

Introduced	Navarre at request of Borough Clerk
Date:	05/07/02
Hearing:	06/04/02
Action:	Enacted
Vote:	9 Yes, 0 No

**KENAI PENINSULA BOROUGH
ORDINANCE 2002-17**

**AN ORDINANCE AMENDING KPB TITLE 4, ELECTIONS, TO
REFLECT CURRENT ELECTION PRACTICES, CHANGES IN STATE
ELECTION LAWS, AND OTHER GENERAL HOUSEKEEPING CHANGES**

WHEREAS, the Borough Election Code received its last comprehensive update in 1994; and

WHEREAS, in the intervening eight years, there have been several changes in state law, voting technology, and election practices that have not been reflected in the Borough Code; and

WHEREAS, it is the intent of this ordinance to make the necessary changes to the Borough Election Code to reflect these changes and to mirror, to the extent possible, state election procedures in an effort to lessen confusion among voters and volunteer election workers;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That Section 4.30.030, Conflict of Interest, is amended by replacing the term “conflict of interest” with the term “public official financial disclosure” throughout.

SECTION 2. That Section 4.40.010, Ballot Form, is amended to read as follows:

4.40.010. Ballot form.

- A. [NAMES OF CANDIDATES FOR OFFICE OF BOROUGH MAYOR, ASSEMBLY OR SCHOOL BOARD MEMBER SHALL BE ROTATED IN THE FORM PRESCRIBED FOR STATE ELECTIONS. NAMES OF CANDIDATES FOR SERVICE AREA OFFICES NEED NOT BE ROTATED.] The ballot shall be designed with the position of names of the candidates set out in the same order in each section on each ballot used in that election. However, the order of placement of the names of the candidates for each office shall be randomly determined by the clerk.
- 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. [THE NAMES OF CANDIDATES SHALL BE ARRANGED ALPHABETICALLY, AND THEIR POSITIONS CHANGED FROM ONE BALLOT TO THE NEXT AS REQUIRED BY SUBSECTION A OF THIS SECTION.] The names of candidates shall be set out in order as provided in subsection A. of this section.

- 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. A ballot shall be printed either on paper or on [PUNCH] card stock as provided in this title.
- F. The ballots shall be consecutively numbered.

SECTION 3. Section 4.40.030, Sample Ballots, is amended to read as follows:

4.40.030. 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.

SECTION 4. Chapter 4.60, Punchcard Voting, is deleted in its entirety.

SECTION 5. Section 4.70.010, Report, Oath and Vacancies of Counters, is deleted in its entirety.

SECTION 6. Section 4.70.020, Commencement of Ballot Count, is amended to read as follows:

4.70.020. Commencement of ballot count.

- A. For counting of 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. The clerk may authorize the appointment of counters to assist in the counting of ballots. Before undertaking the duties of the office, each counter shall subscribe to an oath to honestly, faithfully, impartially and promptly carry out the duties of the 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 clerk, the election board may appoint any qualified voter to fill the vacancy.
- B. [FOR PUNCHCARD VOTING WITH COMPUTER USE] In optical scan or other computer-read or electronic ballot precincts, 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 NONPROCESSABLE BALLOTS IN AN ENVELOPE PROVIDED BY THE CLERK] transmit election results to the clerk following the written instructions provided to each precinct. [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 TAMPER-PROOF BOX AND SEALED.] Once the election results have been transmitted, the election board shall open the ballot box, separate questioned and write-in ballots from other ballots cast, place all ballots in the tamper proof containers provided, and proceed with the ballot accountability and poll closing procedures provided by the clerk.

SECTION 7. Section 4.70.040, Rules for Counting Hand-Marked and Punchcard Ballots, is amended as follows:

4.70.040. Rules for counting hand-marked [AND PUNCHCARD] ballots.

- A. The election board shall count hand-marked [AND PUNCHCARD] ballots according to the following rules:
1. A voter may mark his ballot [ONLY BY USING PUNCH MARKS AS MAY BE MADE THROUGH USE OF THE PROVIDED BALLOT MARKING MACHINE OR, IF PAPER BALLOTS ARE USED,] with 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] using the marking device provided at the polling place or with any black-inked marker. The marks will be counted only if they are clearly spaced in the square 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 persons 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 square provided, or touching the square so as to indicate clearly that the voter intended the particular square marked.
 6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly marked.
 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.
- [C. THE RULES SET OUT IN THIS SECTION APPLY TO HAND-MARKED PUNCHCARD BALLOTS IF PUNCHCARD MACHINES ARE NOT AVAILABLE IN A PRECINCT.]

SECTION 8. Section 4.70.050B. is amended as follows:

- B. In order to vote for a write-in candidate, the voter must write a candidate's name in the space provided and, in addition, mark the square opposite the candidate's name in accordance with [(1) OF THIS SECTION] KPB 4.70.040A. Stickers may not be used [ON PUNCHCARD BALLOTS]. Use of stickers [ON PUNCHCARD BALLOTS] can cause that portion of the ballot to be invalidated.

SECTION 9. Section 4.70.070, Tally of Votes, is amended by deleting subsection B. in its entirety.

SECTION 10. Section 4.80.020, Designation of Absentee Voting Officials, is amended as follows:

4.80.020. Designation of absentee voting officials.

The borough clerk may appoint city clerks or [REGISTRARS LISTED WITH THE STATE] any person qualified to vote in state elections to act as absentee voting officials. The clerk shall supply adequate voting supplies and ballots to the [CITY CLERKS OR VOTER REGISTRARS WHO SHALL SERVE AS] absentee voting [STATIONS] officials. After taking an oath in the form required of election judges, an absentee [ELECTION] voting official may perform all the duties of [THE] an election official with respect to the issuance, witnessing and receipt of absentee ballots at such places and times as the [ELECTION OFFICIAL] clerk may designate. Each absentee voting official shall transmit the dated envelopes containing the marked ballots [BY THE MOST EXPEDITIOUS MAIL SERVICE] to the clerk in the manner set forth in the written instructions provided by the clerk. Upon receipt of the absentee ballots, the clerk shall [STAMP ON THE ENVELOPE THE DATE ON WHICH THE BALLOT IS RECEIVED] hold the ballots in a secure location until they can be transferred to the canvass board along with the absentee in person registers and other election materials received from the absentee voting official.

SECTION 11. Section 4.80.070B. is amended to read as follows:

- B. After receipt of an application by mail, the borough clerk shall send the absentee ballot and other absentee voting material to the applicant by [THE MOST EXPEDITIOUS] first class 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 borough clerk.

SECTION 12. Section 4.80.080A. is amended to read as follows:

- A. A qualified voter may apply for an absentee ballot to be sent by electronic transmission. Such request must be made not less than [FOUR DAYS BEFORE AN] the day immediately preceding the election. Absentee ballots will be electronically transmitted to the location designated in the application. If no location is designated, and if the request is received no later than seven days prior to the election, the ballot will be mailed in the manner provided in Section 4.80.070 for

absentee ballots by mail. The Clerk will provide reasonable conditions for electronically transmitting absentee ballots.

SECTION 13. Section 4.80.090, Absentee Voting by Personal Representative, is deleted in its entirety.

SECTION 14. A new Section 4.80.095 is created to read as follows:

4.80.095. Special needs voting.

A qualified voter with a disability who, because of that disability, is unable to go to a polling place to vote may vote a special needs ballot. Special needs ballots shall be issued and accounted for in accordance with the rules adopted by the state for use in state elections and in effect at the time of the local election.

SECTION 15. Section 4.100.040 B. is amended to read as follows:

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 administrative convenience, 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.

SECTION 16. Section 4.120.010D. is amended to read as follows:

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 qualifications to vote, followed by provision for attestation by a person qualified to administer oaths or [TWO] one attesting witness[ES] who [ARE] is at least eighteen years of age. Specific instructions for voting a by-mail ballot and a list of the appointed absentee voting officials, their hours and locations, will be mailed to each voter with the ballot.

SECTION 17. Section 4.120.040, Absentee Voting Officials–Duties, is amended as follows:

4.120.040. Absentee voting officials–Duties.

A. The borough clerk may, with the approval of the city clerks in the borough, appoint city clerks or others in the area to act as absentee voting officials. If no city clerk is available or if the city clerk is unable or unwilling to act as an absentee voting official, the borough clerk may appoint any qualified voter to serve as an absentee voting official. The clerk shall supply adequate voting supplies and ballots to the [CITY CLERK SERVING AS] absentee voting officials. The clerk shall provide moderate compensation to the [CITY CLERKS] absentee voting officials to cover added expenses of the administration of this service, which shall be agreed to by the [CITY CLERKS] absentee voting officials.

B. The duties of the absentee voting officials shall be as follows:

1. provide absentee voting in person on any date including the day of the election following the procedures in KPB 4.80.060 and [ABSENTEE] special needs voting [THROUGH A PERSONAL REPRESENTATIVE] on any date including the day of the election following the procedures in KPB 4.80.095 [AND HAVE UNTIL THE DAY OF THE ELECTION TO RETURN THE BALLOTS];
2. sign a voter's by-mail oath and affidavit envelope as an authorized attesting official, except that the absentee voting official may not attest his or her own ballot;
3. accept receipt of a by-mail voter's hand-delivered ballot, which has been sworn to, attested and sealed in the by-mail return envelope; and
4. provide general voter assistance, including by not limited to, assistance to a qualified voter who cannot read, mark the ballot, or sign his name, and providing replacement ballots to voters who have improperly marked or damaged their ballots.
5. Date-stamp all ballots received.
6. Provide for the security and safekeeping of all ballots received and present those ballots to the clerk for canvassing. The borough clerk will specify the means of returning the voted ballots and all other election supplies to the borough.

SECTION 18. Section 4.130.030D. is amended to read as follows:

- D. Following the full text of the ordinance shall be [NOT LESS THAN FIVE NOR MORE THAN TEN] the signature pages. Each signature page shall [BE RULED IN LINES AND SHALL CONTAIN SIX COLUMNS WHICH SHALL BE TITLED AS FOLLOWS] contain spaces for each petition signer to provide the following information: Voter Registration No., Signature, Printed Name, Residence Address, Mailing Address and Zip Code, and 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] spaces provided for petition signers 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 address must be legible.

SECTION 19. Section 4.130.050, Submission and Receipt of Petitions, is amended to read as follows:

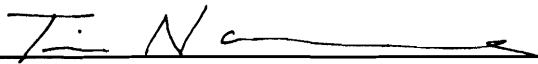
4.130.050. Submission and receipt of petitions.

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

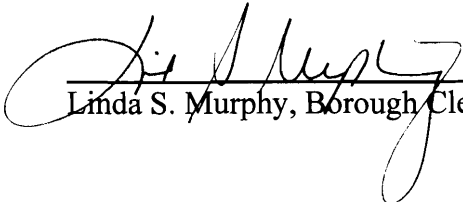
- B. Filing shall be done during borough business hours. [IF THE LAST DAY OF THE PERIOD FALLS ON A SATURDAY WHICH IS NOT A BOROUGH HOLIDAY, THE CLERK SHALL MAKE ARRANGEMENTS WITH THE SPONSOR TO RECEIVE THE PETITIONS AT THE CLERK'S OFFICE AT OR BEFORE FOUR-THIRTY P.M. ON THAT SATURDAY.] If the last day of the period falls on a Saturday, Sunday or other borough 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 the 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.

SECTION 20. That this ordinance shall become effective upon preclearance by the Department of Justice.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF JUNE, 2002.


Timothy Navarre, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk

