

9-13-29. Municipal officers subject to recall.

In any municipality, with or without a city manager, the mayor, any 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 as provided in §§ 9-13-30 to 9-13-32, inclusive.

Source: SL 1913, ch 119, § 15; RC 1919, § 6332; SL 1935, ch 158, § 9; SL 1937, ch 176, § 1; SDC 1939, § 45.1325; SL 1963, ch 280; SL 2009, ch 34, § 1.

9-13-30. Petition for recall--Number of signatures--Grounds--Time limits--Challenge to petition.

A petition signed by fifteen percent of the registered voters of the municipality, based upon the total number of registered voters at the last preceding general election, demanding the election of a successor to the mayor, commissioner, alderman, or trustee sought to be removed shall be filed with the finance officer and presented by the finance officer to the governing body. 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. The form for the municipal recall petition shall be prescribed by the state Board of Elections pursuant to chapter 1-26. No signature on a petition is valid if signed more than sixty days before the filing of the petitions. When a petition to recall is filed with the finance officer, the finance officer shall present the petition to the governing body at its next meeting. Only the petition signatures may be challenged in the manner established in §§ 12-1-13 to 12-1-16, inclusive. A failure to challenge petition signatures pursuant to §§ 12-1-13 to 12-1-16, inclusive, does not prohibit an interested person from challenging the filing of the recall petition or the sufficiency of the specific statement of the grounds of the recall petition.

A challenge to the recall petition regarding the specific statement of the grounds of the recall petition must be filed in circuit court within five business days of the filing of the recall petition. The circuit court shall conduct an expedited declaratory judgment hearing with no right to trial by jury.

Source: SDC 1939, § 45.1325; SL 1963, ch 280; SL 1968, ch 184; SL 1979, ch 50, § 6; SL 1983, ch 52, § 6; SL 1987, ch 67, § 13; SL 1992, ch 60, § 2; SL 1997, ch 48, § 1; SL 2009, ch 34, § 2; SL 2016, ch 49, § 1.

9-13-31. Special or annual election--Notice.

The governing body shall, within ten days of presentation, order and fix a date for holding a special election, to be on a Tuesday not less than thirty nor more than fifty days from the date of the order of the governing body. If a petition is filed after December thirty-first before the annual municipal election and within sufficient time to comply with the provisions of § 9-13-14, the question of a successor shall be submitted at that annual election.

The governing body shall have a notice of election published in the same manner as provided in § 9-13-13.

Source: SL 1913, ch 119, § 15; RC 1919, § 6332; SL 1937, ch 176, § 1; SDC 1939, § 45.1325; SL 1963, ch 280; SL 1977, ch 68, § 7; SL 1983, ch 53, § 5; SL 2016, ch 49, § 2.

9-13-32. Recall election--Incumbent--Other candidates--Runoff.

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 runoff election required shall be conducted as provided by this chapter.

Source: SL 1913, ch 119, § 15; RC 1919, § 6332; SL 1937, ch 176, § 1; SDC 1939, § 45.1325; SL 1963, ch 280; SL 2009, ch 34, § 3; SL 2021, ch 40, § 4.

9-13-33. Continuation of incumbent in office if re-elected.

If the incumbent shall be elected, he shall continue in office and not be obliged again to qualify.

Source: SL 1913, ch 119, § 15; RC 1919, § 6332; SL 1937, ch 176, § 1; SDC 1939, § 45.1325; SL 1963, ch 280.

9-13-34. Removal of incumbent from office by election of another at recall--Qualification of successor.

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.

Source: SL 1913, ch 119, § 15; RC 1919, § 6332; SL 1937, ch 176, § 1; SDC 1939, § 45.1325; SL 1963, ch 280.

9-13-35. Term of office of successor elected at recall election.

The successor of any removed mayor, commissioner, alderman, or trustee shall hold office during the remainder of the predecessor's unexpired term.

Source: SL 1913, ch 119, § 15; RC 1919, § 6332; SL 1937, ch 176, § 1; SDC 1939, § 45.1325; SL 1963, ch 280; SL 2009, ch 34, § 4.