

1 08 NCAC 02 .0111 is proposed for readoption with substantive changes as follows:

2

3 **08 NCAC 02 .0111 ELECTION PROTEST FORM**

4 All persons ~~filing bringing an~~ election protest under Article 15A ~~with a county board of election~~ shall complete and
5 timely file ~~use~~ the following form. Please note this form should not be used to challenge the registration of an
6 individual voter or to report an incident other than an irregularity affecting the outcome of an election.

7

8 **ELECTION PROTEST**

9 (Use of this form is required by G.S. 163-182.9(c))

10

11 This form must be filed with the county board of elections within the timeframes set out in G.S. 163-182.9 (b)(4).
12 Please print or type your answers. ~~Feel free to use and attach~~ Use additional sheets if needed to fully answer the
13 ~~questions below~~ questions fully. Number the pages of all additional sheets. Please note that filings will be a public
14 record. Please redact all confidential information, such as date of birth, Social Security number, and driver’s license
15 number. You may also attach relevant exhibits and documents. Please number the pages of such additional sheets
16 ~~and attachments.~~

17

18 Respond to all prompts. Failure to complete this form as required may result in the dismissal of your protest. Attach
19 additional sheets as necessary, including all exhibits and supplemental documents. All attachments are deemed
20 incorporated and covered under the Protest Certification.

21

22 PROTESTOR

23

24 1. Provide your preferred contact information:

25 Name: _____ County of Residence: _____
26 Email: _____ Phone: _____
27 Mailing _____ Address: _____
28 _____
29

30 NOTE: You will be deemed to consent to service at all of the above addresses (including email), unless you
31 attach an addendum indicate otherwise.

32

33 2. Are you represented by counsel? Yes No

34

35 NOTE: If you answered Yes, above, your counsel must complete and you must attach the Counsel
36 Certification Addendum.

37

1
2
3
4
5
6
7
8
9
10
11
12
13
14

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

3. Mark all that describe you:

- Candidate for the office of _____
- Registered voter eligible to participate in the protested election contest _____
- Neither of the above*

*If you select this option, you are not eligible to file a protest.

PROTEST SCOPE

4. List all election contests subject to your protest and calculate the margin of votes separating the apparent winner from the runner-up as of the date of filing. Your response does not waive your right to contest the validity of the current vote count. If your protest concerns all contests on the ballot, you must include the vote margin for each contest.

<u>Protested Contest(s)</u>	<u>Current Vote Margin</u>
	<u>(subtract runner-up totals from apparent winner's totals)</u>
<u>Example: Mayor of Townsville</u>	<u>75</u>

5. This protest alleges (select at least one):

- A defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election.
- A violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.

FACTUAL BASIS & LEGAL ARGUMENT

6. Provide all factual allegations in support of your protest. If any fact you allege is outside the scope of your personal knowledge, you may attach affidavits from those who have personal knowledge of that fact. All facts you allege in connection with this protest must be true and accurate to the best of your knowledge, and brought in the sincere belief that the facts alleged form a good faith basis to protest the conduct and results of the election.

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____

19 7. List all individuals, if any, you may call as witnesses to substantiate facts listed in Prompt 6. If there are multiple
20 individuals, summarize the facts of which the individual has personal knowledge.

21 _____
22 _____
23 _____
24 _____
25 _____

26 8. Cite any statute or case, administrative rule or decisions, and election policy or procedure that supports your claim
27 set out under Prompt 5.

28 _____
29 _____
30 _____

31 RELIEF

32 _____
33 9. What effect do you believe the facts alleged in response to Prompt 6, if proven, will have on the electoral outcome
34 in the protested contest(s)? Your response should account for the current vote margin calculated in response to
35 Prompt 4.

- 36 The electoral outcome of the protested contest(s) will change.
37 The electoral outcome of the protested contest(s) will not change.

1 I am uncertain whether the outcome of the contest(s) will change.

2 Other _____

3

4

5

6 10. What relief do you seek?

7 Correct the vote count

8 A new election

9 Other: _____

10

11

12 ASSISTANCE

13

14 11. List all persons who assisted you in preparing the contents of this protest and indicate the nature of the assistance
15 provided:

16 _____

17 _____

18 _____

19 _____

20

21 Note: For protestors represented by an attorney, this protest is the initial filing in a *proceeding* as defined by N.C.
22 State Bar Rules. See 27 N.C.A.C. 02 Rule 1.00(n).

23

24 12. Has any candidate, political party, organization, or person acting on behalf of the same requested that you bring
25 this protest?

26 Yes.

27 No.

28

29 13. Have you received any financial or other benefit or promise of future financial or other benefit in exchange for
30 filing this protest?

31 Yes.

32 No.

33

34

35 AFFECTED PARTIES & SERVICE

36

1 You must serve copies of all filings on every person with a direct stake in the outcome of this protest (“Affected
2 Parties”). Affected Parties include every candidate seeking nomination or election in the protested contest(s) listed
3 under Prompt 4, not only the apparent winner and runner-up. If a protest concerns the eligibility or ineligibility of
4 particular voters, all such voters are Affected Parties and must be served. Address information for registered voters
5 is available from the county board of elections or using the Voter Lookup at www.ncsbe.gov.

6
7 Materials may be served by personal delivery, transmittal through U.S. Mail or commercial carrier service to the
8 Affected Party’s mailing address of record on file with the county board of elections or the State Board of Elections,
9 or by any other means affirmatively authorized by the Affected Party. If you know the Affected Party is represented
10 by an attorney, service must be made on his or her counsel. Service must occur within one (1) business day of filing
11 materials with the county board of elections. If service is by transmittal through the U.S. Mail or commercial carrier
12 service, service will be complete when the properly addressed, postage-paid parcel is deposited into the care and
13 custody of the U.S. Mail or commercial carrier service. It is your responsibility to ensure service is made on all
14 Affected Parties.

15
16 14. List all Affected Parties, including their service address:

<i>Affected Party</i>	<i>Service Address</i>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

25
26
27 PROTESTOR CERTIFICATION

28
29 15. By signing this protest application, you affirm the following:
30 I, _____ (full name), swear, under penalty of perjury, that the information provided in this protest
31 filing is true and accurate to the best of my knowledge, and that I have read and understand the following:

- 32
33 (initial)
34 _____ I have reviewed the statutes and administrative rules governing election protests, including all deadlines.
35 _____ My protest must originate with a filing at the county board of elections.
36 _____ I must timely serve all Affected Parties.

1 I must prove by *substantial evidence* either the existence of a defect in the manner by which votes were
2 counted or results tabulated or the occurrence of a violation of election law, irregularity, or misconduct,
3 either of which were sufficient to cast doubt on the apparent results of the election.

4 It is a crime to interfere unlawfully with the conduct and certification of an election.

5 It is a crime to interfere unlawfully with the ability of a qualified individual to vote and to have that vote
6 counted in the election.

7 The facts I allege in connection with this protest are true and accurate to the best of my knowledge, and I
8 have a good faith basis to protest the conduct and results of the election.

9
10 **Submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General**
11 **Statutes. This notice is provided pursuant to S.L. 2013-381 § 5.4.**
12
13

14 Signature of Protestor: _____ Date: _____
15 *(This signature must be signed in the presence of a notary)*

16 _____

17
18
19 State of North Carolina, County of _____

20
21 Sworn to (or affirmed) and subscribed before me this the _____ day of _____, 20_____.

22
23
24 (Official Seal) _____ Official Signature of Notary
25
26 _____, Notary Public
27 Printed Name

28
29 My commission expires: _____
30

31 _____

32
33 ~~1. Full name and mailing address of person filing the protest.~~

34 _____
35 _____

36 ~~2. Home and business phone number, fax number, and e-mail address.~~

37 _____
38 _____

39 ~~3. Are you either a candidate or registered voter eligible to vote in the protested election. If a candidate, for what~~
40 ~~office?~~

1 _____
2 ==
3 4. List the date, location, and exact nature of the election protested. Name all candidates in the election and the
4 number of votes each received. Note the winning candidate(s) elected or nominated.
5 _____
6 ==
7 5. Does this protest involve an alleged error in vote count or tabulation? If so, please explain in detail.
8 _____
9 ==
10 6. Does this protest involve an irregularity or misconduct not described in number 5 above? If so, please give a
11 detailed description of such misconduct or irregularity and name those who committed such action.
12 _____
13 ==
14 7. Please set out all election laws or regulations that you allege were violated in your responses to 5 or 6 above. State
15 how each violation occurred. Please provide the names, addresses, and phone numbers of those who you allege
16 committed such violations.
17 _____
18 ==
19 8. Please provide the names, addresses, and phone numbers of any witnesses to any misconduct alleged by you in this
20 protest, and specify what each witness listed saw or knows.
21 _____
22 ==
23 9. What action do you desire the county board of elections to take in this matter?
24 _____
25 ==
26 10. Do you contend the allegations set out by you are sufficient to have affected or cast doubt upon the results of the
27 protested election? If your answer is yes, please state the factual basis for your opinion.
28 _____
29 ==
30 11. Have you read and reviewed the North Carolina law pertaining to election protests as set out in G.S. 163-182.9
31 through G.S. 163-182.14 and current North Carolina State Board of Elections regulations pertaining to election
32 protests?
33 _____
34 ==
35 12. How many pages of additional answer are attached to this protest? ___ How many pages of attachments are
36 attached? ___
37

1
2
3
4
5
6
7
8
9
10
11
12
13
14

Signature of Protestor

Date/Time Filed with County Board

(to be filled out completed by the county board)

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections, PO Box 27255, Raleigh, NC 27611-7255, ~~(919) 733-7173~~.

1 COUNSEL OF RECORD ADDENDUM

2
3 If you answered Yes to Prompt 2 on the above, your attorney must complete this form and you must file it with your
4 Election Protest Application.

5
6 Attorney Must complete all of the following:

7
8 Protestor Name: _____ Protestor County: _____

9 Attorney Name: _____

10 Attorney Email: _____ Attorney Phone: _____

11
12 I am a member in good standing with the North Carolina State Bar

13 I am not licensed to practice law in North Carolina but am a member in good standing in
14 (State or District of Columbia), and do hereby apply to appear pro hac vice and certify that I have or will file all
15 appropriate documents required under G.S. § 84.4.1.

16
17 Law Firm: _____

18 Bar Number: _____

19
20 I (choose one) am am not:

21 Subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or
22 otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below.

23 _____
24 _____
25 _____
26 _____

27
28 I represent the Protestor whose name is provided above. I have read and understand the laws governing election
29 protests in North Carolina General Statutes Chapter 163 and Title 8 of the N.C. Administrative Code. I swear/attest
30 that the information I have provided in this Addendum is true and accurate to the best of my knowledge.

31
32 _____
33 Attorney Signature _____ Date

34
35 *History Note: Authority G.S. 163-22; 163-182.9;*
36 *Temporary Adoption Eff. April 15, 2002;*
37 *Eff. August 1, 2004.*