



CITY OF EDINBURG RECALL ELECTION GUIDE

The City of Edinburg intends for this guide to provide an overview of the recall election process and to call certain specific requirements and laws to attention. This guide is not legal advice. Both city law and state law cover a variety of requirements with respect to the recall process. Some of these requirements may result in criminal and/or civil liability if not followed. The City highly recommends that you consult an attorney before gathering signatures so that you can understand your obligations and responsibilities when gathering signatures and submitting the recall petition.

What is a Recall?

A recall is when a voter of the City of Edinburg petitions the City Secretary to demand an officer be recalled based on a statement of grounds by the voter. The City of Edinburg's charter allows for any elected official to be removed by recall. This recall provision was part of the original home-rule charter, which the City adopted in 1949. An affidavit for a recall petition identifying the elected official sought to be removed and a statement of the grounds for removal must be filed with the City Secretary before circulation of a petition.

GETTING STARTED

Submitting an Affidavit

To begin the recall process, a voter must file an affidavit with the City Secretary's office. The affidavit must have two pieces of information: (1) it must name the elected official or officials whose removal is sought and (2) it must state the grounds for removal. City Charter, Art. XIII, Sec. 1.

The City Secretary's Office will review the affidavit for completeness before accepting it. If the affidavit is not signed, does not identify the elected official or officials sought to be removed, or does not include a statement of the grounds for removal, the affidavit cannot be accepted. If accepted, the affidavit will be date stamped and a copy given to the person who submitted the affidavit. The copy acts as a receipt of the application. Note, however, that the City may further determine that the affidavit lacks required information. The City will make all reasonable effort to do so within 1 business day of receiving the petition and contact the requestor to inform him or her that the affidavit is invalid.

PETITIONS

After accepting the affidavit and providing a date-stamped copy, the City Secretary's office will provide "Petition Blanks" to the requestor. These Petition Blanks are the official forms on which signatures must be gathered. The form of the Petition Blanks has been approved by the City Council, and the information sought is required by State law and the City Charter.

Before issuing the Petition Blanks, the City Secretary must sign, date, and apply a seal to each blank petition. Petition Blanks that are not signed by the City Secretary, do not list the date issued, and/or do not have the City Secretary's seal will not be accepted upon submission after gathering signatures. It is the requestor's responsibility to ensure that each page used to gather signatures contains these required elements.

Petition Format

The face of all recall petitions received from the City Secretary should be complete prior to circulating.

- The name of the Circulator in the upper right hand corner.
- The names and address of the place of residence for each of the five members of the Committee of the Petitioner.
- The name of the elected official sought to be removed in the blank above and to the right of the signature chart.

The form should be printed in black on white or recycled white legal size (8 ½" x 14") paper. Signatures are limited to 10 per sheet.

The petition contains the text of the affidavit required by the City Charter. Each required part of the affidavit must be completed or the entire page will be **eliminated**. City Charter, Art. XVI, Sec. 2.

Number of Required Signatures

The number of signatures required for initiatives is outlined in the City Charter. It states as follows:

The recall petition to be effective must be returned and filed with the city secretary within thirty (30) days after the filing of the affidavit, and it must bear the signature of the voters of the city to the number of at least twenty five (25) per cent of the number of voters who cast their votes at last preceding regular municipal election

City Charter, Art. XIII, Sec. 1. Accordingly, a recall request is effective only if 25% of people who voted in the last preceding regular city election sign the petition. **Signatures of persons who did not vote in the preceding regular election will not count towards the number of required signatures.**

Circulators

Per Article XVI of the City Charter, only 5 persons can gather the required number of signatures. These 5 people make up the petitioner committee, and the names and addresses of these persons must appear on each page submitted to the City. City Charter, Art. XVI, Sec. 1. Each Petition Blank submitted to the City must indicate on it which of the 5 gathered the signatures on that page, and that person must complete the affidavit on each page.

Each member of the petitioner committee must be a voter of the City (i.e. someone who has voted in Edinburg elections and is then-currently registered to vote in Edinburg). Because the petitioner committee is responsible for circulating the petition pages, and because each member as a circulator must sign the required affidavit, it is crucial that the committee members be familiar with the Charter and state law requirements. The affidavit that they must sign after gathering signatures expressly notes that any false statement is punishable by law.

Withdrawal of Signatures

Upon discovery of any errors, or upon suspecting any errors, among the signatures gathered, a circulator cannot simply remove or strike those signatures. Under state law, only the signator can remove or request that his or her name be stricken from a petition. Tex. Elections Code § 277.0022. To request removal, a signator must mail an affidavit to the City Secretary requesting that his or her name be removed. The request must be received prior to the City's receipt of the recall petition to nullify any criminal or civil effect of any false statement. Withdrawn signatures are not counted in determining the legal sufficiency of the petition.

SUBMITTING CIRCULATED PETITIONS

After collecting signatures, the petitioner committee may start organizing the petitions in preparation for submitting them to the City Secretary. Petitions filed in an organized manner assist the City Secretary's office in processing the petitions more efficiently and expediently.

Here are some helpful ways to organize before submitting petitions:

- Sort the petitions by the numbered page in the top right corner.
- Avoid writing on the petition sheets in any part that does not require information. Specifically, avoid writing in the upper left and right hand corners. The upper corners are areas of the petitions that the City Secretary will use.

- Communicate with the City Secretary’s office regarding the committee’s progress, particularly with regard to an approximate date of when the committee anticipates submitting the petitions.
- The committee should prepare an estimation of how many petition sheets and signatures it is submitting.

Deadline to Submit Petitions

The deadline to submit recall petitions is 30 days from the day the affidavit invoking a recall was submitted to the City Secretary. Note that even if you did not receive blank petition forms the same day that you submitted an affidavit, the deadline remains 30 days from the date the affidavit was submitted. In addition, the 30 day deadline applies regardless of the day of the week on which the date falls. If 30 days after affidavit submission is a Sunday, you likely will not be able to submit the recall petition on the 30th day without making arrangements in advance with the City Secretary’s office. It is your responsibility to plan accordingly to ensure the recall petition is timely submitted.

PROCESSING OF PETITIONS

City Secretary Processes

The City Secretary has **10 days** to process the petitions and determine whether a sufficient number of signatures have been submitted. The City Secretary will review each page to determine that all information required by the Charter is included. The City Secretary will also review each signature to determine whether any deficiencies are present, such as listed information that does not match voter registration information.

Removal of Petition Sheets

The City Secretary will disqualify petition sheets (and all signatures within them) as follows:

- Sheets not attached to the petition packet when submitted to the City Secretary’s office.
- Sheets that do not have the City Secretary’s signature or seal in the lower right-hand corner on the face of the sheet.
- Sheets that do not have the page number in the designated space on the top right of the sheet.
- Sheets that are missing the name and address of the members of the committee of the petitioner.
- Sheets where the circulator’s affidavit is not complete or signed.
- Sheets where the circulator’s affidavit is:
 - Not notarized.
 - The Notary’s signature is missing.
 - The Notary’s seal is missing.

- The Notary's commission has expired.
- Subscribed and sworn to prior to gathering signatures on the front of the petition sheets.
- Sheets that are circulated by a person that is not a member of the petitioner committee. City Charter Art. XVI, Sec. 1.

Removal of Signature Lines

The City Secretary will disqualify signature lines as follows:

- Signatures of persons not living in or registered to vote in Edinburg
- If the signature of the qualified voter is missing.
- If any part of the address for the place of residence is missing.
- If the address for the place of residence does not match the address listed in voter registration records.
- If the Date of Birth or Voter Registration Number does not match the information listed in voter registration records.
- If the date on which the petition signed is missing.
- Signatures in excess of the ten signatures permitted per petition sheet.
- Signatures withdrawn as described in **Withdrawal of Signatures** above.

Signature Counts

After the removal of petition sheets and signature lines, the City Secretary counts the number of remaining signatures for verification on each remaining petition sheet and notes the number of signatures in the upper right hand corner.

The City Secretary also marks the signature lines and sheets that have been disqualified.

Certification of Results and Supplementary Petition

The remaining signatures are totaled to determine whether the number equals or exceeds the minimum amount required by the City Charter. The City Secretary must certify the result of the examination of the documents to the City Council.

If the packet is found insufficient, the City Secretary must identify what is defective and notify the Petitioner Committee of the findings. The Committee then has 10 days to amend the recall petition by filing a supplementary petition that must be signed and filed the same as an original petition. City Charter Art. XVI, Sec. 3.

PENALTIES

Signing Petition for Profit

It is a crime for any person to knowingly give or receive money or any other thing of value for signing a petition.

Unlawful Acts

It is a crime for any person:

- To knowingly sign your name more than once on the same recall petition.
- Who is not a qualified voter of the City at the time of signing the petition.
- Knowingly coerces any other person by menace or threat to sign or refrain from signing.

Petition Signature Fraud

A person commits petition signature fraud if the person does either of the following:

- Collects signatures with the knowledge that the person whose name appears on the signature sheet did not actually sign the petition.
- Uses any fraudulent means, method, trick, device or artifice to obtain signatures on a petition.