

ARTICLE IX. REMOVAL OF ELECTIVE AND APPOINTIVE OFFICERS

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CHAPTER 1. RECALL OF MAYOR AND OTHER ELECTIVE OFFICERS

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§ 9.9-100. Officers Subject to Recall.

Any person holding an elective office of the City, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided in this chapter.

NOTES

Sources: See Charter of the City of Los Angeles (Annot. Ed., 1948) Section 290.

Purposes: 1. The power is vested in the electorate to recall officials elected by them so that such officials may be directly responsible for their behavior in office to the electorate. The Charter vests responsibilities of great magnitude in the Mayor, the City Controller and Councilmen. The electorate is entitled to expect the proper discharge of those responsibilities and in accordance with promises made when office was sought, barring changes in circumstances which justify other courses of action. The power of the electorate to recall should serve as a spur to elected officials to be faithful to this trust. It is also intended to serve as an expeditious and effective means for removing from office an elected official who has failed to sustain such trust. Cf. the impeachment procedure under the Act of June 25, 1919, P. L. 581, Article IV, Section 9 and the experience thereunder.

2. While no charges are required to be lodged formally against an elected official to subject him to a recall election, it is anticipated on the basis of experience in other jurisdictions having the recall, that the electorate will exercise its power to recall wisely, for good reasons and in accordance with the purposes and spirit of the recall.

3. Elected officials subject to recall are the Mayor, the City Controller, the City Treasurer and Councilmen.

4. Officials holding an elective office are subject to recall regardless of the manner in which they were designated to hold office.

§ 9.9-101. Recall Procedure.

(1) A recall of an incumbent of an elective office shall be initiated upon petition signed by registered electors. In the case of an elective office to which a candidate is elected from the City at large, the petition shall contain signatures

equal in number to at least twenty-five percent of the vote cast for the office of Mayor at the last preceding mayoralty election but signatures from any one ward in excess of one-fifth of the total number required on a petition shall not be counted. In the case of an elective office to which a candidate is elected from a district of the City, the petition shall contain signatures of registered electors in the district equal in number to at least twenty-five percent of the vote cast for the office at the last election. Every recall petition shall name the officer against whom it is directed.

(2) Each elector signing a recall petition shall add to his signature his occupation, his residence, stating the ward, and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the City, or of the district, as the case may be, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.

(3) A recall petition shall be tendered for filing to the board of elections having jurisdiction over elections in the City. Such board shall examine it to see whether it contains a sufficient number of apparently genuine signatures. The board may question the genuineness of any signature or signatures appearing on the recall petition and if it shall find that any such signature or signatures are not genuine, it shall disregard them in determining whether the petition contains a sufficient number of signatures. It shall also disregard any signature dated more than sixty days before the date the petition was tendered for filing. The board shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of any sheet of the petition shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating such an invalid sheet. The board shall complete its examination of the petition within fifteen days and shall thereupon file the petition if valid or reject it if invalid.

NOTES

Sources: See Charter of the City of Los Angeles (Annot. Ed., 1948) Section 290 (a) and (b); Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders Article III, Sections 2-6; Act of April 21, 1949, P. L. 665, Section 6.

Purposes: 1. A recall is initiated by petition containing the number of signatures of registered electors specified in this section.

2. In the case of an office to which a candidate is elected by voters from the entire City, all registered voters of the City may sign recall petitions. To prevent frivolous resort to the recall and to limit the recall to cases where its basis will be of such merit as to call forth the support of substantial numbers of the citizenry, signatures equal in number to twenty-five percent of the vote cast for the office of Mayor at the last preceding mayoralty election are required in the case of an elective office at large. Signatures from any one ward in excess of one-fifth of the number required on a petition are not to be counted in arriving at the total required so that the recall petition will not be the product of sectional interests or efforts. Thus, if in the 1951 mayoralty election 400,000 votes are cast, 100,000 signatures will be required on a recall petition directed against a Mayor or a Councilman-at-

large in 1953. Should there be 25,000 signatures of voters in the 22nd ward on the petition, only 20,000 will be counted in arriving at the required 100,000 signatures.

3. In the case of a district councilmanic office, only the voters of the district in question are qualified to initiate a recall and the petition must contain signatures equal in number to at least twenty-five percent of the vote cast for that office at the last election.

4. Standards to safeguard the authenticity of recall petitions are set forth in this section. Petitions are to be tendered for filing with the board of elections having jurisdiction over elections in the City and such board is empowered to pass upon the validity of the petition. Signatures dated more than sixty days before a petition is tendered for filing are to be disregarded in order to prevent any practice of accumulating signatures over an indefinite period of time until the required number is met. The recall presupposes a crystallization of popular opinion because of the behavior in office of an elected official. Most persons signing a petition would intend their signatures to be effective within a reasonable time and not at some indeterminate future date when they may no longer have any grievances.

§ 9.9-102. Notice to Incumbent.

As soon as the board having jurisdiction over elections in the City has accepted a recall petition for filing, the chairman of the board shall notify the incumbent named in the petition that the petition has been filed. Upon receipt of such notice the incumbent may resign from his office and thereupon the recall proceedings shall terminate.

NOTES

Sources: See Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders, Section 6.

Purposes: An incumbent against whom a recall petition is directed may resign from office. In that event a recall election is unnecessary. See also Section 9-103(1).

§ 9.9-103. Recall Elections.

(1) If the incumbent against whom a recall petition is directed does not resign from his office within ten days after notice of the filing of such petition shall have been given to him, the board having jurisdiction over elections in the City shall arrange a recall election. If a regular or special election is to be held not less than thirty days nor more than ninety days after the ten days have expired, the recall question shall be placed before the electors at such an election. Otherwise a special recall election shall be fixed for a date not earlier than thirty days nor later than ninety days after the ten days have expired. The incumbent against whom a recall petition is directed may resign at any time prior to the recall election and thereupon the election shall not be held.

(2) The following question shall be presented to each elector in a recall election:—, “Shall (name of officer) be recalled and removed from the office of (name of office)?” The above question shall appear as to every officer whose recall is to be voted upon and provision shall be made for the elector to vote “Yes” or “No” on the question.

(3) If a majority of the registered electors who vote on the question at a recall election shall vote “Yes”, the incumbent shall be deemed recalled and removed from office, but if a majority of the registered electors shall vote “No”, he shall remain in office.

NOTES

Sources: See Charter of the City of Los Angeles (Annot. Ed., 1948) Sections 290(c) and 291; Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders, Sections 6 and 7.

Purposes: 1. Should an incumbent against whom a recall petition is directed fail to resign from office upon notice of the filing of a recall petition against him (see Section 9-102), the board of elections is directed to arrange for a recall election.

2. The time limits fixed are such as to permit a minimum reasonable time for a recall campaign and a maximum period of ninety days for holding the election so that the affairs of the City will not suffer from a longer postponement of the time for resolving the issue.

3. The recall question is stated in such form as to permit the use of voting machines at a recall election.

4. If a majority of registered electors vote “Yes” at a recall election, the office in question is to be deemed vacated forthwith. If a majority vote “No”, the officer continues in office as therefor.

§ 9.9-104. Disqualification for Office.

No person who has been removed from an elective office by a recall election or who has resigned from such an office after a recall petition directed to him has been filed, shall be eligible for election or appointment to any office of the City within two years after his removal or resignation.

NOTES

Sources: Charter of the City of Los Angeles (Annot. Ed., 1948) Section 294.

Purposes: Recall from office presupposes a failure to sustain the confidence of the electorate. Hence, reasonable limitations are imposed against an official removed as a result of a recall proceeding whether by a recall election or resignation, from being eligible for other City elective or appointive offices for a two-year period.

§ 9.9-105. Limitations.

No recall petition shall be filed against any incumbent of an elective office within the first year or the last six months of the term of his office or within six months after an unsuccessful recall election against him but an officer who has been reelected for a successive term shall be subject to recall also during the first year of such term.

NOTES

Sources: See Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders, Section 9.

Purposes: 1. An elected official should be afforded a reasonable period of time after election to office to establish a performance record. Thus no recall petition may be filed during the first year of office. This limitation does not apply to the first year of a term of office to which a person is reelected when the new term immediately follows the preceeding one.

2. A recall election during the last six months of a term of office is a fruitless procedure, for the incumbent, should he wish to remain in office, would within six months or less have to seek reelection in any event.

3. The recall is not intended as a means for harassing elected officials. Thus if a recall election fails, no petition for recall may be filed until six months have expired since such an election.

CHAPTER 2. REMOVAL OF APPOINTIVE OFFICERS

Sec.

9.9-200. In General.

9.9-201. Managing Director.

9.9-202. Civil Service Commissioners.

§ 9.9-200. In General.

Except as herein specifically provided, any appointed officer may be removed at the pleasure of the appointing power.

NOTES

Sources: Constitution of the Commonwealth of Pennsylvania, Article 6, Section 4.

Purposes: Effective administration requires as a rule that the appointing power be able to remove officers at pleasure, subject to his answering to his superiors or to the electorate.

§ 9.9-201. Managing Director.

The Managing Director may be removed by the Mayor. If the Mayor removes the Managing Director, he shall specify in writing and in detail his reasons for doing so and shall cause this specification to be served upon the Managing Director. The Managing Director may, within ten days after receipt of such specification, file with the Civil Service Commission a request for a public hearing before it, and thereupon the Civil Service Commission shall promptly afford him such a hearing. If the Civil Service Commission finds the Mayor's charges well founded and a sufficient cause for dismissal, that shall be the end of the matter, but if the Commission shall find that the charges were not well founded or that they do not constitute a sufficient cause for dismissal, the Commission may award to the Managing Director his salary for the balance of his term or such part thereof as it deems appropriate, and the Council shall promptly make an appropriation out of which the award can be paid.

NOTES

Sources: No specific source.

Purposes: The office of Managing Director is one of the most important new offices created by this Charter. See Article V, Chapter 1. The nature of the duties to be performed by this officer are such as to make desirable his having some measure of independence and freedom from unwarranted pressures from the Mayor himself. Yet so fundamental is the necessity for maintaining in the Mayor the power to remove that such power must be preserved even as to this office. See Annotation to Section 9-200. One more consideration enters: it is that of being able to attract to the office of Managing Director an individual of experience and ability. This section seeks to balance these conflicting considerations. The power of the Mayor to discharge is preserved but he does so at the risk of the Civil Service Commission finding his action unfounded and without sufficient cause, a factor that might well be grounds for a recall proceeding. Nevertheless, to assure administrative harmony the dismissal stands but the Managing Director may be awarded all or part of his salary for the balance of his term. The latter is intended to afford a measure of security, financially, to an experienced and able governmental or business official requested to assume the office of Managing Director and to leave his then position and employment. If the Civil Service Commission finds the Mayor's action well founded and sufficient cause for dismissal, no reason exists for awarding any salary for the balance of the term or any part of it. See generally Annotation to Section 3-403.

§ 9.9-202. Civil Service Commissioners.

A member of the Civil Service Commission may be removed by the Mayor only for cause. If the Mayor removes him, the Mayor shall state in writing and in detail his reasons for doing so. Thereupon, the Commissioner may request a public hearing before the Mayor, which shall be afforded to him. A record of the hearing shall be made, and a copy of the charges and of the transcript of the record of the hearing shall be filed with the chief clerk of the Council.

NOTES

Sources: A Model State Civil Service Law, Section 4(c).

Purposes: See Annotation to Section 9-201 which involves comparable considerations. However, no reason exists in the case of Civil Service Commissioners for an award of salary for the balance of a term.

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