

DENALI BOROUGH, ALASKA
ORDINANCE NO. 07-13
INTRODUCED BY: Teresa Hall

AN ORDINANCE OF THE DENALI BOROUGH AMENDING THE DENALI
BOROUGH CODE OF ORDINANCES CHAPTER 8 TITLED MUNICIPAL
ELECTIONS.

BE IT ENACTED by the Assembly of the Denali Borough, Alaska that:

Section 1. Classification. This ordinance is of a general and permanent nature.

Section 2. DBC Chapter 8 shall be amended as follows:

**Chapter 8.05
MUNICIPAL ELECTIONS**

Sections:

8.05.005 Definitions

8.05.010 Administration.

8.05.020 Voter qualifications.

8.05.030 Residence criteria.

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8.05.120 Conflict of interest statement requirement.

8.05.130 Publishing names.

8.05.140 Election judges.

8.05.005 Definitions.

In this title, unless the context otherwise requires:

Borough Clerk means the borough clerk of the borough, any properly authorized assistant or designee.

Borough election means any municipal election:

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

Borough office means an elective office under the ordinances of the borough.

Day means a calendar day including Saturday, Sunday and holidays.

Election includes a regular or special borough election.

Election official means the borough clerk or designee, election judges, election clerks and canvassing board.

Lot means a flip of a coin.

Notice/posting means posted in three public places in each of the four major communities of Anderson, Cantwell, Healy and McKinley Park, with one of the public places being the post office.

Oath includes affirmation on penalty of perjury.

Precinct means the territory established by the state, within which resident voters may cast votes at one polling place.

Proposition includes question.

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

Questioned voter means a voter whose name does not appear on the register in the precinct where he attempts to vote, a voter who does not bear identification or is not personally known to an election official though his/her

name appears on the precinct register, or a voter who is questioned for good cause at the polls in writing.

Registration or registered refers to the form of registration by the state election code. For borough elections, a person is registered if registered to vote in state elections in the precinct in which that person seeks to vote 30 days prior to the borough election and has also been a resident for at least 30 days immediately preceding the election.

Regular election means a general election to fill borough offices as required by Alaska Statutes

Signature includes any mark intended as a signature or subscription.

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

Swear includes affirm.

Total votes cast means the total number of votes cast in each seat for candidates whose names are printed on the ballot plus votes properly cast for the same seat in the write-in position(s) of the ballot. Ballots counted as blank votes or as over votes in a particular race shall not be added into the total votes in determining the percentage of votes cast.

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

8.05.010 Administration.

The borough clerk[/treasurer] is the supervisor of elections and shall prepare and maintain election materials and records. The clerk[/treasurer] shall begin preparations for a regular election at least 120 days before the date of the election and for a special election as expeditiously as possible. The clerk[/treasurer] is responsible for contacting the state of Alaska, Division of Elections and making certain the municipality has on hand, before any election, the most current official voter registration list. The borough clerk[/treasurer] shall act as clerk to the election board.

8.05.020 Voter qualifications.

A person shall be qualified to vote in municipal elections who:

A. Is a United States citizen who is qualified to vote in state elections under AS 15.05.010;

B. Has been a resident of the borough for 30 days immediately preceding the election;

C. Is registered to vote in state elections at a residence address within the Denali Borough at least 30 days before the election; and

D. Is not disqualified under Article V of the Constitution of the state of Alaska which provides that:

No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.

8.05.030 Residence criteria.

When determining residence for the purpose of qualifying voters, the following criteria will apply:

A. No person may be considered to have gained a residence solely by reason of his presence nor may he lose it solely by reason of his absence while in the civil or military service of the state or of the United States; or of his absence because of marriage to a person engaged in the civil or military service of the state or the United States; while a student at an institution of learning; while in an institution of learning; while in an institution or asylum at public expense; while confined in public prison; while engaged in the navigation of waters of the state, of the United States, or of the high seas; while residing upon an Indian, Native Alaskan, or military reservation; or while residing in the Alaska Pioneers' Home.

B. The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return. If a person resides in one place, but does business in another, the former is his place of residence. Temporary construction camps do not constitute a dwelling place.

C. A change of residence is made only by the act of moving joined with the intent to remain in another place. There can only be one residence.

D. A person does not lose his residence if he leaves his home and goes to another country, state or place in Alaska for temporary purposes only and with the intent of returning.

E. A person does not gain residency by coming to the municipality without the present intention to establish his permanent dwelling in the municipality.

F. A person loses his residence in the municipality if he votes in an election of another municipality or state, either in person or by absentee ballot, and will not be eligible to vote in this municipality's elections until he again qualifies under this chapter.

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

H. The address of a voter as it appears on his official state voter registration card is presumptive evidence of the person's voting residence. If the person has changed his voting residence, this presumption is negated only by the voter executing an

affidavit on a form prepared by the supervisor of elections setting out his new voting residence.

8.05.040 Regular elections.

The regular election for assembly members and other elected municipal officials shall be held each year on the first Tuesday after the first Monday in November or any other date to coincide with the state election. Questions or propositions may be placed on the ballot at this time. Notice of the election must be posted in three public places in each of the four major communities of Anderson, Cantwell, Healy and McKinley Park, with one of the public places being the post office, for 30 days preceding the date of election.

8.05.050 Special elections.

A. If a petition submitted by voters for an initiative, referendum, or recall election is certified sufficient by the borough clerk[/treasurer] and submitted to the borough assembly, the assembly shall resolve that a special election be held on the question within 75 days but not sooner than 45 days following submission of the petition to the assembly.

B. If a special election is required by an act of the borough assembly, the borough assembly shall resolve that a special election on the question proposed by the assembly's ordinance or resolution be held within 75 days but not sooner than 45 days following the assembly's action.

C. If the regular election held each year occurs within 75 days but not sooner than 45 days of the date of submission to the assembly of a petition by voters for an initiative, referendum, or recall election; or if the regular election occurs within 75 days but not sooner than 45 days of assembly action which requires an election, then no special election may be scheduled and the question or proposition shall be placed on the regular election ballot.

D. Notice of a special election must be posted in at least three public places in each of the four major communities of Anderson, Cantwell, Healy and McKinley Park, with one of the public places being the post office, for 30 days preceding the date of election.

8.05.060 Election notices.

A. Election notices shall be prepared and posted in three public places in each of the four major communities of Anderson, Cantwell, Healy, and McKinley Park, with one of the public places being the post office, by the borough clerk[/treasurer] for 120 days preceding the date of a regular election, and shall contain the following:

1. Date of the regular election;
2. Offices to be filled; and
3. Time for filing declarations of candidacy and nominating petitions.

B. Election notices shall be prepared and posted in three public places in each of the four major communities of Anderson, Cantwell, Healy, and McKinley Park, with one of the public places being the post office, by the borough clerk/treasurer for 30 days preceding the date of the regular election or special election, and shall contain the following, as is appropriate:

1. Whether the election is regular or special;
2. Date of the election;
3. Location of the municipal polling place(s);
4. Time the polling place(s) will open and close;
5. Offices to be filled;
6. A statement describing voter qualifications;
7. A list of candidates; and
8. A statement of any questions or propositions to be placed on the ballot.

C. A sample election notice that may be used is shown in the Appendix of Forms, Form B.

8.05.070 Majority elections.

The candidate receiving the greatest number of votes for office shall be declared the winner of the election for that office.

8.05.080 Tie votes.

In the event of a tie vote, and after a recount of ballots that confirms the tie vote, the assembly shall, in its first meeting after the election, call in the candidates receiving the tie votes and have the candidates draw straws or flip a coin to determine the winner. If one or more of the tied candidates does not appear before the assembly, the presiding officer shall direct the clerk[/treasurer] or other non-interested person to draw straws or flip a coin to determine the winner.

8.05.090 Qualifications for borough assembly.

A person filing for election to an assembly seat must be:

- A. A United States citizen who is qualified to vote in state elections;
- B. A resident of the district to which the member's seat is assigned at the time of the member's election or appointment;
- C. Registered to vote in state elections;
- D. A qualified voter of the Denali Borough, who has been a resident of the Denali Borough for at least one year immediately preceding his election or appointment to office;
- E. Not disqualified under Article V of the Constitution of the state of Alaska which provides that:

No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.

F. No assembly member may hold any other compensated Denali Borough office or employment, or elected partisan political office, while serving on the assembly, unless otherwise provided by an ordinance ratified by the voters of the Denali Borough;

G. An assembly member who ceases to be a resident of the district to which the member's seat is assigned immediately forfeits his or her office.

8.05.100 Filing for office.

A. Nominations for elective offices shall be made by petition on a form obtained from the borough clerk[/treasurer]. Each voter signing the petition shall state on the petition his place of residence, by street and number, or lot and block, or other sufficient means. No nominating petition may be accepted unless accompanied by a signed acceptance of the nomination by the candidate on a form containing substantially the following information:

ACCEPTANCE OF NOMINATION

I hereby accept the above nomination and certify that I am qualified to serve under the laws of the State of Alaska and the Charter of the Denali Borough and agree to serve if elected.

DATE: _____ SIGNATURE: _____

Date and hour of filing: _____

This petition is filed by: _____

whose address is: _____

Received by: _____

B. Nominating petitions shall be filed with the borough clerk[/treasurer] no sooner than 120 days or later than 45 days before the election. The borough clerk[/treasurer] shall record on the petition itself and preserve the name and address of the person by whom each nominating petition is filed. All petitions in proper form with sufficient signatures, and all deficient petitions which are not withdrawn by the person filing them, shall be preserved by the borough clerk[/treasurer].

C. Within four business days after the filing of a nominating petition, the borough clerk[/treasurer] shall notify the candidate named in the petition and the person who filed the petition whether or not it is in proper form and signed by 10 qualified voters. If not, the borough clerk[/treasurer] shall immediately return it, with a statement certifying therein how the petition is deficient, to the person who filed it. A new petition for the same candidate may be filed within the time for filing petitions.

D. A person filing for a municipal assembly seat must meet the qualifications of DBC 8.05.090.

E. The forms appearing in the Appendix of Forms illustrate the forms to be used.

8.05.110 Withdrawal – Written notice.

Any candidate who has complied with the provisions of this chapter may withdraw his candidacy no later than the last day for filing nominating petitions by filing a written notice of withdrawal with the borough clerk[/treasurer].

8.05.120 Conflict of interest statement requirement.

A. No candidate's nomination petition or filing fees for an elected municipal office may be accepted by the clerk[/treasurer] unless the candidate has also filed a report of financial and business interest as required by AS 39.50.010 through 39.50.200. In the event such petition or filing fee has been accepted without such statement, the clerk[/treasurer] shall return such items to the candidate.

B. A write-in candidate who wins election shall execute a report of financial and business interest as required by AS 39.50.010 through 39.50.200 prior to taking the oath of office.

C. A person who has on file with the borough clerk/treasurer a report of financial and business interest as required by AS 39.50.010 through 39.50.200 for the current year shall not be required to file such a statement required under subsection A or B of this section. Candidates are required to comply with AS 15.13.010 through 15.13.130 as regards election spending.

8.05.130 Publishing names.

The borough clerk[/treasurer] shall cause to be posted in three public places, one of which shall be the post office, in each of the four major communities of McKinley Park, Cantwell, Anderson and Healy, for 30 days preceding the date of election, the names of all candidates who have declared and been nominated and designating the office for which such persons have declared and been nominated.

8.05.140 Election judges.

A. The assembly shall each year appoint at least three municipal voters as judges to be the election board in each precinct and select one of the judges to chair the board. The assembly may appoint two elections clerks for each precinct. Where practicable, each judge or clerk must be a resident of the precinct for which he is appointed. The judges shall not be assembly members or candidates for office. If an appointed judge fails to appear and subscribe to the oath on election day, or becomes incapacitated during the time of the election or the counting of the ballots, the remaining judges shall appoint a qualified voter to fill the vacancy.

B. The borough clerk[/treasurer] shall give the following written oath to all election judges on or before election day:

I, _____, do solemnly swear that I will honestly, faithfully and promptly perform the duties of election judge to the best of my ability and that I am familiar with the Municipality's election ordinances.

SIGNED: _____

ATTEST: _____

Borough Clerk[/Treasurer]

C. Pay of election judges shall be determined by the assembly.

D. The election supervisor may, at the request of the judges and if necessary to conduct an orderly election or to relieve the judges of undue hardship, appoint up to three election clerks to assist the judges. Persons appointed as election clerks must be qualified to serve as judges.

Chapter 8.10 ELECTION EQUIPMENT AND MATERIALS

Sections:

8.10.010 Election booths.

8.10.020 Furnishing instruction cards.

8.10.030 Ballots – Printing – Sample ballots.

8.10.040 Ballots – Form.

8.10.050 Other materials.

8.10.010 Election booths.

The election supervisor shall provide booths at each polling place, with enough supplies and materials to enable each voter to mark his ballot hidden from observation. At least three sides of each booth shall be placed outside the voting booths within plain view of the judges and clerks, voters, and other persons at the polling place.

8.10.020 Furnishing instruction cards.

The election supervisor shall prepare for each polling place instructions for the guidance of voters covering the following:

- A. How to obtain a ballot;
- B. How to mark a ballot;
- C. How to obtain additional information; and
- D. How to obtain a new ballot to replace any ballot destroyed or spoiled.

The election supervisor shall furnish a necessary number of these instruction sheets to the election judges in the voting place.

8.10.030 Ballots – Printing – Sample ballots.

In all municipal elections, the election supervisor will be responsible for the printing of ballots. The ballots shall be printed and in the possession of the borough clerk[/treasurer] at least 20 days before the date set for a regular or special election. There shall be at least 10 ballots printed on colored paper, with the words "Sample Ballot" printed on them, to be posted in the clerk's[/treasurer's] office until election day, and samples given to the judges of each polling place.

8.10.040 Ballots – Form.

A. The ballots shall state at the top whether the election is a regular or special election.

B. The ballots shall include instructions on how to mark the ballots.

C. The ballots will be printed on plain white paper and numbered in consecutive order to assure secrecy and to prevent fraud. The clerk[/treasurer] shall assure that there are one-third more ballots printed and numbered than there are registered voters in each precinct in order to provide replacement ballots for ballots that may be spoiled by voters and for those persons who cast questioned ballots because their names do not appear on the master voter registration list.

D. A ballot shall show the list of candidates and issues to be decided at the election.

E. Before the list of candidates there shall be placed the words "vote for not more than three," or "vote for not more than one," or such other number(s) as there are to be elected.

F. Under the title of each office and before the printed names of the candidates, there shall be printed "vote for one" or such other number(s) as are to be elected to that office. The ballots shall list the office for which votes may be cast. The name of each office shall be followed by the names of all candidates for that office listed in a random order, and by a blank line or lines for write-in candidates. In regular and special elections the number of blank lines provided for each office shall be equal to the number of persons who are to be elected to the office. No blank lines shall be provided for run-off elections.

G. The names of the candidates shall be printed in capital letters of the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates, a square not less than one-quarter of an inch on each side shall be printed.

H. The names of candidates shall be printed as they appear upon the nominating petitions filed with the clerk[/treasurer], except that any honorary or assumed title or prefix shall be omitted.

I. Following the names of the offices and candidates, there shall be placed on the ballot in the form prescribed by law all propositions and questions to be voted upon, if any. Provision shall be made for marking the propositions or questions "Yes" or "No."

- J. Somewhere on the ballots, so as to be clearly visible, will be printed the words:
1. "Official Ballot";
 2. The date of the election; and
 3. An example of the signature of the clerk[/treasurer] who had the ballots printed.
- K. The sample ballot (Form D) appearing in the Appendix of Forms illustrates the ballot format.

8.10.050 Other materials.

At least 10 days prior to the day of the election the clerk[/treasurer] shall prepare the following materials:

- A. An updated master voter registration list, containing the names, in alphabetical order, of all registered voters eligible to vote in the election;
- B. A blank register in which the voters may print and sign their names and print their residence addresses, and in which the election official may note the number of the ballot issued to the voter;
- C. Tally sheets;
- D. A form for the report of preliminary election results;
- E. Envelopes bearing the oath and affidavit of eligibility for questioned ballots;
- F. Two large envelopes for each polling place, one marked "Spoiled Ballots" and the other marked "Questioned Ballots"; and
- G. Copies of the notice of election and the municipality's elections ordinances.

Chapter 8.15 ELECTION PROCEDURES

Sections:

- 8.15.010 Time for opening and closing polls and locations.
- 8.15.020 Distribution of ballots.
- 8.15.030 Distribution of other election materials.
- 8.15.040 Preparation of ballot box.
- 8.15.050 Voting – General procedure.
- 8.15.060 Voting – Spoiled ballots.
- 8.15.070 Voting – Questioned ballots.
- 8.15.080 Assisting voter by judge.
- 8.15.090 Prohibitions.
- 8.15.100 Administration of oaths.
- 8.15.110 Majority decision of election board.
- 8.15.120 Ballots – Counting and tallying.
- 8.15.130 Rules for counting ballots.

8.15.140 Report of election results.

8.15.150 Posting certificate of preliminary election results.

8.15.010 Time for opening and closing polls and locations.

A. On election day, polls shall open for voting at 7:00 a.m. and shall remain open continuously until 8:00 p.m.

B. Fifteen minutes before the closing of the polls, an election judge shall announce to all persons present the time remaining before the polls close. A judge shall announce the time when the polls close. When the polls are closed no ballots shall be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed.

C. The [normal voting place shall be the City Hall in Anderson, Rochester Lodge (Mile 280, Parks Highway), the fire hall in McKinley Park, the community hall in Healy and the community center in Cantwell.] polling place for all elections shall be established by the state of Alaska as set forth in the Alaska Administrative Code. If, for some reason [beyond the control of the assembly,] the location is unusable, the [assembly] borough clerk shall [by resolution] designate a different location. Such location shall be included in all notices of election.

D. Election precincts for municipal elections shall be the same as those established in DBC 2.05.010. As the need arises, reapportionment and redistricting changes shall take place by assembly ordinance.

8.15.020 Distribution of ballots.

A. Before the polls open on election day, the election supervisor shall deliver the ballots and sample ballots prepared pursuant to Chapter 8.10 DBC to an election board member at each polling place. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of the package. A receipt for each package shall be signed for by the election board to whom the package is delivered and given to the election supervisor. No ballots shall be taken from the polling place before the closing of the polls.

B. The election supervisor shall keep the following records:

1. The number of ballots delivered to the polling place;
2. The time the ballots were delivered;
3. The name of the person to whom the ballots were delivered; and
4. The receipt given for the ballots by the election board.

C. When the ballots are returned, the election supervisor shall record the following:

1. The number of the ballots returned;
2. The time the ballots are returned;
3. The name of the person returning the ballots; and
4. The condition of the ballots.

8.15.030 Distribution of other election materials.

A. Before the polls open on election day, the election supervisor shall furnish the election board judges at each polling place voting booths and ballot boxes with locks or sealing materials and the following materials: the updated master voter registration list; a blank register; envelopes bearing the oath and affidavit of eligibility for questioned ballots; an envelope for the collection of spoiled ballots and an envelope for the collection of questioned ballots; copies of the notice of election; the municipality's elections ordinances; a sufficient number of instruction sheets; and a sufficient supply of pens, pencils, and envelopes.

B. The election supervisor shall supply the election board chairperson with tally sheets and forms for the report of preliminary election results.

8.15.040 Preparation of ballot box.

Before receiving any ballots the election board must, in the presence of all persons present at the polling place, open and exhibit the ballot box to be used at the polling place. After showing the box, the box will be sealed and not opened again until the polls are finally closed. At the close of the polls and after deposit into the ballot box of all ballots properly voted upon, the ballot box will be personally opened by the election judges.

8.15.050 Voting – General procedure.

A. A voter shall give the judges or clerks his name, and print and sign his name, and write his residence address on the first available line of the blank register. The signing of the register is a declaration by the voter that he is qualified to vote. If the voter is not known to any judge or clerk present, the judge or clerk may require the voter to produce a state voter registration card or other identification. If, in the opinion of the judge or clerk, there is doubt as to whether the person is registered to vote, he shall immediately question the voter.

B. If the voter is not questioned, the judge or clerk shall give the voter a single ballot and note its number in the register next to the voter's name. The voter shall then retire alone to a voting booth. There the voter without delay shall prepare his ballot by marking the boxes opposite the names of candidates of his choice, whether printed on the ballot or written in by him on the blank lines provided for that purpose. The voter also marks the boxes to indicate his vote for or against questions and propositions. Before leaving the voting booth, the voter shall fold his ballot in a manner displaying the number on the ballot and deliver it to one of the judges or clerks, who shall, without unfolding the ballot or allowing any person to see how it is marked, remove the number stub and return the ballot to the voter if the ballot bears the same number as the ballot given to the voter by the judges and clerks. The voter shall then himself, in the presence of the election judge, deposit the ballot in the ballot box unless the voter requests the election judge to deposit the ballot on his behalf. Separate ballot boxes may be used for separate ballots.

C. If a voter is questioned, the voter may cast a questioned ballot pursuant to DBC 8.15.070.

8.15.060 Voting – Spoiled ballots.

If a voter improperly marks or otherwise damages a ballot, and discovers his mistake before the ballot is placed into the ballot box, he shall return it to an election official, concealing from view the manner in which it is marked, and request a new ballot. The election official shall write the words "Spoiled Ballot" on the outside of the folded ballot, record its number and place it in an envelope with other spoiled ballots for return to the election supervisor. The judge or clerk shall then issue a new ballot to the voter. A voter may request replacement of a spoiled ballot no more than three times.

8.15.070 Voting – Questioned ballots.

A. Every election judge and election clerk shall question, and any other person qualified to vote in the municipality may question, a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote. All questions regarding a person's qualifications to vote shall be made in writing setting out the reason the person has been questioned.

B. If a voter's name is not on the master voter registration list or a voter's eligibility to vote is questioned, or there is some other question regarding a voter's eligibility, and the voter believes that he or she is registered and eligible to vote, then the voter shall sign an envelope bearing the oath and affidavit of eligibility attesting to the fact that in each particular, the person meets all the qualifications of a voter, is not disqualified, and has not voted at the same election. After the questioned person has executed the oath and affidavit of eligibility the person shall cast a questioned ballot. If the questioned person refuses to execute the oath and affidavit of eligibility, the person shall not vote.

C. A voter who casts a questioned ballot shall vote his ballot in the same manner as prescribed for other voters. After the election 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 the voter 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, sealed in the questioned ballots envelope and delivered to the election supervisor along with other election materials and the ballot statement when the election board completes the tally and count of ballots. The merits of the question shall be determined by the canvass committee, [on the first Monday following the election.]

D. A sample oath and affidavit of eligibility form (Form E) is included in the Appendix of Forms.

8.15.080 Assisting voter by judge.

A qualified voter who cannot read, mark the ballot, or sign his name, or who because of blindness or other physical disability, or who because of unfamiliarity with the system of voting needs assistance, may request an election judge, a person, or not more than two persons of his choice to assist him. If the election judge is requested, he/she shall assist the voter. If any other person is requested, the person shall state upon oath before the election judge that he/she shall not divulge the vote cast by the person whom he/she assists or change the voting wishes of the person he/she assists.

8.15.090 Prohibitions.

A. Prohibiting the Leaving of the Polling Place with Ballot. No voter shall leave the polling place with the official ballot that he received to mark.

B. Prohibiting the Exhibition of Marked Ballots. No voter shall exhibit his ballot to an election official or any other person so as to enable any person to ascertain how the voter marked his ballot.

C. Prohibiting the Identification of Ballots. No election official shall, while the polls are open, open any ballot received from a voter, or mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked the ballot, or allow the same to be done by another person.

D. Prohibiting the Count of Exhibited Ballots. No election official shall allow a ballot which he knows to have been unlawfully exhibited by the voter to be placed in the ballot box. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and destroyed.

E. Prohibition of Political Discussion by Election Board. During the hours that the polls are open, no judge or clerk shall discuss any political party, candidate or issue while on duty.

F. Prohibition of Political Persuasion Near Election Polls. During the hours that polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place shall attempt to persuade a person to vote for or against a candidate, proposition or question. The election judges shall post warning notices of the required distance in the form and manner prescribed by the supervisor of elections.

8.15.100 Administration of oaths.

Any election judge shall administer to a voter any oath that is necessary in the administration of the election.

8.15.110 Majority decision of election board.

The decision of the majority of judges determines the action that the election board shall take regarding any question which arises during the course of the election.

8.15.120 Ballots – Counting and tallying.

1. A voter shall mark his ballot only by the use of cross-marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly placed in the [square] oval 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 or propositions 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 to that office shall not be counted.

5. The mark specified in subsection [(A)](1) of this section shall be counted only if it is mostly inside the [square] oval provided, or touching the [square] oval so as to indicate that the voter intended the particular [square] oval to be designated.

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.

8.15.130 Rules for counting ballots.

The ballots shall be counted by the vote tabulation system selected by the Denali Borough Clerk.

A. [The election board shall] Hand-counted ballots shall be tabulated according to the following rules:

1. Immediately after the polls close and the last vote has been cast, the election judges shall open the boxes containing the ballots and count the ballots. Ballots shall not be counted before 8:00 p.m. on the day of the election. The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done in full view of any persons present. The public shall not be excluded from the area in which the ballots are counted. However, the chairman of the election board shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed election officials shall handle the ballots. The judges shall remove the ballots from the ballot box one by one, and tally the number of votes for each candidate and for or against each proposition or question. The ballots shall be inspected for disqualifying marks or defects. The election judges shall cause the vote tally to be continued without adjournment until the count is complete.

2. The election board shall account for all ballots by completing a ballot statement containing (1) the number of ballots received; (2) the number of ballots voted; (3) the number of ballots spoiled; and (4) the number of ballots unused. The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. If any discrepancies in numbers of

ballots received and ballots accounted for are found, the ballots shall be recounted until the election board finds that the number of ballots accounted for are the same as the number received or that there is an unexplained error. If a discrepancy is determined to exist between the ballots received and those accounted for, it shall be explained in detail on the ballot statement and the explanation signed by the election judges.

3. At no time during the tallying of votes may anyone but the election officials handle the ballots. The ballots shall not be marked in any way by anyone during the tallying.

B. Other ballot counting systems authorized.

1. Nothing in this title prohibits the use of other ballot counting systems, which have been approved for use in state elections. The borough 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 for use in state elections.

C The forms in the Appendix of Forms illustrate tally sheets and ballot statement forms that may be used.

[8] D. Write-in votes shall be tabulated according to the following rules:

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

[9.] 2. Write-in votes are not invalidated if the voter fails to mark the [square] oval provided if in the opinion of the judges the voter intended to vote for the person whose name was written in as a write-in vote.

3. Stickers bearing the candidate's name may not be used on the ballot.

4. All write-in votes shall be tallied.

E.[10.] No ballot shall be rejected if the election board can determine the person for whom the voter intended to vote and the office intended to be chosen by the voter.

F.[B.] The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot shall not be counted unless marked in compliance with these rules.

G.[C.] The chairman of the election board shall write the word "Defective" on the back of each ballot which the election board determines should not be counted, in whole or in part, for any of the reasons (other than failure of the voter to mark any choice with respect to a particular office or proposition) stated in subsection A of this section. If only a portion of the ballot is invalid, the valid votes shall be counted and the chairman shall specify on the back of the ballot exactly which portion or portions have not been counted.

H.[D.] If a particular objection is made to the counting of all or any part of a ballot, but the election board determines that the votes shown should be counted, the

chairman of the election board shall write the words "Objected to" on the back of the ballot and specify the portion or portions of the ballot to which the objection applies. [E.] All defective ballots and all ballots objected to shall be sealed in a single envelope marked "Defective Ballots," which shall be delivered to the election supervisor.

8.15.140 Report of election results.

A. When the count of ballots is completed, the election board shall make a certificate in duplicate of the results using the report of preliminary election results form. The report shall include the number of votes cast for each candidate, for and against each proposition, "yes" or "no" on each question, and any additional information the election board deems relevant or prescribed by the election supervisor. All members of the election board shall immediately upon completion of the report sign both copies of the report. The election board shall immediately upon completion of the certificate deliver to the election supervisor one of the two original certificates and the master voter registration list, affidavits of eligibility, questioned ballots, defective ballots, spoiled ballots and other election documents in one sealed package, and in a separate sealed package, all ballots properly cast. The chairman of the election board shall keep the duplicate of the report of preliminary election results in a safe place and present it to the election review committee following the election when the committee meets.

B. The election supervisor shall place all election materials received from the election board in the office safe or other lockable container until the canvass of election returns [is held on the Monday following the election.] The election board shall immediately upon completion of the certificate deliver to the election supervisor one of the two original certificates.

C. The chairman shall call the borough clerk[/treasurer] immediately after the signing of the certificate, in the presence of the other election officials, and report the results of the election to the borough clerk[/treasurer]. The clerk[/treasurer] shall repeat each election result to the chairman. In the event the items specified in subsection B of this section are unavailable to the canvass committee, the affidavit of the clerk[/treasurer] as to the results telephoned in and the affidavit of the chairman and other election officials present at the telephone conversation are presumptive evidence, absent fraud, as to the results.

8.15.150 Posting certificate of preliminary election results.

The clerk[/treasurer] shall post copies of the certificate of preliminary election results in three public places, one of which shall be the post office, in the four major communities of Anderson, Healy, Cantwell and McKinley Park, the day after the preliminary election results are known. The notice shall include:

A. The time and place of the [assembly] canvass committee meeting to be convened to consider the election results;

B. That the results do not reflect the votes of absentee and questioned ballots and are not final until the assembly formally certifies the election; and

C. That anyone has the opportunity to contest the election at the canvass committee meeting per DBC Chapter 8.30.

Chapter 8.20 ABSENTEE VOTING

Sections:

8.20.010 Absentee voting – Eligible persons.

8.20.020 Absentee ballots – Applications – Filing.

8.20.030 Ballot and envelope form.

8.20.040 Absentee voting procedure.

[8.20.050] Absentee ballots – Delivery.]

8.20.[060] 050 Absentee voting at clerk's[/treasurer's] office [– Absentee voter's ballot.]

[8.20.070] Absentee ballots – Executing outside municipality.]

8.20.[080] 060 Voting at the polls – Absentee voters – Surrender of materials.

8.20.[090] 070 Retention and delivery of absentee ballots. [– Delivery.]

8.20.[100] 080 Liberal construction.

8.20.010 Absentee voting – Eligible persons.

Any qualified voter, [who expects to be absent from the borough or who will be unable to vote by reason of physical disability on the day of any election,] may cast an absentee ballot.

8.20.020 Absentee ballots – Applications – Filing.

A. A person who seeks to vote by absentee ballot may file either in person, by electronic transmission or by mailing his written application to the borough clerk[/treasurer].

B. An application made by mail or electronic transmission must be received by the clerk[/treasurer] not more than [45] 60 days, nor less than [three] seven (7) days, before the day of the election. An application made in person must be filed with the clerk[/treasurer] not more than [45] 60 days before the day of the election and no later than 4:00 PM [noon] on the day preceding the election. The application must be signed by the applicant. The application shall include the address to which the absentee ballot shall be returned and the applicant's full Alaska residence address. [show his place of residence.]

[C. Upon timely receipt of an application for an absentee ballot the clerk/treasurer shall file the application and then verify the residence of the applicant by any means the clerk/treasurer deems proper.]

C. [D.] Nothing in this section is intended to limit the borough clerk[/treasurer] from personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the borough clerk's[/treasurer's] office for an absent voter's ballot. The borough clerk[/treasurer] may deliver an absentee ballot to a disabled person living within the borough at any time until the polls close on election day.

D. [E.] Form H, appearing in the Appendix of Forms, illustrates this application.

8.20.030 Ballot and envelope form. (Note: moved to 8.20.040(A) below)

The ballot provided to absentee voters shall be identical to the ballots to be used on election day. The ballot envelope and the return envelope shall be of heavy, opaque paper. The ballot envelope shall be marked "Ballot Envelope" and have no other marks upon it. The return envelope shall have printed upon its back the affidavit and certification illustrated in the Appendix of Forms

8.20.040 Absentee voting procedure.

Upon receipt of an application for an absent voter's ballot, the clerk shall check the latest state registration listings to determine whether the applicant is registered in accordance with AS 15.07 and a resident of the Denali Borough. If the applicant is properly registered, the clerk shall deliver to the applicant, personally or by mailing to the address given by the applicant, an official ballot for the election, a ballot envelope and a return envelope.

A. The clerk[/treasurer] shall provide each eligible absentee voter with an official ballot prepared in accordance with this chapter together with a ballot envelope and a prepaid return envelope. [The ballot provided to absentee voters shall be identical to the ballot prepared for regular voters. The ballot provided to absentee voters shall be identical to the ballots to be used on election day. The ballot envelope and the return envelope shall be of heavy, opaque paper. The ballot envelope shall be marked "Ballot Envelope" and have no other marks upon it. The return envelope shall have printed upon its back the affidavit and certification illustrated in the Appendix of Forms.]

B. The clerk[/treasurer] shall not issue an absentee ballot sooner than 30 days before the election.

C. Upon issuing an absentee ballot to a voter, either by mailing or by personal delivery, the clerk[/treasurer] shall enter in the blank register the following information: the number of the ballot issued, the name of the voter to whom it was issued, and the date on which the ballot was issued. Before the opening of the polls on election day the clerk[/treasurer] shall deliver to the election judges a list of the voters who have requested to vote absentee.

D. The clerk[/treasurer] may deliver an absentee ballot to a disabled person living within the borough at any time until the polls close on election day.

[E. Upon issuing an absentee ballot to a voter, either by mailing or by personal delivery, the clerk[/treasurer] shall enter in the blank register the following information: the number of the ballot issued, the name of the voter to whom it was issued, and the date on which the ballot was issued.]

E. Any voter issued an absentee ballot may appear before any person authorized by law to administer oaths, a notary public, or a person over the age of 18 years and in the presence of such witness mark his ballot in the same manner he would cast it in the office of the borough clerk under this section. The witness shall write or stamp his name across the seal of the return envelope, [the officer shall] and return it to the voter, who shall mail it to the borough clerk[/treasurer].

F. To be counted, an absentee voter's ballot must be [executed] marked and attested before the date of the election. If the voter returns the ballot by mail, the voter shall use the most expeditious mail service and mail the ballot not later than the day prior to the election to the borough clerk. It must be postmarked by midnight the day before election day [before the polls close in the borough] and be received by the clerk[/treasurer] prior to 5:00 PM on the day [the time] the ballots are canvassed by the election review committee. Ballot envelopes received after that time shall not be opened but shall be marked "invalid" with the date of receipt noted.

[8.20.050 Absentee ballots – Delivery.]

Upon receipt of an application for an absent voter's ballot, the clerk[/treasurer] shall check the latest state registration listings to determine whether the applicant is registered in accordance with AS 15.07. If the applicant is properly registered, the clerk[/treasurer] shall deliver to the applicant, personally or by mailing to the address given by the applicant, an official ballot for the election, a ballot envelope and a return envelope.]

8.20.[060] 050 Absentee voting at clerk's[/treasurer's] office [– Absentee voter's ballot.]

1. A qualified voter may, at any time prior to 4:00 PM the day before election day [closing of the polls on the day of the election for which it is issued,] appear at the office of the borough clerk[/treasurer], and there cast his/her ballot in the following manner:

A. [If the absentee voter's ballot is personally delivered,] [t]he absentee voter shall secretly mark the ballot, in the presence of the clerk[/treasurer], in a manner which permits the clerk[/treasurer] to be certain that the voter personally marked the ballot, but which does not permit the clerk[/treasurer] to see how the voter votes. The voter shall fold the ballot and seal it in the ballot envelope, and seal the ballot envelope inside the return envelope. The voter shall then complete and swear to the affidavit printed on the face of the return envelope and deliver it to the clerk[/treasurer]. The clerk[/treasurer] shall certify to the affidavit on the return

envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the canvass committee for canvassing.

2. If a voter issued an absentee ballot returns to the clerk's office in person, [T] the voter first shall show the borough clerk/treasurer that his ballot has not been marked[,] and then proceed with voting as designated in this section. [then shall secretly mark the ballot with a pen and ink or indelible pencil, in the presence of the borough clerk[/treasurer], in such a manner that the borough clerk[/treasurer] cannot see how it is marked. The voter shall fold the ballot and place it in the ballot envelope, then place the ballot envelope in the return envelope. Then the voter shall complete and swear to the affidavit printed on the face of the return envelope, and deliver it, properly sealed, to the borough clerk[/treasurer]. The borough clerk[/treasurer] shall certify to the affidavit printed on the return envelope, write or stamp his name across its seal, and retain the envelope in custody to be delivered to the canvass committee for canvassing.

[8.20.070 Absentee ballots – Executing outside municipality.

At any time on or before the day of the election, any voter issued an absentee ballot may appear before any person authorized by law to administer oaths, a notary public, or a person over the age of 18 years and in the presence of such witness [officer cast] mark his ballot in the same manner he would cast it in the office of the borough clerk[/treasurer] under this section. The witness shall [After writing or stamping] write or stamp his name across the seal of the return envelope, [the officer shall] and return it to the voter, who shall mail it to the borough clerk[/treasurer].]

8.20.[080] 060 Voting at the polls – Absentee voters – Surrender of materials.

If a voter issued an absentee ballot returns to the borough on election day, he shall not vote at the polling place unless he first surrenders to the election board the absentee ballot, ballot envelopes and return envelopes, which shall be returned to the election supervisor by the election board with other ballots not used at the polling place.

8.20.[090] 070 Retention and delivery of absentee ballots.[– Delivery.]

The borough clerk[/treasurer] as election supervisor shall retain all absentee ballots received in the office until the time the canvass committee meets to canvass the election. At this time the clerk[/treasurer] shall deliver all absentee ballots received to the canvass committee to be counted and included in the final vote tally of the election. Absentee ballots must be received by the time of the meeting to be counted.

8.20.[100] 080 Liberal construction.

This chapter shall be liberally interpreted, so as to accomplish the purposes set forth.

Chapter 8.25 REVIEW OF ELECTION RETURNS

Sections:

- 8.25.010 Canvass committee.
- 8.25.020 Canvass committee, meeting, postponing canvass.
- 8.25.030 Canvass to be public.
- 8.25.040 Procedure for questioned ballot review.
- 8.25.050 Questioned ballots – Subpoenas.
- 8.25.060 Absentee ballots.
- 8.25.070 Counting absentee and questioned ballots.
- 8.25.080 Defective ballots.
- 8.25.090 Canvass committee – Report – Contents.
- 8.25.100 Certifying results.
- 8.25.110 Contest of election.
- 8.25.120 Certificate of election.
- 8.25.130 Retention of election records.

8.25.010 Canvass committee.

The assembly shall appoint a canvass committee which will canvass all votes after the election judges have completed their tally of votes. The members of the committee shall be qualified electors of the municipality. Instead of arranging for the appointment of a canvass committee, the assembly may declare itself to be the canvass committee.

8.25.020 Canvass committee, meeting, postponing canvass.

The canvass committee will meet on or before the first Monday after the election and canvass all absentee and challenged ballots executed in the election. The date, time, and location will be set by a majority vote of the assembly and published. ~~As the canvass of all absentee and challenged ballots will be made in public by~~ opening the returned ballots and announcing the results thereof in front of whomever may be present.

B. Absentee ballots shall be counted by the borough clerk[/treasurer] and two or more assistants appointed by him/her in the following manner: all ballot envelopes shall be removed from return envelopes and placed in a ballot box; the return envelopes shall be delivered to the borough clerk[/treasurer]. The absentee ballots then shall one by one 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.

C. The canvass shall include a review and comparison of the tallies of the paper ballots with the precinct election certificates to correct any mathematical error in the count of paper ballots.

D. If the borough clerk[/treasurer] finds an unexplained error in the tally of paper ballots in any precinct election tally, he may count the ballots from the precinct. The borough clerk[/treasurer] shall certify in writing to the [state] canvass [board] committee any changes resulting from the count.

8.25.040 Procedure for questioned ballot review.

A. The election supervisor shall contact the State Division of Elections and the local voter registrars by the Thursday following the election and determine if persons casting questioned ballots because of failure of their names to appear on the master voter registration list were in fact registered to vote in state elections. The election supervisor shall record the names of those questioned voters in fact registered to vote and shall submit their names as registered to vote when their questioned ballots are examined with other questioned ballots according to the procedures established herein.

B. The canvass committee shall examine each questioned ballot envelope and shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the canvass committee may request the assistance of the clerk[/treasurer], and shall hear the testimony of the voter who cast the questioned ballot and of any other municipal resident who has information useful to the canvass committee decision. If the canvass committee determines that the voter was eligible to vote, the oath and affidavit envelope shall be opened and the ballot removed. If the canvass committee upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials. A questioned ballot may not be counted if:

1. The voter has failed to properly execute the certificate;
2. An official authorized by law to attest the certificate failed to execute the certificate;
3. The voter did not enclose the marked ballot inside the small envelope.

C. Any person present at the questioned ballot review may challenge the name of a questioned voter when read from the voter's certificate on the back of the large envelope if he has good reason to suspect that the questioned voter is not qualified

to vote, is disqualified, or has voted at the same election. The person making the challenge shall specify the basis of the challenge in writing. The canvass committee by majority vote may refuse to accept and count the questioned ballot of a person properly challenged under grounds listed in this subsection.

D. If a questioned ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the questioned voter. The election supervisor shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and shall be placed in the office safe or lockable container.

E. If a questioned ballot is not rejected, the large envelope shall be opened and the small envelope containing the questioned ballot shall be placed in a ballot box and mixed with other small envelopes containing questioned ballots. The questioned ballots shall then one by one 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.

8.25.050 Questioned ballots – Subpoenas.

The canvass committee may order testimony of witnesses and issue subpoenas while investigating questioned ballots. The subpoenas may be enforced by the court upon certification as provided by the state code of civil procedure concerning the enforcement of administrative and state agency subpoenas.

8.25.060 Absentee ballots.

A. The canvass committee shall examine each absentee ballot return envelope. Upon the committee's satisfaction that:

1. The voter is registered to vote;
2. A resident of the borough;
3. Did so certify and cast his/her ballot before a person authorized by law to administer oaths, a notary public, or a person over the age of 18 years and in the presence of such witness mark his ballot in the same manner he would cast it in the office of the borough clerk under this section. The witness shall write or stamp his name across the seal of the return envelope, [while person did so sign and seal] and;

4. The ballot was cast before the close of the polls in the borough; the return envelope shall be opened and the blank envelope containing the absentee ballot shall be placed in a ballot box and mixed with other small envelopes containing the previously reviewed questioned ballots.

B. If the canvass committee determines that a voter voting absentee was not in fact a qualified voter, or did not follow absentee voting procedures, the canvass committee by majority vote may refuse to accept and count the absentee ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The election supervisor shall place all such rejected

absentee ballots in an envelope marked "rejected absentee ballots" to be saved with other election materials. The election supervisor shall notify the voter in writing why his absentee ballot was rejected.

8.25.070 Counting absentee and questioned ballots.

The questioned ballots and absentee ballots shall then one by one be removed from the ballot box, taken out of the ballot envelopes and counted by the canvass committee in the same manner in which ballots cast at the polls are counted.

8.25.080 Defective ballots.

Canvass committee members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom the voter intended to vote.

8.25.090 Canvass committee – Report – Contents.

The canvass committee will submit a report of its findings on or before the Monday following the election. The report will show:

- A. The number of ballots cast in the election;
- B. The names of the persons voted for and the proposition voted upon;
- C. The offices voted for;
- D. The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
- E. A proposed disposition of all challenged, absentee, write-in, and voided ballots; and
- F. Other matters which the canvass committee may determine to be necessary.

8.25.100 Certifying results.

If no contest of election is begun after all absentee, defective and questioned ballots are counted or rejected, the assembly shall:

- A. Certify a report that shows:
 - 1. The total number of ballots cast in the election;
 - 2. The names of the persons voted for (including write-ins and the propositions voted upon);
 - 3. The offices voted for;
 - 4. The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 - 5. The disposition of all absentee, questioned, and defective ballots; and
 - 6. Any other matters which the assembly deems necessary to preserve a complete record of the election;
- B. Record the results of the election in the minutes of the meeting;
- C. Authorize the results to be certified;
- D. Publicly declare the results of the election.

8.25.110 Contest of election.

If a contest of election is declared and resolved, the procedures of DBC 8.25.100 shall be followed at a special meeting held on or before the first Monday after resolution of the contest.

8.25.120 Certificate of election.

A. Upon authorization of certification of the election results by the assembly, the clerk[/treasurer] shall prepare two certificates of election for each office, proposition, or question considered. The certificates shall be signed by the mayor and attested by the clerk[/treasurer]. One original of each certificate of election shall be given the successful candidate or the sponsor of the successful question or proposition named thereon, and the other original of each certificate shall be kept by the clerk[/treasurer].

B. The forms appearing in the Appendix of Forms illustrate the certificate of election.

8.25.130 Retention of election records.

The clerk[/treasurer] shall preserve all election certificates, tallies and registers for four years after the election. All ballots and stubs may be destroyed 30 days after the certification of the election unless an appeal of the election has been filed in the superior court in Fairbanks, in which case the ballots and stubs may be destroyed 30 days after conclusion of the appeal unless stayed by an order of the court.

Chapter 8.30 CONTEST OF ELECTION

Sections:

8.30.010 Contest of election – Contestant.

8.30.020 Contest of election – Assembly.

8.30.030 Ballot recount.

8.30.040 Prohibited practices alleged.

8.30.050 Sustained charges – Recount.

8.30.060 Recount expenses – Appeal.

8.30.010 Contest of election – Contestant.

A. Any qualified voter may contest the election of any person and the approval or rejection of any question or proposition.

B. Any qualified voter who believes that prohibited practices occurred at an election may contest the election by:

1. Filing a written affidavit with the clerk[/treasurer] specifying with particularity the provisions of the law which he believes were violated and the specific acts he believes to be misconduct;

2. This affidavit must be filed with the clerk[/treasurer] before or during the first review of the ballots by the canvass committee following the election. The clerk[/treasurer] shall acknowledge the date and time the affidavit is received on its face and make a photocopy of the affidavit which shall be given the contestant;

3. The sample affidavit (Form L) in the Appendix of Forms shows the form this affidavit should take.

8.30.020 Contest of election – Assembly.

The assembly may order an investigation or a recount of the ballots or declare the election, as to one or more offices or propositions or in its entirety, invalid, and order a new election; or declare the affidavit of election contest without merit and certify the results of the election.

8.30.030 Ballot recount.

If only a recount of ballots is demanded, the election board where the error allegedly occurred shall recount the ballots.

8.30.040 Prohibited practices alleged.

When the contestant alleges prohibited practices the assembly shall direct the clerk[/treasurer] to produce the original register books for the election.

8.30.050 Sustained charges – Recount.

If the charges alleged by the contestant are upheld, the canvass committee shall make a recount within 24 hours excluding any Saturday, Sunday or holiday. The recount shall proceed as rapidly as practicable, and the results thereof declared. The clerk[/treasurer] shall promptly issue another election certification if a change in the results requires it. The assembly shall then certify the correct election returns.

8.30.060 Recount expenses – Appeal.

A. The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election, or the difference between the winning and losing vote on the result contested is more than two percent.

B. A person may appeal the decision of the assembly in DBC 8.30.020 to the superior court; however, no person may appeal or seek judicial review of a municipal election for any cause or reason unless the person is qualified to vote in the borough, has exhausted his administrative remedies before the assembly and has commenced, within 10 days after the assembly has finally declared the election results, an action in the superior court. If no such action is commenced within the 10-

day period, the election and election results shall be conclusive, final, and valid in all respects.

Chapter 8.35 INITIATIVE AND REFERENDUM PETITIONS

Sections:

8.35.010 Authority to act.

8.35.020 Application for petition.

8.35.030 Contents of petition.

8.35.040 Signature requirements.

8.35.050 Sufficiency of petition.

8.35.060 Protest.

8.35.070 New petition.

8.35.080 Initiative election.

8.35.090 Referendum election.

8.35.010 Authority to act.

The voters of the borough may propose and enact ordinances by the initiative and may approve or reject ordinances by the referendum.

8.35.020 Application for petition.

A. An initiative or referendum is proposed by filing an application with the borough clerk[/treasurer] containing the ordinance to be initiated or the ordinance to be referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. 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 signature of the sponsor to the clerk[/treasurer]. Within two weeks the clerk[/treasurer] shall certify the application if the clerk[/treasurer] finds that it is in proper form and that the matter:

1. Does not concern one of the subjects listed in Article XI, Section 7 of the Alaska Constitution; and
2. Includes only a single subject; and
3. Relates to a legislative rather than to an administrative matter; and
4. Would be enforceable as a matter of law.

Otherwise, the application shall not be certified. If the application is not certified, a signer of the application may file a protest with the mayor within seven days after the contact person and alternate have been notified. The mayor shall present the protest at the next regular meeting of the assembly. The assembly shall hear and decide the

protest. If the application can still not be certified, a new application which corrects the deficiency may be submitted at any time.

B. A decision by the clerk[/treasurer] or the assembly on an application for petition is subject to judicial review in the manner provided by law for reviewing the final action of an administrative agency.

8.35.030 Contents of petition.

A. Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the borough clerk[/treasurer]. Each copy of the petition shall contain:

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

B. If a petition consists of more than one page, each page which contains signatures shall also contain the summary of the ordinance to be initiated or referred.

C. The clerk[/treasurer] 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[/treasurer] to each sponsor who appears in the clerk's[/treasurer's] office and requests a petition. The clerk[/treasurer] shall also mail a copy of the petition to each sponsor who requests in writing that the petition be mailed. The clerk[/treasurer] shall not issue a copy of the petition to any person who is not a sponsor. A petition is issued on the date on which the clerk[/treasurer] mails or delivers notice to the contact person that the petition is available.

8.35.040 Signature requirements.

A. Only a sponsor may circulate a petition, and signatures must be affixed to a petition in the presence of a sponsor. The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk[/treasurer] issues the petition. The statement provided under DBC 8.35.030(A)(6) shall be signed and dated by the sponsor, and the sponsor's signature shall be notarized. Signatures shall be in ink or indelible pencil.

B. The clerk[/treasurer] shall determine the number of signatures required on a petition and inform the contact person in writing. A petition shall be signed by a number of registered borough voters equal to 25 percent of the number of votes cast at the last regular borough election held before the date written notice is mailed or delivered to the contact person that the petition is available. For purposes of this section, the incorporation election which created the borough is a regular election.

C. Illegible signatures shall be rejected by the clerk/treasurer unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

D. A petition signer may withdraw his or her signature by giving written notice to the clerk[/treasurer] before certification of the petition.

8.35.050 Sufficiency of petition.

A. All copies of an initiative or referendum petition shall be assembled and filed with the clerk[/treasurer] at one time as a single instrument. Within two weeks after the date the petition is filed, the borough clerk[/treasurer] 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.

B. A petition that is insufficient may be supplemented with additional signatures obtained and filed with the clerk[/treasurer] before the eleventh day after the date on which notice of rejection is mailed to the contact person.

C. A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under subsection B of this section. Within two weeks after a supplementary filing the clerk[/treasurer] shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

8.35.060 Protest.

If the borough clerk[/treasurer] certifies that an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the assembly. The assembly shall hear and decide the protest. The assembly's decision is subject to judicial review in the manner provided by law for reviewing the final action of an administrative agency.

8.35.070 New petition.

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

8.35.080 Initiative election.

A. Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk[/treasurer] shall submit the matter to the voters at a special election or regular election as determined by DBC 8.05.050.

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

C. The ordinance 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 of the votes cast on the question are in favor of the ordinance, it becomes effective 30 days after certification of the election, unless a different effective date is provided in the ordinance. If an initiative 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.

8.35.090 Referendum election.

A. Unless the ordinance is repealed, when a petition seeks a referendum vote the clerk[/treasurer] shall submit the matter to the voters at a special election or regular election as determine by DBC 8.05.050.

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

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

D. If a majority of the votes cast on the question favors the repeal of the matter referred, it is repealed upon certification of the election. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election. If a 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 3. Effective Date. This ordinance becomes effective upon adoption by the Denali Borough Assembly and signature of the Mayor.

DATE INTRODUCED: APRIL 11, 2007

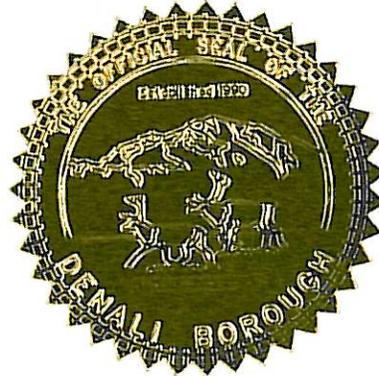
FIRST READING: MAY 9, 2007

PUBLIC HEARING: MAY 9, 2007

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this 13th day of JUNE, 2007.


DAVID M. TALERICO, MAYOR

ATTEST: 
GAIL PIEKNIK, BOROUGH CLERK



Ayes: BULARD, EVANS, HOCKIN, POLLOCK, WALKER, HOLMES,
MERCER, KOHLSDORF, HALL

Noes:

Excused:

Absent: