

Chapter 2.32

CANVASSING RETURNS

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**2.32.010 Counting ballots.**

- A. Electronic Optical Scanning Ballot Tabulation System. Notwithstanding the provisions of this title, ballots designed for counting by automated equipment approved or provided by the State of Alaska shall be counted, tallied, preserved, and certified under the direction of the borough clerk who shall observe the procedures outlined in Alaska Statute for the counting of such ballots, in all pertinent aspects.
- B. The election board shall account for all ballots by completing a ballot statement containing:
  - 1. the number of official ballots received;
  - 2. the number of official ballots voted;
  - 3. the number of official ballots spoiled;
  - 4. the number of official ballots unused and destroyed.The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. Discrepancies shall be noted and the numbers included in the certificate.
- C. Hand Count. The election board shall open the ballot box and commence counting the ballots and continue without adjournment until they are all counted, and in no case shall the ballot box be removed from the room in which the election was held until all the ballots have been counted. The opening of the ballot box and the counting of ballots shall be accomplished in full view of any persons present. The public may not be excluded from the area in which the ballots are counted; however, the election supervisor shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties and no one other than such appointed officials may handle ballots.
- D. The election results, and the question whether a runoff election is required, shall be determined by reference to Section 2.32.080.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 03-03, Amended, 06/01/2003; Ord. 98-01, Amended, 02/05/1998; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

**2.32.020 Counting of write-in votes.**

- A. Write-in votes for a candidate shall not be counted unless the candidate has timely filed a letter of intent with the borough clerk as required by Section 2.20.040.
- B. Write-in votes cast in a race will be counted individually by person if the total number of write-in votes for an office exceeds the lowest number of votes cast for a candidate for that office whose name is printed on the ballot; provided, however, that in races where there are fewer candidate names printed on the ballot for the office than there are vacant seats for that office, write-in votes cast in that race will be counted individually.

- C. Write-in votes for fictional names or names that are not a person, such as "Mickey Mouse" or "None of the Above," will not be counted.
- D. Write-in votes that do not meet the requirements of this section will not be individually counted.
- E. If the chair determines that the requirements of this section have been met, the election board will commence counting the write-in votes for that particular office.

**(Ord. 18-12, Amended, 06/21/2018; Ord. 08-14, Amended, 04/17/2008; Ord. 03-03, Repealed & Replaced, 06/01/2003; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

**2.32.030 Rules for determining mark on ballots.**

- A. The election board shall count ballots according to the following rules. The rules set out below are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.
  - 1. A voter may mark a ballot only by filling in, making "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly spaced in the oval opposite the name of the candidate, proposition or question that 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 may not be counted.
  - 5. The mark specified in subsection 1 above, shall be counted only if it is substantially inside the oval provided, or touching the oval so as to indicate clearly that the voter intended the particular oval to be designated.
  - 6. Improper marks on the ballot may not be counted and do not invalidate marks for candidates properly made.
  - 7. An erasure or correction invalidates only that section of the ballot in which it appears.
  - 8. Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence that the ballot was so marked for the purpose of identifying the ballot.
  - 9. In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and, in addition, mark the oval opposite the candidate's name in accordance with subsection 1 above.

**(Ord. 03-03, Amended, 06/01/2003; Ord. 99-17, Amended, 07/01/1999; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

**2.32.040 Delivery of ballots.**

After completion of the ballot statement, the counted ballots shall be sealed into an envelope provided by the election supervisor, and delivered to the borough clerk along with all questioned ballots and any absentee ballots received, to be retained in a depository until submitted to the canvass board.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 03-03, Amended, 06/01/2003; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

**2.32.050 Canvass of returns.**

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- A. The canvass board shall consist of the borough clerk who acted as election supervisor, the chair and 2 election board members.
- B. The canvass board shall meet at 4:00 p.m. on Thursday following each election and in full view of those present, judge the validity of absentee, and questioned ballots and count the valid absentee and questioned ballots. The canvass board shall make a full report to the borough assembly listing total number of ballots printed, total number of ballots used, total number of ballots destroyed and reporting any irregularities in the election. The canvass may be continued from day to day, but must be completed no less than five (5) days after the election. The borough assembly shall review the canvass board report, examine election officials, and may hear informal protests, complaints or objections from individuals.
- C. If the canvass board reports irregularities in the election, the borough assembly shall determine whether the irregularities are so serious as to deny a meaningful vote of the citizens of the municipality. If the canvass board reports a discrepancy in the count of the ballots, the borough assembly may order a recount of the votes in the affected precinct. The borough assembly may order an investigation of any irregularities or discrepancies. The borough assembly may exclude votes cast or declare the entire election invalid if necessary to assure a fair election. If the borough assembly concludes that the election is not valid, it shall order another election. The election shall be conducted promptly as a special election and according to procedures established by the borough assembly.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 03-03, Repealed & Replaced, 06/01/2003; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

### **2.32.060 Custody and destruction of ballots.**

After the ballots of every election have been canvassed they shall be kept in the custody of the borough clerk unopened, except for use as evidence in the event of an election contest, and then may be destroyed in accordance with the municipality's retention schedule.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 03-03, Amended, 06/01/2003; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

### **2.32.070 Contest of election.**

- A. Any candidate or any ten (10) registered qualified voters may contest the election of any person or the approval or rejection of any question or proposition upon one (1) or more of the following grounds:
  - 1. Misconduct, fraud or corruption of an election official sufficient to change the results of the election.
  - 2. Disqualification of the person elected under provisions of state law or municipal ordinance: or existence of a corrupt election practice as defined by the laws of the State of Alaska or in Chapter 36 of this title.
  - 3. Miscount of the Ballots.
- B. The candidate or one (1) or more of the voters initiating a contest shall appear before the borough assembly at the meeting held to canvass the election returns, and there shall deliver to the borough assembly written notice of the contest. Failure to present notice of contest at or before this meeting extinguishes all rights to contest the election thereafter. The notice shall state the grounds of contest in detail, shall be signed under oath by the candidate or voter filing it, and shall be in substantially the following form:

#### NOTICE OF ELECTION CONTEST

Grounds of Contest in Detail:

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The undersigned contest the regular (or special) election of the Municipality of Skagway, Alaska, held on the (DAY) day of (MONTH), (YEAR), on the following grounds:

\_\_\_\_\_  
Signature of Candidate or Person  
Contesting Election

SUBSCRIBED AND SWORN to before me this (DAY) day of (MONTH), (YEAR).

\_\_\_\_\_  
Notary Public, State of Alaska  
My commission expires: \_\_\_\_\_

- C. Upon receiving a notice of contest, the borough assembly shall order an investigation by the mayor to be made, with the assistance of the election supervisor and attorney. Persons contesting the election, the person whose election is contested and the public shall be allowed to attend all investigation and recounting proceedings.
- D. If only a recount of ballots is demanded, the election board shall recount the ballots.
- E. If the contestant alleges prohibited practices, the borough assembly shall direct the election supervisor to contact the State of Alaska Division of Elections regarding review of registration cards for the purpose of discovering the alleged prohibited practices. If the contestant charges a candidate obtained votes, or a proposition was voted for or against, by reason of prohibited practices, and the charges are proven to the borough assembly, the borough assembly shall to the extent of such proof purge the illegally induced votes from the returns and after a recount certify the amended returns.
- F. 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 or a losing vote and the result contested is less than two percent (2%).

**(Ord. 08-14, Amended, 04/17/2008; Ord. 98-01, Amended, 02/05/1998; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

### **2.32.080 Runoffs and tie votes.**

In a municipal election, the candidate receiving the most votes for a particular office shall be declared the winner. If, in a municipal election, two candidates receive the same number of votes for a given office, the borough assembly shall hold a runoff election as set out in Chapter 12 of this title.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 86-20, Repealed & Replaced, 05/06/1986; Ord. 84-13, § 4 (part), Repealed & Replaced, 09/13/1984)**

### **2.32.090 Certification of election results.**

- A. Unless the borough assembly orders an investigation or unless a contest has been previously filed pursuant to Section 070 above, the borough assembly shall declare the election valid and certify the election results. The borough assembly shall certify results not in question immediately and shall complete investigation or contest procedures as soon as possible to assure prompt certification.
- B. To certify the election results the borough assembly shall enter the determination in the minutes along with the following information:
  - 1. the total number of poll, absentee, questioned, and personal representative ballots cast in the election;
  - 2. the offices, names, and number of votes counted for each candidate at the election;

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3. the propositions voted upon at the election; and
  4. the number of votes counted for each proposition voted upon.
- C. Upon certification of the election by the borough assembly, the borough clerk shall deliver to each person elected to office a Certificate of Election signed by the mayor and borough clerk and authenticated by the municipal seal.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 03-03, Amended, 06/01/2003; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**

### **2.32.100 Judicial review.**

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 Municipality of Skagway, has exhausted all his or her administrative remedies before the borough assembly, and has commenced within ten (10) days after the borough assembly declared the election results, an action in the superior court for the First Judicial District at Juneau. If no such action is commenced within the ten (10) day period, the election and election results shall be conclusive, final and valid in all respects.

**(Ord. 08-14, Amended, 04/17/2008; Ord. 84-13 § 4 (part), Repealed & Replaced, 09/13/1984)**