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Second Reading:	04/17/2008
Vote: 5 Aye	0 Nay 1 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 08-14

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 2 TO ADDRESS THE CHANGE IN STATUS FROM CITY TO BOROUGH GOVERNMENT, REVIEW AND CONSOLIDATE SECTIONS REGARDING SPECIAL AND REGULAR ELECTIONS.

WHEREAS, Amendments are required to address the change in status from city to borough government; and

WHEREAS, it has been nearly 10 years since the last complete review of the election code;

BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

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

Section 2. Purpose. To amend Title 2 to address the transition from city to borough government and address changes in regulations. The Skagway Municipal Code is hereby amended (~~strike through~~) indicates text to be deleted from, and **bold** indicates text added to the current code as follows:

Section 3. Amendment. Title 2 Elections is hereby amended as follows

Chapter 2.04
GENERAL PROVISIONS

Sections:

- 2.04.010 Scope of election code.
- ~~2.04.020 (Repealed 06/01/2003)~~
- 2.04.030 Expenses.
- 2.04.040 Nonpartisan basis.
- 2.04.050 Precinct and polling place.

2.04.010 Scope of election code.
The provisions contained in this code shall apply to all municipal (regular and special) elections held by the city **Municipality** of Skagway.

2.04.030 Expenses.
The city **Municipality** shall pay all necessary election expenses, including those of securing places for polls and providing ballot boxes, ballots, voting booths, screens, national and state flags and other supplies, and any wages due to the election board. Salaries for the election board shall be set by the council **borough assembly**.

2.04.040 Nonpartisan basis.
All municipal elections shall be conducted on a non-partisan basis.

2.04.050 Precinct and polling place.

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The city Municipality shall constitute a single election district for all city municipal elections. The one (1) polling place for all city municipal elections shall be in the ~~council~~ borough assembly chambers of City Hall the Borough Administrative Offices.

Chapter 2.08

REGISTRATION AND QUALIFICATIONS

Sections:

2.08.010 Registration.
2.08.020 Qualification of voters.

2.08.010 Registration.

Municipal election officials will rely upon state voter registration records for municipal elections.

2.08.020 Qualification of voters.

A person may vote in a municipal election only if the person:

- A. is qualified to vote in state elections under AS 15.05.010;
- B. has been a resident of the municipality for 30 days immediately preceding the elections;
- C. has registered before the election as required under AS 15.07 and is not registered to vote in another jurisdiction; ~~and~~
- D. ~~is not disqualified under Article V of the State Constitution.~~

Chapter 2.12

REGULAR ELECTIONS

Sections:

2.12.010 Election date.
2.12.020 Notice.
2.12.030 Subjects of elections.

2.12.010 Election date.

A. Regular Elections. There shall be a regular election held in the city municipality annually on the first Tuesday of October.

B. Runoff Election. If, in a municipal election, two candidates receive the same number of votes for a given office, there shall be a runoff election on the fourth Tuesday of October, following the canvass and certification of the election as provided in Chapter 32 of this title.

C. Special Elections. The assembly may, by resolution, call a special election at any time. The resolution calling a special election shall fix the date of the election, subject to at least sixty (60) days notification for preclearance to the Department of Justice, and to the requirements of notice and the applicable Alaska laws and municipal ordinances governing the subject of question(s) submitted at the election.

2.12.020 Notice.

A. Regular Election. At least thirty (30) days before any regular election the city borough clerk shall post or publish, or cause to be posted or published at least once, notices shall be posted on the municipal bulletin board and at the post office thereof ~~in two (2)~~

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~~conspicuous places within the city limits, which.~~ Notices shall contain the following information: the date of the election; the offices to be filled; and identification of any issues to be voted upon; and the hours the polls will be open.

B. Runoff Election. No later than five (5) days before a runoff election the borough clerk shall post or publish, or cause to be posted or published at least once, notices in two (2) conspicuous places within the municipal limits.

C. Special Election. At least thirty (30) days before a special election the borough clerk shall post or publish, or cause to be posted or published at least once, notices in two (2) conspicuous places within the municipal limits. Notices shall contain the following information: the date of the election; the subject to be voted upon; and the hours the polls will be open.

2.12.030 Subjects of elections.

At any regular election, the voters shall vote upon the election of officers to fill vacancies, and upon any issue or question which may be submitted by the ~~council~~ **borough assembly** by resolution or ordinance for ratification by the voters or for an expression of opinion by the voters. ~~them.~~ However, the powers of initiative and referendum are reserved to the residents, except the powers of initiative and referendum do not extend to matters restricted by Article XI, Section 7 of the State Constitution. ~~If no regular election occurs within 75 days after the certification of a petition for initiative or referendum, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification.~~ **The procedures for initiative and referendum in the municipality shall be those set forth in Alaska Statutes Title 29, Ch. 26, Article 2. The procedure for recall of elected officials in the municipality shall be that set forth in Alaska Statutes Title 29, Ch. 26, Article 3.**

Chapter 2.16
SPECIAL ELECTIONS

Sections:

- 2.16.010 — Time for elections.
- 2.16.020 — Calling of elections.
- 2.16.030 — Date.
- 2.16.040 — Notice.
- 2.16.050 — Voter qualifications.

2.16.010 — Time for elections.

~~Special elections may be called by the council at any time, subject to at least sixty (60) days notification for preclearance to the Department of Justice, and to the requirements of notice and the applicable Alaska laws and city ordinances governing the subject of question(s) submitted at the election.~~

2.16.020 — Calling of elections.

~~The council may, by resolution, call a special election.~~

2.16.030 — Date.

~~The resolution calling a special election shall fix the date of the election, after sufficient allowance for notice.~~

2.16.040 — Notice.

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~~Notice shall be given by publication or posting at least twenty (20) days prior to the date of the election in two (2) conspicuous places within the city limits. The notice shall contain substantially the same information as notices for regular elections.~~

~~2.16.050 Voter qualifications.~~

~~Voter qualifications shall be the same as those for regular elections.~~

Chapter 2.20
CANDIDATES

Sections:

- 2.20.010 Candidates qualifications.
- 2.20.020 Filing for office.
- 2.20.030 Declaration of candidacy.
- 2.20.040 Write-in candidates.

2.20.010 Candidates qualifications.

Any person qualified to vote in the particular city **municipal** election may have his or her name placed on the ballot for election as a candidate for any city **municipal** elective office. No person may serve simultaneously as mayor and city council **borough assembly** member.

2.20.020 Filing for office.

Any qualified candidate may have his or her name placed on the ballot by filing with the clerk, not more than sixty-four (64) days nor less than fifty (50) days prior to the election, a sworn declaration of candidacy.

2.20.030 Declaration of candidacy.

- A. The declaration of candidacy shall be in such form as the city **borough** clerk shall prescribe, but shall be a sworn oath of the candidate containing the following types of information:
 - 1. The full name of the candidate;
 - 2. The full residence address of the candidate;
 - 3. The full mailing address of the candidate;
 - 4. A statement that the candidate meets each of the requirements for persons qualified to vote at this particular election;
 - 5. The identification of the office for which the candidate is running, together with the number of years in the term to be filled and the beginning and ending dates thereof; and
 - 6. The request that his or her name be printed on the official ballot for the city **municipal** election to be held in the city **municipality** on a date to be specified in the declaration.
- B. The candidate shall sign the declaration and subscribe to it under oath before a person authorized by state law to administer oaths.

2.20.040 Write-in candidates.

- A. Any qualified person who fails to file a Declaration of Candidacy within the time allotted for filing for office and wishes to be a candidate in the city **municipal** election, may file as a write-in candidate by submitting a ~~in a~~ letter of intent to the municipality. Votes for a write-in candidate may not be counted unless that candidate has filed a letter of intent with the City **borough** clerk stating:
 - 1. The full name of the candidate;
 - 2. The full residence address of the candidate;

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3. The full mailing address of the candidate;
 4. The identification of the office for which the candidate is running, together with the number of years in the term to be filled and the beginning and ending dates thereof;
 5. The date of the election at which the candidate seeks election;
 6. The name of the candidate as the candidate wishes it to be written on the ballot by the voter;
 7. A statement that the candidate meets each of the requirements for persons qualified to vote at this particular election;
 8. That the candidate is not a candidate for any other office to be voted on at this election and that the candidate is not a candidate for this office under any other declaration of candidacy.
- B. The letter of intent shall be submitted no later than 5:00 p.m. on the Friday preceding the date of the election. Along with the letter of intent, the candidate must also file a Public Official's Financial Disclosure Statement, ~~or must have a current statement on file with the City~~ **borough** clerk.
- C. The votes will be counted for each individual write-in candidate if:
1. a "Write-in Candidate's Letter of Intent" is on file with the ~~City~~ **borough** clerk and
 2. the total number of write-in votes in a race is the most votes; or
 3. the total number of write-in votes in a race is the second highest, and the difference between the write-in votes and the highest candidate votes is less than .5%.

Chapter 2.24

VOTING PROCEDURES

Sections:

- 2.24.010 Election officials.
2.24.020 Oaths of officials.
2.24.030 Chair.
2.24.040 Training sessions.
2.24.050 Ballots.
2.24.060 Election supplies and equipment.
2.24.070 Election hours.
2.24.080 Keeping of original register.
2.24.090 Procedures at the polls.
2.24.100 Questioned voter.
2.24.110 Questioning of voters of suspect qualification.
2.24.120 Disposition of questioned votes.

2.24.010 Election officials.

The election officials shall consist of the ~~city~~ **borough** clerk who shall be the election supervisor and the election board one of whom shall be designated as the chair. The election supervisor shall, before the date of the election, appoint from the qualified voters of the ~~city~~ **municipality** at least three (3) election judges (the election board).

2.24.020 Oaths of officials.

The election officials shall each take the oath as hereinafter stated, which shall be administered by the ~~city~~ **borough** clerk (or in the ~~city~~ **borough** clerk's absence by the ~~deputy clerk mayor or any member of the council~~ or by any official authorized by state law to administer oaths), which oath shall be substantially in the following form:

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I do solemnly swear that I will honestly, faithfully, and promptly perform the duties of office as provided by A.S. Title 15 **SMC Title 2** to the best of my ability.

2.24.030 Chair.

The chair shall have authority to administer all necessary oaths and affirmations which may be required during the election. He shall also have power during the election to fill any vacancy which may occur among precinct election officials until their duties have been completed.

2.24.040 Training sessions.

~~When necessary~~ **The** election supervisor shall **may** schedule training sessions for election officials.

2.24.050 Ballots.

- A. The city **borough** clerk shall cause election ballots to be prepared in a form to facilitate fairness, simplicity and clarity in the voting procedure; to reflect most accurately the intent of the voter; and to expedite the administration of elections. Ballots shall be numbered in series, to assure simplicity and secrecy and to prevent fraud. The City **borough** clerk shall determine the size of the ballot, the type of print, necessary additional instruction notes to voters, and other similar matters of form not provided by law.
- B. The City **borough** clerk may not include on the ballot as a part of a candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form of a proper name of the candidate. All candidates for the same office shall be shown on one (1) ballot. The title of each office to be filled shall be followed by the printed names of all candidates for that office, and provision shall be made for write-ins equal in number to the positions to be filled. On the ballot between the title of the office and the names of the candidates shall be placed the instruction "Vote for One" or "Vote for Two," as the case may be. The phrases "for one-year term," "for two-year term" and/or "for three-year term," as the case may be, shall be placed after the titles of the officers on the ballot as necessary to identify vacancies on the council **borough assembly** being filled at an election.
- C. Following the offices and candidates there shall be placed on the ballot or on separate ballots, as the election supervisor may determine, all propositions or questions to be voted upon. The words "For" and "Against" shall be placed below the statement of each proposition or question. The election supervisor may determine the number of ballots to be used to present all offices, propositions and questions to the qualified voters of the municipality.
- D. Prior to sending the proofs of the ballots to the printer for printing of the final ballots, the election supervisor shall provide candidates an opportunity to inspect the ballot proofs for correctness. The opportunity for inspection shall extend over a five (5) day period, and the election supervisor shall give notice of the inspection opportunity by posting notice, of the availability of ballot proofs for inspection, in two (2) conspicuous places within the city **municipality**. Any error called to the election supervisor's attention shall be corrected before the proofs are returned to the printer.

2.24.060 Election supplies and equipment.

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- A. Before the opening of the polls, the city borough clerk shall furnish to the election board a voter registration roll and shall equip and supply each polling place with sufficient materials for the election.
- B. The city borough clerk shall prepare instructions explaining to the voters how to obtain ballots, how to mark them, how to obtain information from election officials, and how to obtain new ballots to replace those destroyed or spoiled. These instructions shall be printed on cards in large, clear type, and shall be distributed to the election boards to be prominently displayed in each the polling place. The city borough clerk shall have sample ballots printed on colored paper identical in form to the official ballots to be used in each election and shall make such sample ballots available in each the polling place according to the official ballot types bearing offices and propositions to be voted upon at that the polling place. Sample ballots of all types shall be made available to the public in the city borough clerk's office.
- C. The city borough clerk shall provide voting booths at each polling place with appropriate supplies and conveniences to enable each voter to mark his ballot screened from observation. Ballot boxes shall be placed outside of the voting booths in plain view of the election officials, voters and other persons at the polling place.

2.24.070 Election hours.

On the day of election, each the election board shall open the polls for voting at 7:00 a.m., and the polls shall remain open until ~~shall close the polls for voting at 8:00 p.m., and shall keep the polls open during the time between these hours.~~ The election board members shall report to the polling place at no later than 6:30 a.m. on election day. The hours shall be determined by the standard time, or daylight saving time, that is applicable to the polling place. Immediately after the opening of the polls and before receiving any ballots, one (1) ~~of the judges~~ member of the election board shall proclaim from the door of the polling place that the polls of such election are open, ~~and similarly,~~ Fifteen minutes before closing, one (1) member of the election board shall announce the present time and the time of closing the polls. ~~after the closing of the polls, proclamation thereof shall be made from the doors of the polling place by~~ At 8:00 p.m. one (1) member of the election judges board shall proclaim from the door of the polling place that the polls of such election are closed, and no votes or ballots shall be received thereafter. Voters in line at the polling place at 8:00 p.m. shall be allowed to vote.

2.24.080 Keeping of original register.

The ~~judges~~ election board shall keep an original register in which each voter, before receiving his ballot, shall sign his name and give both his residence and mailing address. The signing of the register constitutes a certification by the voter that he is qualified to vote.

2.24.090 Procedures at the polls.

- A. Ballot Box. Before issuing any ballots, the election board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place to demonstrate that it is empty. The ballot box shall then be closed and shall not be opened again or removed from the polling place until the polls have closed.
- B. Prohibition of political discussion or persuasion. During the hours that the polls are open, ~~a judge or clerk~~ a member of the election board may not discuss any political party, candidate or issue. ~~while on duty.~~ During the hours the polls are open, a person who is in the polling place or within 200 feet of any entrance to the polling place may not attempt to persuade a person to vote for or against a

- candidate, proposition or question. The election judges board shall post warning notices at the required distance in the form and manner prescribed.
- C. Voters on the official registration list. An election board member judge in a precinct shall allow a voter on the official registration list to vote in the precinct unless the voter is questioned in accordance with ~~SMC~~ Chapter 2-24-Section 100 of this title.
- D. Voter identification at polls. Before being allowed to vote, each voter shall exhibit to an election judge board member one form of identification, including but not limited to an official voter registration card, driver's license, birth certificate, passport, or hunting or fishing license. An election judge board member may waive the identification requirement if the election judge board member knows the identity of the voter. A voter who cannot exhibit a required form of identification shall be allowed to vote a questioned ballot.
- E. Providing ballot to voter. When the voter has qualified to vote, ~~the~~ an election judge board member shall give the voter an official ballot. The voter shall retire to a booth or private place to mark the ballot.
- F. Assisting voter by an election board member judge. A qualified voter who cannot read, mark the ballot, or sign the voter's name may request that an election judge board member, a person, or not more than two persons of the voter's choice to assist. If the election judge board member is requested, the election judge board member shall assist the voter. If any other person is requested, the person shall state upon oath before the election judge board member that the person will not divulge the vote cast by the person assisted.
- G. Disposition of improperly marked ballot. If a voter improperly marks or otherwise damages a ballot, the voter may request and the election board shall provide another ballot, with a maximum of three, and the board shall record the number of the improperly marked or damaged ballot and destroy it immediately without examining it.
- H. Placing ballot in ballot box by voter. When the voter has marked a ballot, ~~the voter shall inform the election judge. The election supervisor may require that the voter return the ballot to the election judge temporarily so that any stub which may be part of the ballot may be removed by the election judge. Any such requirement shall protect the secrecy of the ballot. In all cases~~ the ballot shall be deposited in the ballot box by the voter in the presence of ~~the~~ an election judge board member unless the voter requests the election judge board member to deposit the ballot on the voter's behalf. Separate ballot boxes may be used for separate ballots.
- I. Prohibiting the leaving of the polling place with ballot. A voter may not leave the polling place with the official ballot that the voter received to mark.
- J. Prohibiting the exhibition of marked ballots. Subject to subsection F above, a voter may not exhibit the voter's ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot.
- K. Prohibiting the identification of ballots. ~~While the polls are open,~~ An election official may not 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 a ballot, or allow the same to be done by another person.
- L. Prohibiting the count of exhibited ballots. An election official may not allow a ballot to be placed in the ballot box that the official knows to have been unlawfully exhibited by the voter. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and destroyed.

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~~M. Official closing of polls. Fifteen minutes before and at the time of closing the polls, an election judge shall announce the present time and the time of closing the polls.~~

~~N. Voters in line when polls close. Every qualified voter present and in line at the time prescribed for closing the polls may vote.~~

2.24.100 Questioned voter.

If a voter's name does not appear on the official registration list in the precinct in which the voter seeks to vote, the election judge **board member** shall affirmatively advise the voter that the voter may cast a questioned ballot and the voter shall be allowed to place his name on a questioned ballot register and vote a questioned ballot.

2.24.110 Questioning of voters of suspect qualification.

Every election judge and election clerk **board member** shall question, and every watcher and any other person qualified to vote in the precinct may question a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote. All questions regarding a person's qualifications to vote shall be made in writing setting out the reason the person has been questioned. A questioned person, before voting, shall subscribe to an oath or affirmation in a form provided by the election supervisor 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. The questioned person living in the precinct where offering to vote and the length of time of residence in the former place. After the questioned person has executed the oath or affirmation, the person may vote. If the questioned person refuses to execute the oath or affirmation, the person may not vote.

2.24.120 Disposition of questioned votes.

A voter who casts a questioned ballot shall vote the ballot in the same manner as prescribed for other voters. ~~After the election judge removes the numbered stuff from the ballot,~~ ~~†~~ The voter shall insert the ballot into a small envelope and put the same 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 **questioned ballot register**, and delivered to the official or body supervising the election **supervisor**. The merits of the question shall be determined by the body **canvass board** in accordance with the procedures prescribed under ~~SMC 2-~~**Chapter 08 of this title.**

Chapter 2.28

ABSENTEE VOTING

Sections:

- 2.28.010 Absentee voter.
- 2.28.020 Emergency application for absentee ballot.
- 2.28.030 Absentee ballot.
- 2.28.040 Rejecting absentee ballots.
- 2.28.050 Questioning absentee votes.

2.28.010 Absentee voter.

Any qualified voter of the city **municipality** who is absent or expects to be absent from the city **municipality** on the day of any municipal election may vote at any such election by the method given in this chapter.

2.28.020 Emergency application for absentee ballot.

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Any qualified voter who is a patient under the care of a physician in a hospital or a private home or who is held in jail or other place of detention on the day of election and is unable to go to the polling place of his precinct to vote may request delivery of absentee voting materials to him. Such request may be by telephone or by a third party on the voter's behalf. If, in the opinion of the clerk, there is time for the voted ballots to be returned before the closing of the polls, a duly appointed and sworn election clerk shall take the ballot to the voter. The voter shall cast his ballot in the same manner provided herein for absentee voting in the clerk's office. If there is doubt of the voter's qualification, he may be required to comply with the questioned ballot procedure, except that in this case the challenge may be stated on the return envelope and the affidavit printed thereon is adequate.

2.28.030 Absentee ballot.

- A. At any election a qualified voter may vote an absentee ballot for any reason
- B. Before delivering any ballot, the clerk shall verify ~~satisfy himself~~ of the applicant's right to vote in the subject election and may require the applicant to comply with the questioned ballot procedure. Thereafter, the clerk shall deliver to such applicant voter personally, or by mail, an official ballot to be voted on by the voter. The clerk shall record the number of the ballot issued and the date of delivery or mailing. Before the election, the clerk shall furnish to the election ~~judge or judges of each precinct~~ **board** a list of voters in the precinct who have been issued absentee ballots.
- C. The clerk shall prescribe the form of and prepare the voter's certificate, envelopes, and other material used in absentee voting. The voter's certificate shall include a declaration, for use when required, that the voter is a qualified voter in all respects, a blank for the voter's signature, a certification that the affiant properly executed the marking of the ballot and gave the voter's identity, blanks for the attesting official or witnesses, and a place for recording the date the envelope was sealed and witnessed.
- D. The clerk shall also, personally or by separate notation or memorandum or by notation printed upon the back of the official envelope, advise the absentee voter that a new ballot will be furnished upon request if time permits, if a voter loses, improperly marks or otherwise damages a ballot, but replacement ballots may be requested no more than three (3) times.
- E. Upon completion the voter shall either personally deliver the envelope to the clerk or the election board by 8:00 p.m. the day of the election or mail it to the ~~city~~ **borough** clerk postmarked on or before the day of the election.
- F. On receipt of such absentee ballots, the ~~city~~ **borough** clerk shall secure in a safe location until the canvass board meeting.

2.28.040 Rejecting absentee ballots.

The ~~judges~~ **canvass board** shall reject any ballot which does not substantially conform to the ~~foregoing~~ requirements **of Section 030 above**, or in case the ballot envelope has been ~~theretofore~~ opened or contains more than one (1) ballot; ~~and~~ **Rejected** ballots shall be endorsed "Rejected" with the reason ~~therefor~~ and **written on or** fastened to the ballot envelope. All rejected ballots shall be enclosed and securely sealed in an envelope upon which the ~~judges~~ **canvass board members** shall endorse "~~Defective Absentee Ballots,~~" signed by said ~~judges~~ **sign**, and the same shall be delivered to the ~~canvass board~~ **election supervisor**.

2.28.050 Questioning absentee votes.

The vote of any absentee voter may be questioned as though he were present. The election ~~judges~~ **supervisor** shall deliver the official envelopes containing the ballot envelope of

all questioned absentee ballots to the canvass board, which shall rule upon the legality of each such questioned absentee ballot.

Chapter 2.32
CANVASSING RETURNS

Sections:

- 2.32.010 Counting ballots.
- 2.32.020 Counting of write-in votes.
- 2.32.030 Rules for determining mark on ballots.
- 2.32.040 Delivery of ballots.
- 2.32.050 Canvass of returns.
- 2.32.060 Custody and destruction of ballots.
- 2.32.070 Contest of election.
- 2.32.080 Runoffs and tie votes.
- 2.32.090 Certification of election results.
- 2.32.100 Judicial review.

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 ~~city~~ 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 ~~judges~~ 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 ~~judges~~ 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.

2.32.020 Counting of write-in votes.

- A. Counting write-in votes will only be done under this section if the aggregate of all votes cast for all write-in candidates for the particular office is:
 - 1. the highest number of votes received by any candidate for the office; or
 - 2. the second highest number of votes received by any candidate and the difference between the total number of votes received by the candidate

having the highest number of votes and the aggregate of all votes cast for all write-in candidates for the office is less than the percentage necessary for a recount at the City's municipality's cost.

- B. 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.
- C. Write-in votes that do not meet the requirements of this section will not be individually counted under this section.
- D. If the Chair determines that the requirements of this section have been met, the election officials board will commence counting the votes for that particular office.

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.

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.

2.32.050 Canvass of returns.

- A. The canvass board shall consist of the city borough clerk who acted as election supervisor, the chair ~~from each election precinct~~, 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 ~~Council~~ **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 ~~City Council~~ **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 ~~council~~ **borough assembly** shall determine whether the irregularities are so serious as to deny a meaningful vote of the citizens of the ~~City~~ **municipality**. If the canvass board reports a discrepancy in the count of the ballots, the ~~council~~ **borough assembly** may order a recount of the votes in the affected precinct. The ~~council~~ **borough assembly** may order an investigation of any irregularities or discrepancies. The ~~council~~ **borough assembly** may exclude votes cast or declare the entire election invalid if necessary to assure a fair election. If the ~~council~~ **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 ~~council~~ **borough assembly**.

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 ~~city~~ **borough** clerk unopened, except for use as evidence in the event of **an** election contest, and then may be destroyed in accordance with the ~~City's~~ **municipality's** retention schedule.

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 ~~city~~ **municipal** ordinance: or existence of a corrupt election practice as defined by the laws of the ~~s~~**S**tate of Alaska or in Chapter 2-36 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 ~~council~~ **borough assembly** at the meeting held to canvass the election returns, and there shall deliver to the ~~council~~ **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:

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 08-14
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The undersigned contest the regular (or special) election of the City **Municipality** of Skagway, Alaska, held on the (DAY) day of (MONTH), 19 (YEAR), on the following grounds:

Signature of Candidate or Person
Contesting Election

SUBSCRIBED AND SWORN to before me this (DAY) day of (MONTH), 19 (YEAR).

Notary Public, State of Alaska
My commission expires: _____

- C. Upon receiving a notice of contest, the ~~council~~ **borough assembly** shall order an investigation by the mayor to be made, with the assistance of the ~~city~~ election supervisor and borough attorney. Persons ~~These~~ contesting the election, the person ~~these~~ 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 ~~council~~ **borough assembly** shall direct the ~~city~~ election supervisor to ~~open the boxes containing duplicate registration cards~~ **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 ~~council~~ **borough assembly**, the ~~council~~ **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%).

2.32.080 Runoffs and tie votes.

In a ~~city~~ **municipal** election, the candidate receiving the most votes for a particular office shall be declared the winner. If, in a ~~city~~ **municipal** election, two candidates receive the same number of votes for a given office, the ~~council~~ **borough assembly** shall hold a runoff election ~~the fourth Tuesday of October, following the canvass and certification of the election as provided herein. Notice of a runoff election shall be published at least five (5) days before the election~~ **as set out in Chapter 12 of this title.**

2.32.090 Certification of election results.

- A. Unless the ~~council~~ **borough assembly** orders an investigation or unless a contest has been previously filed pursuant to ~~SMC 2.32-Section 070 above~~, the ~~council~~ **borough assembly** shall declare the election valid and certify the election results. The ~~council~~ **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 ~~council~~ **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;
 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 ~~council~~ **borough assembly**, the ~~city~~ **borough** clerk shall deliver to each person elected to office a Certificate of Election signed by the mayor and ~~city~~ **borough** clerk and authenticated by the municipal seal.

2.32.100 Judicial review.

No person may appeal or seek judicial review of a ~~city~~ **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 ~~council~~ **borough assembly**, and has commenced within ten (10) days after the ~~council~~ **borough assembly** has finally 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.

Chapter 2.36

ELECTION OFFENSES AND CORRUPT PRACTICES

Sections:

2.36.010 Prohibited conduct.

2.36.010 Prohibited conduct.

The acts set forth in Alaska Statutes Title 15, Ch. 56 are hereby declared to be election offenses and corrupt practices at municipal elections in the ~~city~~ **Municipality** of Skagway, and are hereby prohibited.

Chapter 2.44

INITIATIVE, REFERENDUM AND RECALL

Sections:

2.44.010 Initiative and referendum.

2.44.020 Recall.

2.44.010 Initiative and referendum.

The procedures for initiative and referendum in the ~~city~~ **municipality** shall be those set forth in Alaska Statutes Title 29, Ch. 26, Article 2.

2.44.020 Recall.

The procedure for recall of elected officials in the ~~city~~ **municipality** shall be that set forth in Alaska Statutes Title 29, Ch. 26, Article 3.

Section 4. Severability. If any provision of this ordinance or any application of the ordinance ~~thereof~~ to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected. ~~thereby.~~

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 08-14
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Section 5. Effective Date. This ordinance shall become effective upon adoption of the Borough Assembly and 60 days following review by the Department of Justice or July 1, 2008.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 17th day of April, 2008.

Thomas D. Cochran, Mayor

ATTEST:

Marjorie D. Harris, Borough Clerk

(SEAL)