City of Bethel

P.O. BOX 1388
Bethel, Alaska 99559
Phone: 907- 543-2047
Fax: 907-543-4171

Regular City Council Meeting
April 24, 2012
6:30 P.M.
Council Chambers; Bethel, Alaska

City Council Meeting Agenda
*AMENDED Regularly Scheduled Meeting
April 24, 2012-6:30 pm
City Hall 300 State Highway, Bethel, AK
City of Bethel Council Chambers

Joseph Klejka
Mayor
Term Expires 2012
543-2984
jklejka@cityofbethel.net

Gene Peltola Jr.
Vice-Mayor
Term Expires 2013
543-3151
gpeltola@cityofbethel.net

Rick Robb
Council Member
Term Expires 2013
543-1879
rrobb@cityofbethel.net

Mary Sattler
Council Member
Term Expires 2013
543-1588
msattler@cityofbethel.net

Gene Peltola Jr.
Council Member
Term Expires 2013
543-3151
gpeltola@cityofbethel.net

Kent Harding
Council Member
Term Expires 2012
543-2276
kharding@cityofbethel.net

Mark Springer
Council Member
Term Expires 2013
545-1450
mspringer@cityofbethel.net

Eric Whitney
Council Member
Term Expires 2012
545-1309
ewhitney@cityofbethel.net

Lee Foley
City Manager
543-2047
lfoley@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Michael Gatti
City Attorney

Paul Richards
Lobbyist
paul_richards@gci.net

I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **ROLL CALL**

IV. **PEOPLE TO BE HEARD** – Five minutes per person

V. **APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA**

VI. **APPROVAL OF MEETING MINUTES**

a) **P2** *4-5-2012 Special City Council Meeting
b) **P7** *4-10-2012 Regular City Council Meeting
c) **P15** *4-12-2012 Special City Council Meeting

VII. **REPORTS OF STANDING COMMITTEES**

a) Public Safety and Transportation Commission
b) Finance Committee
c) Energy Committee
d) Port Commission
e) Parks and Recreation Committee
f) Planning Commission
g) Public Works Committee

VIII. **SPECIAL ORDER OF BUSINESS**

a) **P33** Proclamation Honoring Senator Lyman Hoffman And Representative Bob Herron, Legislative Heroes, For Their Hard Work Establishing Funding For The City Of Bethel State Priorities For Fiscal Year 2013 (City Manager Foley)

IX. **UNFINISHED BUSINESS**

a) **P37** Public Hearing Of Ordinance 12-03: Amending Bethel Municipal Code Section 1.08 General Penalties To Increase The Maximum Penalties For A Violation Of The Bethel Municipal (City Manager Foley) **[Time Certain 7:00pm]**
b) **P49** Public Hearing Of Ordinance 11-13 Substitute: Repealing And Reenacting Title 7 Of The Bethel Municipal Code, Elections (Mayor Klejka)

X. **NEW BUSINESS**

a) **P139** *Resolution 12-10: Supporting The Idea Of A Cooperative Electric Utility Purchase (Mayor Klejka)
b) **P141** AM 12-21: Directing Administration To Go Out With An RFP For A Cost Of Service Study For Metered Water (City Manager Foley)

Amended Agenda Posted April 19th, Original Agenda posted April 4th, at City Hall, AC Co., Swansons, and the Post Office.

Lori Strickler, City Clerk's Office
(Items on the agenda noted with an asterisk (*) are considered the consent agenda.
All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.
Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing May 8, 2012**)

c) **P143** AM 12-22: Appointment Of Amanda Colvin To The Parks And Recreation Committee (Mayor Klejka)
d) **P146A** IM 12-02: Water And Sewer Project Update (Mayor Klejka)
e) **P147** Options To Hiring An In House Attorney For The City Of Bethel (Council Member Sattler)
f) **P151** ONC/City Of Bethel Transit System Funding Sources For Continued Operation Past June 30, 2012 (Mayor Klejka)

XI. **MAYOR'S REPORT**
XII. **MANAGER'S REPORT**
XIII. **CLERK'S REPORT**
XIV. **COUNCIL MEMBER COMMENTS**
XV. **ADJOURNMENT**

Amended Agenda Posted April 19th, Original Agenda posted April 4th, at City Hall, AC Co., Swansons, and the Post Office.

Lori Strickler, City Clerk's Office
(Items on the agenda noted with an asterisk (*) are considered the consent agenda.
All Resolutions noted with an asterisk (*) will automatically be adopted on the consent agenda unless removed from the consent agenda by Council.
Ordinances introduced with an asterisk (*) on the consent agenda will automatically be introduced and set for **Public Hearing May 8, 2012**)

Approval of the Minutes

City of Bethel City Council Meeting Minutes

April 5, 2012 Special Meeting Bethel, Alaska

I. CALL TO ORDER

A Special Meeting of the Bethel City Council was held on April 5, 2012 at 12:00p, at the City Council Chambers, Bethel, Alaska.

In the absence of the Mayor and Vice Mayor, City Clerk, Lori Strickler called the meeting to order.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present:	Council Member Robb Council Member Sattler Council Member Harding Council Member Whitney
Excused:	Vice-Mayor Peltola Mayor Klejka Council Member Springer
Other Present:	City Manager Foley City Clerk Strickler

MOVED:	Harding	Motion to nominate Council Member Richard Robb as Mayor Pro Tempore.
SECONDED:	Whitney	
VOTE ON MAIN MOTION	All in favor	

IV. PEOPLE TO BE HEARD

No one wished to be heard.

V. APPROVAL OF AGENDA

MOVED:	Harding	Motion to approve the agenda.
SECONDED:	Whitney	
VOTE ON MAIN MOTION	All in favor	

MOVED:	Whitney	Motion to suspend the rules to hear from Administration and staff.
SECONDED:	Sattler	
VOTE ON MAIN MOTION	All in favor	

MOVED:	Sattler	Motion to move into a committee of the whole.
SECONDED:	Whitney	
VOTE ON MAIN MOTION	All in favor	

VI. NEW BUSINESS

a) Police Department

b) General Fund Revenues

c) Administration

d) City Clerk

e) Finance

MOVED:	Whitney	Motion to move out of committee of the whole.
SECONDED:	Harding	
VOTE ON MAIN MOTION	All in favor	

MOVED:	Whitney	Motion to approve the Police Department, Administration, City Clerk and Finance General Fund Revenues.
SECONDED:	Sattler	
VOTE ON MAIN MOTION	All in favor	

ADJOURNMENT

Council Member Sattler departed the meeting.

Due to a lack of a quorum the Council adjourned at 8:37p.

_____
Richard Robb, Mayor Pro Tempore

ATTEST:

_____
Lori Strickler, City Clerk

City of Bethel City Council Meeting Minutes

April 10, 2012 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

A Regular Meeting of the Bethel City Council was held on April 10, 2012 at 6:30pm, at the City Council Chambers, Bethel, Alaska.

Mayor Joseph Klejka called the meeting to order.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

PRESENT:
Council Member Kent Harding
Council Member Gene Jr. Peltola
Council Member Joseph Klejka
Council Member Mary Sattler
Council Member Mark Springer
Council Member Rick Robb
Council Member Eric Whitney

STAFF:
City Clerk Lori Strickler
City Manager Lee Foley

IV. PEOPLE TO BE HEARD

Beverly Hoffman-
Updated the council on the status of the City's State priorities requests for FY 2013, specifically the Bethel Aquatic Training and Health Center. Suggested the Council as well as community members, contact their representative and the Governor's Office to express their support for the pool project.
Requested the Council to retain the Armory building.

V. APPROVAL OF THE CONSENT AND REGULAR AGENDA

MOVED:	Robb	Motion to approve the consent and regular agenda.
SECONDED:	Whitney	

MOVED:	Robb	Remove Resolution 12-09 and Ordinance 12-06 from the consent agenda.
VOTE ON MAIN MOTION	All in favor	

VI. APPROVAL OF THE MEETING MINUTES

Item A- 3-27-2012 Regular City Council Meeting
Passed on the consent agenda.

VII. REPORTS OF STANDING COMMITTEES

Item B- Public Safety and Transportation Commission
Council Member Harding-
The Commission has not met since the last Council Meeting, no report.

Item C- Finance Committee
Vice-Mayor Peltola-
The committee would like the council to refer more items to the Committee for consideration.

Item D- Energy Committee
Council Member Whitney-
Reviewed the Nuvista Hydro Electric project.
Discussed potential future direction for the Energy Committee.

Item E- Port Commission
Council Member Springer-
The Commission has not met since the last Council Meeting, no report.

Item F- Parks & Recreation Committee
Barbra Mosier, Chair of the Committee-
Children's Fair is scheduled for April 7th and will be held at the ONC building.
Requested everyone to write to the Governor to express the need for the pool project.
The Committee supports the idea of the City retaining the Armory building.
Planning for the 4th of July Festival and hoped the council would consider passing an ordinance to ban certain items at the festivities.

Item G- Planning Commission
Council Member Robb-
The Commission has not met since the last Council Meeting, no report.

Item H- Public Works Committee
Mayor Klejka-
A meeting was not held due to a lack of a quorum.

VIII. UNFINISHED BUSINESS

Item A- Public Hearing Of Ordinance 12-03: Amending Bethel Municipal Code Section 1.08 General Penalties to Increase the Maximum Penalties for A Violation of the Bethel Municipal.

Mayor Klejka opened the public hearing.
No one wished to be heard.
Mayor Klejka Closed the public hearing.

MOVED:	Whitney	Motion to adopt Ordinance 12-03.
SECONDED:	Springer	

MOVED:	Robb	Motion to suspend the rules to hear from Dan Shea, the City Planner.
SECONDED:	Peltola	
VOTE ON MAIN MOTION	All in favor	

MOVED:	Robb	Motion to postpone until the next meeting.
SECONDED:	Peltola	
VOTE ON MAIN MOTION	5-2 Motion passes, Harding and Whitney opposed	

MOVED:	Robb	Motion to request Michael Gatti, City Attorney to address the council on Ordinance 12-03 at the next meeting, and have council and administration create questions to provide to him.
SECONDED:	Peltola	
VOTE ON MAIN MOTION	All in favor	

Item B- Public Hearing Of Ordinance 12-04: Amending Planning Office Fees and Charges Schedule for Commercial Site Plan Application for Institutional.

Mayor Klejka opened the public hearing.
No one wished to be heard.
Mayor Klejka Closed the public hearing.

MOVED:	Whitney	Motion to adopt Ordinance 12-04.
SECONDED:	Harding	

Mayor Klejka and Vice Mayor Peltola declared a conflict of interest and stepped down from the Council's bench.

MOVED:	Sattler	Motion to elect Council Member Rick Robb as Mayor Pro Tempore.
SECONDED:	Harding	

Council Member Robb declared a conflict of interest because of his employment. Council did not concur.

VOTE ON MAIN MOTION	4-1 Motion passes, Robb opposed

VOTE ON MAIN MOTION	5-0 Motion passes, Klejka and Peltola abstained

Item C- Public Hearing of Ordinance 12-05: Placing Before the voters at the Regular Municipal Election a Question to Exempt the City of Bethel From the State of Alaska Official Financial Disclosure Provisions.

Mayor Klejka opened the public hearing.
No one wished to be heard.
Mayor Klejka Closed the public hearing.

MOVED:	Robb	Motion to adopt Ordinance 12-05.
SECONDED:	Sattler	

MOVED:	Robb	Motion to amend, to strike under the fourth Whereas statement; Section 2; the proposition language; and under "A "YES" vote would require," ~~using the State of Alaska, Public Official Financial Disclosure Statement used prior to the 2007 amendment~~." And to insert under "A "YES" vote would require" adopt an ordinance to establish financial disclosure provisions and forms for public official disclosure.
SECONDED:	Sattler	
VOTE ON MOTION	All in favor	

VOTE ON MAIN MOTION	All in favor

IX. NEW BUSINESS

Item A- *Resolution 12-09: Preparation and Submission Of State Fiscal Year 2013 Alaska Community Transportation Grant Application.

MOVED:	Sattler	Motion to adopt Resolution 12-09.
SECONDED:	Peltola	
VOTE ON MAIN MOTION	All in favor	

Item B- Introduction of Ordinance 11-13 Substitute: Repealing And Reenacting Title 7 of the Bethel Municipal Code, Elections.

MOVED:	Springer	Motion to introduce Ordinance 11-13 Substitute.
SECONDED:	Whitney	

VOTE ON MAIN MOTION	All in favor

XII. MAYOR'S REPORT

XIII. MANAGERS REPORT

XIV. CITY CLERK'S REPORT

XV. COUNCIL MEMBER COMMENTS

Council Member Robb-
Encouraged community members to contact the Governor's Office and representative to support the pool project.
Tribal Gathering happening now and through the week at the Cultural Center.

Council Member Whitney –
No comment.

Council Member Harding-
Spring has caused the springs to run. Encouraged people to drive cautiously and try not to splash joggers and walkers.

Council Member Springer-
Happy to see the graders out managing all of the mud in town.

Council Member Sattler-
Will be on travel to Juneau tomorrow to lobby for the City's priority requests to the State.

Council Member Peltola-
It is hard to participate during a council meeting over the phone.
Water fowl has been sighted near town.
Be safe traveling from community to community.

Mayor Klejka-
Agreed it is necessary to have a representative to travel to Juneau as well as for Community members to call their representatives to support the project.

MOVED:	Springer	Motion to adjourn.
SECONDED:	Whitney	

VOTE ON MAIN MOTION	All in favor

XVI. ADJOURNMENT

Council adjourned at 8:18p.

_____
Joseph A. Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

City of Bethel City Council Meeting Minutes

April 12, 2012 Special Meeting Bethel, Alaska

I. CALL TO ORDER

A Special Meeting of the Bethel City Council was held on April 12, 2012 at 6:30p, at the City Council Chambers, Bethel, Alaska.

Vice-Mayor Peltola called the meeting to order.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present:	Council Member Harding Council Member Whitney Vice-Mayor Peltola Mayor Klejka (arrived after roll call) Council Member Springer Council Member Robb (arrived after roll call)
Excused:	Council Member Sattler
Other Present:	City Manager Foley City Clerk Strickler

IV. PEOPLE TO BE HEARD

No one wished to be heard.

V. APPROVAL OF AGENDA

MOVED:	Harding	Motion to approve the agenda.
SECONDED:	Whitney	
VOTE ON MAIN MOTION	All in favor	

MOVED:	Springer	Motion to move into a committee of the whole.
SECONDED:	Harding	

VOTE ON MAIN MOTION	All in favor

VI. UNFINIESHED BUSINESS

a) Employee Group Health Benefits

Mayor Klejka arrived at 6:45p.

b) Leased Properties- Courthouse

Council Member Robb arrived at 6:55p.

c) Leased Properties- Other

d) Endowment Fund

VII. NEW BUSINESS

a) Fire Department

b) Planning Department

c) Land Planning and Development

d) IT Services

e) Community Services

f) In-Kind And Transfers

g) Capital Fund Budget

MOVED:	Robb	Motion to come out of a committee of the whole.
SECONDED:	Springer	
VOTE ON MAIN MOTION	All in favor	

MOVED:	Robb	Motion to amend the proposed budget to strike $35,000 from hauled water and $35,000 from hauled sewer and insert $75,000 in the Fleet
SECONDED:	Peltola	

		Replacement Fund.
VOTE ON MOTION	All in favor	

MOVED:	Robb	Motion to amend, to increase the Planning budget 10-54 by $7,500 for relocation costs.
SECONDED:	Peltola	
VOTE ON MOTION	All in favor	

MOVED:	Robb	Motion to amend, to increase Community Services, Cash Subsidy to ONC Senior Center line item 10-72-620 in the amount of $50,000.
SECONDED:	Harding	
VOTE ON MOTION	All in favor	

h) Establishing Another Budget Meeting For April 26, 2012

i) AM 12-20: Requesting Reimbursement To Council Member Sattler For Travel To Juneau On Behalf of the City To Lobby for the City's State Capital Priorities For Fiscal Year 2013.

Vice Mayor Peltola declared a conflict of interest.

MOVED:	Springer	Motion to approve AM 12-20.
SECONDED:	Harding	
VOTE ON MAIN MOTION	5-0 Motion passes, Vice Mayor Peltola abstain.	

MOVED:	Robb	Motion to adjourn.
SECONDED:	Springer	
VOTE ON MAIN MOTION	All in favor	

ADJOURNMENT

_____
Joseph A. Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

Reports of Standing Committees

City of Bethel, Alaska
Energy Committee

February 6, 2012 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Energy Committee held on February 6, 2012 at 6:30 pm in the City Hall Council Chambers, Bethel, Alaska.

II. ROLL CALL

Compromising a quorum of the Committee, the following members were present for roll call:
(none)
Excused:
Leif Albertson
Greg McIntyre
Shari Neth
Eric Whitney

Ex-Officio members present were the following:
Danielle Tucci

Meeting adjourned due to a lack of a quorum.

Leif Albertson, Chair

ATTEST:

Danielle Tucci, Recorder

DRAFT

City of Bethel, Alaska

Parks and Recreation Committee Minutes

March 5, 2012 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

The meeting was called to order by Barb Mosier at 6:05 PM.

II. ROLL CALL

Comprising a quorum of the Committee, the following were present:

Barbara Mosier, Susan Taylor, Mary Sattler, Margaret Revet, Minnie Sallison Fritts

Excused absence(s):

Unexcused absence(s): Erica Neck,

Also in attendance were the following:

Janet Athanas, Parks and Recreation Director

Ronda Sargent, Recorder

III. PEOPLE TO BE HEARD

Amanda Colvin- Tundra Ridge Park Project

IV. APPROVAL OF MINUTES

MOVED BY:	M. Fritts	To approve the minutes of the regular meeting for February 6, 2012.
SECONDED BY:	M. Revet	
VOTE ON MOTION	Unanimously approved	

V. APPROVAL OF AGENDA

MOVED BY:	S. Taylor	To approve the agenda.
SECONDED BY:	M. Fritts	
VOTE ON MOTION	Unanimously approved	

VI. DEPARTMENT HEAD REPORT

Janet gave the update on all the activities, current building status and introduced the FY budget 12/13.

VII. UNFINISHED BUSINESS

a. Armory
b. Parks & Recreation Plan

VIII. NEW BUSINESS

a. Bethel Youth Center
   i. Janet presented that the roof, siding, windows and beams need work and that capital money has been requested in the next budget.
b. Budget
c. First 100 Years of Bethel Book
   i. Committee directed to have a PSA put out about making contributions to the book project.
d. Log Cabin
   i. Building is out of service until further notice.
e. Open House
   i. Discussed possible dates and will be included on another agenda for work on the project.
f. Tundra Ridge Park
   i. Committee directed to have a PSA put out about making contributions to the park project.

MOVED BY:	S. Taylor	To continue meeting for 10 minutes past 7 pm.
SECONDED BY:	M. Fritts	
VOTE ON MOTION	Unanimously approved	

g. Next Projects

XI. MEMBER COMMENTS

Minnie Sallison Fritts- Work on recruiting new members

Susan Taylor- Children's Fair is coming up. Meetings are beginning this week to work on the project. Community service opportunity Saturday March 10th 10 am-2 pm at Lions Club to stuff eggs for the Easter Egg Hunt.

Mary Sattler- Kuimarvik is working on an update flyer for the community. They are also collecting support letters from agencies and villages throughout the area.

Margie Revet- Thank you!

Barb Mosier- Thank you all for coming and to Janet for your continued hard work for the department.

XII. ADJOURNMENT

MOVED BY:	S. Taylor	To adjourn the meeting
SECONDED BY:	M. Fritts	
VOTE ON MOTION	Unanimously approved	

With no further business before the Committee, the meeting adjourned at 7:10 PM.

APPROVED THIS ___ DAY OF_____, 2012.

_____
Barbara Mosier, Chair

_____
Ronda A. Sargent, Committee Secretary

City of Bethel, Alaska
Planning Commission

April 12, 2012 Regular Meeting Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Planning Commission was held on April 12, 2012 at 6: 30 pm in the City Hall conference room in Bethel, Alaska.

Chairman, John Guinn, called the meeting to order at 6:35 pm.

II. ROLL CALL

Compromising a quorum of the Commission, the following members were present for roll call: John Guinn, Joy Shantz, Abe Palacios, Mike Walter, Rick Robb, David Hames. Unexcused: Cliff Linderoth.

Ex -Officio members present were the following:
Daniel Shea, Planning Director Betsy Jumper, Recorder

III. PEOPLE TO BE HEARD

- **None**

IV. APPROVAL OF AGENDA

MOTION TO APPROVE THE AGENDA FOR THE APRIL 12, 2012 MEETING

MOVED:	Joy Shantz	To approve the agenda for the April 12, 2012 meeting.
SECONDED:	Mike Walter	
VOTE ON MAIN MOTION	All in favor 6-0 Motion passes; 6 yes and 0 opposed.	

V. APPROVAL OF MINUTES

MOTION TO APPROVE THE MINUTES FROM THE MARCH 8, 2012 Meeting

MOVED:	Mike Walter	To approve the minutes of the March 8, 2012 meeting.
SECONDED:	Abe Palacios	
VOTE ON MAIN MOTION	All in favor 6-0 Motion passes; 6 yes and 0 opposed.	

VI. COMMUNICATIONS: Been slow, hopefully things will pick up.

VII. PLANNER'S REPORT: Dan presented the Planner's report.

VIII. COMMISSIONER'S COMMENTS: Everyone is sorry to see Dan leaving; it'll be hard to fill his shoes; he has done a wonderful job for the City of Bethel--we don't want him to go. But, we wish him luck in his future endeavors.

IX. UNFINISHED BUSINESS: None.

X. NEW BUSINESS: A. Planning Director Dan Shea's Resignation: Dan formally gave his resignation to the Planning Commission. **B. General Discussion:** Tabled.

XI. **ADJOURNMENT, Motion to adjourn the meeting.**

MOVED:	Joy Shantz	To adjourn the meeting at 6:50.
SECONDED:	Mike Walter	
VOTE ON MAIN MOTION	All in favor 6-0 Motion passes; 6 yes and 0 opposed.	

Next meeting on May 10, 2012

John Guinn, Chairman

Betsy Jumper, Recorder

DRAFT

Special Order of Business

City of Bethel Proclamation

Proclaiming Senator Lyman F. Hoffman and Representative Bob Herron Legislative Heroes in 2012

WHEREAS, Alaska Senator Lyman F. Hoffman and Alaska Representative Bob Herron served the City and community of Bethel extremely well during the Second Session of the 27th Alaska State Legislature by working to ensure that three of the City's four capital priorities are contained in the SFY 2013 State Capital Budget and the fourth priority is contained in a capital bond package to appear before voters in fall 2012;

WHEREAS, Senator Hoffman served six consecutive sessions as co-chair of the Finance Committee during the 25th, 26th, and 27th Legislatures, a feat unmatched by anyone but his co-chair;

WHEREAS, Senator Hoffman's 26 years of experience as an Alaska State legislator and Representative Bob Herron's 4 years experience as an Alaska State legislator certainly came to bear on the outstanding achievement resulting from the 2012 session;

WHEREAS, As a member of three House Budget Subcommittees, Representative Herron was able to exert his influence to make Alaska a better place to live, work, and play;

WHEREAS, Between January 17, 2012 to April 15, 2012, Senator Hoffman and Representative Herron worked tirelessly, night and day to distribute limited state capital funds throughout their districts in a fair and responsible manner;

WHERES, the City of Bethel is extremely grateful that the Bethel Small Boat Harbor Dredging and Bank Stabilization Project valued at $4 million will go before the voters in a State bond package and that the following priority projects are listed in the SFY 2013 State Capital Budget being sent to Governor Parnell for signature:

1. City Shop Floor Renovation - $1,500,000
2. Fire Engine - $350,000
3. Bethel Aquatic Training and Health Center - - $23,075,000;

THEREFORE, the Bethel City Council hereby proclaims Alaska State Senator Lyman F. Hoffman and Alaska State Representative Bob Herron to be Legislative Heroes in 2012 for their dedication, diligence, and perseverance that resulted in all four City of Bethel capital priorities being listed in a bond package or in the FY 2013 State of Alaska Capital Budget Being Drafted and Sent to the Governor for Final Passage.

Signed this 24th day in April, 2012.

Joseph A. Klejka, Mayor

Lori Strickler, City Clerk

Unfinished Business

Introduced by: City Manager Lee Foley
Introduction Date February 14, 2012
Public Hearing: March 13, 2012
March 27, 2012
April 10, 2012
April 24, 2012
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #12-03

AN ORDINANCE AMENDING THE BETHEL MUNICIPAL CODE SECTION 1.08 GENERAL PENALTIES

BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Amendment. Section 1.08 of the Bethel Municipal Code, is amended as follows (new language is underlined and old language is stricken out).

1.08 General Penalties

Sections:

~~1.08.010 Designated.~~

~~1.08.020 Penalty surcharge authorization and collection.~~

~~1.08.010 Designated.~~

~~Unless otherwise provided, any person, firm or corporation who shall violate any provision of this code shall upon conviction thereof be fined in any sum not to exceed five hundred dollars ($500) or be imprisoned in the city jail for a period not to exceed thirty (30) days, or both such fine and imprisonment.~~

~~1.08.020 Penalty surcharge authorization and collection.~~

~~The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, code provision, or regulation of the city brought under a citation or criminal complaint that would require a proceeding in the Alaska Court System if the defendant were to enter a plea of not guilty. The court may impose and collect the surcharge on all penalties imposed by the court where fines and bail forfeitures are paid to the court. For all criminal proceedings in which the fine or bail forfeiture is collected by the city, the surcharge imposed shall be collected by the city with the payment of the fine or forfeited bail and regularly paid over to the appropriate agency of the state less any collection~~

~~and administration fee or reimbursement authorized by the state to be retained by the city.~~

1.08.010 General penalty.

A. Penalty. Unless another penalty is specifically provided by this code for the violation of any particular provision, any person who violates any of the provisions or fails to comply with any of the mandatory requirements of this code, upon conviction, shall be punished by a fine not to exceed three hundred dollars ($300.00) and the violation shall be treated as an infraction.
B. Procedure. The charge for the violation of a code provision may be brought by a city police officer, or that city official responsible for the administration and enforcement of the code provision which has been violated. A person charged may dispose of an infraction offense by correcting the violation, paying the fine charged and pleading "no contest" in person or by mail. If a person charged with an infraction chooses to contest the charge, the trial date shall be set by the court for a trial with no jury. The person charged for an infraction does not have the right to a court appointed defense council.
C. Separate Violations. Each day of a continuing violation of this code shall constitute a separate offense.
D. Civil Penalties. In addition to any other remedies or penalties which may be provided in this code, or may otherwise be available, the city or any aggrieved person may institute a civil action against a person who violates any provision of the code. In addition to injunctive and compensatory relief, a civil penalty not to exceed one thousand dollars ($1,000.00) may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of violation or threatened violation, the superior court shall grant the injunction.

1.08.020 Penalty surcharge authorization and collection.

The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, code provision, or regulation of the city brought under citation or criminal complaint that would require a preceding in the Alaska Court system if the defendant were to enter a plea of not guilty. This surcharge is imposed in addition to any other fine or other penalty provided by law. The court may impose and collect the surcharge on all penalties imposed by the court or fines and bail forfeitures that are paid to the court. The surcharge shall be deposited into the general fund of the state of Alaska in accordance with AS 29.25.072.

Introduced by:	City Manager Lee Foley
Introduction Date	February 14, 2012
Public Hearing:	March 13, 2012
	March 27, 2012
	April 10, 2012
	April 24, 2012
Action:	
Vote:	

SECTION 3. Effective Date. This ordinance shall become effective immediately, upon passage by the City Council.

ENACTED THIS _DAY OF _ 2012, BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

WOHLFORTH | BRECHT | CARTLEDGE | BROOKING

A PROFESSIONAL CORPORATION

Julius J. Brecht
Cheryl Rawls Brooking
Cynthia L. Cartledge
Michael Gatti
Leila R. Kimbrell
Mary B. Pinkel
Eric E. Wohlforth

ATTORNEYS AT LAW
900 WEST 5TH AVENUE, SUITE 600
ANCHORAGE, ALASKA 99501-2048

TELEPHONE
907.276.6401

FACSIMILE
907.276.5093

WEBSITE
WWW.AKATTY.COM

MEMORANDUM

TO: Lori Strickler, City Clerk/City of Bethel

FROM: Michael Gatti, City Attorney

DATE: April 4, 2012

SUBJECT: BMC 1.08 General Penalties Amendment; Our File 5792.0100

You advised that the Council has questions related to proposed amendments to BMC 1.08 providing for general penalties and a penalties surcharge authorization and collection. The starting point for an analysis of the general penalty provisions provided in the Code is set forth in AS 29.25.070 which authorizes municipalities to charge general penalties. In accordance with the Title 29 authority, the Bethel Municipal Code ("BMC") has adopted a penalty provision for citations imposing a $300 fine and treating such matters as an infraction. An infraction is a violation which is defined in State statute as:

> "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled to
>
> (A) to a trial by jury; or
>
> (B) to have a public defender or other counsel appointed at public expense to represent the person.

AS 11.81.900(a)(63).

Some offenses that may be subject to the provisions of AS 18.85.155 requiring the municipality to fund the cost of a defense attorney for an indigent person charged with a serious crime. A serious crime is defined as:

> (5) "serious crime" includes

> (A) a criminal matter in which a person is entitled to representation by an attorney under the Constitution of the State of Alaska or the United States Constitution;
>
> (B) an act that, but for the age of the person involved, would otherwise be a serious crime.

AS 18.85.170(5).

The idea in imposing a $300 fine and identifying the violation as an infraction, as we understand it, is intended to group the classification of offenses subject to the fine as minor penalties or infractions which are not serious crimes. BMC 1.08.010(b) outlines the procedure for processing a charge as an infraction. BMC 1.08.010(c) establishes that each day of the offense is a continuing violation and constitutes a separate offense.

BMC 1.08.010(d) imposes civil penalties for Code violations. It also authorizes injunctive and compensatory relief and establishes the civil penalty as $1,000, which is in accord with the requirements of AS 29.25.070. The City may also seek an injunction for the ordinance violation or any other remedies that are available at law. Because the injunction is authorized by statute and City code, the requirement for all of the injunctive requirements is unnecessary because if the City applies for injunctive relief and the Court finds a violation or threatened violation, it must grant the injunction. Finally, BMC 1.08.020 is simply a codification of the penalty surcharge, authorization and collection required as a matter of law by AS 12.55.039. In conclusion, the amended general penalty and penalty surcharge authorization and collection provisions currently presented for adoption to the Council are similar to the penalty and surcharge structure other municipalities have adopted. Please call if you have questions.

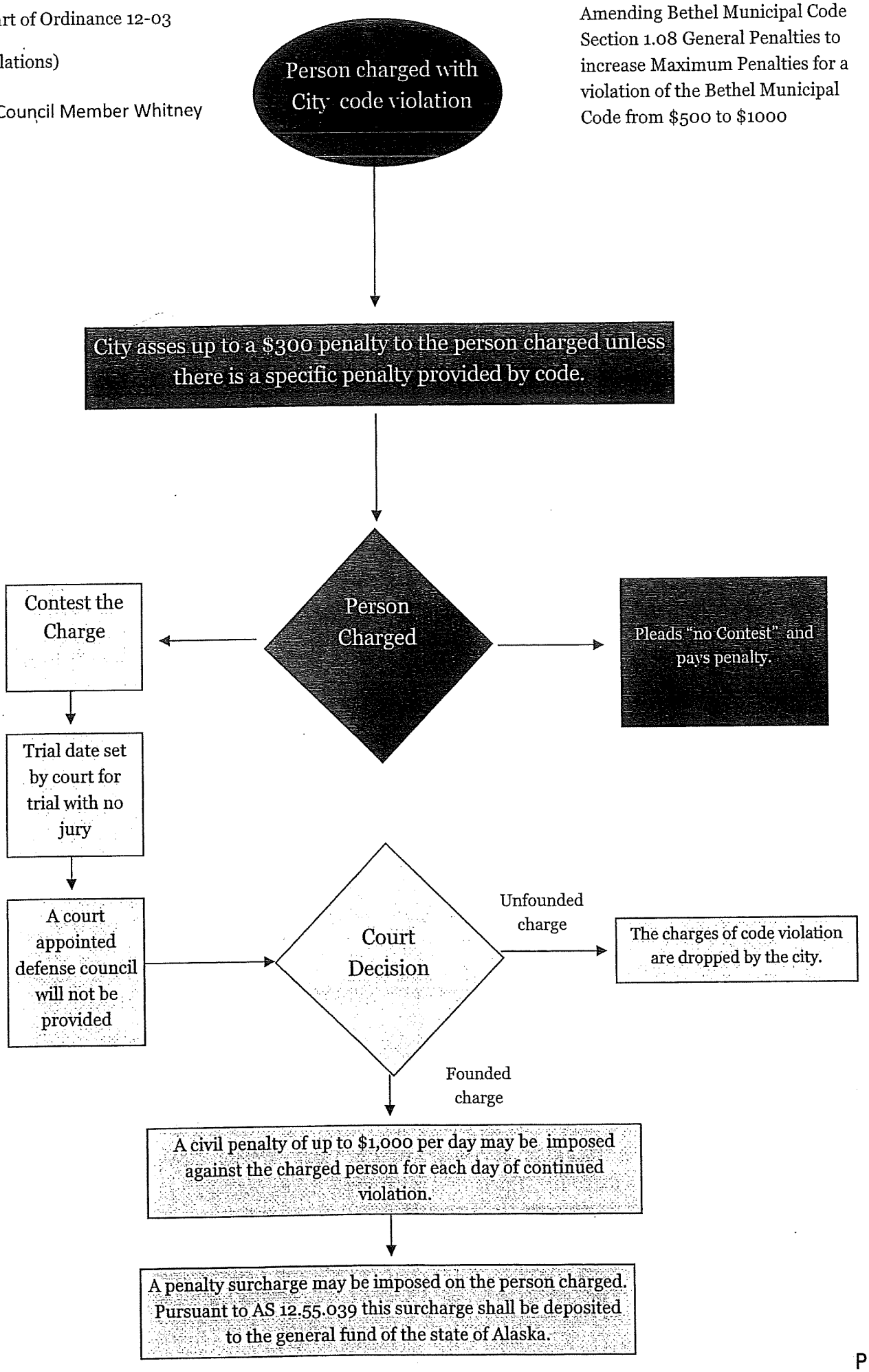
MRG:dkd

Flow Chart of Ordinance 12-03

(Civil violations)

Provided by Council Member Whitney

Amending Bethel Municipal Code Section 1.08 General Penalties to increase Maximum Penalties for a violation of the Bethel Municipal Code from $500 to $1000



Introduced by:
Introduction Date
Public Hearing:
Action:
Vote:

PROPOSED AMENDMENT TO ORDINANCE 12-03
SUBMITTED BY COUNCIL MEMBER HARDING.

BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SECTION 3. Amendment. Section 1.08 of the Bethel Municipal Code, is amended as follows (new language is underlined and old language is stricken out).

1.08 General Penalties

Sections:

~~1.08.010 Designated.~~

~~1.08.020 Penalty surcharge authorization and collection.~~

~~1.08.010 Designated.~~

~~Unless otherwise provided, any person, firm or corporation who shall violate any provision of this code shall upon conviction thereof be fined in any sum not to exceed five hundred dollars ($500) or be imprisoned in the city jail for a period not to exceed thirty (30) days, or both such fine and imprisonment.~~

~~1.08.020 Penalty surcharge authorization and collection.~~

~~The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, code provision, or regulation of the city brought under a citation or criminal complaint that would require a proceeding in the Alaska Court System if the defendant were to enter a plea of not guilty. The court may impose and collect the surcharge on all penalties imposed by the court where fines and bail forfeitures are paid to the court. For all criminal proceedings in which the fine or bail forfeiture is collected by the city, the surcharge imposed shall be collected by the city with the payment of the fine or forfeited bail and regularly paid over to the appropriate agency of the state less any collection and administration fee or reimbursement authorized by the state to be retained by the city.~~

1.08.010 General fine penalty.

A. A person who violates a provision of this code shall, upon conviction, be subject to punishment by fine in an amount not to exceed $300 per conviction.

B. If no other penalty is specifically or by adoption prescribed by a particular ordinance, the general penalty for violation of the ordinance is as stated in the following fine schedule. If a person is charged with an offense to which the fine schedule applies and the person appears in court and is found guilty, the penalty imposed of the offense may not exceed the fine schedule amount. In addition to the fine stated below, the violator must also pay the $10 State surcharge required by AS 12.55.039(a)(4).

Fine Schedule:

First offense: $ 75.
Second violation of the same ordinance, within 365 days of first offense: $150.
Third violation of the same ordinance, within 365 days of first offense: $300.
Any subsequent violation of the same ordinance within 365 days of the third offense: $300

C. In accordance with AS 12.25.195 through 12.25.230, for a violation that cannot result in incarceration or the loss of a valuable license, a person may dispose of the citation without a court appearance by submitting to the City of Bethel Finance Department all of the following:

1. Payment of the fine amount and the applicable surcharge as shown on the Fine Schedule, and
2. A copy of the citation signed by the person indicating the person's waiver of court appearance, entry of plea of no contest, and forfeiture of the fine.

D. When the fine is forfeited under subsection C, a judgment of conviction shall be entered. The fine paid is complete satisfaction for the offense.

1.08.020 Other remedies.

The city may institute a civil action against a person, including a minor as provided in AS 29.25.072, who violates an ordinance. A person who violates a provision of this code may be subject to injunctive relief, compensatory relief, and a civil penalty not to exceed $1,000 for each separate violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction. This section does not bar other civil remedies.

Introduced by:
Introduction Date
Public Hearing:
Action:
Vote:

SECTION 4. Effective Date. This ordinance shall become effective immediately, upon passage by the City Council.

ENACTED THIS _DAY OF _ 2012, BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

Introduced by: Joseph A. Klejka, Mayor
Introduction Date April 10, 2012
Public Hearing: April 24, 2012
Action:
Vote:

CITY OF BETHEL, ALASKA

Ordinance #11-13 Substitute

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING TITLE 7 ELECTIONS

NOW, THEREFORE BE IT ENACTED by the City Council of Bethel Alaska as follows:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Bethel Municipal Code Title 7 Election is repealed in its entirety and reenacted as follows:

Chapter 7.10 General Provisions

7.10.010 Scope of title.

This title governs all city elections.

7.10.020 Definitions.

In this title, unless the context otherwise requires:

A. "Business days" means the days the city's administrative offices are open to provide general services to the public, excluding weekends and holidays.

B. "City" means city of Bethel.

C. "City election" means any election:

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

D. "Clerk" means city clerk or any properly authorized ~~assistant~~ designee to the city clerk.

E. "Calendar days" means consecutive days succeeding one (1) another in regular order.

F. "Election" includes any regular, or special city election.

G. "Election official" includes election officials at the polls, the clerk, the clerk's office staff, absentee voting officials, and canvass board, and review board.

H. "Immediate family" means a candidate's grandparents, parents, grandchildren, children, siblings, spouse, spouse's children, spouses of children, or a regular member of the candidate's household.

I. "Oath" means any form of attestation by which a person signifies the person is bound in conscience to perform and act faithfully and truthfully. Oath includes affirmation.

J. "Precinct" means the territory within which resident voters may cast votes at one (1) polling place.

K. "Precinct Register" means the register maintained by the director of the State Division of Elections.

L."Proposition" means an initiative, referendum, recall, or other question submitted by the council to the public at an election.

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

N. "Questioned voter" means a voter:

1. Whose name does not appear on the register in the precinct where the voter attempts to vote;

2. Who has received an absentee ballot and does not turn it in when voting at the voter's precinct on election day;

3. Who does not present identification or is not personally known to an election official through the voter's name appears on the precinct register; or

4. Who is questioned for good cause at the polls in writing pursuant to BMC 7.50.100.

O. "Registration" or "registered" refers to the form of registration required by the state election code. For city elections, a person is registered if registered to vote in state elections at an address within the boundaries of the city thirty (30) calendar days prior to the city elections.

P. "Regular ballot" means a ballot voted at the polls which is not questioned or an absentee ballot.

Q. "Regular election" means the city election held on the first (1st) Tuesday of October annually~~.~~, unless a different date or interval of years is provided by ordinance.

R. "Signature" or "subscription" includes a mark intended as a signature or subscription.

S. "Special election" means any election held at a time other than when a regular election is held.

T. "Swear" includes "affirm."

U. "Voter" means a person who votes a ballot either in person or by absentee ballot.

7.10.030 Severability.

Should any provision of this election code, or its application to any person or set of circumstances, be held invalid, the remainder of its provisions, or of its application to any persons or circumstances, shall not be affected.

7.10.040 Powers and duties of the clerk.

A. The city clerk, in accordance with the provisions of this title, shall administer all city elections and shall determine whether candidates for municipal office are qualified in accordance with this title.

B. The clerk shall comply with the Federal Voting Rights Act, 42 USC § 1973 -1973 aa -6 as amended, and applicable regulations, and timely submit a preclearance request to

preclear any change effecting voting, including setting a date for a special election prior to holding the election.

7.10.050 Election times.

A. Time of Regular Elections. Annually, on the first (1st) Tuesday of October, a regular election shall be held in the city for the election of vacant city offices, and for the determination of other matters as may be placed on the ballot. The council may provide for different dates for a regular election by ordinance.

B. Time of Special Elections. The council, by ~~resolution or~~ adoption of an ordinance, may call a special election at any time at least ninety (90) calendar days prior to the date of the election. Unless the council has set a date for a required special election, the city clerk shall call a special election when required by law or ordinance to place an initiative, referendum, recall or other question before the voters.

7.10.060 Notice of elections.

A. Notice of Voter Registration. The clerk shall post a notice of voter registration prior to the posting of the notice of election. The notice of voter registration shall include the qualifications required of voters, and the manner, time and place of registration.

B. Notice and Posting. The clerk shall post a notice of each election in three (3) public places in the city. The first (1st) such posting shall be accomplished at least thirty (30) calendar days before a regular election and twenty (20) calendar days before a special election. Each notice of election shall include:

1. The type of election: regular or special;
2. The date of election;
3. The hours the polling places shall be open;
4. The offices to which candidates are to be elected and the subjects of propositions and questions to be voted upon;
5. The locations of the polling places;
6. Instructions for absentee voting; and
7. Notification that anyone needing special assistance in casting their vote due to a disability or bilingual need shall contact the clerk at least twenty-four (24) hours before the time of casting their ballot.

7.10.070 Propositions and questions.

An ordinance placing propositions and questions before the voters must be adopted by the council not later than forty-five (45) calendar days before a regular or special election.

7.10.080 Nonpartisan requirement.

All city elections shall be nonpartisan.

7.10.090 Bonded indebtedness.

A. Any qualified voter may vote on a question of incurring bonded indebtedness by the city.

B. Notice of Bonded Indebtedness. Before a general obligation bond issue election, the clerk shall publish a notice at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. The notice of the city's total existing bonded indebtedness shall include:

1. The current total general obligation bonded indebtedness, including authorized but unsold bonds;
2. The cost of the debt service on the current indebtedness; and
3. The city's total assessed property value.

7.10.100 Prohibition on use of public moneys.

A. Except as provided in subsections (B) and (C) of this section, money held by the city may not be used to influence the outcome of the election of a candidate.

B. Money held by the city may be used to influence the outcome of an election concerning a ballot proposition or question, including a bond proposition, but only if the funds have been specifically appropriated for that purpose by ordinance.

C. Money held by the city and authorized for expenditure as provided in subsection (B) of this section, may be used to:

1. Disseminate information about the time and place of an election and to hold an election;

2. Provide the public with nonpartisan information about a ballot proposition or question or about all the candidates seeking election to a particular public office.

D. When expenditure of money is authorized by subsection (B) or (C) of this section and is used to influence the outcome of an election, the expenditures shall be reported to the Alaska Public Offices Commission in the same manner as an individual is required to report under AS 15.13.040.

E. City-owned or controlled buildings or facilities may be utilized for public meetings, discussions, and other assemblies by private groups supporting or opposing any ballot proposition or bond issue. City employees may arrange for public meetings and assemblies where opponents and proponents present the advantages and disadvantages of a proposed ballot proposition or bond issue. Both proponents and opponents of the ballot item shall be accorded equal access to the space.

F. No posters, fliers or other printed material advocating or opposing a ballot proposition, question, or bond issue may be displayed in any city-owned or controlled building or facility except in a single area of general public access designated by the

building supervisor. Both proponents and opponents of the ballot item shall be accorded equal access to the space.

G. The constitutional rights of public employees to express their personal views on proposed ballot propositions, questions, or bond issues during public meetings or in interviews with news media shall not be abridged by this title. However, any employee expressing personal views shall clearly state that the statements reflect personal or professional beliefs only and do not represent the position of the city.

7.10.110 Simple majority – Prohibition on runoff elections.

All city offices shall be filled by the candidate receiving the greatest number of votes. There shall be no runoff elections. Where there is more than one term length available, the candidate who receives the greatest number of votes shall first choose the available term length for the seat in which they wish to be seated, the candidate receiving the next greatest number of votes shall then choose the next available term length. This selection process shall continue in the order and number of votes obtained until all offices are filled. In the event of a tie, the office shall be filled in accordance to the procedure set forth in BMC 7.60.070.

7.10.120 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 supply each polling place with sufficient materials for that precinct's election, including those materials required by this section.

B. The clerk shall prepare and provide for posting at each polling place instructions explaining to voters how to obtain ballots, how to mark them, and how to obtain new ballots to replace those destroyed or spoiled. 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. Use of computers- The clerk shall designate the computers to be used in the counting of the ballots or use the same computers as the state. The clerk may negotiate and contract with the state or private computer service for the needed computer services.

D. Test and security- No later than one week before the election, the vote tabulation system shall be tested in the presence of, and to the satisfaction of, the review board. Upon completion of the testing, a security seal shall be placed on the tabulation system for delivery to the precincts.

7.10.130 Election expenses.

A. The city shall pay all necessary expenses relating to the conduct of each city election, including those of securing polling places and providing ballot boxes, ballots,

voting booths or screens, national flags and other supplies, and any wages due to election officials except that all expenses of making a recount shall be apportioned pursuant to BMC 7.90.070.

B. The city shall pay each election official 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, paying election officials, securing ballot boxes, booths and other election necessities.

7.10.140 Preservation of election ballots, papers and materials.

A. The clerk shall preserve all official ballots in a secure manner, unopened and unaltered, for not less than thirty (30) calendar days from the date of the election certification or in cases where the election is contested, until thirty (30) calendar days after the final resolution of the contest or except as otherwise provided by law. The clerk may permit the inspection of the ballots upon order of a court of competent jurisdiction. Upon the expiration of the preservation period, the clerk shall completely destroy the ballots, and make and keep a written certificate that the ballots have been destroyed.

B. All precinct election certificates, tallies, registers receipts for ballots, and declarations of candidacy shall be preserved for four years following the certification of the election.

Chapter 7.20 Voter Qualification

7.20.010 Voter qualifications.

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

A. Is qualified to vote in state elections under AS 15.05.010;

B. Has been a resident of the city for thirty (30) calendar days immediately preceding the election;

C. Is registered to vote in state elections at a residence address within the city thirty (30) calendar days prior to the city election; and

D. Is not disqualified under Alaska Constitution, Article V., section 2.

7.20.020 Rules for determining residence of voter.

For the purpose of determining residence for voting, the place of residence is governed by the following rules:

A. The residence of a person is that place in which habitation is fixed, and to which, whenever the person is 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 person's place of residence. Temporary construction camps do not constitute a dwelling place.

B. A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one (1) residence.

C. A person does not gain or lose residence solely by reason of a person's presence or absence while employed in civil or military service of the United States or of this

state, or because of presence or absence due to marriage to a person in the civil or military service of the United States or of this state, or while a student of an institution of learning, or while kept in an institution or asylum at public expense, or while confined in a public prison, or while residing upon an Indian or military reservation, or while residing in the Alaska Pioneers Home.

D. A person does not lose residence if the person leaves home and goes to another country, state, or place within this state for temporary purposes only and with the intention of returning.

E. A person does not gain a residence in a place to which the person comes without a present intent to establish a permanent dwelling there.

F. A person loses residence in this state if the person votes in an election held in another state, either in person or by mail and will not be eligible to vote in this state until again qualifying under AS 15.05.

G. The term of residence is computed by including the day on which the person's residence commences and by excluding the day of election.

7.20.030 Registration.

A. A person may vote in an election only if the person is a qualified voter under the Alaska State Constitution, the laws of Alaska and this chapter and the person has registered as required by the state election code and BMC 7.20.010.

B. The precinct election officials at any election shall allow a person to vote whose name is on the official precinct 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.

7.20.040 Voter disqualification for felony conviction.

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.

7.30 Candidate Qualifications

7.30.010 Candidate qualifications.

Any person is eligible for city office if the person is a qualified voter of the state and a resident of the city for at least one (1) year immediately preceding filing for office.

7.30.020 Declaration of candidacy.

A. A person who seeks to be a candidate for city council shall execute and file a declaration of candidacy with the clerk in accordance with this section. The declaration shall be executed under oath before an officer authorized to take acknowledgments.

B. A declaration of candidacy shall be on a form provided by the clerk and shall state the following:

1. The full name of the candidate, and the manner in which he wishes his name to appear on the ballot;

2. The full residence and mailing address of the candidate;

3. The day and evening telephone numbers of the candidate;

4. The office for which the candidate declares;

5. That the candidate is qualified for the office as provided by law;

6. That the candidate is a resident of the city;

7. That the candidate meets, or shall meet, as required by law, the specific requirements of the office the candidate is seeking;

8. The date and notarized statement signed by the candidate;

9. A certification by the candidate that the information in the declaration of candidacy is true and accurate.

C. Declarations of candidacy shall be provided by the clerk not earlier than seven (7) days prior to the opening of the filing period. Declarations of candidacy shall be submitted in original form and shall not be submitted by facsimile.

D. Filing for city office shall be made by filing a declaration of candidacy with the city clerk from 8:00 a.m., August fifth (5th) through 4:00 p.m., August twentieth (20th). In the event August 20th falls on Saturday Sunday or legal holiday, the candidate shall have until noon the next business day that is not a sat sun or legal holiday to file their declaration of candidacy.

E. Within four (4) business days after the filing of a declaration of candidacy, the clerk shall notify the candidate named in the declaration of candidacy whether or not it is in proper form. If not, the clerk shall immediately return it with a statement certifying wherein the declaration of candidacy is deficient to the candidate. A new declaration of candidacy for the same candidate may be filed within the time for filing declarations of candidacy.

7.30.030 Write-in candidates.

In addition to the limitations contained in BMC 7.60.020, votes for a write-in candidate will not be counted unless that candidate has filed a declaration of candidacy with the clerk. A declaration of candidacy filed under this section must be filed with the clerk not earlier than the day immediately following the last day of the filing period and not later than 5:00 p.m. five days prior to the election.

7.30.040 Notice of vacancies in office.

At least three (3) calendar days before the declaration of candidacy period is open for each regular or special election, the clerk shall post in three (3) public places a notice of offices to be filled at the election and the manner of filing a declaration of candidacy.

7.30.050 Conflict of interest statements.

A. Candidates for elective city office and declared write-in candidates shall file an Alaskan Public Offices Commission Conflict of Interest Statement with the clerk as required by the provisions of AS 39.50 at the time of:

1. Filing a declaration of candidacy. The clerk shall place the name of the candidate on the ballot only after the candidate has complied with this requirement.

2. Declaring their candidacy as a write-in candidate.

B. Each candidate for an elective office shall file the name and address of the candidate's campaign treasurer with the Alaska Public Offices Commission no later than seven (7) days after the date of filing a declaration of candidacy.

7.30.060 Corrections, amendments and withdrawal of declarations of candidacy.

Any candidate may withdraw his nomination at any time during the period of filing a declaration of candidacy by written notice to the clerk. After the filing period has closed, no declaration of candidacy may be corrected, amended or withdrawn.

7.30.070 Determination of candidate eligibility.

A. The clerk shall determine whether each candidate filing a declaration of candidacy for municipal 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.
B. Any person, including the clerk, may question the eligibility of a candidate who has filed a declaration of candidacy by filing a complaint with the clerk.
C. The complaint must be in writing and include the name, mailing address, contact phone number, signature of the person making the complaint, and a statement describing the grounds on which the candidate's eligibility is being questioned.
D. The clerk will review only those issues in the complaint related to candidate eligibility.
E. Upon receipt of a complaint, or if the clerk questions the eligibility of the candidate, the clerk will send notification in writing to the candidate.
F. The clerk shall review any evidence relevant to the candidate's qualifications, including, but not limited to, the candidate's residency, voter registration, declaration of candidacy, and any other document of public record or as required by BMC 7.30.010. Based on the review of the documents, the clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate.
G. If the clerk determines the preponderance of evidence supports the eligibility of the candidate, the clerk will issue a final determination supporting the candidate's eligibility.
H. If the clerk determines the preponderance of evidence does not support the candidate's eligibility, notice to the candidate will identify any additional information or evidence that must be provided by the candidate. The clerk must receive the requested information no later than three business days from the date of notice. The clerk will consider any additional information provided and issue a final determination as to the candidate's eligibility no later than three business days from receipt of the additional information.
I. If the information requested by the clerk is subsection H of this section is not received by the specified deadline, the clerk will issue a final determination regarding the candidate's eligibility based on the information initially reviewed.

J. The clerk will send notice of final determination in writing to the person making the complaint if applicable, and to the candidate. The determination of the clerk is final.

7.30.080 Prohibitions.

A. No elected official of the city may hold any other compensated city office or city employment, or elected position in the state or federal government while in office.

B. A public safety volunteer is exempt from this section per BMC 3.64.060.

7.40 Ballots

7.40.010 Ballot form.

The City Clerk shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections. The following requirements shall be followed in the preparation of the ballot:

A. The city clerk shall determine the size of the ballot, the type of print, necessary additional instruction notes to voters, and other similar matter of form not provided by law.

B. The city clerk shall number ballots in series to assure simplicity and secrecy and to prevent fraud.

C. Each ballot shall bear the words "Official Ballot", and the date of the election.

D. The title of the office to be filled shall be followed by the printed names of the candidates for such office.

E. The names of candidates shall be printed as they appear upon the declaration of candidacy filed with the clerk, except that any honorary or assumed title or prefix shall be omitted. However, the candidate's name appearing on the ballot may include a nickname or familiar form of the proper name.

F. The city clerk shall randomly determine the order of the names of the candidates on the ballot.

G. Below the printed names of candidates appearing on the ballot shall be blank lines equal in number to the seats to be filled for the office, upon which the voter may write the name(s) of person(s) not listed on the ballot.

H. Ballot propositions and questions shall be placed on the ballot in the manner prescribed by the clerk. Provisions shall be made for marking the proposition "Yes" or "No". All ballot propositions shall be stated in the affirmative and not the negative so that a yes vote will always mean that the voter approves of the affirmative of a proposition and not the negative; and a no vote disapproves the affirmative statement of an issue.

7.40.020 Preparation and distribution.

A. The clerk shall obtain the printing of all ballots for city elections. The clerk shall possess the printed ballots at least fifteen (15) calendar days before each regular election and at least ten (10) calendar days before each special 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 and sample 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. A receipt for the ballots, including the number and type of ballots, shall be signed and dated by an election official. The clerk shall keep the receipt as part of the election record.

D. No ballots shall be taken from the polling place before the closing of the polls, unless the clerk for good cause directs that the ballots be removed. A record shall be kept by the election officials of the ballots removed from a polling place.

E. If emergency ballots are needed in carrying out an election, the clerk shall be responsible for the preparation and distribution of those ballots. Emergency ballots shall be in the same form as the regular ballots at that election, and have a serial number listed on each ballot.

7.40.030 Sample ballots.

The clerk shall obtain the printing of sample ballots. Sample ballots shall be printed on nonwhite paper and be clearly labeled "Sample ballot."

7.50 Operation of polls.

7.50.010 Election officials.

A. Before each election, the clerk, subject to approval by the council, shall appoint at least three (3) election officials in each precinct to constitute the election board for that precinct. The clerk shall designate one (1) election official in each precinct as the chairperson, who shall be primarily responsible for administering the election in that precinct. If no chairperson is appointed for the precinct or the chairperson is unable to fulfill the chairperson's duties, the other election officials shall perform the chairperson's duties. After council approval, the clerk may make necessary adjustments to the election boards as required to conduct a properly held election.

B. The clerk may appoint clerks and counters at any polling place where they are needed to conduct an orderly election and to relieve the election officials of undue hardship.

C. If any election official fails or refuses to attend and serve, the election chairperson of the precinct or clerk shall appoint a person eligible under this section to serve in place of the absent election official.

D. Each election official shall be a registered qualified voter of the precinct for which the election official is appointed, unless no voter is willing to serve. There shall be no inquiry into an election official's political party as a prerequisite to service.

E. All election officials before entering upon their duties must subscribe to the oath required of all public officers by the Alaska State Constitution in the manner prescribed by the clerk.

F. Candidates or members of the candidate's immediate family may not serve as election officials for an election in which the candidate has filed a declaration of candidacy. Those familial relationships are:

1. Mother, mother-in-law, stepmother, grandmother;
2. Father, father-in-law, stepfather, grandfather;
3. Sister, sister-in-law, stepsister;
4. Brother, brother-in-law, stepbrother;
5. Child, child-in-law, stepchild, grandchild;
6. Spouse; or
7. Person sharing the same living quarters.

G. If the clerk knows or learns that any of these relationships exist, the precinct election officials, clerk or member of the ballot counting team shall be notified and replaced.

H. All election officials shall attend training sessions offered or approved by the clerk unless they have completed the training sessions within the immediate 12 months prior to the election.

7.50.020 Opening of polling place.

A. On the day of the election, each 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 continuously open during the time between those hours. The election board shall report to the polling place by 7:30 a.m. so that voting will start promptly at 8:00 a.m. The chairman of the election board shall rotate times at which election judges, board members and clerks may be relieved for breaks and meals; provided, however, that at all times at least two (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 removed from the polling place until the polls have closed. Ballot boxes shall not be opened during the stated election time unless for mechanical reasons, the election chair determines it is necessary. In this instance, the ballot box must be opened in plain view of voters and/or poll workers.

7.50.030 Keeping of register.

The election officials 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.

7.50.040 Voter identification at polls.

A. Before being allowed to vote, each voter shall exhibit to an election official one (1) form of identification, including but not limited to an official voter registration card,

driver's license, passport, hunting or fishing license, state identification card, or tribal identification card.

B. An election official may waive the identification if the election official knows the first and last name of the voter.

C. A voter who cannot exhibit a satisfactory form of identification shall be allowed to vote a questioned ballot.

7.50.050 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.

7.50.060 Voting procedure.

A. 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. After a voter has marked the ballot, the voter shall deposit the ballot in the ballot box in the presence of the election official unless the voter requests the election official to deposit the ballot.

B. Subject to BMC 7.50.070, a voter may not exhibit the voter's ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot.

7.50.070 Assisting voter.

A qualified voter, may request assistance to vote or bring a person or if necessary two persons of their choice with them to the poll, or before an election official, to assist the voters in casting the ballot. If an election official is requested, the election official shall assist the voter. If a person, other than an election official is to provide assistance, the person must take an oath before an election official not to divulge how the voter cast the ballot. The persons assisting the voter may not be a candidate for office in that election, an immediate family member of the candidate for office in that election, or a member of the voter's union. Not more than two persons of the voter's choice may assist the voter.

7.50.080 Spoiled ballots.

If a voter mutilates, improperly marks, spoils or otherwise damages the voter's ballot, the voter may request and the election official shall provide another ballot upon the voter returning the damaged ballot to the election official. The election official shall record the replacement ballot number on the ballot accountability form and return the spoiled ballot unexamined to the voter who shall destroy and discard it immediately in the presence of an election official. A voter may obtain a maximum of three replacements for each ballot under this procedure.

7.50.90 Question ballot-notice.

The clerk shall prepare and post at every precinct a "Notice to Questioned Ballot Voters." The notice shall contain:

A. Information as to how the questioned voter's ballot will be counted;
B. The date, time and place where the canvass board will meet; and
C. A statement notifying the voter that, within 30 calendar days after election certification, written notification will be sent to the voter informing them of the reason why their ballot was not counted. The notice will further state that if the voter does not receive notification, then the ballot was counted.

7.50.100 Questioned ballots-Issuance.

A. If the polling place of a voter is in question, the voter shall vote a questioned ballot after complying with subsection C of this section.

B. Every election official shall question, and any other person qualified to vote 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. 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 may not vote.

D. A voter who casts a questioned ballot shall vote his ballot in the same manner as prescribed for other voters. 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 BMC 7.80.020 and 7.80.030.

E. The questioned ballots and statements shall remain in the election official's custody and shall be delivered to the clerk. The clerk shall deliver the questioned ballots and statements to the canvass board for canvassing.

7.50.110 Special needs voting.

A. A voter with a disability who, because of that disability, is unable to go to a polling place or absentee voting office to vote, may vote a special needs ballot.

B. The voter, through a representative, may request a special needs ballot from:

1. The clerk on or after the fifteenth calendar day before a regular election or on or after the tenth calendar day before a special election; or

2. An absentee voting official at an absentee voting station designated by the clerk at a time when the absentee voting station is in operation; or

3. A member of the precinct election board on election day.

C. A representative requesting a special needs ballot shall sign a register provided by an election official. The register must include the following information:

1. The representative's name; and

2. The name of the voter on whose behalf the representative is requesting a ballot and voting materials.

D. The representative shall deliver the special needs ballot and other voting materials to the voter as soon as practicable. The voter shall mark the ballot in secret, place the ballot in a secrecy sleeve, and place the secrecy sleeve in the envelope provided. The voter shall provide the information on the envelope and shall sign the voter's certificate in the presence of the representative. The representative shall witness the voter's signature, and sign and date the representative's oath as provided on the envelope.

E. If a voter's disability precludes the voter from performing any of the requirements of subsection D of this section, the representative may perform those requirements, except making the voting decision, on the voter's behalf.

F. The representative shall deliver the ballot envelope to a city election official at a city precinct not later than 8:00 p.m. on election day. An election official shall deliver the voted special needs ballot to the clerk. The clerk shall deliver the voted special needs ballot to the canvass board for canvassing.

G. No person who is a candidate for office at the election, an immediate family member of the candidate, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union may act as a representative for a voter.

7.50.120 Closing of the polls.

A. Fifteen (15) minutes before the closing of the polls, and at the time of the closing of 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 fifteen (15) minutes before closing time shall not in any way invalidate the election or extend the time for closing of the polls.

B. Every qualified voter present and in line at the time prescribed for closing the polls may vote. After closing, no person will be allowed to enter the polling place for purposes of voting.

C. 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, in a manner prescribed by the clerk, including:

(1) the number of official ballots received;
(2) the number of official ballots voted;
(3) the number of official ballots spoiled; and

(4) the number of official ballots unused and destroyed.

D. 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.

7.50.130 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 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. 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 shall be the entrance to the building in which the polling place is located. 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 as to enable any person to ascertain how the voter marked the ballot, except as provided in BMC 7.50.070.

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. No person may leave the polling place with the official ballot that the person received to mark.

7.50.140 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 thirty (30) days unless the election is contested.

7.60 Ballot Counting Procedures

7.60.010 Commencement of ballot count.

A. For counting paper ballots, when the polls are closed and the last vote has been cast, the election board and clerks or counters 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.

B. For ballots counted by computer, when the polls have closed and the last vote has been cast, the election board shall immediately proceed to open the ballot box and separate the questioned ballots from the other ballots and place all emergency ballots in an envelope provided by the clerk. Ballots with write-in votes shall be segregated, rubber-banded, and placed in the back of the special ballot container. All voted ballots

are placed in the transfer case for delivery to the election supervisor. The ballot counting unit shall be delivered to the location designated by the election supervisor.

7.60.020 Counting ballots, general.

A. The Ballots shall be counted by the vote tabulation system selected by the clerk.
B. At no time during the tallying of votes may anyone but the election officials handle the ballots. The ballots shall not be marked in any way by anyone during the tallying.
C. The election board shall count the ballots in a manner that allows watchers to see the ballots when opened and read.
D. Hand-counted and computer counted ballots shall be tabulated according to the following rules:
    1. A voter may mark a ballot only by the use of cross marks, "X" marks, diagonal horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks or plus signs that are clearly spaced in the oval opposite the name of the candidate or proposition the voter desires to designate.
    2. 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 that office shall not be counted.
    5. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates of propositions properly made.
    6. An erasure or correction invalidates only that section of the ballot in which it appears, unless the intent of the voter is clear.
E. Stickers may not be used on ballots.
F. 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.

7.60.030 Write-in votes.

A. In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and, in addition, mark the oval opposite the candidate's name. Stickers may not be used on ballots.
B. Write-in votes shall not be tallied by hand count, unless the total number of write-in votes for an office exceeds the smallest number of votes cast for a candidate for that office whose name is printed on the ballot.
C. Votes for a write-in candidate shall not be counted unless that candidate has filed a declaration of candidacy with the clerk in accordance with BMC 7.30.030.

7.60.040 Other election boards and teams.

A. Review Board. When using computers to count the ballots the clerk shall appoint a review board. The review board shall consist of at least three members. The review board shall ensure that all ballots are completely and accurately counted.
B. Canvass Board. The clerk shall appoint a canvass board consisting of a minimum of three election officials. The canvass board shall tally absentee ballots and questioned ballots and perform the duties as stated in BMC 7.80.
C. Failure to serve. A vacancy on a board or team shall be filled by the clerk.

7.60.050 Disqualified candidate.

Votes cast for a candidate who is disqualified shall not be counted for any purpose.

7.60.060 Determination of tie votes.

A. If two (2) or more candidates tie in having the highest number of votes for the same office for which there is to be elected only one (1) candidate, the clerk shall ~~so~~ notify the candidates who are tied. The clerk shall immediately proceed with the recount of votes in the manner provided by this title.

B. If after a recount two or more candidates tie in having the highest number of votes for the same office, the clerk shall notify the candidates who are tied. The clerk shall notify the candidates of a reasonably suitable time and place, in a meeting of the council and under its direction, to determine the successful candidate by coin toss if two are tied and by lot if more than two are tied.

7.60.070 Completion of ballot count.

A. When the tally of regularly voted ballots is completed, the voted ballots shall be sealed into containers to be preserved by the clerk for thirty (30) days. Ballot containers may only be opened by the canvass board or recount team or if the clerk is ordered to do so by the council or by the court.

B. No later than the day after the election, the election board shall make a certificate in duplicate of the results. The certificate includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the election supervisor.

C. The election board shall, immediately upon completion of the certificate, hand-deliver to the election supervisor both copies of the certificate and register. In addition, all ballots properly cast shall be hand-delivered to the election supervisor. The package shall clearly indicate the precinct from which it came.

D. To assure adequate protection, the election supervisor shall prescribe the manner in which the ballots, registers and all other election records and materials are thereafter preserved, transferred and destroyed.

7.70 Absentee voting

7.70.010 Administration of absentee voting.

The clerk shall provide general administrative supervision over the conduct of absentee voting. The clerk shall make available instructions to absentee voters regarding the procedure for absentee voting.

7.70.020 Eligibility

Any qualified voter may vote an absentee ballot at any election for any reason pursuant to the procedures set forth in this chapter.

7.70.030. Materials for absentee voting.

The clerk shall provide ballots for use as absentee ballots for all precincts and shall provide a small envelope in which the voter shall initially place the marked ballot, and shall provide a larger envelope, with the prescribed voter's certificate, in which the smaller envelope with ballot enclosed shall be placed. The clerk shall provide the form of and prepare the voter's certificate on the back, in which the smaller envelope with ballot enclosed shall be placed. The clerk shall provide the form of and prepare the voter's certificate which shall include an oath, for use when required, that the voter is a qualified voter in all respects, a blank for the voter's signature, a certification that the affiant properly executed the marking of the ballot and identified himself, blanks for the witness, and a place for recording the date the envelope was sealed and witnessed.

7.70.040 Fee prohibited.

No person may receive a fee from the voter for attesting to any voter's certificate required in voting absentee.

7.70.050 Absentee voting – In person.

A. Absentee voting in person before an election official, including the clerk, shall not begin prior to 15 calendar days before a regular or 10 calendar days before a special election, up to and including the day of the election. The absentee voter shall appear before an election official, and provide his or her name and proof of identification as required in this title. The voter shall complete the required information and sign the certification on the ballot oath and affidavit envelope and have it witnessed by an election official. The voter shall receive an official ballot, mark the ballot in private, and place the ballot in a secrecy sleeve. The secrecy sleeve shall then be placed in the completed ballot oath and affidavit envelope and the envelope will be sealed. An election official shall deliver the voted absentee ballots to the clerk. The clerk shall deliver the voted absentee ballots to the canvass board for canvassing.

B. Prior to the election, the clerk shall give to the election board in each precinct a list of voters from the precinct who have voted absentee ballots. If a voter who voted an absentee ballot in person returns to the voter's precinct on election day, the voter may not vote a regular ballot but may vote a questioned ballot.

7.70.060 Absentee voting – By mail.

A. A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first (1st) of the year in which the election is to be held, nor less than ten (10) calendar days before an election. A request may be accepted by facsimile.

B. All applications for an absentee ballot by mail shall be in writing either on a form provided by the clerk's office or in a letter containing the following information.

1. The applicant's place of residence;
2. The address the applicant desires the absentee ballot to be mailed;
3. The applicant's signature; and
4. A voter identifier such as voter number, a Social Security number, or date of birth.

C. After receipt of an application by mail, the clerk shall deliver to the applicant, at the mailing address given in the application, an official ballot for the election and other absentee voting material by regular first class mail. The materials shall be sent as soon as they are ready for distribution. The return envelope sent with the materials shall be addressed to the city clerk.

D. At any time on or before the day of the election, any voter receiving an absentee ballot by mail may vote the ballot. The voted ballot shall then be placed in the secrecy sleeve, which is then placed in the return envelope, and the voter shall sign the certification on the return envelope and have it witnessed in the presence of:

1. An authorized official such as a notary public, U.S. Postmaster or authorized postal clerk, commissioned military officer, judge, justice, magistrate, clerk of the court, a duly appointed voter registrar, or election official as defined in BMC 7.10.020; or
2. If none of the officials listed in this subsection D. 1 is reasonably accessible, an absentee voter shall sign the voter's certificate in the presence of an individual who is 18 years of age or older in addition, the voter shall certify, as prescribed in AS 09.63.020, under penalty of perjury, that the statements in the voter's certification are true.

E. After witnessing the absentee voter's signature, the official or witness shall attest to the date on which the voter signed the certificate in the individual's presence, and, return the voted ballot to the voter who shall mail or otherwise deliver the ballot to the clerk. A precinct election official shall deliver the voted absentee ballots to the clerk. The clerk shall deliver the voted absentee ballots to the canvass board for canvassing.

~~D.~~ F. The clerk may require a voter casting an absentee ballot by mail to provide proof of identification or other information to aid in the establishment of his identity.

~~E.~~ G. The clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent by mail. The record must list the date on which the ballot is mailed and the date on which the ballot is received by the city clerk and the date on which the ballot was executed and postmarked.

H. Prior to the election, the clerk shall give the election board a list of voters from the city who have been issued absentee by-mail ballots. If a voter who was issued an absentee ballot by mail returns to the voter's precinct on election day, the voter may not vote a regular ballot at the polling place unless the voter first surrenders to the election board the absentee ballot, ballot envelope and return envelop issued to the

voter. If the absentee voter does not have the absentee ballot to surrender, the voter may vote a questioned ballot. Surrendered absentee ballots, ballot envelops and return envelops collected by the election board shall be returned to the clerk.

I. To be counted in the election, an absentee by mail ballots shall be postmarked on or before election day and must be received by the clerk no later than 6:00pm two calendar days following the election. Absentee by-mail ballot envelopes received by the clerk after the deadline shall not be opened, shall be marked invalid with the date of the receipt noted thereon and shall not be counted.

7.70.070 Absentee voting-Special needs.

A. A voter with a disability who, because of that disability, is unable to go to an absentee voting office to vote, may vote a special needs ballot pursuant to 7.50.110.

7.70.070 Names of absentee voters.

The clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent under this section. The record must list the date on which the ballot is mailed or provided by personal representative and the date on which the ballot is received by the clerk. The record shall be available for public inspection.

Chapter 7.80
Canvassing and certification of election results

7.80.010 Canvass board.

Before each election, the clerk, subject to approval of the city council, shall appoint four (4) or more qualified voters who shall constitute the election canvass board for that election. All members of the election canvass board, before entering upon their duties, must subscribe to the oath required of all public officials by the Constitution of the State of Alaska in the manner prescribed by the clerk.

7.80.020 Canvass of returns.

A. No later than Tuesday 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 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 returns 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. If the canvass determines that a failure to comply with provisions of state law and city ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election they shall provide that information in their written report to the city council.

C. Upon completion of the canvass, the canvassing board shall prepare a final certificate of the results of votes cast by absentee, questioned and challenged ballots and of votes cast by regular ballot, and shall prepare a written report of the results to be submitted to the city council.

7.80.030 Counting of absentee ballots.

To be counted in the election, an absentee ballot must be postmarked on or before the election day and received by the clerk on or before 6:00 p.m. two calendar days following the election. Absentee ballot envelopes received by the clerk after 6:00 p.m. two days following the election shall not be opened, but shall be marked "invalid" and the date of receipt noted thereon. Such envelopes shall be retained with the other election records and destroyed with them as provided by the city's record retention schedule. Absentee ballot envelopes shall be examined by the canvass board, whose members shall determine whether the absentee voter is qualified to vote at the election and whether the ballot has been properly cast.

7.80.030 Counting questioned ballots.

After research, the canvass 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 small inner envelope shall be mixed with other ~~voted~~ ballots for counting. The mixed smaller envelopes shall be opened, and the ballots shall be counted according to the rules for determining properly marked ballots.

7.80.040 Certification of the election results.

A. Not later than the second Tuesday after the election, the council shall meet in public session and review the canvass board report. The review may be postponed for cause from day to day, but there shall be no more than three postponements.

B. If the canvass board reports that a failure to comply with provisions of state law and/or city ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election, then the council may exclude the votes cast in one (1) or more precincts where such failure or illegal practices occurred from the total returns, or may declare the entire election invalid and order a new election.

C. Unless an election contest or recount has been previously filed pursuant to BMC 7.90 the council shall declare the election valid and certify the election results. The council shall certify results not in question immediately and shall complete contest procedures as soon as practicable to assure prompt certification.

D. The council shall by resolution certify the election results and enter the results in the minutes along with the following information:

1. The total number of poll, early-voter, absentee, questioned, and special needs ballots cast in the election;
2. The offices, names, and number of votes counted for each candidate at the election;
3. The propositions voted upon at the election; and
4. The number of votes counted for each proposition voted upon.

E. Upon certification of a valid election, the clerk shall deliver to each person elected to office a certificate, signed by the clerk and authenticated by the seal of the city.

7.90 Election contests and recounts.

7.90.010 Grounds for election contest.

A candidate or ten (10) qualified voters may contest the election of any person or the approval or rejection of any question or proposition upon one or more of the following grounds:

1. Malconduct, fraud or corruption by an election official sufficient to change the results of the election;
2. The person elected does not meet the qualifications required by law; or
3. Existence of a corrupt election practice as defined by the laws of the state of Alaska sufficient to change the result of the election.

7.90.020 Contest procedure.

A. Notice of contest of an election shall be submitted in writing to the clerk before five p.m. on the day of the certification of the election. The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signature of the candidate or qualified voters bringing the contest. The notice shall be in substantially the following form:

NOTICE OF ELECTION CONTEST
The undersigned contest the regular (or special) election of the City of Bethel held on the ___ day of _____. The ground for the contest are as follows:

_____

_____

Signature and date
(Notarization)

B. Upon receiving a notice of contest, the council shall order an investigation be conducted by the clerk and city attorney. Those contesting the election, those whose election is contested, and the public shall be allowed to attend all investigation and recounting proceedings.

C. If the contest involved the eligibility of voters, the council shall direct the clerk to check the voter qualifications set forth in BMC 7.20. After considering the report provided by the clerk and any other proof, the council shall determine whether any illegally cast votes could have affected the election results. If they could not have, the council may declare the election valid and certify the results.

D. If the contest involves other prohibited election practices which are shown to have taken place, the council shall exclude the vote of the precincts where the practices occurred. If it is determined that the exclusion could not affect the election results, the council shall declare the election valid and certify the results.

E. The contestants shall pay all costs and expenses incurred in a recount of an election as provided by Section 7.90.030.

7.90.030 Recount application.

A. A recount application shall state in substance the basis of the belief that a mistake has been made and shall identify the particular precinct, office, proposition or question for which the recount is to be held, and shall state that the person making the application is a defeated candidate or that the ten (10) persons making the application are qualified voters. The defeated candidate or person making the application shall designate by full name and mailing address two persons who shall represent the applicant during the recount. Any person may be named representative, including the candidate or any person signing the applications. Applications by ten qualified voters shall also include the designation of one of the number as contact person. The candidate or persons making the application shall sign the application and shall print their full name and mailing address.

B. A recount application shall be submitted in writing to the clerk before five p.m. on the day of the certification of the election. The date and time on which the clerk receives rather than the date of mailing or transmission determines whether the application is timely filed.

C. The application shall include a deposit in cash, or by certified check. The amount of the deposit shall be one hundred dollars ($100.00) for each precinct.

7.90.040 Date of recount – Notice.

A. If the clerk determines that a recount application is substantially in the required form, the clerk shall fix the date of the recount to be held within ten (10) days after the receipt of an application requesting a recount of the votes.

B. The clerk shall give the representative named in a recount application notice of the time and place of the recount by certified mail, telephone, facsimile or by electronic transmission.

7.90.050 Procedure for recount.

A. In conducting a recount, the clerk shall appoint a recount board of four (4) or more qualified voters to conduct the recount of ballots or those precincts cited in the application for recount.

B. In conducting the recount, the recount board shall review all ballots to determine which ballots, or parts of ballots, were properly marked, which ballots are to be counted in the recount, and shall check the accuracy of the original count and all documentation

provided by the election officials. The recount board shall check the number of ballots and questioned ballots cast in a precinct against the registers and shall check early and absentee ballots voted against early and absentee ballots distributed. The rules in BMC 7.60 governing the counting of ballots shall be followed in the recount.

C. The ballots and other election materials shall remain in the custody of the clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within ten (10) calendar days. The clerk may employ additional personnel necessary to assist in the recount.

7.90.060 Certification of recount results.

Upon completing the recount, the recount board shall provide a report of the results of the recount for submission to the council. The council shall issue a certification of the election.

7.90.070 Return of deposit and apportionment of expenses upon recount.

If, upon recount, a different candidate or position on a proposition or question is certified or if the vote on recount is two (2) percent or more in excess of the vote originally certified for the candidate or position on a proposition or question supported by the recount application, the entire deposit shall be refunded to the recount application. If this section does not require that the entire deposit be refunded, the clerk shall refund any money remaining after the cost of the recount has been paid from the deposit. If it is determined that the contestant shall bear the costs of the recount pursuant to this section and the deposit is insufficient to cover the costs, the city may recover the excess costs from the contestant. If the recount is obtained by voters, each of them shall be individually liable for the whole amount of such expense.

7.90.080 Appeal or judicial review.

A. No person may appeal or seek judicial review of an election for any cause without having first exhausted the administrative remedies provided in this chapter.

B. Recount appeal. A defeated candidate or any person who requested a recount under this chapter and who is aggrieved by the result of a recount or decision to deny a recount may appeal to the Superior Court for the State of Alaska, Fourth Judicial District at Bethel in accordance with applicable court rules governing appeals in civil matters. The recount appeal shall be filed within five (5) calendar days of completion of the recount or the decision to deny a recount. Upon order of the court, the clerk shall furnish the record of the recount, including all ballots, registers, and other election material and papers pertaining to the recount. The appeal shall be heard by the court sitting without a jury. The inquiry and the appeal shall extend to the questions whether or not the clerk has properly determined what ballots, parts of ballots, or marks for candidates on ballots, are valid, and to which candidate or division on the proposition or question the vote should be attributed. The court shall enter judgment either setting aside, modifying, or affirming the results of the recount or decision to deny a recount.

If an action under this subsection is not commenced within the 5-day period, the election and the election result shall be conclusive, final and valid in all respects.

C. Appeal of election contest. A defeated candidate or person who filed an election contest under this chapter and who is aggrieved by the result of an election contest or a decision to deny an election contest may appeal to the Superior Court for the State of Alaska, Fourth Judicial District at Bethel in accordance with applicable court rules governing appeals in civil matters. The appeal shall be filed within ten (10) calendar days after certification of the election results. Upon order of the court, the clerk shall furnish the record of the recount, including all ballots, registers, and other election material and papers pertaining to the election contest. The appeal shall be heard by the court sitting without a jury. If an action under this subsection is not commenced within the ten (10) day period, the election and the election results shall be conclusive, final, and valid in all respects.

Chapter 7.100 Initiative, Referendum and Recall

7.100.010 Reservation of powers.

The powers of initiative and referendum are reserved the qualified voters of the city, except as provided by article XI, section 7 of the Alaska Constitution, state law and this code. The power of recall is reserved to the qualified voters of the city pursuant to article XI, section 8 of the Alaska Constitution State law, and this code.

7.100.020 Application for petition.

A. An initiative or referendum is proposed by filing an application with the city clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of the contact person and an alternate to whom all correspondence relating to the petition may be sent. The application shall be on a form provided by the clerk. An application shall be signed by at least ten (10) voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two (2) weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter:

1. Is not restricted by AS 29.26.100 or BMC 7.100.010 (B);
2. Includes only a single subject;
3. Relates to legislative rather than to an administrative matter; and
4. Would be enforceable as a matter of law.

B. Upon receipt of a completed application for a petition the municipal clerk shall immediately remit a copy of the application to the municipal attorney for review. The city clerk shall verify the sponsors' qualifications and, after consultation with the city attorney, determine and certify the legal sufficiency, or lack thereof, of the application and the proposed initiative or referendum.

C. A decision by the clerk on an application for petition is subject to judicial review.

7.100.030 Petition format.

A. The petition prepared by the clerk for issuance to the petition sponsors shall be in substantial compliance with this section. The petition shall be prepared within two (2) weeks after certification of the application. Each copy of the petition shall contain:

1. Each page must contain a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
2. The complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
3. The date on which the petition is issued by the clerk;
4. Notice that signatures must be secured within 90 calendar days after the date the petition is issued;
5. Space for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing address of each signer;
6. A statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
7. Space for indicating the total number of signatures on the petition.

B. Each booklet shall be assembled by the clerk and all pages within each booklet shall be stapled or otherwise fastened together.

C. The clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

7.100.040 Instructions to sponsors.

The clerk shall issue written instructions to the sponsors setting forth the requirement that to be valid the signature line must contain the signature in ink, the legible printed name, and the legible residence address of the municipal voter signing the petition. The instructions shall also include the types of addresses which are and are not acceptable as residence addresses.

7.100.050 Submission and receipt of petitions.

A. The sponsors shall file the petitions booklets as a single instrument. After the filing, no additional petition booklets may be received by the clerk for validation whether such additional booklets are submitted before or after the expiration of the petition period. Such late booklets shall be received only for the purpose of preservation for the record.

B. Filing shall be done during city business hours. If the last day of the period falls on a Saturday which is not a city holiday, the clerk shall make arrangements with the sponsors to receive the petitions at the clerk's office at or before 4:30 p.m. on that

Saturday. If the last day of the period falls on a Sunday or other city holiday, the sponsors may file the petition no later than 9:00 a.m. on the first (1st) weekday which is not a holiday.

C. Immediately upon receipt of the petition, and in the presence of the person submitting the petition, the clerk shall check each booklet and shall mark as rejected on its face, and the reason for rejection, any petition booklet which:

1. Shows evidence of having been disassembled and reassembled;
2. Does not contain all pages of the ordinance to be initiated or referred;
3. Does not contain the fully completed, signed and notarized affidavit of the sponsor.

7.100.060 Signature requirements.

A. The signatures on an initiative or referendum petition shall be secured within ninety (90) days after the clerk issued the petition. The statement provided under BMC 7.100.030 (A) (6) shall be signed and dated by the sponsor. Signatures shall be in ink.

B. The clerk shall determine the number of signatures required and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that municipality at the last regular election held before the date written notice is given to the contact person that the petition is available equal to:

(1) 25 percent of the votes cast if the municipality has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if the municipality has 7,500 persons or more.

C. A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition.

7.100.070 Sufficiency of petition.

All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within ten (10) days after the date the petition is filed, the clerk shall:

A. Certify on the petition whether it is sufficient; and

B. If the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

7.100.080 Supplemental petition.

A. If the clerk determines that there is an insufficient number of valid signatures on the petitions filed during the ninety (90) day period, notice of the insufficiency shall be provided to the contact person by certified mail, return receipt requested. The sponsors shall have an additional ten (10) days from receipt of the notice to gather additional signatures on petitions supplied to the sponsors by the clerk for that purpose. The petitions supplied by the clerk for the supplemental period shall be in the format specified in BMC 7.100.030, except that the signature page numbering shall not duplicate that utilized for the ninety (90) day period.

B. Petitions shall be submitted and received in the manner provided in BMC 7.100.050.

C. No signatures obtained on booklets issued during the first (1st) ninety (90) day period shall be valid if submitted with the supplemental petition.

7.100.090 Validation of signatures.

A. The clerk shall reject the signature of any person whose name does not appear on the most recent printed voter registration list available from the state elections office and is determined by the state elections office to be a person who is not registered on the day the clerk requests state verification of the voter status of the person.

B. The clerk shall reject the signature of any person whose signed and printed name are so illegible that the clerk cannot identify the name; provided, however, the clerk may accept an otherwise illegible name if the voter has provided a registration number and the legible address information given by the person corresponds to voter registration information of the person registered to the voter registration number given.

C. The clerk shall reject all but one (1) signature of any person who has signed his or her name two (2) or more times to petition booklets.

D. The clerk shall reject the signature of any person whose signature is not executed in ink.

E. The clerk shall reject the signature of any person who fails to provide a legible and adequate residence address as provided in this section.

F. The clerk shall reject the signature of any person whose petition signature and printed name are not the form in which the person is registered to vote unless the clerk is able to determine from the voter registration number of the address information from the state elections officer that the signature is that of a registered voter.

G. The clerk shall reject an entire petition booklet if it is shown that a petition sponsor has either failed to do any act or had no reasonable basis for a belief to which he is required to swear under BMC 7.100.030 (6).

7.100.100 Residence address requirements.

A. A residence address for the purpose of initiative and referendum petition requirements is a locatable address where the person lives. A residence address is adequate only if it contains sufficient information to permit the person's place of residence to be found by an ordinary person with no particular knowledge of the city area if such person is given the residence address information which appears on the petition, the official map of the city, the approved house number maps of the city, and relevant approved plan maps.

B. Notwithstanding the general definition provided in subsection A of this section, the following shall be deemed to be adequate residence addresses:

1. A subdivision name with a lot and block number;

2. A United States survey number when the smallest recorded subdivision which is applicable to the property is included;

3. A milepost when accompanied by a road or highway name;

4. A boat harbor or marina name when the stall, slip, or boat name is also included;

5. A hotel or motel if the room number is included;

6. A trailer court if the space number or street name and number within the trailer court is given;

7. A house number with a street or highway name;

8. An apartment or condominium name when accompanied by an apartment or unit number.

C. The following types of addresses are inadequate as a residence address:

1. A street name without a house number;

2. A milepost without a highway or road name;

3. A highway or road name without a milepost or house number;

4. Alaska, Bethel, City Sub, Tundra Ridge, BIA housing, or any other similar designation by a geographic area or subdivision only;

5. A rural route box number;

6. A post office box number;

7. A street, highway or road intersection;

8. Any address which is ambiguous either on its face or becomes ambiguous upon consulting a map or plat to which one (1) would be led from the residence address information;

9. An illegible address.

D. If there is a dispute as to the adequacy of a residence address given by a person whose name has been rejected by the clerk, the name shall be rejected if it is determined that a house number has been assigned to the place of residence of the person whose name has been rejected unless the assigned street name and house number or an accurate legal description of the property has been used on the petition.

7.100.110 Protest

If the clerk certifies that an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the city council. The city council shall hear and decide the protest.

7.100.120 New petition.

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six (6) months after a petition is rejected as insufficient.

7.130.130 Termination of suspension of ordinance effective date.

An ordinance or resolution which has been suspended by the filing of a referendum petition shall become effective five (5) business days after notice of insufficiency of the referendum petition has been delivered to the prime sponsor unless an appeal of the clerk's decision is filed within that time.

7.100.140 Initiative election.

A. Unless substantially the same matter is adopted, when a petition seeks an initiative vote, the clerk shall submit the matter to the voters at the next regular election or if already scheduled as a special election occurring no sooner than sixty 60 days after

certification of the petition. If no election is scheduled to occur within 75 days after the certification of a petition and the city council determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

B. If the council adopts substantially the same measure, the petition is void and the matter initiated may not be placed before the voters.

C. The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

D. If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.

7.100.150 Referendum election.

A. Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to the voters at the next regular election or if already scheduled as a special election occurring no sooner than sixty 60 days after certification of the petition. If no election is scheduled to occur within 75 days after the certification of a petition and the city council determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

B. If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the council may not enact an ordinance or resolution substantially similar to the suspended measure.

C. If the council repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

D. If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.

7.100.160 Effect.

A. The effect of an ordinance or resolution may not be modified or negated within two (2) years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

B. If an ordinance or resolution is repealed in a referendum election or by the council after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the council for a period of two (2) years.

C. If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six (6) months after the election results are certified.

7.100.170 Recall.

An official who is elected or appointed to an elective city office may be recalled as provided by Title 29 of Alaska Statutes.

Section 4: Preclearance: Upon approval of this ordinance by the City Council, the City Clerk shall prepare and submit this ordinance for preclearance by the United States Department of Justice pursuant to Section 5 of the Federal Voting Rights Act.

Section 5: Effective Date: This ordinance shall become effective upon preclearance from the U.S. Department of Justice, or sixty (60) days following submission of the preclearance request authorized by Section 3 of this ordinance if no objection is interposed pursuant to 28 C.F.R. § 51.42.

PASSED AND APPROVED THIS _ DAY OF __, 2012 BY A VOTE OF _IN FAVOR AND _ OPPOSED.

ATTEST:

_____
Joseph A. Klejka, Mayor

_____
Lori Strickler, City Clerk

Chapter 7.10 General Provisions.

7.10.010 Scope of title.

This title governs all city elections.

7.10.020 Definitions.

In this title, unless the context otherwise requires:

A. "Business days" means the days the city's administrative offices are open to provide general services to the public, excluding weekends and holidays.

B. "City" means city of Bethel.

C. "City election" means any election:

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

D. "Clerk" means city clerk or any properly authorized ~~assistant~~ designee to the city clerk.

E. "Calendar days" means consecutive days succeeding one (1) another in regular order.

F. "Election" includes any regular, or special ~~or runoff~~ city election.

G. "Election official" includes election officials at the polls, the clerk, the clerk's office staff, absentee voting officials, and canvass board, and review board.

H. "Immediate family" means a candidate's grandparents, parents, grandchildren, children, siblings, spouse, spouse's children, spouses of children, or a regular member of the candidate's household.

I. "Oath" means any form of attestation by which a person signifies the person is bound in conscience to perform and act faithfully and truthfully. Oath includes affirmation.

J. "Precinct" means the territory within which resident voters may cast votes at one (1) polling place.

K. "Precinct Register" means the register maintained by the director of the State Division of Elections.

~~K.~~ L."Proposition" means an initiative, referendum, recall, or other ~~issue~~ question submitted by the council to the public at an election.

~~L.~~ M."Qualified voter" means any voter who has the qualifications required by this ~~section~~ title and is not disqualified under Article V of the Alaska State Constitution.

~~M.~~N. "Questioned voter" means a voter:

1. Whose name does not appear on the register in the precinct where the voter attempts to vote;
2. Who has received an absentee ballot and does not turn it in when voting at the voter's precinct on election day;
3. Who does not ~~bear~~ present identification or is not personally known to an election official through the voter's name appears on the precinct register; or

4. Who is questioned for good cause at the polls in writing pursuant to BMC 7.50.100.

~~N. "Precinct register" means the register maintained by the Director of the State Division of Elections.~~

O. "Registration" or "registered" refers to the form of registration required by the state election code. For city elections, a person is registered if registered to vote in state elections ~~in the precinct which that person seeks~~ at an address within the boundaries of the city thirty (30) calendar days prior to the city elections.

P. "Regular ballot" means a ballot voted at the polls which is not questioned or an absentee ballot.

Q. "Regular election" means the city election held on the first (1st) Tuesday of October annually~~.~~, unless a different date or interval of years is provided by ordinance.

R. "Signature" or "subscription" includes a mark intended as a signature or subscription.

S. "Special election" means any election held at a time other than when a regular election is held.

T. "Swear" includes "affirm."

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

7.10.030 Severability.

Should any provision of this election code, or its application to any person or set of circumstances, be held invalid, the remainder of its provisions, or of its application to any persons or circumstances, shall not be affected.

7.10.040 ~~Administration of election.~~ Powers and duties of the clerk.

~~A. The council shall prescribe the general rules for the conduct of city elections.~~

~~B.~~ A. The city clerk, in accordance with the provisions of this title, shall administer all city elections~~.~~ and shall determine whether candidates for municipal office are qualified in accordance with this title.

B. The clerk shall comply with the Federal Voting Rights Act, 42 USC § 1973 -1973 aa -6 as amended, and applicable regulations, and timely submit a preclearance request to preclear any change effecting voting, including setting a date for a special election prior to holding the election.

7.10.050 Election times.

A. Time of Regular Elections. Annually, on the first (1st) Tuesday of October, a regular election shall be held in the city for the election of vacant city offices, and for the determination of other matters as may be placed on the ballot. The council may provide for different dates for a regular election by ordinance.

B. Time of Special Elections. The council, by ~~resolution or~~ adoption of an ordinance, may call a special election at any time at least ninety (90) calendar days prior to the date of the election. Unless the council has set a date for a required special election, the city clerk shall call a special election when required by law or ordinance to place an initiative, referendum, recall or other question before the voters.

7.10.060 Notice of elections.

A. Notice of Voter Registration. The clerk shall post a notice of voter registration prior to the posting of the notice of election. The notice of voter registration shall include the qualifications required of voters, and the manner, time and place of registration.

B. Notice and Posting. The clerk shall post a notice of each election in three (3) public places in the city. The first (1st) such posting shall be accomplished at least thirty (30) calendar days before a regular election and twenty (20) calendar days before a special election. Each notice of election shall include:

1. The type of election: regular or special;
2. The date of election;
3. The hours the polling places shall be open;
4. The offices to which candidates are to be elected and the subjects of propositions and questions to be voted upon;
5. The locations of the polling places;
6. Instructions for absentee voting; and
7. Notification that anyone needing special assistance in casting their vote due to a disability or bilingual need shall contact the clerk at least twenty-four (24) hours before the time of casting their ballot.

7.10.070 Propositions and questions.

An ordinance placing propositions and questions before the voters must be adopted by the council not later than forty-five (45) calendar days before a regular or special election.

7.10.080 Nonpartisan requirement.

All city elections shall be nonpartisan.

7.10.090 Bonded indebtedness.

A. Any qualified voter may vote on a question of incurring bonded indebtedness by the city.

B. Notice of Bonded Indebtedness. Before a general obligation bond issue election, the clerk shall publish a notice at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. The notice of the city's total existing bonded indebtedness shall include:

1. The current total general obligation bonded indebtedness, including authorized but unsold bonds;
2. The cost of the debt service on the current indebtedness; and
3. The city's total assessed property value.

~~7.10.090~~ 7.10.100 Prohibition on use of public moneys. ~~to promote passage of ballot propositions.~~

~~A. The use of public moneys, or facilities, equipment or supplies purchased with public moneys, and services of public employees in kind, to promote the passage of ballot propositions including public expenditures, appropriations or bond issues is prohibited.~~

~~B. The term "promote" means an attempt to influence, whether affirmatively or negatively, the vote of the people upon ballot propositions or bond issues. The term "promote" does not encompass the following and similar activities:~~

~~1. The publication, circulation or mailing of informational items or legal notices pertaining to proposed bond issues or ballot propositions, so long as any literature distributed to the public or to news media fairly and fully presents information needed by the public to make an informed vote upon any ballot propositions or bond issue;~~

~~2. The participation by city personnel in public discussions, or interviews with news media, relating to proposed ballot propositions or bond issues;~~

~~3. The city administration may prepare and disseminate an informational brochure regarding propositions or bond issues placed on the ballot by the city council with accords reasonably equal presentation of facts supporting and opposing the proposition or bond issue.~~

~~C. City-owned buildings, and other facilities may be utilized for public meetings, discussions, and other assemblies by private groups supporting or opposing any ballot proposition or bond issue. City employees may arrange for public meetings and assemblies where the advantages and disadvantages of a proposed ballot proposition or bond issue are fairly presented by opponents and proponents of the item.~~

~~D. No posters, fliers, or other printed material advocating or opposing a ballot proposition or bond issue may be displayed in any city-owned or controlled building or facility except in a single area of general public access designated by the building supervisor. Both proponents and opponents of the ballot issue shall be accorded reasonably equal access to the space.~~

~~E. The constitutional rights of public employees to express their personal views on proposed bond issues and ballot propositions during public meetings or in interviews with news media shall not be abridged by this title. However, any employee expressing personal views shall clearly state that the statements reflect personal or professional beliefs only and do not represent the position of the city.~~

A. Except as provided in subsections (B) and (C) of this section, money held by the city may not be used to influence the outcome of the election of a candidate.

B. Money held by the city may be used to influence the outcome of an election concerning a ballot proposition or question, including a bond proposition, but only if the funds have been specifically appropriated for that purpose by ordinance.

C. Money held by the city and authorized for expenditure as provided in subsection (B) of this section, may be used to:

1. Disseminate information about the time and place of an election and to hold an election;

2. Provide the public with nonpartisan information about a ballot proposition or question or about all the candidates seeking election to a particular public office.

D. When expenditure of money is authorized by subsection (B) or (C) of this section and is used to influence the outcome of an election, the expenditures shall be reported to the Alaska Public Offices Commission in the same manner as an individual is required to report under AS 15.13.040.

E. City-owned or controlled buildings or facilities may be utilized for public meetings, discussions, and other assemblies by private groups supporting or opposing any ballot proposition or bond issue. City employees may arrange for public meetings and assemblies where opponents and proponents present the advantages and disadvantages of a proposed ballot proposition or bond issue. Both proponents and opponents of the ballot item shall be accorded equal access to the space.

F. No posters, fliers or other printed material advocating or opposing a ballot proposition, question, or bond issue may be displayed in any city-owned or controlled building or facility except in a single area of general public access designated by the building supervisor. Both proponents and opponents of the ballot item shall be accorded equal access to the space.

G. The constitutional rights of public employees to express their personal views on proposed ballot propositions, questions, or bond issues during public meetings or in interviews with news media shall not be abridged by this title. However, any employee expressing personal views shall clearly state that the statements reflect personal or professional beliefs only and do not represent the position of the city.

~~7.10.100~~ 7.10.110 Simple majority – Prohibition on runoff elections.

All city offices shall be filled by the candidate receiving the greatest number of votes. There shall be no runoff elections. ~~In the event of a tie, the office shall be filled in accordance to the procedure set forth in BMC 7.60.070.~~ Where there is more than one term length available, the candidate who receives the greatest number of votes shall first choose the available term length for the seat in which they wish to be seated, the candidate receiving the next greatest number of votes shall then choose the next available term length. This selection process shall continue in the order and number of votes obtained until all offices are filled. In the event of a tie, the office shall be filled in accordance to the procedure set forth in BMC 7.60.070.

~~7.10.110~~ 7.10.120 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 and provide for posting at each polling place 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. Use of computers- The clerk shall designate the computers to be used in the counting of the ballots or use the same computers as the state. The clerk may negotiate and contract with the state or private computer service for the needed computer services.

D. Test and security- No later than one week before the election, the vote tabulation system shall be tested in the presence of, and to the satisfaction of, the review board. Upon completion of the testing, a security seal shall be placed on the tabulation system for delivery to the precincts.

~~7.10.120~~ 7.10.130 Election expenses.

A. The city shall pay all necessary expenses relating to the conduct of each city election, including those of securing polling places and providing ballot boxes, ballots, voting booths or screens, national flags and other supplies, and any wages due to election officials ~~unless otherwise provided by this code~~, except that all expenses of making a recount shall be apportioned pursuant to BMC 7.90.070.

B. The city shall pay each ~~election board member and canvass board member~~ election official 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, paying election officials, securing ballot boxes, booths and other election necessities.

~~7.10.130~~ 7.10.140 Preservation of election ballots, papers and materials.

~~The clerk shall preserve all precinct election certificates, tallies, registers receipts for ballots, all voted ballots and declarations of candidacy filed for one (1) year after the election. 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.~~

A. The clerk shall preserve all official ballots in a secure manner, unopened and unaltered, for not less than thirty (30) calendar days from the date of the election certification or in cases where the election is contested, until thirty (30) calendar days after the final resolution of the contest or except as otherwise provided by law. The clerk may permit the inspection of the ballots upon order of a court of competent jurisdiction. Upon the expiration of the preservation period, the clerk shall completely destroy the ballots, and make and keep a written certificate that the ballots have been destroyed.

B. All precinct election certificates, tallies, registers receipts for ballots, and declarations of candidacy shall be preserved for four years following the certification of the election.

Chapter 7.20 Voter Qualification.

7.20.010 Voter qualifications.

A person may vote ~~at any election that meets all of the following requirements~~ in a city election only if the person:

A. Is qualified to vote in state elections under AS 15.05.010;

~~B. Is a citizen of the United States;~~

~~C. Is eighteen (18) years of age or older;~~

B. ~~D.~~ Has been a resident of the city for thirty (30) calendar days immediately preceding the election;

C. ~~E.~~ Is registered to vote in state elections at a residence address within the city thirty (30) calendar days prior to the city election; and

D. ~~F.~~ Is not disqualified under Alaska Constitution, Article V., section 2.

7.20.020 Rules for determining residence of voter.

For the purpose of determining residence for voting, the place of residence is governed by the following rules:

A. The residence of a person is that place in which habitation is fixed, and to which, whenever the person is 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 person's place of residence. Temporary construction camps do not constitute a dwelling place.

B. A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one (1) residence.

C. A person does not gain or lose residence solely by reason of a person's presence or absence while employed in civil or military service of the United States or of this state, or because of presence or absence due to marriage to a person in the civil or military service of the United States or of this state, or while a student of an institution of learning, or while kept in an institution or asylum at public expense, or while confined in a public prison, or while residing upon an Indian or military reservation, or while residing in the Alaska Pioneers Home.

~~D. No member, or spouse or dependent of a member, of the armed forces of the United States is a resident of this state solely by reason of being stationed in the state.~~

~~E~~D. A person does not lose residence if the person leaves home and goes to another country, state, or place within this state for temporary purposes only and with the intention of returning.

~~F~~E. A person does not gain a residence in a place to which the person comes without a present intent to establish a permanent dwelling there.

~~G~~F. A person loses residence in this state if the person votes in an election held in another state, either in person or by mail and will not be eligible to vote in this state until again qualifying under AS 15.05. ~~and has not, upon the person's return, regained residence in this state under the provisions of this chapter and state law.~~

~~H~~G. The term of residence is computed by including the day on which the person's residence commences and by excluding the day of election.

7.20.030 Registration.

A. A person may vote in an election only if the person is a qualified voter under the Alaska State Constitution, the laws of Alaska and this chapter and the person has registered as required by the state election code and BMC 7.20.010.

B. The precinct election officials at any election shall allow a person to vote whose name is on the official precinct 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.

7.20.040 Voter disqualification for felony conviction.

~~A. A person whose qualifications to vote have been questioned on the basis of a felony conviction shall vote a questioned ballot. A person's vote shall not count where the voter has been convicted either by state courts of Alaska, by the courts of another state or by the federal courts of a felony involving moral turpitude under Alaska law~~

~~unless the person's civil rights have been restored by law or by proper authority in the jurisdiction in which the person was convicted.~~

~~B. Felonies involving moral turpitude include, but are not limited to, the crimes of murder, rape, robbery, kidnapping, burglary, incest, and other crimes, which are punishable by imprisonment in the penitentiary under Alaska law and which involve conduct contrary to justice, honesty, modesty or good morals.~~

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.

~~7.20.050 Bonded indebtedness.~~

~~A. Only qualified voters may vote on a question of incurring bonded indebtedness by the city.~~

~~B. Notice of bonded indebtedness shall be given consistent with the provisions of BMC 7.10.060(C) and AS 29.47.190.~~

7.30 Candidate Qualifications.

7.30.010 Candidate qualifications.

Any person is eligible for city office if the person is a qualified voter of the state and a resident of the city for at least one (1) year immediately preceding filing for office.

7.30.020 Declaration of candidacy.

A. A person who seeks to be a candidate for city council ~~is nominated by~~ shall execute and file a declaration of candidacy with the clerk ~~under oath and filing it with the clerk~~ in accordance with this section. The declaration shall be executed under oath before an officer authorized to take acknowledgments.

B. A declaration of candidacy shall be ~~in~~ on a form provided by the clerk and shall state the following:

1. The full name of the candidate, and the manner in which he wishes his name to appear on the ballot;
2. The full residence and mailing address of the candidate;
3. The day and evening telephone numbers of the candidate;
4. The office for which the candidate declares;
5. That the candidate is qualified for the office as provided by law;
6. That the candidate is a resident of the city;
7. That the candidate meets, or shall meet, as required by law, the specific requirements of the office the candidate is seeking;
8. The date and notarized statement signed by the candidate;
9. A certification by the candidate that the information in the declaration of candidacy is true and accurate.

C. Declarations of candidacy shall be provided by the clerk not earlier than seven (7) days prior to the opening of the filing period. Declarations of candidacy shall be submitted in original form and shall not be submitted by facsimile.

D. Filing for city office shall be made by filing a declaration of candidacy with the city clerk from 8:00 a.m., August fifth (5th) through 4:00 p.m., August twentieth (20th). In the event August 20th falls on Saturday Sunday or legal holiday, the candidate shall

have until noon the next business day that is not a sat sun or legal holiday to file their declaration of candidacy.

E. Within four (4) business days after the filing of a declaration of candidacy, the clerk shall notify the candidate named in the declaration of candidacy whether or not it is in proper form. If not, the clerk shall immediately return it with a statement certifying wherein the declaration of candidacy is deficient to the candidate. A new declaration of candidacy for the same candidate may be filed within the time for filing declarations of candidacy.

7.30.030 Write-in candidates.

In addition to the limitations contained in BMC 7.60.020, votes for a write-in candidate will not be counted unless that candidate has filed a declaration of candidacy with the clerk. A declaration of candidacy filed under this section must be filed with the clerk not earlier than the day immediately following the last day of the filing period and not later than 5:00 p.m. five days prior to the election.

~~7.30.030~~ 7.30.040 ~~Nominations~~ Notice of vacancies in office.

At least three (3) calendar days before ~~nominations~~ the declaration of candidacy period is open for each regular or special election, the clerk shall post in three (3) public places a notice of offices to be filled at the election and the manner of ~~making nominations~~ filing a declaration of candidacy.

~~7.30.040~~ 7.30.050 Conflict of interest statements.

A. Candidates for elective city office and declared write-in candidates shall file an Alaskan Public Offices Commission Conflict of Interest Statement with the clerk as required by the provisions of AS 39.50 at the time of:

1. Filing a declaration of candidacy. The clerk shall place the name of the candidate on the ballot only after the candidate has complied with this requirement.
2. Declaring their candidacy as a write-in candidate.

B. Each candidate for an elective office shall file the name and address of the candidate's campaign treasurer with the Alaska Public Offices Commission no later than seven (7) days after the date of filing a declaration of candidacy.

~~7.30.050~~ 7.30.060 Corrections, amendments and withdrawal of declarations of candidacy.

~~A.~~ Any candidate may withdraw his nomination at any time during the period of filing a declaration of candidacy by written notice to the clerk. After the filing period has closed, no declaration of candidacy may be corrected, amended or withdrawn.

~~B. If a candidate desires to run for a different office or seat, the candidate shall request a new declaration of candidacy form from the clerk and meet the requirements of BMC 7.20.020.~~

~~7.30.060 Review of candidate qualifications.~~ 7.30.070 Determination of candidate eligibility.

~~The clerk shall determine whether each candidate for city 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~~

~~(5) days of receiving the notice. The hearing shall be held no later than five (5) days after the request unless the candidate agrees in writing to a later date.~~

A. The clerk shall determine whether each candidate filing a declaration of candidacy for municipal 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.
B. Any person, including the clerk, may question the eligibility of a candidate who has filed a declaration of candidacy by filing a complaint with the clerk.
C. The complaint must be in writing and include the name, mailing address, contact phone number, signature of the person making the complaint, and a statement describing the grounds on which the candidate's eligibility is being questioned.
D. The clerk will review only those issues in the complaint related to candidate eligibility.
E. Upon receipt of a complaint, or if the clerk questions the eligibility of the candidate, the clerk will send notification in writing to the candidate.
F. The clerk shall review any evidence relevant to the candidate's qualifications, including, but not limited to, the candidate's residency, voter registration, declaration of candidacy, and any other document of public record or as required by BMC 7.30.010. Based on the review of the documents, the clerk will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate.
G. If the clerk determines the preponderance of evidence supports the eligibility of the candidate, the clerk will issue a final determination supporting the candidate's eligibility.
H. If the clerk determines the preponderance of evidence does not support the candidate's eligibility, notice to the candidate will identify any additional information or evidence that must be provided by the candidate. The clerk must receive the requested information no later than three business days from the date of notice. The clerk will consider any additional information provided and issue a final determination as to the candidate's eligibility no later than three business days from receipt of the additional information.
I. If the information requested by the clerk is subsection H of this section is not received by the specified deadline, the clerk will issue a final determination regarding the candidate's eligibility based on the information initially reviewed.
J. The clerk will send notice of final determination in writing to the person making the complaint if applicable, and to the candidate. The determination of the clerk is final.

~~7.30.070~~ 7.30.080 Prohibitions.

A. No elected official of the city may hold any other compensated city office or city employment, or elected position in the state or federal government while in office.
B. A public safety volunteer is exempt from this section per BMC 3.64.060.

7.40 Ballots.

7.40.010 Ballot form.

~~A. Names of candidates for city offices shall be placed on the ballot in the form prescribed for state elections.~~

~~B. The title of the office to be filled shall be followed by the printed names of the candidates for such office, below which shall be blank lines equal in number to the candidates to be elected to such office, upon which the voter may write the names of persons not listed on the ballot. The words "Vote for no more than ____" with the appropriate number replacing the blank, shall be placed before the list of candidates for each office. The names of the candidates shall be printed as they appear upon the declaration filed with the clerk, except that any honorary or assumed title or prefix shall be omitted. However, the candidate's name appearing on the ballot may include a nickname or familiar form of a proper name.~~

~~C. The propositions to be voted on shall follow the candidates for office or shall be on separate ballots, as the clerk may determine. The words "yes" and "no" shall appear below each proposition.~~

~~D. Each ballot shall bear the words "Official Ballot," and the date of the election.~~

~~E. Ballots shall be printed on paper or on required stock to be computer counted.~~

~~F. The ballots shall be consecutively numbered.~~

The City Clerk shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections. The following requirements shall be followed in the preparation of the ballot:

A. The city clerk shall determine the size of the ballot, the type of print, necessary additional instruction notes to voters, and other similar matter of form not provided by law.
B. The city clerk shall number ballots in series to assure simplicity and secrecy and to prevent fraud.
C. Each ballot shall bear the words "Official Ballot", and the date of the election.
D. The title of the office to be filled shall be followed by the printed names of the candidates for such office.
E. The names of candidates shall be printed as they appear upon the declaration of candidacy filed with the clerk, except that any honorary or assumed title or prefix shall be omitted. However, the candidate's name appearing on the ballot may include a nickname or familiar form of the proper name.
F. The city clerk shall randomly determine the order of the names of the candidates on the ballot.
G. Below the printed names of candidates appearing on the ballot shall be blank lines equal in number to the seats to be filled for the office, upon which the voter may write the name(s) of person(s) not listed on the ballot.
H. Ballot propositions and questions shall be placed on the ballot in the manner prescribed by the clerk. Provisions shall be made for marking the proposition "Yes" or "No". All ballot propositions shall be stated in the affirmative and not the negative so that a yes vote will always mean that the voter approves of the affirmative of a proposition and not the negative; and a no vote disapproves the affirmative statement of an issue.

7.40.020 Preparation and distribution.

A. The clerk shall obtain the printing of all ballots for city elections. The clerk shall possess the printed ballots at least fifteen (15) calendar days before each regular election and at least ten (10) calendar days before each special 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 and sample 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.~~ A receipt for the ballots, including the number and type of ballots, shall be signed and dated by an election official. The clerk shall keep the receipt as part of the election record.

D. No ballots shall be taken from the polling place before the closing of the polls, unless the clerk for good cause directs that the ballots be removed. A record shall be kept by the election officials of the ballots removed from a polling place.

E. If emergency ballots are needed in carrying out an election, the clerk shall be responsible for the preparation and distribution of those ballots. Emergency ballots shall be in the same form as the regular ballots at t the election, and have a serial number listed on each ballot shall be handed, voted, and counted in the same manner provided herein for regular ballots.

7.40.030 Sample ballots.

The clerk shall obtain the printing of sample ballots. Sample ballots shall be printed on nonwhite paper and be clearly labeled "Sample ballot." ~~Sample ballots shall be delivered to the election board in each precinct.~~

~~7.40.040 Propositions – Clarity – Conciseness.~~

~~All ballot propositions shall be stated in a concise and clear language to avoid verbosity and with the object of informing and advising the voter of the issue in a clear and forthright manner. All ballot propositions shall be stated in the affirmative and not the negative so that a yes vote will always mean that the voter approves of the affirmative of a proposition and not the negative; and a no vote disapproves the affirmative statement of an issue. Ballot propositions shall not be used to obtain a negative result by the casting of a yes vote. Words of multisyllables will be avoided in ballot propositions, and simple sentences shall be used in preference to complex or compound sentences, with the object of making ballot propositions understandable to the average reader.~~

7.50 Operation of Polls.

7.50.010 Election officials.

A. Before each election, the clerk, subject to approval by the council, shall appoint at least three (3) election officials in each precinct to constitute the election board for that precinct. The clerk shall designate one (1) election official in each precinct as the chairperson, who shall be primarily responsible for administering the election in that precinct. If no chairperson is appointed for the precinct or the chairperson is unable to fulfill the chairperson's duties, the other election officials shall perform the chairperson's duties. After council approval, the clerk may make necessary adjustments to the election boards as required to conduct a properly held election.

B. The 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~~ officials of undue hardship.

C. If any election official fails or refuses to attend and serve, the election chairperson of the precinct or clerk shall appoint a person eligible under this section to serve in place of the absent election official.

D. Each election official shall be a registered qualified voter of the precinct for which the election official is appointed, unless no voter is willing to serve. There shall be no inquiry into an election official's political party as a prerequisite to service.

E. All election officials before entering upon their duties must subscribe to the oath required of all public officers by the Alaska State Constitution in the manner prescribed by the clerk.

F. Candidates or members of the candidate's immediate family may not serve as election officials for an election in which the candidate has filed a declaration of candidacy. Those familial relationships are:

1. Mother, mother-in-law, stepmother, grandmother;
2. Father, father-in-law, stepfather, grandfather;
3. Sister, sister-in-law, stepsister;
4. Brother, brother-in-law, stepbrother;
5. Child, child-in-law, stepchild, grandchild;
6. Spouse; or
7. Person sharing the same living quarters.

G. If the clerk knows or learns that any of these relationships exist, the precinct election ~~judges~~ officials, clerk or member of the ballot counting team shall be notified and replaced.

H. ~~Unless excused by the clerk, all~~ All election officials shall attend training sessions offered ~~by the clerk~~ or approved by the clerk unless they have completed the training sessions within the immediate 12 months prior to the election.

7.50.020 Opening of polling place.

A. On the day of the election, each 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 continuously open during the time between those hours. The election board shall report to the polling place by 7:30 a.m. so that voting will start promptly at 8:00 a.m. The chairman of the election board shall rotate times at which election judges, board members and clerks may be relieved for breaks and meals; provided, however, that at all times at least two (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. Ballot boxes shall not be opened during the stated election time unless for mechanical reasons, the election chair determines it is necessary. In this instance, the ballot box must be opened in plain view of voters and/or poll workers.

7.50.030 ~~Voter registration.~~ Keeping of register.

The ~~judges~~ election officials 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.

7.50.040 Voter identification at polls.

A. Before being allowed to vote, each voter shall exhibit to an election official one (1) form of identification, including but not limited to an official voter registration card, driver's license, passport, hunting or fishing license, state identification card, or tribal identification card.

B. An election official may waive the identification if the election official knows the ~~identity~~ first and last name of the voter.

C. A voter who cannot exhibit a satisfactory form of identification shall be allowed to vote a questioned ballot.

7.50.050 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.

7.50.060 ~~Providing ballot to a voter~~ Voting procedure.

A. 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. After a voter has marked the ballot, the voter shall deposit the ballot in the ballot box in the presence of the election official unless the voter requests the election official to deposit the ballot.

B. Subject to BMC 7.50.070, a voter may not exhibit the voter's ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot.

7.50.070 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 (2) 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.~~

A qualified voter, may request assistance to vote or bring a person or if necessary two persons of their choice with them to the poll, or before an election official, to assist the voters in casting the ballot. If an election official is requested, the election official shall assist the voter. If a person, other than an election official is to provide assistance, the person must take an oath before an election official not to divulge how the voter cast the ballot. The persons assisting the voter may not be a candidate for office in that election, an immediate family member of the candidate for office in that election, or a member of the voter's union. Not more than two persons of the voter's choice may assist the voter.

7.50.080 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.~~

If a voter mutilates, improperly marks, spoils or otherwise damages the voter's ballot, the voter may request and the election official shall provide another ballot upon the voter returning the damaged ballot to the election official. The election official shall record the replacement ballot number on the ballot accountability form and return the spoiled ballot unexamined to the voter who shall destroy and discard it immediately in the presence of an election official. A voter may obtain a maximum of three replacements for each ballot under this procedure.

~~7.50.090 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 the stub which may be part of the ballot may be removed by the election board. 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.~~

7.50.90 Question ballot-notice.

The clerk shall prepare and post at every precinct a "Notice to Questioned Ballot Voters." The notice shall contain:

A. Information as to how the questioned voter's ballot will be counted;
B. The date, time and place where the canvass board will meet; and
C. A statement notifying the voter that, within 30 calendar days after election certification, written notification will be sent to the voter informing them of the reason why their ballot was not counted. The notice will further state that if the voter does not receive notification, then the ballot was counted.

7.50.100 ~~Questioning procedure.~~ Questioned ballots-Issuance.

A. If the polling place of a voter is in question, the voter shall vote a questioned ballot after complying with subsection C of this section.

B. ~~Every election official and election judge shall~~ Every election official shall question, and any other person qualified to vote may question~~, and every watcher and any other person qualified to vote in the precinct, 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 may 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~~ 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 BMC ~~7.90.020 and 7.90.030~~ 7.80.020 and 7.80.030.

E. The questioned ballots and statements shall remain in the election official's custody and shall be delivered to the clerk. The clerk shall deliver the questioned ballots and statements to the canvass board for canvassing.

7.50.110 Special needs voting.

A. A voter with a disability who, because of that disability, is unable to go to a polling place or absentee voting office to vote, may vote a special needs ballot.

B. The voter, through a representative, may request a special needs ballot from:

1. The clerk on or after the fifteenth calendar day before a regular election or on or after the tenth calendar day before a special election; or

2. An absentee voting official at an absentee voting station designated by the clerk at a time when the absentee voting station is in operation; or

3. A member of the precinct election board on election day.

C. A representative requesting a special needs ballot shall sign a register provided by an election official. The register must include the following information:

1. The representative's name; and

2. The name of the voter on whose behalf the representative is requesting a ballot and voting materials.

D. The representative shall deliver the special needs ballot and other voting materials to the voter as soon as practicable. The voter shall mark the ballot in secret, place the ballot in a secrecy sleeve, and place the secrecy sleeve in the envelope provided. The voter shall provide the information on the envelope and shall sign the voter's certificate in the presence of the representative. The representative shall witness the voter's signature, and sign and date the representative's oath as provided on the envelope.

E. If a voter's disability precludes the voter from performing any of the requirements of subsection D of this section, the representative may perform those requirements, except making the voting decision, on the voter's behalf.

F. The representative shall deliver the ballot envelope to a city election official at a city precinct not later than 8:00 p.m. on election day. An election official shall deliver

the voted special needs ballot to the clerk. The clerk shall deliver the voted special needs ballot to the canvass board for canvassing.

G. No person who is a candidate for office at the election, an immediate family member of the candidate, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union may act as a representative for a voter.

~~7.50.110~~ 7.50.120 Closing of the polls.

A. Fifteen (15) minutes before the closing of the polls, and at the time of the closing of 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 fifteen (15) minutes before closing time shall not in any way invalidate the election or extend the time for closing of the polls.

B. Every qualified voter present and in line at the time prescribed for closing the polls may vote. After closing, no person will be allowed to enter the polling place for purposes of voting.

~~B.~~ C. 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, in a manner prescribed by the clerk, including:

(1) the number of official ballots received;

(2) the number of official ballots voted;

(3) the number of official ballots spoiled; and

(4) the number of official ballots unused and destroyed.

D. ~~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.

~~7.50.120 Voters in line when polls close.~~

~~Every qualified voter present and in line at the time prescribed for closing the polls may vote.~~

~~7.50.130~~ 7.50.130 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 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. 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 shall be the entrance to the building in which the polling place is located. ~~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 as to enable any person to ascertain how the voter marked the ballot, except as provided in BMC 7.50.070.

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. No person may leave the polling place with the official ballot that the person received to mark.

~~7.50.140~~ 7.50.140 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 ~~sixty (60)~~ thirty (30) days unless the election is contested.

~~7.60 Punch Card Voting.~~

~~7.60.010 Authorized.~~

~~The clerk may provide for punchcard voting at one (1) or more voting places for one (1) or more questions or offices on the ballot. [Ord. 98-16 § 4.]~~

~~7.60.020 Use of computers.~~

~~The clerk shall designate the computers to be used in counting the ballots and may negotiate and contract with the state or a private computer service for the needed computer services. [Ord. 98-16 § 4.]~~

~~7.60.030 Manual counting.~~

~~The clerk shall appoint one (1) or more counting teams to count write-in votes and nonprocessable punchcard ballots. If an equipment failure occurs and the clerk determines that the ballots are to be counted manually, the counting teams shall count the punchcard ballots. Manual counting shall be done with written rules issued by the clerk. [Ord. 98-16 § 4.]~~

~~7.60.040 Ballot counting system authorized.~~

~~Nothing in this title prohibits the use of other ballot counting systems which have been approved for use in state elections. The city clerk, 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. [Ord. 98-16 § 4.]~~

~~7.70~~ 7.60 Ballot Counting Procedures

7.60.010 Commencement of ballot count.

A. For counting paper ballots, when the polls are closed and the last vote has been cast, the election board and clerks or counters 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.

B. For ballots counted by computer, when the polls have closed and the last vote has been cast, the election board shall immediately proceed to open the ballot box and separate the questioned ballots from the other ballots and place all emergency ballots in

an envelope provided by the clerk. Ballots with write-in votes shall be segregated, rubber-banded, and placed in the back of the special ballot container. All voted ballots are placed in the transfer case for delivery to the election supervisor. The ballot counting unit shall be delivered to the location designated by the election supervisor.

~~7.70.010~~ 7.60.020 ~~Report, oath and vacancies of counters.~~ Counting ballots, general.

~~Counters shall report to the election board at the polls at the time designated by the election supervisor or the chairman of the election board to assume their duties to assist the election board in counting the vote. Before undertaking the duties of office, each counter shall subscribe to an oath to honestly, faithfully, impartially, and promptly carry out the duties of his 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 election supervisor, the election board shall appoint any qualified voter to fill the vacancy.~~

A. The Ballots shall be counted by the vote tabulation system selected by the clerk.
B. At no time during the tallying of votes may anyone but the election officials handle the ballots. The ballots shall not be marked in any way by anyone during the tallying.
C. The election board shall count the ballots in a manner that allows watchers to see the ballots when opened and read.
D. Hand-counted and computer counted ballots shall be tabulated according to the following rules:
    1. A voter may mark a ballot only by the use of cross marks, "X" marks, diagonal horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks or plus signs that are clearly spaced in the oval opposite the name of the candidate or proposition the voter desires to designate.
    2. 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 that office shall not be counted.
    5. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates of propositions properly made.
    6. An erasure or correction invalidates only that section of the ballot in which it appears, unless the intent of the voter is clear.
E. Stickers may not be used on ballots.
F. 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.

~~7.70.020~~ 7.60.030 ~~Commencement of ballot count.~~ Write-in votes.

~~A. For counting paper ballots, when the polls are closed and the last vote has been cast, the election board and clerks or counters 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.~~

~~B. For ballots counted by computer, when the polls have closed and the last vote has been cast, the election board shall immediately proceed to open the ballot box and~~

~~separate the questioned ballots from the other ballots and place all emergency ballots in an envelope provided by the clerk. Ballots with write-in votes shall be segregated, rubber-banded, and placed in the back of the special ballot container. All voted ballots are placed in the transfer case for delivery to the election supervisor. The ballot counting unit shall be delivered to the location designated by the election supervisor.~~

A. In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and, in addition, mark the oval opposite the candidate's name. Stickers may not be used on ballots.

B. Write-in votes shall not be tallied by hand count, unless the total number of write-in votes for an office exceeds the smallest number of votes cast for a candidate for that office whose name is printed on the ballot.

C. Votes for a write-in candidate shall not be counted unless that candidate has filed a declaration of candidacy with the clerk in accordance with BMC 7.30.030.

~~7.70.030 General procedure for ballot count.~~ 7.60.040 Other election boards and teams.

~~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 shall count the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling a ballot after it has been taken from the ballot box may have a marking device in hand or remove a ballot from the immediate vicinity of the polls.~~

A. Review Board. When using computers to count the ballots the clerk shall appoint a review board. The review board shall consist of at least three members. The review board shall ensure that all ballots are completely and accurately counted.

B. Canvass Board. The clerk shall appoint a canvass board consisting of a minimum of three election officials. The canvass board shall tally absentee ballots and questioned ballots and perform the duties as stated in BMC 7.80.

C. Failure to serve. A vacancy on a board or team shall be filled by the clerk.

~~7.70.040 Rules for counting hand-counted and computer ballots.~~

~~A. The election board shall count hand-counted and computer-counted ballots according to the following rules:~~

~~1. A voter may mark his computer-counted ballot only by filling in the oval with pencil or, if paper ballots are used, a cross mark, "X" mark, diagonal, horizontal or vertical mark, solid mark, star, circle, asterisk, check or plus sign shall be made with pencil or pen and ink. The marks will be counted only if they are clearly spaced in the space provided 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 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 (A)(1) of this section shall be counted only if it is substantially inside the space provided, or touching the space so as to indicate clearly that the voter intended the particular space marked.~~

~~6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.~~

~~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.~~

~~7.70.050 Write-in votes.~~

~~A. Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence, that the ballot was so marked for the purpose of identifying the ballot.~~

~~B. In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and, in addition, mark the square~~ oval ~~opposite the candidate's name in accordance with BMC~~ 7.70.040~~(A)(1). Stickers may not be used on punchcard ballots. Use of stickers on punchcard ballots can cause that portion of the ballot to be invalidated.~~

~~C. Write-in votes shall only be tabulated by person if the total number of write-in votes for an office exceeds the smallest number of votes cast for a candidate for that office whose name is printed on the ballot.~~

~~7.70.060~~ 7.60.050 Disqualified candidate.

Votes cast for a candidate who is disqualified shall not be counted for any purpose.

~~7.70.070 Tally of votes.~~

~~A. Tally of Votes 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 BMC 7.70.040. The election board shall canvass the ballots in a manner that allows watchers to see the ballots when opened and read. No person handling a 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. Tally of Computer-Counted Votes.~~

~~1. When a voter has finished marking his ballot, he shall return to the election official overseeing the ballot counting unit.~~

~~2. The voter shall insert his voted ballot into the counting unit. If the voter has over-voted a race, proposition or question, he may vote a new ballot up to a maximum of three.~~

~~3. If emergency ballots are brought to the election supervisor with the counting unit, the hand-count team will oversee the counting of the emergency ballots into the counting unit for the precinct form which the emergency ballots were voted prior to the results of that precinct being processed.~~

~~4. When the tally of all ballots has been completed, the voted ballots shall be sealed into containers to be preserved by the clerk for one (1) year. Ballot containers may only be opened by the canvass board or recount team or if the clerk is ordered to do so by the council or by the court.~~

~~7.70.080 Completion of ballot count.~~

~~When the tally of hand-counted ballots is completed, and in no event later than the day after the election, the election board shall make a certificate in duplicate of the results. The certificate includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the election supervisor. The election board shall, immediately upon completion of the certificate, hand-deliver to the election supervisor both copies of the certificate and register. In addition, all ballots properly cast shall be hand-delivered to the election supervisor. The package shall clearly indicate the precinct from which it came. To assure adequate protection, the election supervisor shall prescribe the manner in which the ballots, registers and all other election records and materials are thereafter preserved, transferred and destroyed.~~

~~7.70.090~~ 7.60.060 Determination of tie votes.

A. If two (2) or more candidates tie in having the highest number of votes for the same office for which there is to be elected only one (1) candidate, the clerk shall ~~so~~ notify the candidates who are tied. The clerk shall immediately proceed with the recount of votes in the manner provided by this title.

~~B. If there is still a failure to elect because of a tie vote after completion of the recount, the election shall be determined fairly, by lot, from among the candidates tying, in a meeting of the council and under its direction. After the determination has been made by lot, the council shall certify the result.~~

B. If after a recount two or more candidates tie in having the highest number of votes for the same office, the clerk shall notify the candidates who are tied. The clerk shall notify the candidates of a reasonably suitable time and place, in a meeting of the council and under its direction, to determine the successful candidate by coin toss if two are tied and by lot if more than two are tied.

~~7.70.080~~ 7.60.070 Completion of ballot count.

A. When the tally of regularly voted ballots is completed, the voted ballots shall be sealed into containers to be preserved by the clerk for thirty (30) days. Ballot containers may only be opened by the canvass board or recount team or if the clerk is ordered to do so by the council or by the court.

B. No later than the day after the election, the election board shall make a certificate in duplicate of the results. The certificate includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the election supervisor.

C. The election board shall, immediately upon completion of the certificate, hand-deliver to the election supervisor both copies of the certificate and register. In addition, all ballots properly cast shall be hand-delivered to the election supervisor. The package shall clearly indicate the precinct from which it came.

D. To assure adequate protection, the election supervisor shall prescribe the manner in which the ballots, registers and all other election records and materials are thereafter preserved, transferred and destroyed.

~~7.80~~ 7.70 Absentee Voting.

~~7.80.010~~ 7.70.010 Administration of absentee voting.

The clerk shall provide general administrative supervision over the conduct of absentee voting. The clerk shall make available instructions to absentee voters regarding the procedure for absentee voting.

~~7.80.020 Eligibility.~~ 7.70.020 Eligibility

~~Any qualified voter may vote an absentee ballot for the precinct in which he resides and is registered (1) if he believes he will be unavoidably absent from his voting precinct on election day, whether inside the city or not, or (2) if he will be unable to be present at the polls because of physical disability.~~

Any qualified voter may vote an absentee ballot at any election for any reason pursuant to the procedures set forth in this chapter.

~~7.80.030 Fee prohibited.~~

~~No person may receive a fee from the voter for attesting to any voter's certificate required in voting absentee.~~

~~7.80.040~~ 7.70.030. Materials for absentee voting.

The clerk shall provide ballots for use as absentee ballots for all precincts and shall provide a small envelope in which the voter shall initially place the marked ballot, and shall provide a larger envelope, with the prescribed voter's certificate ~~on the back~~, in which the smaller envelope with ballot enclosed shall be placed. The clerk shall provide the form of and prepare the voter's certificate on the back, in which the smaller envelope with ballot enclosed shall be placed. The clerk shall provide the form of and prepare the voter's certificate which shall include an oath, for use when required, that the voter is a qualified voter in all respects, a blank for the voter's signature, a certification that the affiant properly executed the marking of the ballot and identified himself, blanks for the witness, and a place for recording the date the envelope was sealed and witnessed.

7.70.040 Fee prohibited.

No person may receive a fee from the voter for attesting to any voter's certificate required in voting absentee.

~~7.80.050~~ 7.70.050 Absentee voting – In person.

~~A. A qualified voter may apply in person for an absentee ballot at the office of the city clerk during regular office hours. A qualified voter may vote absentee in person fifteen (15) calendar days or less before a regular or special election.~~

~~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.~~

A. Absentee voting in person before an election official, including the clerk, shall not begin prior to 15 calendar days before a regular or 10 calendar days before a special election, up to and including the day of the election. The absentee voter shall appear before an election official, and provide his or her name and proof of identification as required in this title. The voter shall complete the required information and sign the certification on the ballot oath and affidavit envelope and have it witnessed by an election official. The voter shall receive an official ballot, mark the ballot in private, and place the ballot in a secrecy sleeve. The secrecy sleeve shall then be placed in the completed ballot oath and affidavit envelope and the envelope will be sealed. An election official shall deliver the voted absentee ballots to the clerk. The clerk shall deliver the voted absentee ballots to the canvass board for canvassing.

B. Prior to the election, the clerk shall give to the election board in each precinct a list of voters from the precinct who have voted absentee ballots. If a voter who voted an absentee ballot in person returns to the voter's precinct on election day, the voter may not vote a regular ballot but may vote a questioned ballot.

~~7.80.060~~ 7.70.060 Absentee voting – By mail.

A. A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first (1st) of the year in which the election is to be held, nor less than ~~five (5)~~ ten (10) calendar days before an election. ~~A voter may request his name be placed on permanent absentee by mail status. The application shall include the address to which the absentee ballot is to be returned, the applicant's full Alaska residence, and the applicant's signature.~~ A request may be accepted by facsimile.

B. All applications for an absentee ballot by mail shall be in writing either on a form provided by the clerk's office or in a letter containing the following information.

1. The applicant's place of residence;
2. The address the applicant desires the absentee ballot to be mailed;
3. The applicant's signature; and
4. A voter identifier such as voter number, a Social Security number, or date of birth.

~~B.~~ C. After receipt of an application by mail, the clerk shall deliver to the applicant, at the mailing address given in the application, an official ballot for the election and other absentee voting material ~~by the most expeditious mail service~~ by regular first class mail. The materials shall be sent as soon as they are ready for distribution. The return envelope sent with the materials shall be addressed to the city clerk.

~~C.~~ D. ~~Upon receipt of an absentee ballot by mail, the voter, in the presence of a witness over the age of eighteen (18) years, may proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certification on the back of the larger envelope. The witness shall sign and date his signature.~~ At any time on or before the day of the

election, any voter receiving an absentee ballot by mail may vote the ballot. The voted ballot shall then be placed in the secrecy sleeve, which is then placed in the return envelope, and the voter shall sign the certification on the return envelope and have it witnessed in the presence of:

1. An authorized official such as a notary public, U.S. Postmaster or authorized postal clerk, commissioned military officer, judge, justice, magistrate, clerk of the court, a duly appointed voter registrar, or election official as defined in BMC 7.10.020; or
2. If none of the officials listed in this subsection D. 1 is reasonably accessible, an absentee voter shall sign the voter's certificate in the presence of an individual who is 18 years of age or older in addition, the voter shall certify, as prescribed in AS 09.63.020, under penalty of perjury, that the statements in the voter's certification are true.

E. After witnessing the absentee voter's signature, the official or witness shall attest to the date on which the voter signed the certificate in the individual's presence, and, return the voted ballot to the voter who shall mail or otherwise deliver the ballot to the clerk. A precinct election official shall deliver the voted absentee ballots to the clerk. The clerk shall deliver the voted absentee ballots to the canvass board for canvassing.

~~D.~~ F. The clerk may require a voter casting an absentee ballot by mail to provide proof of identification or other information to aid in the establishment of his identity.

~~E.~~ G. The clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent by mail. The record must list the date on which the ballot is mailed and the date on which the ballot is received by the city clerk and the date on which the ballot was executed and postmarked.

H. Prior to the election, the clerk shall give the election board a list of voters from the city who have been issued absentee by-mail ballots. If a voter who was issued an absentee ballot by mail returns to the voter's precinct on election day, the voter may not vote a regular ballot at the polling place unless the voter first surrenders to the election board the absentee ballot, ballot envelope and return envelop issued to the voter. If the absentee voter does not have the absentee ballot to surrender, the voter may vote a questioned ballot. Surrendered absentee ballots, ballot envelops and return envelops collected by the election board shall be returned to the clerk.

I. To be counted in the election, an absentee by mail ballots shall be postmarked on or before election day and must be received by the clerk no later than 6:00pm two calendar days following the election. Absentee by-mail ballot envelopes received by the clerk after the deadline shall not be opened, shall be marked invalid with the date of the receipt noted thereon and shall not be counted.

~~7.80.070 Absentee voting – By personal representative.~~

~~A. A qualified voter who is physically disabled may apply for an absentee ballot through a personal representative to the following election officials at the times specified:~~

~~1. The clerk's office on or after the fifteenth (15th) calendar day before a regular or tenth (10th) day before a special election up to one (1) day before the election; or~~

~~2. An election boardmember on election day in the precinct in which the voter is entitled to vote.~~

~~B. A request for an absentee ballot by personal representative shall be on a form provided by the election official or by a written statement stating that the applicant is~~

~~unable to go to the polling place because of a physical disability. The request shall be signed by:~~

~~1. A licensed physician; or~~

~~2. Two registered qualified voters.~~

~~C. Upon timely receipt of an application for absentee ballot by personal representative, the election official shall provide the ballot and other absentee voting materials to the personal representative.~~

~~D. The personal representative shall deliver the absentee ballot to the voter as soon as practicable. Upon receipt of an absentee ballot through a personal representative, 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, and to sign the voter's certification on the return envelope in the presence of the personal representative who shall sign as witness and then date the signature. The personal representative shall deliver the absentee ballot by personal representative to the election official within three (3) days from the date it was obtained but not later than 8:00 p.m. on election day. An absentee ballot by personal representative that is not returned to an election official by the close of business on election day may not be counted but the voter may vote in the election.~~

~~E. The election official shall keep a record of the name and signature of each personal representative requesting an absentee ballot and the name of the person on whose behalf the ballot is requested. The election official shall record the date and time the absentee ballot is provided and the time the ballot is returned to the election official.~~

~~F. A candidate for office at that election, an immediate family member of the candidate for office in that election, the voter's employer, agent of the employer, or office or agent of the voter's union, may not act as a personal representative.~~

7.70.070 Absentee voting-Special needs.

A. A voter with a disability who, because of that disability, is unable to go to an absentee voting office to vote, may vote a special needs ballot pursuant to 7.50.110.

~~7.80.080 Counting of absentee ballots.~~

~~To be counted in the election, an absentee ballot must be postmarked on or before the election day and received by the clerk on or before 6:00 p.m. two days following the election. Absentee ballot envelopes received by the clerk after 6:00 p.m. two days following the election shall not be opened, but shall be marked "invalid" and the date of receipt noted thereon. Such envelopes shall be retained with the other election records and destroyed with them as provided by the city's record retention schedule. Absentee ballot envelopes shall be examined by the canvass board, whose members shall determine whether the absentee voter is qualified to vote at the election and whether the ballot has been properly cast.~~

~~7.80.090~~ 7.70.070 Names of absentee voters.

The clerk shall maintain a record of the name of each voter to whom an absentee ballot is sent under this section. The record must list the date on which the ballot is mailed or provided by personal representative and the date on which the ballot is received by the clerk. The record shall be available for public inspection.

Chapter ~~7.90~~ 7.80
Canvassing and Certification of Election Results.

~~7.90.010~~ 7.80.010 Canvass board.

Before each election, the clerk, subject to approval of the city council, shall appoint four (4) or more qualified voters who shall constitute the election canvass board for that election. All members of the election canvass board, before entering upon their duties, must subscribe to the oath required of all public officials by the Constitution of the State of Alaska in the manner prescribed by the clerk.

~~7.90.020~~ 7.80.020 Canvass of returns.

A. No later than Tuesday 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 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 returns 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. If the canvass determines that a failure to comply with provisions of state law and city ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election they shall provide that information in their written report to the city council.

~~B.~~ C. Upon completion of the canvass, the canvassing board shall prepare a final certificate of the results of votes cast by absentee, questioned and challenged ballots and of votes cast by regular ballot, and shall prepare a written report of the results to be submitted to the city council.

7.80.030 Counting of absentee ballots.

To be counted in the election, an absentee ballot must be postmarked on or before the election day and received by the clerk on or before 6:00 p.m. two calendar days following the election. Absentee ballot envelopes received by the clerk after 6:00 p.m. two days following the election shall not be opened, but shall be marked "invalid" and the date of receipt noted thereon. Such envelopes shall be retained with the other election records and destroyed with them as provided by the city's record retention schedule. Absentee ballot envelopes shall be examined by the canvass board, whose members shall determine whether the absentee voter is qualified to vote at the election and whether the ballot has been properly cast.

7.80.040 Counting questioned ballots.

After research, the canvass 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 small inner envelope shall be mixed with other ~~voted~~ ballots for counting. The mixed smaller envelopes shall be opened, and the ballots shall be counted according to the rules for determining properly marked ballots.

~~7.90.030 Procedures for handling questioned ballots.~~

~~The canvass 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 small inner envelope shall be placed in a container and mixed with other voted ballots. If the ballot is not refused, the large envelope shall be opened, the small 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.~~

~~7.90.040 Voters not on official registration list.~~

~~A person whose registration has been cancelled under AS 15.97.130(b) and who votes a questioned ballot shall not have the ballot counted.~~

~~7.90.050~~ 7.80.050 Certification of the election results.

~~A. As soon as possible after completion of the canvass, but no later than the Tuesday following the election, the council shall meet in public session to receive the report of the canvass board. If, after considering the report, the council determines that the election was validly held, the election shall be certified by resolution and entered upon the minutes of the meeting, together with the total number of votes cast for each candidate and for or against each proposition or question.~~

~~B. If the canvass board reports that a failure to comply with provisions of state law and city ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election, then the council may exclude the votes cast in one (1) or more precincts where such failure or illegal practices occurred from the total returns, or may declare the entire election invalid and order a new election.~~

~~C. If the canvass board reports an apparent discrepancy in the returns of one (1) or more precincts, the council may order a recount of votes cast in said precinct or precincts. Such recount shall be conducted immediately by the canvass board and the results shall be reported to the council. The council shall meet as soon as possible to certify the results of the election recount.~~

~~D. Upon certification of a valid election, the clerk shall deliver to each person elected to office a certificate, signed by the clerk and authenticated by the seal of the city.~~

A. Not later than the second Tuesday after the election, the council shall meet in public session and review the canvass board report. The review may be postponed for cause from day to day, but there shall be no more than three postponements.

B. If the canvass board reports that a failure to comply with provisions of state law and/or city ordinances, or an illegal election practice has occurred, and that such failure is sufficient to change the outcome of the election, then the council may exclude the votes cast in one (1) or more precincts where such failure or illegal practices occurred from the total returns, or may declare the entire election invalid and order a new election.

C. Unless an election contest or recount has been previously filed pursuant to BMC 7.90 the council shall declare the election valid and certify the election results. The council shall certify results not in question immediately and shall complete contest procedures as soon as practicable to assure prompt certification.

D. The council shall by resolution certify the election results and enter the results in the minutes along with the following information:

1. The total number of poll, early-voter, absentee, questioned, and special needs ballots cast in the election;
2. The offices, names, and number of votes counted for each candidate at the election;
3. The propositions voted upon at the election; and
4. The number of votes counted for each proposition voted upon.

E. Upon certification of a valid election, the clerk shall deliver to each person elected to office a certificate, signed by the clerk and authenticated by the seal of the city.

~~7.100 Election recount.~~ 7.90 Election Contests and Recounts.

~~7.100.010 Recount application.~~ 7.90.010 Grounds for election contest.

~~A. A defeated candidate, or ten (10) qualified voters who believe there has been a mistake made by an election official or by the canvass board in counting the votes in an election, may file an application with the clerk requesting a recount no later than 5:00 p.m. on the day of the certification of the election results or by delivering the application for recount to the council 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.~~

~~B. If two (2) or more candidates tie in having the highest number of votes for the same office, to which only one (1) candidate is to be elected, the clerk shall initiate a recount.~~

A candidate or ten (10) qualified voters may contest the election of any person or the approval or rejection of any question or proposition upon one or more of the following grounds:

1. Malconduct, fraud or corruption by an election official sufficient to change the results of the election;
2. The person elected does not meet the qualifications required by law; or
3. Existence of a corrupt election practice as defined by the laws of the state of Alaska sufficient to change the result of the election.

~~7.100.020 Form of application.~~ 7.90.020 Contest procedure.

~~A. A recount application shall state in substance the basis of the belief that a mistake has been made and shall identify the particular precinct, office, proposition or question for which the recount is to be held and shall state that the person making the application is a candidate or that the ten (10) persons making the application are qualified voters. The candidate or person making the application shall designate by full name and mailing address two (2) persons who shall represent the applicant during the recount. Any person may be named representative, including the candidate or any person signing the application. Applications by ten (10) qualified voters shall also include the designation of one (1) of the number as chairman. The candidate or persons making the application shall sign and the application and shall print or type their full name and mailing address.~~

~~B. The application shall include a deposit in cash or by certified check for one hundred dollars ($100). The deposit shall be applied against any costs incurred or refunded if there is not liability for recount costs.~~

A. Notice of contest of an election shall be submitted in writing to the clerk before five p.m. on the day of the certification of the election. The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signature of the candidate or qualified voters bringing the contest. The notice shall be in substantially the following form:

NOTICE OF ELECTION CONTEST
The undersigned contest the regular (or special) election of the City of Bethel held on the day of . The ground for the contest are as follows:

_____

_____

Signature and date
(Notarization)

B. Upon receiving a notice of contest, the council shall order an investigation be conducted by the clerk and city attorney. Those contesting the election, those whose election is contested, and the public shall be allowed to attend all investigation and recounting proceedings.

C. If the contest involved the eligibility of voters, the council shall direct the clerk to check the voter qualifications set forth in BMC 7.20. After considering the report provided by the clerk and any other proof, the council shall determine whether any illegally cast votes could have affected the election results. If they could not have, the council may declare the election valid and certify the results.

D. If the contest involves other prohibited election practices which are shown to have taken place, the council shall exclude the vote of the precincts where the practices occurred. If it is determined that the exclusion could not affect the election results, the council shall declare the election valid and certify the results.

E. The contestants shall pay all costs and expenses incurred in a recount of an election as provided by Section 7.90.030.

~~7.100.030 Date of recount- Notice.~~ 7.90.030 Recount application.

~~A. If the clerk determines that the application is substantially in the required form, the clerk shall fix the date of the recount to be held within ten (10) days after the receipt of an application requesting a recount of the votes. in a city election after it has been initiated under BMC 7.100.010.~~

~~B. The clerk shall give the recount applicant and other directly interested parties notice of the time and place of the recount by certified mail, by telegram telegraph, by telephone, facsimile or by electronic transmission.~~

A. A recount application shall state in substance the basis of the belief that a mistake has been made and shall identify the particular precinct, office, proposition or question for which the recount is to be held, and shall state that the person making the application is a defeated candidate or that the ten (10) persons making the application are qualified voters. The defeated candidate or person making the application shall designate by full name and mailing address two persons who shall represent the applicant during the recount. Any person may be named representative, including the candidate or any person signing the applications. Applications by ten qualified voters shall also include the designation of one of the number as contact person. The candidate or persons making the application shall sign the application and shall print their full name and mailing address.

B. A recount application shall be submitted in writing to the clerk before five p.m. on the day of the certification of the election. The date and time on which the clerk receives rather than the date of mailing or transmission determines whether the application is timely filed.

C. The application shall include a deposit in cash, or by certified check. The amount of the deposit shall be one hundred dollars ($100.00) for each precinct.

~~7.100.040 Procedure for recount.~~

~~A. If a recount of ballots is demanded, the clerk shall appoint a recount board of four (4) or more qualified voters to conduct the recount of ballots or those precincts cited in the application for recount.~~

~~B. In conducting the recount, the recount board shall review all ballots to determine which ballots, or parts of ballots, were properly marked and which ballots are to be counted in the recount, and shall check the accuracy of the original count, the precinct certificate, and the review. For administration, the clerk may join and include two (2) or more applications in a single review and count of votes. The rules governing the counting of marked ballots shall be followed in the recount.~~

~~C. The ballots and other election material shall remain in the custody of the clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within ten (10) days.~~

~~7.100.050 Certification of recount results.~~ 7.90.040 Date of recount – Notice.

~~Upon completion of the recount, the recount board shall meet and adopt a report of the results of the recount for submission to the council. The council shall abide by procedures for issuing a certificate of the election as set forth in this title.~~

A. If the clerk determines that a recount application is substantially in the required form, the clerk shall fix the date of the recount to be held within ten (10) days after the receipt of an application requesting a recount of the votes.

B. The clerk shall give the representative named in a recount application notice of the time and place of the recount by certified mail, telephone, facsimile or by electronic transmission.

~~7.100.060 Return of deposit and apportionment of expenses upon recount.~~

7.90.050 Procedure for recount.

~~If, upon recount, a different candidate or position on a proposition or question is certified or if the vote on recount is two (2) percent or more in excess of the vote originally certified for the candidate or position on a proposition or question supported by the recount application, the entire deposit shall be refunded to the recount application. If this section does not require that the entire deposit be refunded, the clerk shall refund any money remaining after the cost of the recount has been paid from the deposit. If it is determined that the contestant shall bear the costs of the recount pursuant to this section and the deposit is insufficient to cover the costs, the city may recover the excess costs from the contestant. If the recount is obtained by voters, each of them shall be individually liable for the whole amount of such expense.~~

A. ~~If a recount of ballots is demanded~~ In conducting a recount, the clerk shall appoint a recount board of four (4) or more qualified voters to conduct the recount of ballots or those precincts cited in the application for recount.

B. In conducting the recount, the recount board shall review all ballots to determine which ballots, or parts of ballots, were properly marked, which ballots are to be counted in the recount, and shall check the accuracy of the original count and all documentation provided by the election officials. The recount board shall check the number of ballots and questioned ballots cast in a precinct against the registers and shall check early and absentee ballots voted against early and absentee ballots distributed. The rules in BMC 7.60 governing the counting of ballots shall be followed in the recount.

C. The ballots and other election materials shall remain in the custody of the clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within ten (10) calendar days. The clerk may employ additional personnel necessary to assist in the recount.

7.90.060 Certification of recount results.

Upon completing the recount, the recount board shall provide a report of the results of the recount for submission to the council. The council shall issue a certification of the election.

7.90.070 Return of deposit and apportionment of expenses upon recount.

If, upon recount, a different candidate or position on a proposition or question is certified or if the vote on recount is two (2) percent or more in excess of the vote originally certified for the candidate or position on a proposition or question supported by the recount application, the entire deposit shall be refunded to the recount application. If this section does not require that the entire deposit be refunded, the clerk shall refund any money remaining after the cost of the recount has been paid from the deposit. If it is determined that the contestant shall bear the costs of the

recount pursuant to this section and the deposit is insufficient to cover the costs, the city may recover the excess costs from the contestant. If the recount is obtained by voters, each of them shall be individually liable for the whole amount of such expense.

7.90.080 Appeal or judicial review.

A. No person may appeal or seek judicial review of an election for any cause without having first exhausted the administrative remedies provided in this chapter.

B. Recount appeal. A defeated candidate or any person who requested a recount under this chapter and who is aggrieved by the result of a recount or decision to deny a recount may appeal to the Superior Court for the State of Alaska, Fourth Judicial District at Bethel in accordance with applicable court rules governing appeals in civil matters. The recount appeal shall be filed within five (5) calendar days of completion of the recount or the decision to deny a recount. Upon order of the court, the clerk shall furnish the record of the recount, including all ballots, registers, and other election material and papers pertaining to the recount. The appeal shall be heard by the court sitting without a jury. The inquiry and the appeal shall extend to the questions whether or not the clerk has properly determined what ballots, parts of ballots, or marks for candidates on ballots, are valid, and to which candidate or division on the proposition or question the vote should be attributed. The court shall enter judgment either setting aside, modifying, or affirming the results of the recount or decision to deny a recount. If an action under this subsection is not commenced within the 5-day period, the election and the election result shall be conclusive, final and valid in all respects.

C. Appeal of election contest. A defeated candidate or person who filed an election contest under this chapter and who is aggrieved by the result of an election contest or a decision to deny an election contest may appeal to the Superior Court for the State of Alaska, Fourth Judicial District at Bethel in accordance with applicable court rules governing appeals in civil matters. The appeal shall be filed within ten (10) calendar days after certification of the election results. Upon order of the court, the clerk shall furnish the record of the recount, including all ballots, registers, and other election material and papers pertaining to the election contest. The appeal shall be heard by the court sitting without a jury. If an action under this subsection is not commenced within the ten (10) day period, the election and the election results shall be conclusive, final, and valid in all respects.

~~**7.110 Contest of Elections.**~~

~~7.110.010 Grounds for election contest.~~

~~A candidate or ten (10) qualified voters may contest the election of any person or the approval or rejection of any question or proposition upon one (1) or more of the following grounds:~~

~~A. Malconduct, fraud or corruption by an election official sufficient to change the result of the election;~~

~~B. The person elected is not qualified under law or ordinance; or~~

~~C. Existence of a corrupt election practice as defined by the laws of the state of Alaska sufficient to change the result of the election.~~

~~7.110.020 Contest procedure.~~

~~A. Notice of contest of an election shall be submitted in writing to the clerk before 5:00 p.m. on the day of the certification or to the council at its meeting to certify the election results. 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:~~

~~NOTE OF ELECTION CONTEST~~

~~The undersigned contest the regular (or special) election of the City of Bethel held on the _____ day of _____.~~

~~The grounds for the contest are as follows:~~

_____

_____

_____

~~Signature and date~~

~~(Notarization)~~

~~B. Upon receiving a notice of contest, the council shall order an investigation by conducted by the clerk and city attorney. Those contesting the election, those whose election is contested, and the public shall be allowed to attend all investigation and recounting proceedings.~~

~~C. If the contest involves the eligibility of voters, the council shall direct the clerk to recheck the most current state registration lists. After considering the reports of the investigating officials and any other proof, the council shall determine whether any illegally cast votes could have affected the election results. If they could not have, the council may declare the election valid and certify the results.~~

~~D. If the contest involves other prohibited election practices which are shown to have taken place, the council in certifying the election returns shall exclude the vote of the precincts where the practices occurred. If it is determined that the exclusion could not affect the election results, the council shall declare the election valid and certify the results.~~

~~E. The contestants shall pay all costs and expenses incurred in a recount of an election as provided by BMC 7.100.060.~~

~~7.110.030 Appeal or judicial review.~~

~~A person may not appeal or seek judicial review of an election for any cause or reason unless the person is qualified to vote in the city; has exhausted all administrative remedies before the council; and has commenced, within ten (10) calendar days after the council has finally certified the election results, an action in Superior Court. If an action under this section is not commenced within the ten- (10-) day period, the election and the election result shall be conclusive, final, and valid in all respects.~~

~~**Chapter 7.120 Elections by Mail.**~~

~~7.120.010 Voting by mail – Ballots – Ballot review – Ballot envelopes.~~

~~A. The clerk may conduct a special election by mail.~~

~~B. When the clerk conducts a special election by mail, the clerk shall send a ballot to each person whose name appears on the official voter registration list prepared under AS 15.07.125 for that election. The ballot shall be sent to the address stated on the official registration list unless the voter has notified the clerk in writing of a different address to which the ballot should be sent. The clerk shall send ballots by first (1st) class, nonforwardable mail on or before the twenty-second (22nd) day before the election.~~

~~C. The clerk shall review ballots voted under this section under procedures established for the review of absentee ballots.~~

~~D. There shall be a small blank envelope and a return envelope supplied to each by-mail voter. The return envelope shall have printed upon it an affidavit by which the voter shall declare his qualification to vote, followed by provision for attestation by one (1) attesting witness who is at least eighteen (18) years of age. Specific instructions for voting a by-mail ballot will be mailed to each voter with the ballot.~~

~~7.120.020 Casting ballot.~~

~~A. Upon receipt of a mail-in ballot, the voter shall cast his ballot in the manner specified in BMC 7.80.060. If the ballot is cast in the clerk's office, the clerk shall retain it for delivery to the canvass board. If the ballot is cast in another location, the voter shall return it by mail to the clerk immediately for delivery to the canvass board.~~

~~B. A voter who does not receive a mail-in ballot may cast his ballot in person as specified in BMC 7.80.050.~~

~~C. A voter may deliver his mail-in ballot to the city clerk.~~

~~7.120.030 Notice of election – Election date – Public notice.~~

~~The notice of election calling for the election must state that the election is to be conducted by mail and that there will be no polling place open for regular in-person voting on election day. In a by-mail election, election day is the deadline by which a voter's ballot must be received by the city clerk.~~

~~7.120.040 Storing ballots.~~

~~The clerk shall provide for the secure storage of the mail-in ballots received from the voters until the date set by the clerk for the counting of the ballots.~~

Chapter ~~7.130~~ 7.100 Initiative, ~~and~~ Referendum and Recall.

~~7.130.010 Purpose.~~ 7.100.010 Reservation of powers.

~~It is the purpose of this chapter to define and clarify the procedures to be followed in initiative and referendum proceedings. The initiative and referendum are forms of direct democracy and as such their availability to, and utilization by, the public must be facilitated while, at the same time, the integrity of the procedures must be maintained through mechanisms which discourage, reduce, and prevent both the occurrence and appearance of fraud. Further, in order to ensure clear, fixed and reliable standards, it is necessary that citizens and those officials charged with the validation of petitions be~~

~~able to rely on designated official, published maps, plats and records of the city and on the published voter registration records of the state.~~

The powers of initiative and referendum are reserved the qualified voters of the city, except as provided by article XI, section 7 of the Alaska Constitution, state law and this code. The power of recall is reserved to the qualified voters of the city pursuant to article XI, section 8 of the Alaska Constitution State law, and this code.

~~7.130.020~~ 7.100.020 Application for petition.

A. An initiative or referendum is proposed by filing an application with the city clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of the contact person and an alternate to whom all correspondence relating to the petition may be sent. The application shall be on a form provided by the clerk. An application shall be signed by at least ten (10) voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two (2) weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter:

1. Is not restricted by AS 29.26.100 or BMC 7.100.010 (B);
2. Includes only a single subject;
3. Relates to legislative rather than to an administrative matter; and
4. Would be enforceable as a matter of law.

B. Upon receipt of a completed application for a petition the municipal clerk shall immediately remit a copy of the application to the municipal attorney for review. The city clerk shall verify the sponsors' qualifications and, after consultation with the city attorney, determine and certify the legal sufficiency, or lack thereof, of the application and the proposed initiative or referendum.

~~B.~~ C. A decision by the clerk on an application for petition is subject to judicial review.

~~7.130.030~~ 7.100.030 Petition format.

A. The petition prepared by the clerk for issuance to the petition sponsors shall be in substantial compliance with this section. The petition shall be prepared within two (2) weeks after certification of the application. Each copy of the petition shall contain:

1. Each page must contain a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
2. The complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
3. The date on which the petition is issued by the clerk;
4. Notice that signatures must be secured within 90 calendar days after the date the petition is issued;
5. Space for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing address of each signer;
6. A statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
7. Space for indicating the total number of signatures on the petition.

~~B. The front of the cover page of the petition shall provide a space for the name of the person who is circulating the petition and shall contain a statement in bold type identifying the petition as a referendum or initiative petition as appropriate, the initiative or referendum request, an impartial summary of the ordinance to be initiated or referred, a statement in bold type that a notice to petition signers is on the back of the cover sheet and that the ordinance to be initiated or referred is inside the first (1st) page of the petition, the date on which the petition is used by the clerk, a notice that all signatures must be secured within ninety (90) days after the date the petition is issued, and that petition signers' signatures must be in ink, the residence address and printed name must be legible, that the signer must be a registered voter, and the acceptable and unacceptable forms of residence address which appear in BMC 7.130.100(B) and (C).~~

~~C. The second (2nd) and such subsequent pages as are necessary shall contain the full text of the ordinance to be initiated or referred.~~

~~D. Following the full text of the ordinance shall be not less than five (5) nor more than ten (10) signature pages. Each signature page shall be ruled in lines and shall contain six (6) columns which shall be titled as follows: Voter Registration No., Signature, Printed Name, Residence Address, Mailing Address and Zip Code, Date Signed. The clerk shall number each signature page serially in a sequence of numbers which shall be continuous through all booklets issued. Above the column titles shall be the petition request which shall make reference to the ordinance or measure to be initiated or referred and its location in the booklet. At the bottom of each signature page shall be a statement that to be valid, the signature must be in ink, the name as printed and signed must be the same form as the name appears on the state voter registration rolls and the printed name and residence address must be legible.~~

~~E. Following the last signature page shall be the sponsor's sworn statement and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be. This page shall be the last page of the petition booklet.~~

~~F.~~ B. Each booklet shall be assembled by the clerk and all pages within each booklet shall be stapled or otherwise fastened together.

~~G.~~ C. The clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

~~7.130.040~~ 7.100.040 Instructions to sponsors.

The clerk shall issue written instructions to the sponsors setting forth the requirement that to be valid the signature line must contain the signature in ink, the legible printed name, and the legible residence address of the municipal voter signing the petition. The instructions shall also include the types of addresses which are and are not acceptable as residence addresses.

~~7.130.050~~ 7.100.050 Submission and receipt of petitions.

A. The sponsors shall file the petitions booklets as a single instrument. After the filing, no additional petition booklets may be received by the clerk for validation whether such additional booklets are submitted before or after the expiration of the petition period. Such late booklets shall be received only for the purpose of preservation for the record.

B. Filing shall be done during city business hours. If the last day of the period falls on a Saturday which is not a city holiday, the clerk shall make arrangements with the sponsors to receive the petitions at the clerk's office at or before 4:30 p.m. on that Saturday. If the last day of the period falls on a Sunday or other city holiday, the sponsors may file the petition no later than 9:00 a.m. on the first (1st) weekday which is not a holiday.

C. Immediately upon receipt of the petition, and in the presence of the person submitting the petition, the clerk shall check each booklet and shall mark as rejected on its face, and the reason for rejection, any petition booklet which:

1. Shows evidence of having been disassembled and reassembled;
2. Does not contain all pages of the ordinance to be initiated or referred;
3. Does not contain the fully completed, signed and notarized affidavit of the sponsor.

~~7.130.060~~ 7.100.060 Signature requirements.

A. The signatures on an initiative or referendum petition shall be secured within ninety (90) days after the clerk issued the petition. The statement provided under BMC 7.100.030~~(E)~~ (A) (6) shall be signed and dated by the sponsor. Signatures shall be in ink.

B. The clerk shall determine the number of signatures required and inform the contact person in writing. ~~Except as provided in subsection D of this section, A petition shall be signed by a number of voters based on a number of votes cast at the last regular election held before the date written notice is given to the contact person that the petition is available.~~ The petition shall be signed by a number of voters based on the number of votes cast in that municipality at the last regular election held before the date written notice is given to the contact person that the petition is available equal to:

(1) 25 percent of the votes cast if the municipality has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if the municipality has 7,500 persons or more.

C. A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition.

~~The clerk shall determine the number of signatures required on the petition and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that area at the last regular election held before the date written notice is given to the contact person that the petition is available. equal to:~~

~~1. Twenty-five (25) percent of the votes cast if the area has fewer than seven thousand five hundred (7,500) persons; or~~

~~2. Fifteen (15) percent of the votes cast if the area has seven thousand five hundred (7,500) persons or more.~~

~~7.130.070~~ 7.100.070 Sufficiency of petition.

All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within ten (10) days after the date the petition is filed, the clerk shall:

A. Certify on the petition whether it is sufficient; and

B. If the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

~~7.130.080~~ 7.100.080 Supplemental petition.

A. If the clerk determines that there is an insufficient number of valid signatures on the petitions filed during the ninety (90) day period, ~~he shall send a~~ notice of the insufficiency shall be provided to the contact person by certified mail, return receipt requested. The sponsors shall have an additional ten (10) days from receipt of the notice to gather additional signatures on petitions supplied to the sponsors by the clerk for that purpose. The petitions supplied by the clerk for the supplemental period shall be in the format specified in BMC ~~7.130.030~~ 7.100.030, except that the signature page numbering shall not duplicate that utilized for the ninety (90) day period.

B. Petitions shall be submitted and received in the manner provided in BMC ~~7.130.050~~ 7.100.050.

C. No signatures obtained on booklets issued during the first (1st) ninety (90) day period shall be valid if submitted with the supplemental petition.

~~7.130.090~~ 7.100.090 Validation of signatures.

A. The clerk shall reject the signature of any person whose name does not appear on the most recent printed voter registration list available from the state elections office and is determined by the state elections office to be a person who is not registered on the day the clerk requests state verification of the voter status of the person.

B. The clerk shall reject the signature of any person whose signed and printed name are so illegible that the clerk cannot identify the name; provided, however, the clerk may accept an otherwise illegible name if the voter has provided a registration number and the legible address information given by the person corresponds to voter registration information of the person registered to the voter registration number given.

C. The clerk shall reject all but one (1) signature of any person who has signed his or her name two (2) or more times to petition booklets.

D. The clerk shall reject the signature of any person whose signature is not executed in ink.

E. The clerk shall reject the signature of any person who fails to provide a legible and adequate residence address as provided in this section.

F. The clerk shall reject the signature of any person whose petition signature and printed name are not the form in which the person is registered to vote unless the clerk is able to determine from the voter registration number of the address information from the state elections officer that the signature is that of a registered voter.

G. The clerk shall reject an entire petition booklet if it is shown that a petition sponsor has either failed to do any act or had no reasonable basis for a belief to which he is required to swear under BMC 7.100.030 (6).

~~7.130.100~~ 7.100.100 Residence address requirements.

A. A residence address for the purpose of initiative and referendum petition requirements is a locatable address where the person lives. A residence address is adequate only if it contains sufficient information to permit the person's place of residence to be found by an ordinary person with no particular knowledge of the city area if such person is given the residence address information which appears on the petition, the official map of the city, the approved house number maps of the city, and relevant approved plan maps.

B. Notwithstanding the general definition provided in subsection A of this section, the following shall be deemed to be adequate residence addresses:

1. A subdivision name with a lot and block number;
2. A United States survey number when the smallest recorded subdivision which is applicable to the property is included;
3. A milepost when accompanied by a road or highway name;
4. A boat harbor or marina name when the stall, slip, or boat name is also included;
5. A hotel or motel if the room number is included;
6. A trailer court if the space number or street name and number within the trailer court is given;
7. A house number with a street or highway name;
8. An apartment or condominium name when accompanied by an apartment or unit number.

C. The following types of addresses are inadequate as a residence address:

1. A street name without a house number;
2. A milepost without a highway or road name;
3. A highway or road name without a milepost or house number;
4. Alaska, Bethel, City Sub, Tundra Ridge, BIA housing, or any other similar designation by a geographic area or subdivision only;
5. A rural route box number;
6. A post office box number;
7. A street, highway or road intersection;
8. Any address which is ambiguous either on its face or becomes ambiguous upon consulting a map or plat to which one (1) would be led from the residence address information;
9. An illegible address.

D. If there is a dispute as to the adequacy of a residence address given by a person whose name has been rejected by the clerk, the name shall be rejected if it is determined that a house number has been assigned to the place of residence of the person whose name has been rejected unless the assigned street name and house number or an accurate legal description of the property has been used on the petition.

~~7.130.110 Petition and signature rejection for other reasons.~~ 7.100.110 Protest

~~A. If any allegation of fraud or misconduct is filed with the clerk prior to the certification or notice of insufficiency of the petitions, he shall immediately investigate such allegations and reject the challenged petitions or signatures if such investigation reveals fraud or other irregularities which warrant rejection.~~

~~B. Any allegation of fraud or misconduct filed after certification of the petition which would or may result in the invalidation of a sufficient number of signatures to cause a~~

~~petition to be insufficient shall be referred immediately to the city council. The council shall schedule a hearing on the matter and take such action as it deems appropriate with respect to signatures or petitions which are affected by any fraud or misconduct it finds.~~

~~C. It shall be fraud sufficient to reject an entire petition booklet if it is shown that a petition sponsor has either failed to do any act or had no reasonable basis for a belief to which he is required to swear under BMC 7.130.030(E).~~

If the clerk certifies that an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the city council. The city council shall hear and decide the protest.

~~7.130.120~~ 7.100.120 New petition.

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six (6) months after a petition is rejected as insufficient.

~~7.130.130~~ 7.100.130 Termination of suspension of ordinance effective date.

An ordinance or resolution which has been suspended by the filing of a referendum petition shall become effective five (5) ~~working~~ business days after notice of insufficiency of the referendum petition has been delivered to the prime sponsor unless an appeal of the clerk's decision is filed within that time.

~~7.130.140~~ 7.100.140 Initiative election.

A. Unless substantially the same matter is adopted, when a petition seeks an initiative vote, the clerk shall submit the matter to the voters at the next regular election or if already scheduled as a special election occurring no sooner than ~~forty-five (45)~~ sixty 60 days after certification of the petition. ~~If no regular election occurs within seventy-five (75) days after the certification of a petition, the council shall hold a special election within seventy-five (75) days, but not sooner than forty-five (45) days after certification.~~ If no election is scheduled to occur within 75 days after the certification of a petition and the city council determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

B. If the council adopts substantially the same measure, the petition is void and the matter initiated may not be placed before the voters.

C. The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

D. If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.

~~7.130.150~~ 7.100.150 Referendum election.

A. Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to the voters at the next regular election or if

already scheduled as a special election occurring no sooner than ~~seventy-five (75)~~ sixty 60 days after certification of the petition. ~~If no election occurs within seventy-five (75) days of certification of a petition, the council shall hold a special election within seventy-five (75) days, but not sooner than forty-five (45) days after certification.~~ If no election is scheduled to occur within 75 days after the certification of a petition and the city council determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

B. If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the council may not enact an ordinance or resolution substantially similar to the suspended measure.

C. If the council repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

D. If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.

~~7.130.160~~ 7.100.160 Effect.

A. The effect of an ordinance or resolution may not be modified or negated within two (2) years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

B. If an ordinance or resolution is repealed in a referendum election or by the council after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the council for a period of two (2) years.

C. If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six (6) months after the election results are certified.

7.100.170 Recall.
An official who is elected or appointed to an elective city office may be recalled as provided by Title 29 of Alaska Statutes .

Section 4: Preclearance: Upon approval of this ordinance by the City Council, the City Clerk shall prepare and submit this ordinance for preclearance by the United States Department of Justice pursuant to Section 5 of the Federal Voting Rights Act.

Section 5: Effective Date: This ordinance shall become effective upon preclearance from the U.S. Department of Justice, or sixty (60) days following submission of the preclearance request authorized by Section 3 of this ordinance if no objection is interposed pursuant to 28 C.F.R. § 51.42.

PASSED AND APPROVED THIS _ DAY OF ___, 2011 BY A VOTE OF _IN FAVOR AND _ OPPOSED.

ATTEST:

_____
Joseph A. Klejka, Mayor

Lori Strickler, City Clerk

City of Bethel, Alaska

City Clerk's Office

MEMORANDUM

TO:	City Council Members
FROM:	Lori Strickler
DATE:	April 10, 2012
SUBJECT:	Ordinance 11-13 Substitute Explanations

Included with this memorandum is a black lined version of the ordinance showing the striking out of old language and the underling of new language. If you have questions about this ordinance please let me know. In order to follow the suggested changes provided in this reenactment during the October 2, 2012 Regular Election, the Ordinance must be submitted to the Department of Justice not later than the 23rd of May.

7.70 General Provisions.

7.10.020 Definitions.

A. Clarification.
G. Added previously omitted language.
H. Corrected an accidental omission in previous code.
K. Moved/re-lettered because of alphabetizing error.
O. Changed to reflect statute language.
Q. Provided a mechanism for the council to change the date of the Regular Election by Ordinance without invalidating the other provisions listed in this code.
U. The act of completing a ballot identifies a voter, not an individual registering to vote.

7.10.040 Powers and duties of the clerk.

A. Identified the clerk's duty with additional clarification.

B. Clarification. If preclearance is not provided from the Department of Justice on changes to an election or a scheduled special election, the elections may be declared invalid.

New 7.10.090 Bonded indebtedness.

Renumbered from old section 7.20.050 with updated language to reflect the language in Alaska Statute.

New 7.10.100 Prohibition on use of public moneys.

Subsections A-D Incorporates state law requirements and amends current provision to conform with AS 15-13-125.
Subsection E-F are essentially unchanged.

New 7.10.110 Simple majority- Prohibition on runoff elections.

Identified a process of appointment when more than one term length is available.

New 7.10.120 Election supplies and equipment.

B. Removing the style requirements for the instructions and providing for the clerk's discretion. Other language restructured with the same intent.
C. Renumbered from old section 7.60.020.
D. New provision to insure memory cards and equipment is tested prior to the election.

New 7.10.130 Election expenses.

Incorporated language referencing the fees for an election contest.

New 7.10.140 Preservation of election ballots, papers and materials.

Outdated information stricken. Updated the retention period of materials to reflect the current retention period.

CHAPTER 7.20. Voter Qualification

7.20.010 Voter qualifications.

Clarified that this title only refers to city elections and not state or federal.
B. and C. Stricken because they fall under AS 15.05.010 which is identified under subsection A of this section.

7.20.020 Rules for determining residence of voters.

C. Incorporated some of the language stricken in subsection D, however applied the provision to civil and military services in the United States. Language amended to be more consistent with AS 15.05.020.
F. Language stricken because of duplicate intent provided under section 7.20.010.

7.20.040 Voter disqualification for felony conviction.

Old A. Language stricken, the election official will have only the precinct register to refer to. If the individual is convicted of a felony, their name should not appear on the register and would then be provided a question ballot.

Old B. Language stricken, outdated language.

New language provided for clarification.

Old 7.20.050 Bond indebtedness.

Renumbered to new section 7.10.090.

CHAPTER 7.30 Candidate Qualifications.

7.30.020 Declaration of candidacy.

A. Same intent. The city uses the term declaration of candidacy instead of nominating petition. This language is amended throughout the ordinance to correct this inconsistency.

New 7.30.030 Write-in candidates.

Process amended to be more consistent with state law.

New 7.30.040 Notice of vacancies in office.

Same intent, removed "nominations" and inserted "declaration of candidacy".

New 7.30.060 Corrections, amendments and withdrawal of declarations of candidacy.

Subsection B was stricken; it does not apply to City of Bethel election.

Old 7.30.060 Review of candidate qualifications.

Updated provision provided under new section 7.30.070.

New 7.30.070 Determination of eligibility of candidate.

Outlined the procedure for questioning the qualifications of a candidate running for office.

New 7.30.080 Prohibitions.

B. Identified the provisions provided under section 3.64.060 which allows EMT and/or Fire Department volunteers to run for office.

CHAPTER 7.40. Ballots

7.40.010 Ballot form.

Same intent, updated the language.

7.40.020 Preparation and distribution.

C. Same intent, updated the language.
D. Inserted subsection to prevent the removal of the ballots from the polls unless directed by the clerk for a good cause.
E. Inserted language allowing for the printing of emergency ballots.

New 7.40.030 Sample Ballots

Stricken language provided under new section 7.40.020 C.

Old 7.40.040 Propositions – Clarity – Conciseness.

Renumbered and updated to new section 7.40.010 (H).

CHAPTER 7.50 Operation of Polls.

7.50.010 Election officials.

H. Inserted language requiring all election officials to receive training within a 12 month period.

7.50.020 Opening of polling place.

B. There are times the ballot boxes will need to be opened because of a jam or mechanical malfunction. In these situations, a new requirement inserted to insure the boxes are opened in plain view of voters and election officials.

7.50.040 Voter identification at polls.

B. Stronger language inserted to insure the full identity of the voter is known by the election workers.

7.50.060 Voting procedure.

A. Inserted language renumbered from old section 7.50.090.
B. Inserted language insures the secrecy of the vote.

7.50.070 Assisting voter.

Updated language to be more consistent with state law procedures, AS 15.20.070.

7.50.080 Spoiled ballots.

Provided the procedures for replacement of a ballot to be more consistent with state law, AS 15.15.250.

Old 7.50.090 Placing ballot in ballot box.

The pertinent information is incorporated under new section 7.50.060. Outdated language is stricken.

New 7.50.090 Question ballot – notice.

General information provided to question ballot voter. Update language to be more consistent with state law, AS 15.15.198.

7.50.100 Questioned ballots- Issuance.

Same intent, cleaned up the language.

New 7.50.110 Special needs voting.

Replaced old section 7.80.070 and updated the language to be more consistent with state law, AS 15.20.072.

New 7.50.120 Closing of the polls.

Incorporated old 7.50.120 in to new 7.50.120.

Old 7.50.120 Voters in line when polls close.

Incorporated in to new section 7.50.120.

New 1.50.130 Prohibitions.

B. Updated the language.

New 7.50.140 Unused ballots.

Changed retention from 60 to 30 days. This is consistent with state law, AS 15.15.470.

<u>Old 7.60 Punch Card Voting</u>

Old 7.60.010 Authorized.

Punch card voting is no longer a method of voting in the City; language stricken.

Old 7.60.020 Use of computers.

General idea covered in new section 7.60.050

Old 7.60.030 Manual counting.

Outdated language. Hand count procedures are covered in new section 7.60.020.

New 7.60 Ballot Counting Procedures

New 7.60.010 Commencement of ballot count.
Same intent as old section 7.70.020. The language has been updated.

Old 7.70.010/
New 7.60.020 Counting ballots, general.
Updated old language and replaced "counters" with the vote tabulation system currently used for elections. Also includes hand count procedures covered in old section 7.70.040. The oath identified in this section is included in new section 7.50.010.

Old 7.70.020 Commencement of ballot count.
Generally covered in new 7.60.010.

New 7.60.030 Write-in votes.
Includes language in old section 7.70.050 as well as incorporated procedures from state law, AS 15.25.105.

Old 7.70.030 General procedure for ballot count.
General intent of this section can be found in the new section 7.50.120.

New 7.60.040 Other election boards and teams.
Specifically identifies the clerk's authority to appoint election boards, their roles/duties are covered throughout the code. This amendment reflects current practices.

Old 7.70.040 Rules for counting hand counted and computer ballots.
Generally covered in new section 7.60.020.

Old 7.70.050 Write in votes.
Covered in new section 7.60.030.

Old 7.70.060
New 7.60.050 Disqualified candidate.
specified that disqualified candidates will not be counted.

Old 7.70.070 Tally of votes.

A. Information covered in new section 7.50.020
B. Information covered in new section 7.50.060
B (4) Information covered in new section 7.50.020

Old 7.70.080 Completion of ballot count.

With the commonly used computers, this information is obsolete. In the event ballots must be counted by hand the provision is provided in new section 7.60.010.

Old 7.70.090/
New 7.60.060 Determination of tie votes.

Subsection B similar to language in old section 7.70.090 but allows for a coin toss for two candidates.

New 7.60.070 Completion of ballot count.

Same intent as old section 7.70.080 with updated language.

Old 7.80/
New 7.70 Absentee Voting.

Old 7.80.020/
New 7.70.020 Eligibility

Similar to the language provided in AS 15.20.010, allowing anyone to vote absentee for any reason.

Old 7.80.030 Fee prohibited.

Renumbered and found in new section 7.70.040.

New 7.70.040 Fee prohibited.

Renumbered from old section 7.80.030.

Old 7.80.050
New 7.70.050 Absentee voting-In person.

Same intent, updated language.

New 7.70.060 Absentee voting-By mail.

A. Application for an absentee ballot timeline moved from five days before the election to ten days before the election to account for the slow mail service to and from Bethel, which is consistent with state law. Also removed the provision allowing for a permanent absentee mailing list; the State provides this service and if for some reason the records in the clerk's office were to be misplaced the city could become liable or accused of denying a person the right to vote.
B. Information taken from subsection A.

C. Removed the provision for the most expeditious mails service requirement and inserted by regular first class mail to allow for a more fiscally responsible election.
D. Additional clarification from previous language provided in old section 7.80.060 (C).
E. The official or witness is required to attest to the date, which was not provided in previous code. Also included language from old section 7.80.030 preventing a fee to be requested for the attesting.
H. General procedure to prevent a duplication of votes casts by one individual.
I. Similar language as provided in old section 7.80.080

Old 7.80.070 Absentee voting-By personal representative.
Covered under new section 7.50.110 and new referred to as special needs voting to mimic AS 15.20.072.

New 7.70.070 Absentee voting- Special needs voting.
Same intent as old 7.80.070. Updated the language to be more consistent with AS. Detailed procedures found in new section 7.50.010.

Old 7.80.080 Counting of absentee ballots.
Similar language provided in new section 7.70.050 (I).

Old 7.90/
New 7.80 Canvassing and certification of Election Results.

New 7.80.020 Canvass of returns.
B. Language moved from old section 7.90.050.

New 7.80.030 Counting of absentee ballots.
Renumbered from old section 7.80.080

New 7.80.040 Counting questioned ballots.
Same intent as old section 7.90.030, cleaned up old language.

Old 7.90.030 Procedure for handling questioned ballots.
Covered under new section 7.80.040.

Old 7.90.040 Voters not on official registration list.
Covered under new section 7.20.

New 7.80.050 Certification of the election results.

Similar to old section 7.90.050. Additional information provided defining what the resolution certifying the results should include.

Old 7.100 Election recount.
New 7.90. Election Contest and Recount.

Old 7.100.010 Recount application/
New 7.90.010 Grounds for election contact

New language similar to previous language. Allowing for any candidate to contest the election, not just the defeated candidate.

Old 7.100.020 Form of application.

Information moved to new 7.90.030 with an additional change to require $100 deposit for each precinct. One hundred dollars is not efficient in covering the cost of the recount. When the recount has a less than 2% difference from the original results the city would need to bill the remaining cost to the recount applicant or the contestant.

New 7.90.020 Contest procedure.

Renumbered from old section 7.110.020.

Old 7.100.030 Date of recount notice.

Information covered in new section 7.90.040.

New 7.90.030 Recount application.

Similar to old section 7.100.010. Increased the deposit from $100 total to $100 per precinct, to ensure the cost of the recount is covered upfront.

Old 7.100.040 Procedure for recount.

Similar language as old section 7.90.050.

Old 7.100.050 Certification of recount results.

Similar language as new section 7.90.060.

New 7.90.040 Date of recount- Notice.

Similar language as old section 7.100.030 however, struck "by telegram telegraph".

Old 7.100.060 Return of deposit and apportionment of expenses upon recount.

Renumbered to new section 7.90.070.

New 7.90.050 Procedure for recount.
Renumbered from 7.100.040. Addition of the last sentence in subsection (C) allows the clerk to hire additional personnel if necessary.

New 7.90.060 Certification of recount results.
Similar to language in old section 7.100.050.

New 7.90.070 Return of deposit and apportionment of expenses upon recount.
Renumbered from old section 7.100.060.

New 7.90.080 Appeal or judicial review.
Similar to language in old section 7.110.030.

Old 7.110 Contest of Elections.

Old 7.110.010 Grounds for election contest.
Renumbered to new section 7.90.010.

Old 7.110.020 Contest procedure.
Renumbered to new section 7.90.020

Old 7.110.030 Appeal or judicial review.
Similar to language in new section 7.90.080.

Old 7.120 Elections by mail.
The city does not hold elections by mail, therefore, this chapter should be deleted.

Old 7.130/
New 7.100 Initiative, Referendum and Recall.

Old 7.130.010 Purpose.
Unnecessary language.

New 7.100.010 Reservation of powers.
Inserted the authority for each petition.

New 7.100.020 Application for petition.
B. New language will leave the effect of insuring that the petition is reviewed and approved by the city attorney, not just the city clerk.
C. Language taken from AS 29.26.110, to make City code consistent with state law requirements.

New 7.100.030 Petition format.

Similar to language in old 7.13.030 with more straightforward directions.

New 7.100.060 Signature requirements.

Updated the language to be consistent with state law requirements, AS 29.26.130.

Old 7.130.110 Petition and signature rejection for other reasons.

The clerk can certify the petition based on the requirements set out in Alaska Statutes, the question of fraud or misconduct is not something the clerk is responsible for investigating.

New 7.100.110 Protest.

Providing a mechanism for the petitioners to protest the decision of the clerk.

New 7.100.140 Initiative election.

Language amended so that it is consistent with state law AS 29.26.170. Providing the authority to the city council to hold a special election if the majority of the council feels it is a timely issue.

New 7.100.150 Referendum election.

Language amended so that it is consistent with AS 29.26.180. Providing the authority to the city council to hold a special election if the majority of the council feels it is a timely issue.

New 7.100.170 Recall.

New language addressing recall petitions and adopting the procedures set forth in AS 29.26.240-29.26.350.

New Business

Introduced by: Mayor Joseph A. Klejka
Date: April 24, 2012
Action:
Vote:

CITY OF BETHEL, ALASKA

Resolution # 12-10

A RESOLUTION BY THE BETHEL CITY COUNCIL PROVIDING INTEREST IN A PUBLICLY OWNED AND RUN ELECTRIC UTILITY IN BETHEL

WHEREAS, the Bethel City Council is interested in considering a cooperative purchase of a publicly owned electric utility in Bethel;

WHEREAS, the purpose of transfer from a private electric utility to a public electric utility would be to reduce the cost of energy for the ratepayers of Bethel while concurrently reducing the costs to the State of Alaska in the Power Cost Equalization program;

WHEREAS, a cooperative electric utility would provide for local democratic control allowing for ratepayer influence, transparency of information, and confidence in the ability to provide electricity;

WHEREAS, according to an Electric Utility Ownership Feasibility Study prepared for the City of Bethel by Agnew::Beck, in May of 2011, the monthly cost of heating oil makes up about 66 percent of total energy costs (defined as electricity, heating oil, and vehicle transportation);

WHEREAS, electricity comprises approximately 18 percent of a consumer's residential monthly bill after the Power Cost Equalizations subsidy is applied;

WHEREAS, practices of the current electric utility can be improved to provide better rates to the consumer, those practices include but are not limited to fuel procurement practices, integration with renewable energy sources such as wind, and integration of waste heat;

WHEREAS, additionally the study suggests the above practices when applied under a cooperative, would allow for a 4.5 percent decrease in the rates provide under an independently owned utility;

WHEREAS, the Electric Utility Ownership Feasibility Study also concludes, the impact to the State is also substantial; the current utility customers receive approximately $2.2 Million per year in Power Cost Equalization (PCE) credits;

WHEREAS, a change in ownership, fuel procurement options and wind resource options would contribute up to $400,000 in savings per year for the states PCE payments in Bethel;

Introduced by: Mayor Joseph A. Klejka
Date: April 24, 2012
Action:
Vote:

WHEREAS, the profit margin for a cooperative purchase of a publicly owned electric utility would be minimal to the producer, but would enable efficient and responsible operation of a utility to ensure the public's interest is considered and carried out;

WHEREAS, according to the Study, the the greatest reduction in costs to both the state and the utility users is achieved with an electrical utility cooperative.

Comparison of Utility Rates by Ownership Category: Ideal Scenario [1]

Ownership	Avg. Avg. Rate per kWh [1]	% Difference from BUC
BUC	$0.4304	0.0%
IOU (not BUC)	$0.4059	-5.7%
Municipal	$0.3740	-13.1%
Cooperative	$0.3743	-13.7%

[1] Assumes the utility builds and operates a fuel storage system, uses a pipeline to deliver fuel from the Petro Port to the tank farm, owns and operates its own wind system, and allows the city to integrate waste heat.

* Electric Utility Ownership Feasibility Study (2011). Agnew::Beck Consulting, LLC and EES Consulting

NOW, THEREFORE, BE IT RESOLVED that the Bethel City Council does hereby support the consideration of a cooperative purchase of a publicly owned and operated electric utility.

ENACTED APRIL 24, 2012 BY A VOTE OF _ IN FAVOR AND _ OPPOSED.

_____
Joseph A. Klejka, Mayor

ATTEST:

_____
Lori Strickler, City Clerk

City of Bethel Action Memorandum

Action memorandum No.	12-21		
Date action introduced:	April 24, 2012	Introduced by:	City Manager Foley
Date action taken:	April 24, 2012	▒ Approved	▒ Denied
Confirmed by:			

SUBJECT/ACTION: Approval of the Administration to go out for RFP to conduct a Cost of Service Study on the water metering services prior to implementing metered water billing.

Route to:	Department/Individual:	Initials:	Remarks:
X	Finance		
	Public Works		

Attachment(s): None

Amount of fiscal impact		Account information:
	No fiscal impact	
	Funds are budgeted for.	
X	Funds are not budgeted. Budget modification is required. Affected account number:	

Due to concerns expressed by some members of the community, the Administration asked the City Attorney to render a legal opinion with respect to the ramifications of charging metered rates for piped W/S in one subdivision while allowing residents of another subdivision on piped W/S to have unlimited services. Basically, the City Attorney stated that "differential rates are permissible if there is an objective factual basis for the difference in rates." However, "to establish that information, a Cost of Service Study (COSS) is necessary to determine if the cost of service to one is objectively greater than the cost of service to the other. If a COSS establishes that differential rates would be permissible, an ordinance amendment might be in order." Based on this opinion, the Administration recommends not moving forward with charging metered rates for W/S service in City Sub until a COSS is conducted. If Council concurs with this recommendation, the Administration requests that Council direct such action and an RFP will be developed and issued.

City of Bethel Action Memorandum

Action memorandum No.	12-22		
Date action introduced:	4-24-12	Introduced by:	Mayor Klejka
Date action taken:		▒ Approved	▒ Denied
Confirmed by:			

SUBJECT/ACTION: *Approve Mayor Klejka's appointment of Amanda Colvin to the Parks & Recreation Committee.*

Route to:	**Department/Individual:**	**Initials:**	**Remarks:**
X	Parks and Recreation Director		

Attachment(s): Application

Amount of fiscal impact		**Account information:**
X	No fiscal impact	
	Funds are budgeted for.	
	Funds are not budgeted. Budget modification is required. Affected account number:	

Action memorandum 12-21 is sponsored by Mayor Klejka at the request of the City Clerk.

Amanda Colvin has requested appointment to the Parks & Recreation Committee. If appointed, she would be appointed to a term of three years.

Office of the City Clerk
City of Bethel
300 State Highway
Bethel, AK 99559-1388
Phone: (907)-543-1384
Fax: (907)-543-3817

APPLICATION FOR APPOINTMENT TO A COMMITTEE OR COMMISSION

Committee(s)/Commission(s) of interest:

- ___ **Energy Committee**
- ✓ **Parks and Recreation Committee**
- ___ **Finance Committee**
- ___ **Public Works Committee**
- ___ **Port Commission**
- ___ **Public Safety and Transportation Commission**
- ___ **Planning Commission**

All Planning Commissioners are required to provide an Alaska Public Offices Commission (APOC) Statement to the City Clerk's Office within 30 days of appointment. Commissioners must continue to provide an updated APOC statement to the clerk's office by the 15th of March annually.

NAME: Amanda Colvin

MAILING ADDRESS:

RESIDENCE ADDRESS:

HOME PHONE: **WORK PHONE:**

CELL PHONE: **E-MAIL:**

OCCUPATION: Direct Care Provider **EMPLOYER:** YKHC

1. Do you (or an immediate family member) currently own or operate a business in the City of Bethel? If so please provide the name and the type of business.

No

Return completed application to the Office of the City Clerk.

2. Are you (or an immediate family member) a member of a board of directors, officer of, or hold a management position with, an organization that has financial dealings of one thousand dollars or more in value with the city of Bethel? If so please provide the name and the type of business.

husband Assistant Controller for YKHC

3. Do you currently have a direct or indirect financial of business interest with the City of Bethel, to include contracting, leaseholder, employee? If so please provide the name and the type of business.

No

4. Are you a resident of the City of Bethel? ✓ Yes __ No If so, for how long?

5. Does your schedule permit you to regularly attend required meetings: ✓ Yes __ No

I understand that this is a voluntary, appointed position to be confirmed by the Bethel City Council. I further understand that this application is public information and the merits of my appointment may be discussed at a public forum. In addition, my name may be published in a newspaper or other media outlet.

I have read Chapter 2.05 of the Bethel Municipal Code regarding Responsibilities of city council members, municipal officers, appointed officials and employees-conflict of interest. I agree to comply with the code and understand that my tenure as a commission/committee member requires such compliance.

I certify that the information in this application is true and accurate.

Signature of Applicant: [signature] Date: 4/2/12

FOR OFFICE USE ONLY

Date Received:

Date of Council Approval: Action Memorandum Number:

Date Applicant Notified:

Term Expiration:

Registered voter of the City __Yes __ No.

Return completed application to the Office of the City Clerk.

City Attorney's Office (10-56)

			FY 2012 Budget	FY 2013 Budget
PERSONNEL:				
Cont	A1	City Attorney		110,000
		SALARIES	-	110,000
		Annual Increases		1,375
		Overtime		-
		Subtotal	-	1,375
		PTO Cashout/Payout (9% of Salary in FY12)		9,900
		Social Security (6.2% of Temp Salary)		-
		Medicare (1.45% of Salary)		1,615
		Employee Group Health Benefits ($1,200 per month x 12 months x 1.00 FTE)		14,400
		Unemployment (0.80% of Salary)		891
		Workers' Compensation		475
		PERS On Behalf Of Contribution		
		PERS (22.00% of Salary)		24,503
		Utility Benefits ($305 per month x 12 months x 1.00 FTE x 67%)		2,452
		BENEFITS & TAXES	-	54,236
		TOTAL PERSONNEL	-	165,611

City Attorney's Office (10-56)		FY 2009 Actuals	FY 2010 Actuals	FY 2011 Actuals	FY 2012 Approved Budget	FY 2012 Revised Budget	FY 2013 Proposed Budget
PERSONNEL:							
	Salaries, Benefits & Taxes minus EGHB						151,211
	Overtime						-
	Employee Group Health Benefits						14,400
	Total Personnel	-	-	-	-	-	165,611
MATERIALS, SUPPLIES AND SERVICES:							
520	Relocation Expense						7,500
545	Training/Travel						7,500
561	Supplies						2,000
602	Gasoline						2,500
622	Telephone						1,000
661	Vehicle Maint/Repair (Int. Svc. Fund 57)						1,793
669	Other Purchased Services						2,500
683	Minor Equipment						5,000
721	Insurance						1,500
724	Dues/Subscriptions						2,000
799	Miscellaneous						500
	Total MS&S	-	-	-	-	-	33,793
	Total Operating Expenditures	-	-	-	-	-	199,404
DEBT PAYMENTS:							
	Total Debt Payments	-	-	-	-	-	-
PROJECT EXPENDITURES (10-51-77X)							
	Total Project Expenditures	-	-		-	-	-
CAPITAL EXPENDITURES (10-51-69X)							
	Total Capital Expenditures	-	-		-	-	-
	Total Operating, Debt, Project & Capital	-	-	-	-	-	199,404
875	*Indirect Cost Recovery*	-	-	-	-	-	-
	NET Operating, Debt, Project & Capital	-	-	-	-	-	199,404

DRAFT

CITY ATTORNEY JOB DESCRIPTION

The City Attorney serves as Chief Legal Advisor to the City Council, City Manager, all City Departments, Commissions/Committees, authorities, Offices, and agencies affiliated with the City. Duties include, but are not limited to, the following:

DUTIES:

- Represent the City in all legal proceedings
- Monitors cases assigned to contract legal counsel and ensures timely reporting to the Council on these cases as well as those handled in-house
- Prepares legal opinions, ordinances, resolutions, contracts, and other documents requested by Council and City Administration
- Implements the legal aspects of various policies and programs established by the City
- Handles criminal litigation as part of the Office's code enforcement responsibilities
- Attends all regular meeting of the City Council and, upon request, special meetings of the Council
- When requested, attend the meetings of any commission/committee and shall advise on all questions of the law submitted and authorized by the City Council, or City Manager
- Serves as legal counsel to all boards, committees, and commissions of the City government
- When requested, shall advise the Mayor, Council members, or any other City officer on all question of law pertaining to the duties of any such officer
- Act as legal advisor of the City on all matters pertaining to contracts with, or by, the City, and shall advise on all questions of law in regard to the same
- Has the right to be heard on all questions, or motions, before the City Council, amending, repealing, or in any manner affecting any ordinance in force, or proposed to be ordained by the City Council when the legality of any such question, or motion, shall be called into question
- Shall attend the sessions of the Municipal Court and prosecute all persons charges with a violation of the City's ordinances
- Will periodically review the Bethel Municipal Code (BMC) and draft any recommended changes, revisions, or language substitutions deemed

appropriate, presenting such drafts to the City Council for review and consideration

- When required by the City Council, or City Manager, appear in behalf of the City in all suits, or proceedings, by, or against, the City in any court wherein the same may be pending, or about to be instituted, by the City and prosecute, or defend, the same as the case may require
- May make, or execute, any bond, or affidavit, in the name of the City that may be necessary in any suit, or proceeding, in which the City is a part and shall sign such bond, or affidavit, as the City Attorney
- Perform other duties as assigned, or requested

QUALIFICATIONS:

- Juris Doctor degree from an accredited institution in the United States
- 4-5 years of experience in municipal law, preferably acquired in the State of Alaska
- Board certified to practice law in the State of Alaska

Proposed Cost Reduction for Bethel Transit System

Estimated FY 2013 Bethel Transit Funding Breakout

LINE ITEM	LINE ITEM DESCRIPTION	LINE ITEM BUDGET	5311 GRANT (ADMIN)	5311 GRANT (Operating)	RTAP GRANT	REQUIRED MATCH (Admin - 9%)	REQUIRED MATCH (Operating - 44%)	TOTAL GRANT FUNDING EXPECTED	TOTAL MATCH REQUIRED	TOTAL
56-50-501	Salaries	141,587.00	59,564.05	42,632.42	-	5,890.95	33,499.58	102,196.47	39,390.53	141,585.00
56-50-502	Overtime	3,000.00	-	1,680.00	-	-	1,320.00	1,680.00	1,320.00	3,000.00
56-50-508	Leave Cashout	8,929.00	4,764.76	2,068.08		471.24	1,624.92	6,832.84	2,096.16	8,929.00
56-50-510	Social Security	2,896.00	-	1,621.76	-	-	1,274.24	1,621.76	1,274.24	2,896.00
56-50-511	Medicare/FICA	2,097.00	863.67	642.83	-	85.42	505.08	1,506.50	590.50	2,097.00
56-50-512	Employee Group Benefits	28,800.00	13,104.00	8,064.00	-	1,296.00	6,336.00	21,168.00	7,632.00	28,800.00
56-50-515	Unemployment	15,000.00	231.63	8,172.77	-	22.90	6,572.70	8,404.40	6,595.60	15,000.00
56-50-516	Workers Compensation	900.00	180.18	393.12	-	17.82	308.88	573.30	326.70	900.00
56-50-518	PERS	29,868.00	13,104.09	8,662.02	-	1,296.01	6,805.87	21,766.12	8,101.88	29,868.00
56-50-519	Utility Benefit for Employees	7,357.00	2,231.50	2,746.69		220.70	2,158.11	4,978.19	2,378.81	7,357.00
56-50-545	Travel/Training	5,000.00	-	1,120.00	3,000.00	-	880.00	4,120.00	880.00	5,000.00
56-50-561	Supplies	2,000.00	910.00	560.00	-	90.00	440.00	1,470.00	530.00	2,000.00
56-50-600	Tires/Wheels/Chains	5,000.00	-	2,800.00	-	-	2,200.00	2,800.00	2,200.00	5,000.00
56-50-602	Gasoline/Diesel/Oil	34,500.00	2,275.00	17,920.00	-	225.00	14,080.00	20,195.00	14,305.00	34,500.00
56-50-621	Electricity	2,800.00	2,548.00	-	-	252.00	-	2,548.00	252.00	2,800.00
56-50-622	Telephone	457.00	415.87	-	-	41.13	-	415.87	41.13	457.00
56-50-623	Heating Fuel	3,100.00	2,821.00	-		279.00	-	2,821.00	279.00	3,100.00
56-50-626	Water/Sewer/Garbage	1,600.00	1,456.00	-	-	144.00	-	1,456.00	144.00	1,600.00
56-50-646	Drug Testing/Background Checks	2,000.00	-	1,120.00	-	-	880.00	1,120.00	880.00	2,000.00
56-50-661	Vehicle Maintenance	20,733.00	-	11,610.48	-	-	9,122.52	11,610.48	9,122.52	20,733.00
56-50-669	Other Purchased Services	1,500.00	-	840.00	-	-	660.00	840.00	660.00	1,500.00
56-50-683	Minor Equipment	2,500.00	-	1,400.00	-	-	1,100.00	1,400.00	1,100.00	2,500.00
56-50-721	Insurance	9,000.00	-	5,040.00	-	-	3,960.00	5,040.00	3,960.00	9,000.00
56-50-724	Dues and Subscriptions	250.00	-	140.00	-	-	110.00	140.00	110.00	250.00
56-50-727	Advertising	500.00	455.00	-	-	45.00	-	455.00	45.00	500.00
56-50-799	Miscellaneous Expenses	300.00	-	168.00	-	-	132.00	168.00	132.00	300.00
56-50-996	IT Technology Services	14,069.00	12,802.79	-	-	1,266.21	-	12,802.79	1,266.21	14,069.00
		345,743.00	117,727.55	119,402.17	3,000.00	11,643.38	93,969.90	240,129.71	105,613.28	345,740.99

Funding Summary:	
Required 5311 Funding:	(237,129.71)
Actual 5311 Expected Funding:	203,529.71
Funding Shortfall:	(33,600.00)
Bus Fares and Prepaid Bus Fares:	32,900.00
Miscellaneous Revenue Sources:	700.00
	33,600.00
Remaining Shortfall to be added to local match:	(0.00)
TOTAL REQUIRED MATCH INCLUDING SHORTFALL:	105,613.28

PROPOSED COST REDUCTION PLAN FOR BETHEL TRANSIT SYSTEM

	Bethel Public Transit System (56-50)	FY 2009 Actuals	FY 2010 Actuals	FY 2011 Actuals	FY 2012 Approved Budget	FY 2012 Revised Budget	FY 2013 Proposed Budget
PERSONNEL:							
	Salaries, Benefits & Taxes minus EGHB	135,342	265,431	300,146	302,740	302,740	225,826
	Overtime	4,948	4,937	3,183	6,000	6,000	3,000
	Employee Group Health Benefits	15,120	24,336	39,528	45,000	45,000	28,800
	Total Personnel	157,603	294,704	342,857	353,740	353,740	257,626
MATERIALS, SUPPLIES, & SERVICES							
545	Training/Travel	1,186	3,673	4,701	5,000	5,000	5,000
561	Supplies	1,139	2,678	3,689	2,600	2,600	2,000
600	Tires/Wheels/Chains	6,668	-	4,566	6,900	6,900	5,000
602	Gasoline/Diesel/Oil	29,035	48,560	21,265	56,250	56,250	34,500
621	Electricity (6.5% of City Shop)	-	3,682	3,832	4,000	4,000	2,800
622	Telephone	-	880	844	910	910	457
623	Heating Fuel (1.5% of City Shop)	-	7,094	6,920	7,628	7,628	3,100
626	Water/Sewer/Garbage (1.0% of City Shop)	-	1,459	1,566	1,600	1,600	1,600
646	Drug Testing/Background Checks	-	-	130	750	750	2,000
661	Vehicle Maint/Repair (Int. Svc. Fund 57)	1,439	23,422	31,871	33,000	33,000	20,733
664	IT Services (Internal Service Fund)	3,919	4,271	7,814	-	-	-
669	Other Purchased Services	502	2,214	6,003	1,900	1,900	1,500
683	Minor Equipment	4,509	60,246	-	8,078	8,078	2,500
721	Insurance	10,707	9,869	10,566	11,000	11,000	9,000
722	Insurance -Ded Exp & Other	4,653	-	-	-	-	-
724	Dues & Subscriptions	40	250	250	250	250	250
727	Advertising	25	-	-	750	750	500
799	Miscellaneous	80	353	661	200	200	300
996	Adminstrative Overhead - IT Services	-	-	-	10,503	10,503	14,070
	Total MS&S	63,902	168,650	104,678	151,319	151,319	105,310
	Total Operating Expenses	221,505	463,354	447,535	505,059	505,059	362,936
DEBT PAYMENTS:							
	Total Debt Payments	-	-		-	-	-
CAPITAL EXPENSES (56-50-69X)							
690	Capital Expenditures		-				
	Total Capital Expenses	-	-		-	-	-
	Total Operating, Debt, Projects & Capital	221,505	463,354	447,535	505,059	505,059	362,936

PROPOSED COST REDUCTION PLAN FOR BETHEL TRANSIT SYSTEM

Bethel Public Transit System 56-50

			FY 2012 Budget	FY 2013 Budget
PERSONNEL				
R6I	29101	Transit Manager	68,441	65,455
R4	29102	Bus Driver	45,044	43,956
R4	29103	Bus Driver	45,044	
R4	29201	Bus Driver- Part-Time (20 hours/week)	19,460	23,352
R4	29202	Bus Driver- Part-Time (20 hours/week)	19,460	
R4	29901	Bus Driver- On Call (budgeted at 10 hours/week)	8,824	8,824
R4	29902	Bus Driver- On Call (budgeted at 10 hours/week)	8,824	
		SALARIES	215,098	141,587
		Annual Increase	5,859	-
		Overtime	6,000	3,000
		Subtotal	11,859	3,000
		Longevity Bonuses	1,000	-
		Leave Cashout/Payout (8% of Base Salary)	11,349	8,929
		Social Security (6.2% of Temp Salary)	2,413	2,896
		Medicare (1.45% of Salary)	3,206	2,097
		Employee Group Benefits ($1,200 per month x 12 months x 2 FTE)	45,000	28,800
		Unemployment (0.80% of Salary)	1,769	15,000
		Workers' Compensation	1,578	900
		PERS On Behalf Of Contribution	-	17,193
		PERS (22.00% of Salary)	48,209	29,868
		Utility Benefit ($305 per month x 12 months x 3 FTE/PTE * 67%)	12,261	7,357
		BENEFITS & TAXES	126,785	113,039
		TOTAL PERSONNEL	353,742	257,626

Memorandum of Agreement

Between the City of Bethel and Orutsararmiut Native Council

Regarding the Initiation, Operation and Maintenance of the Bethel Public Transit System

Parties to this Agreement

Eric Middlebrook, Mayor
City of Bethel
P.O. Box 1388
Bethel, AK 99559
907-543-2297

Ray Watson, Chairman
Orutsararmiut Native Council
P.O. Box 927
Bethel, AK 99559
907-543-2608

Contacts for this Agreement

Don W. Baird, City Manager
City of Bethel
907-543-1373

Michael Samuelson, Executive Director
Orutsararmiut Native Council
907-543-2608

Purpose

This Memorandum of Agreement (MOA) between the City of Bethel (City) and Orutsararmiut Native Council (ONC) is intended to define a partnership arrangement that allows for the initiation, operation, and maintenance of the Bethel Public Transit System. The two parties agree to share organizational resources, meet regularly, make decisions, and participate actively to ensure the success of the transit system.

The City will own and operate the Bethel Public Transit System. The transit vehicles will be owned by the City of Bethel with the grantor holding title for five years from the beginning of each grant period. Transit system employees will be City of Bethel employees.

Background

The City of Bethel was awarded a grant from the Alaska Mental Health Trust Authority that was used to pay transportation consultants to develop the *City of Bethel Public Transportation Plan* in October 2004. The plan documented the need for a public transit system in Bethel and recommended three fixed routes to serve the community. ONC was awarded a grant from the Community Transportation Association of America that was used to pay consultants to develop *Technical Memorandum #1: Draft Implementation Plan.* This implementation plan recommends starting small, with one to two routes using 14-passenger buses, and growing the system as demand increases. The City and ONC intend to follow the steps and act on recommendations contained in the implementation plan.

The Bethel City Council and ONC Council signed a Memorandum of Agreement which established the Bethel Transit System Advisory Committee. The Committee contains one Council member and one administrator from each organization and one community member. The Committee meets monthly.

One new gasoline van/bus was delivered to Bethel in September 2007. Once insured, registered, and inspected, it will be placed into service as the first Bethel Public Transit System vehicle.

The City of Bethel ordered two standard body cutaway buses with four-wheel drive conversion. After being custom-made, the two vehicles will be delivered to Bethel in August 2008.

A transit manager was hired on March 11, 2008 by ONC. The transit manager will become a City of Bethel employee once this MOA becomes effective. The Transit Manager will work in the ONC office building. This will allow ONC administrators and Council members to have access to the manager while the supervisory responsibility remains with the City.

Current Funding

Over the last few years, the City of Bethel and Orutsararmiut Native Council were awarded grants to purchase transit vehicles and pay operating and maintenance costs. Table 1 shows the grants currently under administration.

Table 1
Grant Funding for Public Transit System

Budget Category	Status	Grant Program	Recipient	Amount
One 8-passenger van/bus	Delivered	FTA Section 5310	City	$51,562
		FY 2006 IRR	ONC	$17,132
Two 14-passenger buses	Ordered; delivery Aug. 2008	FTA Section 5310	City	$120,000
		FY 2006 IRR	ONC	$79,679
Training	Current	FY 08 RTAP	City	$3,000
Operating	Current	FTA Section 5311	City	$180,938
Operating	Current	FY 2006 IRR	ONC	$49,827
Operating	Current	FY 2007 IRR	ONC	$74,733
Operating	Current	FY 2008 IRR	ONC	$74,733
Operating	Current	FY 06 Tribal Transit	ONC	$105,193
Operating	Current	FY 07 Tribal Transit	ONC	$136,370
			Total	**$893,167**
Expected Formula Grants (Recurring Annually)				
Operating	Expected	FTA Section 5311	City	$180,938
Operating	Expected	IRR	ONC	$74,733
Training	Expected	RTAP	City	$3,000
			Total	**$258,671**

Key: IRR – Indian Reservation Roads Grant sponsored by Bureau of Indian Affairs.
RTAP – Rural Transportation Assistance Program, FTA training grant funds.

Note: Annual amount of IRR grant funds assigned to transit system will be maximum amount allowable.

Future Funding
The City of Bethel expects the transit manager to be responsible for obtaining funds to support and operate the transit system. Grants are expected to be a key funding source. Grants are available to provide funding for capital, operating, and administration costs. The City of Bethel and Orutsararmiut Native Council do not have discretionary funds available to support the public transit system. The City and ONC agree that non-grant cash contributions to the public transit system will not exceed $30,000 per fiscal year, per entity. Requests for cash contributions must be brought before City Council and ONC Council respectively.

Transit System Operation

City of Bethel
The City of Bethel agrees to own, operate, and maintain the Bethel Public Transit System. Specifically, the City will:

1. Own and possess all transit vehicles. Vehicle title may rest with grantor for a period of years before officially being transferred to City.
2. Manage the transit system by hiring and supervising a Transit Manager.
3. Recruit, hire, train, and supervise transit system employees. Includes incorporating new positions into City's Administration Department and into the City's three-year union contract to begin July 1, 2008.
4. Account for all revenue and expenses related to the initiation, operation, and maintenance of the Bethel Transit System.
5. Accept receipt of grant funds and other cash and in-kind donations made by ONC and other agencies, businesses, and individuals.

New positions at the City of Bethel will be created for Bethel Public Transit System employees. Each transit system employee will have the same rights, duties, and privileges afforded other City employees.

All Bethel Public Transit System employees will be represented by the labor union: Alaska Public Employees Association/AFT (AFL-CIO), City of Bethel Local #6055. Employees do not have to join the union, but will have the equivalent amount of union dues withdrawn from their paycheck each pay period, as with all non-union City employees.

The City will obtain sufficient insurance to cover the transit system and all related equipment and vehicles through its insurance company: Alaska Public Entity Insurance. The City's current insurance policy will be rewritten to include liability coverage of the Bethel Public Transit System. Existing insurance policy language will be extended to cover transit vehicles and transit employee compensation.

Orutsararmiut Native Council

The Orutsararmiut Native Council will assist the City in the initiation, operation, and maintenance of the Bethel Public Transit System. Specifically, ONC will:

1. Hire Transit Manager and place on ONC payroll with full benefits.
2. Assist the City in transferring Transit Manager position to the City, when appropriate.
3. Assist the Transit Manager and/or other City personnel in the preparation, submission, and administration of grants available to tribal entities that can and will provide funding to the transit system.
4. Make transit grant funds awarded to ONC available to the City of Bethel Transit Manager. ONC will assist in drawdown of grant funds to cover transit expenses.
5. Provide office space for Transit Manager and transit system operations in new ONC Office building located at 117 Alex Hately in Bethel.
6. Provide office supplies and access to telephone, photocopier, fax machine, and other standard office equipment as in-kind contribution or grant-funded expense.
7. Provide office furniture (e.g., desk, chair, shelves, file cabinets) in the Transit Manager's office.

Specialized equipment, such as a personal computer and software, will be purchased with grant funds.

MOA Renegotiation

Either party to this MOA may request renegotiation of the terms described herein. Both parties agree to meet and negotiate in good faith.

Cessation

If it is determined by mutual agreement between both parties that the Bethel Public Transit System no longer becomes a viable enterprise, there will be a division of transit system assets between the two parties. The division of assets, if permitted by grantors, will be done according to the grant agreements signed by grantor and grantee that funded the purchase of the assets. All City, State, and Federal laws will be followed.

In case a division of assets occurs, ONC will be given one or more transit system vehicle(s) for use in the provision of senior services, an ongoing social responsibility ONC intends to uphold.

Supersession

This MOA supersedes the MOA between the City and ONC titled *Bethel Transit System Advisory Committee Policy Joint Task Force* signed on October 10, 2006. The Transit System Committee will still operate as specified in the previous MOA, but this MOA must supersede the previous MOA to insure the operational responsibilities described herein are accepted and actions related thereto undertaken.

Signatures

The signatures below of the highest elected official and highest ranking administrator from the City of Bethel and Orutsararmiut Native Council validate this Memorandum of Agreement and obligate both parties to the terms herein.

City of Bethel

04-07-2008

Highest Elected Official Date

Highest Ranking Administrator Date

Orutsararmiut Native Council

4-7-08

Highest Elected Official Date

4-7-08

Highest Ranking Administrator Date

Mayor's Report

ALASKA ENERGY AUTHORITY

April 11, 2012

The Honorable Joseph Klejka
Mayor, City of Bethel
P.O. Box 1388
Bethel, AK 99559

Mr. Michael W. Moora
General Manager
ODC Harris Group LLC
2700 Gambell Street, Suite 500
Anchorage, Alaska 99503

RE: Liquefied & Compressed Natural Gas as a Bridge Solution to Reducing Energy Costs in Rural Alaska - Request for Reconsideration Application #004

Dear Mayor Klejka and Mr. Moora:

This letter is in response to your March 17, 2012 request for reconsideration for the above referenced application.

Your request asks the Alaska Energy Authority to reconsider its decision to deny further review of the Liquefied & Compressed Natural Gas as a Bridge Solution to Reducing Energy Costs in Rural Alaska application.

I agree with your request. Therefore, I have directed the evaluation team to complete the Step 1 review process for this project. However, please note that including this project in the scoring process does not guarantee that it will be selected for a Step 2 review.

Please feel free to contact me with any questions.

Sincerely,

ALASKA ENERGY AUTHORITY

Sara Fisher-Goad
Executive Director

Manager's Report

Clerk's Report

City of Bethel, Alaska

City Clerk's Office

To: City Council
From: Lori Strickler
Subject: Clerk's Report

Upcoming Council Events:
May 3rd Special Meeting
May 8th Regular Meeting
May 17th Special Meeting
May 22nd Regular Meeting

Alaska Municipal League Summer Meeting
Betty Svensson will be in Bethel May 31st to meet with local officials as well as to go over details of the AML meetings with the City Clerk's Office.

In preparation for the AML meetings and reception the City Clerk's Office has:

- Held a meeting with a local caterer to discuss menu options for the reception.
- Contacted local venders in the hopes to obtain donations for the reception.
- Requested and received a written statement from the Alcohol Beverage Control Board regarding the distribution of alcoholic beverages at a private function. They have confirmed that as long as the event is by invitation only and there is no transfer of money to attend the event or to obtain alcoholic beverages, the City would not need a permit.
- Requested the Finance Department contact the insurance company to make sure our insurance would cover any liability for the reception and will obtain a copy of the Alaska Municipal League's certificate of insurance, prior to the event.
- Spoke to AML about the possibility of having lists of items/events during the registration process to see what participants may be interested in. They would rather the City provide a flyer with information on optional events for the attendees to sign up for with the City's contact information provided.
- Working on a pamphlet to provide to the guests in advance of their visit with information about Bethel.
- Looking into inexpensive gift bag options to provide to the attendees.
- Contacted YKHC to request the dimensions of the reception tent however, have not yet requested to use it for the reception. If the dimensions will work in the area suggested by the council, I will follow through with the final request to YKHC.

- Contacted the Lion's Club about the use of their clubhouse during the reception. They are more than happy to provide the space for not only that night but for the other days as well in the case the City would need the extra space or would like to hold a craft fair.
- I am drafting a letter to request the use of the school buses while the conference is going on. The use would only be for transportation to and from the hotel and the conference site as well as the reception.
- Spoke with TWC about renting place settings for the reception and they are willing to provide the settings for very little cost.
- Toured the VFW Hall for a possible location of the AML Reception.

*The council may want to consider having a special meeting or adding an item to one of the special budget meetings to discuss AML details.

Documents
Resolution supporting a cooperative purchase of an electric utility in Bethel.
Researched an ordinance placing all of the city's fines in one ordinance.

Passport
The City Clerk's Office is preparing for the bi-annual passport audit which will occur mid May.

Part-time Temporary Assistant
To comply with the City's most recent Union Contract, the City Clerk's Assistant position may not be filled longer than six months continuously. With this recent change in the contract, the clerk's office will be without an assistant the entire month of May.

Council Chamber Audio Equipment
The Charity Group will be coming to Bethel to go over the options the City has on the upgrade to the chamber audio equipment on April 25th. Following this visit the City will have a detailed parts list as well as a better estimate on the cost of the upgrade. Once this information is received the Clerk's Office will prepare an RFP for the services.

Additional Information