CODE ORDINANCE

By: Borough Manager
Introduced: 05/03/16
Public Hearing: 05/17/16
Amended: 05/17/16
Adopted: 05/17/16

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-064

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING TITLE 25, ELECTIONS.

WHEREAS, the intent and rationale for this ordinance is contained in the Informational Memorandum accompanying this ordinance.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 25.05.010 is hereby amended as follows:

"Day of the certification of the election" means the date the Assembly is scheduled to certify the entirety of the election results or 14 days after the date of election, whichever is earlier.

Section 3. Amendment of section. MSB 25.05.067 is hereby amended as follows:

(A) An ordinance placing propositions and questions before the voters must be adopted not later than [53] **60** calendar days before a regular election

or [60] **67** calendar days before a special election.

Section 4. Amendment of section. MSB 25.05.120 is hereby amended as follows:

(A) Not later than 15 calendar days prior to each regular or special election, the Clerk shall prepare and mail one election brochure per registered voter household containing information approved by the Assembly pertaining to each proposition on the ballot, candidate information to include candidate's name, year of birth, Alaska residency, and a 100-word or less position statement by the candidate, sample ballots, and other general voting information.

(B) Statements advocating *voter* approval (pro) or rejection (con) of initiatives, referendums, or propositions approved by the Assembly:

(1) Pro and con statements for each proposition may be included in the election brochure if submitted. Only one pro statement and one con statement will be printed in the election brochure per proposition. Should only one statement be submitted on a particular proposition, whether it is a pro or con statement, no statements shall be placed in the election brochure for that proposition.

(2) The deadline for submitting a pro or con statement is 7 days following the proposition adoption deadline for a regular or special election.

(3) A statement may not exceed 250 words. Articles such as "a," "an," and "the" will be counted as a word. Numbers written in numerical form will be counted as a single word.

(4) The Clerk shall offer authorship of the statement advocating *voter* approval of an initiative or referendum in the following order and to the extent that more than one person or organization meets the criteria for authorship preference shall also be given in the following order:

(a) to the primary contact person of the initiative or referendum;

(b) to an APOC-registered person or organization with the identified purpose of supporting or rejecting an initiative, referendum, or proposition;

(5) A statement submitted under this section must include the signature of the author(s) located at the bottom of the statement. There shall not be more than three authors signatures. Any signers more than the allotted three will be considered

endorsements and included in the text of the statement and count against the 250-word limit. Signers must include the signers' full names and organizations, if any.

(6) The Clerk will not release statements until all statements regarding the question have been received in final form and have gone to the printer.

(7) Statements must be accepted by the Clerk in order to be published.

(8) The Clerk will add a disclaimer to each statement noting the information is the opinion of the author(s) and has been reproduced as submitted, without any changes to grammar, spelling or punctuation.

(9) The presentation of the pro and con statements shall be in the following order in the election brochure: text of the ballot language, statement advocating voter approval, statement advocating voter rejection.

Section 8. Amendment of section. MSB 25.20.020(B) is hereby amended as follows:

(B) *Notice and publication.* The Clerk shall publish a notice of each election at least twice in one or more newspapers of general circulation in the

one or more newspapers of general circulation in the Borough. The first publication shall occur at least 30 calendar days before a regular election **and** 20 calendar days before a special election, and ten calendar days before a runoff election. Each notice of election shall include:

(1) the type of election, regular[,] **or** special, or runoff;

(2) the date of election;

(3) the location of the polling places and the hours the polling places shall be open;

(4) the offices to which candidates are to be elected;

(5) the subjects of propositions to be voted upon;

(6) instructions for absentee and/or early voting; and

(7) notification that anyone needing special assistance in casting their vote due to a disability or bilingual need shall contact the Clerk for assistance at least 24 hours prior to the time of casting their ballot.

Section 9. Amendment of paragraph. MSB 25.20.045(C) is hereby amended as follows:

(C) The names of the candidates shall be printed as they appear upon the declaration of candidacy filed

with the Clerk **and in accordance with MSB 25.15.015.** [, EXCEPT THAT HONORARY OR ASSUMED TITLE OR PREFIX SHALL BE OMITTED. HOWEVER, THE CANDIDATE'S NAME APPEARING ON THE BALLOT MAY INCLUDE A NICKNAME OR FAMILIAR FOR OF THE PROPER NAME.] The names of candidates shall be arranged alphabetically. Provisions shall be made for voting for a write-in candidate for each seat.

Section 10. Amendment of section. MSB 25.26.010 is hereby amended as follows:

(A) Early voting in-person before an election official, including the Clerk, shall not begin prior to 15 calendar days before a regular election or special election or eight calendar days before a runoff election, **and can run** up to and including the day before the election. The Clerk shall determine the process for early voting to ensure the integrity of the election. The early voter shall appear before an election official and provide their name, residence address, and a voter identifier such as a voter number, social security number, or date of birth. The election official shall verify that the voter's residence address appears on the official registration list and is qualified to vote per MSB 25.10.010 and

then require the voter to sign the early voting register. The signing of the register shall constitute a declaration that the voter is qualified to vote. When the voter has qualified to vote, an election official shall give the voter an official ballot and the voter shall mark the ballot in private. After the voter has marked the ballot, the voter shall place the ballot in the secrecy sleeve until depositing the ballot in the ballot box. The tabulation of early voting ballots shall not begin before 8 p.m. on Election Day and shall be tabulated in accordance with MSB 25.35.081.

(B) Prior to the election the Clerk shall **mark the precinct registers of those voters who voted early or** give to the election board in each precinct a list of voters from the precinct who have voted early. If the voter who voted **an** early ballot returns to the voter's precinct on Election Day, the voter may not vote a regular ballot but may vote a questioned ballot.

Section 11. Amendment of section. MSB 25.35.025 is hereby amended as follows:

(A) *Receiving team*. The Clerk shall appoint as many receiving teams as needed, [CONSISTING OF AT

LEAST THREE MEMBERS PER TEAM] chosen from the list of eligible election officials. Receiving teams shall ensure all precinct ballot containers are delivered in a secure manner, according to procedures set by the Clerk. The ballot containers shall be delivered to the Clerk for review by the canvass board.

(B) ***Hand*** *Counting teams*. The Clerk shall appoint counting teams as deemed necessary. [EACH COUNTING TEAM SHALL CONSIST OF AT LEAST FOUR MEMBERS PER TEAM.]

(C) *Review board*. The Clerk shall appoint a review board, as chosen from the list of eligible election officials[, CONSISTING OF AT LEAST THREE MEMBERS]. The review board shall ensure that all ballots are completely and accurately counted.

(D) *Canvass board*. The Clerk shall appoint a canvass board. [, CONSISTING OF A MINIMUM OF THREE ELECTION OFFICIALS FROM DIFFERENT ELECTION PRECINCTS WITHIN THE BOROUGH, TO THE EXTENT POSSIBLE]. The canvass board shall certify the validity of the absentee, questioned, and poll votes cast.

Section 16. Amendment of section. MSB 25.35.060 is hereby amended as follows:

PRESERVING AND DESTROYING OF BALLOTS **AND MATERIALS**

(A) The Clerk shall preserve all official ballots in a secure manner, unopened and unaltered, for not less than 30 calendar days from the date of the election certification or in cases where the election is contested, until 30 days after the final resolution of the contest. Upon expiration of the 30-day period, the Clerk shall burn, shred, recycle, or otherwise completely destroy the ballots upon direction of the Assembly, and make and keep a written certification that the ballots have been destroyed. **The Clerk shall preserve election materials in accordance with the retention schedule.**

(B) The Clerk may only permit the inspection of the ballots (used or not) and materials:

(1) upon call of the Assembly; or

(2) upon call of a court of competent jurisdiction; or

(3) by the canvass board pursuant to a recount if the board deems it necessary to inspect the ballots and materials; or

(4) by the Clerk and Attorney during an inquiry to an election contest if the Clerk and Attorney deem it necessary to inspect the ballots and materials.

Section 17. Adoption of section. MSB 25.35.080 (E) is hereby adopted as follows:

(D) An absentee in-person ballot shall be counted despite a voter's failure to sign the absentee oath and affidavit envelope, provided the voter has signed the absentee voter register and the canvass board has determined the voter is qualified and the ballot has been properly cast.

(1) The oath and affidavit the absentee voter signs on the register shall include the information required by AS 15.20.030.

Section 18. Amendment of section. MSB 25.35.081 is hereby amended as follows:

(A) The early ballots shall be delivered to the **review board assigned by the Clerk** [CANVASS BOARD] for counting. The **review board** [canvass board] shall print results tapes, sign the tapes, and return the tapes and memory card to the Clerk. The results tapes shall serve as the early voting precinct certificate of election.

Section 19. Amendment of section. MSB 25.35.090 is hereby amended as follows:

(D) A questioned ballot shall be counted despite a voter's failure to sign the questioned oath and

affidavit envelope, provided the voter has signed the questioned voter register and the canvass board has determined the voter is qualified and the ballot has been properly cast.

(1) The oath and affidavit the questioned voter signs on the register shall include the information required by AS 15.15.210.

Section 20. Adoption of section. MSB 25.35.105 is hereby adopted as follows:

CHALLENGE OF ABSENTEE OR QUESTION VOTER

(A) Only the following may be present and challenge an absentee or question voter during canvassing:

(1) A candidate or written designee previously approved to observe the canvass board; or

(2) the primary contact person of an initiative or referendum or written designee previously approved to observe the canvass board; or

(3) a person who authored a statement which was published in the election brochure as per MSB 25.05.120 or written designee previously approved to observe the canvass board.

(B) A challenge to the absentee or question voter may be presented on the day that voters name is read

from the voter's certificate on the envelope if the person challenging has good reason to suspect that the voter is not qualified to vote, is disqualified or has voted at the same election. The person challenging must specify the basis of the challenge in writing on a form prepared by the Clerk.

Section 21. Amendment of section. MSB 25.40.020(A) is hereby amended as follows:

(A) Notice of contest of an election shall be submitted in writing to the Clerk before [5] **3** p.m. on the day of the certification of the election [OR TO THE ASSEMBLY AT ITS MEETING TO CERTIFY THE ELECTION RETURNS]. **A notice of contest shall include a $1,000 payment by cash or check.** The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signatures of the candidate or qualified voters bringing the contest. The notice shall be in substantially the following form:

Section 22. Adoption of paragraph. MSB 25.40.020(F) is hereby adopted as follows:

(F) Should the contestant prevail with the election contest the applicant shall be refunded $1,000.

Section 23. Amendment of section. MSB 25.45.010(A) is hereby amended as follows:

(A) A defeated candidate or 10 qualified voters may file an application with the Clerk for a recount of the votes from any particular precinct, or for any particular office, proposition or question by filing the application with the Clerk before [5] **3** p.m. on the day of the certification of the election results [OR BY DELIVERING THE APPLICATION FOR RECOUNT TO THE ASSEMBLY AT ITS MEETING TO CERTIFY THE ELECTION RETURNS]. The date on which the Clerk receives an application rather than the date of mailing or transmission determines whether the application is filed within the time allowed under this subsection.

Section 24. Amendment of section. MSB 25.45.020(B) and is hereby amended as follows:

(B) The application shall include a deposit in cash or certified check [OR BY BOND WITH A SURETY APPROVED BY THE CLERK.] The amount of the deposit shall be [$100] **$150** for each precinct. If less than all precincts are requested for recount, absentee and questioned ballots shall be considered one combined precinct for the purposes of the recount. If all precincts are included in the request, there shall be

no charge for the recount of absentee and questioned ballots.

Section 25. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 17 day of May, 2016.

VERN HALTER, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Sykes, Beck, McKee, Colligan, Mayfield, and Kowalke