

Requested and prepared by: Clerk
Introduced: March 12, 2001
Substituted: March 12, 2001
Public Hearing: April 9, 2001
Adopted: April 9, 2001
Vote: Unanimous; Patrick absent

**CITY OF WASILLA
ORDINANCE SERIAL NO. 01-16(SUB)**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING PORTIONS OF
TITLE 4, ELECTIONS.

BE IT ENACTED:

* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

* **Section 2. Amendment of section.** WMC 4.04.010 Definitions, is amended by amending the following definitions to read as follows:

"Election official" includes election officials **approved by the council under Section 4.16.030**, [AT THE POLLS, THE CLERK, THE CLERK'S OFFICE STAFF, ABSENTEE VOTING OFFICIALS,] canvass board, review board, counting teams, receiving teams, **the clerk, and the clerk's office staff**.

"Qualified voter" means **a person** [ANY VOTER] who **is qualified to vote in a city election under Chapter 4.08** [HAS THE QUALIFICATIONS REQUIRED BY THIS CHAPTER AND IS NOT DISQUALIFIED UNDER ARTICLE V OF THE ALASKA STATE CONSTITUTION].

* **Section 3. Amendment of subsection.** WMC 4.16.030 Election officials, subsections (A) and (B) are amended to read as follows:

A. Appointment, number. Before each election, the clerk shall recommend to the council for approval at least three election officials **for** [IN] each **polling place** [PRECINCT] to constitute the election board for that **polling place** [PRECINCT], **and the number of election officials that the clerk considers necessary to conduct absentee voting and early voting**. One election official **at** [IN]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

each **polling place** [PRECINCT] shall be designated chairperson and shall be primarily responsible for administering the election **at** [IN] that **polling place** [PRECINCT]. If no chairperson is appointed [FOR THE PRECINCT] or the chairperson is unable to fulfill the chairperson's duties, the other election officials shall perform the chairperson's duties. After council approval, the clerk may **adjust** [MAKE NECESSARY ADJUSTMENTS TO] the **assignments of election officials** [ELECTION BOARDS] as required **for the proper** [TO] conduct **of the** [A PROPERLY HELD] election.

B. Qualifications. Each election official shall be a [REGISTERED] qualified voter [OF THE PRECINCT FOR WHICH THE ELECTION OFFICIAL IS APPOINTED], unless no voter is willing to serve; **provided that a person may be an election official to conduct absentee voting or early voting if the person is qualified to vote in state elections.** There shall be no inquiry into an election official's political party as a prerequisite to service. Candidates or members of the candidate's immediate family may not serve as election officials for an election in which the candidate has filed a nominating petition. Unless excused by the clerk, all election officials shall attend training sessions offered by the clerk or borough clerk.

* **Section 4. Amendment of subsections.** WMC 4.16.050 Ballots; Distribution, subsections (A) and (B) are amended to read as follows:

A. The clerk shall have ballots printed for each election. **Early, absentee and sample ballots shall be** [AND] in the clerk's possession at least [SEVEN CALENDAR DAYS BEFORE THE ELECTION, HOWEVER, SAMPLE AND ABSENTEE BALLOTS SHALL BE IN THE CLERK'S POSSESSION] sixteen (16) calendar days before a regular or special election and nine **(9) calendar** days before a run-off election. **All other ballots shall be in the clerk's possession at least seven (7) calendar days before the election.** [AT THAT TIME] **Any** [ANY] candidate or the

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

candidate's authorized agent may inspect the ballots upon their receipt by the clerk, and any mistake discovered shall be immediately corrected.

B. Sufficient ballots and sample ballots shall be distributed to each election board prior to or on the date of the election before the opening of the polls. The ballots shall be distributed in containers, marked with the number and type of ballots enclosed. A receipt for the ballots, including the number and type of ballots, shall be signed and dated by an election official. The clerk shall keep the receipt as part of the election record.

* **Section 5. Amendment of section.** WMC 4.16.070, Reporting Voting Information to the State, is amended to read as follows:

Within sixty (60) calendar days after each election held in the city, the clerk shall send to the Alaska State Division of Elections the official precinct registers, questioned voter registers, early voter registers, and absentee and personal representative voting lists containing the names, residence addresses, and the voter identification of all persons who voted in that election.

* **Section 6. Amendment of subsection.** WMC 4.20.010 Absentee/Early Voting; Eligible Persons; Liberal Construction, subsection (A) is amended to read as follows:

A. Any [REGISTERED] qualified voter may vote an absentee ballot or early ballot, if provided by the clerk, at any election [FOR ANY REASON].

* **Section 7. Amendment of title and subsection.** WMC 4.20.020 Absentee/Early Voting; By Mail. The title and subsection (D) are amended to read as follows:

4.20.020 Absentee[/EARLY] Voting; By Mail.

D. A voter who applies for and receives an absentee ballot by mail may vote the ballot at [AT] any time on or before the day of the election[, ANY VOTER

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

RECEIVING AN ABSENTEE BALLOT BY MAIL MAY VOTE THE BALLOT]. The voted ballot shall then be placed in a secrecy sleeve, which is then placed in a return envelope. The [AND THE] voter shall sign the certification on the return envelope and have it witnessed in the presence of an authorized official such as:

(1) A notary public; U.S. postmaster or authorized postal clerk; commissioned military officer; judge; justice; magistrate; clerk of the court; a duly appointed voter registrar, or election official as defined in WMC 4.04.010; or

(2) Two witnesses who are at least eighteen (18) years of age may witness the voter's signature if an authorized official is not reasonably accessible.

* **Section 8. Repeal of section.** WMC 4.20.030, Absentee/early voting; in-person voting, is repealed in its entirety as follows:

[4.20.030 ABSENTEE/EARLY VOTING—IN-PERSON VOTING.

A. ABSENTEE/EARLY VOTING IN PERSON AT THE CITY OR BOROUGH CLERK'S OFFICE, SHALL NOT BEGIN PRIOR TO FIFTEEN (15) CALENDAR DAYS BEFORE A REGULAR OR SPECIAL ELECTION, OR EIGHT CALENDAR DAYS BEFORE A RUN-OFF ELECTION. THE ABSENTEE VOTER MAY APPEAR BEFORE AN ABSENTEE VOTING OFFICIAL PROVIDE THEIR NAME, RESIDENCE ADDRESS AND VOTER IDENTIFIER SUCH AS A VOTER NUMBER, SOCIAL SECURITY NUMBER, OR DATE OF BIRTH, AND CAST THE VOTER'S BALLOT. THE VOTER SHALL MARK THE BALLOT IN SECRET AND PLACE THE BALLOT IN A BALLOT ENVELOPE. THE VOTED BALLOT SHALL THEN BE PLACED IN A RETURN ENVELOPE AND THE VOTER SHALL SIGN THE CERTIFICATION ON THE RETURN ENVELOPE AND HAVE IT WITNESSED BY AN ABSENTEE VOTING OFFICIAL. THE ABSENTEE VOTING OFFICIAL SHALL DELIVER THE VOTED ABSENTEE BALLOTS TO THE CLERK. THE CLERK SHALL DELIVER THE VOTED ABSENTEE BALLOTS TO THE CANVASS BOARD FOR CANVASSING.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

B. PRIOR TO THE ELECTION, THE CLERK SHALL GIVE TO THE ELECTION BOARD IN EACH PRECINCT A LIST OF VOTERS FROM THE PRECINCT WHO HAVE BEEN ISSUED ABSENTEE BALLOTS. IF A VOTER WHO VOTED AN ABSENTEE BALLOT IN PERSON RETURNS TO THE VOTER'S PRECINCT ON ELECTION DAY, THE VOTER MAY NOT VOTE A REGULAR BALLOT BUT MAY VOTE A QUESTIONED BALLOT.]

* **Section 9. Adoption of section.** WMC 4.20.031, Early voting, is adopted to read as follows:

4.20.031 Early voting.

A. A qualified voter who meets the requirements set out in this section may vote early at the city clerk's office or at another location designated by the clerk, on or after the 15th calendar day before a regular or special election and the eighth calendar day before a run-off election, and up to five p.m. on the day before the election.

B. An election official shall issue a ballot to the voter under this section upon:

1. The voter providing the voter's name, residence address within the city and a voter identifier such as a voter number, social security number, or date of birth; and

2. The voter's signing the early voting register.

C. If the qualification of the voter is subject to question, the voter shall vote a questioned ballot as provided in Section 4.24.070.

D. If the voter is not required to vote a questioned ballot, the voter shall mark the ballot in private, place the ballot in a secrecy sleeve, and deposit the ballot in the ballot box in the presence of an election official.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

E. The clerk shall deliver the voted early ballots to the canvass board for canvassing. The tabulation of early ballots may not begin before eight p.m. on election day.

F. Before the opening of the polls on election day, the clerk shall give to the election board at each polling place a list of the voters who have voted an early ballot. If a voter on the list attempts to vote on election day, the voter may not vote a regular ballot but may vote a questioned ballot.

* **Section 10. Amendment of title and section.** WMC 4.24.060, Providing ballot to voter, the title and section are amended to read as follows:

4.24.060 Providing ballot to voter and procedure for voting.

A. [WHEN THE VOTER HAS QUALIFIED TO VOTE, THE] An election official shall [GIVE THE] provide each qualified voter with an official ballot, and the voter shall mark the ballot in private. After the voter has marked the ballot, the voter may deposit the ballot in the ballot box. [THE VOTER SHALL RETIRE TO A BOOTH OR PRIVATE PLACE TO MARK THE BALLOT.]

B. A voter may not leave the polling place with the official ballot that the voter received to mark. Subject to Section 4.24.090, 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.

* **Section 11. Amendment of subsection.** WMC 4.24.070 Questioned ballots—Issuance, subsection (D) is amended to read as follows:

D. After voting, the questioned voter shall deliver the ballot to the election official. The election official shall deliver the questioned ballot to the clerk, who shall deliver all questioned ballots to the canvass board for canvassing.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

* **Section 12. Amendment of title and section.** WMC 4.24.090

Assistance to Voters by Election Official, the title and section are amended to read as follows:

WMC 4.24.090 Assistance to Voters [BY ELECTION OFFICIAL].

Non-English speaking voters, voters who are blind, physically impaired, or otherwise incapable of marking a ballot, may bring a person, or if necessary two persons, of their choice with them to the poll, or before an election [ABSENTEE VOTING] official, to assist the voters in casting their ballots. The persons assisting the voter may not be a candidate for office in that election, an immediate family member of the candidate for office in that election, the voter's employer, agent of the employer, or officer or agent of the voter's union. If an election official is requested, the election official shall assist the voter. If a person, other than an election official is to provide assistance, the person must take an oath before an election official not to divulge how the voter cast the ballot.

* **Section 13. Amendment of a section.** WMC 4.28.060 Preserving and Destroying Ballots is amended to read as follows:

The clerk shall preserve unaltered all [OFFICIAL] ballots that have been voted at an election in a secure, sealed container [MANNER] for not less than thirty days [ONE YEAR] after the later of [FROM] the date of the election certification, and the final resolution of any contest of the election. The ballot container shall not be opened unless the ballots must be examined in connection with a contest of the election, or the production of the ballots is required by order of a court of competent jurisdiction. Upon the expiration of the preservation period [YEAR], the clerk shall [BURN, SHRED, RECYCLE, OR OTHERWISE] completely destroy the ballots upon direction of the council, and make and keep a written affidavit that the ballots have been destroyed.[IN CASES WHERE THE ELECTION IS CONTESTED,

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

THE BALLOTS SHALL BE KEPT IN A SECURE MANNER, UNLESS NEEDED AS EVIDENCE IN THE CONTEST, UNTIL ONE YEAR AFTER THE FINAL RESOLUTION OF THE CONTEST AT WHICH TIME THE CLERK SHALL DESTROY THE BALLOTS AS PROVIDED BY THIS SECTION UPON DIRECTION BY THE COUNCIL.]

* **Section 14. Adoption of section.** WMC 4.28.081, Counting Early Ballots, is adopted to read as follows:

4.28.081 Counting early ballots.

The early ballots shall be delivered to the city or borough canvass board for counting as determined by the clerk. The city or borough canvass board shall print results tapes, sign the tapes, and return the tapes and memory card to the city or borough clerk as determined by the clerk. The result tapes shall serve as the early voting precinct certificates of election.

* **Section 15. Amendment of paragraphs.** WMC 4.28.100, Counting and Canvass Returns, Certificate of Election, subsection (A), paragraphs (1) and (2) are amended to read as follows:

1. In full view of those present, judge the validity of absentee, **early** and questioned ballots, open and tally accepted ballots, and compile the total votes cast in the election;

2. Review the precinct certificates **or tapes** of results for accuracy;

* **Section 16. Amendment of subsection.** WMC 4.32.070 Procedure for recount, subsection (B) is amended to read as follows:

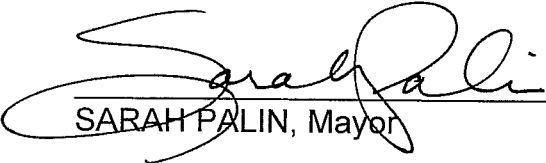
B. In conducting the recount, the canvass board shall review all ballots to determine which ballots, or parts of ballots, were properly marked, which ballots are to be counted in the recount, and shall check the accuracy of the original count and all documentation provided by the election officials. The canvass board shall check the number of ballots and questioned ballots cast in a precinct against the registers and

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

shall check early and absentee ballots voted against early and absentee ballots distributed. The rules in WMC 4.28 governing the counting of hand-marked ballots shall be followed in the recount.

* **Section 17. Effective date.** This ordinance shall take effect on the date the United States Department of Justice issues its non-objection under the Voting Rights Act of 1965 to the changes enacted by this ordinance, or the last date before which the United States Department of Justice must object if no objection is issued within the objection period.

ADOPTED by the Wasilla City Council, Alaska, on April 9, 2001.


SARAH PALIN, Mayor

ATTEST:



KRISTIE L. VANGORDER, CMC
City Clerk

[SEAL]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]



U.S. Department of Justice

Civil Rights Division

RE: Ordinance Serial No. 01-16(SUB)

JDR:DHH:JAC:par
DJ 166-012-3
2001-1150

*Voting Section
P.O. Box 66128
Washington, DC 20035-6128*

June 13, 2001

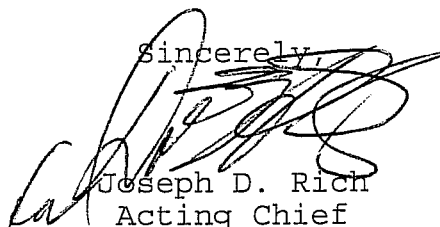
Ms. Kristie L. VanGorder
City Clerk
290 East Herning Avenue
Wasilla, Alaska 99654-7091

Dear Ms. VanGorder:

This refers to the revisions to the municipal election code, including the technical and grammatical changes, and the changes in early and absentee voting procedures, and the requirements for the preservation of ballots, for the City of Wasilla in the Matanuska-Susitna Borough, Alaska, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on April 17, 2001.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,



Joseph D. Rich
Acting Chief
Voting Section

SUBJECT: TITLE 4, ELECTION CODE REVISIONS

REQUESTED/PREPARED BY: K. VanGorder, City Clerk *KV* DATE: March 12, 2001

FOR AGENDA OF: March 12, 2001

SUMMARY:

Title 4 is proposed for amendment to address grammatical and technical changes, to differentiate the procedures between absentee and early voting, and to address ballot security issues.

Legislation was recently adopted and enacted to allow early voting for the two weeks prior to election day using the same procedures and equipment as election day. Early ballots are tabulated using electronic equipment while absentee ballot oath and affidavit envelopes are verified by the canvass board prior to tabulation.

WMC 4.04.010 The definitions are expanded to address the differences between early voting and absentee voting officials and revises the meaning of a qualified voter.

WMC 4.16.030 Defines the procedures and requirements for appointing election officials and absentee and early voting officials.

WMC 4.16.050(A) and (B) The general practice is to provide sample ballots to all precincts and this amendment reflects that practice.

WMC 4.16.070 Early voter registers were initiated this year and must be included in the voting history reports submitted to the state after each election.

WMC 4.20.010 is amended to include early ballots if provided and available in an election.

WMC 4.20.020 The title is amended to limit this section to absentee voting by mail. Section (D) is amended to reflect the general election practice.

WMC 4.20.030 is repealed in its entirety and readopted as WMC 4.20.031, early voting.

WMC 4.20.031 is adopted to address the procedure for early voting for voters who are qualified to vote in city elections and are issued a ballot at voting sites, which if available will be processed by tabulation equipment or if equipment is not available will be processed at a later time by a canvass board.

Presented with: Ord 01-16 (Sub)
Date: 4/9/2001 Verified by: *KV*

WMC 4.24.060 is amended to reflect general voting practice.

WMC 4.24.070 is amended to include general practice.

WMC 4.24.090 is amended to reflect the section addressing assistance to voters by persons of the voter's choice.

WMC 4.28.060 is amended to allow ballots to be destroyed 30 days after certification or the final resolution of any contest, consistent with the general state practice.

WMC 4.28.081 this section establishes a procedure for counting early ballots.

WMC 4.28.100 is amended to include early ballots in the certification process.

WMC 4.32.070 is amended to include early ballots in the recount procedures.

FISCAL IMPACT: No Yes, amount requested: \$

Fund:

CLERK'S RECOMMENDED ACTION:

Administration Initial: JWC

Attachments: