

Introduced by:	Smith
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**KENAI PENINSULA BOROUGH
ORDINANCE 2014-20**

**AN ORDINANCE AMENDING TITLE 4 TO REQUIRE BOROUGH
ELECTIONS BE HELD BY MAIL**

- WHEREAS,** State statutes provide that the local governing body shall establish the procedures for conducting elections; and
- WHEREAS,** the borough has instituted several absentee vote-by-mail precincts; and
- WHEREAS,** the remote nature of areas of the borough would make voting by mail more efficient, convenient, and less complicated; and
- WHEREAS,** jurisdictions that have instituted vote-by-mail have experienced increased voter participation; and
- WHEREAS,** voting by mail would eliminate the need to expend staff and financial resources in training election boards; and
- WHEREAS,** by mail elections can be conducted with fewer election officials than in person voting; and
- WHEREAS,** recently adopted Senate Bill 213 clarified state statutes to provide for municipal elections by mail; and
- WHEREAS,** absentee voting will still be available if elections are conducted by mail; and
- NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

SECTION 1. That KPB 4.10.020 is hereby amended as follows:

4.10.020. Definitions.

In this title, unless the context otherwise requires:

[A.] "Borough election" means any election:

1. To fill a borough office;
2. Upon a proposition submitted to the voters under the ordinances of the borough; or
3. That the borough is required by law to administer.

[B.] "Borough office" means an elective office under the ordinances of the borough.

[C.] "Clerk" means the clerk of the borough, any properly authorized assistant or designee.

[D.] "Day" means a calendar day including Saturday, Sunday and holidays.

[E.] "Election" includes a regular, special or run-off borough election.

[F.] "Election official" means the borough clerk and members of all election boards.

[G. RESERVED.]

[H.] "Election supervisor" means the borough clerk.

[I.] "Oath" includes affirmation on penalty of perjury.

[J.] "Precinct" means the territory within which resident voters may cast votes [AT ONE POLLING PLACE].

[K.] "Proposition" includes question.

[L.] "Publication" means a newspaper of general circulation or posting in public places.

[M.] "Qualified voter" means any person who has the qualifications required by this chapter and is not disqualified under Article V of the Alaska State Constitution.

[N. "QUESTIONED VOTER" MEANS A VOTER WHOSE NAME DOES NOT APPEAR ON THE REGISTER IN THE PRECINCT WHERE HE ATTEMPTS TO VOTE, A VOTER WHO HAS RECEIVED AN ABSENTEE BALLOT AND DOES NOT TURN IT IN WHEN VOTING AT HIS PRECINCT ON ELECTION DAY, A VOTER WHO DOES NOT BEAR IDENTIFICATION OR IS NOT PERSONALLY KNOWN TO AN ELECTION OFFICIAL THOUGH HIS NAME APPEARS ON THE PRECINCT REGISTER, OR A VOTER WHO IS QUESTIONED FOR GOOD CAUSE AT THE POLLS IN WRITING.]

[O.] "Regular election" means a general election to fill borough offices as required by Alaska Statutes.

[P.] "Registration" or "registered" refers to the form of registration required by the state election code. For borough elections, a person is registered if registered to vote in state elections in the precinct in which that person seeks to vote 30 days prior to the borough election.

[Q.] "Signature" includes any mark intended as a signature or subscription.

[R.] "Special election" means any election held at a time other than when a regular election is held.

[S.] "Swear" includes "Affirm".

[T.] "Total votes cast" means the total number of votes cast in each seat for candidates whose names are printed on the ballot plus votes properly cast for the same seat in the write-in position(s) of the ballot. Ballots which are counted as blank votes in a particular race and ballots which are counted as over votes in a particular race shall not be added into the total votes in determining the percentage of votes cast.

[U.] "Voter" means any person who presents himself for the purpose of registering to vote or voting, either in person or by absentee application or ballot.

SECTION 2. That KPB 4.10.060 is hereby amended as follows:

4.10.060. Notice of elections.

- A. The election supervisor shall publish a notice of each election at least twice in one or more newspapers of general circulation in the borough. The election supervisor shall also post such a notice in two conspicuous places in each precinct. The first such publication, and the posting in each precinct, shall be accomplished at least 20 days prior to a regular election or at least 20 days before a special election.
- B. Each notice of election shall include:
 - 1. The type of election, whether regular, special or runoff;
 - 2. The date of the election;
 - 3. The notice of election shall state that the election is to be conducted by mail and that there will be no precinct polling places open for the election on election day.
 - 4. The hours the [POLLS] absentee voting sites will be open and locations;
 - 5[4]. The offices to which candidates are to be elected;
 - 6[5]. The subjects of propositions to be voted upon;
 - 7[6]. Voter qualifications and instructions for registration;
 - 8[7]. Instructions for application for absentee voting;
 - [8. PRECINCT POLLING PLACES.]
- C. For run-off elections, the notice of the locations of the [PRECINCT POLLING PLACES] absentee voting sites may be included or separate from the notice of the election and publication shall be made at least once, no later than 5 days prior to the run-off election. The notice of election shall be posted at 2 places within each precinct.
- D. Notice of bonded indebtedness.
 - 1. Before a general obligation bond issue election, the borough clerk shall publish notice of the borough's total existing bonded indebtedness at least once a week for three weeks.

2. The notice of the borough's total existing bonded indebtedness shall state:
 - a. the current total general obligation bonded indebtedness, including authorized but unsold bonds, of the borough;
 - b. the cost of the debt service on the current indebtedness; and
 - c. the total assessed valuation within the borough.

SECTION 3. That KPB 4.10.110(A) is hereby amended as follows

- A. Fifteen days prior to each regular or special election the borough clerk shall prepare and mail to every borough boxholder a brochure containing information approved by the assembly of a strictly factual nature pertaining to each proposition on the ballot, except as provided below in this section. [SAMPLE BALLOTS WILL ALSO BE INCLUDED IN THE BROCHURE.] The clerk shall prepare instructions explaining to voters how to obtain ballots, how to mark them, and how to obtain new ballots to replace those destroyed or spoiled.

SECTION 4. That KPB 4.10.120 is hereby amended as follows:

4.10.120. Election supplies and equipment.

- [A. BEFORE THE OPENING OF THE POLLS THE CLERK SHALL FURNISH TO THE ELECTION BOARD OF EACH PRECINCT THE STATE VOTER REGISTRATION LIST FOR THAT PRECINCT AND SHALL EQUIP AND SUPPLY EACH POLLING PLACE WITH SUFFICIENT MATERIALS FOR THAT PRECINCT'S ELECTION, INCLUDING THOSE MATERIALS REQUIRED BY THIS SECTION.
- B. THE CLERK SHALL PREPARE INSTRUCTIONS EXPLAINING TO VOTERS HOW TO OBTAIN BALLOTS, HOW TO MARK THEM, AND HOW TO OBTAIN NEW BALLOTS TO REPLACE THOSE DESTROYED OR SPOILED. THESE INSTRUCTIONS SHALL BE PRINTED ON CARDS IN LARGE, CLEAR TYPE AND SHALL BE DISTRIBUTED TO THE ELECTION BOARDS TO BE PROMINENTLY DISPLAYED IN EACH POLLING PLACE. THE CLERK SHALL PROVIDE BOOTHS AT EACH POLLING PLACE WITH APPROPRIATE SUPPLIES AND CONVENIENCES TO ENABLE EACH VOTER TO MARK HIS BALLOT SCREENED FROM OBSERVATION. BALLOT BOXES SHALL BE PLACED OUTSIDE THE VOTING BOOTHS IN PLAIN VIEW OF THE ELECTION OFFICIALS, VOTERS AND OTHER PERSONS AT THE POLLING PLACE.
- C.] The clerk may contract for the provision of specialized election materials and supplies without obtaining competitive bids. These specialized materials and supplies shall include, but not be limited to, the official borough voter pamphlet, election envelopes for absentee and questioned voting, election signs, election software, computer equipment and voting booths.

SECTION 5. That KPB 4.10.130 is hereby amended as follows:

4.10.130. Election expenses.

- A. The borough shall pay all necessary expenses relating to the conduct of each borough election except as provided below for service area special elections. Special elections held at the request of a service area and for the primary benefit of the residents of that service area shall be paid for by the service area requesting the special election. Necessary expenses shall

include those associated with conducting the election. [WITH SECURING POLLING PLACES, AND SHALL PROVIDE BALLOT BOXES, BALLOTS, VOTING BOOTHS OR SCREENS, NATIONAL FLAGS, AND OTHER SUPPLIES AND ANY WAGES TO ELECTION OFFICIALS UNLESS OTHERWISE PROVIDED BY THIS CODE.]

- B. The borough or the service area as applicable shall pay each election board member and canvass board member an hourly rate for time spent at his election duties, including the receiving of instructions and posting of notices. The election supervisor shall set the hourly compensation to be paid for time spent by election officials at a rate comparable to that paid by the state for state elections. The clerk shall retain a record for auditing and payment of election expenses, including the cost of giving notice, renting [POLLING PLACES] absentee voting sites, paying election officials, securing ballot [BOXES] receiving sites, booths and other election necessities.

SECTION 6. That KPB 4.10.140 is hereby amended as follows:

4.10.140. Preservation of election ballots, papers and materials.

The clerk shall preserve all precinct election certificates, tallies, and registers, receipts for ballots, all voted ballots and declarations of candidacy filed [FOR ONE YEAR AFTER THE ELECTION] for one month after the election is certified, unless the election is contested. If the election is contested these records shall be preserved for one month after the election contest is resolved and the election is certified. These materials may be destroyed after their retention period has lapsed unless their destruction is stayed by an order of the court. Certificates of the canvass board are to be preserved as permanent records.

SECTION 7. That KPB 4.20.030 is hereby amended as follows:

4.20.030. Registration.

- [A.] No person may vote in an election unless he is a qualified voter under the Alaska State Constitution and laws of Alaska and [H]as prescribed by this chapter and has registered as required by the state election code and KPB 4.20.010.
- [B. THE PRECINCT ELECTION OFFICIALS AT ANY ELECTION SHALL ALLOW A PERSON TO VOTE WHOSE NAME IS ON THE OFFICIAL REGISTRATION LIST FOR THAT PRECINCT AND WHO IS QUALIFIED UNDER THIS CHAPTER AND AS 15.05. A PERSON WHOSE NAME IS NOT ON THE OFFICIAL REGISTRATION LIST SHALL BE ALLOWED TO VOTE A QUESTIONED BALLOT.]

SECTION 8. That KPB 4.30.030 is hereby amended as follows:

4.30.030. Public official financial disclosure statements.

- A. Candidates for elective borough office [AND DECLARED WRITE-IN CANDIDATES] shall file a public official financial disclosure statement with the borough clerk as required by the provisions of AS 39.50 at the time of filing a declaration of candidacy. The name of the candidate shall be placed on the ballot by the borough clerk only after the candidate has complied with this requirement. This subsection does not apply to candidates for service area boards. Declared write-in candidates shall file a public official financial disclosure

statement with the borough clerk as required by the provisions of AS 39.50 at the time of filing a declaration of candidacy.

- B. Each candidate also shall file the name and address of the campaign treasurer with the Alaska Public Offices Commission no later than 7 days after the date of filing for office. The name of the candidate shall be placed on the ballot by the borough clerk only after the candidate has complied with this requirement.

SECTION 9. That KPB 4.30.050 is hereby amended as follows:

4.30.050. REVIEW OF CANDIDATE QUALIFICATIONS.

The clerk shall determine whether each candidate for borough office is qualified as provided by law. [AT ANY TIME BEFORE THE ELECTION THE CLERK MAY DISQUALIFY ANY CANDIDATE WHOM THE CLERK FINDS IS NOT QUALIFIED AND IMMEDIATELY NOTIFY THAT CANDIDATE BY CERTIFIED MAIL. A CANDIDATE WHO IS DISQUALIFIED MAY REQUEST A HEARING BEFORE THE CLERK WITHIN FIVE DAYS OF RECEIVING THE NOTICE. THE HEARING SHALL BE HELD NO LATER THAN FIVE DAYS AFTER THE REQUEST UNLESS THE CANDIDATE AGREES IN WRITING TO A LATER DATE.]

SECTION 10. That KPB 4.40.020 is hereby amended as follows:

4.40.020. Preparation and distribution.

- A. The clerk shall obtain the printing of all ballots for borough elections. The clerk shall possess the printed ballots at least 15 days before each regular election and at least 10 days before each special and run-off election. At that time, the ballots may be inspected by any candidate whose name is on the ballot, or by his authorized agent, and any discovered mistake shall be corrected immediately.
- B. The clerk may contract for the preparation and printing of the ballots without obtaining competitive bids.
- [C. THE CLERK SHALL ARRANGE FOR DELIVERY OF BALLOTS TO EACH ELECTION BOARD PRIOR TO OR ON THE DATE OF THE ELECTION BEFORE THE OPENING OF THE POLLS. THE BALLOTS SHALL BE DELIVERED IN SEPARATE CONTAINERS, WITH THE NUMBER OF BALLOTS ENCLOSED IN EACH CONTAINER CLEARLY MARKED ON THE OUTSIDE OF IT. A RECEIPT FOR EACH PACKAGE SHALL BE TAKEN FROM THE ELECTION BOARD TO WHICH IT IS DELIVERED.]

SECTION 11. That KPB 4.40.030 is hereby amended as follows:

4.40.030. Sample ballots.

The clerk shall obtain the printing of sample ballots. Sample ballots shall be clearly labeled "Sample Ballot." [SAMPLE BALLOTS SHALL BE DELIVERED TO THE ELECTION BOARD IN EACH PRECINCT.] Sample ballots shall be made available at absentee voting sites.

SECTION 12. That KPB Chapter 4.50 is hereby amended as follows:

CHAPTER 4.50. [OPERATION OF POLLS] ELECTIONS BY MAIL

4.50.010. Election officials.

- A. Before each election, the clerk, subject to approval by the assembly, shall appoint election officials. [AT LEAST 3 JUDGES IN EACH PRECINCT. THE CLERK SHALL DESIGNATE ONE ELECTION JUDGE FROM EACH PRECINCT AS THE CHAIRMAN, WHO SHALL BE PRIMARILY RESPONSIBLE FOR ADMINISTERING THE ELECTION IN THAT PRECINCT.]
- [B. THE BOROUGH CLERK MAY APPOINT CLERKS AND COUNTERS AT ANY POLLING PLACE WHERE THEY ARE NEEDED TO CONDUCT AN ORDERLY ELECTION AND TO RELIEVE THE ELECTION JUDGES OF UNDUE HARDSHIP.]
- B[C]. If any appointed election official is not able or refuses to serve [ON ELECTION DAY], the clerk may appoint a replacement for that official.
- [D. EACH ELECTION OFFICIAL SERVING AT A PRECINCT POLLING PLACE MUST BE A QUALIFIED VOTER AND, IF POSSIBLE, A RESIDENT WITHIN THE PRECINCT FOR WHICH HE IS APPOINTED.]
- C[E]. All election [JUDGES, CLERKS AND COUNTERS] officials before entering upon their duties must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the clerk.
- D[F]. Candidates shall not serve as election officials. Certain familial relationships may not exist between a candidate and a precinct election judge, election clerk, or member of a ballot counting team in regular, run-off or special elections. Those familial relationships are:
1. Mother, mother-in-law, stepmother;
 2. Father, father-in-law, stepfather;
 3. Sister, sister-in-law, stepsister;
 4. Brother, brother-in-law, stepbrother;
 5. Spouse; or
 6. Person sharing the same living quarters.
- E[G]. If the election supervisor knows or learns that any of these relationships exist, the precinct election judge, election clerk, or member of the ballot counting team shall be notified and replaced.

4.50.015. [ABSENTEE B]By-mail precincts.

- A. All Precincts within the Kenai Peninsula Borough shall be designated as [WHERE THE VOTER TURNOUT WAS LESS THAN 200 VOTERS AT THE LAST REGULAR ELECTION MAY BE DESIGNATED AS "ABSENTEE] "by-mail" precincts [BY RESOLUTION OF THE ASSEMBLY. IN THOSE PRECINCTS, NO ELECTION WORKERS SHALL BE APPOINTED]. The procedures [OUTLINED IN CHAPTER 4.120 SHALL BE FOLLOWED WITH THE FOLLOWING EXCEPTIONS] shall be as follows:
1. that ballots shall be sent to each registered voter in the precinct on or before the 15th day prior to the election; and
 2. that voted ballots must be postmarked on or before midnight of election day and received by the clerk no later than the Tuesday following the election.
- B. Voters wishing to vote absentee in person may do so at any designated absentee voting site.

[C. ANY PRECINCT DESIGNATED AS AN "ABSENTEE BY-MAIL" PRECINCT IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION A, ABOVE, WILL REMAIN AN "ABSENTEE BY-MAIL" PRECINCT UNTIL SUCH TIME AS THE "ABSENTEE BY-MAIL" STATUS IS REMOVED BY RESOLUTION OF THE ASSEMBLY.]

[4.50.020. OPENING OF POLLING PLACE.

- A. ON THE DAY OF THE ELECTION, EACH ELECTION BOARD SHALL OPEN THE POLLS FOR VOTING AT 7:00 A.M., SHALL CLOSE THE POLLS FOR VOTING AT 8:00 P.M., AND SHALL KEEP THE POLLS CONTINUOUSLY OPEN DURING THE TIME BETWEEN THOSE HOURS. THE ELECTION BOARD SHALL REPORT TO THE POLLING PLACE BY 6:30 A.M. SO THAT VOTING WILL START PROMPTLY AT 7:00 A.M. THE CHAIRMAN OF THE ELECTION BOARD SHALL ROTATE TIMES AT WHICH ELECTION JUDGES, BOARD MEMBERS, AND CLERKS MAY BE RELIEVED FOR BREAKS OR MEALS; PROVIDED, HOWEVER, THAT AT ALL TIMES AT LEAST 2 JUDGES FROM THE ELECTION BOARD ARE PRESENT AT THE POLLING PLACE.
- B. BEFORE ISSUING ANY BALLOTS, THE ELECTION BOARD MUST, IN THE PRESENCE OF ANY PERSONS ASSEMBLED AT THE POLLING PLACE, OPEN AND EXHIBIT THE BALLOT BOX TO BE USED AT THE POLLING PLACE. THE BALLOT BOX THEN SHALL BE CLOSED AND SHALL NOT BE OPENED AGAIN OR REMOVED FROM THE POLLING PLACE UNTIL THE POLLS HAVE CLOSED.]

[4.50.030. VOTER REGISTRATION.

THE JUDGES SHALL KEEP AN ORIGINAL REGISTER OR REGISTERS IN WHICH EACH VOTER BEFORE RECEIVING HIS BALLOT SHALL SIGN HIS NAME AND GIVE BOTH HIS RESIDENCE AND MAILING ADDRESS. A RECORD SHALL BE KEPT IN THE REGISTRATION BOOK, IN A SPACE PROVIDED, OF THE NAMES OF PERSONS WHO OFFER TO VOTE BUT WHO ACTUALLY DO NOT VOTE, AND A BRIEF STATEMENT OF EXPLANATION. THE SIGNING OF THE REGISTER CONSTITUTES A DECLARATION BY THE VOTER THAT HE IS QUALIFIED TO VOTE. IF ANY ELECTION OFFICIAL PRESENT BELIEVES THE VOTER IS NOT QUALIFIED, HE MAY QUESTION THE VOTE IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.]

4.50.025. Procedures for conducting elections by mail.

- A. The clerk shall mail by nonforwardable mail an official ballot with a return identification envelope addressed to the Clerk's Office and a secrecy sleeve. The ballot, return envelope, and secrecy envelope shall be mailed no later than the 15th day before the date of a regular or special election and no later than the 10th day before the date of a runoff election. The ballot shall be sent to the address stated on the official registration list unless
1. the voter has notified the clerk in writing of a different address to which the ballot should be sent; or
 2. the address on the official registration list has been identified as being an undeliverable address.
- B. On receipt of any ballot described in this section, the voter shall mark the ballot, sign the return identification envelope supplied with the ballot, and comply with the instructions provided with the ballot. The voter may return the marked ballot to the Clerk's Office by return mail or by depositing the ballot at any place of deposit designated by the clerk. The ballot must be returned in the identified envelope. A ballot must be received by the clerk or at

a place of deposit designated by the clerk, not later than the end of the period determined under regulations established by the clerk.

[4.50.040. Voter identification at polls.

- A. BEFORE BEING ALLOWED TO VOTE, EACH VOTER SHALL EXHIBIT TO AN ELECTION OFFICIAL ONE FORM OF IDENTIFICATION, INCLUDING BUT NOT LIMITED TO AN OFFICIAL VOTER REGISTRATION CARD, DRIVER'S LICENSE, PASSPORT, OR HUNTING OR FISHING LICENSE.
- B. AN ELECTION OFFICIAL MAY WAIVE THE IDENTIFICATION REQUIREMENT IF THE ELECTION OFFICIAL KNOWS THE IDENTITY OF THE VOTER.
- C. A VOTER WHO CANNOT EXHIBIT A SATISFACTORY FORM OF IDENTIFICATION SHALL BE ALLOWED TO VOTE A QUESTIONED BALLOT.]

[4.50.050. PERSONS NOT ON OFFICIAL REGISTRATION LIST.

IF A PERSON'S NAME DOES NOT APPEAR ON THE OFFICIAL REGISTRATION LIST IN THE PRECINCT IN WHICH THE PERSON SEEKS TO VOTE, THE PERSON MAY VOTE A QUESTIONED BALLOT.]

[4.50.060. PROVIDING BALLOT TO VOTER.

WHEN A VOTER HAS QUALIFIED TO VOTE, THE ELECTION OFFICIAL SHALL GIVE THE VOTER AN OFFICIAL BALLOT. THE VOTER SHALL RETIRE TO A BOOTH OR PRIVATE PLACE TO MARK THE BALLOT.]

[4.50.070. ASSISTING VOTER.

A QUALIFIED VOTER WHO CANNOT READ, MARK THE BALLOT, OR SIGN HIS NAME MAY REQUEST AN ELECTION OFFICIAL OR NOT MORE THAN TWO PERSONS OF HIS CHOICE TO ASSIST HIM. IF THE ELECTION OFFICIAL IS REQUESTED, HE SHALL ASSIST THE VOTER. IF ANY OTHER PERSON IS REQUESTED, THE PERSON SHALL STATE UPON OATH BEFORE THE ELECTION OFFICIAL THAT HE WILL NOT DIVULGE THE VOTE CAST BY THE PERSON WHOM HE ASSISTS.]

[4.50.080. SPOILED BALLOTS.

THE ELECTION SUPERVISOR SHALL SPECIFY UNIFORM PROCEDURES FOR REPLACEMENT, REGISTRATION AND DISPOSITION OF SPOILED BALLOTS. THESE UNIFORM PROCEDURES SHALL BE PROVIDED IN WRITING TO THE ELECTION JUDGES.]

[4.50.090. PLACING BALLOT IN BALLOT BOX.

WHEN THE VOTER HAS MARKED THE BALLOT, THE VOTER SHALL INFORM THE ELECTION OFFICIAL. THE CLERK MAY REQUIRE THAT THE VOTER RETURN THE BALLOT TO THE ELECTION OFFICIAL TEMPORARILY SO THAT ANY STUB WHICH MAY BE PART OF THE BALLOT MAY BE REMOVED BY THE ELECTION OFFICIAL. ANY SUCH REQUIREMENT SHALL PROTECT THE SECRECY OF THE BALLOT. IN ALL CASES THE BALLOT SHALL BE DEPOSITED IN THE BALLOT BOX BY THE VOTER IN THE PRESENCE OF THE ELECTION OFFICIAL UNLESS THE VOTER REQUESTS THE ELECTION OFFICIAL TO DEPOSIT THE BALLOT.]

[4.50.100. QUESTIONING PROCEDURE.

- A. IF THE POLLING PLACE OF A VOTER IS IN QUESTION, THE VOTER SHALL VOTE A QUESTIONED BALLOT AFTER COMPLYING WITH SUBSECTION C.

- B. EVERY ELECTION OFFICIAL AND ELECTION JUDGE SHALL QUESTION, AND EVERY WATCHER AND ANY OTHER PERSON QUALIFIED TO VOTE IN THE PRECINCT, OR QUALIFIED TO VOTE IN THE PARTICULAR ELECTION INVOLVING LESS THAN AN ENTIRE PRECINCT IN THE CASE OF SERVICE AREAS, MAY QUESTION A PERSON ATTEMPTING TO VOTE IF THE QUESTIONER HAS GOOD REASON TO SUSPECT THAT THE QUESTIONED PERSON IS NOT QUALIFIED TO VOTE IN THE ELECTION. ALL QUESTIONS REGARDING A PERSON'S QUALIFICATIONS TO VOTE SHALL BE MADE IN WRITING, SETTING OUT THE REASON THAT THE PERSON HAS BEEN QUESTIONED.
- C. THE QUESTIONED PERSON, BEFORE VOTING, SHALL SUBSCRIBE TO AN OATH OR AFFIRMATION ON A FORM PROVIDED BY THE ELECTION OFFICIAL 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. IF THE QUESTION IS TO RESIDENCE WITHIN THE PRECINCT OR VOTING AREA, THE PERSON SHALL ALSO STATE THE PLACE FROM WHICH THAT PERSON CAME IMMEDIATELY BEFORE LIVING IN THE PRECINCT WHERE OFFERING TO VOTE AND THE LENGTH OF TIME OF RESIDENCE IN THE FORMER PLACE. AFTER THE QUESTIONED PERSON HAS EXECUTED THE OATH OR AFFIRMATION, THE PERSON MAY VOTE. IF THE QUESTIONED PERSON REFUSES TO EXECUTE THE OATH OR AFFIRMATION, THE PERSON SHALL NOT VOTE.
- D. A VOTER WHO CASTS A QUESTIONED BALLOT SHALL VOTE HIS BALLOT IN THE SAME MANNER AS PRESCRIBED FOR OTHER VOTERS. AFTER THE ELECTION OFFICIAL OR JUDGE REMOVES THE NUMBERED STUB FROM THE BALLOT, THE VOTER SHALL INSERT THE BALLOT INTO A SMALL ENVELOPE AND PUT THE SMALL ENVELOPE INTO A LARGER ENVELOPE ON WHICH THE STATEMENT HE PREVIOUSLY SIGNED IS LOCATED. THESE LARGER 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, AND DELIVERED TO THE ELECTION CANVASSING BOARD. THE ELECTION CANVASSING BOARD SHALL REVIEW AND JUDGE THE APPLICABILITY OF QUESTIONED BALLOTS IN ACCORDANCE WITH SECTIONS 4.90.020 AND 4.90.030.]

[4.50.110. CLOSING OF THE POLLS.

- A. FIFTEEN MINUTES BEFORE THE CLOSING OF THE POLLS, AND AT THE TIME OF CLOSING THE POLLS, AN ELECTION OFFICIAL SHALL ANNOUNCE BOTH THE DESIGNATED CLOSING TIME AND THE ACTUAL TIME AT WHICH THE ANNOUNCEMENT IS MADE. FAILURE TO MAKE THE ANNOUNCEMENT AT 15 MINUTES BEFORE CLOSING TIME SHALL NOT IN ANY WAY INVALIDATE THE ELECTION OR EXTEND THE TIME FOR CLOSING OF THE POLLS. AFTER CLOSING, NO PERSON WILL BE ALLOWED TO ENTER THE POLLING PLACE FOR PURPOSES OF VOTING. EVERY QUALIFIED VOTER PRESENT AND IN LINE AT THE TIME PRESCRIBED FOR CLOSING THE POLLS MAY VOTE.
- B. WHEN THE POLLS ARE CLOSED AND THE LAST VOTE HAS BEEN CAST, THE ELECTION BOARD SHALL ACCOUNT FOR ALL BALLOTS BY COMPLETING A BALLOT STATEMENT CONTAINING, IN A MANNER PRESCRIBED BY THE CLERK, THE NUMBER OF OFFICIAL BALLOTS SUPPLIED.
- C. THE ELECTION BOARD SHALL COUNT THE NUMBER OF QUESTIONED BALLOTS AND SHALL COMPARE THAT NUMBER TO THE NUMBER OF QUESTIONED VOTERS IN THE REGISTER. DISCREPANCIES SHALL BE NOTED ON THE BALLOT STATEMENT.]

[4.50.120. VOTERS IN LINE WHEN POLLS CLOSE.

EVERY QUALIFIED VOTER PRESENT AND IN LINE AT THE TIME PRESCRIBED FOR CLOSING THE POLLS MAY VOTE.]

[4.50.130. PROHIBITIONS.

- A. DURING THE HOURS THAT THE POLLS ARE OPEN, NO ELECTION OFFICIAL MAY DISCUSS ANY POLITICAL PARTY, CANDIDATE OR ISSUE WHILE ON DUTY.
- B. DURING THE HOURS THE POLLS ARE OPEN, NO PERSON WHO IS IN THE POLLING PLACE OR WITHIN 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. NOR MAY ANY PERSON CONDUCT OTHER POLITICAL ACTIVITIES THAT MAY PERTAIN TO ANY FUTURE ELECTION OR POTENTIAL BALLOT PROPOSITION. FOR THE PURPOSES OF THIS SECTION, THE ENTRANCE TO A POLLING PLACE THAT IS IN A SCHOOL IS THE ENTRANCE TO THE SCHOOL BUILDING. THE ELECTION BOARD SHALL POST WARNING NOTICES IN THE FORM AND MANNER PRESCRIBED BY THE CLERK.
- C. 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, EXCEPT AS PROVIDED IN SECTION 4.50.070.
- D. WHILE THE POLLS ARE OPEN NO ELECTION OFFICIAL MAY OPEN ANY BALLOT RECEIVED FROM A VOTER, MARK A BALLOT BY FOLDING OR OTHERWISE SO AS TO BE ABLE TO RECOGNIZE IT, OR OTHERWISE ATTEMPT TO LEARN HOW A VOTER MARKED A BALLOT, OR ALLOW THE SAME TO BE DONE BY ANOTHER PERSON.
- E. RESERVED.
- F. NO PERSON MAY LEAVE THE POLLING PLACE WITH THE OFFICIAL BALLOT THAT THE PERSON RECEIVED TO MARK.]

[4.50.140. UNUSED BALLOTS.

THE NUMBERS OF ALL BALLOTS NOT ISSUED SHALL BE RECORDED AND THEN ALL SUCH BALLOTS SHALL BE DISPOSED OF AS INSTRUCTED BY THE CLERK BEFORE THE BALLOT BOX IS OPENED. THE NUMBERS OF BALLOTS DAMAGED BY VOTERS AND REPLACED BY ELECTION OFFICIALS SHALL ALSO BE RECORDED. THE RECORD OF BALLOTS NOT ISSUED AND BALLOTS DAMAGED AND REPLACED SHALL BE PRESERVED FOR 60 DAYS UNLESS THE ELECTION IS CONTESTED.]

SECTION 13. That KPB 4.70.020 is hereby amended as follows:

4.70.020. Commencement of ballot count.

- [A. FOR COUNTING OF PAPER BALLOTS, WHEN THE POLLS ARE CLOSED AND THE LAST VOTE HAS BEEN CAST, THE ELECTION BOARD SHALL IMMEDIATELY PROCEED TO OPEN THE BALLOT BOX, SEPARATE THE QUESTIONED BALLOT ENVELOPES FROM OTHER BALLOTS AND THEN PROCEED TO COUNT THE VOTES CAST. IN ALL CASES THE ELECTION BOARD SHALL CAUSE THE COUNT TO BE CONTINUED WITHOUT ADJOURNMENT UNTIL THE COUNT IS COMPLETE. THE CLERK MAY AUTHORIZE THE APPOINTMENT OF COUNTERS TO ASSIST IN THE COUNTING OF BALLOTS. BEFORE UNDERTAKING THE DUTIES OF THE OFFICE, EACH COUNTER SHALL SUBSCRIBE TO AN

OATH TO HONESTLY, FAITHFULLY, IMPARTIALLY AND PROMPTLY CARRY OUT THE DUTIES OF THE POSITION. AN ELECTION JUDGE MAY ADMINISTER THE OATH. IF AN APPOINTED COUNTER FAILS TO APPEAR AND SUBSCRIBE TO THE OATH AT THE TIME DESIGNATED BY THE CLERK, THE ELECTION BOARD MAY APPOINT ANY QUALIFIED VOTER TO FILL THE VACANCY.]

[B.] In optical scan or other computer-read or electronic ballot precincts, when the polls have closed and the last vote has been cast, the election [BOARD] official shall immediately transmit election results to the clerk following the written instructions provided [TO EACH PRECINCT]. Once the election results have been transmitted, the election [BOARD] official shall open the ballot box, separate [QUESTIONED AND] the write-in ballots from other ballots cast, place all ballots in the tamper proof containers provided, and proceed with the ballot accountability and [POLL] closing procedures provided by the clerk.

SECTION 14. That KPB 4.70.030 is hereby amended as follows:

4.70.030. General procedure for ballot count.

[A.] The election supervisor may issue rules prescribing the manner in which the precinct ballot count is accomplished so as to assure accuracy in the count and to expedite the process. The election board shall account for all ballots by completing a ballot statement containing (1) the number of official ballots received; (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4) the number of official ballots unused and destroyed. [THE BOARD SHALL COUNT THE NUMBER OF QUESTIONED BALLOTS AND SHALL COMPARE THAT NUMBER TO THE NUMBER OF QUESTIONED VOTERS IN THE REGISTER.] Discrepancies shall be noted and the numbers included in the certificate prescribed by the election supervisor. When hand counting ballots, the election [BOARD] official shall count the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for mailing may have a marking device in hand or remove a ballot from the immediate vicinity [OF THE POLLS].

[B. BALLOTS MAY NOT BE COUNTED BEFORE 8:00 P.M., LOCAL TIME, ON THE DAY OF THE ELECTION.]

SECTION 15. That KPB 4.70.040 is hereby amended as follows:

4.70.040. Rules for counting hand-marked ballots.

A. The election [BOARD] officials shall count hand-marked ballots according to the following rules:

1. A voter may mark his ballot with a cross mark, "X" mark, diagonal, horizontal or vertical mark, solid mark, star, circle, asterisk, check or plus sign using the marking device provided at the [POLLING PLACE] absentee voting site or with any black-inked marker. The marks will be counted only if they are clearly spaced 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 or more candidates does not itself invalidate the entire ballot.

3. 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.
 4. 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.
 5. The mark specified in subsection 1 of this section shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square marked.
 6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly marked.
 7. An erasure or correction invalidates only that section of the ballot in which it appears.
- B. The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.

SECTION 16. That KPB 4.70.070 is hereby amended as follows:

4.70.070. Tally of votes.

[A.] Tally of votes cast by paper ballots. The election supervisor shall issue instructions and shall provide forms and supplies for the tally of votes cast by paper ballot so as to assure accuracy and to expedite the process. The election board shall canvass and count the votes according to the rules for determining marks on ballots prescribed in [SECTION] KPB 4.70.040. The election board shall canvass the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling the ballot after it has been taken from the ballot box and before it is placed in the envelope for delivery to the election supervisor may remove a ballot from the immediate vicinity of the polls or have a marking device in hand.

[B. [RESERVED.]]

SECTION 17. That KPB 4.70.100 is hereby repealed.

[4.70.100. Other ballot counting systems authorized.

NOTHING IN THIS TITLE PROHIBITS THE USE OF OTHER BALLOT COUNTING SYSTEMS WHICH HAVE BEEN APPROVED FOR USE IN STATE ELECTIONS. THE ELECTION SUPERVISOR, SUBJECT TO ANY FURTHER APPROVAL AS MAY BE REQUIRED BY LAW, MAY PRESCRIBE RULES FOR THE USE OF THESE SYSTEMS OR MAY ADOPT SUCH RULES, REGULATIONS AND PROCEDURES AS HAVE BEEN ADOPTED BY THE STATE FOR USE IN STATE ELECTIONS.]

SECTION 18. That KPB 4.80.030 is hereby amended as follows:

4.80.030. Eligibility.

Any qualified voter may vote an absentee ballot for the precinct in which he resides and is registered if he was unable to vote by mail whether inside the borough or not. [(1) IF HE BELIEVES HE WILL BE UNAVOIDABLY ABSENT FROM HIS VOTING PRECINCT ON ELECTION DAY, WHETHER

INSIDE THE BOROUGH OR NOT, OR (2) IF HE WILL BE UNABLE TO BE PRESENT AT THE POLLS BECAUSE OF PHYSICAL DISABILITY.]

SECTION 19. That KPB 4.80.060 is hereby amended as follows:

4.80.060. Absentee voting—In person.

- A. A qualified voter may apply in person for an absentee ballot at the office of the borough clerk during regular office hours, or the voter may apply to the nearest city clerk's office or absentee voting official in his area during regular office hours.
- B. On receipt of an application in person for an absentee ballot and exhibition of proof of identification as required in this title, the clerk shall issue the ballot to the applicant.
- C. The voter shall proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope in the presence of the election official who shall sign as attesting official and date of his signature. The election official shall then accept the ballot.
- D. The election official may not accept a marked ballot that has been exhibited by an absentee voter with intent to influence other voters. If the absentee voter improperly marks or otherwise damages a ballot, the voter may request, and the election official shall provide him with another ballot up to a maximum of three. Exhibited, improperly marked, or damaged ballots shall be destroyed. The numbers of all ballots destroyed shall be noted on the ballot statement.
- E. Each absentee voting official shall keep a record of the names and the signatures of voters who cast absentee ballots before him and the dates on which the ballots were cast.
- F. Fifteen minutes before the closing of the absentee voting sites, and at the time of closing the absentee voting sites, an election official shall announce both the designated closing time and the actual time at which the announcement is made. Failure to make the announcement at 15 minutes before closing time shall not in any way invalidate the election or extend the time for closing of the absentee voting sites. After closing, no person will be allowed to enter the absentee voting site for purposes of voting. Every qualified voter present and in line at the time prescribed for closing the absentee voting site may vote.
- G. When the absentee voting sites are closed and the last vote has been cast, the election board shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the clerk, the number of official ballots supplied.

SECTION 20. That KPB 4.80.080 (B) and (E) are hereby amended as follows:

4.80.080. Absentee voting—By electronic transmission.

...

- B. A ballot electronically transmitted shall contain a copy of the ballot to be used at the election in a form suitable for transmission. A photocopy of the computerized ballot card to be used by persons voting in person at the [POLLING PLACES] absentee voting sites is acceptable.

- ...
- E. A voter who returns the absentee ballot by electronic transmission must comply with the same deadlines as for voting in person on or before the closing hour of the [polls] absentee voting sites.
- ...

SECTION 21. That KPB 4.80.095 is hereby amended as follows:

4.80.095. Special needs voting.

A qualified voter with a disability who, because of that disability, is unable to go to [a polling place] an absentee voting site to vote may vote a special needs ballot. Special needs ballots shall be issued and accounted for in accordance with the rules adopted by the state for use in state elections and in effect at the time of the local election.

SECTION 22. That new sections numbered KPB 4.80.120 – 150 are hereby added as follows:

4.80.120. Prohibitions.

- A. During the hours that the absentee voting sites are open, no election official may discuss any political party, candidate or issue while on duty.
- B. During the hours the absentee voting sites are open, no person who is in the absentee voting site or within 200 feet of any entrance to the absentee polling site may attempt to persuade a person to vote for or against a candidate, proposition or question. Nor may any person conduct other political activities that may pertain to any future election or potential ballot proposition. The election board shall post warning notices in the form and manner prescribed by the clerk.
- C. 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, except as provided in this chapter.
- D. While the absentee voting sites are open no election official may open any ballot received from a voter, mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked a ballot, or allow the same to be done by another person.
- E. No person may leave the absentee voting site with the official ballot that the person received to mark.

4.80.130. Assisting voter.

A qualified voter who cannot read, mark the ballot, or sign his name may request an election official or not more than two persons of his choice to assist him. If the election official is requested, he shall assist the voter. If any other person is requested, the person shall state upon oath before the election official that he will not divulge the vote cast by the person whom he assists.

4.80.140. Spoiled ballots.

The election supervisor shall specify uniform procedures for replacement, registration and disposition of spoiled ballots. These uniform procedures shall be provided in writing to the election judges.

4.80.150. Placing ballot in ballot box.

When the voter has marked the ballot, the voter shall inform the election official. The clerk may require that the voter return the ballot to the election official temporarily so that any stub which may be part of the ballot may be removed by the election official. Any such requirement shall protect the secrecy of the ballot. In all cases the ballot shall be deposited in the ballot box by the voter in the presence of the election official unless the voter requests the election official to deposit the ballot.

SECTION 23. That a new section numbered KPB 4.90.015 is hereby added as follows:

4.90.015. Preparation for counting ballots delivered by mail.

- A. Ballots may not be counted before 8:00 p.m., local time, on the day of the election.
- B. Not sooner than the seventh day before the date of an election, in preparation for counting ballots delivered by mail, the election supervisor may:
 - 1. begin opening return identification and secrecy envelopes of ballots delivered by mail and received; and
 - 2. take any other actions that are necessary to allow the counting of ballots delivered by mail to begin at 8:00 p.m., local time, on election day.

SECTION 24. That KPB 4.90.020 is hereby amended as follows:

4.90.020. Canvass of returns.

- A. No later than the Monday following each election, the election canvass board shall meet in public session and canvass all election returns. In full view of those present, the election canvass board shall judge the applicability of by mail and absentee [AND QUESTIONED] ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. [THE CANVASS OF THE BALLOT VOTE COUNTED BY THE PRECINCT ELECTION BOARDS SHALL BE ACCOMPLISHED BY REVIEWING THE TALLIES OF THE RECORDED VOTE TO CHECK FOR MATHEMATICAL ERROR BY COMPARING TOTALS WITH THE PRECINCT'S CERTIFICATE OF RESULTS. ALL OBVIOUS ERRORS FOUND BY THE ELECTION CANVASS IN THE TRANSFER OF TOTALS FROM THE PRECINCT TALLY SHEETS TO THE PRECINCT CERTIFICATE OF RESULTS SHALL BE CORRECTED BY THE CANVASS BOARD. A MISTAKE WHICH HAS BEEN MADE IN PRECINCT RETURNS THAT IS NOT CLEARLY AN ERROR IN THE TRANSFER OF THE RESULTS FROM THE TALLIES TO THE CERTIFICATE OF RESULTS EMPOWERS THE CANVASSING BOARD TO RECOMMEND A RECOUNT OF THE RESULTS OF THE PRECINCT OR PRECINCTS FOR THAT PORTION OF THE RETURNS IN QUESTION.]

B. Upon completion of the canvass, the canvassing board shall prepare a final certificate of the results of votes cast by absentee[, QUESTIONED AND CHALLENGED] ballot[s] and of votes cast by [REGULAR] by mail ballot, and shall prepare a written report of the results to be submitted to the assembly.

[C. IF ELECTION MATERIALS HAVE NOT BEEN RECEIVED FROM A PRECINCT PRIOR TO COMPLETION OF THE CANVASS, BUT ELECTION RESULTS HAVE BEEN TRANSMITTED BY TELEPHONE, TELEGRAM, RADIO OR ELECTRONIC TRANSMISSION, THE CANVASSING BOARD SHALL COUNT THE ELECTION RESULTS RECEIVED. IF THE BOROUGH CLERK HAS REASON TO BELIEVE THAT A MISSING PRECINCT CERTIFICATE, IF RECEIVED, WOULD AFFECT THE RESULT OF THE ELECTION, THE CLERK SHALL AWAIT THE RECEIPT OF THE CERTIFICATE UNTIL 2:00 P.M. ON THE TUESDAY FOLLOWING THE ELECTION. IF THE CERTIFICATE IS NOT RECEIVED BY THE CLERK BY 2:00 P.M., TUESDAY, THEN THE CERTIFICATE SHALL NOT BE COUNTED NOR INCLUDED IN THE FINAL CERTIFICATION OF THE CANVASSING BOARD.]

SECTION 25. That KPB 4.90.030 is hereby repealed.

[4.90.030. Procedures for handling questioned ballots.

THE CANVASSING BOARD BY MAJORITY VOTE MAY REFUSE TO ACCEPT THE QUESTION AND COUNT THE BALLOT OF A PERSON PROPERLY QUESTIONED. IF THE BALLOT IS REFUSED, THE CLERK SHALL RETURN A COPY OF THE STATEMENT QUESTIONING THE BALLOT TO THE VOTER, AND SHALL ENCLOSE ALL REJECTED BALLOTS IN A SEPARATE ENVELOPE WITH STATEMENTS OF THE BASIS FOR THE QUESTION. THE ENVELOPE SHALL BE LABELED WITH "REJECTED BALLOTS" AND SHALL BE PRESERVED WITH OTHER VOTED BALLOTS. IF THE BALLOT IS NOT REFUSED, THE LARGE ENVELOPE SHALL BE OPENED, THE SMALLER INNER ENVELOPE SHALL BE PLACED IN A CONTAINER AND MIXED WITH OTHER ABSENTEE BALLOT ENVELOPES OR, IN THE CASE OF COUNTING QUESTIONED BALLOTS, WITH OTHER QUESTIONED BALLOT ENVELOPES. THE MIXED SMALLER ENVELOPES SHALL BE DRAWN FROM THE CONTAINER AND OPENED, AND THE BALLOTS SHALL BE COUNTED ACCORDING TO THE RULES FOR DETERMINING PROPERLY MARKED BALLOTS.]

SECTION 26. That KPB 4.90.040 is hereby amended as follows:

4.90.040. Voters not on official registration list.

A person whose registration has been cancelled under AS 15.07.130(b) [AND WHO VOTES A QUESTIONED BALLOT] shall not have [THE] their ballot counted.

SECTION 27. That the title of KPB Chapter 4.120 is hereby amended as follows:

CHAPTER 4.120. SPECIAL ELECTIONS BY MAIL

SECTION 28. That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS *
DAY OF * 2014.**

Dale Bagley, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Vote on Motion to Enact 07/01/14:

Yes: Haggerty, McClure, Pierce, Smith, Smalley

No: Bagley, Johnson, Ogle, Wolf

Absent: Pierce

Vote on Motion to Reconsider 07/22/14:

Yes: Bagley, Haggerty, Johnson, Smith, Smalley

No: McClure, Ogle, Pierce, Wolf

Absent: None

Vote on Motion to Enact 01/20/15:

Yes: Haggerty

No: Cooper, Gilman, Johnson, McClure, Ogle, Welles, Wolf, Bagley

Absent: None