
**CITY OF GUSTAVUS
ORDINANCE FY25-04**

**AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE
AMENDMENT OF CITY ORDINANCE TITLE 5 ELECTIONS CHAPTER AS
FOLLOWS**

**CHAPTER 5.10 CITY ELECTIONS,
SECTIONS 5.10.010 DEFINITIONS,
5.10.120 PUBLISHING NAMES,
5.10.130 ELECTION OFFICIALS,
CHAPTER 5.20 ELECTION EQUIPMENT AND MATERIALS
SECTIONS 5.20.050 OTHER MATERIALS,
CHAPTER 5.30 ELECTION PROCEDURES
SECTIONS 5.30.010 TIME FOR OPENING AND CLOSING POLLS,
5.30.020 DISTRIBUTION OF BALLOTS,
5.30.030 DISTRIBUTION OF OTHER ELECTION MATERIALS,
5.30.040 PREPARATION OF BALLOT BOX,
5.30.050 VOTING; GENERAL PROCEDURE,
5.30.060 VOTING; SPOILED BALLOTS,
5.30.070 VOTING; QUESTIONED BALLOTS,
5.30.120 BALLOTS; COUNTING AND TALLYING,
5.30.140 REPORT OF ELECTION RESULTS,
5.30.150 POSTING CERTIFICATES OF PRELIMINARY ELECTION RESULTS,
CHAPTER 5.40 ABSENTEE VOTING
SECTIONS 5.40.040 ABSENTEE VOTING PROCEDURES,
5.40.050 ABSENTEE BALLOTS; DELIVERY,
5.40.070 ABSENTEE BALLOTS; BY MAIL,
5.40.080 VOTING AT THE POLLS, ABSENTEE VOTER; SURRENDER OF
MATERIALS,
5.40.90 RETENTION OF ABSENTEE BALLOTS; DELIVERY,
5.40.100 PERSONAL REPRESENTATIVE VOTING,
5.40.110 PERSONAL REPRESENTATIVE VOTING; ELIGIBLE PERSONS,
5.40.120 PERSONAL REPRESENTATIVE VOTING; REQUESTS,
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5.40.140 PERSONAL REPRESENTATIVE VOTING; PROCEDURES,
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SECTIONS 5.50.010 ELECTION REVIEW COMMITTEE; MEETING,
5.50.020 REVIEW TO BE PUBLIC,
5.50.050 PROCEDURE FOR QUESTIONED BALLOT REVIEW,
5.50.070 ABSENTEE BALLOT,
5.50.080 COUNTING ABSENTEE AND QUESTION BALLOTS,
5.50.090 DEFECTIVE BALLOTS,
5.50.100 CERTIFYING RESULT,
5.50.120 CERTIFICATE OF ELECTIONS,
CHAPTER 5.60 CONTEST OF ELECTIONS,
SECTIONS 5.60.010 CONTEST OF ELECTIONS; CONTESTANT,
5.60.020 NOTICE OF CONTEST AND PROCEDURE,**

5.60.400 PROHIBITED PRACTICES ALLEGED

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

- Section 1. Classification. This ordinance is of general and permanent nature and shall become a part of the City of Gustavus Municipal Code.
- Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and its application to other persons, or circumstances shall not be affected thereby.

Section 3. Enactment. Now therefore, it is enacted by the Gustavus City Council that the following sections of Chapter 5.10 City Elections, Sections 5.10.010 Definitions, 5.10.120 Publishing Names, 5.10.130 Election Officials, Chapter 5.20 Election Equipment And Materials, Sections 5.20.050 Other Materials, Chapter 5.30 Election Procedures, Sections 5.30.010 Time For Opening and Closing Polls, 5.30.020 Distribution of Ballots, 5.30.030 Distribution of Other Election Materials, 5.30.040 Preparation Of Ballot Box, 5.30.050 Voting; General Procedure, 5.30.060 Voting; Spoiled Ballots, 5.30.070 Voting; Questioned Ballots, 5.30.120 Ballots; Counting and Tallying, 5.30.140 Report of Election Results, 5.30.150 Posting Certificates of Preliminary Election Results, Chapter 5.40 Absentee Voting, Sections 5.40.040 Absentee Voting Procedures, 5.40.050 Absentee Ballots; Delivery, 5.40.070 Absentee Ballots; by Mail, 5.40.080 Voting At The Polls, Absentee Voter; Surrender Of Materials, 5.40.90 Retention of Absentee Ballots; Delivery, 5.40.100 Personal Representative Voting, 5.40.110 Personal Representative Voting; Eligible Persons, 5.40.120 Personal Representative Voting; Requests, 5.40.130 Personal Representative Voting; Ballot And Envelope Form, 5.40.140 Personal Representative Voting; Procedures, Chapter 5.50 Review of Elections Returns, Sections 5.50.010 Election review Committee; Meeting, 5.50.020 Review to be Public, 5.50.050 Procedure for Questioned Ballot Review, 5.50.070 Absentee Ballot, 5.50.080 Counting Absentee and Question Ballots, 5.50.090 Defective Ballots, 5.50.100 Certifying Result, 5.50.120 Certificate of Elections, Chapter 5.60 Contest of Elections, Sections 5.60.010 Contest Of Elections; Contestant, 5.60.020 Notice of Contest and Procedure, and 5.60.400 Prohibited Practices Alleged are to be amended as follows:

Bold and Underlined items are additions. ~~Strikethrough~~ items are deletions.

Title 5 ELECTIONS¹

Chapters:

Chapter 5.10 CITY ELECTIONS²

Sections:

Section 5.10.010 Definitions.

Ballot: Any document provided by the Clerk on which votes may be cast for candidates, propositions, or questions.

City: The City of Gustavus.

Clerk: The city clerk or any properly authorized assistant to the city clerk.

Day of certification of the election: The day of the certification of the election is the date the city council is scheduled to certify the entirety of the election results or fourteen (14) days after the date of the election, whichever is earlier.

Election: Includes any regular or special city election.

Election Judges: appointed by the city clerk and approved by resolution of the council to serve at the polling place on the day of the election.

Election Judge Chair: one judge is designated chair of the board by the city clerk

Election official: Includes ~~election officials at the polls~~ ***judges***, the city clerk, ~~canvass board~~ ***Election Review Committee***, counting teams, election clerks ~~and judges~~, ***and absentee voting officials.***

Election Review Committee: City of Gustavus Council Members serve in this capacity.

Election Board: is comprised of the election judges.

Majority vote: More than half of the votes cast.

Oath: Any form or attestation by which a person signifies the person is bound in conscience to perform and act faithfully and truthfully. "Oath" includes affirmations.

Proposition: A proposal offered for acceptance or rejection, which is stated as a question on a ballot.

Questioned voter: A voter:

- (a) Whose name does not appear on the register in the precinct where the voter attempts to vote;
- (b) Who has received an absentee ballot and does not turn it in when voting at his precinct on election day;

¹Ordinance first published August 12, 2004; ordinance adopted August 19, 2004; changes to ordinance published April 13, 2006; changes to ordinance adopted May 11, 2006.

²Editor's note(s)—Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021, amended Ch. 5.10 in its entirety to read as herein set out. Former Ch. 5.10, §§ 5.10.010—5.10.140, pertained to similar subject matter, and derived from Code of 2013; and Ord. No. FY19-03 , § 3, adopted Sept. 17, 2018.

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- (c) Who does not bear identification or is not personally known to an election official though the voter's name appears on the precinct register; or
 - (d) Who is questioned for good cause at the polls.

Registration or registered: Refers to the form of registration required by the State Election Code. For city elections, a person is registered if registered to vote in state elections in the precinct in which that person seeks to vote thirty (30) calendar days prior to the city election.

Regular ballot: A ballot voted at the polls which is not a questioned ~~or~~ an absentee ballot ~~or special needs ballot.~~

Regular election: The city election held on the first Tuesday of October annually, unless a different date or interval of years is provided by ordinance.

Signature or subscription: Includes a mark intended as a signature or subscription.

Special election: Any election held at a time other than when a regular election is held.

State: The State of Alaska.

Swear: Includes "affirm."

Voter: A person who votes a ballot either in person or by mail.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.020 Administration.

The city clerk is the supervisor of elections and shall prepare and maintain election materials and records. All elections held by the city shall be conducted on a nonpartisan basis. The clerk is responsible for contacting the State of Alaska, Division of Elections, and making certain the city has on hand, before any election, the most current official voter registration list. The city clerk shall act as clerk to the election board.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.030 Residence criteria.

When determining residence for the purpose of qualifying voters the following criteria will apply:

- (a) No person may be considered to be a resident by reason of being present nor may residency be lost solely by reason of absence while in the civil or military service of the state or of the United States, or by absence because of marriage to a person engaged in the civil or military service of the state or the United States, while a student at an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of the state, of the United States or of the high seas, while residing upon tribal lands or military reservation, or while residing in an Alaska Pioneer's Home.
- (b) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever absent, the person has the intention to return. If a person resides in one (1) place, but does business in another, the former is the place of residence. Temporary construction camps do not constitute a dwelling place.
- (c) A change of residence is made only by the act of moving joined with the intent to remain in another place. There can only be one (1) residence.

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- (d) A person does not lose his/her residence if he/she leaves his home and goes to another country, state or place in Alaska for temporary purposes only and with the intent of returning.
 - (e) A person does not gain residency by coming to the city without the intention to establish his/her permanent dwelling in this city.
 - (f) A person loses residence in this city by voting in an election of another city or state, either in person or by absentee ballot, and will not be eligible to vote in this city's municipal elections until again qualified under this chapter.
 - (g) The term of residence is computed by including the day on which the person's residence begins and excluding the day of election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.040 Voter qualifications.

A person shall be qualified to vote in city elections who:

- (a) Is a United States citizen; and
- (b) Is eighteen (18) years or older; and
- (c) Has been a resident of the City of Gustavus for thirty (30) days before the election; and
- (d) Has registered to vote in Alaska at least 30 days before the election and is not registered to vote in another jurisdiction; and
- (e) Is not disqualified under Article V of the constitution of the State of Alaska which provides that:

"No person may vote who has been convicted of a felony involving moral turpitude unless his/her civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed."

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.050 General elections.

The regular general election for council members and other elected city officials shall be held each year on the first Tuesday in October to coincide with national and state elections. The clerk shall begin preparations for a general election at least forty-five (45) days before the date of the election. Questions or propositions may be placed on the ballot at this time.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.060 Special elections.

If a special election is required by action (i.e. ordinance or resolution) of the city council, the city council shall resolve that a special election on the question proposed by the council's action be held on and no sooner than the tenth (10th) Tuesday following the council's action. The clerk shall begin preparations for a special election as expeditiously as possible.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.070 Election notices.

- (a) Election notices shall be prepared and posted in three (3) public places by the city clerk for thirty (30) days before the date of the general election and for twenty (20) days before the date of a special election, and shall contain the following, as is appropriate:
- (1) Whether the election is general, special or runoff; and
 - (2) Date of election; and
 - (3) Location of the city polling place(s); and
 - (4) Time the polling place(s) will open and close; and
 - (5) Offices to be filled or a statement of any questions or propositions to be placed on the ballot; and
 - (6) A statement describing voter qualifications; and
 - (7) Time for filing declarations of candidacy.

Notice of a special election shall be posted in at least three (3) public places for at least twenty (20) days before the date of election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.080 Qualifications for city council.

- (a) All elections of council officials shall be non-partisan.
- (b) A person filing for office for a city seat must be:
- (1) A United States citizen who is qualified to vote in state elections and
 - (2) A resident of the City of Gustavus for one (1) year immediately preceding the election for which declaring candidacy and
 - (3) Not disqualified under Article V of the Constitution of the State of Alaska which provides that:
"No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed."

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.090 Filing for office.

- (a) A person who wishes to become a candidate for an elective office shall complete and file a declaration of candidacy with the city clerk. This shall be filed no sooner than forty-five (45) days and no later than twenty (20) days before the election.
- (b) A person filing for a city council seat must meet the qualifications of Section 5.10.080.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.100 Alaska Public Official Financial Disclosure exemption.

Candidates for city council shall be exempt from the financial disclosure reporting requirements of the State of Alaska Public Official Financial Disclosure Law (AS 39.50).

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.110 Withdrawal, written notice.

A candidate who has complied with the provisions of this chapter may withdraw that candidacy no later than the last day for filing candidacy declarations by filing a written notice of withdrawal with the city clerk.

A write-in candidate, who receives the majority of votes, may remove their name from that office by filing a written notice with the city clerk no later than five (5) days after he or she has been notified of being the winner during the meeting to certify the election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.120 Publishing names.

(a) The city clerk will regularly update the list of candidates who have filed for office with their name and the office for which they are running. Their names will appear in a random order. The city clerk shall post in three (3) public places and on the City's website election page. These updates will start no earlier than 45 days and not later than 20 days prior to the election.

~~(a)~~ (b) The city clerk shall post in three (3) public places at least ten (10) days before the day of election, a sample ballot with candidate names and any questions to be voted on.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.130 Election officials.

(a) *Election supervisor.* The city clerk shall be the election supervisor. The clerk shall have the authority to conduct all election proceedings and to carry out the intent of this chapter. The clerk may authorize an assistant to execute designated supervisory functions set out in this chapter. The assistant shall be an election official and shall be administered the election officials' oath.

(b) *Election ~~judges~~ officials.* Prior to each election, the clerk with the approval through a resolution of the council, shall appoint at least three (3) city voters as election ~~officials~~/judges to be the election board at the designated polling place. One (1) judge shall be designated chair of the board. The election ~~judges-officials~~ shall not be council members, candidates for office, or immediate relatives of candidates. If an appointed election ~~judge-official~~ fails to appear and subscribe to the oath on election day or becomes incapacitated during the time of the election or the counting of the ballots, the remaining officials shall appoint a qualified voter to fill the vacancy.

(c) The clerk may appoint as many election ~~judges~~officials-as needed to conduct an orderly election and to relieve the election ~~judges~~ officials-of undue hardship.

(d) The city clerk shall give the following written oath to all election officials on or before election day:

I, _____, do solemnly affirm that I will honestly and faithfully perform the duties of an election official according to law; and that I will endeavor to prevent fraud, deceit, or abuse in conducting the election, to the best of my knowledge and ability.

SIGNED _____

ATTEST: _____
City Clerk

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.10.140 Sale of liquor on election days.

The provisions of AS 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 of Gustavus.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Chapter 5.20 ELECTION EQUIPMENT AND MATERIALS

Sections:

Section 5.20.010 Election booths.

The election supervisor shall provide booths at each polling place, with enough supplies and materials to enable each voter to mark a ballot hidden from observation. At least three (3) sides of each booth shall be hidden or protected from the judges and clerks, voters, and other persons at the polling places.

Section 5.20.020 Furnishing instruction cards.

- (a) The election supervisor shall prepare for each polling place instructions for the guidance of voters covering the following:
 - (1) How to obtain a ballot;
 - (2) How to mark a ballot;
 - (3) How to obtain additional information, and;
 - (4) How to obtain a new ballot to replace any ballot destroyed or spoiled.
- (b) The election supervisor shall furnish a necessary number of these instruction sheets to the election judges in the voting place.

Section 5.20.030 Ballots; printing; sample ballots.

In all city elections, the city clerk as election supervisor will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk at least nineteen (19) days before the day set for a general or special election. There shall be at least three (3) ballots printed on color paper, with the words "SAMPLE BALLOT" printed on them, to be posted in three (3) public places.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.20.040 Ballots; form.

- (a) The ballots shall state at the top whether the election is regular or special. There shall be printed "OFFICIAL BALLOT" and the date of the election.
- (b) The ballots shall include instructions on how to mark the ballots.
- (c) The ballots will be printed on plain white paper and numbered in consecutive order to assure simplicity and secrecy and to prevent fraud. The clerk shall assure that the number of ballots printed equals a minimum of fifty (50) percent of registered voters in the City of Gustavus, in order to provide replacement ballots for ballots that may be spoiled by voters and for those persons who cast questioned ballots because their names do not appear on the master voter registration list. Number of ballots printed will be at the discretion of the city clerk based upon historical voter turnout percentages(d) A ballot shall show the list of candidates and issues to be decided at the election.
- (e) Before the list of candidates there shall be placed the words "vote for not more than three," or "vote for not more than one," or such other number as are to be elected.
- (f) Under the title of each office and before the printed names of the candidates, there shall be printed "Vote for one" or such other number as are to be elected to that office. The ballots shall list the office for which votes may be cast. The name of each office shall be followed by the names of all candidates for that office listed in a random order, and by a blank line or lines for write-in candidates. In regular and special elections, the number of blank lines provided for each office shall be equal to the number of persons who are to be elected to the office.
- (g) The names of the candidates will be printed in capital letters the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates, a square not less than one-quarter (¼) of an inch on each side will be printed.
- (h) The names of candidates shall be printed as they appear upon the declaration of candidacy filed with the city clerk, except that any honorary or assumed title or prefix shall be omitted.
- (i) Following the names of the offices and candidates, there shall be placed on the ballot in the form prescribed by law all propositions and questions to be voted upon, if any. Provision shall be made for marking the propositions or questions "Yes" or "No."

(Ord. No. FY15-15, § 3, 6-8-2015 ; Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.20.050 Other materials.

At least ten (10) days prior to the day of the election, the clerk shall prepare the following materials:

- (a) An updated master voter registration list, containing the names, in alphabetical order, of all registered voters eligible to vote in the election;
- (b) Tally sheets;
- (c) A form for the report of preliminary election results;
- (d) Envelopes bearing the oath and affidavit of eligibility for questioned ballots **and special needs ballots;**
- (e) ~~Two-Three (32)~~ large envelopes for each polling place, one (1) marked "Spoiled Ballots", ~~one (1) and the other~~ **marked "Questioned Ballots", and one (1) marked "Special Needs Ballots";**
- (f) Copies of the notice of election and the city's elections ordinance.

Chapter 5.30 ELECTION PROCEDURES

Sections:

Section 5.30.010 Time for opening and closing polls.

- (a) On the day of any election, the election board shall open the polls for voting at ~~7:30~~ **8:00** a.m., shall close the polls for voting at 8:00 p.m., and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at ~~7:00-7:30 a.m.~~ in the morning on an election day.
- (b) Fifteen (15) minutes before the closing of the polls, an election judge shall announce to all persons present the time remaining before the polls close. A judge shall announce when the polls close. As soon as the polls are closed, no ballots will be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed.

Section 5.30.020 Distribution of ballots.

- (a) Before the polls open on election day at ~~8:00-7:00~~ a.m., the election supervisor shall deliver the ballots and sample ballots prepared under Chapter 5.20 from the safe at city hall to the election ~~judges officials~~ present at the polling location. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of the package. A receipt for each package shall be signed by the election ~~judge official~~ to which the package is delivered and given to the election supervisor. The ballots must be kept in the sealed package, in plain view of all present until the polls open at ~~8:00 7:30~~ a.m. No ballots may be taken from the polling place before the closing of the polls and must be kept in plain view under the care of election ~~judges officials~~ at all times, until the marked and unmarked ballots are delivered to the elections supervisor at the closing of the polls.
- (b) The election supervisor shall keep the following records:
 - (1) The number of ballots delivered to the polling place;
 - (2) The time the ballots are delivered; and
 - (3) The name of the election ~~judge official~~ to whom the ballots are delivered;
 - (4) The receipt given for the ballots by the election ~~official~~ **judge**.
- (c) When the ballots are returned, the election supervisor shall record the following:
 - (1) The number of ballots returned;
 - (2) The time when the ballots are returned;
 - (3) The name of the election ~~judge-board~~ chairperson returning the ballots; and
 - (4) The condition of the ballots.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.030 Distribution of other election materials.

- (a) On election day, the election supervisor shall also furnish the election ~~board officials~~ at the polling location with voting booths and a ballot box (with a lock or sealing materials); and the following materials:

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- (1) The updated master voter registration list;
 - (2) Envelopes bearing the oath and affidavit of eligibility for questioned ballots;
 - (3) An envelope for the collection of spoiled ballots and an envelope for the collection of questioned ballots;
 - (4) Copies of the notice of election;
 - (5) The city's elections ordinances;
 - (6) A sufficient number of instruction sheets;
 - (7) And a sufficient supply of pens, pencils, and envelopes.
- (b) The election supervisor shall supply the election board chairperson with tally sheets and forms for the report of preliminary election results.

Section 5.30.040 Preparation of ballot box.

Before receiving any ballots, the election officials must, in the presence of all persons present at the polling place, open and exhibit the ballot box to be used at the polling place. After showing the box, the box shall be sealed and not opened again until the polls are finally closed. At the close of the polls and after deposit into the ballot box of all ballots properly voted upon, the ballot box shall be personally opened by the ~~election~~ election judges officials.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.050 Voting; general procedure.

- (a) A voter shall give the election ~~official~~ judge their name, and then sign next to his or her name on the master voter registration list. The signing of the master voter registration list is a declaration the voter is qualified to vote. If the voter is not known to any election ~~judge official~~ present, the election ~~official~~ judge may require the voter to produce a state voter registration card or other identification. If, in the opinion of the election official, there is doubt, he shall immediately question the voter.
- (b) If the voter is not questioned, the election official shall give the voter a single ballot and note its number on the master voter registration list next to the voter's name. The voter shall then go alone to a voting booth. There the voter shall prepare his or her ballot by marking the boxes opposite the names of candidates of the voter's choice, whether printed on the ballot or written in by him on the blank lines provided for that purpose. The voter also marks the boxes to indicate their vote for or against questions and propositions. Before leaving the voting booth, the voter shall fold the ballot in a manner displaying the number on the ballot and deliver it to one (1) of the election ~~officials judges~~, who shall, without unfolding the ballot or allowing any person to see how it is marked, remove the number stub and return the ballot to the voter if the ballot bears the same number as the ballot given to the voter by the election-~~official~~ judge. The voter shall then, in the presence of the election ~~official~~ judge, deposit the ballot in the ballot box unless the voter requests the election ~~official~~ judge to deposit the ballot on his or her behalf. Separate ballot boxes may be used for separate ballots.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.060 Voting; spoiled ballots.

If a voter improperly marks or otherwise damages a ~~ballot, and~~ballot and discovers their mistake before the ballot is placed in the ballot box, the voter shall return it to an election ~~official~~judge, concealing from view the manner in which it is marked, and request a new ballot. The election ~~official~~judge shall remove the numbered ballot stub from the ballot, write the words, "Spoiled Ballot," on the outside of the folded ballot, record its number, and place it in an envelope with other spoiled ballots for return to the election supervisor. The election ~~judge official~~ shall then issue a new ballot to the voter. A voter may request replacement of a spoiled ballot no more than two (2) times for a total of three (3) ballots.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.070 Voting; questioned ballots.

- (a) Any election ~~official~~judge may question, and any other person qualified to vote in the city may question a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote. All questions regarding a person's qualifications to vote shall be made in writing setting out the reason the person has been questioned.
- (b) If a voter's name is not on the master voter registration list or a voter's eligibility to vote is questioned or there is some other question regarding a voter's eligibility, and the voter believes that he or she is registered and eligible to vote, then the voter shall sign an envelope bearing the Oath and Affidavit of Eligibility attesting to the fact that in each particular the person meets all the qualifications of a voter, is not disqualified, and has not voted at the same election. After the questioned person has executed the Oath and Affidavit of Eligibility the person may cast a questioned ballot. If the questioned person refuses to execute the Oath and Affidavit of Eligibility, the person may not vote.
- (c) A voter who casts a questioned ballot shall vote his or her ballot in the same manner as prescribed for other voters. After the election ~~official~~judge removes the numbered stub from the ballot, the voter shall insert the ballot into ~~a ballot secrecy sleeves~~small envelope and put the ~~small envelopes~~secrecy sleeve into a larger envelope on which the statement the voter previously signed is locate(d) These larger envelopes shall be sealed and deposited in the ballot box. When the ballot box is opened, these envelopes shall be segregated, counted, compared to the voting list, sealed in the questioned ballots envelope and delivered to the election supervisor along with other election materials and the ballot statement when the election board completes the tally and account of ballots. The merits of the question shall be determined by the city council, meeting as the election review committee on the first Friday following the election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.080 Assisting voter by election official.

A qualified voter who cannot read, mark the ballot, sign his name or who because of other physical incapacity, or who because of unfamiliarity with the system of voting needs assistance, may request an election official of their choice to assist. If the election official is requested, the official shall assist the voter.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Editor's note(s)—Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021 amended § 5.30.080 and in doing so changed the title of said section from "Assisting voter by judges" to "Assisting voter by election official," as set out herein.

Section 5.30.090 Prohibitions.

- (a) No voter may leave the polling place with the official ballot that the voter received to mark.
- (b) No voter may exhibit a ballot to an election official or any other person so as to enable any person to ascertain how the voter marked the ballot.
- (c) No election official may, while the polls are open, open any ballot received from a voter, or mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked the ballot, or allow the same to be done by another person.
- (d) No election official may allow a ballot which they know to have been unlawfully exhibited by a voter to be placed in the ballot box. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and destroyed.
- (e) During the hours that the polls are open, no election official may discuss any political party, candidate or issue while on duty.
- (f) During the hours that polls are open, no person who is in the polling place or within two hundred (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. The election officials shall post warning notices of the required distance in the form and manner prescribed by the supervisor of elections.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.100 Administration of oaths.

Any election official may administer to a voter any oath that is necessary in the administration of the election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.110 Majority decision of election officials.

The decision of the majority of election officials determines the action to be taken regarding any question which arises during the course of the election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Editor's note(s)—Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021 amended § 5.30.110 and in doing so changed the title of said section from "Majority decision of election board" to "Majority decision of election officials," as set out herein.

Section 5.30.120 Ballots; counting and tallying.

- (a) Immediately after the polls close and last vote has been cast, the election officials shall make note of the numbers of the unused ballots, and then destroy them prior to the opening of the boxes containing the ballots. The ballot boxes may not be opened until all of the unused ballots have been destroyed. Unused ballots must be destroyed in plain public view. Ballots may not be counted before 8:00 p.m. on the date of the election. The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done 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 officials shall remove the ballots from the ballot box

one (1) by one (1), and tally the number of votes for each candidate and for or against each proposition or question. The ballots shall be inspected for disqualifying marks or defects. The election officials shall cause the vote tally to be continued without adjournment until the count is complete.

(b) The election board shall account for all ballots by completing a ballot statement containing:

- (1) The number of ballots received;
- (2) The number of ballots voted;
- (3) The number of ballots spoiled;
- (4) The number of ballots unused.
- (5) The number of special needs ballots voted**
- (6) The number of special needs ballots not returned**

The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register. **The board shall count the number of special needs ballots and shall compare that number to the number of special needs ballots in the register.** If any discrepancies in numbers of ballots received and ballots accounted for are found, the ballots shall be recounted until the election board finds that the number of ballots accounted for are the same as the number received or that there is an unexplained error. If a discrepancy is determined to exist between the ballots received and those accounted for it shall be explained in detail on the ballot statement and the explanation signed by the election ~~officials~~**board**.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.130 Rules for counting ballots.

(a) The election board shall count ballots according to the following rules:

- (1) A voter may mark his ballot only by the use of cross-marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, asterisks, checks, or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
- (2) A failure to properly mark a ballot as to one (1) or more candidates or propositions does not itself invalidate the entire ballot.
- (3) 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.
- (4) The mark specified in subsection (a)(1) of this section shall be counted only if it is mostly inside the square provided or touching the square so as to indicate that the voter intended the particular square to be designated.
- (5) Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.
- (6) An erasure or correction invalidates only that section of the ballot in which it appears.
- (7) Write-in votes are not invalidated by writing in the name of the candidate whose name is printed on the ballot.
- (8) Write-in votes are not invalidated if the voter fails to mark the square provided if in the opinion of the election officials the voter intended to vote for the person whose name was written-in as a write-in vote.

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- (9) No ballot shall be rejected if the election board can determine the person for whom the voter intended to vote, and the office intended to be chosen by the voter.
- (b) The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.
- (c) The chairman of the election board shall write the word "Defective" on the back of each ballot which the election board determines should not be counted, in whole or in part, for any of the reasons (other than failure of the voter to mark any choice with respect to a particular office or proposition) stated in subsection (a) of this section. If only a portion of the ballot is invalid, the valid votes shall be counted, and the chairman shall specify on the back of the ballot exactly which portion or portions have not been counted.
- (d) If a particular objection is made to the counting of all or any part of a ballot, but the election board determines that the votes shown should be counted, the chairman of the election board shall write the words "Objected to" on the back of the ballot and specify the portion or portion of the ballot to which the objection applies.
- (e) All defective ballots and all ballots objected to shall be sealed in a single envelope marked "Defective Ballots," which shall be delivered to the election supervisor.
- (Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.140 Report of election results.

- (a) When the count of ballots is completed, the election board shall make a certificate in duplicate of the results using the Report of Preliminary Election Results form. The report shall include the number of votes cast for each candidate, for and against each proposition, yes or no on each question and any additional information the election board deems relevant or prescribed by the election supervisor. All members of the election board shall immediately upon completion of the report sign both copies of the report. The election board shall immediately upon completion of the certificate deliver to the election supervisor one (1) of the two (2) original certificates, the master voter registration list, register of voters, tallies, oaths of judges, Oaths and Affidavits of Eligibility, questioned ballots, defective ballots, spoiled ~~ballots~~**ballots, special needs ballots,** and other election documents in one (1) sealed package, and in a separate sealed package, all ballots properly cast. The election supervisor shall place all election materials received from the election board in the office safe until the ~~canvass of election returns~~**on Special Meeting – Election Review Committee on** the Friday following the election.
- (b) The chairman of the election board shall keep the duplicate of the ~~report of Preliminary Election results~~**election** in a safe place and present it to the election review committee on the Friday following the election.
~~when the committee meets.~~

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.30.150 Posting certificates of preliminary election results.

- (a) The election supervisor shall post copies of the certificate of preliminary election results in three (3) public places the day after the preliminary election results are known. The notice shall include:
- (1) The time and place of the ~~council meeting~~**Special Meeting -Election Review Committee** to be convened to consider the election results; and
 - (2) That the results do not reflect the votes of absentee, ~~and~~ questioned, **and special needs** ballots and are not final until the ~~council~~**Election Review Committee** formally certifies the election; and

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- (3) That anyone has the opportunity to contest the election at the meeting.

Chapter 5.40 ABSENTEE VOTING

Sections:

Section 5.40.010 Absentee voting; eligible persons.

At any election, a qualified voter may vote an absentee ballot for any reason.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.40.020 Absentee ballots; application; filing.

- (a) A qualified voter may, in person or by mail, electronic mail, or by facsimile machine, file a written, signed application for an absentee-by-mail ballot with the city clerk.
- (b) An application must be received by the city clerk no more than forty-five (45) days, not less than twenty (20) days before a city election.
- (c) The application must be signed by the applicant and show his place of residence.
- (d) No absentee voter's ballot may be mailed to any address within the city. Any voter present in the city who requires an absentee ballot shall personally obtain the ballot from the city clerk.
- (e) Nothing in this section is intended to limit the city clerk in personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the city clerk's office for an absentee voter's ballot. The city clerk may deliver an absentee ballot to a disabled person living within the city at any time until the polls close on election day.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.40.030 Absentee ballot and envelope form.

The ballot provided to absentee voters shall be identical to the ballots prepared for regular voters and used on election day. The ballot secrecy sleeve and the oath of affidavit envelope shall be smaller than the return envelope so they may be easily enclosed in the return envelope. The ballot secrecy sleeve shall be marked "Ballot Envelope" and have no other marks upon it. The oath of affidavit envelope shall have printed upon it the oath and affidavit. The ballot envelope and the return envelope shall be of heavy opaque paper.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Editor's note(s)—Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021 amended § 5.40.030 and in doing so changed the title of said section from "Ballot and envelope form" to "Absentee ballot and envelope form," as set out herein.

Section 5.40.040 Absentee voting procedures.

- (a) The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with Section [5.20].040 of Chapter 5.20 together with a ballot envelope, an oath of affidavit envelope and an unstamped return envelope.
- (b) The clerk shall not issue an absentee ballot sooner than twenty (20) days before the election.

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- (c) Upon issuing an absentee ballot to a voter, either by mailing or by personal delivery, the clerk shall enter in the blank register the following information:
 - (1) The number of the ballot issued;
 - (2) The name of the voter to whom it was issued;
 - (3) And the date on which the ballot was issued.
 - (d) Before the opening of the polls on election day the clerk shall deliver to the election ~~officials-board~~ a list of the voters who have requested to vote absentee.
 - (e) To be counted, an absentee voter's ballot must be executed before the polls close in the city and be received by the clerk prior to the time the ballots are canvassed by the election review committee.
 - (f) No city official may make any charge for services rendered to any voter under the provisions of this chapter. However, the voter must provide the necessary postage.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.40.050 Absentee ballots; delivery.

Upon receipt of an application for an absent voter's ballot, the clerk shall check the latest state registration listings to determine whether the applicant is registered in accordance with AS 15.70. If the applicant is properly registered, the clerk shall deliver to the applicant, personally or by mailing to the address given by the applicant, an official ballot for the election, a ballot envelope, the oath of affidavit envelope and a return envelope. If the absentee voter's ballot is personally delivered, the absentee voter shall secretly mark the ballot in the presence of the clerk, in a manner which permits the clerk to be certain that the voter personally marked the ballot, but which does not permit the clerk to see how the voter voted. The voter shall fold the ballot, place in the ballot envelope and seal it in the oath of affidavit envelope. The voter shall then complete the affidavit printed on the back of the oath of affidavit envelope and deliver it to the clerk. The clerk shall write or stamp his or her name across its seal, seal the envelope in the return envelope, and retain the envelope in their custody to be delivered to the ~~council~~ **Election Review Committee** for canvassing.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.40.060 Absentee voting at clerk's office; absentee voting in person.

Any voter issued an absentee ballot may, at any time prior to the day of the election for which it is issued, appear at the office of the city clerk, and there cast his ballot.

Section 5.40.070 Absentee ballots; by mail.

~~Any voter issued an absentee ballot may, at any time prior to closing of the polls on the day of the election for which it is issued, appear before an election official, and cast their ballot in the same manner as it would be cast in the office of the city clerk under Section [5.40].050 of this chapter. After writing or stamping his/her name across the seal of the return envelope, the election official shall return it to the voter who shall mail it to the city clerk. At any time on or before the day of the election, any voter receiving an absentee ballot by mail may vote the ballot. The voted ballot shall then be placed in the secrecy sleeve, which is then placed in the return envelope, and the voter shall sign the certification on the return envelope and have it witnessed in the presence of:~~

~~(a) An election official~~

~~(b) An individual who is eighteen (18) years of age or older.~~

Section 5.40.080 Voting at the polls, absentee voters; surrender of materials.

If a voter issued an absentee ballot returns to the city on election day, the voter shall not vote at the polling place unless he or she first surrenders to an election official the absentee ballot, ballot envelope, and return envelope issued to the voter. Unused absentee ballots, ballot envelopes and return envelopes shall be returned to the election supervisor by the election board with other ballots not used at the polling place.

If the voter does not have an absentee ballot, they may vote by questioned ballot. The Elections Review Committee will determine if the voter has already voted by absentee.

Section 5.40.090 Absentee voting- Special needs

A voter with a disability who, because of that disability, is unable to go to an absentee voting office to vote, may vote a special needs ballot pursuant to City of Gustavus 5.40.100.

Section 5.40.090-100 Retention of absentee ballots; delivery.

The city clerk as election supervisor shall retain all absentee ballots received in the office safe until the time the city council meets as the election review committee to canvass the election. At this time the clerk shall deliver all absentee ballots received to the election review committee to be counted and included in the final vote tally of the election. Absentee ballots must be received by the time of the meeting to be counted.

Section 5.40.100-110 Personal representativeSpecial needs voting.

Section 5.40.110-120 Personal representativeSpecial needs voting; eligible persons.

A qualified voter who, due to age, illness, or disability, is unable to go to a polling place to vote may vote with the assistance of a personal representative.

(Ord. No. FY23-03 , § 3, 9-19-2022)

Section 5.40.120-130 Personal representativeSpecial needs voting; requests.

The voter, or the voter's personal representative, may request a ballot from:

- (a) The clerk or an election official at an early voting location designated by the clerk at a time when the voting location is in operation; or
- (b) An election ~~official~~ judge at a polling place on election day.

(Ord. No. FY23-03 , § 3, 9-19-2022)

Section 5.40.130-140 Personal representativeSpecial needs voting; ballot and envelope form.

The ballot provided to personal representative voters shall be identical to the ballots prepared for regular voters and used on election day. The ballot secrecy sleeve and the oath of affidavit envelope shall be smaller than the return envelope so they may be easily enclosed in the return envelope. The ballot secrecy sleeve shall be marked "Ballot Envelope" and have no other marks upon it. The oath of affidavit envelope shall have printed upon it the oath and affidavit. The ballot envelope and the return envelope shall be of heavy opaque paper.

(Ord. No. FY23-03 , § 3, 9-19-2022)

Section 5.40.140-150 ~~Personal representative~~ Special needs voting; procedures.

- (a) The clerk or an election official shall provide each eligible personal representative voter with an official ballot prepared in accordance with Section [5.20].040 of Chapter 5.20 together with a ballot envelope, an oath of affidavit envelope, and a return envelope.
- (b) Upon issuing a personal representative ballot to a voter, the clerk shall enter in the blank register the following information:
 - (1) The number of the ballot issued;
 - (2) The name of the voter to whom it was issued;
 - (3) And the date on which the ballot was issued.
- (c) The personal representative shall deliver the ballot and other voting materials to the voter as soon as practicable.
- (d) The voter shall mark the ballot in secret, place the ballot in a secrecy sleeve, and place the secrecy sleeve in the envelope provided.
- (e) The voter shall enter the voter's name and the name of the personal representative on the envelope and shall sign the voter's certificate in the presence of the personal representative.
- (f) The personal representative shall witness the voter's signature, and sign and date the personal representative's certificate, as provided on the envelope.
- (g) Before the opening of the polls on election day, the clerk shall deliver to the election ~~officials board~~ a list of the voters who have requested to vote by personal representative.
- (h) To be counted, a personal representative voter's ballot must be received by the clerk or an election ~~official~~ judge no later than closing of the polls on election day.
- (i) No city official may charge for any services rendered to any voter under the provisions of this chapter.
- (j) If a voter's disability precludes the voter from performing any of the requirements of subsection (d) of this section, the personal representative may perform those requirements, except making the voting decision ~~and signing the certificate on the ballot envelope on the voter's behalf.~~
- (k) The clerk shall deliver the voted special needs ballots to the ~~canvass board~~ Election Review Committee for canvassing.
- (l) The following materials are used to conduct personal representative voting:
 - (1) Personal representative register (sign-in-sheet);
 - (2) Personal representative oath and affidavit for voter (printed on the outside of the ~~personal representative~~ special needs ballot envelope);
 - ~~(3) Personal representative oath and affidavit for representative (printed on the outside of the personal representative ballot envelope);~~
 - (4) Ballot;
 - (5) Secrecy sleeve;
 - (6) Outer envelope for ~~personal representative~~ special needs voting.
- (m) No person who is a candidate or immediate family member of a candidate for office, may act as a personal representative for a voter.

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- (n) Ballots submitted by a personal representative in violation of the provisions of this section shall be rejected with written notice to the voter.

(Ord. No. FY23-03 , § 3, 9-19-2022)

Chapter 5.50 REVIEW OF ELECTION RETURNS³

Sections:

Section 5.50.010 Election review committee; meeting.

- (a) The city council acting as the election review committee shall meet on the first Friday after the election and canvass all absentee, ~~and~~ questioned, special needs and defective ballots executed in the election. If the committee is unable to obtain a quorum or complete the count on the Friday after the election, the canvass will be rescheduled the following day and each day thereafter until completed.
- (b) The city clerk shall submit to the committee the election board's report of preliminary election results, the master voter registration list, the register, all regular ballots, oath and affidavit envelopes containing questioned ballots, defective ballots, spoiled ballots, absentee ballots, special needs ballots and oaths and affirmations of election ~~officials~~judges.
- (c) The chairman of the election board shall submit the duplicate of the ~~report of election~~election preliminary election results to the election review committee.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.020 Review to be public.

- (a) The review of all absentee, ~~and~~ questioned, special needs and defective ballots shall be made in public by opening the returns and announcing the results thereof in front of those present.
- (b) The review shall include a review and comparison of the tallies of ballots with the election reports to correct any mathematical error in the count of ballots.
- (c) If the election supervisor finds an unexplained error in the tally of ballots, the election review committee may count the ballots from a ballot box.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.030 Determining election winner.

The candidate receiving the highest number of votes for the respective office wins.

(Ord. No. FY21-15 , § 3, 2-8-2021)

³Editor's note(s)—Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021, amended Ch. 5.50 in its entirety to read as herein set out. Former Ch. 5.50, §§ 5.50.010—5.50.110, pertained to similar subject matter, and derived from Code of 2013.

Section 5.50.040 Tie votes.

In the event of a tie vote, and after a recount of ballots that confirms the tie vote, the council shall in its first meeting after the election call in the candidates receiving the tie votes and have the candidates draw straws or flip a coin to determine the winner.

Referendums, ballot initiatives, or recall votes resulting in a tie shall fail

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.050 Procedure for questioned ballot review.

- (a) The election supervisor shall contact the state division of elections and the local voter registrars by the Thursday following the election and determine if persons casting questioned ballots because of failure of their names to appear on the master voter registration list were in fact registered to vote in state elections. The election supervisor shall record the names of these questioned voters in fact registered to vote and shall submit their names as registered to vote when their questioned ballots are examined with other questioned ballots.
- (b) The ~~council meeting as the~~ election review committee shall examine each questioned ballot envelope and shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the committee may request the assistance of the clerk. If the committee determines that the voter was eligible to vote, the oath and affidavit envelope shall be placed with the other absentee oath of affidavit envelopes until the review committee is ready to open and count the ballots. If the committee upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials.
 - (1) A questioned ballot may not be counted if:
 - (A) The voter has failed to properly mark the certificate;
 - (B) The voter did not enclose the marked ballot inside the ~~small~~ballot envelope.
 - (2) If a questioned ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the questioned voter. The election supervisor shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and shall be placed in the office safe.
 - (3) If a questioned ballot is not rejected, the large envelope shall be opened and the ~~small~~ballot envelope containing the questioned ballot shall be placed in a ballot box and mixed with other small envelopes containing questioned ballots. The questioned ballots shall then one (1) by one (1) be removed from the ballot box, taken out of the ballot envelopes, and counted in the same manner in which ballots cast at the polls are counted.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.060 Reserved.

Section 5.50.070 Absentee and Special need ballots.

- (a) The election review committee shall examine each absentee and special needs ballot return envelope. The return envelope shall be opened and the ~~blank~~ballot envelope containing the absentee ballot shall be

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placed in a ballot box and mixed with other small envelopes containing the previously reviewed questioned ballots if the committee determines that:

- (1) The voter is registered to vote;
 - (2) The voter is a resident of the City of Gustavus;
 - (3) The ballot was cast before the close of the polls and;
- (b) If the committee determines that a voter voting absentee and special needs voter was not in fact a qualified voter or did not follow absentee or special needs voting procedures the review committee by majority vote may refuse to accept and count the absentee or special needs ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The election supervisor shall place all such rejected absentee and special ballots in an envelope marked "rejected absentee ballots" or "rejected special needs ballots" respectively to be saved with other election materials. The election supervisor shall notify the voter in writing why his absentee or special needs ballot was rejected.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.080 Counting absentee, ~~and~~ questioned, and special needs ballots.

The special needs ballots, questioned ballots, and absentee ballots shall then one (1) by one (1) be removed from the ballot box, taken out of the ballot envelopes and counted by the committee in the same manner in which ballots cast at the polls are counted.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.090 Defective ballots.

Review-Election review committee members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom or what the voter intended to vote.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.100 Certifying results.

If no contest of election is begun under the provisions of Chapter 5.60 of this Code and after all absentee, defective, special needs and questioned ballots are counted or rejected, the review committee shall:

- (a) Certify a report that shows:
 - (1) The total number of ballots cast in the election;
 - (2) The names of the person voted for (including write-ins) and the proposition voted upon;
 - (3) The offices voted for;
 - (4) The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 - (5) The disposition of all absentee, questioned, special needs, and defective ballots; and
 - (6) Any other matters which the committee deems necessary to preserve a complete record of the election.
- (b) Record the results of the election in the minutes of the meeting;

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- (c) Authorize the results to be certified;
 - (d) Publicly declare the results of the election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.110 Contest of election.

If a contest of election is declared, the procedures of Section [5.50].100(a)—(d) shall be followed at a special meeting held on the first Monday after resolution of the contest.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.120 Certificate of election.

The certificates shall be signed by the mayor and attested by the city clerk. Upon certification of the election results by the election **review** committee, the city clerk shall prepare copies of each certificate for each of the successful candidates, or the sponsor of the successful question or proposition named thereon. The original of each certificate of election shall be retained as a permanent record by the city.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.130 Retention of election records.

The city clerk shall preserve all election documents in accordance with the City of Gustavus Records Retention Schedule.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Chapter 5.60 CONTEST OF ELECTION

Sections:

Section 5.60.010 Contest of election; contestant.

- (a) Any candidate or qualified voter may contest the election of any candidate and the approval or rejection of any question or proposition by filing a notice of election contest with the clerk or election official by ~~4:00~~ **3:00** p.m. the day prior to certification of the election.
- (b) The notice of election contest shall state the following grounds of the contest in detail and shall be signed under oath by the candidate or each of the qualified voters filing it:
 - (1) Misconduct, fraud, or corruption on the part of an election official, sufficient to potentially change the result of the election;
 - (2) The person certified as elected or nominated is not qualified as required by law;
 - (3) Any corrupt practice as defined by law, sufficient to change the results of the election.

(Ord. No. FY23-03 , § 3, 9-19-2022)

Editor's note(s)—Ord. No. FY23-03 , § 3, adopted Sept. 19, 2022, repealed the former § 5.60.010 and enacted a new § 5.60.010 as set out herein. The former § 5.60.010 pertained to similar subject matter and derived from Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021.

Section 5.60.020 Notice of contest and procedure.

- (a) The candidate or voters who seek to contest an election shall submit a written notice of contest, which shall conform to the requirements of subsection (b) of this section.
- (b) The notice of contest shall be delivered to the office of the city clerk by ~~4:00~~3:00 p.m. the day prior to certification of the election and shall contain:
 - (1) A statement identifying the election being contested;
 - (2) A summary of the grounds for the contest;
 - (3) The legal name, residence address, contact information, and notarized signature of each candidate or qualified voter bringing the contest; and
 - (4) The contact information for a representative designated by the contestant(s) to receive communications from the city regarding the contest.
- (c) Upon receipt of a valid notice of contest, the city clerk shall:
 - (1) Issue a receipt of notice to contest filing to contestant or contestant representative;
 - (2) Submit the contest of election filing to the council;
 - (3) The city clerk and city attorney shall investigate the grounds of the contest and submit a report of findings to the council servicing as the Election Review Committee;
 - (4) The clerk may request that the ~~canvass board~~Election Review Committee or additional personnel assist with the investigation as necessary;
 - (5) The Election Review Committee ~~council~~ shall defer the certification of the contested election results pending receipt of the report but shall proceed with certification of all election results that are not contested.
- (d) If the ~~council~~Election Review Committee determines that the grounds of the contest are valid and may potentially change the results of the election, the council shall proceed in a manner that is consistent with its determination. If the council finds that the grounds for contest are not sufficient to change the election results, it shall declare the election valid and certify the contested election results.

(Ord. No. FY23-03 , § 3, 9-19-2022)

Editor's note(s)—Ord. No. FY23-03 , § 3, adopted Sept. 19, 2022, repealed the former § 5.60.020 and enacted a new § 5.60.020 as set out herein. The former § 5.60.020 pertained to contest of election; council and derived from Code of 2013.

Section 5.60.030 Ballot recount.

If only a recount of ballots is demanded, the election board where the error allegedly occurred shall recount the ballots.

Section 5.60.040 Prohibited practices alleged.

When the contestant alleges prohibited practices, the **Election Review Committee** ~~council~~ shall direct the city clerk to produce the original register books for the election.

Section 5.60.050 Sustained charges; recount.

If the charges alleged by the contestant are upheld, the election review committee shall make a recount. The committee shall then certify the correct election returns as provided in Chapter 5.50.

Section 5.60.060 Recount expenses; appeal.

- (a) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and losing vote on the result contested is more than two (2) percent.
- (b) A person may appeal the decision of the council in Section 5.60.020 to the state superior court, however no person may appeal or seek judicial review of a city election for any cause or reason unless the person is qualified to vote in the city, has exhausted his administrative remedies before the city council and has commenced, within ten (10) days after the council has finally declared the election results, an action in the superior court. If no such action is commenced with the ten-day period, the election and election results shall be conclusive, final, and valid in all respects.

Chapter 5.70 INITIATIVE PETITION, REFERENDUM AND RECALL

Sections:

Section 5.70.010 Initiative and petition.

The people of the City of Gustavus may directly enact ordinances by the initiative and may reject ordinances of the council by referendum, in accordance with AS 29.26.100 through 29.26.190.

Section 5.70.020 Recall.

The people of the City of Gustavus may recall an elected official of the city. The procedure for recall shall be in accordance with AS 29.26.240 through 29.26.360.

Date Introduced: August 12, 2024
Date of Public Hearing: September 9, 2024

PASSED and **APPROVED** by the Gustavus City Council this _____ day of _____ 2024.

Shelley K. Owens, Mayor

Attest: Liesl M. Barker, City Clerk