

## ARTICLE IX. RECALL

### Section 1. The recall.

- (a) Power. Any elective officer of the city may be recalled from office, through the procedure and in the manner provided herein, by the registered electors entitled to vote for a successor of such incumbent officer. For purposes of this Article, in the case of recall of the Mayor, the words "registered elector" shall be construed to mean persons residing within the city who are registered to vote as of the date they signed the petition for recall. For purposes of this Article, in the case of a proposed recall of District Council representatives, the words "registered elector" shall be construed to mean persons who are registered to vote within the particular affected Council District of the city as of the date they signed the petition for recall of the District Council representative. No recall petition shall be circulated or filed against any officer until the officer has actually held office for at least one (1) year in the officer's current term, nor within six (6) months of the end of such term. The procedure to effect a recall shall be as provided in this Article.
- (b) Commencement of proceedings; affidavit. One (1) or more registered electors may commence recall proceedings by filing with the City Clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the officer sought to be removed. A separate affidavit shall be filed for each officer sought to be recalled. Within forty-eight (48) hours after the filing of the affidavit, the City Clerk shall mail a copy by certified mail to the affected officer. Within five (5) days after the date of the City Clerk's mailing, the affected officer may file with the City Clerk a sworn statement of not more than three hundred (300) words in defense of the charges. The affidavit and the response are intended for the information of the registered electors, who shall be the sole and exclusive judges of the sufficiency of the ground or grounds assigned for the recall, and said ground or grounds shall not be open to judicial review. Within ten (10) days after the date by which any statement in defense must be filed, a petition for recall of the officer shall be submitted to the City Clerk for approval of the form of the petition in accordance with Section 2(b) of this Article. The petition shall be circulated, signed, verified and filed in the manner provided in Section 2 of this Article. If no petition for recall has been submitted to the City Clerk for approval of its form within the time period specified above, the recall proceedings shall be terminated.
- (c) Call of election. A recall election shall be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor. Upon the City Clerk's presentation of a petition certified sufficient for recall, the Council shall set a date for the election which shall be held on a Tuesday not less than sixty (60) nor more than ninety (90) days from the date of presentation of the certified petition to Council. However, if any other city election is to occur within ninety (90) days from the presentation of the certified petition to Council, the recall election shall be postponed and consolidated with such other city election. The order setting a date for the recall election shall not become effective until five (5) days from the presentation of the certified petition to Council. If the officer resigns within the five-day period, the vacancy may be filled by appointment. If a vacancy occurs in the affected office after the effective date of the order, the election to fill the vacancy shall nevertheless proceed.
- (d) Disqualification for office. No person who has been recalled or has resigned after the City Clerk's presentation to Council of a certified, sufficient petition for recall of such person shall serve the city in any elected or appointed capacity within two (2) years after such removal or resignation.

(Ord. No. 199, 1986, § 1, Part A, § 1, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 157, 1988, 12-10-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. 128, 1999, § 1, 8-17-99, approved, election 11-2-99)

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## Section 2. Petitions.

- (a) Separate petitions required. A separate petition shall be circulated and filed for each officer sought to be recalled.
- (b) Form and content.
  - (1) Approval of form. No petition shall be circulated until the City Clerk has approved the form for circulation. The City Clerk shall first determine that the petition form contains only the matters required by this Article. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain warnings and notices to signers as necessary. The City Clerk's approval under this Section shall not constitute an approval of the content of the petition, but rather, shall start the running of the time periods provided for circulation and filing of petitions for recall.
  - (2) Statement of purpose. The petition shall be addressed to Council and shall contain or have attached to each section throughout its circulation a copy of the charges set forth in the affidavit on file with the City Clerk, and if requested by the person sought to be recalled, a copy of the statement in defense.
  - (3) Signatures. Only registered electors may sign the petitions authorized under this Article. Each signer must sign his or her own signature and each signature shall be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing. No person shall knowingly sign his or her name more than once for the recall of the same incumbent.
- (c) Circulation of petition. The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition. All sections shall be filed as one (1) instrument. Only persons eighteen (18) years of age or older may circulate the petition for signatures. The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing a recall petition.
- (d) Affidavit of circulator. A circulator shall attach to each section of the petition circulated, an affidavit signed by the circulator under oath before a notary public stating the following:
  - (1) the circulator's address of residence;
  - (2) that the circulator is eighteen (18) years of age or older;
  - (3) that he or she personally circulated the section;
  - (4) that each signature was affixed in the circulator's presence;
  - (5) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
  - (6) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
  - (7) that each signer had an opportunity before signing to read the full text of the petition; and
  - (8) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his or her signature to the petition.

A petition verified by the valid affidavits of its circulators in each of its sections shall be prima facie evidence that the signatures thereon are genuine and true.

- (e) Number of signatures required.

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- (1) First recall attempt. The petition must be signed by registered electors equal in number to at least twenty-five (25) percent of the entire vote cast at the last preceding regular city election for all candidates for the office, to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office at said election.
  - (2) Subsequent recall attempts. After one (1) recall petition and election, a recall petition filed against the same officer during the same term for which elected must be signed by registered electors equal in number to at least fifty (50) percent of the entire vote cast at the last preceding regular city election for all candidates for the office to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office at said election.
- (f) Place of filing, time limits. Petitions for recall shall be filed with the City Clerk within thirty (30) days of the City Clerk's approval of the form for circulation. Each petition shall designate by name and address not less than three (3) nor more than five (5) registered electors who shall represent the signers of the petition in all matters affecting the petition, and shall be endorsed by such persons.
- (g) Sufficiency of petition; amendment. Within five (5) working days of the filing of a petition the City Clerk shall ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits. If the petition is insufficient, the City Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.

Registered electors desiring to protest the sufficiency of a petition may file a written protest, under oath, in the office of the City Clerk within ten (10) days of the filing of the petition. The protest shall set forth with particularity the grounds of protest and the names and defects in form protested. The reasons assigned for recall may not be protested. Upon the filing of a written protest, the City Clerk shall set a time for hearing such protest, which shall be no more than seven (7) days thereafter. At least five (5) days before the hearing, the City Clerk shall mail a copy of the protest to all of the designated petition representatives together with a notice of the time for hearing. All records and hearings shall be before the City Clerk who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. All records and hearings shall be public, and all testimony shall be under oath. The hearing shall be summary in nature and concluded within thirty (30) days after the petition was filed. The City Clerk shall decide and certify the results of the hearing within ten (10) days after the hearing is concluded.

In case the petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be withdrawn and amended within fifteen (15) days from the filing of the City Clerk's certificate of insufficiency. The City Clerk shall, within five (5) days after such amendment, examine the amended petition and the registration books and certify the result. If the petition is still insufficient, or if no amendment is made, the City Clerk shall return it to one (1) of the designated petition representatives without prejudice to the filing of a new petition for the same purpose.

When and if a petition or amended petition is deemed sufficient, whether following the initial sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk shall so certify and present the certified petition to the Council at the next regularly scheduled meeting. The City Clerk's certificate shall then be a final determination as to the sufficiency of the petition.

(Ord. No. 199, 1986, § 1, Part A, § 2, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 157, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 158, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 88, 2000, § 1, 8-15-00, approved, election 11-7-00)

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### Section 3. Elections.

- (a) Generally. Elections on recall shall be conducted in the same manner as provided generally for regular or special city elections in this Charter. All Charter provisions related to nomination and qualification of candidates shall apply to recall elections.
- (b) Nominations on recall. Anyone desiring to become a candidate at the recall election shall do so by nominating petition as required in Article VIII of this Charter. The deadline for filing a nominating petition for a recall election shall be as established by ordinance of the Council. If more than one (1) officer is sought to be recalled, then the nominating petition must specify which incumbent the candidate seeks to succeed. The name of the person against whom the recall petition is filed shall not appear on the ballot as a candidate for the office.
- (c) Ballots. There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the statement of grounds and, if requested by the affected officer, the officer's statement in defense followed by the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (\_\_\_\_\_)?" Following such question shall appear the words, "Yes" indicating a vote in favor of the recall and "No" indicating a vote against such recall. On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled.
- (d) Election results. If a majority of those voting on the question of the recall of any incumbent from office votes "No," the incumbent continues in office. If a majority votes "Yes" for the incumbent's removal, the incumbent shall thereupon be deemed removed from his or her office upon the taking of the oath of office by his or her successor. If the officer is recalled, the candidate for succession receiving the highest number of votes at the election determined in accordance with Article VIII, Section 7, shall be declared elected for the remainder of the incumbent's term. The candidate elected shall take office upon taking the oath of office, which shall occur as the first order of business at the next regular or special Council meeting. In case the candidate elected fails to qualify within sixty (60) days after the issuance of a certificate of election, the candidate with the next highest vote shall be elected, and if there is no other elected successor who qualifies, the office shall be deemed vacant, and shall be filled by appointment by the remaining members of the Council, as provided in Article II, Section 18.

(Ord. No. 199, 1986, § 1, Part A, § 3, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, X, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 006, 2015, § 1, 1-20-15, approved, election of 4-7-15 ; Ord. No. 080, 2022 , § 2, 7-5-22, approved, election 11-8-22)

### Section 4. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

(Ord. No. 199, 1986, § 1, Part A, § 4, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)