

CHAPTER 71 (Revised 9/7/04)

CONTEST OF ELECTION

Sections:

1. Contest of election; contestant.
2. Contest of election; Council.
3. Ballot recount.
4. Prohibited practices alleged.
5. Sustained charges; recount.
6. Recount expenses; appeal.

Section 1. Contest of election; contestant.

- A. Any qualified voter may contest the election of any person and the approval or rejection of any question or proposition.
- B. Any qualified voter who believes that prohibited practices occurred at an election may contest the election in the following manner:
 1. File a written affidavit with the city clerk stating the provisions of the law that he/she believes were violated and the specific acts he/she believes to be misconduct;
 2. This affidavit must be filed with the city clerk before or during the council's first review of the ballots. The city clerk shall note on the affidavit the date and time the affidavit is received and provide the contestant a copy of the affidavit showing the date and time information.

Section 2. Contest of election; Council.

Based on the council's initial review of the contest, the city council may order an investigation or a recount of the ballots, or declare the election invalid and order a new election, or declare the affidavit of election contest without merit and certify the results of the election.

Section 3. Ballot recount.

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

Section 4. 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.

Section 5. Sustained charges; recount.

If the charges alleged by the contestant are upheld, the election review committee shall make a recount. The council shall then certify the correct election returns as provided in Chapter 64.

Section 6. Recount expenses; appeal.

- A. The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the

winning and losing vote on the result contested is more than two percent (2%).

- B. A person may appeal the decision of the council in Section 2 to the Superior Court; however, no person may appeal or seek judicial review of a city election unless the person is qualified to vote in the city, has exhausted his/her administrative remedies before the city council, and appealed to the court within 10 days after the council has finally declared the election results. If no such action is commenced within the 10 day period, the election and election results shall be conclusive, final, and valid in all respects.