

CITY OF UNALASKA  
UNALASKA, ALASKA

**ORDINANCE 2017-08**

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING UNALASKA MUNICIPAL CODE CHAPTER 4.12 TO UPDATE CANDIDATE RESIDENCY AND FILING REQUIREMENTS, CHAPTER 4.20 TO UPDATE LANGUAGE ABOUT BALLOTS AND BALLOT COUNTING SYSTEMS, CHAPTER 4.24 AND 4.26 TO UPDATE PROCEDURES FOR THE USE OF OPTICAL SCAN EQUIPMENT AS STANDARD ELECTION PRACTICE, AND 4.32 TO ALLOW DELIVERY OF ABSENTEE BALLOTS BY ELECTRONIC MAIL

**BE IT ENACTED** by the City Council of the City of Unalaska:

**Section 1:** **Form.** This is a Code ordinance

**Section 2:** Subsections 4.12.010(A) and (B) of the Unalaska Code of Ordinances are hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(A) No person shall hold the elective office of Mayor or member of the City Council, or be eligible to seek election thereto, unless at the time of filing the declaration of candidacy, the person is a qualified voter of the city who has resided within the city for a period of no less than ~~one year~~ twelve consecutive months immediately prior to the time of submission of declaration of candidacy.

(B) No person shall hold ~~any~~ the elective office, ~~with the exception of Mayor and member of the City Council,~~ of member of the school board or be eligible to seek election thereto unless the person is a qualified voter of the city and has been a resident of the city for a period of not less than 30 days immediately preceding election day ~~the time of submission of declaration of~~ candidacy.

**Section 3:** Section 4.12.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

A person who seeks to become a candidate for an elected office shall execute and file a declaration of candidacy. The declaration shall be executed under oath before, ~~and~~ the City Clerk or a person empowered by law to administer oaths, on a form provided by, ~~the~~ City Clerk. A declaration of candidacy shall be filed with the City Clerk no later than 45 days prior to the election.

**Section 4:** Section 4.20.010 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

The City Clerk shall provide booths at each polling place, with appropriate supplies and conveniences, to enable each voter to mark the ballot screened from observation. At least three

sides of each booth shall be enclosed. Optical scan voting units ~~Ballot boxes~~ shall be placed within plain view of the election judges and clerks, voters, and other persons at the polling places. At least once each hour, an election judge will inspect each voting booth for extraneous materials.

**Section 5:** Subsection 4.20.040(A) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

(A) All ballots prepared under the provisions of this title shall conform to the following requirements:

(1) Be on ~~paper of good quality and of uniform grade, or on~~ required stock to be computer counted, and names shall be printed in black ink;

(2) Contain the name of every candidate whose declaration of candidacy for any office specified in the ballot has been filed according to the provisions of these ordinances, and no other names;

(3) Contain, preceding the list of candidates for each office, the words ~~“vote for no more than three; or~~ “vote for not more than one,” or such other number as are to be elected;

(4) Contain the names of candidates as they appear upon the petitions filed with the City Clerk, except that any honorary or assumed title or prefix shall be omitted. However, the candidate’s name appearing on the ballot may include a nickname or familiar form of a proper name. The positions of the names of candidates shall be determined by lot conducted by the City Clerk with a representative of each candidate for any office where more than one candidate has filed a petition in attendance;

(5) Contain the heading “Official Ballot of the City of Unalaska”, and the date of the election. In preparing said ballot, the City Clerk shall follow a form substantially as hereinafter provided, which said official ballots the City Clerk shall cause to be numbered consecutively beginning with the number one (1); and

(6) At the top of the ballot, the following instructions to the voters: Mark “X” in the square ~~Completely fill in the oval~~ at the left right of the name of the candidate for whom you desire to vote. If the names of a candidates for whom you desire to vote does not appear on the ballot, write it ~~in the blank space~~ on the “Write-in” line and completely fill in the oval to the right.

**Section 6:** A new Section 4.20.070 is added to Unalaska Code of Ordinances Chapter 4.20 to read as follows:

#### **4.20.070 BALLOT COUNTING SYSTEMS**

The City Clerk shall designate the computers to be used in counting the ballots and may negotiate and contract with the state or a private computer service for the needed computer services. The City Clerk, subject to any further approval as may be required by law, may prescribe rules for the use of these systems or may adopt such rules, regulations and procedures as have been adopted by the state for use in state elections.

**Section 7:** Section 4.24.030 of the Unalaska Code of Ordinances is hereby amended to read as follows:  
[additions are underlined, deletions are overstruck]

#### **4.24.030 PREPARATION OF ~~BALLOT BOX~~ OPTICAL SCAN VOTING UNIT**

Before receiving any ballots, the Election Board must, in the presence of all persons assembled at the polling place, ~~open and exhibit the ballot box to be used at the polling place. Thereafter, the box will be sealed and not open again until the polls are finally closed. At the close of the polls and upon the receipt within the ballot box of all ballots timely voted, the box will be personally opened by the election judges.~~ prepare the optical scan voting unit according to the instructions supplied by the State of Alaska for setting up the optical scan voting unit and opening the polls.

**Section 8:** Subsection 4.24.040(B) of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

#### **4.24.040 VOTING PROCEDURE**

(B) A voter shall be given one ballot and shall retire alone to a voting booth. There the voter, without undue delay, shall prepare the ballot by marking the appropriate ~~boxes~~ ovals opposite the names of candidates of choice, whether printed on the ballot or written on the ~~blank~~ “write-in” lines provided for the purpose, and the appropriate ~~boxes~~ ovals for questions and propositions. ~~Before leaving the voting booth, the~~ The voter shall ~~fold the ballot in a manner displaying the number thereon and deliver it to one of the election judges or clerks, who shall tear the number off and deposit the ballot in the ballot box if the ballot bears the same number as the ballot given to the voter by election judges and clerks. If voting on computer counted ballots insert the voted ballot into a secrecy sleeve; and~~ return to the election judges or clerks, who ~~will~~ may assist the voter with inserting the ballot into the optical scan voting unit.

**Section 9:** Section 4.24.050 of the Unalaska Code of Ordinances is hereby amended to read as follows:  
[additions are underlined, deletions are overstruck]

#### **4.24.050 MARKING OF BALLOTS BY VOTERS**

(A) A voter ~~may~~ shall mark a ~~computer counted~~ ballot by filling in the oval with a pen, ~~or, if paper ballots are used, a crossmark, by “X” marks, checks, or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.~~

(B) If a voter damages or mismarks their ballot they may be issued a replacement after tearing the spoiled ballot and giving it to an election judge. The election judges will keep a tally of the spoiled ballots. No voter may be given more than two replacement ballots.

~~(B)~~ (C) A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.

~~(C)~~ (D) If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.

~~(D)~~ (E) If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.

~~(E)~~ (F) The mark shall be counted only if it is substantially fills the inside of the square oval provided, or touching the square so as to indicate clearly that the voter intended the particular square to be designated.

~~(F)~~ (G) Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.

~~(G)~~ (H) An erasure or correction invalidates only that section of the ballot in which it appears.

~~(H)~~ (I) Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot, unless the Election Board determines, on the basis of other evidence, that the ballot was so marked for the purpose of identifying the ballot.

~~(I)~~ Write in votes are not invalidated if the voter fails to mark the square provided if, in the opinion of the Election Board, the voter intended to vote for the person whose name was written in as a write in vote.

(J) Stickers bearing a candidate's name ~~may be affixed to the ballot in lieu of writing in a candidate's name if write in votes or ballots are otherwise permitted.~~ Stickers may not be used on ~~computer counted~~ ballots.

**Section 10:** Section 4.24.070 of the Unalaska Code of Ordinances is hereby amended to read as follows:  
[additions are underlined, deletions are overstruck]

#### **4.24.070 DISPOSITION OF CHALLENGED BALLOTS**

After a challenged voter has cast his ballot, the challenged voter will insert the ballot into a small blank envelope ~~and seal it.~~ This envelope shall be placed in the signed oath and affidavit envelope. The oath and affidavit envelope will be put in the ballot box and delivered to the City Clerk with all other election material. The City Clerk shall present these materials to the canvass committee and assist in determining the merits of the challenge.

**Section 11:** Section 4.24.080 of the Unalaska Code of Ordinances is hereby amended to read as follows:  
[additions are underlined, deletions are overstruck]

#### **4.24.080 COUNTING AND TALLYING OF BALLOTS**

(A) Immediately after the polls close and the last vote has been cast, the election judges will ~~open the boxes containing the ballots cast~~ end voting on the optical scan voting unit and print the election results. The election judges will then open the optical scan voting unit containing the regular ballots cast. The judges will count the ballots to determine whether the number of ballots equals the number of voters on the election results report and also equals the number of signatures on the voter register. The number of regular ballots cast, plus the number of questioned ballots, personal representative ballots, and spoiled ballots must equal the total number of ballots used from the ballot pads. If the numbers do not match, the election judges shall recount the ballots

and signatures until the numbers match or it is determined that a discrepancy exists. Any discrepancy shall be explained in detail, in writing, and shall be signed by the election judges. ~~The ballots will be counted to determine whether the total number of ballots is equal to the total number of persons who voted as indicated in the original registry. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the registration book to have been cast in the precinct, the ballots shall be recounted until the Election Board finds that there is a discrepancy or that the number of ballots cast matches the number of ballots indicated by the registration tally. If a discrepancy is determined to exist, it shall be explained in detail on the tally paper or papers, and such explanation shall be signed by the election judges.~~

(B) The counting of the ballots shall be public. The opening of the ~~ballot box~~ optical scan voting unit at the close of the polls shall be accomplished in full view of any persons present. The public may not be excluded from the area in which the ballots are counted. However, the chairman of the Election Board shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties and no one other than appointed election officials may handle the ballots. The election judges, optical scan voting unit, or a combination thereof, shall count the ballots one by one, and tally the number of votes for each candidate and for or against each issue. ~~The ballots shall be inspected for disqualifying marks or defects.~~

(C) The election judges shall cause the vote tally to be continued without adjournment until the count is completed.

~~(D) Tally of computer counted ballots:~~

~~(1) When a voter has finished marking a ballot, the voter shall return to the election official overseeing the ballot counting unit.~~

~~(2) The voter shall insert the voted ballot into the counting unit. If the voter has over-voted a race, proposition or questions, they may vote a new ballot.~~

~~(3) If emergency ballots are brought to the City Clerk with the counting unit, the Election Board will oversee the insertion of the emergency ballots into the counting unit.~~

~~(D) Write in votes shall only be tabulated by person if the total number of write in votes for an office exceeds the smallest number of votes cast for a candidate for that office whose name is printed on the ballot.~~

(D) If circumstances make it impracticable to use the optical scan voting unit, the votes shall be tallied by person according to the procedures set forth by the state for hand count precincts.

**Section 12:** Section 4.24.120 of the Unalaska Code of Ordinances is hereby amended to read as follows:  
[additions are underlined, deletions are overstruck]

#### **4.24.120 PROHIBITION OF PERSUASION NEAR ELECTION POLLS**

(A) During the hours that the polls are open, no election official may discuss any political party, candidate or issue while on duty.

(B) During the hours the polls are open, no person who is in the polling place or within ~~100~~ 200 feet of any entrance to the polling place may attempt to persuade a person to vote for or against a candidate, proposition or question. Nor may any person conduct other political activities that may pertain to any future election or potential ballot proposition. The Election Board shall post warning notices in the form and manner prescribed by the City Clerk.

**Section 13:** Section 4.26 is hereby deleted in its entirety from the Unalaska Code of Ordinances:

**Section 14:** Section 4.32.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

**4.32.020 ABSENTEE BALLOTS**

(A) A person who seeks to vote by absentee ballot may file either in person, by electronic transmission, or mailing a written application to the City Clerk.

(B) An application made by mail must be received by the City Clerk not more than 35 days, nor less than five days before a city election. An application made in person must be filed with the City Clerk not more than 20 days before the city election. An application requesting an absentee ballot by electronic transmission must be received by the City Clerk by noon on the day preceding the election.

(C) The application must include the address or, if the application requests delivery of an absentee ballot by electronic transmission, the electronic mail address or telephone electronic transmission number to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature.

**Section 15:** Effective Date: This ordinance shall be effective as of July 1, 2017.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS 27th DAY OF JUNE, 2017.

  
MAYOR

ATTEST:

  
CITY CLERK



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**MEMORANDUM TO COUNCIL**

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**TO:** MAYOR AND CITY COUNCIL MEMBERS  
**FROM:** CAT HAZEN, CITY CLERK  
**THRU:** DAVID MARTINSON, CITY MANAGER  
**DATE:** JUNE 13, 2017  
**RE:** ORDINANCE 2017-08 AMENDING UNALASKA MUNICIPAL CODE CHAPTER 4.12 TO UPDATE CANDIDATE RESIDENCY AND FILING REQUIREMENTS, CHAPTER 4.20 TO UPDATE LANGUAGE ABOUT BALLOTS AND BALLOT COUNTING SYSTEMS, CHAPTER 4.24 AND 4.26 TO UPDATE PROCEDURES FOR THE USE OF OPTICAL SCAN EQUIPMENT AS STANDARD ELECTION PRACTICE, AND 4.32 TO ALLOW DELIVERY OF ABSENTEE BALLOTS BY ELECTRONIC MAIL

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**SUMMARY:** The primary focus of Ordinance 2017-08 is to update requirements and procedures in Unalaska Code of Ordinances Title 4 by removing obsolete language specific to hand counted elections and adding language to reflect our current use of optical scan voting equipment in our elections. This ordinance also adds language specifically authorizing electronic mail as a method of delivering absentee ballots and makes other minor changes in language for clarity and to accurately reflect current practice.

**PREVIOUS COUNCIL ACTION:** In May of 2001 Council passed Ordinance 2001-06, which amended Title 4 of the Unalaska Code of Ordinances in its entirety. The main changes to Code included in Ordinance 2001-06 were the addition of language allowing the use of the Accuvote counting machine for tallying ballots and the addition of language allowing absentee voting by fax. Additionally the Ordinance made grammatical changes, removed gender specific language, and made some housekeeping changes to reflect actual practice and more closely mirror Alaska Statutes and the Alaska Administrative Code.

**BACKGROUND:** Prior to the passage of Ordinance 2001-06 sixteen years ago it was standard practice to hand count voted ballots. The revisions to Title 4 adopted with Ordinance 2001-06 added the use of optical scan voting equipment as an allowable alternative, but left in place much of the procedural language in Title 4 that was more applicable to hand counted than to computer counted elections.

Today the use of optical scan voting equipment is our standard election practice. We would only hand count ballots on election night in the unlikely event of an optical scan equipment failure. The language currently in Title 4 that is specific to procedures for hand counted elections is confusing and in some cases is contradictory to the procedures required for processing computer counted ballots.

**DISCUSSION:** The changes to Unalaska Code of Ordinances Title 4 proposed by Ordinance 2017-08 are summarized and explained below:

Section 2: The change to subsection (A) will bring the residency requirements for mayor and council candidates expressed in Title 4 into agreement with those in Title 2. The changes to subsection (B) clarify language and correct the residency requirement for school board candidates. As currently written this subsection of our code will allow someone to declare candidacy for a school board seat before they become a resident of Unalaska.

Section 3: This change will bring Title 4 into compliance with current practice. As it is now written, Title 4 requires the City Clerk to administer the oath to a candidate, which would make it impossible for someone who is out of town during the candidacy period to run for office if it was enforced exactly as written. The proposed language change acknowledges that the declaration of candidacy can be executed before anyone who is legally empowered to administer oaths.

Sections 4 through 11: These sections change language to correctly reflect the procedures applicable to the use of optical scan voting equipment and compatible ballots as well as making some minor changes for clarity and re-numbering subsections.

Section 12: This section changes the “prohibition of persuasion” distance from 100 feet to 200 feet so that our code agrees with the Alaska statute.

Section 13: This deletes the current section of the Unalaska Code of Ordinances that authorizes computer voting, as the authorization will, with the passage of Ordinance 2017-08, be incorporated into other code sections.

Section 14: This section specifically includes electronic mail as an acceptable means of delivery of ballots by electronic transmission.

**FINANCIAL IMPLICATIONS:** None anticipated.

**LEGAL:** Ordinance 2107-08 has been reviewed by the City Attorney.

**STAFF RECOMMENDATION:** Staff recommends adoption of Ordinance 2017-08.

**PROPOSED MOTION:** I move to send Ordinance 2017-08 to public hearing and second reading on June 27th.

**CITY MANAGER’S COMMENTS:** I recommend Council approve Ordinance 2017-08.