

Chapter 5.50 REVIEW OF ELECTION RETURNS¹

Sections:

Section 5.50.010 Election review committee; meeting.

- (a) The city council acting as the election review committee shall meet on the first Friday after the election and canvass all absentee and questioned and defective ballots executed in the election. If the committee is unable to obtain a quorum or complete the count on the Friday after the election, the canvass will be rescheduled the following day and each day thereafter until completed.
- (b) The city clerk shall submit to the committee the election board's report of preliminary election results, the master voter registration list, the register, all regular ballots, oath and affidavit envelopes containing questioned ballots, defective ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.
- (c) The chairman of the election board shall submit the duplicate of the report of election to the election review committee.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.020 Review to be public.

- (a) The review of all absentee and questioned and defective ballots shall be made in public by opening the returns and announcing the results thereof in front of those present.
- (b) The review shall include a review and comparison of the tallies of ballots with the election reports to correct any mathematical error in the count of ballots.
- (c) If the election supervisor finds an unexplained error in the tally of ballots, the election review committee may count the ballots from a ballot box.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.030 Determining election winner.

The candidate receiving the highest number of votes for the respective office wins.

(Ord. No. FY21-15 , § 3, 2-8-2021)

¹Editor's note(s)—Ord. No. FY21-15 , § 3, adopted Feb. 8, 2021, amended Ch. 5.50 in its entirety to read as herein set out. Former Ch. 5.50, §§ 5.50.010—5.50.110, pertained to similar subject matter, and derived from Code of 2013.

Section 5.50.040 Tie votes.

In the event of a tie vote, and after a recount of ballots that confirms the tie vote, the council shall in its first meeting after the election call in the candidates receiving the tie votes and have the candidates draw straws or flip a coin to determine the winner.

Referendums, ballot initiatives, or recall votes resulting in a tie shall fail

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.050 Procedure for questioned ballot review.

- (a) The election supervisor shall contact the state division of elections and the local voter registrars by the Thursday following the election and determine if persons casting questioned ballots because of failure of their names to appear on the master voter registration list were in fact registered to vote in state elections. The election supervisor shall record the names of these questioned voters in fact registered to vote and shall submit their names as registered to vote when their questioned ballots are examined with other questioned ballots.
- (b) The council meeting as the election review committee shall examine each questioned ballot envelope and shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the committee may request the assistance of the clerk. If the committee determines that the voter was eligible to vote, the oath and affidavit envelope shall be placed with the other absentee oath of affidavit envelopes until the review committee is ready to open and count the ballots. If the committee upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials.
 - (1) A questioned ballot may not be counted if:
 - (A) The voter has failed to properly mark the certificate;
 - (B) The voter did not enclose the marked ballot inside the small envelope.
 - (2) If a questioned ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the questioned voter. The election supervisor shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and shall be placed in the office safe.
 - (3) If a questioned ballot is not rejected, the large envelope shall be opened and the small envelope containing the questioned ballot shall be placed in a ballot box and mixed with other small envelopes containing questioned ballots. The questioned ballots shall then one (1) by one (1) be removed from the ballot box, taken out of the ballot envelopes, and counted in the same manner in which ballots cast at the polls are counted.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.060 Reserved.

Section 5.50.070 Absentee ballots.

- (a) The election review committee shall examine each absentee ballot return envelope. The return envelope shall be opened and the blank envelope containing the absentee ballot shall be placed in a ballot box and

mixed with other small envelopes containing the previously reviewed questioned ballots if the committee determines that:

- (1) The voter is registered to vote;
 - (2) The voter is a resident of the City of Gustavus;
 - (3) The ballot was cast before the close of the polls and;
- (b) If the committee determines that a voter voting absentee was not in fact a qualified voter or did not follow absentee voting procedures the review committee by majority vote may refuse to accept and count the absentee ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The election supervisor shall place all such rejected absentee ballots in an envelope marked "rejected absentee ballots" to be saved with other election materials. The election supervisor shall notify the voter in writing why his absentee ballot was rejected.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.080 Counting absentee and questioned ballots.

The questioned ballots and absentee ballots shall then one (1) by one (1) be removed from the ballot box, taken out of the ballot envelopes and counted by the committee in the same manner in which ballots cast at the polls are counted.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.090 Defective ballots.

Review committee members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom or what the voter intended to vote.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.100 Certifying results.

If no contest of election is begun under the provisions of Chapter 5.60 of this Code and after all absentee, defective and questioned ballots are counted or rejected, the review committee shall:

- (a) Certify a report that shows:
 - (1) The total number of ballots cast in the election;
 - (2) The names of the person voted for (including write-ins) and the proposition voted upon;
 - (3) The offices voted for;
 - (4) The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 - (5) The disposition of all absentee, questioned, and defective ballots; and
 - (6) Any other matters which the committee deems necessary to preserve a complete record of the election.
- (b) Record the results of the election in the minutes of the meeting;
- (c) Authorize the results to be certified;

(d) Publicly declare the results of the election.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.110 Contest of election.

If a contest of election is declared, the procedures of Section [5.50].100(a)—(d) shall be followed at a special meeting held on the first Monday after resolution of the contest.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.120 Certificate of election.

The certificates shall be signed by the mayor and attested by the city clerk. Upon certification of the election results by the election committee, the city clerk shall prepare copies of each certificate for each of the successful candidates, or the sponsor of the successful question or proposition named thereon. The original of each certificate of election shall be retained as a permanent record by the city.

(Ord. No. FY21-15 , § 3, 2-8-2021)

Section 5.50.130 Retention of election records.

The city clerk shall preserve all election documents in accordance with the City of Gustavus Records Retention Schedule.

(Ord. No. FY21-15 , § 3, 2-8-2021)