

Introduced by: Borough Clerk
Requested by: Borough Clerk
Drafted by: Borough Clerk
Introduced: 05/01/2012
Public Hearing: 05/17/2012
Amended: 05/17/2012
Adopted: 05/17/2012

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2012-16**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
AMENDING VARIOUS CODE SECTIONS
IN TITLE 7 ELECTIONS**

WHEREAS, Section 2 of this ordinance would change all references of the word "Special Needs" to "Personal Representative" in this title; and

WHEREAS, Section 3 of this ordinance would allow those running for candidacy who cannot obtain notary services to have a postmaster attest their statement of candidacy and this section would also allow candidates to submit their declaration of candidacy by electronic submission; and

WHEREAS, Section 4 of this ordinance clarifies that hand counting of ballots would only pertain to precincts where the optical scans or other computer-read or electronic ballot counting equipment are not used, or in elections where write-in votes should be tallied; and

WHEREAS, Section 5 of this ordinance institutes a requirement to file a declaration of candidacy for those who wish to run a write-in campaign and this amendment would incorporate the language in the borough code in order to solidify the process in allowing minor variations in the spelling of write-in candidate names to be counted for a candidate; and

WHEREAS, Section 6 would eliminate the unnecessary process of counting write-in votes the night of the election and would clarify the role of the receiving team; and

WHEREAS, Section 7 provides for the effective date of this ordinance which would be upon notification from the U. S. Department of Justice of non-objection to the Preclearance Request in accordance with Section 5 of the Voting Rights Act of 1965.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

Section 1: This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances;

45 Section 2: All references to "Special Needs" are changed to "Personal
46 Representatives" throughout Title 7. Words are replaced three times in
47 KIBC 7.40.010, eight times in KIBC 7.50.040, and once in KIBC 7.70.030A.
48

49 Section 3: Title 7 *Elections*, Chapter 7.20 *Qualifications of Voters and Candidates*,
50 Section 7.20.030 *Declaration of Candidacy* is hereby amended as follows:
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52 **7.20.030 Declaration of candidacy.**

- 53 A. At least 75 days before each regular election, the clerk shall publish in one or more
54 newspapers of general circulation in the borough a notice of offices to be filled at the
55 election and the procedure for filing a declaration of candidacy.
- 56 B. Packets containing declarations of candidacy shall be available from the clerk's office no
57 later than the day the filing period opens. Declarations of candidacy shall be submitted in
58 original form and may be submitted electronically, provided that the original is received
59 by the clerk before the close of the filing period.
- 60 C. A declaration of candidacy shall be in a form provided by the clerk and shall state the
61 following:
 - 62 1. The full name of the candidate, and the manner in which the candidate wishes the
63 candidate's name to appear on the ballot;
 - 64 2. The full residence and mailing addresses of the candidate;
 - 65 3. The office for which the candidate declares;
 - 66 4. That the candidate is qualified for the office as provided by law;
 - 67 5. The date and notarized statement of the candidate. If a notary public is not
68 available, a postmaster may attest the statement instead of a notary;
 - 69 6. The candidate shall certify information contained in the declaration of candidacy is true
70 and accurate;
 - 71 7. Any other information that the clerk reasonably requires to determine whether the
72 candidate is qualified for the office as provided by law; and
 - 73 8. The declaration of candidacy must be signed by 10 qualified voters of the borough.
- 74
- 75 D. Filing for elective offices shall be made by filing a declaration of candidacy with the clerk
76 from August 1 through August 15, 4:30 p.m. Should August 15 fall on a Saturday or
77 Sunday, candidates shall have until 4:30 p.m. on the first Monday following to file their
78 declaration.
- 79 E. Declarations of candidacy may be filed with the clerk by electronic transmission and
80 the original signed and notarized statement must be delivered to the clerk by the close
81 of the filing period. If the original is not received by the clerk at the close of the filing
82 period, the candidate's name shall not appear on the ballot.
- 83 F. Within four business days after filing a declaration of candidacy, the clerk shall notify the
84 candidate as to whether it is in proper form. If not, the clerk shall immediately return the
85 declaration of candidacy to the candidate with a statement certifying how the nominating
86 petition is deficient.

89 **Section 4:** Title 7 *Elections*, Chapter 7.30 *Procedure of Conduct of Elections*, Section
90 7.30.120 *Rules for counting ballots* is hereby amended as follows:

91
92 **7.30.120 Rules for counting ballots.**

93 A. The election board shall ~~count ballots according to the following rules:~~ perform a hand
94 count for ballots in precincts where the optical scan and other computer-read or
95 electronic ballot counting equipment are not used, or in elections where write-in
96 votes shall be tallied in accordance with Sections 7.30.110 and 7.30.125 of this
97 chapter.

- 98 1. A voter may mark a ballot only by filling in, making "X" marks, diagonal, horizontal, or
99 vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are
100 clearly spaced in the oval opposite the name of the candidate, proposition, or question
101 that the voter desires to designate.
- 102 2. A failure to properly mark a ballot as to one or more candidates does not itself
103 invalidate the entire ballot.
- 104 3. If a voter marks fewer names than there are persons to be elected to the office, a vote
105 shall be counted for each candidate properly marked.
- 106 4. If a voter marks more names than there are persons to be elected to the office, the
107 votes for candidates for that office may not be counted.
- 108 5. The mark specified in subsection (A)(1) of this section shall be counted only if it is
109 substantially inside the oval provided, or touching the oval so as to indicate clearly that
110 the voter intended the particular oval to be designated.
- 111 6. Improper marks on the ballot may not be counted and do not invalidate marks for
112 candidates properly made.
- 113 7. An erasure or correction invalidates only that section of the ballot in which it appears.
- 114 8. Write-in votes are not invalidated by writing in the name of a candidate whose name is
115 printed on the ballot unless the election board determines, on the basis of other
116 evidence, that the ballot was so marked for the purpose of identifying the ballot.
- 117 9. In order to vote for a write-in candidate, the voter must write in the candidate's name
118 in the space provided and fill in the oval opposite the candidate's name in accordance
119 with subsection (A)(1) of this section.
- 120 10. Stickers bearing the candidate's name may not be used on the ballot.

121
122 **Section 5:** Title 7 *Elections*, Chapter 7.30 *Procedure of Conduct of Elections*, Section
123 7.30.125 *Write-in votes* is hereby added as follows:

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125 **7.30.125 Write-in Votes.**

126 A. Write-in votes shall not be tallied except:

- 127 1. if a person running as a write-in candidate has, at least before 5 p.m. of the day
128 before the election filed a declaration of write-in candidacy on a form provided
129 by the clerk stating that he or she is willing to assume the office if elected and
130 has also filed a completed public officials financial disclosure statement with
131 the borough clerk if applicable; and
- 132 2. if the total number of write-in votes for an office exceeds the smallest number of
133 votes cast for a candidate for that office whose name is printed on the ballot.

134 B. In order to vote for a write-in candidate, the voter must, in the space provided, write
135 in the candidate's name as the candidate's name appears on the candidate's

- 136 declaration of write-in candidacy filed with the borough clerk. In addition, the voter
 137 must mark the square or oval opposite the candidate's name in accordance with
 138 subsection 7.30.120 A1 of the KIB Code. Stickers shall not be used.
 139 C. Write-in votes are not invalidated by writing in the name of a candidate whose name
 140 is printed on the ballot unless the election board determines, on the basis of other
 141 evidence, that the ballot was so marked for the purpose of identifying the ballot.
 142 D. If votes for write-in candidates are counted at the precinct level, election workers
 143 shall set aside any ballots which contain any abbreviation, misspelling, or other
 144 minor variation in the form of the name of a write in candidate and forward those
 145 ballots to the canvass board for review and determination. The canvass board shall
 146 review such ballots and shall disregard any misspelling, or other minor variation in
 147 the form of the name of a write-in candidate if the intention of the voter can be
 148 ascertained.
 149 E. In order to be elected, a write-in candidate must receive the number of votes
 150 required by this chapter.

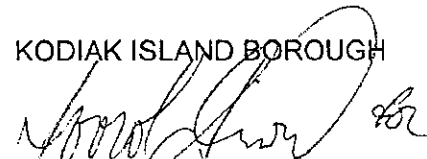
151
 152 **Section 6:** Title 7 Elections, Chapter 7.30 Procedure of Conduct of Elections, Section
 153 7.30.130 Receiving team is hereby amended as follows:
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- 155 **7.30.130 Tally of votes Receiving Team.**
 156 A. Before each election, the assembly shall appoint at least three qualified voters, who shall
 157 constitute the receiving/counting team.
 158 B. The receiving/counting team shall receive all ballots, election materials, supplies, etc.,
 159 from the precinct election officials on election night.
 160 ~~C. If time allows, the receiving/counting team shall start the tallying of the write-in votes~~
 161 ~~according to the rules for determining marks on ballot prescribed in KIBC 7.30.120. Write-~~
 162 ~~in votes will only be tabulated when the total number of write-in votes for any office~~
 163 ~~exceeds the smallest number of votes cast for any candidate whose name is printed on~~
 164 ~~the ballot.~~
 165 ~~D. The clerk shall issue instruction and shall provide forms and supplies for the tally of the~~
 166 ~~write-in votes.~~

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 168 **Section 7:** Effective Date. This ordinance shall be effective upon notification from the U.S.
 169 Department of Justice of non-objection to the Preclearance Request in
 170 accordance with Section 5 of the Voting Rights Act of 1965.
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172 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
 173 **THIS SEVENTEENTH DAY OF MAY, 2012**

174
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 179 ATTEST:
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 181 Nova M. Javier
 182 Nova M. Javier, MMC, Borough Clerk
 183

KODIAK ISLAND BOROUGH

 Jerome M. Selby, Borough Mayor