

CITY COUNCIL REPORT

DATE: February 27, 2019

TO: Mayor and Councilmembers, Department Directors, City Manager

FROM: Brenda Aguilar, City Clerk; Jerene Watson, Interim City Manager

CC: Department Directors

SUBJECT: RESPONSE TO A REQUEST FOR INFORMATION ON THE RECALL ELECTION PROTOCOLS AND GUIDELINES

The report is in response to a question from Councilmember Morales regarding the information that is provided to citizens who get packets for recalls.

DISCUSSION:

Communities across our state are guided by state law when it comes to elections, and special or recall elections have their own set of rules. City Clerks are trained through the League of Arizona Cities and Towns on the best way to assist citizens who ask for the information that comes with packets and instructions on proper circulation.

In Douglas as many cities across this state, there is a large binder of information that is provided to residents, which requires extensive reading to pick up on all the legal requirements that come with their effort. There have been actual incidents of helpful city clerks who have gotten into trouble by trying to assist citizens rather than leaving the responsibility for doing it correctly up to the petitioner.

The authority for recall elections is granted by the State and may be found in the Arizona Revised Statute, which includes the time lines as noted below. There is a reference in the last bullet point to consolidated election dates, which were prescribed by the Legislature a number of years ago. Today all cities must comply, holding elections of all types on one of 4 state-established election dates: March election (on 2nd Tuesday), May election (on third Tuesday), August election (on the 10th Tuesday before the 1st Tuesday after the first Monday in November), or a November election (1st Tuesday after the 1st Monday). Whew! You can see why Clerks are going to rely on the state definitions and prescribed process.

19-202. [Recall petition; limitations; subsequent petition](#)

A. A recall petition shall not be circulated against any officer until the officer has held office for six months, except that a petition may be filed against a member of the legislature at any time after five days from the beginning of the first session after the member's election. The commencement of a subsequent term in the same office does not renew the six month period delaying the circulation of a recall petition.

B. After one recall petition and election, 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 petition first, at the time of application for the subsequent recall petition, pay into the public treasury from which such election expenses were paid all expenses of the preceding election.

- 120 days - to file petitions after an Application for Recall Petition Serial Number has been submitted to the Clerk.
- Within 10 days – after receipt of petitions, the Clerk must follow the same steps as outlined for initial review for initiative and referendum, each signature must be checked.
- 60 days – if there are sufficient signatures for verification, the Cochise County Recorder's Office has 60 days after receipt of the signature sheets to check the signatures.
- 5 days – once the recorder certifies the number of valid signatures the clerk has 5 days to determine whether or not there are sufficient verified signature to qualify for the recall. If there are sufficient signatures the clerk must officially file the petition and notify the mayor that a recall will be placed on the ballot. If there are not sufficient signatures, the petitions are returned to those submitting them along with a notice of why the petitions were not sufficient.
- Within 48 hours after the official filing, notification must be provided to the officer being recalled. The officer has 10 days to file a statement of not more than 200 words defending their official conduct and will be printed on the ballot.
- If the officer does not resign within five days from the date of filing excluding Saturdays, Sundays, or other holidays, the city or town council must call an election within 15 days from the date of the filing. The election must be held on the next consolidated election that is ninety days or more (A.R.S. 19-209) after the call, except that a 120 days-notice (A.R.S. 16-226) must be provided to the county.

Two points need to be understood when reading the state statute language above: (1) a citizen submitting or filing petitions with the City Clerk is not the same as the certified filing of petitions by a City Clerk in order to establish that the proper process has been followed to call the election; (2) the point in time when the clock starts ticking for "calling an election within 15 days from the date of filing" **starts after** the 60 days of the County process and then it comes to our City Clerk to formally file, certifying there are enough valid signatures to move forward with an election.

RECOMMENDATION / CONCLUSION:

This report is for information only.