

**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,  
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;  
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

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 official: Includes election ~~officials at the polls~~, the city clerk, ~~canvass board~~, counting teams, election clerks ~~and 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;
- (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.

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.

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Election: Includes any regular or special city election.

**Election Board: Is comprised of the election judges.**

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

**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 official: Includes election **judges**, the city clerk, **election review committee**, counting teams, election clerks and **absentee voting officials**.

**Election review committee: City of Gustavus council members serve in this capacity**

Majority vote: More than half of the votes cast.

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Section 5.10.120 Publishing names.

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.

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.**

(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.

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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 ~~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 ~~officials~~ shall not be council members, candidates for office, or immediate relatives of candidates. If an appointed election ~~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 ~~officials~~ as needed to conduct an orderly election and to relieve the election ~~officials~~ of undue hardship.

- (c) (d) The city clerk shall give the following written oath to all election officials on or before election day:
- (d) 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.
- (e) SIGNED \_\_\_\_\_ ATTEST: \_\_\_\_\_

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**.* 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 judges to be the election board at the designated polling place. One (1) judge shall be designated chair of the board. The election **judges** shall not be council members, candidates for office, or immediate relatives of candidates. If an appointed election **judge** 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** as needed to conduct an orderly election and to relieve the election **judges** 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: \_\_\_\_\_

Chapter 5.20 ELECTION EQUIPMENT AND MATERIALS

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;
- (e) ~~Two (2)~~ large envelopes for each polling place, one (1) marked "Spoiled Ballots" ~~and the other~~ marked "Questioned Ballots";
- (f) Copies of the notice of election and the city's elections ordinance.

#### Section 5.20.050 Other materials.

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- (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) **Three (3)** large envelopes for each polling place, one (1) marked "Spoiled Ballots", **one (1)** marked "Questioned Ballots", **and one (1) marked "Special Needs Ballots"**
  - (f) Copies of the notice of election and the city's elections ordinance.
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### Chapter 5.30 ELECTION PROCEDURES

#### 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 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~~ 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 5.30.010 Time for opening and closing polls.

- (a) On the day of any election, the election board shall open the polls for voting at **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 **7:30 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.
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Section 5.30.020 Distribution of ballots.

(a) Before the polls open on election day at ~~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 ~~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 ~~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 ~~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 ~~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 ~~official~~ to whom the ballots are delivered;
- (4) The receipt given for the ballots by the election ~~official~~.

(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~~ chairperson returning the ballots; and
- (4) The condition of the ballots.

#### Section 5.30.020 Distribution of ballots.

- (a) Before the polls open on election day at **8:00**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** 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** 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** 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** 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** to whom the ballots are delivered;
  - (4) The receipt given for the ballots by the election **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 **board** chair returning the ballots; and
  - (4) The condition of the ballots.

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#### Section 5.30.030 Distribution of other election materials.

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

- (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 chair~~person~~ with tally sheets and forms for the report of preliminary election results.

#### Section 5.30.030 Distribution of other election materials.

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

- (1) The updated master voter registration list;
- (2) Envelopes bearing the oath and affidavit of eligibility for questioned ballots and special needs ballots;
- (3) An envelope for the collection of spoiled ballots, an envelope for the collection of questioned ballots and an envelope for the collection of special needs 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 ballot envelopes.

(b) The election supervisor shall supply the election board chair with tally sheets and forms for the report of preliminary election results.

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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 ~~officials~~.

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Section 5.30.050 Voting; general procedure.

(a) A voter shall give the election ~~official~~ 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 ~~official~~ present, the election ~~official~~ 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~~, 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~~. The voter shall then, in the presence of the election ~~official~~, deposit the ballot in the ballot box unless the voter requests the election ~~official~~ to deposit the ballot on his or her behalf. Separate ballot boxes may be used for separate ballots.

Section 5.30.050 Voting; general procedure.

(a) A voter shall give the election **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** present, the election **judge** may require the voter to produce a state voter registration card or other identification. If, in the opinion of the election **judge**, there is doubt, he shall immediately question the voter.

(b) If the voter is not questioned, the election **judge** 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 **judge**, 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 **judge**. The voter shall then, in the presence of the election **judge**, deposit the ballot in the ballot box unless the voter requests the election **judge** to deposit the ballot on his or her behalf. Separate ballot boxes may be used for separate ballots.

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Section 5.30.060 Voting; spoiled ballots.

If a voter improperly marks or otherwise damages a ballot and discovers their mistake before the ballot is placed in the ballot box, the voter shall return it to an election ~~official~~, concealing from view the manner in which it is marked, and request a new ballot. The election ~~official~~ 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 ~~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.

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#### Section 5.30.070 Voting; questioned ballots.

(a) Any election ~~official~~ 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~~ removes the numbered stub from the ballot, the voter shall insert the ballot into a ~~small envelope~~ and put the ~~small envelope~~ 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.

Section 5.30.070 Voting; questioned ballots.

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(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 **judge** removes the numbered stub from the ballot, the voter shall insert the ballot into a **ballot envelope** and put the **ballot envelope** 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.

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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.

The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters 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.

#### 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 chair 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 need 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 election 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 **board.**

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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 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 the Friday following the election.

(b) The chair~~man~~ of the election board shall keep the duplicate of the ~~report of election~~ in a safe place and present it to the election review committee on the Friday following the election ~~when the committee meets~~.

#### 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, **special need 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 **Special Meeting- election review committee** on the Friday following the election.

(b) The chair of the election board shall keep the duplicate of the **preliminary election results** in a safe place and present it to the election review committee on the Friday following the election.

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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~~ to be convened to consider the election results; and
  - (2) That the results do not reflect the votes of absentee ~~and~~ questioned ballots and are not final until the ~~council~~ formally certifies the election; and
  - (3) That anyone has the opportunity to contest the election at the meeting.
- 

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 **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, questioned, **and special needs** ballots and are not final until the **election review committee** formally certifies the election; and
  - (3) That anyone has the opportunity to contest the election at the meeting.
- 

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.
- (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~~ 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.

#### 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.

(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 **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.

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#### 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~~ for canvassing.

#### 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 **election review committee** for canvassing.

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#### 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.~~

~~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 5.40.070 Absentee ballots; by mail.

**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 ballot envelope, 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.**

**The voter shall then mail it to the city clerk.**

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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.

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 **oath and affidavit** envelope issued to the voter. Unused absentee ballots, ballot envelopes and **oath and affidavit** 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.**

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Section 5.40.090 - ~~Retention of absentee ballots; delivery.~~

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 5.40.110.**

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Section 5.40.90 – ~~Personal representative voting.~~

Section 5.40.**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.**

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Section 5.40.100 – ~~Personal representative voting.~~

Section 5.40.**110 Special needs voting**

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Section 5.40.110 – ~~Personal representative 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.

Section 5.40.**120 Special 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.

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Section 5.40.120 – ~~Personal representative 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 at a polling place on election day.

Section 5.40.**130 Special 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 **judge** at a polling place on election day.

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Section 5.40.130 ~~Personal representative 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.

Section 5.40.140 **Special 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 **shall be smaller than** the oath of affidavit 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 **oath and affidavit** envelope shall be of heavy opaque paper.

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Section 5.40.140 ~~Personal representative 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~~ 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~~ 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 ballot to the ~~canvass board~~ 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~~ 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 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.

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

Section 5.40.**150 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 and an oath of affidavit envelope.

(b) Upon issuing a **special needs** 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 personal representative**

(3) The name of the voter to whom it was issued;

(4) 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 **ballot envelope**, and place the **ballot envelope** in the **oath and affidavit** envelope provided.

(e) The voter 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 **special needs** certificate.

(g) Before the opening of the polls on election day, the clerk shall deliver to the election **judges** 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 **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.

(k) The clerk shall deliver the voted special needs ballot to the **election review committee** for canvassing.

(l) The following materials are used to conduct **special needs** voting:

(1) **Special needs** register (sign-in-sheet);

(2) **Special needs** oath and affidavit for voter and **personal representative** (printed on the outside of the **special needs oath and affidavit** envelope);

(3) Ballot;

(4) **Ballot envelope**;

(5) **Oath and affidavit envelope** for **special needs** voting.

(m) No person who is a candidate or immediate family member of a candidate for office, **the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union** may act as a personal representative for a voter.

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

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## Chapter 5.50 REVIEW OF ELECTION RETURNS

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 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, and oaths and affirmations of election ~~officials~~.

(c) The chairman ~~man~~ of the election board shall submit the duplicate of the ~~report of election~~ report to the election review committee.

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, 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 **judges**.

(c) The chair of the election board shall submit the duplicate of the **preliminary election results** to the election review committee.

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Section 5.50.020 Review to be public.

(a) The review of all absentee ~~and~~ questioned 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.

Section 5.50.020 Review to be public.

(a) The review of all absentee, 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.

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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~~ 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~~ 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.

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 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 **election** 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 **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 **ballot** envelope containing the questioned ballot shall be placed in a ballot box and mixed with other **ballot** 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.

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Section 5.50.070 Absentee ballots.

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

containing the absentee ballot shall be 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 was not in fact a qualified voter or did not follow absentee voting procedures the review committee by majority vote may refuse to accept and count the absentee 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 ballots in an envelope marked "rejected absentee ballots" to be saved with other election materials. The election supervisor shall notify the voter in writing why his absentee ballot was rejected.

Section 5.50.070 Absentee **and special needs** ballots.

(a) The election review committee shall examine each absentee **and special needs** ballot **oath and affidavit** envelope. The **oath and affidavit** envelope shall be opened and the **ballot** envelope containing the absentee ballot shall be placed in a ballot box and mixed with other **ballot** 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 ballot** 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 **oath and affidavit** 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 needs** 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.

Section 5.50.080 Counting absentee ~~and~~ questioned ballots.

The 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.

Section 5.50.080 Counting absentee, 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.

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Section 5.50.090 Defective ballots.

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.

Section 5.50.090 Defective ballots.

**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.

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

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

#### 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.

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### Chapter 5.60 CONTEST OF ELECTION

#### 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**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.

#### 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 **city** clerk or election official by **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.
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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 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 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 clerk and city attorney shall investigate the grounds of the contest and submit a report of findings to the council;
- (4) The clerk may request that the ~~canvass board~~ or additional personnel assist with the investigation as necessary;

(5) The ~~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~~ 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.

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- (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 **city** clerk may request that the **election review committee** or additional personnel assist with the investigation as necessary;

(5) The **election review committee** 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 **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 **election review committee** 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.

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Section 5.60.040 Prohibited practices alleged.

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

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When the contestant alleges prohibited practices, the **election review committee** shall direct the city clerk to produce the original register books for the election.


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**Date Introduced: August 12, 2024**

**Date of Public Hearing: September 9, 2024**

**PASSED** and **APPROVED** by the Gustavus City Council this 9<sup>th</sup> day of September, 2024.

  
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Shelley K. Owens, Mayor

  
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Attest: Liesl M. Barker, City Clerk

