

## **Ordinance 14-15 Repealing HCC 4.45.010, Election Recount, and Enacting HCC Chapter 4.45, Election Recount**

**Ordinance ID:** 14-15

**Ordinance Status:** Adopted

**Ordinance Summary:**

An Ordinance of the Homer City Council, Repealing HCC 4.45.010, Election Recount, and Enacting HCC Chapter 4.45, Election Recount; Regarding the Procedure for Recounts in City Elections. City Clerk.

CITY OF HOMER  
HOMER, ALASKA

City Clerk

ORDINANCE 14-15

AN ORDINANCE OF THE HOMER CITY COUNCIL, REPEALING HCC 4.45.010, ELECTION RECOUNT, AND ENACTING HCC CHAPTER 4.45, ELECTION RECOUNT; REGARDING THE PROCEDURE FOR RECOUNTS IN CITY ELECTIONS.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. HCC 4.45.010, Election recount, is repealed.

Section 2. HCC Chapter 4.45, Election Recount, is enacted to read as follows:

Chapter 4.45

ELECTION RECOUNT

Sections:

4.45.010 Recount initiation.

4.45.020 Form of application.

4.45.030 Deposit.

4.45.040 Date of recount; Notice.

4.45.050 Procedure for recount.

4.45.060 Certification of recount result.

4.45.070 Return of deposit and apportionment of recount expenses.

4.45.080 Appeal.

4.45.010 Recount initiation. (a) A defeated candidate for an office may apply for a recount of the votes for that office, and 10 qualified voters may apply for a recount of the votes for any office or proposition. A recount application must be in writing and either filed with the Clerk before 5:00 p.m. on the day of the certification of the election results. The date and time of the Clerk's receipt of a recount application, and not the date of mailing or transmission, determines whether the application is timely.

(b) If more candidates than are to be elected to an office tie in having the highest number of votes for the office, or if there is a tie between votes in favor of and opposed to a proposition, the Clerk shall initiate a recount.

4.45.020 Form of application. (a) A recount application shall state in substance the basis of the belief that a mistake has been made and shall identify the particular office or proposition for which the recount is to be held, and shall state that the application is made by a defeated candidate for the office or by 10 qualified voters. The candidate or qualified voters making the application shall designate by full name and mailing address two persons who shall represent the applicant during the recount. Any person may be named representative, including the candidate or any person signing the application. An application by 10 qualified voters shall also designate one applicant as their point of contact. The application shall include each applicant's signature, and printed full name and mailing address.

4.45.030 Deposit. (a) Unless exempted by (b) of this section, the application shall include a deposit in cash or by cashier's check in the amount of \$250.

(b) No deposit is required and the City shall bear the cost of the recount if:

(1) The recount applicant is a defeated candidate and the difference between the number of votes cast for the defeated candidate and any elected candidate was 20 or less; or

(2) The recount applicants are 10 qualified voters, and the recount is of votes for either an office where the difference between the number of votes cast for an elected candidate and a defeated candidate was 20 or less, or a proposition where the difference between the number of votes cast in favor of and in opposition to the proposition was 20 or less.

4.45.040 Date of recount; Notice. If the Clerk determines that a recount application is substantially in the required form, the Clerk shall fix the date for the recount, which shall be within seven calendar days after the receipt of the recount application. The Clerk shall give each recount applicant and any directly interested candidate or proposition sponsor notice of the time and place of the recount by certified mail, electronic mail, or telephone.

4.45.050 Procedure for recount. (a) The canvass board shall perform the recount. In conducting the recount, the canvass board shall review all ballots to determine which ballots or parts of ballots were properly marked, and which ballots are to be counted in the recount, and shall check the accuracy of the original count and all documentation provided by the election officials. The canvass board shall check the number of ballots and questioned ballots cast against the registers and shall check early and absentee ballots voted against the number of early and absentee ballots that were distributed. The rules incorporated in HCC 4.25.090 shall be followed in

counting hand-marked ballots in the recount.

(b) The ballots and other election materials shall remain in the custody of the Clerk during the recount and the highest degree of care shall be exercised to protect the ballots against alteration, mutilation or loss. The recount shall be completed within 10 calendar days.

4.45.060 Certification of recount result. Upon completing the recount, the canvass board shall provide a report of the results of the recount for submission to the Council, and the Council shall issue a certificate of the election.

4.45.070 Return of deposit and apportionment of recount expenses. (a) If the recount results in certification of election of a different candidate for an office or a different outcome of approval or rejection of a proposition than originally was certified, the entire deposit shall be refunded to the recount applicant.

(b) If the requirements in (a) of this section for a total deposit refund are not met, the Clerk shall refund any excess of the deposit over the cost of the recount. If the cost of the recount exceeds the amount of the deposit, the City may recover the excess from any recount applicant, each of whom shall be individually liable for the amount of the excess. The cost of the recount includes the compensation that the city pays to election officials and city staff for working on the recount.

4.45.080 Appeal. A candidate, proposition sponsor or recount applicant who is aggrieved by the result of a recount or decision not to grant a recount may appeal the recount result or decision not to grant the recount to the Superior Court. The appeal shall be filed within 10 calendar days of final Council action certifying the election. If an appeal is not commenced within the 10-day period, the election and the election result is conclusive and valid.

Section 3. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this \_\_\_\_\_ day of April, 2014.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Ordinance Dates **Ordinance Introduction Date:** Mon Mar 24th, 2014

**Ordinance Public Hearing Date:** Mon Apr 14th, 2014

**Ordinance Second Reading Date:** Mon Apr 14th, 2014

**Ordinance Effective Date:** Tue Apr 15th, 2014

Ordinance Files  [Ordinance 14-15](#)

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