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**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2023-15**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING
TITLE 7 ELECTIONS, CHAPTER 7.40 CANVASSING AND CERTIFICATION OF ELECTION
RETURNS, SECTION 7.40.010 CANVASS OF RETURNS**

WHEREAS, KIBC Section 7.40.010 details the procedure for canvassing of election returns, and in KIBC 7.40.010(C), it currently states that marked ballots that are not in a small gray envelope shall not be counted; and

WHEREAS, current code as drafted appears to be too restrictive. Voters who voted and endeavored to return their ballot should not be penalized for a minor technicality or oversight; and

WHEREAS, the provisions for absentee ballot counting review in AS 15.20.203 do not identify failure to use the small grey envelope as a basis for challenging or rejecting an absentee ballot; and

WHEREAS, after inquiry with Kenai Peninsula Borough, City of Soldotna, Matsu Borough, and Ketchikan Gateway Borough, it has been found that these municipalities allow ballots that are not in small gray to be counted.

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.

Section 2: That Section 7.40.010 *Canvass of returns* of the Kodiak Island Borough Code of Ordinances is amended to read as follow

7.40.010 Canvass of returns.

A. Before each election, the assembly shall appoint at least three qualified voters, who shall constitute the election canvass board for that election. All members of the election canvass board, before entering upon their duties, must subscribe to the oath required of all public officers by the Constitution of the State of Alaska in the manner prescribed by the clerk.

B. On the day following each election or as soon as is practicable, the election canvass board shall meet in public session and canvass all election returns. In full view of those present, the election canvass board shall judge the applicability of absentee, early voting, by-mail, questioned, and personal representatives, shall open and tally those accepted and shall compile the total votes cast in the election. The canvass of the ballot vote counted by precinct election boards shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the precinct's certificate of

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results. All obvious errors found by the election canvass board in the transfer of totals from the precinct tally sheets to the precinct certificate of returns shall be corrected in the canvass board certificate of election returns and reported to the assembly as having been corrected. If in the opinion of the canvass board a mistake has been made in precinct returns which is not clearly an error in the transfer of results from the tallies to the certificate of results, the canvass board may recommend to the governing body that a recount of that precinct's results be made for that portion of the returns in question.

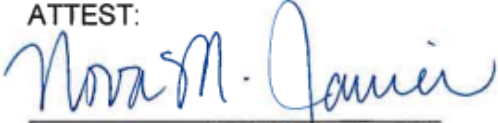
C. Absentee, by-mail, questioned, and personal representatives ballots shall be counted as follows: No ballot shall be counted if the voter has failed to properly execute the oath and affidavit, ~~or if the voter fails to enclose the marked ballot inside the small gray envelope provided.~~ The clerk or a member of the election canvass board may question the qualifications of an absentee voter when read from the voter's certificate on the back of the large envelope, if there is a good reason to suspect that the voter is not qualified to vote, is disqualified, or has otherwise voted at the same election. The person questioning the qualifications shall specify the basis of the question in writing. The canvassing board by majority vote may refuse to count the ballot. If the ballot is refused, the clerk shall notify the voter why the ballot was refused by the canvass board. The envelope shall be labeled "rejected ballots." If the ballot is not refused, the large envelope shall be opened; the ballot and any small gray envelope shall be placed in a container and mixed with the other absentee ballots s and small gray envelopes. The mixed ballots and small gray envelopes shall be drawn from the container, any envelopes opened, and the ballots counted according to the rules of determining properly marked ballots. Returned ballots that were not enclosed in a small gray envelope may still be counted so long as the voter is qualified, has properly executed the oath and affidavit, and the ballot is otherwise properly cast.

Effective Date: This ordinance takes effect upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS SIXTH DAY OF APRIL, 2023**

KODIAK ISLAND BOROUGH

Aimee Williams, Borough Mayor

ATTEST:

Nova Javier, MMC, Borough Clerk

Introduced by: Mayor and Assembly
First reading: 03/16/2023
Second reading/public hearing: 04/06/2023

VOTES:
Ayes: Arndt, Delgado, Griffin, LeDoux, Smith, Turner
Absent: Smiley