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ELECTIONS¹

¹ **Charter reference**—Elections generally, § 2.1 et seq.; adoption of Colorado Municipal election law to govern city elections, § 2.1.

Sec. 9.04.005. Legislative declaration.

The City Council hereby finds and declares that large campaign contributions to political candidates allow wealthy contributors and special interests groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the interests of the public are best served by limiting campaign contributions; that full and timely disclosure of campaign contributions aids voters in evaluating those who seek public office and that recordkeeping, reporting and disclosure requirements are an essential means of gathering the data necessary to detect violations of this Chapter. (Ord. No. 3-2001, § 1)

Sec. 9.04.010. Definitions.

For the purpose of this Chapter, the definitions set forth in the Act shall apply. In addition, the following definitions shall apply:

Act means the State of Colorado Fair Campaign Practices Act, 1-45-101, et seq., C.R.S., as now enacted or as it may from time to time be amended.

Campaign treasurer means the treasurer of any candidate committee, political committee, issue committee or political party. If no campaign treasurer is identified, then the person responsible for filing contributions and expenditures reports pursuant to the Act shall be the campaign treasurer.

Election means any municipal, general, primary, special or run-off election held within the City of Aspen at which any issue is submitted to the electorate or a person or persons seek to be elected, to run for, to fill or to be recalled from the office of Mayor or Council member of the City. Election includes any initiative, referendum, run-off or recall election. (Ord. No. 43-1995, § 1 [part]; Ord. No. 3-2001 § 2)

Sec. 9.04.020. Records of contributions and expenditures.

The campaign treasurer, shall prepare, maintain, keep and file records of contributions and expenditures as required by the Act. In the event that the provisions of this Chapter are inconsistent with the provisions of the Act, the more stringent shall apply. (Ord. No. 43-1995, § 1 [part]; Ord. No. 3-2001, § 3)

Sec. 9.04.030. Deadlines for and publication of contributions and expenditures.

(a) No person shall accept any contribution (including contributions to a candidate from the candidate himself or herself or from members of his or her immediate family later than seven (7) days prior to any election.

(b) Seven (7) days before an election, the Campaign Treasurer shall file with the City Clerk a report meeting the requirements of the Act. The filings shall be complete and final as of the date of filing. In the event that the Campaign Treasurer is unable, unwilling or fails to file a report in accordance with this Subsection, the candidate and all officers of the candidate, political or issue committee, individually, shall be become responsible for filing the requisite report no less than seven (7) days before an election.

(c) The City Clerk shall, four (4) days before any election, publish in any newspaper of general circulation within the City of Aspen, information concerning all contributions and expenditures received

and made as contained in the reports filed pursuant to this Chapter and pursuant to the Act. The publication shall contain at a minimum total receipts, total expenditures and the name of each contributor and the amount of such contribution, all as contained in said reports. In addition, the reports shall be available for public inspection during business hours.

(d) Nothing herein shall be deemed to supersede the reporting or disclosure requirements of the Act, but the requirements of the Act and this Chapter shall be deemed cumulative. (Ord. No. 43-1995, § 1 [part] Ord. No. 3-2001, § 4)

Sec. 9.04.040. Anonymous contributions.

No person shall make, nor shall any campaign treasurer, candidate or political committee accept, any anonymous contribution to a candidate, committee or anyone for the purpose of influencing the election or defeat of any candidate or the passage of defeat of any issue. The intended recipient of an anonymous contribution shall, promptly upon receipt of such contribution, transmit such contribution to the City Clerk for deposit in the General Fund of the City. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.050. Contributions on behalf of another.

No person shall make a contribution on behalf of another or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution, the person's, intermediary's or agent's own full name and street address and the name and street address of the actual contributor. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.060. Limit on contributions by single donor.

No person shall make, solicit or accept a contribution that will cause the total contributions by such person on behalf of any candidate or a political committee supporting or opposing the election of such candidate to exceed two hundred fifty dollars (\$250.00) with respect to any single election. A run-off election shall be considered a separate election. The intended recipient of any contributions that would cause the total amount of contributions to a candidate or committee from a single donor to exceed two hundred fifty dollars (\$250.00) shall promptly, upon receipt thereof, transmit any such excess to the City Clerk for deposit in the General Fund of the City. (Ord. No. 43-1995, § 1 [part]; Ord. No. 3-2001, § 5)

Sec. 9.04.070. Reserved.

Editor's note—Ord. No. 3-2001, § 6, repealed former § 9.04.070, regarding excess campaign contributions. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.080. False statements.

No person shall knowingly make, publish, circulate or cause to be made, published or circulated in any letter, circular, advertisement, poster or in any other writing or on radio or television any false statement designed to influence the vote on any issue or election or defeat of any candidate, nor conspire to do so. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.090. Enforcement.

- (a) The City Attorney shall enforce all provisions of this Chapter.
- (b) Notwithstanding the provisions of Subsection 9.04.090(c), any person residing in the City of Aspen may sue for injunctive relief to enjoin violations or to compel compliance with this Chapter.
- (c) Any person residing in the City may bring a civil action consistent with this Chapter; provided such person first files with the City Attorney a written request for the City Attorney to commence action. The request shall include a statement of grounds for believing a cause for action exists. The City

Attorney shall respond within ten (10) days after receipt of the request indicating whether he or she intends to file a civil action. If the City Attorney indicates in the affirmative and files suit within thirty (30) days thereafter, no other action may be brought unless the action brought by the City Attorney is dismissed without prejudice.

(d) In the event any person residing within the City shall bring a civil action for injunction or to otherwise enforce this Chapter and such person shall prevail in such action, then he or she shall be awarded a reasonable attorney's fee and costs of the action to be paid by the defendant. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.100. Criminal penalties.

(a) Any person who knowingly violates any provision of this Chapter is guilty of a misdemeanor and shall be punished by a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days or both such fine and imprisonment.

(b) Any candidate who knowingly violates any provision of this Chapter shall, in addition to any other penalties provided for herein, be denied his or her right to take oath for the office to which he or she was elected unless he or she has already taken said oath, in which event, the office shall be deemed vacant and shall be filled as otherwise provided by law. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.110. Civil penalties.

(a) Any person who violates any of the reporting provisions of this Chapter shall be liable in any civil action initiated by the City Attorney or by a person residing within the City for an amount not more than the amount or value not properly reported.

(b) Notwithstanding the provisions of Subsection 9.04.110(a), any person who makes or receives a contribution or expenditure in violation of this Chapter is liable in a civil action initiated by the City Attorney or by a person residing within the City for an amount up to five hundred dollars (\$500.00) or three (3) times the amount of the unlawful contribution or expenditure, whichever is greater.

(c) In determining the amount of liability under Subsections 9.04.110(a) and (b), the Court may take into account the seriousness of the violation and the culpability of the defendants. If a judgment is entered against a defendant or defendants in an action under the sections noted above, the plaintiffs, other than the City, shall receive fifty percent (50%) of the amount recovered. The remaining fifty percent (50%) shall be deposited in the treasury of the City. In an action initiated by the City Attorney, the entire amount record all be paid into the treasury of the City. (Ord. No. 43-1995, § 1 [part])

Chapter 9.10

Conduct of Municipal Elections

Sec. 9.10.010. Applicability.

This Chapter shall apply to all municipal elections conducted by the City of Aspen. All other provisions of the Colorado Municipal Election Code, Sections 31-10-101, *et seq.*, C.R.S., shall apply to the extent they are not inconsistent with this Chapter. The Uniform Election Code of 1992, as amended from time to time, Sections 1-1-101, *et seq.*, C.R.S., shall apply to all elections coordinated with Pitkin County, Colorado

Sec. 9.10.020. Definitions.

As used in this Code, unless the context otherwise requires, the following terms shall be defined as follows:

Audit unit. Counted ballots that are separately tabulated as part of the initial tabulation of votes.

Electronic vote-tabulating equipment or electronic vote-counting equipment. Any apparatus that examines and records votes automatically and tabulates the result, including but not limited to optical scanning equipment. The term includes any apparatus that counts votes electronically and tabulates the results simultaneously on a paper tape within the apparatus, that uses an electronic device to store the tabulation results, and that has the capability to transmit the votes into a central processing unit for purposes of a printout and an official count.

Over vote. For each contest on a ballot, when the number of actual votes exceeds the maximum number of allowable votes, the number of allowable votes on the contest, otherwise no over vote is present.

Target area. The oval, rectangle, square or arrow printed on official municipal election ballots that are adjacent to each choice in a ballot contest, which electors are instructed to complete or fill to indicate their votes.

Under vote. For each contest on a ballot, the numerical difference between the number of allowable votes and the number of actual votes, resulting from an elector's intentional failure to vote for the maximum number of allowable choices; except that an under vote does not exist if there are fewer candidates than offices to be filled and the elector designates as many votes as there are candidates.

Unverified ballot means any provisional ballot, absentee ballot or special absentee ballot other than a verified absentee ballot or verified provisional ballot.

Verified absentee ballot means an absentee ballot or special absentee ballot returned by an elector whose signature on the self-affirmation reply envelope or coversheet for electronic transmission of special absentee ballot has been confirmed and verified by a panel of election judges, or who has timely cured a missing signature or signature discrepancy, in accordance with rules and procedures adopted by the Election Commission.

Verified provisional ballot means a provisional ballot submitted by an elector whose signature on the self-affirmation on the provisional ballot envelope has been confirmed and verified by a panel of election judges, who has presented an acceptable form of identification when submitting a provisional ballot or has timely cured his or her failure to do so, and whose voter registration and eligibility to vote in the election being conducted has been verified by the clerk and confirmed by a panel of election judges, all in accordance with rules and procedures adopted by the Election Commission.

Sec. 9.10.030. Write-in Affidavit Required – When Election May be Cancelled

Pursuant to §31-10-306, C.R.S., and except as set forth below, no write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the clerk by the person whose name is to be written in prior to twenty (20) days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected. Pursuant to §31-10-507, C.R.S., if the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including eligible write-in candidates who timely filed affidavits of intent, the clerk, if instructed by resolution by the City Council, may cancel the election and declare the candidates elected.

Sec. 9.10.040. Counting Votes

(a) On Election Day, all votes shall be counted pursuant to the Colorado Municipal Election Code, as amended by this Chapter or rules and procedures adopted by the Election Commission.

(b) Counting Write-in Votes.

(1) Write-in votes for a candidate who has timely filed an affidavit of intent pursuant to Section 9.10.030 of this Chapter shall be counted in the initial tabulation if the voter properly marks the target area adjacent to the write-in line and adequately identifies the write-in candidate by printing or writing the name of the eligible write-in candidate on the write-in line for the race or office designated in the candidate's affidavit of intent. A voter must, at a minimum, write or print the last name of an eligible write-in candidate in order for the vote to count for such candidate. If the voter incorrectly spells the write-in candidate's name, the vote may still count if the voter's intent to vote for an eligible write-in candidate is clear. A voter that writes only the first name or nickname of an eligible write-in candidate has failed to cast a valid write-in vote.

(2) In the event that there is at least one eligible write-in candidate pursuant to Section 9.10.030 in a ballot contest, and the number of under votes recorded by electronic vote-counting equipment in the initial tabulation of votes in such contest is great enough to affect the outcome of the election if all under votes were awarded to one candidate, then all ballots containing all such under votes shall be examined by one or more panels of election judges appointed by the clerk for such purpose. If upon such examination, and in any post-election audit or recount conducted pursuant to this Chapter, it is determined that a voter printed or wrote the name of an eligible write-in candidate on the write-in line in any contest but did not mark the target area for a write-in candidate for such contest, the vote shall be counted for the eligible write-in candidate.

Sec. 9.10.050. Determination of voter intent.

Election officials shall consider voter intent in the situations that follow. Election officials required to determine voter intent shall use guidelines issued by the Colorado Secretary of State for this purpose including the most current version of the publication entitled "Voter Intent - A Guide to the Determination of Voter Intent for Colorado Elections," to the extent not inconsistent with the remaining provisions of this Section and except as otherwise ordered by the Election Commission.

(a) During a post-election audit pursuant to 9.10.110 of this Chapter, and any recount ordered by the Election Commission as a result thereof;

(b) During a recount pursuant to Section 9.10.120 of this Chapter;

(c) In duplicating ballots pursuant to rules and procedures adopted by the Election Commission.

Sec. 9.10.060. Absentee Voting

(a) The clerk shall provide absentee voting pursuant to Sections 31-10-1001 through 31-10-1010, C.R.S., to the extent they are not inconsistent with the provisions of this Chapter.

(b) Permanent Mail-in Voters Must Apply for Municipal Absentee Ballots. Notwithstanding any provision to the contrary of Section 31-10-1002 (2.5), C.R.S., the clerk shall not deliver to any municipal elector whose status as a permanent mail-in voter is indicated on the voter registration records of the county clerk and recorder any voting materials, including an official absentee ballot, but instead shall deliver to all registered electors a notice by U.S. mail to the effect that an absentee ballot will not be delivered unless application for the same is made to the clerk as provided in subsection (c) of this Section.

(c) Applications for Absentee Ballots. Electors shall apply for absentee ballots in the manner provided by Section 31-10-1002 (1), C.R.S., by filing an application in a form approved by the clerk. In addition to all other information required of an applicant for absentee ballot under the Municipal Election Code, the application form approved by the clerk shall also require the applicant to provide all information reasonably necessary to enable, and designate the most expeditious manner for, the clerk to contact and advise the applicant that he or she must cure a missing signature or signature discrepancy in order for the elector's returned absentee ballot to be counted, pursuant to rules and procedures adopted by the Election Commission.

(d) Issuance of Absentee Ballots. The clerk shall issue all absentee ballots, security sleeves, reply envelopes and voter instructions in the manner provided by Section 31-10-1002 (2), C.R.S., and shall record the issuance of all absentee ballots on an absentee ballot issuance log as provided by Section 31-10-1002 (3), C.R.S.

(e) Casting and Receipt of Absentee Ballots in Clerk's Office. Notwithstanding any provision to the contrary of Sections 31-10-1005 and 31-10-1002(3), C.R.S., voting machines and electronic voting systems shall not be made available in the clerk's office for the use of electors to cast absentee ballots. Instead, a sufficient number of privacy booths shall be made available in the clerk's office to enable electors to mark absentee ballots in privacy and secrecy, whether such absentee ballots were delivered to the elector by mail or in person at the clerk's office. Notwithstanding any provision to the contrary in Section 31-10-1104(1), C.R.S., any registered elector applying for and receiving an absentee ballot, including electors who mark their ballots in the clerk's office, shall make and subscribe to the self-affirmation on the absentee ballot reply envelope, insert the folded marked ballot in the security sleeve, insert the security sleeve containing the marked ballot into the reply envelope provided to the elector by the clerk when the ballot was issued, and seal the reply envelope securely. Upon receiving an absentee ballot returned by an elector, the clerk shall write or stamp the date and time such envelope was received in the clerk's office and, if the ballot was delivered in person, the name and address of the person delivering the same, on the reply envelope and in the absentee ballot issuance log maintained by the clerk pursuant to subsection (d) of this Section. All absentee ballots returned by electors to the clerk shall be deposited into a sealed ballot box located in the clerk's office for such purpose. The clerk shall maintain all such ballot boxes in a sealed state until all ballot boxes containing all such returned absentee ballots are delivered by the clerk to one or more panels of absentee ballot judges, whereupon such sealed ballot boxes shall be unsealed and the absentee ballots contained therein shall be processed and counted or rejected pursuant to rules and procedures adopted by the Election Commission.

(f) Absentee Ballot Judges. Notwithstanding any provision to the contrary of Section 31-10-1006, C.R.S., on Election Day or on such other date and time as the clerk may designate, a sufficient number of panels of election judges shall be convened to process and count all verified absentee ballots and reject and preserve all unverified absentee ballots, pursuant to rules and procedures adopted by the Election Commission. The clerk shall provide the appropriate panel(s) of election judges convened pursuant to this subsection with a complete and accurate copy of the absentee ballot issuance log on which all information regarding the issuance and receipt of absentee ballots was recorded as required by subsections (d) and (e) of this Section.

Sec. 9.10.070. Special Absentee Ballot.

Once the clerk is able to provide official sample ballots for public inspection, any registered and eligible elector who will be outside the United States on Election Day and during the period of time for absentee voting in accordance with Section 9.10.060 of this Chapter may apply to the clerk for a special

absentee ballot to vote at a regular municipal or runoff election, regardless of whether the elector has previously submitted an absentee ballot application for the election. In no event shall a special absentee ballot be issued to electors after expiration of the deadline for issuing absentee ballots as set forth in Section 31-10-1002(1), C.R.S. An application for a special absentee ballot shall contain a statement by the registered elector that the elector will be out of the United States on Election Day and the elector believes that he or she cannot receive or return an absentee ballot during the normal absentee voting period provided by §31-10-1002, C.R.S., or otherwise participate in absentee voting as set forth in Section 9.10.060 of this Chapter. Voters using a special absentee ballot shall be advised and acknowledge in writing that their ballot will be duplicated onto an official absentee ballot and processed by absentee ballot election judges in the same manner as absentee ballots regularly issued and returned by electors. The Election Commission may adopt procedures authorizing the clerk to electronically transmit and receive special absentee ballots by email or facsimile transmission, provided that such procedures shall include provisions requiring electors to sign self-affirmations on a coversheet to accompany the electronic transmission to the clerk of the special absentee ballot marked by the voter, which self-affirmation shall be identical to those required of electors returning regular absentee ballots, notifying voters how their electronically transmitted ballots will be duplicated and processed, for tracking the receipt, duplication and casting of electronically transmitted ballots by election officials or election judges, and for maintaining voter confidentiality and ballot anonymity.

Sec. 9.10.080. Verification of Identification of Polling Place Electors

Any registered elector desiring to vote at a precinct polling place or vote center shall be required to present an acceptable form of identification as defined by C.R.S. § 1-1-104(19.5), as amended from time to time and in effect for the municipal election being conducted. When the voter presents such identification, the election judge shall verify that the elector's name on the identification matches the name in the elector's voter registration record as set forth in the registration list or poll book, provided, however, that common variants of given names and nicknames shall be acceptable. In addition, the election judge shall further verify that the elector's residence address as set forth in the identification, if listed, is in the State of Colorado.

Sec. 9.10.090. Provisional Balloting

- (a) At any election conducted pursuant to this Chapter, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the poll book or registration list for the precinct or upon confirmation of the voter registration records on file with the county clerk and recorder shall be entitled to cast a provisional ballot in accordance with this Section.
- (b) An elector who desires to vote but does not show identification in accordance with Section 9.10.080 of this Chapter may cast a provisional ballot.
- (c) An elector who desires to vote at a polling place for a precinct other than the precinct of his or her residence address as reflected in the poll book or registration list may cast a provisional ballot in such polling place in accordance with this Section, or may proceed to the correct polling place for the precinct of his or her residence address and cast a regular ballot, as such elector may decide.
- (d) If the poll book or registration list for a polling place or vote center reflects that an elector has been issued an absentee or special absentee ballot, the elector shall not be permitted to cast a regular ballot but may cast a provisional ballot at the polling place or vote center if the elector affirms under oath that the elector has not and will not cast the absentee or special absentee ballot. The provisional ballot shall be counted if the provisional ballot judges verify that the elector is registered and eligible to vote and did not cast the absentee or special absentee ballot. In the event it is determined that the elector's representation on the provisional ballot affidavit is erroneous and the elector both returned an absentee ballot to the clerk and submitted a provisional ballot at a polling place or vote center, then the provisional ballot submitted by the elector shall be rejected and the elector's absentee ballot shall be processed in the manner set in Section 9.10.060 of this Chapter.
- (e) A provisional ballot shall contain text or bear a legend clearly identifying it as a provisional ballot.

(f) An elector casting a provisional ballot shall complete an affidavit and receive information and instructions on the voting and handling of provisional ballots. The provisional ballot affidavit and instructions shall be printed on the outside of provisional ballot envelopes, which shall have adhesive seals and detachable stubs. Each provisional ballot envelope and stub shall be printed with the same unique and anonymous identifying number. The detachable stub shall also contain instructions advising the elector submitting the provisional ballot to contact the clerk's office or visit the city's website on or after a date certain in order to determine whether his or her provisional ballot was counted or not counted, and the reason(s) it was not counted, if applicable.

(g) Each polling place using paper provisional ballots shall have on hand a sufficient number of provisional ballots and provisional ballot envelopes.

(h) Submission of Provisional Ballots by Electors.

(1) An elector desiring to submit a provisional ballot shall be issued a provisional ballot by a polling place or vote center election judge. The election judge shall write the word "Provisional" on the ballot stub, detach the ballot from the ballot stub prior to issuance to the elector and note the style of provisional ballot, if any, issued to the elector in the space provided on the provisional ballot. The issuance of provisional ballots shall also be noted on a provisional ballot log in a form approved by the clerk. The elector shall mark the provisional ballot in private, insert the marked provisional ballot in the provisional ballot envelope provided by the election judge, seal the provisional ballot envelope, and complete the provisional ballot affidavit and sign the self-affirmation printed on the provisional ballot envelope. A polling place or vote center election judge shall examine the provisional ballot affidavit to ensure that it is complete and signed by the elector, detach the stub from the envelope and deliver the same to the elector, and return the sealed provisional ballot envelope to the elector, who shall deposit the same into a separate ballot box or bin maintained at the polling place or vote center for that purpose. All sealed provisional ballot envelopes deposited into the designated ballot box or bin shall be gathered by the polling place election judges at the end of voting on Election Day and delivered to the clerk in a segregated, sealed and unopened state, together with the provisional ballot log and other ballots, supplies and equipment from the polling place.

(2) The fact that an elector has submitted a provisional ballot shall be indicated on the elector's signature card and next to the elector's name on the polling place or vote center poll book or registration list.

(3) If an elector who submits a provisional ballot does not show identification as required by Section 9.10.080 of this Chapter, the election official shall note such fact in the space provided on the provisional ballot envelope.

(4) Once a provisional ballot has been deposited into the designated ballot box or bin, it may not be changed, retrieved, or nullified by the elector.

Sec. 9.10.100. Electronic Vote Counting Equipment Testing

Pursuant to Section 31-10-801, C.R.S., the clerk is authorized to use the AccuVote Optical Scan ("AVOS") electronic vote counting equipment, version 1.94w, and related Global Election Management Software ("GEMS") ballot layout and tabulation software, for all municipal elections. Prior to an election in which such electronic vote counting equipment is to be used, the clerk shall have all system components prepared for voting and shall inspect and determine that each vote recorder or voting device is in proper working order and shall conduct testing in accordance with the procedures adopted by the Election Commission, provided that such testing shall be no less rigorous than the testing for such electronic vote counting equipment required by the Election Code of 1992, Section 1-1-101, *et. seq.*, C.R.S., and the applicable Election Rules promulgated by the Colorado Secretary of State. The Election Commission may promulgate such other security protocols and procedures as it deems appropriate for any municipal election, which protocols and procedures shall be implemented by election officials and judges

during the conduct of any municipal election. The clerk shall cause a sufficient number of recorders or devices to be delivered to each election precinct in which an electronic voting system is to be used.

Sec. 9.10.110. Post-election Audit.

(a) Not later than seven (7) days after each election, including run-off elections, the clerk shall publicly conduct a manual random audit of at least one contest on at least one audit unit in accordance with procedures adopted by the Election Commission, or such greater number of contests and audit units as the Election Commission may determine. The audit shall be conducted for the purpose of comparing the published initial tabulation of votes with the tabulation of votes resulting from the audit.

(b) Upon completion of the audit required by subsection (a) of this Section, if there is any discrepancy between the published initial tabulation of votes for the audit unit and the tabulation of votes for the audit unit resulting from the post-election audit, the clerk, in consultation with the Election Commission, shall investigate the discrepancy and shall take such remedial action as the Election Commission deems necessary. In the event that the post-election audit reveals a discrepancy with the published initial tabulation of votes for an audit unit that, when extrapolated in the manner determined by the Election Commission to the total number of ballots cast in the election, is sufficient to change the outcome of any ballot contest, then the term “remedial action” as used in this subsection shall include the authority to order a recount of all ballots cast in the election pursuant to Section 9.10.120 of this Chapter, without regard to the threshold for such a recount set forth in Section 9.10.120(b) or § 31-10-1207, C.R.S.

(c) Upon receiving any written complaint from a registered elector from within the City of Aspen containing credible evidence concerning a problem with the initial tabulation process, the clerk, in consultation with the Election Commission, shall investigate the complaint and take such remedial action as necessary.

(d) The clerk shall promptly make available for public inspection on the City of Aspen website a report containing a description of the audit process undertaken, including any initial, interim, and final results of any completed audit or investigation conducted pursuant to this Section.

(e) Any procedures adopted by the Election Commission for the conduct of an audit shall ensure that at least two members of the Election Commission are present during the audit and for the confidentiality of electors and the anonymity of the ballots cast.

Sec. 9.10.120. Recount.

(a) All recounts of municipal elections, including run-off elections, shall be conducted pursuant to § 31-10-1027, C.R.S., except as modified by subsection (b) of this Section.

(b) The clerk shall appoint and convene a panel of election judges to conduct a manual recount of the votes cast in any election, including run-off elections, if it appears, as evidenced by the survey of returns, that the outcome of a contest turns on a number of votes less than or equal to one-half of one percent of the total number of ballots cast and counted in the election.

Sec. 9.10.130. Preservation of Ballots and Election Records.

(a) Notwithstanding any provision to the contrary in § 31-10-616, C.R.S., the ballots, when not required to be taken from the ballot box for purposes of conducting post-election audits, recounts or election contests, shall remain in sealed ballot boxes or transfer cases in the custody of the clerk until six months after the election at which such ballots were cast, or until the time has expired for which the ballots would be needed in any contest proceedings, whichever last occurs, at which time the ballot box shall be opened by the clerk and the ballots destroyed by fire, shredding, or burial, or by any other method approved by the executive director of the department of personnel. If the ballot boxes are needed for a special election before the legal time for commencing any proceeding in the way of contests has elapsed or in case the clerk, at the time of holding such special election, has knowledge of the pendency of any contests in which the ballots would be needed, the clerk shall preserve the ballots in some secure manner and provide for their being kept so that no one can ascertain how any voter may have voted.

(b) The clerk shall preserve all other official election records and forms for at least six months following a regular or special election, or until the time has expired for which the official election records would be needed in any contest proceedings, whichever last occurs.

Section 9.10.140. Reporting of Results.

Notwithstanding any provision of the Municipal Election Code to the contrary, all preliminary, interim and final election results shall be reported by precinct for each manner of voting other than provisional ballots, which may be reported cumulatively or in another manner that, in the judgment of the Election Commission, best ensures voter confidentiality and ballot anonymity.

Section 9.10.150. Election Commission to Adopt Rules and Procedures.

The Election Commission shall adopt such rules, policies and procedures as it deems appropriate to implement the provisions of this Chapter and effectuate the integrity, security, verifiability, purity and transparency of all municipal elections of the City of Aspen. (Ord. No. 2-2011)