

KENAI PENINSULA BOROUGH

ORDINANCE 69-1

AN ORDINANCE ENTITLED: AN ORDINANCE PROVIDING AN ELECTION CODE

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. Title 11 of the Kenai Peninsula Borough Code of Ordinances is repealed and reenacted to read:

CHAPTER 11.05. ELECTIONS

Section 11.05.010. Elections Nonpartisan. All borough elections are nonpartisan.

Section 11.05.015. Regular Elections. The regular borough election shall be held annually on the first Tuesday in October.

Section 11.05.020. Runoff Election. If no candidate for the office of borough chairman receives a majority of the votes cast for that office, a runoff election between the two candidates receiving the highest number of votes will be held on the fourth Tuesday following the regular election. The runoff election shall not be considered a special election within the meaning of AS 07.30.030.

Section 11.05.025. Special Elections. The assembly by resolution may call a special election at any time.

Section 11.05.030. Notice of Election.

- a) Notice of the regular election shall be published twenty (20) days prior to the date of the election.
- b) Notice of special elections shall be published thirty (30) days prior to the date of the election.
- c) Notice of a runoff election shall be published ten (10) days prior to the date of the election.

Section 11.05.035. Publication Notice. Notice required by Sec. 030 shall be published at least twice in one or more newspapers of general circulation within the borough and shall be posted at a public or conspicuous place within each precinct. Additional notice may be provided for by the assembly.

Sec. 11.05.040. Form of Notice. The notice of election shall be prepared by the clerk and shall include:

- (1) The type of election, regular or special;
- (2) the date of election;
- (3) the hours the polling places will be open;
- (4) the offices to which candidates are to be elected;
- (5) the qualifications of voters;
- (7) the location of the polling places.

#### CHAPTER 11.10. VOTERS

Section 11.10.010. Qualifications of Voters. A person may vote at an election who:

- (1) is a citizen of the United States;
- (2) is at least 19 years of age;
- (3) has been a resident of Alaska for one year and of the borough for 30 days immediately prior to the election;
- (4) can read or speak English unless prevented by physical disability;
- (5) has not been judicially determined to be of unsound mind unless the disability has been removed;
- (6) has not been convicted of a felony involving moral turpitude unless his civil rights have been restored.

Sec. 11.10.015. Additional Qualifications for Bond Elections. Only qualified voters whose names appear on the last tax assessment roll or record of the borough for purposes of borough taxation of real property may vote on a question of incurring indebtedness. If the debt to be incurred is to be an areawide debt, the vote shall be areawide. If the debt to be incurred is to be limited to the area outside cities only, the vote shall be limited to the qualified voters whose names appear on the last tax assessment roll or record of such borough for purpose of borough taxation on real property located in the area outside cities.

Sec. 11.10.020. Service Area Elections. To be qualified to vote in a service area election, a voter must be qualified according to Sec..010 and also must have resided within the service area or area to be included within the service area for 30 days immediately prior to the election. When a bond proposition is to be

voted on at a service area election the voters must also qualify as real property owners as provided in Sec. .015.

#### CHAPTER 11.15. CANDIDATES

##### Sec. 11.15.010. Qualifications of Candidates.

- (a) Candidates for a borough chairman and school board member must be qualified voters of the borough.
- (b) Candidates for borough assemblyman must be qualified voters of the borough resident of the area outside cities.

Sec. 11.15.015. Nomination of Candidates. Candidates for assemblyman are nominated by petition of 10 qualified voters of the borough resident outside cities. Candidates for borough chairman and borough school board are nominated by petition of 10 qualified voters of the borough.

Sec. 11.15.020. Form of Petition. Nominating petitions shall be upon forms supplied without cost by the borough clerk. Petitions shall contain the signatures and place of residence of those signing and a statement of the candidate that he will accept the office and serve if elected.

Sec. 11.15.025. Filing of Petition. Petitions must be filed with the clerk at the borough office, Soldotna, Alaska, between the 60th and the 30th day at 5 p.m. prior to the day of the election. The clerk shall record on the petition the time of and the person filing the petition. The clerk shall review all petitions for content and signatures and shall within four days after the filing date, notify candidates for whom sufficient petitions have been filed and return deficient petitions with a statement indicating the deficiency. Petitions may be withdrawn, supplemented or corrected by a candidate only during the period for filing petitions.

#### CHAPTER 20. PRECINCTS AND POLLING PLACES

Sec. 11.20.010. Precincts. The precincts established by the Secretary of State under the authority of AS 15.10.020 shall be the precincts for borough elections.

The assembly may request the Secretary of State to combine, consolidate or alter precinct boundaries for a particular election provided no inconvenience to voters will result. Parts of precincts included within a service area may be treated as a whole precinct or combined with another precinct as determined by the assembly.

Sec. 11.20.020. Polling Places. A polling place shall be established for each precinct by the clerk at a place most convenient to the greatest number of voters as possible. Polls shall be open for voting between the hours of 8 a.m. and 8 p.m. The assembly may be resolution authorize different hours in particular precincts if no voter is deprived of his right to vote because of this change.

#### CHAPTER 25. OFFICIALS AND PROCEDURES

Sec. 11.25.010. Election Officials.

(a) Before each election, the clerk, subject to approval of the assembly, shall appoint three judges in each precinct to constitute the election board for that precinct. Judges shall be qualified voters of the borough residing in the precinct in which they serve. One judge in each precinct shall be designated Chairman by the clerk and shall be primarily responsible for administering the election in the precinct. The judges shall elect from the board an election clerk who shall keep the duplicate registration book.

(b) If any election official fails or refuses to attend and serve, the election judges of the precinct shall appoint a person eligible under this section to serve in the absentee's place.

(c) Each judge of the election precinct shall subscribe an oath or affirmation and shall file it with the borough clerk. The oath or affirmation shall be in substantially the following form:

"I do solemnly swear (or affirm) that I will duly attend at the ensuing election during its continuance; that I will not receive any ballots or votes from any person other than such as I

firmly believe to be entitled to vote at such election, according to the laws of Alaska and the ordinances of the Kenai Peninsula Borough; nor will I refuse to receive any votes, or ballots, from any person, or persons, whom I believe to be entitled to vote as aforesaid, and I will, in all things truly, impartially and faithfully perform my duty therein to the best of my judgement and ability.

"\_\_\_\_\_  
Judge

Sec. 11.25.015. Ballots - Form.

(a) The names of all offices and candidates to be voted upon shall be printed on one ballot. The title of each 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 Not More Than \_\_\_\_" with the appropriate number replacing the blank shall be placed before the list of candidates for each office. The names of candidates shall be printed as they appear upon the petitions filed with the clerk except that any honorary or assumed title or prefix shall be omitted. The names of candidates shall be arranged alphabetically.

(b) Following the names of the offices and candidates there shall be placed on the ballot all propositions and questions, except bond propositions shall be placed on a separate ballot. The words "Yes" and "No" shall be placed below the statement of each proposition and question.

(c) The ballot shall be on plain white paper. The printing on the face of the ballot shall be not less than one-eighth (1/8th) of an inch, nor more than one-fourth (1/4th) of an inch in height. At the beginning of each line containing a name of a candidate or a blank space, and preceding each of the words "Yes" and "No" there shall be printed a square the sides of which are at least one-fourth (1/4th) of an inch in length. The clerk shall keep a record of the numbers of ballots delivered

to each polling place, and the names of the persons to whom each group of ballots is delivered. The ballots shall be numbered in series, a number being placed on one corner of each ballot within an area set off by perforations which may conveniently be removed from the remainder of the ballot, and which will be clearly visible although the ballot is folded so as to conceal the manner in which it has been marked by the voter.

(d) On the back or outside of the ballot, placed so as to be clearly visible when the ballot is folded, shall appear the words "Official Ballot" in large print.

Sec. 11.25.020. Specimen Ballot Posting. Prior to the election, the borough clerk shall cause to be posted in public places in the borough specimen ballots with instructions to voters. The specimen ballot shall be printed or typewritten on colored paper and shall be stamped "Sample". The instructions shall contain all the essential provisions of Section 11.05.040 and 11.10.010.

Sec. 11.25.025. Election Materials - Preparation and Distribution.

(a) Prior to the day of election, the clerk shall cause each precinct polling place to be equipped with sufficient materials and supplies needed for the election, including those required by this section.

(b) 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. At least three sides of each booth shall be enclosed. Ballot boxes shall be placed outside the voting booths within plain view of the election officials, voters, and other persons at the polling place. The clerk shall provide for each polling place a card printed in large clear type setting forth instructions to voters including how to obtain a new ballot for one spoiled or mutilated. The card shall be posted in a conspicuous place in the polling place.

Sec. 11.25.030. Procedure.

(a) Before receiving 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. Thereafter the box shall not be opened again until the polls finally close, and shall not be removed from the polling place, nor the presence of persons assembled at the polling place, until all ballots have been counted.

(b) The judges shall keep an original register in which each voter before receiving his ballot shall sign his name and give both his resident and mailing address. The signing of the register constitutes a declaration by the voter that he is qualified to vote.

(c) Any judge may administer to a voter any oath that is necessary in the administration of the election.

(d) The election clerk shall keep the duplicate register and shall write in the duplicate register the names of persons who vote, the names of persons who offer to vote but are refused, and a brief statement of the basis of the refusal.

(e) Every election judge and election clerk shall challenge, and every watcher and other person qualified to vote in the precinct may challenge a person attempting to vote if the challenger has good reason to suspect that the challenged person is not qualified to vote. A challenged person shall be permitted to vote in the manner provided in Chapter 11.30 for absentee voting. Challenged voters ballots shall be immediately mailed to the clerk and shall be counted with the absentee votes if the absentee election board determines that the person is qualified. If the challenged person refuses to take the oath or sign the affidavit, the person may not vote.

(f) If the voter is not challenged, he shall be given one ballot and shall go alone to a voting booth. There the voter without undue delay shall prepare his ballot by marking with pen or pencil the appropriate boxes opposite the names of the candidates of his choice, whether printed on the ballot or written in by him on the blank lines

provided for that purpose, and the appropriate boxes for questions and propositions. Before leaving the voting booth, the voter shall fold his ballot in a manner displaying the number thereon and deliver it to one of the election officials, who shall tear the number off and deposit the ballot in the ballot box if the ballot bears the same number as the ballot given to the voter by the election officials.

(g) A voter who by accident or mistake mutilates or spoils his ballot shall, upon returning the same to the election officials, be given another. A voter who is blind or otherwise incapable of marking his ballot shall be assisted in doing so by an election official if he requests such assistance.

(h) Thirty (30) minutes before the closing of the polls, an election judge shall proclaim to any persons present the time remaining before the polls close. Then the polls are closed that fact shall be similarly proclaimed, and thereafter no ballots shall be received except those of qualified voters already present at the polls and waiting to vote when the polls close.

Sec. 11.25.035. Defective and Unused Ballots.

If a voter shall mark more names than there are persons to be elected to any office, or if for any reason it is impossible to determine from his ballot any voter's choice for any office to be filled, the ballot or portion thereof shall not be counted. No ballot or portion thereof shall be rejected if the election board can determine from an inspection of the ballot the person for whom the voter intended to vote and the office intended to be designated by the voter. Ballots not counted shall be marked "Defective" or "Objected To" on the back thereof. An explanation of the defect or rejection shall be written on the back of the ballot and signed by the judges. All such ballots shall be enclosed in an envelope marked on the outside with a description of its contents. All ballots not voted and all ballots mutilated or spoiled by voters shall be returned by the judges to the clerk, who shall keep a record of the number and character of ballots returned to him, indicating when and by which judge each was returned.



Sec. 11.25.040. Counting Ballots.

(a) The opening of the ballot box and counting of ballots shall be accomplished in public at the polling place in full view of any persons assembled.

(b) Immediately following the closing of the polls in each precinct, the judges shall open the ballot box and count the number of ballots cast in the precinct. This number shall be checked against the registration list which has been signed by the voters. All ballots then shall be replaced in the ballot box.

(c) The ballots shall again be removed from the ballot box by the election judges. As each ballot is removed, it shall be opened, and the name of each person voted for read aloud. The judges shall write down each office to be filled and the name of each person who is a candidate for such office, and shall keep the number of votes by tallies, as they are read aloud. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the registration list to have been cast in the precinct, the ballots shall be recounted until the election board finds that there is a discrepancy or that the number of ballots cast matches the number of ballots indicated by the registration list to have been cast. If a discrepancy is determined to exist, it shall be explained in detail on the tally paper or papers, and such explanation shall be signed by the judges.

Sec. 11.25.045. Preserving and Destroying Ballots.

The judges upon completion of the counting, shall place the ballots in a sealed envelope and write thereon: "Ballots of General (or Special) Election of the Kenai Peninsula Borough, held this \_\_\_\_ day of \_\_\_\_\_, 19\_\_". The judges shall then deliver said envelope to the clerk who shall deliver the same to the assembly when requested by it, and otherwise shall keep said envelope unopened for one year from the date of the election, to be used only as evidence when called for in case of contest. Upon the expiration of said year, the clerk shall burn said ballots upon direction by the assembly, and make and keep a written memorandum that he has done so.

Sec. 11.25.050. Returns of Election. As soon as all the ballots are counted in the respective precincts, the election board for said precinct shall tally the results and enter the number of votes each candidate has received, and designating the office for which he received the votes and in like manner certifying the results of any propositions voted upon on a certificate prepared for that purpose by the borough clerk. When the certificated returns from all the voting precincts of the borough have been received, the clerk shall compile the results as shown on the individual voting precinct returns and enter in a final column the cross totals of the votes received by each candidate or on each proposition, such figures being supported by the totals shown on the individual voting precinct returns.

Sec. 11.25.055. Canvassing Board.

(a) On the first Tuesday after an election, the borough assembly shall meet and canvass all election returns. The canvass may be postponed, for cause, from day to day.

(b) The results of the election shall be reviewed and publicly declared by the assembly, and entered upon the public record of such meeting. The record shall show:

- 1) the number of votes cast in the election;
- 2) the names of persons voted for,
- 3) the propositions voted upon at the election,
- 4) the offices voted for and the number of votes cast for and against each proposition at the election.

Sec. 11.25.060. Contest of Election.

(a) Any candidate or any ten (10) qualified voters may contest the election of any person and 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 result of the election,
- 2) The person elected is not qualified under law or the Kenai Peninsula Borough Code of Ordinances.

3) Existence of a corrupt election practice as defined by the laws of the State of Alaska.

(b) The candidate or any one or more of the voters initiating a contest shall appear before the assembly at the meeting held to canvass the election returns, and there shall deliver to the assembly a written notice of contest. The notice shall state the grounds of contest in detail, shall be signed under oath by the candidate or voter filing it, and shall be in substantially the following form:

NOTICE OF ELECTION CONTEST

The undersigned contest the general (or Special) election of the Kenai Peninsula Borough held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, on the following grounds:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of candidate or  
persons contesting election

Subscribed and sworn to before me, this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public for Alaska

(c) Upon receiving a notice of contest, the assembly shall order an investigation by the borough chairman, to be made with the assistance of the clerk and borough attorney. Those contesting the election, those whose election is contested, and the public shall be allowed to attend all investigation and recounting proceedings. If only a recount of ballots is demanded, the election boards in the precincts where error allegedly occurred shall recount the ballots in such precincts. After considering the reports of the investigating officials and any other proof, the assembly shall determine the election valid. If the contest involves other prohibited election practices which are shown to have taken place, the assembly in

canvassing the election returns shall exclude the vote of the precincts where such practices occurred. If it is determined that such exclusion could not effect the election results, the assembly shall declare the election valid.

Sec. 11.25.065. Expenses. The borough shall pay all necessary election expense including those of securing places for polls and providing ballot boxes, ballots, voting booths, screens, and other supplies, and any wages due election officials. However, all expenses of making recount pursuant to an election contest shall be paid by the candidate or voters contesting the election, unless the results of the election are changed by the recount. If the recount is obtained by voters, each of them shall be individually liable for the whole amount of such expense.

#### CHAPTER 30. ABSENTEE VOTING

Sec. 11.30.010. Eligibility. A qualified voter may vote absentee (1) if he believes he will be unavoidably absent from the borough or his precinct of residence on election day or (2) if he will be unable to be present at the polls because of physical disability or (3) if he believes he will be unable to be present at the polls because of physical inaccessibility of the polls causing undue travel expense, hardship or hazard to the voter.

Sec. 11.30.015. Application to Vote. A qualified voter may apply for an absentee ballot in person, by personal representative presenting a request signed by the voter, or by mail to the clerk at the borough office or to any magistrate in the borough. For his request, whether made in person or in writing, an applicant must state he is a qualified voter of the borough, give the physical location of his residence and his mailing address, and the reason he qualifies for an absentee ballot. Requests for absentee ballots will be received until 5:00 p.m. on the day prior to the election.

Sec. 11.30.020. Method of Voting. Absentee ballots shall be voted in the same manner as regular ballots. The ballot shall be folded, enclosed in the envelope marked "Ballot" and sealed. No identifying marks may be placed on the ballot envelope. The ballot

envelope shall be placed in an envelope which shall be signed by the voter before a notary public, postmaster, magistrate or two witnesses attesting that he has marked the ballot and is in all respects a qualified voter.

Sec. 11.30.025. Casting of Absentee Ballots.

Absentee ballots voted in accordance with instructions will be received by any magistrate in the borough by hand delivery until 5:00 p.m. on the day of the election and will be received by mail until 5:00 p.m. on the third day following the election, provided that the absentee ballot outer envelope is postmarked not later than the day of the election.

Sec. 11.30.030. Absentee Ballots - Counting.

(a) Absentee ballots and challenged ballots accepted by the board shall be counted in the following manner by an election board separate from any precinct election board: All ballot envelopes shall be removed from return envelopes and placed in a ballot box. The return envelopes shall be delivered to the clerk. The absentee ballots then shall be removed from the ballot box, taken out of the ballot envelopes and counted in the same manner in which ballots cast at the polls are counted by an election board.

(b) The clerk shall note on the list of absentee ballots issued that the ballot has been cast, then shall preserve the return envelopes delivered to him by the election board with other election records, and eventually destroy them as provided by this chapter for destruction of ballots.

CHAPTER 35. GENERAL PROVISIONS

Sec. 11.35.010. Definitions. In this chapter, unless the context otherwise requires:

- (1) the masculine includes the feminine,
- (2) "Borough" means the Kenai Peninsula Borough,
- (3) "Clerk" means the borough clerk or any properly authorized assistant to the Borough Clerk,
- (4) "Days" includes Sundays and holidays,
- (5) "Election" includes any general or special borough election.

- (6) "Election Official" means the borough clerk, election judges, and election clerks;
- (7) "Oath" includes affirmation; and
- (8) "Proposition" means any initiative or referendum submitted to the public at an election.

Sec. 11.35.015. Sale of Intoxicating Beverages. Sale of intoxicating beverages during borough elections shall be the same as those provided in AS 04 for state elections.


Sec. 11.35.020. State Regulations. (sec. no. included here was in error). Incorporation of State and Federal Law. All provisions of the Constitution of the United States, the Constitution of the State of Alaska, and any laws enacted pursuant to said constitution affecting borough elections, are incorporated in this chapter as if fully set out herein."

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH  
THIS 20 DAY OF May, 1969.



Assembly President

ATTEST:

  
Borough Clerk