

# **Municipal Recall Election Guidelines**

## **for ALL Municipalities** (SDCL 9-13-29 to 35)

### **Who can be recalled?**

In any municipality, with or without a city manager, the mayor, any city commissioner, any alderman, or any member of the board of trustees may be removed from office at any time by the voters qualified to vote for a successor. (SDCL 9-13-29)

### **Voter(s) submit petition for recall**

- 15% of the registered voters of the municipality based upon the total number of registered voters at the last general election. (SDCL 9-13-30)
- Must list grounds for removal.
- The allowable grounds for removal are: misconduct, malfeasance, nonfeasance, crimes in office, drunkenness, gross incompetency, corruption, theft, oppression, or gross partiality.
- The petition shall contain a specific statement of the grounds on which removal is sought.
- Petition found in ARSD 5:02:08:17.
- No signature on a petition is valid if signed more than sixty days before the filing of the petitions.
- Voter(s) need to have someone lined up to run against the incumbent.

### **Set election date**

- Within 10 days of the presentation of the petition to the governing body an election date must be set for not less than 30 nor more than 50 days on a Tuesday (in order to meet all the publication requirements we encourage the governing board to set the date for at least 40 days out).
- *If a petition is filed on or after January first* prior to the annual municipal election and within sufficient time to comply with the notice provisions of SDCL 9-13-14, the question of a successor shall be submitted at that annual election (follow annual election procedures for notices and deadlines). (SDCL 9-13-31)
- Any mayor, commissioner, alderman, or trustee sought to be removed may be a candidate to succeed himself or herself and, unless the incumbent requests otherwise in writing, the auditor shall place the incumbent's name on the official ballot without nomination. The auditor shall also place on the official ballot the name of any other candidate nominated as provided in this chapter. **If no other candidate is nominated for the position, no recall election may be held, and the incumbent shall remain in office.**
  - Any secondary election required shall be conducted as provided by this chapter.

*The information below applies if the governing board sets a **Special Election date for 40 days** from the presentation of the petition **and they will be utilizing a hand counted paper ballot (optical scan ballots), call Secretary of State office.***

### **Notice of Vacancy**

- If you have a weekly paper, you will need to get this submitted for publication the **week prior to petition circulation.**

### **Nominating petition circulation begins**

- 40 days before special election date (*suggested date to begin circulation, nothing in statute specifically states this*).
- The Notice of Vacancy would need to be published the same week nominating petition circulation begins.
- Petition format found in ARSD 05:02:08:13.

### **Notice of vacancy which may occur due to filing of recall petitions**

- Publish twice – once the week nominating petition circulation begins and again the following week.
- Vacancy notice found in ARSD 5:02:04:10.

### **Nominating Petition Filing deadline**

- 20 days before special election date (*suggested deadline date; nothing in statute specifically states this*).

### **Registration deadline notice**

- Publish once each week for two consecutive weeks. Last notice 10-15 days before registration deadline (SDCL 12-4-5.2).
- Registration notice found in ARSD 5:02:04:04.

### **Registration deadline**

- 15 days before election (SDCL 12-4-5).

### **Absentee ballots**

- Absentee ballots must be available no later than fifteen days prior to the election (SDCL 9-13-21).

### **Notice of recall election**

- Publish once each week for two consecutive weeks (SDCL 9-13-13). First notice not less than 10 days before the election and the second notice the week before the election.
- Notice of Recall election found in ARSD 5:02:04:11.

### **Facsimile Ballot**

- Publish in the calendar week prior to the election (SDCL 9-13-13).

### **Ballot format**

- Use ballot format as set out in ARSD 5:02:06:12.

### **Newspapers**

- Ensure that for all of your publications you are receiving confirmation from the newspaper that everything is being timely published. Have email confirmation backup and call if needed.

### **Other items to note**

- If the incumbent shall be elected, he shall continue in office and not be obliged again to qualify. (SDCL 9-13-33)
- If some person other than the incumbent is elected, the incumbent shall be deemed removed from office upon or at the expiration of the time for qualification of his successor. The successor shall qualify within ten days after receiving notification of his election, and in case of his failure to qualify, the office shall be deemed vacant. (SDCL 9-13-34)
- The successor of any removed mayor, commissioner, alderman, or trustee shall hold office during the remainder of the predecessor's unexpired term. (SDCL 9-13-35)