

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-34

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA AMENDING SITKA GENERAL CODE AT 2.40 ELECTIONS, ADDING SECTION 2.40.095 CANDIDATE BIOGRAPHICAL INFORMATION, AMENDING SECTIONS 2.40.110 WITHDRAWAL OR AMENDMENT OF NOMINATION, 2.40.115 WRITE-IN CANDIDATES, RENAMING CHAPTER SECTION VI TO ADD ADVANCED VOTING, AMENDING SECTIONS 2.40.190 ELIGIBILITY, 2.40.200 ASSISTED VOTING, ADDING 2.40.205 VOTING BY ELECTRONIC TRANSMISSION, AMENDING SECTIONS 2.40.220 ISSUANCE OF ABSENTEE OR ADVANCED BALLOTS, 2.40.230 CASTING ABSENTEE OR ADVANCED BALLOTS, 2.40.250 ELECTION OFFICIALS (E) OATH, 2.40.310 BALLOT BOX, 2.40.315 (D)(2) MARKING OF BALLOT, 2.40.315 (G) IMPROPERLY MARKED BALLOTS, ADDING SECTIONS 2.40.315 (H) CLOSING OF POLLS, AND 2.40.316 POLL WATCHERS, AMENDING SECTIONS 2.40.320 REPORTS OF UNUSED AND DAMAGED BALLOTS, 2.40.330 (B), (C), (D) COUNTING BALLOTS – HAND-COUNTED, 2.40.390 (H) COUNTING BALLOTS, 2.40.420 CANVASS BOARD, 2.40.430 ELECTION RESULTS, RENAMING 2.40.440 ASSEMBLY APPROVAL, AMENDING SECTIONS 2.40.460 CERTIFICATE OF ELECTION, 2.40.470 NOTICE OF ELECTION CONTEST, 2.40.500 COSTS, AND 2.40.520 PROHIBITED PRACTICES

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.
2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstances shall not be affected.
3. **PURPOSE.** The City and Borough of Sitka wishes to remain current in their municipal election procedures as they evolve with new technology, state procedures, and acceptable verbiage. The following are proposed. Instructions to aid the public in learning about candidates are codified. Procedures are outlined for withdrawal of nominee. A write-in candidate's instructions for application with the municipal clerk are detailed. Section VI allows advanced voting and not just with a requirement of absence. Assisted voting details how voters with special needs may be assisted to vote. Voters are allowed under certain rules to vote by electronic transmission. Advanced or absentee ballots are processed according to specific rules. Election officials' oath is updated to current verbiage. The ballot box is witnessed to be empty before balloting begins. New guidelines are described for use of equipment by hearing or sight impaired voters. Rules are clarified for how improperly marked ballots are counted. Procedures for poll watchers are codified. The disposition of unused ballots is detailed. Hand-counting procedure for ballots is clarified. To write-in a candidate's name on the ballot, specific rules are followed for that vote to count. The duties of the canvass board in counting absentee and questioned ballots are explained. In the event of a tie, the assembly may either toss a coin or draw lots. Assembly approval of canvass board's certification is detailed. Responsible parties for election contest

costs are explained. Current law proscribes ramifications of prohibited election practices.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the following sections of Title 2 are amended as follows:

**Title 2
ADMINISTRATION**

Chapter

2.40 Elections.

* * *

IV. Nomination of Candidates

2.40.095 Candidate biographical information

2.40.095 Candidate biographical information.

A candidate for elected office shall provide the municipal clerk with biographical information of not more than 150 words, a recent photo of the candidate, and a candidate's advocacy statement of not more than 250 words for publication on the municipal website. All information is to be turned in at the time of filing and must be received by the municipal clerk no later than ten working days after submittal of a completed candidate packet. A candidate may not make a change to the candidate's biographical information or advocacy statement after the deadline. A candidate's biographical information and advocacy statement must be submitted typewritten or, preferably, transmitted electronically. An article (i.e. a, and, the) will be counted as one word. Any words included in the candidate's biographical information or advocacy statement beyond the allowed word counts will not be published. The municipal clerk can provide the candidate with acceptable topics for the biographical information and advocacy statement. The municipal clerk may reject any portion of a candidate's biographical information or advocacy statement containing obscene, libelous, profane, slanderous or defamatory material.

* * *

2.40.110 Withdrawal or amendment of nomination

Any candidate nominated may withdraw their nomination **not later than 5:00 p.m. on the 46th day before the election** at any time by appropriate written notice to the municipal clerk. **The municipal clerk will notify the media and public of the withdrawal. However, the ballots will not be modified to reflect the change unless the ballots have not yet been programmed and/or ordered.**

* * *

2.40.115 Write-in candidates

2.40.115 Write-in candidates.

If a qualified elector wishes to be a candidate in an election, but failed to properly

file before the deadline, that person may file as a write-in candidate by following rules established by the municipal clerk. The write-in candidate must register with the municipal clerk and complete a form of intent not later than five days before the election. Votes for a write-in candidate will not be counted unless that candidate has properly filed with the municipal clerk and the ballot is marked in accordance with this chapter.

* * *

VI. Absentee or Advanced Balloting

2.40.190 Eligibility

Any qualified voter who expects to be absent from their election precinct or who will be unable to go to the polling place of that precinct for reasons of physical disability on the day of election may cast an **absentee** ballot **on or after the day the ballots are available from the municipal clerk up to and including election day in a location and at times determined by the municipal clerk.** An absentee ballot may also be referred to as an **advanced ballot.** The provisions of this chapter effectuating absentee **or advanced** voting rights shall be liberally construed.

Remark: Current Section 2.40.200 first paragraph A will be moved above the heading for Assisted Voting and into Section 2.40.190, as it refers to all absentee or advanced voting, not just assisted voting. That second paragraph will be amended to read as follows:

Any qualified voter shall ... apply to the municipal clerk for an absentee **or advanced** ballot. The application must be signed by the applicant and must make clear the applicant's reason for requesting an absentee ballot and specify the election for which a ballot is requested. A separate request must be made for each subsequent election.

* * *

2.40.200 **Assisted Voting** Application by physically disabled voters

A. Application for Assisted Voting ~~B. Application by physically disabled voters.~~

1. A qualified voter who is **unable to go to the polls** physically disabled due to age, **serious** illness or disability may apply
2. The municipal clerk ... shall provide the ballot ... to the disabled voter's personal representative
5. **A personal representative may not be a candidate for office at that election, may not be your employer, an agent of your employer, or an officer or agent of your union.** ~~A candidate for office at that election may not act as a personal representative.~~

2.40.205 Voting by electronic transmission

2.40.205 Voting by electronic transmission.

Although this should be considered a last alternative, voters may cast a ballot by

electronic transmission with the municipal clerk (if other choices are unavailable to the voter). The voter submits an application form to the municipal clerk which also certifies that they are a qualified voter and that they recognize they are voluntarily waiving a portion of their right to a secret ballot when voting using electronic transmission. Voted ballots by electronic transmission must be submitted according to municipal clerk's instructions and received no later than 8:00 pm on Election Day.

* * *

2.40.220 Issuance

~~A. An envelope which shall have ... certificate of voter eligibility ... and shall have on the front.... in the City and Borough of Sitka, Alaska, I am an elector qualified to vote, and that I have herein enclosed my ballot for such election, duly marked in the presence of no other person.~~

~~Signed: _____ Witness: _____~~

A. An envelope with notations for a certification of voter eligibility and qualification, date of municipal election, that the ballot is enclosed, that it was properly marked with no undue influence, signature line, date of voting, and witness signature line, and a note on the front of the envelope that a ballot is enclosed.

2.40.230 Casting absentee or advanced ballot

A qualified voter may vote early, as soon as the ballots are available from the election official up to and including election day, in a location and at places and times determined by the municipal clerk. ~~Except for ballots issued under an application by physically disabled voter, ballots must either be personally delivered to the municipal clerk before the opening of the polls on election day or postmarked not later than election day. Ballots issued under an application by a physically disabled voter must be delivered to the municipal clerk or the appropriate election official not later than the hour set forth closing the polls on election day.~~

VII. Conduct of Elections

2.40.250 Election officials.

E. Oath. The election officials shall take or subscribe to the following oath:

~~“I do solemnly swear (or affirm) that I “State your name” will honestly, faithfully, and promptly perform the duties of election board member according to law; and I will make every effort to prevent the violation of any provision of law in conducting the election. that I will strive to prevent fraud, deceit, or abuse in conducting the election to the best of my ability, so help me God.”~~

* * *

2.40.310 Ballot box.

Before issuing any ballots, the election official officials must, in the presence of at least one other election official ~~any persons assembled at the polling place,~~ open and exhibit

the ballot box

2.40.315 (D)(2), (G), (H) Voting procedure at polls.

D. Marking of Ballot. Each voter shall retire alone to a booth or private area

2. Voters with special needs that do not require assistance will be routed to a special "ADA" apparatus and special booth that will allow voters to hear the contents of the ballot and make selections on their own. Once the voter has made all selections, the voter's ballot will be printed out on a printer. This will enable the voter to vote and cast his or her ballot unassisted.

* * *

Section 2.40.315, Item G Closing of Polls is re-lettered to Item H. Insert new Item G, to read as follows:

G. Improperly marked ballots.

If the voter marks more names than there are persons to be elected to an office, that race shall not be counted. If a voter marks more than one choice on a ballot issue, that issue shall not be counted. A failure to properly mark a ballot in a candidate race or issue shall not invalidate the entire ballot. If the voter mismarks a ballot in this fashion, the voter will be advised that they can receive a replacement ballot, spoiling the mis-marked one.

H. Closing of Polls.

* * *

2.40.316 Poll watchers.

2.40.316 Poll watchers.

A registered poll watcher may observe election set-up, general conduct throughout election day, and after polls close. A poll watcher has no duties in conducting an election and may not interfere with the orderly conduct of elections. One poll watcher may be registered for any candidate for elective office or advocate for or against a ballot proposition per precinct. The poll watcher must register with the municipal clerk prior to election day and agree to rules established by the municipal clerk. Poll watchers may not closely observe signatures on precinct registers, but may sit close enough to hear an election official say the voter's name. Poll watchers may check polling booths after each voter leaves to ensure that no campaign material has been left behind. The poll watcher may utilize the municipal clerk's complaint form to report problems.

* * *

2.40.320 Reports of unused and damaged ballots.

The numbers of ballots not issued shall be recorded, and ~~all such ballots shall be destroyed by tearing off and discarding the lower portion of the unvoted ballots~~ **all unused, unmarked ballots will be destroyed according to the election law. After recording the ballot stub numbers of the unvoted ballots, election workers will return the stubs of used ballots to the municipal clerk with other election materials.**

The numbers of ballots damaged by voters

2.40.330 (B), (C), (D) Counting ballots—Hand-counted.

B. For purposes of counting During transportation, the ballot boxes containing the ballots **shall be locked and registration books secured.** ~~and registration books shall be locked.~~ When the polls

C. Though the public may not be excluded...the public may be kept behind a guardrail or other natural barrier ~~in the same room~~ to prevent interference with the election officials....

D. The ballots, after having been counted...read aloud the name of each person voted for **and/or Yes or No on issues,** provided that no more ballots

* * *

2.40.390 Counting ballots.

H. In order to vote for a write-in candidate, the voter must write in the candidate's name **as it appears on the write-in declaration of candidacy and** mark the oval **next to the right of the written-in name.** **Write-in votes will be counted when the oval is marked and the name as it appears on the write-in declaration of candidacy are written in these manners: first and last name or any reasonable spelling of the first and last name are used; first and last names with or without the suffix (e.g. Jr., Sr., III); last names with correct initial for the first name is used; commonly known nicknames with correct last name are used; or when the candidate's name is already printed on the ballot. Write-in votes will be rejected in these circumstances: fictional names are used (e.g. Mickey Mouse, None of the Above); only initials are used; only first name is used; correct last name is used, but an incorrect first name or incorrect initial is used; or the oval next to the candidate's name is not marked.**

* * *

2.40.420 Canvass Board. [Renamed]

2.40.420 **Canvass Board** Counting absentee and questioned ballots.
There will be a canvass board consisting of an election board of at least up to two qualified voters and the municipal clerk. The canvass board is responsible for meeting in a public session to declare which absentee, advanced, questioned, special needs, and write-in ballots are valid. The canvass board will review, tally, and officially report the results of the ballots. No later than its next regular assembly meeting after the municipal clerk submits the Certification of Election, the assembly shall receive and adopt the Certification. This meeting may be rescheduled by a majority vote of the assembly. If the assembly determines that the election was validly held, the assembly shall approve the Certification of Election.

* * *

2.40.430 Election results.

Following canvass board review, the candidates receiving the greatest number of votes shall be certified elected to office by the **municipal clerk and approved by the assembly**. In case of a tie, the election shall be determined by **coin toss or** by lot from among the candidates tying at a meeting of the assembly

* * *

VIII. Certification of Election

2.40.440 Assembly **Approval** Certification.

At the first regular meeting of the assembly after the election, the assembly shall meet and **approve the municipal clerk and canvass board's certification of returns**, ~~certify the returns~~. The **approval of** certification may be postponed for cause as determined by the assembly from day to day, but not exceeding three postponements. The **approval of** certification shall be by motion duly made, seconded and passed and the results shall be set forth in the minutes of the meeting. In the case of a recount, the **approval of** certification of the recount may be postponed until the next regular assembly meeting following the recount. Upon **approval of** certification, the **municipal** clerk may issue a written certificate of election to the winning candidates.

The initial election returns shall be announced in public on election night. The certification of all election returns shall be made ~~in public~~ by examining the judges' certificates of returns and compiling these along with the count of valid **advanced or** absentee and challenged ballots **by the municipal clerk and canvass board**. ~~At or,~~ at the discretion of the assembly, an actual recount may be undertaken after due notice to candidates.

* * *

2.40.460 Certificate of election.

Immediately after the **assembly's approval of** assembly's **municipal clerk's** certification is completed, the municipal clerk

IX. Contested Elections

2.40.470 Notice of election contest.

SUBSCRIBED AND SWORN to before me this ___ day of ___, **20**. ~~19~~.

The municipal clerk shall apprise the assembly of receipt of the notice before **approval of** certification of the returns has commenced.

* * *

2.40.500 Costs.

* * *

- B. If, upon investigation or recount, the contentions of the person filing the notice are proven to be correct, the entire deposit shall be refunded. ~~If the contentions of the person filing the notice are proven to be incorrect, the municipal clerk shall refund any money remaining after the costs have been paid.~~
- C. 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 if the difference between the winning and a losing vote on the position or proposition result contested is more than two percent after recount. If the entire deposit is not refunded, the municipal clerk shall refund any money remaining after the cost of the recount has been paid from the deposit.

* * *

X. Prohibited Practices

2.40.520 Prohibited practices.

* * *

- B. Under Influence by Force. Any person who ~~directly or indirectly~~ uses or threatens to use force, coercion ... is guilty of a Class C felony misdemeanor. —
- C. Undue Influence by Offer. ~~1. Any person who promises to give or offers money or a valuable thing to any persons ... is guilty of a Class C felony misdemeanor.~~
~~2. The providing of refreshments of any nature on election day by any candidate, political party, or those acting for them or identified with them shall be within the above-stated prohibition.~~
~~3. The providing of refreshments of any nature by any person seeking to induce others to sign or not to sign any petition for initiative or referendum shall be within the above-stated prohibition.~~
- D. Improper Subscription to Petition. Any person who signs any name other than their own ... shall be guilty of a Class B misdemeanor.
- E. Under Influence of Election Official. Any person who by force, threat, intimidation ... shall be guilty of a Class C felony misdemeanor.
(A.S. 15.56.060(a)(1))


5. EFFECTIVE DATE. This ordinance shall become effective on the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 23rd day of December, 2014.



Mim McConnell, Mayor

ATTEST:



Sara Peterson, CMC
Acting Municipal Clerk