Ordinance 12-22 Amending City Code 4.01, 4.30 & 4.35 to Provide for Absentee Voting in City Elections by Electronic Transmission

Ordinance ID: 12-22
Ordinance Status: Adopted
Ordinance Summary:
An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 4.01.030, Definitions; Homer City Code 4.30.030, Application for Ballot; Homer City Code 4.30.050, Materials for Absentee Voting; Homer City Code 4.30.060, Issuance of Ballot by Mail or In Person; Homer City Code 4.30.070, Casting Absentee Ballot; Homer City Code 4.35.010, Review of Election Documents by Canvass Board; to Provide for Absentee Voting in City Elections by Electronic Transmission. City Clerk.

CITY OF HOMER
HOMER, ALASKA
City Clerk
ORDINANCE 12-22

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 4.01.030, DEFINITIONS; HOMER CITY CODE 4.30.030, APPLICATION FOR BALLOT; HOMER CITY CODE 4.30.050, MATERIALS FOR ABSENTEE VOTING; HOMER CITY CODE 4.30.060, ISSUANCE OF BALLOT BY MAIL OR IN PERSON; HOMER CITY CODE 4.30.070, CASTING ABSENTEE BALLOT; HOMER CITY CODE 4.35.010, REVIEW OF ELECTION DOCUMENTS BY CANVASS BOARD; TO PROVIDE FOR ABSENTEE VOTING IN CITY ELECTIONS BY ELECTRONIC TRANSMISSION.

THE CITY OF HOMER ORDAINS:

Section 1. HCC 4.01.020, Definitions, is amended by adding a definition of “electronic transmission” to read as follows:

“Electronic transmission” means transmission by facsimile machine or electronic mail.

Section 2. HCC 4.30.030, Application for Ballot, is amended to read as follows:

4.30.030 Application for Ballot.
a. A qualified voter may apply in person, by mail, or by electronic transmission for an absentee ballot. The application must be on a form prescribed or approved by the Clerk, and include the applicant's full residence address, the applicant's signature, the mailing address to which the absentee ballot is to be returned if the application requests delivery of an absentee ballot by mail, and the telephone electronic transmission number or email address to which the absentee ballot is to be returned if the application requests delivery of an absentee ballot by electronic transmission.
b. An application requesting delivery of an absentee ballot to the applicant in person may be received by the Clerk on any day after the ballots are prepared and available, but not on election day. An application requesting delivery of an absentee ballot to the applicant by mail must be received by the Clerk not earlier than the first day of the year in which the election is to be held or later than the Friday preceding the election. An application requesting delivery of an absentee ballot to the applicant by electronic transmission must be received by the Clerk not later than 5:00 p.m. on the day before the election.

c. Special needs voting. A qualified voter may apply for an absentee ballot through a personal representative on the day of, or not more than fifteen days before the date of a regular election. The written application shall contain the statement that he is a qualified voter of the City and his full Alaska residence address and that he will not be able to go to the polling place due to age, illness or disability and that he has not voted in any other manner in that election. The personal representative must sign the application and provide his residence and mailing addresses.

The election supervisor is responsible for the procedures for special needs voting and may use the State procedures.

Section 3. Homer City Code 4.30.050, Materials for Absentee Voting, is amended to read as follows:

4.30.050 Materials for Absentee Voting.
a. Each absentee voter who votes in person shall be supplied with an Oath and Affidavit Envelope.
b. Each absentee voter who votes by mail shall be supplied with a small blank envelope or secrecy sleeve and a return envelope. On the return envelope there shall be an affidavit of voter qualification, with provision for attesting by a witnessing officer, or one witness, who shall be at least eighteen years of age. The following notice shall appear on the return envelope: "Ballot Enclosed".
c. Each absentee voter who votes by electronic transmission shall be supplied with a transmittal form, instructions for returning the completed ballot by electronic transmission, and a ballot that contains the following statement: "I understand that, by using electronic transmission to return my marked ballot, I am voluntarily waiving a portion of my right to a secret ballot to the extent necessary to process my ballot, but expect that my vote will be held as confidential as possible," followed by the voter's signature and date of signature.

Section 4. Homer City Code 4.30.060, Issuance of Ballot by Mail or in Person, is amended to read as follows:

4.30.060 Issuance of Ballot.
Before delivering any ballot, the Clerk shall verify the applicant's right to vote and may require the applicant to comply with the challenged ballot procedure. Upon issuing an absentee ballot, the Clerk shall note the date of delivery, mailing or electronic transmission, either on the in person Oath and Affidavit Envelope or on the application for absentee ballot. The Clerk shall have available for public inspection the names and addresses of persons who voted absentee.

Section 5. Homer City Code 4.30.070, Casting Absentee Ballot, is amended to read as follows:

4.30.070 Casting Absentee Ballot.
a. Upon receipt of an absentee ballot by mail, the voter whether in or outside the State, in the presence of two attesting witness, both of whom are at least eighteen years of age, or before an Election Judge, notary public, commissioned District Judge or Magistrate, United States Postmaster, or other person qualified to administer oaths, may proceed to mark the ballot in secret, to place the ballot in the small blank envelop or a secrecy sleeve, to place the small envelop or secrecy sleeve in the larger envelop and to sign the voter's certificate on the back of the larger envelop in the presence of the above-listed officials or designated persons who shall sign as attesting witnesses. The voter may then return the envelope with the properly enclosed

ballot or postmarked not later than the day of election, to the Clerk for delivery to the Canvass Board.
b. Upon receipt of an absentee ballot through special needs voting the voter may proceed to mark the ballot in secret, to place the ballot in a small blank envelop or a secrecy sleeve, to place the small envelop or secrecy sleeve in the larger envelop and to sign the voter's certificate on the larger envelop in the presence of the personal representative, who shall sign as an attesting witness. The personal representative shall return the envelop with the properly enclosed ballot to the clerk or to a City Polling Place by 8 pm. on Election Day for delivery to the Canvass Board.
c. Upon receipt of an absentee ballot in person, the voter shall proceed to mark the ballot in secret, to place the ballot in the small blank envelop or secrecy sleeve, to place the small envelop or secrecy sleeve in the larger envelop and to sign the voter's certificate on the back of the larger envelop in the presence of the Clerk or a designated election official who shall sign as attesting witness and retain it for delivery to the Canvass Board.
d. Upon receipt of an absentee ballot by electronic transmission the voter may proceed to mark the ballot in secret, sign the statement required by HCC 4.30.050(c), and a statement executed under oath as to the voter's identity, witnessed by an official authorized to administer oaths or an individual who is 18 years of age or older.

Section 6. Homer City Code 4.35.010, Review of election documents by Canvass Board, is amended to read as follows:

4.35.010 Review of election documents by Canvass Board.
a. The Clerk shall, subject to confirmation of the City Council, appoint a Canvass Board of as many members as required to accomplish the canvass in reasonable time. 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. The Canvass Board will review the preliminary certificates of election and all official documents of the precinct Election Boards and the Counting Center boards.
b. Not later than the Monday following each election, the Canvass Board shall meet in public session and canvass all election returns. The Canvass Board may be recessed from day to day, but not more than three such recesses. In full view of those present, the election Canvass Board shall judge the applicability of absentee and questioned ballots, shall open and tally those accepted, and shall compile the total votes cast in the election. The canvass of ballots counted by the Counting Center shall be accomplished by reviewing the tallies of the recorded vote to check for mathematical error by comparing totals with the Counting Center logs and certificates of results. All obvious errors found by the election canvass in the transfer of totals from the precinct tally sheets to the precinct certificate of results shall be corrected by the Canvass Board. A mistake which has been made in precinct returns from the tallies to the certificate of results, empowers the Canvassing Board to recommend a recount of the results of the precinct or precincts for that portion of the returns in question.
c. To be counted in the election, an absentee ballot by mail must be postmarked by midnight of election day and received by the Clerk before the canvass. Envelopes of absentee ballots my mail received after that time shall not be opened, but shall be marked "invalid" with the date and hour of receipt noted thereon, and shall be retained with other ballots of the election. An absentee ballot that is returned by electronic transmission must be received by the Clerk not later than 8:00 p.m. on election day in order to be counted. When the Clerk receives a completed absentee ballot by electronic transmission, the Clerk will remove the ballot portion of the transmission from the portion that identifies the voter; place the ballot portion in a secrecy sleeve and seal the secrecy sleeve; place the sealed secrecy sleeve in an envelope of the type used for absentee ballots returned by mail and seal that envelope; attach the voter identification portion to the outer envelope; and forward the sealed outer envelope to the Canvassing Board.
d. Questioned and absentee ballots shall be counted as follows: No questioned or absentee ballot by mail shall be counted if the voter has failed to properly execute the certificate, if the witness or the officer or other person authorized by law to administer the oath fails to affix his signature; or if the voter fails to enclose his marked ballot inside the small envelop or secrecy sleeve provided. No absentee ballot by electronic transmission shall be counted if the voter has failed to properly execute the certificate, or if the witness or the officer or other person authorized by law to administer the oath fails to affix his signature. The Clerk or a member of the election Canvass Board may challenge the name of an absentee voter if he has good reason to suspect that the voter is not qualified to vote, is disqualified, or has already voted at the same election. The person making the questioned ballot shall specify the basis of the challenge for the record. The Canvassing Board, by majority vote, may refuse to accept the challenge and count the ballot of a person properly challenged. If the ballot is refused, the Clerk shall notify the challenged voter by letter within four weeks of the canvass. All rejected ballots shall be enclosed in a separate envelop and shall be labeled "rejected ballots" retained with other materials of the election. If the ballot is not rejected, the large envelope shall be opened, the small inner envelop or secrecy sleeve shall be placed in a container and mixed with other blank absentee ballot envelopes, or in the case of counting questioned ballots, with other blank questioned-ballot envelopes, the mixed small blank envelopes or secrecy sleeves shall be drawn from the container, opened, and the ballots counted according to the rules of determining properly marked ballots.
e. If a tie vote exists and only one of the candidates so tied may hold office under the laws establishing the office voted for, the tie shall be broken by a single coin-toss conducted by the City Council at a regular or special meeting. The first candidate to have filed a candidacy declaration shall call the coin during the toss. A tied candidate may designate a representative to participate in the coin toss in his absence. The designation shall be made in such a manner that the Clerk is assured of its authenticity.
f. The candidate receiving the required forty percent and the plurality of the total votes cast for his respective office or in the case of a tie winning the coin toss provided at (e) shall be determined to have been elected to that office. The Council shall certify the results of the election at the next regular or special City Council meeting following completion of the canvass by the Canvassing Board.

Section 7. Sections 1 through 6 of this Ordinance are of a permanent and general character and shall be included in the City Code.

Section 8. This ordinance shall take effect upon the earlier to occur of the following: (i) the date on which the United States Department of Justice issues its non-objection under the Voting Rights Act of 1965 to the changes effected by this ordinance; and (ii) the date immediately following the last date on which the United States Department of Justice could object to the changes effected by this ordinance under the Voting Rights Act of 1965, provided that no objection to any such change has been issued before that date. The City Clerk is authorized to determine the effective date of this ordinance, which shall be set forth in the permanent records of City ordinances and in the Homer City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2012.

CITY OF HOMER

_____
JAMES C. HORNADAY, MAYOR

ATTEST:

_____
JO JOHNSON, CMC, CITY CLERK

YES:
NO:
ABSTAIN:
ABSENT:

First Reading:
Public Hearing:
Second Reading:
Effective Date:

Reviewed and approved as to form:

_____ _____
Walt E. Wrede, City Manager Thomas F. Klinkner, City Attorney

Date: _____ Date: _____

Ordinance Dates**Ordinance Introduction Date:** Mon Jun 11th, 2012
Ordinance Public Hearing Date: Mon Jun 25th, 2012
Ordinance Second Reading Date: Mon Jun 25th, 2012
Ordinance Effective Date: Tue Jun 26th, 2012
Ordinance Files Ordinance 12-22

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