

RECALL RULES AND REGULATIONS



OFFICE OF THE CITY CLERK CITY OF TUCSON, ARIZONA

December 2012

Updated to reflect the signature
and filing requirements for the
2013 General Election

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Office of the City Clerk
City of Tucson

Recall
Rules and Regulations

TABLE OF CONTENTS

CHAPTER ONE	3
INTRODUCTION	3
CHAPTER TWO	4
RECALL DESCRIBED	4
CHAPTER THREE	5
NUMBER OF SIGNATURES REQUIRED FOR RECALL PETITIONS	5
CHAPTER FOUR	7
INITIAL PREREQUISITES: AFFIDAVIT/APPLICATION/ ENDORSEMENT, PREPARATION OF PETITION, STATEMENT OF ORGANIZATION	7
CHAPTER FIVE	9
CIRCULATING RECALL PETITIONS	9
CHAPTER SIX	11
WITHDRAWAL OF SIGNATURES BY QUALIFIED ELECTORS.....	11
CHAPTER SEVEN	12
DEADLINE AND PROCEDURES FOR FILING RECALL PETITIONS	12
CHAPTER EIGHT	14
EXAMINATION AND VERIFICATION OF RECALL PETITIONS BY THE CITY CLERK	14
CHAPTER NINE	19
CERTIFICATION OF RECALL PETITIONS BY THE CITY CLERK	19
CHAPTER TEN	20
ORGANIZATIONAL AND FINANCIAL REPORTING REQUIREMENTS	20
APPENDIX	23

These rules and regulations supersede all previous versions of the “Recall Process Rules and Regulations.”

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CHAPTER ONE

INTRODUCTION

- 1.1 These rules and regulations will not necessarily answer all questions concerning the recall petition process and are **not** considered a substitute for obtaining private legal counsel for specific questions regarding the recall petition process.
- 1.2 The City of Tucson's recall process is provided for in the Arizona Constitution, Article VIII, Part 1; the Arizona Revised Statutes Title 19; the Tucson City Charter, Chapter XXI; and the Tucson City Code, Chapter 12, Article VI. Throughout these regulations, these shall be collectively referred to as “controlling legislation,” except where a reference to a specific provision is necessary.
- 1.3 These rules and regulations are prescribed and updated as required by the City Clerk in accordance with the provisions of Section 12-7 of the Tucson Code. They are intended to inform individuals regarding the availability of, and general procedures regarding, the City’s recall process, as well as to assist in achieving and maintaining the highest possible degree of correctness, uniformity and efficiency in the process. However, in the event these rules and regulations are found to be in conflict with any provision(s) of the controlling legislation, the controlling legislation shall prevail.
- 1.4 Copies of these rules and regulations are available from the City Clerk. All sample forms and documents referred to in these rules and regulations are filed with the City Clerk.
- 1.5 Recall Rules and Regulations, excluding sample documents, are available electronically.
- 1.6 The City Clerk shall have the right, at any time, to review, challenge or reject a recall petition on the basis of any legal or procedural insufficiency including, but not limited to the petition’s failure to address legislation that is subject to the Recall Process.

NOTE: The City Clerk’s administration of the recall process does not represent an acceptance or review of the grounds for the demand of the recall stated in an Affidavit/Application/Endorsement for Petition Number (Application), and the absence of objection at any particular time does not bar subsequent rejection of the recall petition by the City.

CHAPTER TWO

RECALL DESCRIBED

- 2.1 **Recall** is the power to require a public officer holding an elective office of the City of Tucson to resign or have the issue of retention of office submitted to a vote of the electorate via a petition process. The Mayor and Council are the only elected officers of the City of Tucson.
- 2.2 Upon receipt of a completed Application and Petition Printing Fee (Fee), the City Clerk begins preparing and printing the petition pages. Within 10 business days, the City Clerk will turn over the petition pages containing the recall petition number and date of issuance to the petitioners. A recall petition is valid for a period of 120 days from the date of issuance by the City Clerk.
- 2.3 No Application for recall of any officer shall be accepted for filing by the City Clerk until the officer has actually held his/her office for at least six (6) months. Commencement of a subsequent term in the same office does not renew the six month period delaying the circulation of petitions; if a candidate is re-elected to the same office, a petition for recall may be circulated at any time within the new term.
- 2.4 After one recall petition and election, no further recall petition shall be filed against the same officer during the term for which they were elected, unless the proponents of the new recall petition reimburse the City of Tucson for the full cost of the previous recall election.

CHAPTER THREE

NUMBER OF SIGNATURES REQUIRED FOR RECALL PETITIONS

3.1 Recall petitions must be signed by qualified electors of the City equal to twenty-five percent (25%) of the number of votes cast, at the last preceding general election, for all of the candidates for the office held by the officer sought to be removed.

3.2 Through the November 3, 2015 General Election, the following number of valid signatures is required for the Mayor and Council Members representing Wards I, II, and IV:

Mayor	21,216
Ward I	18,111
Ward II	20,778
Ward IV	20,554

Based upon the 2011 General Election Canvass

3.3 Through the November 5, 2013 General Election, the following number of valid signatures is required for Council Members representing Wards III, V, and VI:

Ward III	17,955
Ward V	17,731
Ward VI	17,787

Based upon the 2009 General Election Canvass

3.4 A recall petition shall not be accepted for verification if more than one hundred twenty (120) days have passed since the date of issuance of the petition by the City Clerk.

3.5 Only recall petitions which have been printed and issued by the City Clerk can be circulated and filed.

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CHAPTER FOUR

INITIAL PREREQUISITES: AFFIDAVIT/APPLICATION/ ENDORSEMENT, PREPARATION OF PETITION, STATEMENT OF ORGANIZATION

Affidavit/Application/ Endorsement

- 4.1 Any qualified elector of the city may make and file with the city clerk an affidavit containing the name of the officer to be removed and a general statement, not to exceed two hundred (200) words, stating the grounds of removal.
- 4.2 The Application shall include an endorsement which shall set forth the names and addresses of three (3) persons who are responsible for endorsing the petition and who are to be notified of all proceedings and actions taken in reference to the petition. The three (3) persons making the endorsement in the Application will be deemed, and referred to collectively in these regulations, as the “petitioners of the recall petition” or simply “petitioners.”

Fee for Printing Costs

- 4.3 At the time of filing the application, the person or persons intending to circulate a recall petition shall deposit with the City Clerk the fees sufficient to cover the printing and preparation of the recall petitions.

Issuance of Official Petition Number, Serial Number, Printing and Issuance of Petition

- 4.4 Upon receipt of the completed application and fee, the City Clerk shall issue an official recall petition number and initiate procedures for the printing and preparation of the recall petition. The printing and preparation of the recall petitions takes approximately ten (10) working days.
- 4.5 The City Clerk is responsible for the actual printing of recall petitions. As used in these rules and regulations, the term “recall petition” includes the signature sheets, the circulator’s affidavit, and the page(s) containing the reasons for the recall.
- 4.6 Only recall petitions which have been printed and issued by the City Clerk can be circulated and filed.
- 4.7 The recall petition issued by the City Clerk shall bear the electronic signature of the City Clerk and the official seal of the City of Tucson, shall be dated and addressed to the Mayor and Council, shall contain the name of the person(s) to whom issued, the number of recall petition forms issued, the name of the person sought to be removed, the office from which such removal is sought, and the grounds for removal, as stated in the application.

NOTE: The City Attorney's Office has determined that an electronic signature is acceptable and legally valid, therefore, an electronic signature of the City Clerk will be provided on each petition affidavit of circulator page.

- 4.8 A copy of the recall petition shall be kept in the City Clerk's office.
- 4.9 The City Clerk will notify the person or persons intending to circulate a recall petition when the petition is ready for pickup.

Statement of Organization

- 4.10 Upon receipt of the completed application and fee, the City Clerk shall provide the person or persons intending to circulate a recall petition with the applicable Statement of Organization form.
- 4.11 The Statement of Organization form listing the chairperson and treasurer of the committee must be completed and filed with the City Clerk before valid signatures can be collected.
- 4.12 In lieu of a Statement of Organization, the applicant may file a \$500 Threshold Exemption Statement which limits the committee to accepting contributions or making expenditures of more than \$250 and less than \$500. The \$500 Threshold Exemption Statement must be filed with the City Clerk before the committee makes any expenditures, accepts any contributions, distributes any campaign literature or circulates petitions.
- 4.13 Signatures obtained before the filing of a completed Statement of Organization with the City Clerk are **void** and shall not be counted in determining the legal sufficiency of any recall petition.
- 4.14 Committees planning to accept or spend less than \$250 need not file a Statement of Organization or a \$500 Threshold Exemption Statement.
- 4.15 No recall political committee shall receive any contribution, or make or promise to make any expenditure, until the political committee has chosen a chairperson and treasurer and filed its statement of organization.
- 4.16 When the completed Statement of Organization is filed with the City Clerk, the City Clerk will issue a Statement of Organization number to the applicant.

CHAPTER FIVE

CIRCULATING RECALL PETITIONS

Who May Circulate a Petition

- 5.1 With the exceptions listed in Rules 5.2 and 5.3, any individual who is qualified to register to vote in the State of Arizona may circulate a recall petition.
- 5.2 Circulators who are not residents of this state must be registered as circulators with the Arizona Secretary of State before circulating petitions.
- 5.3 No county recorder or justice of the peace shall circulate a recall petition, and all signatures verified by any such person shall be **void** and shall not be counted in determining the legal sufficiency of the petition.

What the Circulated Petition Must Include

- 5.4 If the grounds for removal and signature sheet of the recall petition consist of more than one page, a grounds for recall page containing the grounds for removal must be attached to each signature sheet at all times during circulation and upon filing with the City Clerk.
- 5.5 At all times during circulation, each signature sheet of a recall petition must be an original provided by the City Clerk.

Who May Sign the Petition

- 5.6 A recall petition may only be signed by qualified electors of the City of Tucson.

Procedures Regarding Circulation and Signing

- 5.7 Every qualified elector signing a recall petition shall do so in the presence of the person circulating the petition and who is to execute the circulator's affidavit.
- 5.8 The Tucson Charter requires the signature sheet to include a column entitled "Ward No." At the time of signing, each signer is required to write their own printed name, address, ward number, and date of signing.
- 5.9 Each circulator of a recall petition shall personally receive sufficient information from each signer of the signature sheet, at the time the signature is obtained, to ensure that the circulator can, as to all signers of that page, depose and state in the affidavit that each signature is genuine, and that each signer is a resident and qualified elector of the City of Tucson.
- 5.10 The circulator of any recall petition shall retain **direct custody and control** of the petition sheet, at all times during circulation, except when the person is signing; shall

personally give the recall petition to, and take it from, each signer; and shall personally observe each signer of the recall petition actually sign the petition page.

NOTE: For the purposes of this requirement, the term “at all times during circulation” means the entire period from the time the circulator receives any blank recall petition for circulation until the time the circulator’s signature on the affidavit for that signature sheet is notarized.

- 5.11 Pursuant to Tucson Code §12-54(f) and A.R.S. §19-205(B), abandoned or stray petition sheets that are not or at any time have not been under the direct custody and control of the circulator will be rejected in their entirety.
- 5.12 A recall signature sheet shall have only one signature placed on each numbered signature line. If more than one signature appears on a numbered line, only the signature which is actually on the line will be eligible for verification; all other signatures shall be rejected.
- 5.13 Where recall petitions are simultaneously being circulated against more than one public officer, it is essential that each individual signer understand that each signing relates to a particular officer.
- 5.14 Pursuant to state law and Rule 5.8, **ditto marks are acceptable** in any column of the petition, as long as the information being dittoed is valid, with the exception of the signature column.
- 5.15 Each circulator of a recall petition shall cross out and initial **any** blank signature lines on the signature sheet including those in the middle of the page, prior to, or at the time, the circulator’s signature on the affidavit for that signature sheet is notarized. In the event that a circulator fails to cross out and initial any blank signature lines before notarization then the entire signature sheet will be rejected and all signatures on that page will be discounted.
- 5.16 The circulator's affidavit must be executed completely and in proper form by the circulator of a recall petition, and notarized in accordance with Arizona Revised Statutes relating to notaries public and the Secretary of State’s Arizona Notary Public Reference Manual, in order for the signature sheet to be accepted for verification by the City Clerk.

Responsibility of Petitioners for Correct Form

- 5.17 It is the responsibility of the petitioners of the recall petition to ensure that at all times during circulation the petition is in the required form, that it contains all required information, and that all of its pages are fully legible. Any deficiencies are subject to challenge by the public as well as the City Clerk.

CHAPTER SIX

WITHDRAWAL OF SIGNATURES BY QUALIFIED ELECTORS

- 6.1 Qualified electors wishing to withdraw their signatures from a recall petition may do so by completing and filing with the City Clerk an Affidavit of Withdrawal any time prior to the time the petition is filed with the City Clerk. A sample Affidavit of Withdrawal is included with the printed version of these rules and regulations.

CHAPTER SEVEN

DEADLINE AND PROCEDURES FOR FILING RECALL PETITIONS

General Requirements

- 7.1 Only recall petitions which have been printed and issued by the City Clerk will be accepted for filing.
- 7.2 The recall petition for any one (1) officer shall be fastened together and filed with the City Clerk as one (1) instrument, in the order and form prescribed by the City Clerk. If recall petitions are being simultaneously circulated against more than one public officer, the recall petition for each officer must be separated and compiled by its individual petition number and filed as a separate instrument.
- 7.3 Recall petitions must be filed with the City Clerk, at a location specified by the City Clerk.
- 7.4 Recall petitions must be filed during the City Clerk's regular business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. (holidays excepted). Where the last day for filing falls on a Saturday, Sunday, or legal holiday, the petitioners shall have until the end of the next day which is not a Saturday, Sunday or legal holiday to file the petition.
- 7.5 Those persons filing a recall petition should contact the City Clerk a minimum of forty-eight (48) hours in advance of filing so that appropriate arrangements may be made for processing the petition.
- 7.6 When the petition sheets are tendered to the City Clerk, a temporary receipt is immediately issued by the City Clerk based on the petitioners' estimate of the purported number of sheets and signatures filed. After the City Clerk issues the temporary receipt, no additional petition sheets may be accepted for filing, and no additions, corrections, or adjustments to the filed petition sheets are permitted.

NOTE: Based on the Arizona Supreme Court's decision in *Fleischman v. Protect Our City*, 214 Ariz. 406, 153 P.3d 1035 (2007), Tucson Charter Chapter XXI, § 6, which had permitted the filing of additional signatures within ten days of a finding of a recall petition's insufficiency, no longer applies to the recall process, because it is superseded by A.R.S. § 19-121(B).

- 7.7 A representative of the petitioners must be present during the entire preliminary petition process, that is, from the time the petition sheets are tendered to the City Clerk to the time the City Clerk either issues an amended temporary receipt under Rule 8.10 or rejects the petition for insufficiency under Rule 8.12.

Responsibility of Petitioners for Correct Form

- 7.8 The City Clerk shall have the right, at any time, to review, challenge or reject a recall petition on the basis of any legal or procedural insufficiency including, but not limited to the petition's failure to address legislation that is subject to the recall process. The City Clerk's administration of the recall process does not represent an acceptance or review of the grounds for the demand of the recall stated in an Affidavit for Recall, and the absence of objection at any particular time does not bar subsequent rejection of the recall petition by the City.

CHAPTER EIGHT

EXAMINATION AND VERIFICATION OF RECALL PETITIONS BY THE CITY CLERK

General Considerations

- 8.1 Under the Tucson City Charter, the City Clerk is responsible for the examination and verification of signatures contained in recall petitions.
- 8.2 The signature examination and verification process is intended to determine whether the petitioners have filed a sufficient number of signatures for the City Clerk to certify the recall petition to Mayor and Council for action, pursuant to controlling legislation.

Defects in the Circulator's Affidavits

- 8.3 The City Clerk shall examine the signature sheets of the petition for defects in the circulator's affidavit. A signature sheet is subject to rejection, where the circulator's affidavit:
- A. Is not completed or signed by the circulator;
 - B. Is not notarized;
 - C. Is missing the notary's signature;
 - D. Has been notarized by a notary whose commission has expired;
 - E. Does not have the notary's seal affixed or whose seal is not in compliance with the Arizona Revised Statutes relating to notaries public and the Secretary of State's Arizona Notary Public Reference Manual;
 - F. Does not bear a notarization date;
 - G. Is on the reverse side of a signature sheet where the circulator failed to cross out and initial any blank signature lines at the time of or prior to notarization;
 - H. Contains signatures of the circulator, notary or both that are dated earlier than the dates on which any electors signed the signature sheet of the recall signature sheet;
 - I. Are circulated by a circulator who is prohibited from participating in any election, initiative, referendum or recall campaign pursuant to section A.R.S. §19-119.01 or succeeding controlling legislation;
 - J. It is, in the opinion of the City Clerk, otherwise defective.
- 8.4 Signatures on a signature sheet with a defective circulator's affidavit shall **not** be included in the count of signatures eligible for verification, and shall be ineligible for inclusion in the total of valid signatures.

- 8.5 The disqualification of a signature sheet results in the invalidity and removal of all signatures on that signature sheet, but not necessarily all signature sheets circulated by that circulator without an independent reason for disqualification for each signature sheet.

Defects In the Format of the Submitted Petition

- 8.6 The City Clerk shall examine the petition for improper formatting. Examples of improperly formatted pages include, but are not necessarily limited to, the following:
- A. Signature sheets that are not attached to a full and correct copy of the page containing the grounds for removal;
 - B. Signature sheets that were not provided by the City Clerk.
 - C. Signature sheets which are themselves, or whose attached page containing the grounds for removal are, damaged in such a manner that the format of the petition is both in violation of these rules and regulations and beyond correction (e.g. the petition number is torn off, the grounds for removal are missing, etc.)
 - D. Signature sheets which are themselves, or whose attached grounds for removal page(s) are, so illegible that verification of either the signatures or the propriety of the format of the printed material is impossible.
- 8.7 Signatures on or attached to improperly formatted pages of the petition shall not be included in the count of signatures eligible for verification. Further, they shall be ineligible for inclusion in the total of valid signatures, **provided that** where the damage, illegibility or other improper formatting occurs on the signature sheet itself and affects only a portion of the signatures, the City Clerk may, at the City Clerk's discretion, accept for examination and verification under this Chapter those signatures which are not damaged, illegible or otherwise improperly formatted.

Facial Defects In the Signatures and Their Accompanying Information

- 8.8 The City Clerk shall examine the individual signatures (or signature lines) contained on each numbered signature sheet of the petition. A signature is **not** eligible for verification, and is ineligible for inclusion in the total number of valid signatures if it meets any of the following criteria:
- A. The signature is missing from the signature line;
 - B. The residence address or a description of the residence location is missing (street and number; and/or if no street address, described residence location);
 - C. The Ward Number is missing;
 - D. The date of signing is missing or incomplete (to be complete, the date must include the month, day, and year);
 - E. There is in excess of fifteen (15) signatures permitted on the signature sheet, the one(s) in excess shall be rejected;
 - F. There is more than one signature placed on the numbered signature line, in which case only the signature which is actually on the line will be eligible for verification and all other signatures shall be rejected;

- G. The signature has been withdrawn via an Affidavit of Withdrawal, pursuant to controlling legislation.
- H. The date of signature is after the date on which the Affidavit of Circulator was notarized;
- I. The date of signature is prior to the proper filing of a Statement of Organization with the City Clerk by the Recall Political Committee;
- J. The signature or accompanying information is, in the opinion of the City Clerk, otherwise insufficient or defective.
- K. Signatures which have been crossed out, or otherwise defaced, prior to being received by the City Clerk are not eligible for verification, and are ineligible for inclusion in the total of valid signatures.

8.9 If a signer has unintentionally signed more than once, all but one otherwise valid signature shall be ineligible for inclusion in the total of valid signatures.

Amended Temporary Receipt to Person(s) Submitting Petition or Immediate Rejection of Facially Insufficient Petition

8.10 If, after an examination pursuant to Rules 8.3 through 8.9, and removal of ineligible signatures, the number of facially eligible signatures remaining on the signature sheets appears to equal or exceed the minimum number required, the City Clerk shall issue a temporary receipt to those submitting the petition, which shall list the number of signature sheets in the possession of the City Clerk, and also the total number of signatures eligible for further examination and verification which are in the possession of the City Clerk.

8.11 The issuance of an amended temporary receipt to the petitioners shall not preclude:

- A. The continuation or repetition of any examinations or verifications carried out prior to its issuance; or
- B. The initiation of examinations or verifications not yet begun; or
- C. Any other activities the City Clerk deems necessary to a thorough, accurate and complete examination of the petition; or
- D. The exclusion from the total of valid signatures of any signatures found ineligible, invalid or **void** under the criteria of this Chapter.

8.12 If, after completion of the procedures described in Rules 8.3 through 8.9, the number of signatures remaining on the sheets which are eligible for verification does not appear to equal or exceed the minimum number required, the City Clerk shall reject the recall petition and immediately return it to the petitioners, without prejudice to the filing of a new petition for the same purpose.

Criteria for Verification of Signatures

- 8.13 The criteria used by the City Clerk for verification of the signatures of petition signers (and of petition circulators pursuant to Rules 8.15 through 8.17) shall be based upon controlling legislation.
- 8.14 A signature is invalid, and ineligible for inclusion in the total number of valid signatures, if any of the following criteria are met:
- A. The signer has provided an actual address on the petition which is not the same as the actual address on the Affidavit of Registration or State of Arizona voter registration form, and which is not within the City limits; or
 - B. The signer's actual address (street & number: if no street address, describe residence location) is not provided, is illegible or nonexistent; or
 - C. The signer resides outside the City limits at the time of signing; or
 - D. The signature is illegible and the signature does not correspond to any parties registered to vote at the actual address listed on the petition and is otherwise unidentifiable; or
 - E. The date of the signing is not provided; or
 - F. The signer's signature is so incomplete that the identity of the signer cannot be ascertained. This includes those signers who, except for their surname, used only initials; or
 - G. The signer registered to vote after the date of signing the petition or was otherwise not a qualified elector on the date of signing the petition; or
 - H. The signer was a registered voter but was not at least eighteen (18) years of age on the date of signing the petition; or
 - I. The signature is disqualified after comparison with the signature on the Affidavit of Registration or State of Arizona voter registration form; or
 - J. The signature is dated later than the date of notarization of the Affidavit of Circulator; or
 - K. The signature is invalid for any reason(s) for which any signatures or entire signature sheets could have been removed by the City Clerk pursuant to the procedures and criteria set forth in these rules and regulations.

Verification of Eligibility of Circulators of Petition

- 8.15 The City Clerk shall examine and verify the signatures on the circulator's affidavits of the petition(s) under the same criteria set forth in Sections 5.2 and 5.3 of these Rules and Regulations.
- 8.16 If the signature on a circulator's affidavit is rejected as invalid pursuant to the examination under Rule 8.13, all signatures on the signature sheet to which the affidavit is attached are likewise invalid and ineligible for inclusion in the count of sufficient signatures.
- 8.17 The invalidity of the signature on a circulator's affidavit results in the invalidity and ineligibility of all signatures on that signature sheet, but not necessarily of all signature sheets circulated by that circulator without an independent reason for disqualification for each signature sheet.

Determination of Number of Valid Signatures

- 8.18 Pursuant to A.R.S. §19-208.01(A) and Tucson City Charter Chapter XXI, Section 5, the City Clerk shall have ten (10) days to complete the examination of the recall petition pages for the requisite number of signatures. This examination is a prima facie check of all signatures by the City Clerk. The City Clerk shall then transmit the petition pages to the County Recorder for a full check of all signatures, and pursuant to A.R.S. §19-208.02, the County Recorder shall have sixty (60) days to certify the number of valid signatures.
- 8.19 The City Clerk may discontinue the process of examining and verifying each signature filed at any time the examination shows that either:
- A. The signatures already examined and verified as valid equal or exceed the minimum number required by the Charter; or
 - B. The sum of the signatures already examined and verified and the signatures remaining to be examined and verified will not equal or exceed the minimum required by the Charter, even if all signatures remaining to be examined and verified are presumed valid for purposes of the calculation.

CHAPTER NINE

CERTIFICATION OF RECALL PETITIONS BY THE CITY CLERK

- 9.1 The City Clerk is responsible for, and shall exercise final control over all aspects of the certification process relating to City recall petitions. In the event of evidence of fraud or other circumstances that the City Clerk determines may affect the security or integrity of the recall petition, the City Clerk shall consult with the City Attorney and the Tucson Police Department to take additional steps necessary to ensure the security and integrity of the recall petition process and the proper validation of signatures. The precise steps will be determined on a case-by-case basis.
- 9.2 If the total number of valid signatures equals or exceeds the minimum number required by the Charter, the City Clerk shall officially file the petition and issue to the persons submitting the recall petition a certificate stating that a sufficient number of signatures have been filed.
- 9.3 If the total number of valid signatures fails to equal or exceed the minimum required by the Charter, the City Clerk shall issue a certificate stating that an insufficient number of signatures have been filed, and at once notify in writing, one (1) or more of the persons designated on the petition as filing the recall petition.
- 9.4 When the recall petition shall be found by the City Clerk to be sufficient, the City Clerk shall submit the same with the certificate to the Mayor and Council, without delay, and the Mayor and Council shall immediately notify the officer sought to be removed. If the officer does not resign within five (5) days after notification by the Mayor and Council, the Mayor and Council shall, not less than twenty (20) days nor more than thirty (30) days from the date of the City Clerk's certificate that a sufficient petition is filed, direct the City Clerk to call an election for recall on the following consolidated election date pursuant to A.R.S. §16-204 that is ninety (90) days or more after the order calling the election.
- 9.5 If the officer sought to be recalled is elected at the recall special election, then no further recall petition shall be filed against the same officer, during the term for which the officer was elected, unless the petitioners signing the affidavit and endorsement for the further recall petition first pay into the public treasury, which has paid the expenses of the preceding election, all expenses of the preceding election.
- 9.6 The original copy of all petitions filed with the City Clerk, and subsequently certified as sufficient, shall be kept by the City Clerk for two (2) years after the filing of the petition.

CHAPTER TEN

ORGANIZATIONAL AND FINANCIAL REPORTING REQUIREMENTS

In addition to any filings of campaign finance reports required under A.R.S. §16-913 or any successor provision(s), the petition drive political committee that applied for the petition or petition number shall also file campaign finance reports as listed in this chapter.

- 10.1 It is the intent of this Chapter that the procedure for the reporting shall, to the extent possible, be consistent with those found in A.R.S. §16-901 et.seq. or any successor provisions.
- 10.2 As used in this Chapter:
 - A. “Contribution” means any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election including supporting or opposing the recall of a public officer.
 - B. “Identification” means (a) for an individual, a name, mailing address, occupation and the name of the individual’s employer; (b) for any other person, including a political committee, the full name and mailing address of the person. For a political committee, identification includes the identification number issued on the filing of a statement of organization.
 - C. “Recall Petition Drive” means the circulation of any City of Tucson recall petition. A petition drive is deemed to be occurring independent of whether the petition is being actively circulated at any particular point(s) in time, is actually filed with the City Clerk for examination and certification, or is certified sufficient by the City Clerk.
 - D. “Recall Political Committee” means a political committee organized, conducted, or combined for the purpose of influencing the result of any recall petition drive. This term includes, but is not limited to, political committees organized to circulate or oppose petitions.
- 10.3 All reports shall be on forms prescribed by the City Clerk and shall be filed with the City Clerk during regular office hours.
- 10.4 A recall political committee shall have a chairperson and a treasurer. The position of chairperson and treasurer of a single political committee may not be held by the same individual.
- 10.5 The chairman and treasurer must sign a statement that indicates the chairman and treasurer have read all of the applicable laws relating to campaign finance and reporting.
- 10.6 A recall political committee shall preserve all of its financial records regarding contributions and expenditures for not less than thirty-six (36) months from the date of issuance by the City Clerk of any recall petition(s) to which the financial records relate.

- 10.7 In addition to the requirements of A.R.S. §16-913 or any successor provision(s), a recall political committee shall file a statement of contributions and expenditures with the City Clerk at the following points in time:
- A. Sixty (60) days after the date of issuance of any recall petitions(s) by the City Clerk, or on the date of filing any recall petition(s), whichever is earlier.
 - B. At the time of filing of any recall petition(s) filed more than sixty (60) days after the date of issuance.
 - C. Thirty days (30) after the filing of any recall petition(s).
 - D. On or before January 31st and June 30th of each year until there are no contributions or expenditures received or made that have not been previously reported and a termination statement has been filed.
- 10.8 Any statement of contributions and expenditures filed pursuant to this Chapter shall show the following for the period between the opening reporting date and the closing reporting date:
- A. The aggregate sum of all contributions received;
 - B. An itemized listing of those contributions with a monetary value of more than fifty dollars (\$50), showing the specific amount and the identification of the contributor;
 - C. An aggregate sum and itemized listing of all expenditures made.
- 10.9 The opening reporting date to be included in any statement of contributions and expenditures filed pursuant to this Chapter is the date on which the first previously unreported contribution or expenditure was received or made by a recall political committee.
- 10.10 The closing reporting date to be included in any statement of contributions and expenditures filed pursuant to this section is the ten (10) days prior to the filing of the statement.
- 10.11 The treasurer of the recall political committee shall sign and swear to the statement of contributions and expenditures required pursuant to this section.
- 10.12 A recall political committee which receives within twenty (20) days before the day of the election, a contribution with a value of over twenty-five hundred dollars (\$2,500) shall report the contribution to the City Clerk. Additionally notice shall also be given the first time each of the following occurs:
- A. The committee has received contributions totaling ten thousand dollars (\$10,000) or more.
 - B. The committee has made expenditures totaling ten thousand dollars (\$10,000) or more.

- C. The committee has received contributions totaling ten thousand dollars (\$10,000) or more from a single source.
- D. The committee has received contributions totaling ten thousand dollars (\$10,000) or more from different additional single sources.

These notices shall be filed within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, after the ten thousand dollar amount has been reached and shall include the identification of the contributors, the dates of receipt and the amounts of the contributions or the amount, recipient and purpose of the expenditures. Contributions subject to the notification requirements of this section shall be included in the next report filed pursuant to A.R.S. §16-913.

- 10.13 The City Clerk shall preserve all filings made pursuant to this Chapter for a period of three (3) years from the date of the issuance of any recall petition(s) to which the filings relate.
- 10.14 It is unlawful under the Tucson Code for any person or recall political committee to fail to comply with the requirements of this Chapter.

Unlawful Acts

- 10.15 It is unlawful under the Tucson Code for any treasurer of any recall political committee to fail to sign and swear to any statement or report required.
- 10.16 As provided in the Tucson Code, it shall be a civil infraction for any person or recall political committee to make any statement or report required by this Chapter, and therein knowingly misrepresent or misstate or knowingly fail to fully disclose the facts as to any contribution or expenditure required to be reported under this Chapter.
- 10.17 Where a recall political committee has failed or refused to file any statement or report required by this Chapter, it is unlawful under the Tucson Code for the recall political committee to continue its activities, receive contributions, or make or promise to make any expenditure until the required statement or report is filed.
- 10.18 The provisions of this section supplement, do not supersede, any civil or criminal penalties provided under state law, and are in addition to any other rights or remedies available to the city.

APPENDIX

Excerpt from Tucson Charter, Chapter XXI. Recall.....A

Excerpt form Tucson Code, Chapter 12, Elections, Article VIB

Excerpt form Tucson Code, Chapter 12, Elections, Article I.....C

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Excerpt from the Tucson Charter
Chapter XXI
RECALL

Sec. 1. Officers subject to recall.

Every public officer holding an elective office, either by election or appointment, is subject to recall.

Cross References: Elective officers specified, ch. V, § 1.

Sec. 2. Procedure for initiating recall; petitions required.

Any qualified elector of the city may make and file with the clerk an affidavit, containing the name of the officer to be removed, and a general statement, not to exceed two hundred (200) words, stating the grounds of removal. The clerk shall thereupon deliver, to the elector making such affidavit, a sufficient number of copies of petitions for such recall and removal, printed forms of which he shall keep on hand. Such petitions shall be issued by the clerk, with his signature and official seal thereto attached; they shall be dated and addressed to the mayor and council, shall contain the name of the person to whom issued, the number of forms so issued, the name of the person sought to be removed, the office from which such removal is sought, the grounds of such removal, as stated in said affidavit, a copy of which petition shall be entered in a record book, to be kept for that purpose, in the office of the clerk. Any defect in said form or record shall not invalidate the petition.

Sec. 3. Form, number of signatures on petitions; oath; filing, endorsement of petitions.

Said petitions, before being returned and filed, shall be signed by qualified electors equal to twenty-five (25) percent of the number of votes cast, at the last preceding general election, for all of the candidates for the office held by such officer sought to be removed, and to each signature shall be attached his or her place of residence, giving street and ward number and date of signature. Such signatures need not all be on one (1) paper.

One (1) of the signers of each sheet of such petition, or the person circulating such sheet, must make and subscribe an oath on said sheet, that the signatures thereon are genuine.

All such papers for the recall of any one (1) officer shall be fastened together, and filed as one (1) instrument, with the endorsement thereon of the names and addresses of three (3) persons designated as filing the same.

Sec. 4. Adding or removing signatures prohibited after petition filed.

Whenever a recall petition has been filed with the clerk, and while said petition remains in his possession, or has been certified and submitted by him to the mayor and council, no signatures shall be added thereto or taken therefrom.

Sec. 5. Clerk to examine, certify petitions.

Within ten (10) days from the filing of such recall petition, the clerk shall ascertain, by examination thereof and of the registration books and election returns, whether the petition is signed by the requisite number of qualified electors, and shall attach thereto his certificate, showing the result of such examination.

Sec. 6. Notice of insufficiency of petitions; filing additional signatures authorized.

If his certificate shows the petition to be insufficient, he shall at once notify in writing one (1) or more of the persons designated on the petition as filing the same; additional signatures, properly verified, may be filed at any time within ten (10) days from the filing of the certificate. The clerk shall, immediately after such refiling, make like examination of the additional signatures, and attach thereto his certificate of the result. If still insufficient, or if no additional signatures are so filed, he shall return the petition to one of the persons designated as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

Editors Note: On March 14, 2007, in *Fleischman v. Protect Our City*, 214 Ariz. 406, 153 P.3d 1035 (2007), the Arizona Supreme Court held that A.R.S. § 19-121(B) preempts Chapter XXI, § 6 and Tucson Code section 12-59. A.R.S. § 19-121(B) provides that once petition signature sheets are filed in support of a ballot measure, "no additional petition sheet may be accepted for filing", and thus does not allow the filing of additional signatures within the ten days after the city clerk certifies a city initiative petition insufficient.

Sec. 7. Clerk to certify sufficient petitions to mayor and council; notice to officer; calling elections.

When the petition shall be found by the clerk to be sufficient, he shall submit the same, with his certificate, to the mayor and council without delay, and the mayor and council shall immediately notify the officer sought to be removed, and if the said officer does not resign within five (5) days after said notification, the mayor and council shall forthwith, after said five-day period, order and fix a date for holding the said election, not less than twenty (20) days nor more than thirty (30) days from the date of the clerk's certificate that a sufficient petition is filed.

Sec. 8. Arrangement for and conduct of election.

The mayor and council shall make, or cause to be made, publication of notice, and all arrangements for holding such election; and the same shall be conducted, returned and result thereof declared, in all respects as are other city elections. If any vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as herein provided.

Cross References: Elections generally, ch. XVI.

Sec. 9. Candidacy of officer sought to be removed.

An officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination.

Sec. 10. Nominations, notice, conduct of recall elections to conform to election provisions.

The nomination of other candidates, the publication of notice of such recall election, and the conduct of the same, shall be in accord with the provisions of this Charter relating to elections.

Cross References: Elections generally, ch. XVI.

Sec. 11. Incumbent continued in office until election; persons declared elected; vacancy for failure of successor to qualify.

The incumbent shall continue to perform the duties of his office until the result of said election shall have been officially declared. The candidate who shall receive the highest number of votes shall be declared elected for the remainder of the term; but if the officer sought to be recalled is elected, then no further recall petition shall be filed against the same officer, during the term for which he was elected, unless petitioners signing shall first pay into the public treasury, which has paid such election expenses of the preceding election, all expenses of the preceding election. If not then elected, he shall be deemed removed from office upon the qualification of his successor.

If the successor fails to qualify within five (5) days after the result of said election shall have been declared, the said office shall be vacant.

Sec. 12. Recall prohibited until officer serves six months.

No recall petition shall be filed against any officer until he has actually held his office for at least six (6) months.

Sec. 13. Appointing recalled officers to public office.

No person who has been removed from an office by recall, or who resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one (1) year after such removal or resignation.

Sec. 14. Additional powers of mayor and council.

The mayor and council shall, by ordinance, make all necessary provisions to facilitate the operation of this chapter.

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Excerpt from the Tucson Code
Chapter 12 – ELECTIONS
Article VI – Sections 12-88 through 12-93 – Recall

Charter References: Recall, ch. XXI.

Sec. 12-88. Petition authorized, number of signatures.

Every public officer holding an elective office, either by election or appointment, is subject to recall. The proposed recall of a public officer may be submitted to the mayor and council by a petition signed by qualified electors of the city equal in number to at least twenty- five (25) percent of the total number of votes cast for all of the candidates for the office held by the officer sought to be removed, at the last preceding general election.

(Ord. No. 6179, § 4, 2-19-85)

Sec. 12-89. Application to circulate recall petitions.

Any qualified elector of the city may make and file with the city clerk an affidavit containing the name of the officer to be removed and a general statement, not to exceed two hundred (200) words, stating the grounds of removal.

(Ord. No. 6179, § 4, 2-19-85)

Sec. 12-90. Form of recall petition.

The city clerk shall provide the elector making an affidavit to circulate recall petitions a sufficient number of copies of petitions for such recall and removal. Only petition forms provided by the city clerk may be circulated.

(Ord. No. 6179, § 4, 2-19-85)

Sec. 12-91. Circulation of recall petitions.

(a) No recall petition shall be filed against any officer until the officer has actually held the office for at least six (6) months. No county recorder or justice of the peace, and no person other than a person qualified to register to vote in the State of Arizona shall circulate a recall petition; and all signatures verified by any such person shall be void and shall not be counted in determining the legal sufficiency of the petition.

(b) Signatures obtained on recall petitions by a recall political committee, or any of its officers, agents, employees or members, before the filing of the recall political committee's statement of organization with the city clerk, pursuant to section 12-95, are void and shall not be counted in determining the legal sufficiency of the petition.

(c) A recall petition shall not be accepted for verification if more than one hundred twenty (120) days have passed since the date of issuance of the petition by the city clerk.

(Ord. No. 6179, § 4, 2-19-85; Ord. No. 7916, § 1, 10-5-92; Ord. No. 9576, § 2, 7-2-01)

Sec. 12-92. Provisions relative to initiative applicable to recall.

The provisions of article IV of this chapter, "Initiative," insofar as they relate to procedure for withdrawing signatures and disposition of sufficient petitions, as therein set out, relative to initiative petitions, shall apply to recall petitions. Examination and certification of petitions shall be as provided in chapter XXI of the Charter.

(Ord. No. 6179, § 4, 2-19-85)

Sec. 12-93. Submission of sufficient petitions to mayor and council; officer may resign or mayor and council call an election.

When the petition shall be found by the city clerk to be sufficient, the city clerk shall submit the same with the certificate to the mayor and council, without delay, and the mayor and council shall immediately notify the officer sought to be removed. If the officer does not resign within five (5) days after notification by the mayor and council, the mayor and council shall, not less than twenty (20) nor more than thirty (30) days from the date of the city clerk's certificate that a sufficient petition is filed, order an election to be held on a date authorized under A.R.S. § 16-204 and, to the extent that statute permits, not less than one hundred (100) nor more than one hundred twenty (120) days after the city clerk's certification.

(Ord. No. 6179, § 4, 2-19-85; Ord. No. 7916, § 1, 10-5-92; Ord. No. 10081, § 3, 11-8-04)

**Excerpt from the Tucson Code
Chapter 12 – ELECTIONS
Article I – Section 12-7– *In General***

Sec. 12-7. All special elections to be conducted in same manner and under same provisions as general elections.

All special elections provided for in the Tucson Charter, including, but not limited to, those involving initiative, referendum or recall, shall be conducted in the same manner and under the same provisions as are provided for the holding of general elections, including the qualifications of electors, the nomination of candidates and campaign contribution and expenditure requirements set forth in the Tucson Charter, the Tucson Code, or State Statutes.

(Ord. No. 7915, § 1, 10-5-92; Ord. No. 10269, § 4, 4-18-06)

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