

APPENDIX C- EXCERPTS FROM BOROUGH CODE

2.68.010 Scope of chapter.

This chapter shall govern municipal elections in accordance with the Borough Charter. All provisions of the United States Constitution, the Alaska State Constitution, and the laws enacted pursuant to these constitutions affecting municipal elections are incorporated in this chapter as though fully set out in this chapter. Provisions of AS 15 shall not apply to the conduct of municipal elections unless otherwise provided herein and shall be limited expressly to the provision referenced.

2.68.530 Notice of election contest.[excerpt]

A candidate or 10 qualified voters who voted in that election may contest election of any person or the approval or rejection of any question or proposition upon one or more of the following grounds: (A) mistake, misconduct, fraud, or corruption on the part of an election official sufficient to change the result of the election; (B) the candidate certified by the election board under HBC 2.68.400 is not qualified as required by law; (C) any corrupt practice as defined by law sufficient to change the results of the election. The notice of election contest shall be submitted, in writing, to the borough clerk before 5:00 p.m. on the day of the certification of the election. The notice of contest shall specify the election being contested, the grounds of the contest, and shall bear the notarized signatures of the candidate or qualified voters bringing the contest.

2.68.540 Investigation of election contest.

Upon receiving a notice of election contest, per HBC 2.68.530, the assembly shall order an investigation to be made by the borough attorney, clerk and manager. All investigation proceedings shall be conducted publicly. The authority to investigate includes the authority to order the appearance of witnesses, to administer oaths, and to compel the production of books, records, paper and electronic documents, and other evidence. Following completion of the investigation, a written report shall be prepared and presented to the assembly.

2.68.545 Assembly action following investigation.

If, following completion of the investigation, the assembly concludes: (A) a mistake, misconduct, fraud, or corruption on the part of an election official sufficient to change the result of the election occurred; (B) the person canvassed as elected is not qualified as required by law; or (C) any corrupt practice as defined by law sufficient to change the results of the election occurred, the assembly shall, to the extent of such proof, either: (1) purge the invalid or improperly counted votes and, after a recount, certify the amended returns; (2) decline to certify the election of the person not qualified by law and order another election for that office; or (3) decline to certify the results of the election and

order another election.

2.68.410 Election offenses and corrupt practices. [excerpts]

The following acts are declared to be election offenses and corrupt practices and are prohibited:

- A. Inducing, compelling, or attempting to induce or compel any person to vote or refrain from voting for any candidate in any election or for or against any election proposition or question by directly or indirectly using or threatening to use force, coercion, violence or restraint or inflicting or threatening to inflict damage, harm or loss upon or against the person;
- Q. Electioneering on election day within the polling place or within 200 feet of the building wherein the polling place is located.

2.68.370 Voting procedures at the polls. [excerpts]

- G. During the hours that the polls are open, no judge or clerk may discuss any political party, candidate or issue while on duty.

2.68.200 Form of ballot. [excerpts]

- A. The clerk shall prepare all official ballots 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.
- C. The 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. The ballots shall be numbered in series to ensure simplicity and secrecy and to prevent fraud.
- D. The title of all offices to be voted upon (mayor, assembly member, or school board member) shall be printed on the ballot. The title of each office to be filled shall be followed by the printed names of the candidates for such office in a single list arranged alphabetically, below which shall be blank lines equal in number to the candidates to be elected to such office, upon which the voter may write the names of persons not listed on the ballot. The words “Vote for ___ only” with the appropriate number replacing the blank shall be placed before the list of candidates for each office.

2.68.230 Printing and posting.

Instructions to voters shall be printed under the direction of the clerk, on cardstock or heavy paper, in large, clear type, and one copy of such instructions shall be posted in each room where polling booths are located and in each of the voting booths provided for the election. Sample ballots shall also be provided for voters to review.

2.68.330 Election officials.[excerpts].

A. Election Supervisor. The borough clerk shall be the election supervisor. The clerk shall have authority to conduct all election proceedings and to carry out the intent of this chapter. The clerk may authorize an assistant to perform the functions set out in this chapter as election official. Such assistant shall be administered the election officials' oath.

E. Oath. Each election official shall take or subscribe to the following oath delivered to the official by the borough clerk:

I, _____, do solemnly swear (or affirm) that I will honestly and faithfully perform the duties of judge of the election according to law; and that I will endeavor to prevent fraud, deceit, or abuse in conducting the election, to the best of my knowledge and ability.

F. Training Session. All election officials must attend a training session unless excused therefrom by the borough clerk. Any appointed official who fails to attend a training session without being excused will be subject to dismissal by the clerk who is authorized to make an appointment to fill the vacancy caused by such dismissal.

2.68.550 Expenses of contested election.

All expenses incurred by the borough pursuant to an election contest shall be paid by the candidate or voters contesting the election and each of them shall be individually liable for the whole amount of such expenses, unless: (A) the results of the election are changed by a recount, or (B) the difference between the winning and losing vote on the result contested is changed by more than two percent, or (C) the assembly determines that the election was invalid, or (D) otherwise ordered by the assembly.

2.68.560 Election contest appeal – Judicial review.

A person qualified to file an election contest may not appeal or seek judicial

review of an election for any cause unless the person is qualified to vote in the borough, exhausted all administrative remedies before the clerk and the assembly, and has commenced an action in the superior court within 10 calendar days after the assembly has finally certified the election results. An appeal under this section shall be brought in the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska. The appeal shall be heard by the court sitting as an appellate court and shall be governed by the applicable rules of procedure for appeals to the superior court in civil matters. Upon order of the court, the clerk shall furnish a record of the contested election, including ballots, registers, and other election material and papers as the court may demand. If an action under this section is not commenced within the 10-day period, the election and the election result shall be conclusive, final, and valid in all respects.