

Introduced by: Mayor Phillips  
Date: July 28, 1998  
Public Hearing: August 11, 1998  
Action: Enacted  
Vote: Unanimous

**CITY OF BETHEL, ALASKA  
ORDINANCE #98-16**

**AN ORDINANCE REPEALING BMC CHAPTER 1.20 AND  
ENACTING TITLE 7, ELECTIONS**

**BE IT ORDAINED** the Bethel City Council that:

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

**Section 2.** Severability. If any provisions 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.** Repeal of chapter. Chapter 1.20, Elections, is hereby repealed in its entirety.

**Section 4.** Adoption of New Title. Title 7, Elections, is hereby adopted to read as follows:

**TITLE 7  
ELECTIONS**

**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 of Bethel's administrative offices are open to provide general services to the public.

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 to the city clerk

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

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

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

H. "Immediate family" means a candidate's grandparents, parents, grandchildren, 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 polling place.

K. "Proposition" means an initiative, referendum, recall, or other issue submitted to the public at an election.

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

M. "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 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 to vote 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 Tuesday of October annually.

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.

#### 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.

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

B. The city clerk, in accordance with the provisions of this title, shall administer all city elections.

#### 7.10.050. Election times.

A. Time of Regular Elections. Annually, on the first 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.

B. Time of Special Elections. The council, by resolution or adoption of an ordinance, may call a special election at any time at least 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 a 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 public places in the city. The first such posting shall be accomplished at least 30 calendar days before a regular election and 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 24 hours before the time of casting their ballot.

C. *Notice of bonded indebtedness.* Before a general obligation bond issue election, the clerk shall post notice of the city's total existing bonded indebtedness. The notice of the city's total existing bonded indebtedness shall state:

1. the current total general obligation bonded indebtedness, including authorized but unsold bonds, of the city; and
2. the cost of the debt service on the current indebtedness.

7.10.070 Propositions and questions

An ordinance placing propositions and questions before the voters must be adopted not later than 45 calendar days before a regular or special election.

7.10.080 Nonpartisan requirement.

All city elections shall be nonpartisan.

7.10.090 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.

#### 7.10.100. Simple majority; prohibition on run-off elections.

All city offices shall be filled by the candidate receiving the greatest number of votes. There shall be no run-off elections.

#### 7.10.110. Election supplies and equipment

A. Before the opening of the polls the clerk shall furnish to the election board of each precinct the state voter registration list for that precinct and shall equip and supply each polling place with sufficient materials for that precinct's election, including those materials required by this section.

B. The clerk shall prepare instructions explaining to voters how to obtain ballots, how to mark them, and how to obtain new ballots to replace those destroyed or spoiled. These instructions shall be printed on cards in large, clear type and shall be distributed to the election boards to be prominently displayed in each polling place. The clerk shall provide booths at each polling place with appropriate supplies and conveniences to enable each voter to mark his ballot screened from observation. Ballot boxes shall be placed outside the voting booths in plain view of the election officials, voters and other persons at the polling place.

#### 7.10.120. 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 election officials unless otherwise provided by this code.

B. The city shall pay each election board member and canvass board member an hourly rate for time spent at his election duties, including the receiving of instructions and posting of notices. The election supervisor shall set the hourly compensation to be paid for time spent by election officials at a rate comparable to that paid by the state for state elections. The clerk shall retain a record for auditing and payment of election expenses, including the cost of giving notice, renting polling places, paying election officials, securing ballot boxes, booths and other election necessities.

#### 7.10.130. 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 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.

## CHAPTER 7.20. VOTER QUALIFICATION

### 7.20.010 Voter qualifications

A person may vote at any election that meets all of the following requirements:

- A. Is qualified to vote in state elections under AS 15.05;
- B. Is a citizen of the United States;
- C. Is 18 years of age or older;
- D. Has been a resident of the city for 30 calendar days immediately preceding the election;
- E. Is registered to vote in state elections at a residence address within the city 30 calendar days prior to the city election; and
- F. Is not disqualified under Alaska Constitution, Art. V

### 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 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 residence.

C. A person does not gain or lose residence solely by reason of a person's presence while employed in 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. 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. 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. A person loses residence in this state if the person votes in an election held in another state, and has not upon the person's return regained residence in this state under the provisions of this chapter and state law.

H. 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.

#### 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(D) and AS 29.47.190.

### CHAPTER 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 of Alaska and a resident of the city for at least one year immediately preceding filing for office.

#### 7.30.020 Declaration of candidacy.

A. A candidate for city council is nominated by executing a declaration of candidacy under oath and filing it with the clerk in accordance with this section.

B. A declaration of candidacy shall be in 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 of Bethel;
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 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 5 through August 20, 4:00 p.m. Should August 20 be a Saturday or Sunday, then candidates shall have until noon on the first Monday following to file their declaration.

E. Within four 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 Nominations; notice of vacancies in office.

At least three calendar days before nominations are open for each regular or special election, the clerk shall post in three public places a notice of offices to be filled at the election and the manner of making nominations.

7.30.040 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 days after the date of filing a declaration of candidacy .

7.30.050 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 7.20.030.

7.30.060 Review of candidate qualifications.

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

7.30.070 Prohibitions.

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.

7.30.080 Notice of vacancies.

At least three days before nominations are open for each city election, the clerk shall post in at least three public places in the city a notice of offices to be filled at the election and the procedure for filing a declaration of candidacy for the offices.

## CHAPTER 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.

#### 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 15 days before each regular election and at least 10 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 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.

#### 7.40.030 Sample ballots

The clerk shall obtain the printing of sample ballots. Sample ballots shall be printed on non-white 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 not 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 multi-syllables 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.

### CHAPTER 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 3 election officials in each precinct to constitute the election board for that precinct. The clerk shall designate one 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 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, clerk or member of the ballot counting team shall be notified and replaced.

H. Unless excused by the clerk, all election officials shall attend training sessions offered by the clerk.

#### 7.50.020 Opening of polling place.

A. On the day of the election, each election board shall open the polls for voting at 7:00 a.m., shall close the polls for voting at 8:00 p.m., and shall keep the polls continuously open during the time between those hours. The election board shall report to the polling place by 6:30 a.m. so that voting will start promptly at 7:00 a.m. The chairman of the election board shall rotate times at which election judges, board members and clerks may be relieved for breaks and meals; provided, however, that at all times at least 2 judges from the election board are present at the polling place.

B. Before issuing any ballots, the election board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place. The ballot box then shall be closed and shall not be opened again or removed from the polling place until the polls have closed.

#### 7.50.030 Voter registration.

The judges shall keep an original register or registers in which each voter before receiving his ballot shall sign his name and give both his residence and mailing address. A record shall be kept in the registration book, in a space provided, of the names of persons who offer to vote but who actually do not vote, and a brief statement of explanation. The signing of the register constitutes a declaration by the voter that he is qualified to vote. If any election official present believes the voter is not qualified, he may question the vote in accordance with the provisions of this title.

#### 7.50.040 Voter identification at polls.

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

B. An election official may waive the identification if the election official knows the identify 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 voter.

When a voter has qualified to vote, the election official shall give the voter an official ballot. The voter shall retire to a booth or private place to mark the ballot.

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 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.

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.

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.

7.50.100 Questioning procedure.

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

B. Every election official and election judge shall question, and every watcher and any other person qualified to vote in the precinct, 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 of affirmation, he person shall not vote.

D. A voter who casts a questioned ballot shall vote his ballot in the same manner as prescribed for other voters. After the election official or judge removes the numbered stub from

the ballot, the voter shall insert the ballot into a small envelope and put the small envelope into a larger envelope on which the statement he previously signed is located. These larger envelopes shall be sealed and deposited in the ballot box. When the ballot box is opened, these envelopes shall be segregated, counted, compared to the voting list, and delivered to the election canvassing board. The election canvassing board shall review and judge the applicability of questioned ballots in accordance with Sections 7.90.020 and 7.90.030.

#### 7.50.110 Closing of the polls.

A. Fifteen minutes before the closing of the polls, and at the time of the closing the polls, an election official shall announce both the designated closing time and the actual time at which the announcement is made. Failure to make the announcement at 15 minutes before closing time shall not in any way invalidate the election or extend the time for closing of the polls. After closing, no person will be allowed to enter the polling place for purposes of voting. After closing, no person will be allowed to enter the polling place for purposes of voting.

B. When the polls are closed and the last vote has been cast, the election board shall account for all ballots by completing a ballot statement containing, in a manner prescribed by the clerk, the number of official ballots supplied.

C. The election board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted on the ballot statement.

#### 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 Prohibitions.

A. During the hours that the polls are open, no election official may discuss any political party, candidate or issue while on duty.

B. During the hours the polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place may attempt to persuade a person to vote for or against a candidate, proposition or question. Nor may any person conduct other political activities that may pertain to any future election or potential ballot proposition. For the purposes of this section, the entrance to a polling place that is in a school is the entrance to the school building. The election board shall post warning notices in the form and manner prescribed by the clerk.

C. No voter may exhibit a ballot to an election official or any other person as to enable any person to ascertain how the voter marked the ballot, except as provided in Section 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 60 days unless the election is contested.

## CHAPTER 7.60. PUNCHCARD VOTING

### 7.60.010 Authorized.

The clerk may provide for punchcard voting at one or more voting places for one or more questions or offices on the ballot.

### 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.

### 7.60.030 Manual counting.

The clerk shall appoint one 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.

### 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.

## CHAPTER 7.70. BALLOT COUNTING PROCEDURES

### 7.70.010 Report, oath and vacancies of counters.

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.

### 7.70.020 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.

#### 7.70.030 General procedure for ballot count.

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 the 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.

#### 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 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 person to be elected to the office, the votes for candidates for that office shall not be counted.

5. The mark specified in subsection 1 of this section shall be counted only if it is substantially inside the 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 opposite the candidate's name in accordance with section 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 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 Section 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 the ballot after it has been taken from the ballot box and before it is placed in the envelope for delivery to the election supervisor may remove a ballot from the immediate vicinity of the polls or have a marking device in hand.

#### B. *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 over see 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 year. Ballot containers may only be opened by the canvas 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 Determination of tie votes

A. If two or more candidates tie in having the highest number of votes for the same office for which there is to be elected only one 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.

## CHAPTER 7.80. ABSENTEE VOTING

### 7.80.010 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.

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.

### 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 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 ballot, 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.

### 7.80.050 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.

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.

### 7.80.060 Absentee voting—By mail.

A. A qualified voter may apply for an absentee ballot by mail if postmarked not earlier than the first of the year in which the election is to be held, nor less than five 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.

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. 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. Upon receipt of an absentee ballot by mail, the voter, in the presence of a witness over the age of 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.

E. 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.

F. 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.

#### 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 15<sup>th</sup> calendar day before a regular or 10<sup>th</sup> day before a special election up to one day before the election; or
2. an election board member 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 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.

#### 7.80.080 Counting of ballots.

To be counted in the election, an absentee ballot must be postmarked on or before election day and be received by the clerk no later than the Tuesday following the election. Absentee

ballot envelopes received after the canvass board has completed absentee ballot counting 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 who shall determine whether the absentee voter is qualified to vote at the election and whether the ballot has been properly cast.

#### 7.80.090 Names of absentee voters

The clerk shall maintain a record of the name of each voter to whom as 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 CANVASSING AND CERTIFICATION OF ELECTION RESULTS

#### 7.90.010 Canvass board

Before each election, the clerk, subject to approval of the clerk, shall appoint four or more qualified voters who shall constitute the election canvass board for that election. All member 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 Canvass of returns

A. No later than Monday following each election, the election canvass board shall meet in public session and canvass all election returns. In full view of those present, the election canvass board shall judge the applicability of 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. 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.

#### 7.90.030 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 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 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 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.

## CHAPTER 7.100. ELECTION RECOUNT

7.100.010 Recount application.

A. A defeated candidate, or ten 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 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 or more candidates tie in having the highest number of votes for the same office, to which only one candidate is to be elected, the clerk shall initiate a recount.

7.100.020 Form of 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 candidate or that the ten persons making the application are qualified voters. The 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 applicant. Applications by ten qualified voters shall also include the designation of one 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. The deposit shall be applied against any costs incurred or refunded if there is not liability for recount costs.

7.100.030 Date of recount—Notice.

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 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, by telephone or by electronic transmission.

7.100.040 Procedure for recount.

A. If a recount of ballots is demanded, the clerk shall appoint a recount board of four 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 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 days.

7.100.050 Certification of recount result.

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.

7.100.060 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 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.

## CHAPTER 7.110. CONTEST OF ELECTION

7.110.010 Grounds for election contest.

A candidate or ten 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:

- 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 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 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-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 class, nonforwardable mail on or before the 22<sup>nd</sup> 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 attesting witness who is at least eighteen 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. INITIATIVE AND REFERENDUM

#### 7.130.010 Purpose.

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 insure 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.

#### 7.130.020 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 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 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;
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. A decision by the clerk on an application for petition is subject to judicial review.

#### 7.130.030 Petition format.

A. The petition prepared by the clerk for issuance to the petitioner sponsors shall be in substantial compliance with this section. The petition shall be prepared within two weeks after certification of the application.

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 page of the petition, the date on which the petition is used by the clerk, a notice that all signatures must be secured within 90 days after the date the petition is issued, and a petition signers that 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 of address which appear in Section 7.130.100(B) and (C).

C. The second 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 nor more than ten signature pages. Each signature page shall be ruled in lines and shall contain six 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. Each booklet shall be assembled by the clerk and all pages within each booklet shall be stapled or otherwise fastened together.

G. 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 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 Submission and receipt of petitions.

A. The sponsors shall file the petitions 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 four-thirty 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 nine a.m. on the first 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 Signature requirements.

A. The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issued the petition. The statement provided under BMC 7.130.040 (E) 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 (D) of this section, a petition shall be signed by 15 percent 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.

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

D. If the ordinance or resolution that is the subject of an initiative or referendum petition affects only an area that is less than the entire area of a municipality, only voters residing in the affected area that is less than the entire area of the city, only voters residing in the affected area may sign 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. 25 percent of the votes cast if the area has fewer than 7,500 persons; or
2. 15 percent of the votes cast if the area has 7,500 persons or more.

#### 7.130.070 Sufficiency of petition.

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

1. certify on the petition whether it is sufficient; and
2. if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

7.130.080 Supplemental petition.

A. If the clerk determines that there is an sufficient number of valid signatures on the petitions filed during the 90-day period, he shall send a notice of the insufficiency to the contact person by certified mail, return receipt requested. The sponsors shall have an additional 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 Section 7.130.030, except that the signature page numbering shall not duplicate that utilized for the 90-day period.

B. Petitions shall be submitted and received in the manner provided in Section 7.130.060.

C. No signatures obtained on booklets issued during the first 90-day period shall be valid if submitted with the supplemental petition.

7.130.090 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 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 signature of any person who has signed his or her name two 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.

7.130.100 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 Stages 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 officer 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 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.

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 Section 7.130.030(E).

#### 7.130.120 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 manner may not be filed sooner than six months after a petition is rejected as insufficient.

#### 7.130.130 Termination of suspension of ordinance effective date.

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

#### 7.130.140 Initiative election.

A. Unless substantially the same manner is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to the voters at the next regular election occurring no sooner than 45 days after certification of the petition. If no regular election occurs within 75 days after the certification of a petition, the council shall hold a special election within 75 days, but not sooner than 45 days after certification.

B. If the council adopts substantially the same measure, the petition is void and 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 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 election occurring no sooner than 75 days after certification of the petition. If no election occurs within 75 days of certification of a petition, the council shall hold a special election within 75 days, but not sooner than 45 days after certification.

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 Effect.

A. The effect of an ordinance or resolution may not be modified or negated within two 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 the by 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 years.

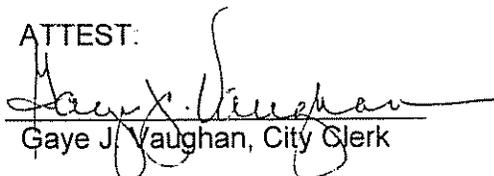
C. If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

**Section 5. Effective Date.** This ordinance shall take effect on the date the United States Department of Justice issues its non-objection, or the date by which the United States Department of Justice must object is no objection is issued within the objection period.

ENACTED BY THE BETHEL CITY COUNCIL THIS 11<sup>th</sup> DAY OF AUGUST 1998, by a vote of 7 YEAS and 0 NOS.

CITY OF BETHEL

ATTEST:

  
Gaye J. Vaughan, City Clerk

  
Agnes L. Phillips, Mayor