

**CITY OF WASILLA
ORDINANCE SERIAL NO. 02-22**

AN ORDINANCE OF THE CITY OF WASILLA AMENDING WMC TITLE 4: ELECTIONS.

BE IT ENACTED:

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

Section 2. **Amendment of paragraph.** WMC 4.04.010, Definitions, are hereby amended, adopted, and repealed as follows:

["QUALIFIED VOTER" MEANS A PERSON WHO IS QUALIFIED TO VOTE IN A CITY ELECTION UNDER CHAPTER 4.08.]

"Run[-]off" means any election held if no candidate receives[OVER] more than forty (40) percent of the votes cast for the office of mayor.

"Voter" means a person who votes a ballot either in person or by mail [IS QUALIFIED TO VOTE UNDER SECTION 4.08.010].

Section 3. **Amendment of section.** WMC 4.04.060, Runoff election, is hereby amended to read as follows:

A runoff [RUNOFF] election[S] shall be held within four weeks after the date of certification of the election for which a runoff is required. [A RUNOFF ELECTION SHALL NOT BE CONSIDERED A SPECIAL ELECTION WITHIN THE MEANING OF AS 29.71.800(21).]

Section 4. **Repeal of section.** WMC 4.04.080, Bonded indebtedness, is hereby repealed in its entirety:

[4.04.080 BONDED INDEBTEDNESS.

A. ONLY QUALIFIED VOTERS MAY VOTE ON A QUESTION OF INCURRING BONDED INDEBTEDNESS BY THE CITY.

B. NOTICE OF BONDED INDEBTEDNESS SHALL BE GIVEN CONSISTENT WITH THE PROVISIONS OF SECTION 4.16.020(C).]

Section 5. **Amendment of section.** WMC 4.04.110, Sale of Liquor on Election Day, is hereby amended to read as follows:

The provisions of [IN ACCORDANCE WITH] A.S. 04.16.070[(B)] that prohibit the sale, barter, giving, consumption or disposal of alcoholic beverages within licensed premises on a city election day until the polls have closed, do not apply in the city [THE PROVISIONS OF A.S. 04.16.070(A) DO NOT APPLY IN THE CITY, AND INTOXICATING LIQUOR MAY BE GIVEN, SOLD, BARTERED, CONSUMED OR DISPENSED IN A LICENSED PREMISES ON ELECTION DAY].

Section 6. **Amendment of section.** WMC 4.04.130, Simple Majority-Prohibition on Runoff Elections, is hereby amended to read as follows:

A. [ALL] Each city office[S], other than the office of mayor, shall be filled by the candidate receiving the greatest number of votes. [THERE SHALL BE NO RUNOFF ELECTIONS EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.]

B. A runoff election for the office of mayor shall be held if no candidate for mayor receives [OVER] more than forty (40) percent of the votes cast[FOR THE OFFICE OF MAYOR]. The runoff election shall be between the two candidates receiving the greatest number of votes[FOR THE OFFICE].

Section 7. **Amendment of section.** WMC4.08.010, Voter Qualification, is hereby amended to read as follows:

A. A person may vote in a city election only if the person [WHO MEETS ALL OF THE FOLLOWING REQUIREMENTS MAY VOTE AT ANY ELECTION]:

1. Is qualified to vote in state elections under A.S. 15.05.010;
2. Has been a resident of the city for [AT LEAST] thirty (30) calendar days immediately preceding the election;
3. Is registered to vote in state elections at a residence address within the city at least thirty (30) calendar days before the city election at which the person seeks to vote; and
4. Is not disqualified to vote under Article V of the Alaska Constitution, [ART. V, SECTION 2].

Section 8. **Amendment of section.** WMC 4.08.020, Rules for Determining Residence of Voter, is hereby amended to read as follows:

A. For the purpose of determining residence for voting, the place of residence is governed by the following rules:

1[A]. The residence of a person is that place in which the person's habitation is fixed, and to which, whenever [THE PERSON IS] absent, the person has the intention to return. If a person resides in one place, but does business in another, the former is the person's place of residence. Temporary construction camps do not constitute a dwelling place.

2[B]. A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one residence.

3[C]. A person [DOES NOT GAIN OR LOSE RESIDENCE] may not be

considered to have gained a residence solely by reason of [A PERSON'S] presence **nor** may a person lose it solely by reason of absence while [EMPLOYED] in **the** civil or military service of the United States or of this state, **or because of marriage to a person in the civil or military service of the United States or of this state**, or while a student of an institution of learning, or while kept in an institution or asylum at public expense, or while confined in a public prison, **or while engaged in the navigation of waters of this state, or the United States, or of the high seas**, or while residing upon an Indian or military reservation, or while residing in the Alaska Pioneers Home.

[(D) NO MEMBER, OR SPOUSE OR DEPENDENT OF A MEMBER, OF THE ARMED FORCES OF THE UNITED STATES IS A RESIDENT OF THIS STATE SOLELY BY REASON OF BEING STATIONED IN THE STATE.]

4[E]. A person does not lose residence if the person leaves home and goes to another country, state, or place [WITH]in this state for temporary purposes only and with the intention of returning.

5[F]. A person does not gain a residence in [A] **any** place to which the person comes without a present intent to establish a permanent dwelling [THERE] **at that place**.

6[G]. A person loses residence in this state if the person votes in **another state's** [AN] election[HELD IN ANOTHER STATE], **either in person or by mail** and **will not be eligible to vote in this state until again qualifying under A.S. 15.05.010**[HAS NOT UPON THE PERSON'S RETURN REGAINED RESIDENCE IN THIS STATE UNDER THE PROVISIONS OF THIS CHAPTER AND STATE LAW].

7[H]. The term of residence is computed by including the day on which the person's residence [COMMENCES] **begins** and [BY] excluding the day of election.

Section 9. **Repeal of section.** WMC 4.08.040, Voter Disqualification for Felony Conviction, is hereby repealed in its entirety:

[A. A PERSON WHOSE QUALIFICATIONS TO VOTE HAVE BEEN QUESTIONED ON THE BASIS OF A FELONY CONVICTION SHALL VOTE A QUESTIONED BALLOT. A PERSON'S VOTE SHALL NOT COUNT WHERE THE VOTER HAS BEEN CONVICTED EITHER BY STATE COURTS OF ALASKA, BY THE COURTS OF ANOTHER STATE, OR BY THE FEDERAL COURTS OF A FELONY INVOLVING MORAL TURPITUDE UNDER ALASKA LAW UNLESS THE PERSON'S CIVIL RIGHTS HAVE BEEN RESTORED BY LAW OR BY PROPER AUTHORITY IN THE JURISDICTION IN WHICH THE PERSON WAS CONVICTED.

B. FELONIES INVOLVING MORAL TURPITUDE INCLUDE CRIMES THAT ARE IMMORAL OR WRONG IN THEMSELVES SUCH AS MURDER, SEXUAL ASSAULT, ROBBERY, KIDNAPPING, INCEST, ARSON, BURGLARY, THEFT, AND FORGERY.]

Section 10. **Repeal of section.** WMC 4.08.050, Voter Disqualification for Unsound Mind, is hereby repealed in its entirety:

[A PERSON WHOSE QUALIFICATIONS TO VOTE HAVE BEEN QUESTIONED ON THE BASIS OF BEING OF UNSOUND MIND SHALL VOTE A QUESTIONED BALLOT. A PERSON'S VOTE SHALL NOT COUNT IF THE PERSON HAS BEEN JUDICIALLY DETERMINED TO BE OF UNSOUND MIND UNLESS THE DISABILITY HAS BEEN REMOVED.]

Section 11. **Amendment of section.** WMC 4.16.020, Notice of Election, is hereby amended to read as follows:

A. *Notice of voter registration.* The clerk shall publish a notice of voter registration **not less than** sixty (60) calendar days [PRIOR TO THE] **before each** election

that is not a runoff election. The notice [OF VOTER REGISTRATION] shall include the qualifications required of voters, [AND THE MANNER, TIME, AND PLACE OF REGISTRATION.] **the deadline for registering to vote in the election, and places where voters may register.**

B. *Notice, publication, and posting.* The clerk shall publish a notice of each election at least twice in one or more newspapers of general circulation in the city. The clerk shall also post the notice in city hall. The first [SUCH] publication, and the posting shall [BE ACCOMPLISHED] **occur** at least thirty (30) calendar days before a regular election, twenty (20) calendar days before a special election, and ten (10) calendar days before a runoff election. Each notice of election shall include:

1. The type of election: regular, special, or run[-]off;
2. The date of election;
3. The **location of the polling places and the** hours the polling places shall be open;
4. The offices to which candidates are to be elected; [AND THE]
- 5.** **The** subjects of propositions [AND QUESTIONS] to be voted upon;
- [5. THE LOCATIONS OF THE POLLING PLACES;]
6. Instructions for absentee/early voting; and
7. Notification that anyone needing special assistance in casting their vote due to a disability or bilingual need shall contact the clerk for assistance at least twenty-four (24) hours before the time of casting their ballot.

C. *Notice of bonded indebtedness.* Before a general obligation bond issue election, the clerk shall publish notice of the city's total existing bonded indebtedness at least once a week for three **consecutive** weeks. The first notice shall be published at least

twenty (20) calendar days before the date of the election. The notice [OF THE CITY'S TOTAL EXISTING BONDED INDEBTEDNESS] shall state:

1. The current total general obligation bonded indebtedness, including authorized but unsold bonds[,] of the city;
2. The cost of the debt service on the current indebtedness; and
3. The total assessed valuation of property within the city.

Section 12. **Amendment of subsection.** WMC 4.16.030(B), Election Officials, is hereby amended to read as follows:

B. *Qualifications.* Each election official shall be a **registered** [QUALIFIED] voter, 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]. **Absentee and early voting officials shall be registered to vote in state elections.** There shall be no inquiry into an election official's political party as a prerequisite to service. **A person who appears on the ballot as a candidate or a member of the candidate's** [CANDIDATES OR MEMBERS OF THE CANDIDATE'S] immediate family may not serve as **an** election official[S FOR AN] **for that** 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 13. **Amendment of subsection.** WMC 4.20.010(A), Absentee/Early Voting; Eligible Persons; Liberal Construction, is hereby amended to read as follows:

A. Any **registered** [QUALIFIED] voter may vote an absentee [BALLOT] or early ballot[,] **at any election for any reason,** if provided by the clerk[, AT ANY ELECTION].

Section 14. **Amendment of subsection.** WMC 4.20.020(C), Absentee Voting; By Mail, is hereby amended to read as follows:

C. **Once ballots are in the clerk's possession and ready for distribution and** [U]pon timely receipt of an application for absentee ballot by mail, the clerk shall mail an official ballot and other absentee voting material to the applicant[,] at the mailing address given on the application.

Section 15. **Amendment of subsection.** WMC. 4.24.070(C), Questioned Ballots; Issuance, are hereby amended to read as follows:

C. **Before** [THE QUESTIONED PERSON, BEFORE] voting, **a person whose qualification to vote is questioned or whose name does not appear on the official register** shall execute a certification on a form provided by the election official attesting to the fact the person [MEETS ALL THE QUALIFICATIONS OF A VOTER] **is at least 18 years of age, is a United States citizen, is a resident of Alaska, is not registered to vote in a different state or has taken the necessary steps to cancel that registration, is or has been a registered voter in Alaska at some time in the last 4 years or is newly registering**, is not disqualified, and has not voted at the same election. **The person may vote after** [AFTER THE QUESTIONED PERSON HAS] executing[ED] the certification[, THE PERSON MAY VOTE. IF THE QUESTIONED PERSON REFUSES TO EXECUTE THE CERTIFICATION, THE PERSON MAY NOT VOTE].

Section 16. **Amendment of section.** WMC 4.28.060, Preserving and Destroying Ballots, is hereby 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, unopened and unaltered**, for not less than thirty (30) days [AFTER THE LATER OF] **from** the date of the

election certification or in cases where the election is contested, until thirty (30) days after the final resolution of the contest. The clerk may permit the inspection of the ballots upon order of a court of competent jurisdiction], 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, the clerk shall completely destroy the ballots upon direction of the council, and make and keep a written [AFFIDAVIT] certificate that the ballots have been destroyed.

Section 17. **Amendment of subsection.** WMC 4.28.080(B), Counting Absentee Ballots, is hereby amended to read as follows:

B. Absentee ballot envelopes shall be examined by the [THE] canvass board who shall determine whether the absentee voter is qualified to vote at the election and whether the ballot has been properly cast[SHALL EXAMINE ABSENTEE BALLOT ENVELOPES]. An absentee ballot shall not be counted if the voter's certification on the return envelope is not signed and attested as required by law. If the voter is qualified and the ballot has been properly cast, the return envelope shall be opened and the ballot envelope shall be mixed with the other ballot envelopes. The ballots shall be counted according to the rules for determining properly marked ballots.

Section 18. **Amendment of subsection.** WMC 4.28.100(A) and (E), Counting and Canvass of Returns, Certificate of Election, are hereby amended to read as follows:

A. Not later than the Monday following each election, the [A CANVASS BOARD SHALL SIGN A CERTIFICATION OF THE RESULTS OF THE COUNT. THE] canvass

board **shall meet and** shall:

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 precincts certificates or tapes of results for accuracy;

3. Correct all obvious errors;

4. Recommend a recount of the results of the precinct for that portion of the returns where a mistake has been made and cannot be corrected under subsection (A)(3) of this section; [AND]

5. Report any irregularities in the election or discrepancies in the count of the ballots in its report to the council[.]; **and**

6. **Certify the validity of all votes cast and sign a certification of the results of the count.**

E. To certify the election results the council shall enter the determination in the minutes along with the following information:

1. The total number of poll, absentee, **early**, questioned, and personal representative ballots cast in the election;

2. The offices, names, and number of votes counted for each candidate at the election;

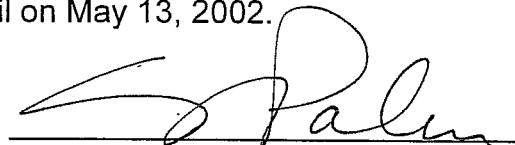
3. The propositions voted upon at the election; and

4. The number of votes counted for each proposition voted upon.

Section 19. **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 on May 13, 2002.



SARAH PALIN, Mayor

ATTEST:



KRISTIE L. SMITHERS, CMC
City Clerk

[SEAL]



CITY OF WASILLA
290 E. HERNING AVE.
WASILLA, AK 99654-7091
PHONE: (907) 373-9090
FAX: (907) 373-9092

TO: Wasilla City Council
THRU: Mayor Sarah Palin *SP*
FROM: Kristie Smithers, City Clerk *KS*
DATE: April 10, 2002
SUBJECT: Ordinance Serial No. 02-22

SUMMARY:

Title 4, Elections, is proposed for amendment to address grammatical and technical changes and to clarify our procedures. Below is a sectional analysis to aid you in understanding this ordinance.

Section 2. WMC 4.04.010, Definitions, are being proposed for amendment to clarify our definitions of "runoff" and "voter." "Qualified voter" is being deleted due to redundancy.

Section 3. WMC 4.04.060, Runoff Election, is being rewritten for clarity.

Section 4. WMC 4.04.080, Bonded Indebtedness, is being repealed and is not needed.

Section 5. WMC 4.04.110, Sale of Liquor on Election Day, is rewritten for clarity.

Section 6. WMC 4.04.130, Simple Majority; Prohibition on Runoff Elections, is being proposed for amendment to more clearly identify that only the office of the mayor shall be subject to a runoff election if no candidate receives more than 40 percent of the votes cast for that office.

Section 7. WMC 4.08.010, Voter Qualification, is being proposed for clarity.

Section 8. WMC 4.08.020, Rules for Determining Residence of Voter, is being proposed for amendment in order to clarify the grammatical sentence structure of the voter residency requirements, but does not alter the requirements or the meaning.

Sections 9 & 10 of this ordinance will repeal WMC 4.08.040, Voter Disqualification for Felony Conviction and WMC 4.08.050, Voter Disqualification for Unsound Mind, as WMC 4.08.010 addresses both provisions and is redundant.

Section 11. WMC 4.16.020, Notice of Election, is being proposed for grammatical amendment.

Section 12. WMC 4.16.030(B), Election Officials, proposes grammatical changes.

Section 13. WMC 4.20.010(A), Absentee/Early Voting; Eligible Persons; Liberal Construction, is being proposed for amendment in order to clarify the grammatical sentence structure of the provision.

Section 14. WMC 4.20.020(C), Absentee Voting, By Mail, is being proposed for amendment to clarify that absentee by mail ballots will be distributed once the ballots are in the clerk's possession and deemed ready for distribution.

Section 15. WMC 4.24.070(C), Questioned Ballots; Issuance, is being proposed for amendment to clarify the oath language on the questioned ballot oath and affidavit envelope that requires the voter's signature. It is further being proposed for amendment to remove the requirement that a person may not vote if the person refuses to execute the certification.

Section 16. WMC 4.28.060, Preserving and Destroying Ballots, is being proposed for grammatical amendment. This section further proposes that a certificate of destruction is sufficient to document the destruction rather than an affidavit.

Section 17. WMC 4.28.080(B), Counting Absentee Ballots, is being proposed for amendment to incorporate state law that an absentee ballot cast in person may be counted despite failure of an election official to properly sign and date the voter's certificate as attesting official.

Section 18. WMC 4.28.100(A) and (E), Counting and Canvass of Returns, Certificate of Election, are being proposed for amendment to include reference to early ballots in both subsections and correct grammar.

FISCAL IMPACT: If yes, amount requested: -0-
Account No.:

CLERK'S RECOMMENDED ACTION: Introduce and set for public hearing.

ATTACHMENTS: None.



U.S. Department of Justice

Civil Rights Division

RE: Ordinance Serial No. 02-22

JDR:MJP:SL:nj
DJ 166-012-3
2002-3225

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

RECEIVED

AUG 08 2002

CLERK'S OFFICE
CITY OF WASILLA

August 2, 2002

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

Dear Ms. Smithers:

This refers to the changes in the municipal election code, including the technical and grammatical changes, and the changes in election administration and absentee voting procedures 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 June 4, 2002.

The Attorney General does not interpose any objection to the specified change. 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 change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

For Joseph D. Rich
Chief, Voting Section