

CHAPTER 3 - ELECTIONS

ARTICLE 1 - CANDIDATES

Section 3.105. Definitions

- (a) "Municipal Voter" means a United States citizen who is qualified and registered to vote in state elections and has been a resident of the municipality for the thirty days immediately preceding the election and who is not disqualified to vote under Article V of the Alaska Constitution

Reviser's Note – This definition is substantially the same as AS 29.33.250, and may not be modified by a home rule municipality. See also AS 29.71.800(25). Article V, Section 2 of the Alaska constitution provides, "No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights has been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed."

- (b) "Measure" means any question, initiative, referendum or proposition submitted to a popular vote at any election, including candidacy
- (c) "Judge" means an election judge

Section 3.110. Candidates; Eligibility

- (a) A candidate for election to a municipal office shall have been a municipal voter for not less then the twelve consecutive months immediately preceding the date of the election
Reviser's Note – See Chapter, Section 5.030. AS 29.20.140 places constraints on the powers of home rule municipalities to limit candidacy
- (b) No person may be a candidate for more then one office in the same election. If a person files a declaration of candidacy for more then one office, the municipal clerk shall determine by random selection which office that person is seeking
- (c) A person may withdraw as a candidate by filing a letter to that effect not later then ten days before the election in which the person is a candidate

Section 3.115. Candidates – Petition for Candidacy; Transition

A candidate for election to a municipal officer shall file a petition for candidacy in person with the officer of the municipal clerk not more then ninety or less then thirty days before the election. The petition for candidacy shall be in substantially the following form:

PETITION FOR CANDIDACY

I, _____, declare that I reside at _____, in the Municipality of Nenana, Alaska; that I am a United States citizen; that I am qualified and registered to vote in State of Alaska elections; that I have been or will have been on the date of the election for which I am filing this declaration on a municipal voter for at least twelve consecutive months; and that I am not disqualified as a voter under Article V of the Alaska Constitution, which provides at Section 2 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.

I declare myself to be a candidate for the officer of _____ for a term of _____ years, commencing _____ and ending _____; and request that my name be placed on the official ballot for the municipal election to be held in the Municipality of Nenana, Alaska on _____, 20__.

(Signature of Candidate)

We, the five undersigned municipal voters of the Municipality of Nenana, Alaska, nominate _____ as a candidate for the official described above.

Signature

Printed Name and Address

WARNING! IT IS A CRIME FOR ANYONE BUT A MUNICIPAL VOTER TO
SIGN THIS PETITION

Section 3.120. Non-Partisan Candidates

All elections for municipal office shall be non-partisan

CHAPTER 3 – ELECTIONS

ARTICLE 2 – INITIATIVE AND REFERENDUM

Section 3.205. Definitions

(Reserved)

Section 3.210. Initiative and Referendum

The powers of initiative and referendum are reserved to the residents of the Municipality. The powers of referendum and initiative do not apply to establishing budgets, fixing mill levies, authorizing the issuance of bonds or other administrative matters.

Section 3.215. Application for Petition

- (a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the address to which 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 name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for initiative petition, that the matter:
 - (1) Is not restricted by Section 3.210;
 - (2) Includes only a single subject;
 - (3) Relates to a legislative rather than to an administrative matter; and
 - (4) Would be enforceable as a matter of law
- (b) A decision by the clerk on an application for petition is subject to judicial review

Section 3.220. 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 municipal clerk. Each copy of the petition shall contain:
 - (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
 - (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsor;
 - (3) the date on which the petition is issued by the clerk;

- (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 address of each signer;
 - (6) a statement, with space for the sponsor's sword 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 signature to be those of the persons whose names they purport to be;
 - (7) space for indicating the total number of signatures on the petition; and
 - (8) notice that it is a crime for anyone but a municipal voter to sign the petition
- (b) if a petition consists of more then one page, each page shall contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred
 - (c) Copies of the petition shall be proved to each sponsor by the clerk

Section 3.225. Signature Requirements

- (a) The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition. The statement provided under Section 3.220 (a) (6) shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil
- (b) The clerk shall determine the number of signatures required on a petition and inform each sponsor. A petition shall be signed by a number of voters based on the number or votes cast at the last regular election held before the date the petition was issued equal to:
 - (1) 25 percent of the voters cast if the municipality has fewer then &,500 persons; or
 - (2) 15 percent of the votes cast if the municipality has 7,500 persons or more
- (c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected
- (d) A petition signer may withdraw the signer's signature on written application to the clerk before the certification of the petition

Section 3.230. Sufficiency of Petition

- (a) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall:
 - (1) Certify on the petition whether it is sufficient; and

- (2) If the petition is insufficient, identify the insufficiency and notify the sponsors at the address provided by certified mail
- (b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected.
- (c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after a supplementary filing the clerk shall re-certify the petition. If it is still insufficient, the petition is rejected and filed as a public record

Section 3.235. Protest

If the municipal clerk certifies an initiative or referendum petition as 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 governing body. The governing body shall hear and decide the protest.

Section 3.240. 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

Section 3.245. Initiative Election

- (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote, the clerk shall submit the matter to the voter at the next regular election occurring no sooner than 45 days after certification of the petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification
- (b) If the governing body adopts substantially the same measure, the petition is void and matter initiated may not be placed before the voters.
- (c) The ordinance or resolution 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 vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution

Section 3.250. Referendum Election

- (a) Unless the ordinance or resolution is repealed, when a petition seeks referendum vote the clerk shall submit the matter to the voters at the next election occurring no sooner than 45 days after the certification of the petition. If no election occurs within 75 days of certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification
- (b) If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the governing body may not enact an ordinance or resolution substantially similar to the suspended measure.
- (c) If the governing body repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters
- (d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election

Section 3.255. Effect

- (a) The effect of an ordinance or resolution may not be modified or negated within two years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed
- (b) If an ordinance or resolution is repealed in referendum election or by the governing body after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of two years
- (c) If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed soon then six months after the election results are certified.

Section 3.260. Recall

An official who is elected or appointed to an elective municipal office may be recalled by the voters of the municipality after the official has served the first 120 days of the term for which elected or appointed

Section 3.265. Grounds for Recall

Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties

Section 3.270. Application for Recall Petition

- (a) An application for a recall petition shall be filed with the municipal clerk and shall contain
 - (1) The signatures and residence addresses of at least 10 municipal voters who will sponsor the petition;
 - (2) The address to which all correspondence relating to the petition may be sent;
 - (3) A statement in 200 words or less of the grounds for recall stated with particularity
- (b) An additional sponsor may be added at anytime before the petition is filed by submitting the name of the sponsor to the clerk

Section 3.275. Recall Petition

- (a) If the municipal clerk determines that an application for a recall petition meets the requirements of Section 3.270, the clerk shall prepare a recall petition. All copies of the petition shall contain:
 - (1) The name of the official sought to be recalled;
 - (2) The statement of the grounds for recall as set out in the application for petition;
 - (3) The date the petition is issued by the city clerk;
 - (4) Notice that signatures must be secured within 60 days after the date the petition is issued
 - (5) Spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing address of each signer;
 - (6) A statement, with space for the sponsor's 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 the purport to be; and
 - (7) Space for indicating the number of signatures of the petition
- (b) Copies of the petition shall be provided to each sponsor by the clerk

Section 3.280. Signature Requirements

- (a) The signatures on a recall petition shall be secured within 60 days after the date on the clerk issues the petition. The statement provided under Section 3.275 (a) (6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil
- (b) The clerk shall determine the number of signatures required on a petition and inform each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of voters equal to the number of votes cast for the office at the last regular election held before the date the petition was issued. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters residing in the district equal the 25 percent of the number of votes cast in the district for that office at the last regular election help before the date the petition was issued.
- (c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible resident address shall be rejected
- (d) A petition signer may withdraw the signer's signature upon writing application to the clerk before certification of the petition.

Section 3.285. Sufficiency of Petition

- (a) The copies of a recall petition shall be assembled and filed as a single instrument. A petition may not be filed within 180 days before the end of the term of office of the official sought to be recalled. Within 0 days after the date a petition is filed, the municipal clerk shall:
 - (1) Certify on the petition whether it is sufficient; and
 - (2) If the petition is insufficient, identify the insufficiency and notify the sponsors at their addresses by certified mail
- (b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is reject if:
 - (1) The petition contains an adequate number of signatures, counting both valid and invalid signatures; and
 - (2) The supplementary petition is filed more then 180 days before the end of the term or office of the official sought to be recalled.
- (c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after the supplementary filing the clerk shall re-certify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Section 3.290. New Recall Petition Application

A new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected as insufficient

Section 3.295. Submission

If a recall petition is sufficient, the clerk shall submit it to the governing body at the next regular meeting or at a special meeting held before the next regular meeting.

Section 3.295.05. Election

- (a) If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election
- (b) If no regular election occurs within 75 days, the governing body shall hold a special election on the recall questions within 75 days but not sooner than 45 days after a petition is submitted to the governing body
- (c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question may not be submitted to the voters. The governing body may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming that official

Section 3.295.10. Form of Recall Ballot

A recall ballot shall contain:

- (a) The grounds for recall as stated in 200 words or less on the recall petition;
- (b) A statement by the official named on the recall petition of 200 words or less if the statement is filed with the clerk for publication and public inspection within 20 days before the election;
- (c) The following question: "Shall (name of person) be recalled from the office of (office)? Yes [] No []"

Section 3.295.15. Effect

- (a) If a majority vote favors recall, the office becomes vacant upon certification of the recall election
- (b) If an official is not recalled at the election, an application for a petition to recall the same official may not be filed sooner than six months after the election

Section 3.295.20. Successors

- (a) If an official is recalled from the Assembly, the office of that official should be filled by the remaining members of the Assembly within 30 days. If membership is reduced to fewer than the number of members to constitute a quorum, the remaining members shall appoint a number of qualified persons to constitute a quorum within 7 days. If all members of the governing body are recalled, the governor shall appoint three qualified persons to the Assembly whom shall appoint additional members to fill remaining vacancies
- (b) If a member of the school board is recalled, the office of that member shall be filled by the remaining members within 30 days. If all members are recalled from a school board, the governor shall appoint three qualified persons to the school board. The appointees shall appoint additional members to fill remaining vacancies
- (c) A person appointed under (a) or (b) of this section serves until a successor is elected and take office
- (d) Nominations for a successor may be filed until seven days before the 1st date on which a notice of the elections must be given. Nominations may not be filed before the certification of the recall election.

Reviser's Note – The procedure for recall is set forth by AS 29.26.240 – 29.26.360 and may not be changed by a home rule municipality

CHAPTER 3 - ELECTIONS

ARTICLE 3 - ELECTION PROCEDURES

Section 3.305. Definitions

(Reserved)

Section 3.310. Dates of Elections

- (a) An annual general election shall be held on the first Tuesday of October for the purpose of selection the replacements for those elected municipal officials whose terms of office are about to expire; and to decide such other measures as may require a vote of the people, and are ordered placed on the ballot by resolution of the assembly
- (b) A special election may be held at any time upon resolution of the assembly and after twenty days notice to the public in the manner provided by Section 3.330.

Reviser's Note - AS 23.26.030 requires that the public be given at least 20 days notice before any special election, and may not be altered by a home rule municipality

Section 3.320. Polling Place

All municipal elections shall be held at the Nenana Civic Center unless the assembly shall by resolution designate some other place for holding elections

Section 3.325. Hours of Voting

The polls shall be open from 8:00 a.m. to 8:00 p.m. on all election days for the purpose of voting. All voters in line to vote by 8:00 p.m. shall have the right to vote.

Section 3.330. Notice of Election

- (a) At least twenty days before any general or special election, the municipal clerk shall give full public notice of such election

- (b) Notice shall be given by publication at least twice in the newspaper of general circulation in the vicinity of the City. The published notification shall contain, but not be limited to the date of the election, the hours between which the polling places will be open, the offices to which the candidates are to be nominated or elected, and the subject of any proposition or questions which are to be voted on
- (c) Public notices of such elections signed by the Municipal Clerk shall be posted in three public places in the municipality. The notice shall be in substantially the following form:

NOTICE OF ELECTION

Notice is hereby given that on _____, 20 __,
An election will be held at the Civil Center in the City of Nenana for the purpose of _____. The polls will open at 8:00 a.m. and close at 8:00 p.m. on the day of the election

All persons may vote at this election who are United States Citizens who are qualified and registered to vote in State of Alaska elections and who have been, or will have been on the day of the election, residents of Nenana for at least thirty days and who are not disqualified from voting under Article V, Section 2 of the Alaska Constitution, 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/

All qualified voters who desire to have their names placed on the official ballot as candidates for any office to be filled at this election must file petition of candidacy with the Municipal Clerk on or before _____, 20____. Petitions for candidacy forms may be obtained from the office of the Municipal Clerk.

Municipal Clerk

- (c) Notice procedures for runoff elections shall be followed as provided by Section 3.730(c)

Reviser's Note – Notice of Election. The last paragraph of the form should be dropped when giving notice of any election at which no official is to be elected, or when giving notice of a runoff election required by Section 3.630.

Section 3.335. Ballots – Forms

- (a) Ballots shall be of plain white paper through which printing and writing cannot be read
- (b) Ballots shall contain the names of all candidates whose petitions for candidacy for any office specified on the ballot have been filed with the municipal clerk in accordance with the provisions of Section 3.215.
- (c) The name of each candidate shall be placed under the designation of the office for which the person has petitioned for candidacy, and when there is more than one candidate for such office, the names of such candidates shall be arranged in alphabetical order.
- (d) At the end of the list of candidates for each office, blank lines equal in number of persons to be elected to such office shall be provided, upon which the voter may write the names of persons not listed on the ballot.
- (e) The words, "Vote for not more than _____," with the appropriate number filling the blank, shall be placed before the list of candidates for each office
- (f) The measure to be voted upon shall follow the lists of candidates for offices. The words "Yes" and "No" shall be placed below the statement of each measure
- (g) A one-quarter inch line or square shall be printed opposite the name of each candidate, each blank line and each of the words "Yes" and "No".

Section 3.340. Posting of Specimen Ballots

At least two days before any election, the municipal clerk shall post specimen ballots in the rooms where the election is to be held and in three public places in the municipality. The specimen ballots shall be printed on colored paper, and shall be labeled "Sample"

Section 3.345. Election Materials – Preparation and Delivery by Clerk

- (a) The municipal clerk shall be responsible for the printing and supply of sufficient quantities of ballots and forms to be used during the election, and for the furnishing of all other supplies required during the election. All ballots, forms, and supplies shall be on hand at least two days before any election.
- (b) The clerk shall furnish each polling place with:
 - (1) An American Flag of such size as may be determined by the assembly, to be erected at or near the polling place;
 - (2) A ballot box;

- (3) A sufficient number of booths in which voters may conveniently mark their ballots, screened from observation;
- (4) Several pens or indelible pencils for each booth;
- (5) A sufficient number of instruction cards, in a form prescribed by the clerk, for the guidance of the voters in voting
- (c) The clerk shall furnish to the election board:
 - (1) A registration book, in which every person voting at the polling place shall sign his name;
 - (2) A list of those who have been issued absentee ballots;
 - (3) Necessary blank forms for the oaths of voters, tally sheets and certificates of election results;
 - (4) Envelopes in which to enclose the returns and ballots of the election;
 - (5) Twice as many ballots as there are estimated to be qualified voters in the city;
 - (6) A stamp for stamping the words "Official Ballot, City of Nenana" and the date of the election on the official ballots;
 - (7) A copy of this chapter of the Code of Ordinances of the Municipality of Nenana; and
 - (8) All other supplies which will be needed by the election board during the course of the election

CHAPTER 3 – ELECTIONS

ARTICLE 4 – ELECTION BOARD AND CLERK

Section 3.405. Definitions

(Reserved)

Section 3.410. Appointment of Election Board, Chairman and Clerks.

Before each election, the assembly shall appoint three judges to constitute the election board. One judge shall be designated presiding election judge and shall be primarily responsible for the administration of the election. The assembly may also appoint one or more clerks to assist in the conduct of the election. All judges and clerks shall be municipal voters.

Section 3.415. Oaths of Office – Form

Before taking office, all election judges and clerks shall subscribe to and file with the municipal clerk following oath:

I do solemnly swear (or affirm) that I will honestly, faithfully and impartially perform the duties of judge (or clerk) of the election to be held in the Municipality of Nenana, Alaska on _____, 20____.

Signature

Section 3.420. Vacancies

The presiding election judge shall have the power to appoint judges and clerks to replace those who are unable to serve at the election.

Section 3.425. Majority Decision

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

Section 3.430. Power to Administer Oaths

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

Section 3.435. Report to the Polling Place

The election board shall report to the polling place at 7:30 a.m. on the day of the election

Section 3.440. Proclaiming the Polls Open

Immediately after opening the polls and before receiving any ballots, one of the election judges shall proclaim in a loud voice from the doors of the polling place that the polls are open.

Section 3.445. Ballot Box

Before receiving any ballots, the election board shall, in the presence of any persons assembled at the polling place, open and exhibit and close the ballot box. Thereafter, the ballot box shall not be opened again until the polls are finally closed, nor shall it be removed from the polling place or presence or bystanders until all ballots have been counted and canvassed

Section 3.450. Offering to Vote and Delivery of Ballot to Voter

A person offering to vote shall give the election board his or her name, and sign on the first available line of the registration book. If there are no objections to that person's qualifications as a voter, one ballot shall be delivered to that voter. Before delivering a ballot to any voter, one of the judges shall initial the ballot and stamp on the back near the top of the ballot the designation "Official Ballot, City of Nenana, Alaska, _____, 20____."

Section 3.445. Challenge – Procedure; Oath

- (a) Any person offering to vote may be challenged as unqualified by any person or the election judges, and it shall be the duty of each judge to challenge any person whom the judge knows, suspects or believes not to be entitled to vote until that person has taken and subscribed to the following oath:

I do solemnly swear (or affirm) that I am a citizen of the United States; that I am over the age of at least 18 years; that I have resided continuously for at least 30 days immediately preceding this election within the corporate limits of the Municipality of Nenana; that I am qualified and registered to vote in the State of Alaska elections; and that I am not disqualified as a voter under Article V of the Alaska Constitution, which provides in Section 2 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

- (b) A challenged ballot shall be cast in the same manner as a regular ballot, except that before it is placed in the ballots box the challenged ballot shall be placed in a sealed envelope marked with the voter's name, address and the signature, a statement of the basis for the challenge, and the words, "Challenged Ballot"

Section 3.460. Assistance in Marking Ballot; Penalty for Divulging Vote Cast by Assisted Voter

- (a) Any voter who declares under oath to the election board that he or she is unable to read or that he or she is unable to mark a ballot because of physical disability may receive that assistance of not more than two persons of the voter's own selection
- (b) Any person who assists a voter as permitted by this section, other than an election judge or clerk, shall take an oath that they will not divulge the vote cast by the voter whom they assist. Any person assisting a voter as permitted by this section who divulges the vote cast by such voter is guilty of an election crime under AS 15.56

Section 3.465. General Procedure for Marking and Casting Ballots

Except as provided by Section 3.460 and 3.630, the following is the procedure to be followed by all voters once they have received their official ballots:

- (1) On receiving the ballot the voter shall forthwith, and without leaving the polling place, retire alone to one of the booths provided to prepare the ballot;
- (2) The voter shall prepare the ballot by marking in the appropriate space opposite the name of the person for whom the voter wishes to vote, whether printed on the ballot or written in by the voter on the blank lines provided for that purpose; the voter may also mark the affirmative or negative of any measure on the ballot;
- (3) After preparing the ballot, the voter shall fold it so that the face of the ballot is concealed and the official stamp is on the outside;
- (4) Having folded the ballot, the voter shall deliver it folded to one of the election judges or clerks who shall immediately deposit it in the ballot box

Section 3.470. Only Official Ballot to be Deposited in Ballot Box

No ballot shall be deposited in the ballot box which does not bear on its outside the official stamp label as prescribed by Section 3.450

Section 3.475. Obtaining New Ballot; Disposition of Improperly Marked Ballot

- (a) If the voter improperly marks or otherwise spoils a ballot, the voter may request and the election board shall provide the voter with another ballot, to a maximum of three ballots
- (b) The election board shall immediately mark the work "Spoiled" on the back of the ballot which is returned as permitted by this section, and, without looking at its face, shall deposit it in an envelope upon which the words "Spoiled Ballot" have been written

Section 3.480. Time Limits on Occupying Ballots

Voters shall not remain in or occupy booths longer than is necessary to prepare their ballots, which shall not exceed five minutes, provided the other boots are occupied

Section 3.485. Closing Polls

- (a) Fifteen minutes before the closing polls, one of the judges shall proclaim in a loud voice from the doors of the polling place the time remaining before the polls will close.
- (b) At the time of closing the polls, one of the judges shall announce that the polls are closed and that persons not then in line to vote shall not be entitled to vote

CHAPTER 3 - ELECTIONS

ARTICLE 5 - CANVASS OF BALLOTS BY ELECTION BOARD

Section 3.505. Definitions

(Reserved)

Section 3.510. Immediate Commencement of Canvass

As soon as the polls are closed and the last ballot has been cast, the election board shall immediately proceed to open the ballot and to count and canvass the ballots. The canvass shall be continued without adjournment until completed

Section 3.515. Public Canvass

The canvass shall be public, in the presence of bystanders. The election board may limit the number of bystanders or eject unruly bystanders in order that the canvass may be conducted without delay

Section 3.520. Handling of Ballots

No person handling the ballots after they have been taken from the ballot box shall remove a ballot from the immediate vicinity of the polls or have a marking device in hand

Section 3.525. Reading of Ballots and Tally of Votes.

On judge or clerk shall read from the ballots and two judges or clerks shall keep the tally of the votes cast. The ballots shall be carefully taken out of the ballot box, one by one, by the judge or clerk reading from the ballots. The judge or clerk shall open each ballot and read aloud the offices and the names of each person voted for under each office and the vote on any measure on the ballot. The judges or clerks taking the tally shall mark each vote on their tally sheets as it is read.

Section 3.530. Ballot Read and Tally Sheets to be in Clear View of Onlookers

During the reading and tallying, the ballot read and the tally sheets shall be within the clear view of bystanders

Section 3.535 Stringing of Ballots

- (a) Judges shall make every effort to preserve the franchise of the voter. No ballot or part thereof shall be rejected because of stray marks or improper form or because of mistakes in the initial spelling of names if the judges can determine to their satisfaction the person voted for and the office intended
- (b) If more persons are designated on any ballot for any office then are to be elected to such office, that part of the ballot shall not be counted for any of them.
- (c) If any ballot is rejected, the reasons for rejecting it shall be marked on its back and shall be signed by at least two of the judges.
- (d) All rejected ballots shall be put in an envelope upon which the words "Rejected Ballots" have been written

Section 3.545. Certificate and Return of Election; Delivery of Returns, Ballots and Registration Book to the Municipal Clerk

- a) When the canvass has been completed, the election board shall prepare a certificate in duplicate of the election results. Such certificate shall contain to totals of all votes cast at the polling place for each candidate and for and against each measure, and shall be signed by the election judges. The certificate shall also contain a notation that the totals thereon do not reflect any absentee, questioned or challenged ballots which have been cast in the election
- b) One copy of the certificate of the election results shall be posted on the door of the polling place. The other certificate, together with the oaths of voters and other official papers other than ballots, shall be placed in an envelope upon which the words "Returns of the election held in Nenana, Alaska on _____, 20____" have been written
- c) All official ballots that are not marked "Spoiled", "Rejected", or "Challenged" shall be placed and sealed in an envelope upon which the words "Official Ballots of the election held in Nenana, Alaska on _____, 20____" have been written. All unused ballots shall be placed in the envelope with the spoiled ballots and sealed. The envelope containing the rejected ballots shall also be sealed.
- d) The registration book and all sealed envelopes shall be delivered forthwith to the municipal clerk who shall pick them up at the polling place and deposit them in the clerk's office for safekeeping

CHAPTER 3 - ELECTIONS

ARTICLE 6 - ABSENTEE VOTING

Section 3.605. Definitions

(Reserved)

Section 3.610. Eligibility to Cast an Absentee Ballot

Any municipal voter who expects to be absent from then municipality of the day of an election or who will be unable to vote at the polling place because of physical disability may cast an absentee ballot

Section 3.615. Application Procedure

Not earlier then fifteen days before an election, any municipal voter eligible to cast an absentee ballot may, in person or by mail, apply to the municipal clerk for an absentee ballot. The application shall show the applicant's residence address, shall clearly indicate a right to an absentee ballot, and shall be signed by the applicant

Section 3.620. Clerk's Duties Upon Receipt of Application for Absentee Ballot

- (a) Upon timely receipt of an application for an absentee ballot, the clerk shall file the application
- (b) If satisfied that the applicant is eligible to cast an absentee ballot, the clerk shall deliver to the applicant, personally or by mail at the mailing address giving in the application, an official ballot for the election, a copy of Section 3.530, and identification envelope and a return envelope
- (c) If mailed, the absentee voting material shall be sent by first class mail
- (d) The clerk shall mark on the application the date of personally delivery or mailing the ballot, and the method of delivery.

Section 3.625. Identification Envelope and return Envelope – Form

Identification envelope and return envelope shall be of such form, size and weight as may be necessary and convenient, as prescribed by the clerk. On the return envelope shall be printed the address of the municipal clerk's office and, in the upper right-hand corner, the words, "affix stamp here". The following shall be printed on the identification envelope:

Identification Envelope

State of Alaska)

) ss:

City of Nenana)

I hereby declare, under penalty of law, that I am a resident and qualified voter of the City of Nenana, Alaska.

(Date signed)

(Signature)

(Residents Address)

MARKED BALLOT ENCLOSED – TO BE OPENED ONLY BY CANVASSING BOARD.

An person who votes or attempts to vote in the name of another person, or who votes more then one in the same election, or who votes at a place where or at a time when he is not lawfully entitled to vote, is committing a crime under AS 15.56.

Section 3.630. Casting Absentee Ballot – Procedures

The following is the procedure to be followed by all voters who cast absentee ballots:

- (1) The voter shall prepare the ballot by marking in the appropriate space opposite the name of the person for whom the voter wished to vote, whether printed on the ballot or written in by the voter on the blank lines provided for that purpose. The voter may also mark the affirmative or negative of any measure on the ballot. Ballots may be marked only in ink or indelible pencil
- (2) After preparing the ballot, the voter shall fold it so that the face of the ballot is concealed and the official stamp is on the outside. The voter shall then insert and seal the ballot in the identification envelope

- (3) After inserting and sealing the ballot in the identification envelope, the voter shall date and sign the declaration on the identification envelope
- (4) The voter shall insert the identification envelope containing the ballot in the return envelope and mail it, not later than the day before the election, with postage prepaid, to the municipal clerk or the voter shall deliver or have it delivered to the municipal clerk before the closing of the polls on the day of the election
- (5) No ballot which has been mailed shall be accepted if it is postmarked after midnight on the day before the election, or if it is received after the day upon which the absentee ballots are canvassed. No ballot which has been delivered other than by mail shall be accepted if received by the municipal clerk after the polls have closed.

Section 3.635. Clerk's Duties Upon Receipt of Absentee Ballot

- (a) Upon receipt of an identification envelope, the clerk shall deposit it in a safe place in the clerk's office, to be kept by the clerk until the time prescribed by Section 3.610 for canvassing the absentee ballots.
- (b) Identification envelopes received after the times prescribed by Section 3.630 shall be marked "Rejected" and the date and time of receipt noted thereon.
- (c) In no even shall an identification envelope be opened except by the canvassing board as prescribed by Section 3.175

Section 3.640. Delivery of List of Absentee Voters to Election Board

Before the opening of the polls, the clerk shall deliver to the election board a list of voters who have been issued absentee ballots

CHAPTER 3 - ELECTIONS

ARTICLE 7 - POST ELECTION PROCEDURES

Section 3.705. Definitions

(Reserved)

Section 3.710. Assembly to Meet as Canvassing Board

- (a) One week after the election, or at any date set by the Assembly before the election, provided the date is not less than three weekdays after the election, if no contest of the election has been initiated as provided by Section 3.740, the Assembly shall meet publicly as a canvassing board to canvass the absentee ballots and election returns.
- (b) The canvass may be postponed for cause from any day to day, but there shall be no more than three such postponements
- (c) An Assembly member who is running for re-election at the election shall not participate as a member of the canvassing board
- (d) If less than four assembly members eligible to participate as members of the canvassing board are present, the eligible assembly members shall appoint not more than three municipal voters to act as members of the board

Reviser's Note - The three days minimum in (a) of this section is to provide adequate time for absentee ballots to arrive through the mail

Section 3.715. Canvass of Absentee Ballots - Procedure

- (a) The canvassing board shall separately take up and consider each identification envelope
- (b) A board member shall announce aloud the name of the absentee voter under consideration. Any member of the board or of the public present may challenge the qualifications of the absentee voter, upon any of the grounds available against a person offering to vote at the polling place
- (c) If three or more members of the board find that an absentee voter is not qualified to vote, the identification envelope of that voter shall not be opened, and the reason for disqualifying such voter shall be endorsed on the back of the identification envelope and be signed by at least three members of the board.

- (d) If challenge is overruled, or if no challenge is made, the board shall open the identification envelope, without defacing the affidavit printed on it or mutilating the enclosed ballot, and, without unfolding the ballot, shall remove and deposit the ballot in the ballot box for provided purposes
- (e) After all the qualified absentee ballots have been deposited in the ballot box, the box shall be thoroughly shaken.
- (f) Challenged absentee ballots shall be treated as challenged ballots under Section 3.178

Section 3.178. Canvass of Challenged Ballots – Procedure

- (a) The canvassing board shall separately take up and consider each challenged ballot
- (b) A board member shall announce aloud the name of the challenged voter under consideration. Any member of the board or of the public present may challenge the qualifications of the challenged voter, upon any of the grounds available against a person offering to vote at the polling place
- (c) If three or more members of the board find that a challenged voter is not qualified to vote, the identification envelope of that voter shall not be opened, and the reason for disqualifying such voter shall be endorsed on the back of the identification envelope and be signed by at least three members of the board
- (d) If a challenge is overruled, or if no challenge is made, the board shall open the challenged ballot, without defacing the information printed on it or mutilating the enclosed ballot, and, without unfolding the ballot, shall remove and deposit the ballot in the ballot box provided for that purpose
- (e) After all the qualified challenged ballots have been deposited in the ballot box, the box shall be thoroughly shaken
- (f) After the ballot box has been thoroughly shaken, the ballots shall be removed and the votes tallied by the canvassing board in substantially the manner provided by Section 3.510 and 3.540.

Section 3.720. Canvass of Election Returns

Immediately after the absentee and challenged ballots have been canvassed as prescribed by Section 3.710 – 3.718, the total election returns shall be canvassed by the canvassing board. The canvass of returns shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical errors and by comparing the totals with the certificate of the election results

Section 3.725. Declaration and Recording of Election Results by Council

If no contest of the election has been initiated as provided by Section 3.740, a meeting of the assembly to declare and record the election results shall be held immediately after the returns have been canvassed as prescribed by Section 3.720. If an election contest has been initiated, such meeting shall be held within four days after the election contest has been finally determined. The election results shall be recorded in the minutes of such meeting

Reviser's Note – an election contest has been “finally determined” for the purpose of this Section when all appeals have been exhausted or, if all appellate steps have not been exhausted, when the time for an appellate step has run without an appeal being taken. AS 15.20.540 - .560; Greater Anchorage Area Borough v. City of Anchorage, 504 P.2d 1027 (Alaska 1972)

Reviser's Note – Section 3.730, “Procedure if no candidate for a Particular Office Receives more than 40 percent of the vote”. was repealed by adoption of Ordinance 87-08 by a vote of the people in the general municipal election held on 10/4/88

Reviser's Note - -AS 29.20.150 states, “The *** council may by ordinance require a majority vote for election of officials. A runoff election or other means of obtaining a majority may be used.”

Section 3.735. Tie Votes

If two candidates tie in having the highest number of votes for the same office for which there is to be elected only one candidate, and such candidates together receive more than 80 percent of the votes cast for that office, the winner shall be determined by lot. Lots shall be drawn in public at a time and place set by motion of the assembly made at the meeting held as prescribed by Section 3.725

Section 3.740. Election Contest

- (a) An election may be contested only upon the filing by a city voter of a written affidavit specifying with particularity the grounds for the contest. The affidavit must be filed with the municipal clerk not later than five days after the assembly has met as provided by Section 3.725
- (b) At a meeting held by the assembly within seven days after an affidavit has been filed as prescribed by (a) of this section, the assembly shall consider the facts alleged in the affidavit and hear testimony that may be offered

- (c) After considering the affidavit and hearing testimony offered, the assembly may order a further investigation of the matters presented, order a recount of the ballots, call a new election or run-off election, or declare that the contest is without merit, as appropriate
- (d) If a recount of the ballots is ordered, such a recount shall be made in public by the assembly or by at least three persons designated by the assembly, each of whom has signed an oath in the form prescribed by Section 3.415. The assembly shall set the date, time and place of the recount by resolution, by the recount shall occur in any event within four days after it has been ordered by the assembly.
- (e) The contestant or contestants shall pay all of the costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse and results of the election or the difference between the winning and losing vote on the result contested is more than five percent
- (f) No person may appeal or seek other judicial review of a municipal election unless the person is a municipal voter and has exhausted his administrative remedies before the assembly and seeks such judicial review within ten days following the determination of the election contest in the superior court in the Fourth Judicial District. The failure to seek judicial review within that ten day period makes the election result final and valid in all respects
- (g) Notwithstanding anything else contained in this section, the expulsion of the mayor or an assembly member under AS 29.20.070 and AS 29.20.280(b) or AS 29.20.170, respectively, and the ordinance of the municipality, is final and not subject to judicial review

Reviser's Note - Sub-section (g) is mandated by AS 29.26.070 and AS 29.10.200 and may not be altered by a home rule municipality

Reviser's Note - Section 3.745 was amended by the adoption of ordinance 88-09 on 10/13/88

Section 3.745. Disposition of Election Materials

- (a) All ballots printed for an election shall be burned or shredded thirty days after the meeting prescribed by Section 3.725 has been held, or thirty days after appeals have been exhausted, whichever is later. The assembly shall designate two of its members to supervise the destruction
- (b) All precinct election certificates, tallies, and registers shall be preserved for four years after the election, and shall then be disposed of by the clerk as convenient.

Section 3.750. When Elected Officials Take House

Elected officials shall take office on the first Monday following the day on which the facts of their election has been finally determined