

**PETERSBURG BOROUGH  
ORDINANCE #2014-04**

**AN ORDINANCE PROVIDING FOR TITLE 2 OF THE MUNICIPAL CODE, AND  
UPDATING CURRENT LANGUAGE TO REFLECT BOROUGH INCORPORATION**

Whereas, on January 3, 2013 the Election Division for the State of Alaska certified the election results of the December 18, 2012 incorporation election for the Petersburg Borough, and

Whereas, the certified election confirmed the incorporation of the Petersburg Borough and dissolved the City of Petersburg, and

Whereas, Petersburg Borough Charter, Section 19.06 requires all ordinances, resolutions, regulations, orders and rules in effect for the former City of Petersburg continue in full force and effect within the Petersburg Borough, Service Area 1, until expressly reaffirmed, revised or repealed by the assembly.

Therefore the Petersburg Borough Ordains, the existing provisions for Title 2, Elections, as noted with amendments below, are hereby approved and adopted as a borough ordinance to be administered on an areawide (borough-wide) basis.

Section 1. Classification: This ordinance is of a permanent nature and shall be codified in the Petersburg Borough Code.

Section 2. Purpose: The purpose of this ordinance is to update Code language to reflect borough incorporation.

Section 3. Substantive Provisions: The provisions of the former City of Petersburg (now Service Area 1) Municipal Code, Title 2 are hereby transferred and incorporated into this borough ordinance, and shall read as follows. Chapter and section numbers from the prior city code are retained for future referencing and codification of the Borough Code.

**Title 2 – Elections**

**Chapters:**

Chapter 2.04 – General Provisions  
Chapter 2.08 – Qualifications of Voters  
Chapter 2.12 – Regular Elections  
Chapter 2.16 – Special Elections  
Chapter 2.20 – Requirements of Candidacy  
Chapter 2.24 – Election Officials  
Chapter 2.34 – Ballot Preparation and Election Process  
Chapter 2.36 – Election Returns  
Chapter 2.38 – Absentee Voting  
Chapter 2.40 – Election Offenses  
Chapter 2.44 – Initiative and Referendum  
Chapter 2.48 – Recall

**Chapter 2.04 GENERAL PROVISIONS**

Sections:

- 2.04.010 - Scope of title.
- 2.04.020 - Polling places.
- 2.04.030 - Election hours.
- 2.04.040 - Time off for voting.
- 2.04.050 - Voting devices, ballot types and ballot clarity.

This title applies to all regular and special municipal elections held in the ~~city~~borough.

**2.04.020 - Polling places.**

The ~~city council~~borough assembly shall establish or abolish polling places. A qualified voter shall vote only once per election and shall exercise that right at the polling place established in the precinct in which the person resides.

**2.04.030 - Election hours.**

On the day of election, each election board shall open the polls for voting at eight a.m., shall close the polls for voting at eight 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 seven-thirty a.m. on election day. The hours shall be determined by the standard time, or daylight saving time, that is applicable to the polling place.

**2.04.040 - Time off for voting.**

Any qualified voter who does not have sufficient time outside working hours within which to vote at any ~~city~~borough election may, without loss of pay, take off as much working time as will enable the voter to vote. If any employee has two consecutive hours in which to vote, either between the opening of the polls and the beginning of the voter's regular shift, or between the end of the voter's regular working shift and the closing of the polls, the voter shall be deemed to have sufficient time outside working hours within which to vote.

**2.04.050 - Voting devices, ballot types and ballot clarity.**

The ~~city~~borough clerk may adopt rules and procedures consistent with state law for the preparation, process and tabulation of optically scanned, electronically generated or paper ballots. All official ballots shall be prepared to facilitate fairness, simplicity and clarity to accurately reflect the intent of the voter.

**Chapter 2.08 - QUALIFICATIONS OF VOTERS**

Sections:

- 2.08.0~~1~~20 - Voter qualifications.

**2.08.0~~1~~20 - Voter qualifications.**

A person may vote in a municipal election if qualified to do so as provided under state law. ~~A person voting upon a bond issue need not be a real property tax payer.~~

## **Chapter 2.12 - REGULAR ELECTIONS**

### **Sections:**

- 2.12.010 - Time.
- 2.12.020 - Notice.
- 2.12.030 – Subjects.

#### **2.12.010 - Time.**

There shall be a regular election on the first Tuesday of October in each year.

#### **2.12.020 - Notice.**

A. At least ~~twenty~~thirty days before any regular election, the ~~city~~borough clerk shall post and publish a notice of election. The notice shall be posted at a conspicuous place in the ~~municipal~~City Hall building and in one public place in each precinct; and published twice in a newspaper of general circulation within the ~~borough~~city.

B. The notice shall state the ~~borough offices~~vacancies to be filled; each proposition to be voted upon; and the time, date and place of the election.

C. Failure to publish the notice of election shall not affect the validity of the election or of the vote for any candidate or on any proposition.

#### **2.12.030 - Subjects.**

At any regular election the voters shall elect persons to fill ~~seats~~vacancies and vote on questions or propositions submitted by the ~~city council~~borough assembly for ratification or an expression of public opinion.

## **Chapter 2.16 - SPECIAL ELECTIONS**

### **Sections:**

- 2.16.010 - Time.
- 2.16.020 - Date.
- 2.16.030 - Notice.

#### **2.16.010 - Time.**

The ~~city council~~borough assembly may call, or authorize the mayor to call, a special election subject only to the requirements of notice and applicable laws governing the subject or question submitted at the election.

#### **2.16.020 - Date.**

The ~~resolution, ordinance or proclamation~~assembly action calling a special election shall fix the date of the election.

## **2.16.030 - Notice.**

Notice shall be given by both publication and posting as in the case of regular elections.

## **Chapter 2.20 - REQUIREMENTS OF CANDIDACY**

Sections:

- 2.20.010 - Qualifications of candidacy.
- 2.20.020 - Party affiliation precluded.
- 2.20.030 - Filing for office.
- 2.20.~~031-040~~ - Write-in candidates.
- 2.20.~~035-050~~ - Restrictions on dual office holding.
- 2.20.~~040-060~~ - Declaration of candidacy.
- 2.20.~~050-070~~ - Withdraw of candidate's name—Death of candidate.

### **2.20.010 - Qualifications of candidacy.**

Only a voters of the cityborough, as defined in Section 2.08.0120, who hasve been a residentd within of the boroughcity for at least one year immediately preceding as of the date of their election, shall be qualified for any elective borough office, except school board. the office of mayor, assembly member, planning commissioner, hospital board membercouncilor, or other elected borough advisory officers. School board candidates must have resided in the boroughcity for at least thirty days immediately preceding before the date of their election. If an elected person ceases to be a resident of the cityborough, the person shall thereupon cease to hold office.

### **2.20.020 - Party affiliation precluded.**

No person shall file for an election or run for office as a member of any party which is active in national or state elections. Filing may not be more than ten weeks nor less than six weeks before the election.

### **2.20.030 - Filing for office.**

Any qualified person may be placed on the ballot as a candidate for the office of mayor, assembly member, city councilor, school board member or hospital board member by filing with the boroughcity clerk a signed declaration of candidacy form and a petition signed by at least twenty qualified voters of the borough. Any qualified person may be placed on the ballot as a candidate for any other elected office by filing with the cityborough clerk only a declaration of candidacy form. Filing may not be more than ten weeks nor less than six weeks before the election.

### **2.20.~~031-040~~ - Write-in candidates.**

A qualified person Individuals who fails to file a declaration of candidacy form as described in Section 2.20.030, but who wishes to run for office as a write-in candidate, must file with the cityborough clerk a letter of intent no later than five p.m. on the Friday preceding the election in which the candidate plans to participate. The letter of intent shall be in a form prescribed and prepared by the cityborough clerk. Write-in votes cast for an individuals who dide not file a letter of intent will not be counted.

### **2.20.~~035-050~~ - Restrictions on dual office holding.**

A. A qualified person may file a declaration of candidacy for only one elective or elected borough advisory office at any given election. A person may file for an elective or elected advisory office while

serving in another ~~elective or~~ elected ~~advisory~~ office. ~~However~~, a qualified person may only hold one ~~elective or~~ elected ~~advisory~~ office at a time.

B. ~~A borough~~ ~~Administrative officers~~ may ~~be elected or appointed to a borough advisory board or other borough serve as elected advisory or appointed members of boards~~ and commissions established by ordinance. Administrative officers may not ~~hold other elected borough offices~~ ~~serve as elective officers.~~ ~~hold elected borough office on the assembly, school board, hospital board or planning commission.~~

#### **2.20.040-060 - Declaration of candidacy.**

The declaration of candidacy shall be on a form prescribed by the ~~city~~borough clerk and must include the candidate's name, residence address, mailing address, the designation of the office and term being sought, a statement the candidate is qualified for the office sought, the candidate's name as the candidate wants it to appear on the ballot, the candidate's phone number and the candidate's signature.

#### **2.20.050-070 - Withdraw of candidate's name—Death of candidate.**

A candidate may withdraw their candidacy declaration upon written notice to the ~~city~~borough clerk at any time prior to the official ballot being printed. If a candidate dies after their declaration is filed and prior to the official ballot being printed, the ~~city~~borough clerk may omit the name of the candidate from the election ballot.

### **Chapter 2.24 – ELECTION OFFICIALS**

Sections:

- 2.24.010 - Appointment of election judges.
- 2.24.020 - Oath.
- 2.24.030 - Duties and power of election judges.
- 2.24.040 - Training sessions.
- 2.24.050 - Replacement of appointed election judges and additional judges.
- 2.24.060 - Compensation.

#### **2.24.010 - Appointment of election judges.**

The ~~city council~~borough assembly, before the date of the election, shall appoint from the qualified ~~voter~~selectors of the ~~borough~~city, ~~four~~ a sufficient number of judges of election for each voting precinct, one of whom shall be designated as the chairman.

#### **2.24.020 - Oath.**

Before entering upon the duties of office, each election judge shall take an oath to honestly, faithfully and promptly perform the duties of office. Any appointed election judge, including an appointed election judge who has not personally subscribed to the oath, may administer the oath to another election judge.

#### **2.24.030 - Duties and power of election judges.**

The judges of the election shall constitute the election board and shall have charge of the election. Each judge shall have the power to administer oaths relating to the qualifications of voters. The chairman shall have authority to administer all necessary oaths and affirmations which may be required during the election. Judges will not receive ballots from any person other than those entitled to vote at the election. Nor shall judges refuse to receive any ballot from any person entitled to vote in the election. Judges will perform all duties impartially and fairly.

#### **2.24.040 - Training sessions.**

Election judges are required to attend training sessions when scheduled, unless excused for cause by the cityborough clerk.

#### **2.24.050 - Replacement of appointed election judges and additional judges.**

If an appointed judge is not able or refuses to serve on election day, the cityborough clerk may appoint a replacement for that judge. The cityborough clerk may appoint additional election judges if necessary to facilitate the orderly conduct of the election.

#### **2.24.060 - Compensation.**

Election judges shall be compensated for performance of their duties as determined by the city councilborough assembly.

### **Chapter 2.34 – BALLOT PREPARATION AND ELECTION PROCESS**

Sections:

- 2.34.010 - Ballot preparation.
- 2.34.020 - Inspection and delivery of ballots.
- 2.34.030 - CityBorough clerk to furnish election materials.
- 2.34.040 - Keeping of original register.
- 2.34.050 - Voting process.
- 2.34.060 - Challenging a voter.
- 2.34.070 - Rejected ballots.
- 2.34.080 - Closing of polls.

#### **2.34.010 - Ballot preparation.**

A. The cityborough clerk shall determine the size of the ballot, the type of print, necessary additional instructions noted to voters and other similar matters of form.

B. All candidates to the same office shall be shown on one ballot. The title of each office to be filled shall be followed by the printed names of all candidates for that office. Except for the **elective** offices of mayor and ~~council member~~ **assembly members** provision shall be made for write-ins equal in number to the positions to be filled. On the ballot, the phrase "for one-year term", "for two-year term", and/or "for three-year term", as the case may be, shall be placed after the title of the office to be filled. On the ballot between the aforementioned phrase and the names of the candidates, shall be placed the instruction "vote for one" or "vote for two", as the case may be. Where there is more than one candidate for office the names of candidates shall be arranged in alphabetical order.

C. Following the offices and candidates, there shall be placed on the ballot or on separate ballots as the cityborough clerk may determine, all propositions or questions to be voted upon. The words "yes" and "no" shall be placed below the statement of each proposition or question.

D. Ballots shall be printed by a provider determined as qualified by the cityborough clerk. The printed ballots shall be numbered in series to assure simplicity and secrecy and to prevent fraud.

#### **2.34.020 - Inspection and delivery of ballots.**

A. The cityborough clerk shall have the official ballots in possession at least twenty days before the election. At any time the ballots may be inspected by any candidate whose name is on the ballot or by a candidate's authorized representative. Any mistake discovered shall be corrected immediately, if possible. If a mistake cannot be corrected prior to election day, the cityborough clerk shall provide, and the voters shall use, substitute ballots.

B. Sufficient ballots for the conduct of each election shall be delivered to the election judges prior to the time for opening the polls.

#### **2.34.030 - CityBorough clerk to furnish election materials.**



A. Before the opening of the polls the cityborough clerk shall furnish to the election judges for each precinct sufficient materials for the election.

B. The cityborough clerk shall prepare instructions explaining to the voters how to obtain ballots, how to mark them, how to obtain information from election judges and how to obtain new ballots to replace those destroyed or spoiled. These instructions shall be printed on cards in large, clear type and shall be distributed to the election judges to be prominently displayed in each polling place. The cityborough clerk shall have sample ballots printed on colored paper identical in form to the official ballots to be used in each election and shall make sample ballots available in each polling place according to the official ballot types bearing offices and propositions to be voted upon at the polling place. Sample ballots of all types shall be made available to the public in the cityborough clerk's office.

C. The cityborough clerk shall provide voting booths or compartments at each polling place with appropriate supplies and conveniences to enable each voter to mark the ballot screened from observation. Ballot boxes shall be placed outside of the voting booths in plain view of the election judges, voters and other persons at the polling place.

#### **2.34.040 - Keeping of original register.**

The judges shall keep an original register which shall list the name of each voter qualified to vote in that precinct. Each voter, before receiving a ballot, shall sign their name on the original register. If the voter's name does not appear on the original register, the voter must comply with the challenged voter procedures provided in Section 2.34.060.

#### **2.34.050 - Voting process.**

A. Before issuing any ballots, the election board must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box to be used at the polling place to demonstrate that it is empty. The ballot box shall then be closed and shall not be opened again or removed from the polling place until the polls have closed.

B. The voter shall give the election judge their name and address. If it is determined that the voter is a qualified voter of that precinct, the voter shall then place their signature on the appropriate line on the original register. If an election judge believes a voter is not qualified, the voter shall be immediately challenged by the election judge.

C. If the voter is not challenged, or if the voter has complied with the challenged voter procedure, the election judge will issue the ballot or ballots to which the voter is entitled.

D. A qualified voter who cannot read, mark the ballot or sign their name may request a judge, another person, or not more than two persons of their choice to assist. If a judge is requested, the judge shall assist the voter. If any other person is requested, the person shall state upon oath before the election judge that they will not divulge the vote cast by thae person whom they assisted.

E. With the exception of the circumstances recited in subsection D of this section, not more than one person shall occupy thea voting booth or compartment at the same time, and no person shall be permitted to occupy an votingelection booth or compartment longer than shall be necessary for voting the ballot.

F. The voted ballot shall be deposited in the ballot box by the voter in the presence of the election officialjudge unless the voter requests the election judge to deposit the ballot on the voter's behalf. No voter may leave the polling place with an official ballot.

G. If a voter improperly marks or otherwise damages a ballot, the voter may request and the election judge shall provide the voter with another ballot, with a maximum of three, and the judge shall record the number of the improperly marked or damaged ballot and destroy it immediately without examining it.

#### **2.34.060 - Challenging a voter.**

A. Any person offering to vote may be challenged as unqualified by any of the election judges or by a legal voter or bystander, and it shall be the duty of each of the judges to challenge any person offering to vote, whom they know, suspect or believe not to be qualified as a voter.

B. A person whose right to vote has been challenged may be issued a ballot if the person first completes and subscribes to an affidavit of qualifications. When the voted ballot is returned to an election judge, it shall be placed in a secrecy sleeve and then placed in an official envelope bearing the

questioned ballot affidavit. The envelope shall be sealed and deposited in the ballot box. All envelopes containing challenged ballots shall be delivered to the cityborough clerk to be forwarded, unopened, to the canvass board. The cityborough clerk shall review the affidavits challenged ballot envelopes and make a recommendation to the canvass board as to whether each ballot should be counted or not counted.

#### 2.34.070 - Rejected ballots.

No election judge shall deposit in any ballot box any ballot which contains any distinguishing mark, impression, device or other defacement. Where any ballot is so rejected, it must be endorsed on the back "rejected" and signed by an election judge.

#### 2.34.080 - Closing of polls.

Fifteen minutes before and at the time of closing the polls, the election judges shall announce the present time and the time of closing the polls. Every qualified voter present and in line at the time prescribed for closing the polls may vote. When the polls are closed and the last vote has been cast, the election judges shall immediately commence counting the ballots according to the provisions in Chapter 2.36.

### **Chapter 2.36 – ELECTION RETURNS**

Sections:

- 2.36.005 - Disposition of unvoted and damaged ballots.
- 2.36.010 - Counting ballots.
- 2.36.020 - Write-in votes.
- 2.36.030 - Rules on legitimacy of ballots.
- 2.36.040 - Certificate of returns.
- 2.36.050 - Canvass of returns.
- 2.36.060 - Custody and destruction of ballots.
- 2.36.070 - Contest of election.
- 2.36.080 - Tie election.
- 2.36.090 - Canvass report—Certificates of election.
- 2.36.100 - Appeal to the courts.

#### **2.36.005 - Disposition of unvoted and damaged ballots.**

Before voted ballots are tabulated, ballots not issued shall be destroyed by the election judges after recording the numbers of the unvoted ballots. The stubs of the unvoted ballots shall be returned to the cityborough clerk in an envelope provided for that purpose. The numbers of ballots damaged by voters and replaced by election judges shall also be recorded. The record of ballots not issued and ballots damaged and replaced shall be delivered to the cityborough clerk for retention with other election records.

#### **2.36.010 - Counting ballots.**

As soon as the unused and damaged ballots are cared for as provided in Section 2.36.005, the judges shall commence tabulating the ballots and continue without adjournment until they are all counted. In no case shall the ballot box be removed from the room in which the election was held until all the ballots have been counted. The counting of ballots shall be accomplished in full view of any persons present. The public may not be excluded from the area in which the ballots are counted; however, the election judges shall not permit anyone present to interfere in any way or to distract the judges from their duties. No one other than appointed judges may handle ballots.



### 2.36.020 - Write-in votes.

The election judges shall tally and record write-in votes for only write-in candidates who timely filed a letter of intent with the cityborough clerk pursuant to Section 2.20.03+040.

### 2.36.030 - Rules on legitimacy of ballots.

Votes shall count according to the following rules:

- A. A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
- B. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
- C. 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.
- D. An erasure or correction invalidates only that section of the ballot in which it appears.
- E. Stickers bearing a candidate's name may not be used or counted. A write-in vote will only be counted for those candidates who timely filed a letter of intent with the cityborough clerk pursuant to Section 2.20.3+040. ~~To be a valid write-in vote, the voter must write in the full name or last name of the candidate as it appears on the write-in candidate's letter of intent in the proper space provided for write-in candidates in each race. The oval opposite the name of the write-in candidate must also be clearly marked indicating a vote for the write-in candidate.~~ To be a valid write-in vote, the voter must, in the space provided, write in the candidate's name. Write-in votes cast by writing in a nickname, abbreviated name, or misspelled name or other similar deviation from the name of a candidate as it appears on the candidate's letter of intent shall be counted as a vote for that candidate if the intent of the voter can clearly be determined. Write-in votes that cannot clearly be determined shall be counted as cast for another person of a different name.

### 2.36.040 - Certificate of returns.

When the tally of votes is completed, a certificate of returns shall be prepared and signed by the election judges of each election precinct. After completion of the certificate of returns, the counted ballots, all rejected ballots and all challenged ballots shall be delivered to the cityborough clerk.

### 2.36.050 - Canvass of returns.

A. The borough assembly shall sit as the canvass board shall consist of the city council for purposes of canvassing returns, addressing election contests, and certifying elections. Within seven days after each election the canvass board shall meet in public session and shall canvass the election returns. The canvass may be continued from day to day. The canvass board may accept the certificate of returns submitted by the election judges, examine election judges and may hear informal protests, complaints or objections from individuals. In full view of those present, the canvass board shall judge separately the validity of all challenged ballots and absentee ballots received by mail after election day. The board shall open and tally the accepted ballots and compile the total votes cast in the election.

B. To be counted, an absentee by mail ballot must be postmarked no later than the day of the election. Ballots received by mail after completion of the canvass shall not be opened, but shall be marked invalid with the date of receipt noted and held with other ballots in accordance with the cityborough's recordsdocument retention policy.

C. Accepted absentee and challenged ballots shall be counted in the following manner:

1. The ballot secrecy sleeves shall be removed from the identifying outer return envelopes.
2. The return envelopes, empty, shall be delivered to the cityborough clerk for preservation with other election records in accordance with the cityborough's recordsdocument retention policy.
3. The ballot secrecy sleeve shall then be opened and the ballots removed.

4. The votes cast on these ballots shall then be tallied in the same manner as other ballots cast in the election.

D. If the canvass board reports a failure to comply with the provisions of state law or municipal ordinance or a finding of illegal election practices, and it is determined that such failure or illegal practices were sufficient to have changed the outcome of the election, the canvass board may ~~recommend the exclusion of~~ votes cast in one or more precincts where the defect occurred from the total returns or they may ~~declare recommend~~ the entire election ~~be declared~~ invalid and order a new election.

E. If the canvass board finds an apparent discrepancy in the returns of one or more precincts which may materially affect the outcome of the election, the canvass board shall immediately undertake a recount of the votes cast in that precinct or precincts.

#### **2.36.060 - Custody and destruction of ballots.**

After the ballots of every precinct have been canvassed, they shall be kept in the custody of the ~~cityborough~~ clerk in accordance with the ~~cityborough's document records~~ retention policy.

#### **2.36.070 - Contest of election.**

A. Any candidate or any ten or more qualified voters may contest the election of any person, and the approval or rejection of any question or proposition, upon one or more of the following grounds:

1. Misconduct, fraud or corruption of an election judge sufficient to change the results of the election;

2. Disqualification of the person elected under provisions of law or ordinance, or existence of a corrupt election practice as defined by the laws of the state of Alaska.

B. The candidate, or one or more of the voters initiating a contest, shall appear before the canvass board at the meeting held to certify the election returns and deliver a written notice of contest. The notice of contest shall specify the election being contested, shall state the grounds of the contest in detail and shall bear the notarized signatures of the candidate or the qualified voters bringing the contest.

C. Upon receiving a notice of contest, the canvass board shall order an investigation by the ~~cityborough~~ manager to be made with the assistance of the ~~cityborough~~ clerk and ~~cityborough~~ attorney. Those contesting the election, those whose election is contested and the public shall be allowed to attend all investigation~~atory~~ and recounting proceedings.

D. If only a recount of ballots is demanded, the election judges in the precincts where error allegedly occurred shall recount the ballots in such precincts.

E. After considering the report of the investigating officials and any other evidence presented, the canvass board shall determine whether any illegally cast votes could have affected the election results. If they could not have, the canvass board may so declare and proceed with certification of the election. If the contest involved other prohibited practices which are shown to have occurred, the canvass board shall exclude the votes of the precinct where such practices occurred from the total returns. If it is determined that such exclusion could not affect the election results, the canvass board shall declare the election validly held and affirm the results.

F. All expenses incurred during the recount pursuant to a contest shall be paid by the contestant unless:

1. The recount reverses the result of the election; or
2. The difference between the winning and losing vote on the resulted contest is more than two percent.

#### **2.36.080 - Tie election.**

If two or more candidates receive an equal and highest number of votes for any one and the same office, the ~~cityborough~~ clerk shall give notice to each candidate to attend a meeting at a time and place appointed by the ~~cityborough~~ clerk. At the meeting the ~~cityborough~~ clerk shall publicly proceed to determine by lot which of the candidates shall be declared duly elected.

### **2.36.090 - Canvass report—Certificates of election.**

A. If the canvass board concludes that the election was validly held, such conclusion shall be publicly announced and entered upon the minutes of the meeting. The minutes of the meeting shall reflect a motion by the canvass board to accept the certificate of elections which shall become a part of the official minutes. The certificate of elections shall include:

1. The number of votes cast in the election;
  2. The names of the candidates which appeared on the ballot, the names of the candidates elected to ~~offices~~~~vacancies~~, and the propositions and questions voted upon at the election;
  3. The offices voted for and the number of votes cast for each candidate for each office;
- and
4. The number of votes for and against propositions and questions voted upon.

B. If the canvass board concludes the election is not valid, it shall order another election.

C. If the canvass board determines that a valid election was held and that substantial compliance with all voting procedures was effected and that no material discrepancy exists which may affect the outcome of the election, the canvass board shall pass a motion to accept the certificate of elections and direct the ~~city~~~~borough~~ clerk to sign and seal the same.

### **2.36.100 - Appeal to the courts.**

A person may not appeal or seek judicial review of an election for any cause unless the person is a voter, has exhausted all administrative remedies before the ~~city council~~~~canvass board~~, and has commenced, within ten days after the ~~canvass board~~~~city council~~ has accepted the certificate of elections, an action in the superior court in the judicial district in which the municipality is located. If court action is not commenced within the ten-day period, the election and election results are conclusive and valid.

## **Chapter 2.38 – ABSENTEE VOTING**

Sections:

- 2.38.010 - Absentee ~~elector~~~~voter~~.
- 2.38.020 - Application for absentee ballot.
- 2.38.025 - Clerk representatives.
- 2.38.030 - Absentee voting in person.
- 2.38.040 - Absentee voting by mail.
- 2.38.045 - Absentee voting by electronic transmission.
- 2.38.050 - Hand delivery of absentee ballot.
- 2.38.060 - Emergency application for absentee ballot.
- 2.38.070 - Absentee ballot register.
- 2.38.080 - Safekeeping, delivery and counting of absentee ballots.
- 2.38.090 - Rejecting absentee ballots.
- 2.38.100 - Questioned absentee ballots.

### **2.38.010 - Absentee ~~voter~~~~elector~~.**

Any qualified voter of the ~~city~~~~borough~~ who is absent or expects to be absent from the city, or who will be unable to go to the polling place for reasons of physical disability on the day of holding any municipal election, may vote by absentee ballot at any election for any reason.

### **2.38.020 - Application for absentee ballot.**

A. Any absent voter, may, in person, by telephone, fax, written request or by personal representative, request an absentee ballot. Absentee ballots shall be made available not more than twenty days preceding the election ~~nor later than twelve p.m. the day preceding the election.~~

B. The application for an absentee ballot shall be on a form prescribed by the ~~city~~borough clerk and shall include the election date, the name of the voter, the voter's residence address, the mailing address where the ballot is to be sent, a statement that the voter is qualified to vote in the election, an area for the voter's signature and voter signature witnessing, a space for a ballot number, and a space for the date of delivery or mailing of ballot.

#### **2.38.025 - Clerk representatives.**

The ~~borough~~city clerk may designate representatives to assist in carrying out all the administrative tasks provided in this chapter.

#### **2.38.030 - Absentee voting in person.**

Not more than twenty days preceding the election nor later than twelve p.m. of the day preceding the election, a qualified voter may vote an absentee ballot in the office of the ~~city~~borough clerk. The ~~city~~borough clerk shall provide the voter with an application for an absentee ballot which shall also serve as the oath and affidavit of the absentee voter, an official ballot, written instructions how to vote by absentee ballot, a secrecy sleeve in which the voted ballot is to be placed and an envelope in which the voted ballot and affidavit are to be sealed. When the voter has completed voting their ballot and secured the voted ballot as instructed, the voted ballot is returned to the ~~city~~borough clerk for safekeeping.

#### **2.38.040 - Absentee voting by mail.**

A request to receive a ballot by mail must be received by the ~~city~~borough clerk not less than five days before the election for which the absentee ballot is sought. The ~~city~~borough clerk shall mail to the qualified voter an official ballot, an application for an absentee ballot which shall also serve as the oath and affidavit, instructions how to vote by absentee ballot, a secrecy sleeve in which the voted ballot is to be placed and an envelope in which the voter may return their voted ballot and completed affidavit. The return envelope containing the voted ballot and completed application shall be postmarked no later than the day of the election.

#### **2.38.045 - Absentee voting by electronic transmission.**

The ~~city~~borough clerk may establish procedures for the delivery of absentee ballots by electronic transmission. The established procedures must require the voter to comply with the same time deadlines as for voting in person on or before the closing hours of the polls, ensure the accuracy, and, to the greatest degree possible, the integrity and secrecy of the ballot process. An absentee ballot that is completed and returned by the voter by electronic transmission must contain 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. The returned ballot shall be accompanied by a statement executed under oath as to the voter's identity and witnessed by an official authorized by federal or state law to administer oaths or two United States citizens who are eighteen years of age or older.

#### **2.38.050 - Hand delivery of absentee ballot.**

In the event a qualified voter is unable to go to the polling place on the day of the election or vote absentee by any other means, the ~~city~~borough clerk, or clerk's representative, may hand deliver absentee voting material to the voter. Voted, absentee ballots received by this method shall be returned to the ~~city~~borough clerk no later than twelve p.m. the day preceding the election.

#### **2.38.060 - Emergency application for absentee ballot.**



A. Any qualified voter who is a patient under the care of a physician in a hospital or a private home or who is held in jail or other place of detention on the day of election and is unable to go to the appropriate precinct polling place to vote may request delivery of absentee voting materials after the time period for application has closed. The request may be made by telephone or by a third party on the voter's behalf.

B. If, in the opinion of the cityborough clerk, there is time for the voted ballots to be returned before the closing of the polls, a duly appointed and sworn election judge shall take the ballot, along with application form and other necessary materials, to the voter. After having filled out and signed the application for absentee ballots, the voter shall cast the ballot in the same manner provided for absentee voting in the cityborough clerk's office.

C. If there is doubt of the voter's qualification, the voter may be required to comply with the challenged ballot procedure, except that in this case the challenge may be stated on the return envelope and the affidavit.

#### **2.38.070 - Absentee ballot register.**

The cityborough clerk shall keep an absentee ballot register showing the name of each absentee voter, the date of voting or requesting an absentee ballot, the ballot number, the address of the voter, the precinct in which the voter usually votes and the voter's personal identification number social security number or voter number. The ballot register will also show the date of mailing or hand delivery of each absentee ballot and the date each voted ballot is returned.

#### **2.38.080 - Safekeeping, delivery and counting of absentee ballots.**

A. Upon receipt of a voted absentee ballot, the cityborough clerk shall place the ballot, together with other absentee ballots, in a safe place until election day. On election day, the borough city clerk shall deliver all absentee ballots to the appropriate precinct where they will be counted with all other ballots cast. The borough city clerk shall provide instruction to the election judges on procedures to process absentee ballots. Said procedures shall be the same manner, as nearly as may be, as required by state law.

B. Absentee ballots which arrive by mail after the day of the election but before the date and time of the canvass board and postmarked on or before the day of the election, shall be presented to the canvass board by the cityborough clerk.

#### **2.38.090 - Rejecting absentee ballots.**

The election judges shall reject any absentee ballot received in an envelope that has been opened prior to receipt by the election judges or if there is more than one ballot in the envelope. Rejected ballots shall be endorsed "rejected" and placed in the envelope provided for that purpose.

#### **2.38.100 - Questioned absentee ballots.**

The vote of any absentee voter may be challenged as though present. The election judges shall deliver the official envelopes containing the questioned ballots to the cityborough clerk.

### **Chapter 2.40 – ELECTION OFFENSES**

Sections:

2.40.010 - Election offenses and corrupt practices.

2.40.020 - Civil remedy for boroughcity's expenses.

#### **2.40.010 - Election offenses and corrupt practices.**

Election offenses and corrupt practices prohibitedexpressed by state law shall also apply to boroughcity elections, and commission of such offenses and practices shall be considered a violation of borough code.



#### **2.40.020 - Civil remedy for cityborough's expenses.**

The cityborough may institute civil litigation to recover its costs and expenses of duplicate elections in the event the canvass board determines voting infractions attributable to one or more individuals were sufficient to have changed the outcome of the election, and recommends declaration of whole or partial invalidity and that new elections be held regarding same.

### **Chapter 2.44 – INITIATIVE AND REFERENDUM**

#### Sections:

- 2.44.010 - Reservation of powers.
- 2.44.020 - Application for petition.
- 2.44.030 - Form of petition.
- 2.44.040 - Signature requirements.
- 2.44.050 - Certification of sufficiency.
- 2.44.060 - Protest of clerk's decision.
- 2.44.070 - Filing new petition.
- 2.44.080 - Council action on initiative.
- 2.44.090 - Initiative election.
- 2.44.100 - Referendum election.
- 2.44.110 - Effect of referendum on pending matter.
- 2.44.120 - Integrity of voters decision.

#### **2.44.010 - Reservation of powers.**

The powers of initiative and referendum are reserved to the residents of Petersburg, except the powers do not extend to matters restricted by the Alaska Constitution, and as such the initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. A referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation or to laws necessary for the immediate preservation of the public peace, health or safety.

#### **2.44.020 - Application for petition.**

A. An initiative or referendum is proposed by filing an application with the cityborough clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. The application shall be signed by at least ten borough voters who will sponsor the petition. Additional sponsors may be added by submitting the name of the sponsor to the cityborough clerk. An application for initiative petition must be filed with the cityborough clerk not less than one hundred eighty days before the next regular election. Within two weeks of receipt of an application the cityborough clerk shall certify the application if the cityborough clerk finds it is proper in form and, for an initiative petition, conforms to paragraph B. Within two weeks of certification of the application, the cityborough clerk shall prepare a petition and notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition, sequentially numbered, shall be provided by the cityborough clerk to each sponsor who appears in the clerk's office and requests a petition.

B. A matter to be proposed by initiative must be limited to a single, comprehensive subject, must relate to a legislative rather than to an administrative matter, may not include subjects restricted by 2.44.010, and must be enforceable as a matter of law.

#### **2.44.030 - Form of petition.**

A petition for an initiative or referendum shall:

~~AA. Embrace only a single comprehensive subject;~~

B. Set out fully the ordinance or resolution sought by the petition;

~~BC. State upon the petition, when circulated,~~ the date the petition is issued by the cityborough clerk;

~~CD. Contain the statement, when circulated,~~ that the signatures on a petition shall be secured within ninety days from the date the petition is issued;

~~DE. Have sufficient space for~~ the required signatures, the printed name of ~~eachthe~~ signer, a numerical identifier for each signer, ~~the~~ date of each signature and residence and mailing address of each signer;

~~EF. Contain a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be.~~

#### **2.44.040 - Signature and filing requirements.**

A. The necessary signatures on a petition shall be secured within ninety days from the date of ~~issuancethe first circulation~~ of the petition. The petition shall be signed in ink or indelible pencil.

B. Every petition for either an initiative or referendum shall be signed by a number of qualified voters equal to twenty-five percent of the total number of votes cast at the last regular election in the cityborough.

C. When signing a petition, each voter shall write or print, after the voter's signature, the voter's name, the date of signing the petition and the residence and mailing address.

D. Illegible signatures, unless accompanied by a legible printed name, may be rejected by the cityborough clerk.

E. A petition signer may withdraw their signature upon written application to the cityborough clerk within seven days after the petition has been filed with the cityborough clerk.

F. A referendum petition may only be filed within 90 days following the effective date of the legislative measure in question.

#### **2.44.050 - Certification of sufficiency.**

A. All copies of an initiative or referendum petition shall be assembled and filed with the borough clerk as a single instrument.

A. Within ten days from the filing of a signed petition, the cityborough clerk shall certify on the petition whether or not it is sufficient.

B. If the petition is insufficient, it may be ~~amended or~~ supplemented with additional signatures within ten days after the date on which the petition is rejected as insufficient.

C. Within ten days after a supplementary filing, the cityborough clerk shall recertify whether the petition is sufficient. If it is still insufficient, the petition is rejected and filed as a public record.

#### **2.44.060 - Protest of clerk's decision.**

If the cityborough clerk certifies that the petition is insufficient, a signer of the petition may file a protest with the cityborough manager within seven days after certification. The cityborough manager shall present the protest at the next regular meeting to the ~~city council~~ borough assembly, which shall hear and decide the protest.

#### **2.44.070 - Filing new petition.**

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

#### **2.44.080 - ~~Assembly~~Council action on initiative.**

When a petition seeks enactment of an ordinance or resolution within the powers of the ~~city council~~borough assembly, the ~~city~~borough clerk shall present it to the council at its next meeting after certification. If the ~~council~~assembly enacts ~~adopts the petition or~~ substantially the same measure, the petition is void and the matter initiated may not be placed before the voters. ~~The council may reject the petition if the subject matter of the initiative is restricted by Section 2.44.010.~~

#### **2.44.090 - Initiative election.**

A. Unless the assembly enacts the measure under paragraph C hereof, ~~council grants the petition, the city~~borough clerk shall, with the assistance of the ~~city~~borough attorney, ~~prepare an ordinance or resolution to implement the petition and shall~~ submit it to the voters at the next regular or special election ~~or at a special election~~. If no regular or special election occurs within ninety days of the clerk's certification filing of a sufficient initiative petition, the ~~city council~~borough assembly shall submit the ~~measure~~petition to the voters at a special election held no later than ninety days after ~~certification the petition's filing submission~~. The ordinance or resolution shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.

B. If a majority of those voting favor the proposal, it becomes effective when the election results are certified by the ~~council~~assembly, sitting as the canvass board, unless the ordinance or resolution provides for a different effective date.

C. The ~~assembly~~council may, at any time not less than six weeks from the date of ~~the a regular election~~, adopt an ordinance or resolution to implement the ~~measure~~petition. In that event, the petition is void and the matter will not be placed before the voters.~~proposal shall not appear on the ballot.~~

#### **2.44.100 - Referendum election.**

A. When a petition seeks a referendum vote of an ordinance or resolution, the ~~city~~borough clerk shall submit the ordinance or resolution to the voters of the ~~city~~borough at the next regular or special election. If no regular or special election occurs within ninety days of the clerk's certification filing of a sufficient referendum petition, the ~~city council~~borough assembly shall submit the ~~petition~~measure to the voters at a special election held no later than ninety days after ~~certification the petition's filing submission~~.

B. If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter ~~referred remains in effect or, if it has been suspended,~~ becomes effective on certification of the election.

C. If the ~~city council~~borough assembly repeals the ordinance or resolution at any time not less than six weeks before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

#### **2.44.110 - Effect of referendum on pending matter.**

If a ~~sufficient~~ petition for referendum is filed ~~within thirty days after final passage of an ordinance or resolution~~, the ordinance or resolution against which the petition is filed shall be suspended ~~pending the referendum~~. During the period of suspension, the ~~city council~~borough assembly may not enact an ordinance or resolution substantially similar to the suspended ordinance or resolution, but may repeal the suspended ordinance or resolution. The suspension terminates on a finding of insufficiency of the petition or upon certification of a majority vote against repeal.

#### **2.44.120 - Integrity of voters decision.**

A. The effect of an ordinance or resolution may not be substantially modified or negated within two years after certification of the election, its effective date if adopted in an initiative election, or the date of enactment by the assembly, if adopted~~enacted~~ after a sufficient petition that contains substantially the same measure has been filed.

B. If an ordinance or resolution is repealed in a referendum election or by the ~~borough assembly~~city council after a sufficient petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted for a period of two years following certification of the election or the date of repeal.

C. If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than ~~two years~~six months after the election results are certified.

## **Chapter 2.48 – RECALL**

Sections:

2.48.010 - Recall.

2.48.020 - Recall grounds and procedures.

### **2.48.010 - Recall.**

An ~~official elective or appointed officer~~ who is elected or appointed to ~~fill a vacancy~~any elected borough office may be recalled by the voters after the officer has served one hundred twenty days in office.

### **2.48.020 - Recall grounds and procedures.**

Recall ~~grounds~~requirements and procedures shall be as set forth in state law.

Section 4. Severability: If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected.

Section 5. Effective Date: This Ordinance shall become effective immediately upon final passage.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this \_\_\_\_\_ day of \_\_\_\_\_, 2014..

\_\_\_\_\_  
Mark Jensen, Mayor

ATTEST:

\_\_\_\_\_  
Kathy O'Rear, Clerk

Adopted:  
Published:  
Effective: