

Emergency Ordinance

By: City Clerk
Introduction and Public Hearing: October 26, 2020
Failed: October 26, 2020
Yes: Brown, Johnson, Velock
No: Burney, Harvey
Absent: None
Clerk's Note: Seat A Vacant

**City of Wasilla
Emergency Ordinance Serial No. 20-35**

An Emergency Ordinance Of The Wasilla City Council Amending Wasilla Municipal Code 4.20.020 to Waive the Witness Signature Requirement for Ballots Submitted Absentee By-Mail When A Voter Cannot Secure A Witness Signature Due to the Risks Posed by COVID-19.

WHEREAS, the United States Center for Disease Control and Prevention (CDC) has identified COVID-19 as a significant public risk; and

WHEREAS, on March 11, 2020, Governor Dunleavy issued a declaration of public health disaster emergency in response to the anticipated outbreak of COVID-19 within Alaska's communities; and

WHEREAS, Wasilla City Council adopted Resolution 20-13 continuing the Proclamation of Emergency issued by Mayor Cottle acknowledging the state of emergency created by COVID-19 within the City of Wasilla; and

WHEREAS, there has been a recent increase in COVID-19 cases within the City and the State of Alaska which has led elderly, immune-compromised and similarly-situated voters to challenge absentee by-mail ballot witness signature requirements in other Alaska jurisdictions and the Alaska Supreme Court and the lower court acknowledged the increased risk of COVID-19 exposure posed by the witness signature requirement in those cases; and

WHEREAS, City Council finds it is in the best interest of City voters to temporarily suspend witness signature requirements applicable to absentee by-mail ballots to protect elderly, immune-compromised and similarly-situated voters from increased exposure to COVID-19 when casting ballots at the upcoming October 27, 2020, Run-off Election.

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NOW, THEREFORE, BE IT ORDAINED:

Section 1. Classification. This ordinance is an emergency ordinance, is not permanent in nature, and shall not be codified.

Section 2. Amendment of Section. WMC 4.20.020, Absentee by mail voting, is hereby temporarily amended to read as follows:

A. A qualified voter may apply to the clerk for an absentee by mail ballot to be mailed to the voter. The clerk must receive the application not earlier than the first of the year in which the election is to be held and not later than 5:00 p.m. Alaska time seven calendar days before the election. A request for an absentee by mail ballot may be made by facsimile or by electronic means.

B. All applications for an absentee by mail ballot shall be in writing on a form provided by the clerk's office containing the following information:

1. The applicant's full Alaska residential address;
2. The address to which the absentee ballot is to be mailed. If no ballot mailing address is provided, the ballot will be sent to the voter's permanent mailing address on file with the State of Alaska Division of Elections;
3. The applicant's signature; and
4. A voter identifier such as voter number, a social security number, or date of birth.

C. Once the ballots are in the clerk's possession and ready for distribution, and upon timely receipt of an application for absentee by mail ballot, the clerk shall send an official ballot and other absentee voting material to the applicant by first class mail.

D. A voter who applies for and receives an absentee by mail ballot may vote the ballot at any time on or before the day of the election. The voted ballot shall then be placed in a secrecy sleeve, which is then placed in a return envelope. The voter shall sign the certification on the

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return envelope in the presence of either of the following, who shall attest to the voter's signature by signing the certification:

1. A person qualified to administer oaths, such as a notary public; U.S. postmaster or authorized postal clerk; commissioned military officer; judge; justice; magistrate; clerk of the court; a duly appointed voter registrar, or election official as defined in WMC 4.04.010; or

2. One witness who is at least 18 years of age if a person qualified to administer oaths is not reasonably accessible.

E. After the witnessing of the absentee voter's signature, the voter shall mail or otherwise deliver the ballot to the clerk. The voted absentee by mail ballot shall be received by mail within the time prescribed by WMC 4.28.080(A), or returned to an election official no later than 8:00 p.m. on election day. A precinct election official shall deliver to the clerk all voted absentee by mail ballots that are delivered to the precinct.

F. Before the opening of the polls on election day, or as soon as is practicable thereafter, the clerk shall give to the election board in each precinct a list of voters who have voted an absentee by mail ballot. A voter on the list may not vote a regular ballot at a precinct on election day, but may vote a questioned ballot. A voter who was issued but has not voted an absentee by mail ballot may not vote a regular ballot at a precinct on election day unless the voter first surrenders the absentee by mail ballot to the election board. If the voter does not have the absentee by mail ballot to surrender, the voter may vote a questioned ballot. Absentee by mail ballots surrendered to the election board shall be returned to the clerk.

G. A voter need not sign the return envelope in the presence of a witness as otherwise required in this section if the voter cannot do so without increasing the voter's exposure to COVID-19.

Section 3. Emergency Declaration. An emergency exists justifying this Emergency Ordinance. This emergency arises as a result of the recent increase in COVID-19 cases within

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the City and the State of Alaska. The application of the witness signature requirement in WMC 4.20.020 to elderly, immune-compromised and similarly situated voters at the October 27, 2020 run-off election potentially increases such voters' exposure to COVID-19, justifying the temporary suspension of the witness signature requirement and requiring the use of an emergency ordinance in order to suspend the witness signature requirement before ballots are counted at the October 27, 2020 run-off election.

Section 4. Effective date. This ordinance shall take effect on the day it is enacted and shall expire sixty (60) days after its passage in accordance with WMC 2.08.050.

FAILED by the Wasilla City Council via [three/fourths of the total Council membership] or [all Council members present] on October 26, 2020.






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City of Wasilla
Legislative Staff Report
Emergency Ordinance Serial No. 20-35
 (Emergency Non-Code Ordinance)

Temporarily Amending Wasilla Municipal Code 4.20.020 to Waive the Witness Signature Requirement for Ballots Submitted Absentee By-Mail When A Voter Cannot Secure A Witness Signature Due to the Risks Posed by COVID-19

Originator: Jamie Newman, MMC, City Clerk
 Date: 10/16/2020

Agenda of: 10/26/2020

Route to:	Department Head	Signature	Date
X	Finance Director		10/16/20
X	Deputy Administrator		10/16/2020
X	City Attorney		10/16/2020
X	City Clerk		10/16/2020
X	Mayor		10/16/2020

Fiscal Impact: yes or no

Attachments: Emergency Ordinance Serial No. 20-35 (4 pages)

Summary Statement: COVID-19 cases are increasing within the City of Wasilla and the State of Alaska. Recently, and in light of the increase in COVID-19 cases within Alaska's borders, the Alaska Supreme Court affirmed a preliminary injunction sought against the State of Alaska, requiring the State of Alaska Division of Elections to suspend application of the witness signature requirement for absentee by-mail ballots cast in the November 2020 State General Election. While the Alaska Court's findings were based upon specific facts presented by the individuals challenging the witness signature requirement, Emergency Ordinance Serial No. 20-35 ensures that elderly, immune-compromised, and other similarly situated voters may cast an absentee ballot by-mail in the October 27, 2020 Run-off election without securing a witness signature where doing so would increase their COVID-19 exposure.

Proposed Action: Introduce and adopt the ordinance.