

<https://www.lmc.org/news-publications/publications/handbook-for-minnesota-cities/>

Recall

A charter may not provide for removal of councilmembers by the council for any reason not **explicitly stated in statute.**

3. Recall Home rule charter cities have some limited authority to provide for recall elections of the city's elected officials. **The Minnesota Constitution and state court decisions have restricted the recall of elected city officials to cases of serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office.** Recall does not exist in statutory cities.

E. **Recall** or removal from office

Local voters often ask if the city can hold a vote to remove a local official from office in a special election. As discussed previously, voters in statutory cities have only those powers delegated to them by the state legislature. Currently, voters in statutory cities have no authority to petition for, or vote on, removing an elected official from the city council. In some situations, councilmembers lose office by operation of law, for example if a person is convicted of a felony; but there is no authority to remove officers by a vote.

Charter cities may have limited authority in the charter to remove elected officials. **Recall elections in charter cities are limited by the Minnesota Constitution.** The charter may allow for a recall election to remove an elected official **due to malfeasance or nonfeasance in the performance of his or her duties.** To constitute malfeasance or nonfeasance the conduct **must affect the person's performance of official duties rather than conduct that affects their personal character as a private individual.**

All of **this is a fact specific determination, so charter cities must consult the city attorney** before seeking an election to recall or remove a city official from office.

VI. **Petitions** [*This is referendum and initiative*]

In **statutory cities**, petitions submitted by voters requesting an election on a legally authorized question must comply with state law and rules. State **rules set by the Minnesota secretary of state govern** the form, circulation, signing, filing and inspection of petitions. **If a city charter specifically addresses petitions, the charter provisions may prevail over state law and rules.**

3. Counting percentage of voters required for sufficient petitions

Even where the specific state statute lists a particular percentage of voter signatures, **state law provides guidance for tabulating that percentage:**

- If a statute requires that a specific number of people who voted in a previous election sign a petition, then the statute must be read to mean that **any currently eligible voter** may sign the petition-- and their signature counts when tabulating the percentage of voter signatures required.

- Thus, the statute must not be read to restrict eligibility to only those individuals who were eligible to cast ballots or who actually did cast ballots in the previous election.

4. Sufficiency of petition

The clerk must inspect the form of the petition to determine if it complies with all form and filing requirements. The clerk need only determine substantial compliance with regard to any type size on the form. The clerk must also inspect the petition to determine whether it has been signed by the required number of signatories and whether the signatories meet the applicable eligibility requirements. The rule does not address how the clerk verifies eligibility of the signatories, but case law states that eligibility to sign the petition may be restricted to registered voters in the Statewide Voter Registration System whose address in the SVRS is located within the city to which the petition is filed. Cities may rely on the SVRS to determine whether to reject signatures on a petition of those who are registered to vote but are at an address outside of the city in the SVRS.

Courts take notice of how difficult it is to prepare and to circulate petitions. Frequently citizens, not skilled in the technical aspects of the law, prepare such petitions. Courts typically exercise extreme caution in ruling petitions out on mere technicalities and view petitions as the result of democracy working at the grassroots level. Consider working with the city attorney on handling any petition irregularities.

VIII. Ballots

.....

There are certain election law provisions that may not apply to charter cities, so charter cities should work with their city attorney on formatting the ballots.