

Introduced by: Mayor Johnson
 Date: May 13, 2014
 Public Hearing: May 27, 2014
 Action: Adopted
 Vote: Unanimous

Yes:	No:
Best Erbey Carrington Combs Hanson DeVries Johnson	

CITY OF PALMER, ALASKA

Ordinance No. 14-009

An Ordinance of the Palmer City Council Amending Palmer Municipal Code Chapter 18.45 Election Recount

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Chapter 18.45 is hereby amended to read as follows (new language is underlined and deleted language is stricken):

18.45.010 Recount application.

- A. A defeated candidate or 10 qualified city voters may file an application with the clerk for a recount of the votes from any particular precinct, or for any particular office, proposition or question by filing the application with the clerk at any time before 5:00 p.m. on the day of the certification of the election results or by delivering the application for recount to the council at its meeting to certify the election returns.
- B. The date ~~on which~~ the clerk receives an application rather than the date of mailing or transmission determines whether the application is filed within the time allowed under this subsection.
- C. ~~B.~~ If two or more candidates tie in having the highest number of votes for the same office, to which only one candidate is to be elected, the clerk shall initiate a recount.

18.45.020 Form of application.

- A. A recount application shall:
 - 1. State in substance the basis of the belief that a mistake has been made; ~~and shall~~
 - 2. Identify the particular precinct, office, proposition, or question for which the recount is to be held; ~~and shall~~
 - 3. State ~~that~~ the person making the application is a candidate or that the 10 persons making the application are qualified city voters;

4. ~~List~~ The candidate or persons making the application shall designate by the full name and contact information mailing address of the candidate or each of the 10 qualified city voters;
 5. List the contact information for the two qualified voters who shall represent the candidate, proposition or question applicant during the recount. Any person may be named representative, including the candidate or any person signing the application. Applications by 10 qualified voters shall also include the designation of one of the number as contact person. The candidate or persons making the application shall sign the application and shall print or type their full name and mailing address.
- B. The application shall include a deposit in cash, by certified check or by bond with a surety approved by the clerk.
1. The deposit amount, established in the current, adopted budget, shall be paid for each precinct.
 2. If less than all precincts are requested for recount, early voter, absentee by mail, absentee by electronic means and questioned ballots shall be considered one combined precinct for the purposes of the recount.
 3. If all precincts are included in the request, there shall be no additional charge for the recount of early voter, absentee by mail, absentee by electronic means and questioned ballots.

18.45.030 Date of recount – Notice.

- A. Date of recount. If the clerk determines that the application is substantially in the required form, the clerk shall fix the date of the recount to be held within seven calendar days after the receipt of an application is received requesting a recount of the votes in the election.
- B. Notice to applicants. The clerk shall provide notice to the representatives listed on the application and give the recount applicant and to any other directly affected candidates, or if the recount involves a proposition or question, to any directly affected parties.
1. The notice shall be given by mail, electronic means, and by telephone.
 2. The notice state the interested parties notice of the time, date and place of the recount, by certified mail, personal service by a process server, telegraph, or fax. The clerk may notify parties by telephone and e-mail to give additional notice.
- C. Public notice. The clerk shall post notice on the city's website of the time, date and place of the recount.

18.45.040 Procedure for recount.

- A. ~~If a recount of ballots is demanded,~~ The clerk shall have the canvass board perform the recount using the ballot tabulation system designated by the clerk.
- B. ~~In conducting the recount,~~ The canvass board shall:
1. Review all ballots to determine which ballots, or parts of ballots, were properly marked and which ballots are to be counted in the recount; The board shall
 2. Check the accuracy of the original count and all documentation provided by the clerk and election officials; The canvass board shall
 3. Check the number of ballots issued and cast to the amount distributed:
 - a. At each precinct;
 - b. At each early voting location;
 - c. By absentee by mail and absentee by electronic means, and questioned ballots cast in a precinct against the registers; and shall check early and absentee ballots voted

~~against early and absentee ballots distributed. The rules in Chapter 18.35 PMC governing the counting of hand-marked ballots shall be followed in the recount.~~

- C. 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 or mutilation.
- D. The recount shall be completed within 10 calendar days of the date the application is received.
- E. The clerk may employ additional personnel necessary to assist in the recount.

18.45.050 Certification of recount result.

- A. Upon ~~completion~~ing of the recount, the canvass board shall provide a report of the results of the recount for submission to the council.
- B. The council shall issue a certificate of election as set forth in PMC 18.35.070.

18.45.060 Return of deposit and apportionment of expenses upon recount.

- A. The deposit shall be refunded to the applicant or applicants if upon recount:
 1. A different candidate or position on a proposition or question is indicated; or
 2. The vote is two percent or more in excess of the vote originally cast for the candidate or position on a proposition or question.

~~If, upon recount, a different candidate or position on a proposition or question is certified or if the vote on recount is two percent or more in excess of the vote originally certified for the candidate or position on a proposition or question supported by the recount applicant, the entire deposit shall be refunded to the recount applicant.~~

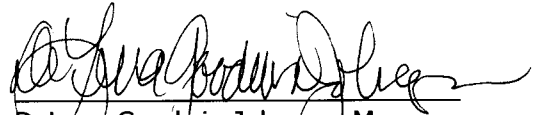
- B. If ~~none~~ of the requirements of subsection (A) of this section are not met, the clerk shall refund any money remaining after the cost of the recount has been paid from the deposit.
- C. If the deposit posted is insufficient to cover the costs of the recount, the city may recover the excess costs from the candidate ~~contestant~~. If the recount is obtained by the 10 designed city voters, each of them shall be individually liable for the whole amount of the expenses.

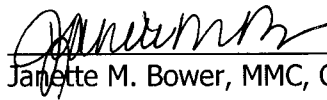
18.45.070 Appeal.

- A. An applicant, as defined in PMC 18.45.010 A, ~~A person qualified to request a recount~~ who is aggrieved by the result of a recount or decision not to grant a recount may appeal the recount to the superior court.
- B. The appeal shall be filed within 10 calendar days of council action certifying the election.
- C. Upon order of the court, the clerk shall furnish the record of the recount, including all ballots, registers, and other election material and papers pertaining to the recount.
- D. ~~The appeal shall be heard by the court sitting without a jury.~~ The inquiry and the appeal shall extend to the questions whether or not the clerk has properly determined what ballots, parts of ballots, or marks for candidates on ballots, are valid, and to which candidate or division on the proposition or question the vote should be attributed.
- E. If an action under this section is not commenced within the 10-day period, the election and the election result shall be conclusive, final and valid in all respects.

Section 4. Effective Date. Ordinance No. 14-009 shall take effect upon adoption of the City of Palmer City Council.

Passed and approved this twenty-seventh day of May, 2014.


DeLena Goodwin Johnson, Mayor


Janette M. Bower, MMC, City Clerk