voting absentee was not in fact a qualified voter or did not follow absentee voting procedures the committee by majority vote may refuse to accept and count the absentee ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The election supervisor shall place all such rejected absentee ballots in an envelope marked "rejected absentee ballots" to be retained with other election materials. The election supervisor shall notify the voter in writing why his absentee ballot was rejected.

Section 5.50.060 - Counting absentee and questioned ballots.

The questioned ballots and absentee ballots shall then one (1) by one (1) be removed from the ballot box and counted by the committee in the same manner in which ballots cast at the polls are counted.

Section 5.50.070 - Defective ballots.

Committee members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom or what the voter intended to vote.

Section 5.50.080 - Certifying results.

If no contest of election is begun under the provisions of Chapter 5.60 of this Code and after all absentee, defective and questioned ballots are counted or rejected, the committee shall:

- (a) Certify a report that shows:
 - 1) The total number of ballots cast in the election;
 - 2) The name(s) of the person(s) voted for (including write-ins) and the proposition(s) voted upon;
 - 3) The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 - 4) The disposition of all absentee, questioned, and defective ballots; and
 - 5) Any other matters which the committee deems necessary to preserve a complete record of the election.
- (b) Record the results of the election in the minutes of the meeting;
- (c) Authorize the results to be certified;
- (d) Publicly declare the results of the election.

Section 5.50.090 - Contest of election.

If a contest of election is declared, the procedures of Section 5.50.080(a)—(d) shall be followed at a special meeting held on the first Monday after resolution of the contest.

Section 5.50.100 - Certificate of election.

- (a) Upon authorization of certification of the election results by the election committee, the city clerk shall prepare two (2) certificates of election for each council seat, proposition(s), or question(s) considered. The certificates shall be signed by the mayor and attested by the clerk. One (1) original of each certificate of election shall be given the successful candidate or the sponsor of the successful question or proposition named thereon, and the other original of each certificate shall be kept by the city.

Section 5.50.110 - Retention of election records.

The city clerk shall preserve all election certificates in perpetuity, and tallies and registers for four (4) years after the election. All ballots and stubs may be destroyed thirty (30) days after the certification of the election unless an appeal of the election has been filed in the superior court in which case the ballots and stubs may be destroyed thirty (30) days after the conclusion of the appeal unless stayed by an order of the court.

CHAPTER 5.60

CONTEST OF ELECTION

Sections:

5.60.010	Contest of election; contestant
5.60.020	Contest of election; council
5.60.030	Ballot recount
5.60.050	Sustained charges; recount
5.60.060	Recount expenses; appeal

Section 5.60.010 - Contest of election; contestant.

- (a) Any qualified voter may contest the election of any person and the approval or rejection of any question or proposition.
- (b) Any qualified voter who believes that prohibited practices occurred at an election may contest the election by:
 - 1) Filing a written affidavit with the city clerk specifying with particularity the provisions of the law which they believe were violated and the specific acts they believe to be misconduct;
 - 2) This affidavit must be filed with the city clerk before or during the first meeting of the election review committee on the Friday following the election. The city clerk shall acknowledge the date and time the affidavit is received on its face and make a photocopy of the affidavit which shall be given to the contestant.

Section 5.60.020 - Contest of election; council.

The city council may order an investigation or a recount of the ballots or, declare the election invalid and order a new election, declare the affidavit of election contest without merit, or declare that the contest of election has merit but would not change the outcome of the election and therefor certify the results of the election.

Section 5.60.030 - Ballot recount.

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

Section 5.60.050 - Sustained charges; recount.

If the charges alleged by the contestant are upheld and determine the need for a recount, one shall be held by the election review committee. The committee shall then certify the correct election returns as provided in Chapter 5.50.

Section 5.60.060 - 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.
- (b) A person may appeal the decision of the council in Section 5.60.020 to the state superior court, however 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 their administrative remedies before the city council and has commenced, within ten (10) days after the council has declared the election results, an action in the superior court. 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.

CHAPTER 5.70

INITIATIVE PETITION, REFERENDUM AND RECALL

Sections:

- 5.70.010 Initiative and petition**
- 5.70.020 Recall**

Section 5.70.010 - Initiative and petition.

The people of the City of Edna Bay may directly enact ordinances by initiative and may reject ordinances of the council by referendum, in accordance with AS 29.26.100 through 29.26.190.

Section 5.70.020 - Recall.

The people of the City of Edna Bay may recall an elected official of the city. The procedure for recall shall be in accordance with AS 29.26.240 through 29.26.360.