

-excerpt-

21. APPEALS AND PROCEDURES TO REMOVE A PERSON FROM OFFICE.

1. The:

(a) validity of the election of a Council Member; or

(b) right of a Council Member to hold office

must not be determined except in accordance with this section.

2. A Council Member, or any ten (10) or more Electors, may file a petition with the Judge praying for a declaration that:

(a) the election of a Council Member is invalid because:

(i) the Election was not conducted in accordance with this Regulation such that the results of the Election may have been affected,

(ii) the Council Member was not qualified to be a Candidate, or

(iii) there was a Corrupt Practice in connection with the Election; or,

(b) a Council Member is disqualified from holding office.

3. A petition made under subsection (2) must be supported by affidavit.

4. A petition made under subsection (2) (a) must be filed with the Judge within fifteen (15) days from the date of the Polling Day or the Tie Breaker Poll, as the case may be.

5. A petition made under subsection (2) (b) must be filed with the Judge within thirty (30) days after the petitioner first becomes aware of the alleged grounds of disqualification.

6. If the Judge is satisfied that there are reasonable grounds for supporting the declaration prayed for, the Judge must require the petitioners to deposit the amount of five hundred dollars (\$500.00) with the Executive Officer as security for the costs of the Council Member petitioned against.

7. The Judge must hear and determine the matters raised in a petition in a summary manner without formal pleadings.

8. The Judge has the same powers, jurisdiction and authority with respect to the hearing of a petition as if the petition were an ordinary matter within the jurisdiction of the Judge.

9. Affidavits relied upon by the petitioner must be filed with the court and delivered to all parties at least two (2) days prior to any hearing at which the petition is to be used.

10. No party or witness shall be questioned regarding for whom they voted.

11. If a petition is made under subsection (2)(a), the Judge must make a declaration that, based on the evidence before the Judge:

(a) the election of the Council Member was valid; or

(b) the election of the Council Member was invalid.

12. If a petition is made under subsection (2)(b), the Judge must make a declaration that, based on the evidence before the Judge:

(a) the Council Member is qualified to hold office; or

(b) the Council Member is disqualified from holding office.

13. If it appears to the Judge that the Election was conducted in good faith and in accordance with the principles of this Regulation, the election of a Candidate must not be declared invalid only by reason only of:

(a) an irregularity or noncompliance with these Regulations; or

(b) a mistake in the use of forms or notices,

unless the irregularity, noncompliance or mistake materially affected the result of the election.

14. Subject to subsection (15), the Judge must make an order regarding the costs of the hearing.

15. If the petitioner is successful, the Band must pay the costs of the petitioner, and the Band may recover those costs as directed by the Judge.

16. The Judge must make an order regarding the disposition of the security for costs paid under subsection (6) as the Judge deems just.

17. If a petition contains allegations of Corrupt Practices, that petition may still be heard by the Judge despite the fact that the person who is the subject of that petition files a letter of resignation under subsection 22(1) (b).