ARTICLE I. - IN GENERAL

Sec. 30-1. - Election codes adopted.

The city adopts as a primary code by reference the Colorado Municipal Election Code of 1965 (C.R.S. § 31-10-101 et seq.) and as it may be amended from time-to-time. In accordance with the provisions of C.R.S. § 31-10-102.7, the city hereby adopts the Uniform Election Code of 1992, as amended, in lieu of the Colorado Municipal Election Code of 1965 for the purpose of participating in any coordinated election with the counties of Adams and Jefferson which are conducted by the county clerk and recorder. The city adopts as a primary code by reference the Mail Ballot Election Act (C.R.S. § 1-7.5-101 et seq.), as it may be amended from time-to-time, for the purpose of conducting mail ballot elections. The city clerk shall not be required to obtain approval from the Secretary of State of the mail ballot plan. Nothing in this section shall prohibit the city from conducting a regular municipal election which is not part of a coordinated election, a special municipal election, or mail ballot election and such elections shall be conducted in accordance with the Colorado Municipal Election Code of 1965.

(Code 1981. § 11-1; Ord. No. 3511, § 2. 2-1-1999; Ord. No. 4400. § 1. 8-19-2013)

Sec. 30-2. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ballot issue means a nonrecall, citizen-initiated petition, or legislatively referred measure which is authorized by the State Constitution, including a proposition which is in the form of a question meeting the requirements of section 20(3)(c) of Article X of the State Constitution, (Taxpayer's Bill of Rights).

Ballot question means a proposition which is in the form of a question other than a ballot issue.

Ballot title means the language which is printed on the ballot which is comprised of the submission clause and the title.

Business day means any normal day of business, excluding Saturdays, Sundays, and city holidays. Each business day begins at 8:00 a.m. and closes at 5:00 p.m.

Certificate of sufficiency means a designation made by the city clerk as to the sufficiency or insufficiency of a petition submitted by the electorate for purposes of proposing or referring municipal legislation.

Circulator means a person who circulates a petition in an attempt to obtain signatures from qualified registered electors.

City clerk means the City Clerk of the City of Arvada or the city clerk's designee.
Initiative means the right of the people to initiate municipal legislation by enactment of an ordinance by the city council or the general electorate.

Notarization and notarized mean the act of attesting to or authenticating a signature by someone legally empowered to witness and certify documents.

Referendum means the right of the people, within 30 calendar days from the effective date of the ordinance pursuant to section 5.14(a) of the Charter, to require the city council to reconsider an ordinance or submit it to the general electorate for a vote.

Registered elector means a person legally registered to vote in a municipal election of the city. A person shall be deemed to be a registered elector if the person’s name and address matches the name and address for the person on the current registration list at the appropriate county clerk and recorder’s office.

Regular municipal election means the municipal election held every two years on the first Tuesday of November in odd-numbered years. For purposes of this definition, the term general municipal election as it is used in various sections of the Arvada City Charter shall be deemed to be interchangeable with and to mean the same as the term regular municipal election.

Special municipal election means any election other than a regular municipal election.

Submission clause means the language which is attached to the ballot title to form a question which can be answered by "yes" or "no."


Cross reference—Definitions, § 1-2.

Sec. 30-3. - Violations; civil penalty.

(a) Any person or entity that is deemed to have allegedly violated any provisions of this chapter shall be subject to being issued a written notice of violation and order to show cause why such person or entity shall not be subject to a civil penalty and/or order.

(b) Upon receipt of a written complaint alleging a violation of this chapter or upon the city clerk's own written complaint, the city clerk shall meet with the city attorney to confer. In the event a determination is made that a notice of violation and order to show cause pursuant to this section should be issued by the city clerk, which notice and order to show cause shall be mailed via regular mail and e-mail to such person or entity.

(c) The administrative hearing shall comply with the procedures set forth in division 3 of chapter 2 of the Arvada City Code entitled administrative hearings.

(d) A hearing date shall be set within a reasonable time from the date upon which the hearing officer is appointed by the city manager, but in no instance shall such hearing be set more than 60 calendar days unless another provision within this chapter conflicts with this provision and in such event, the conflicting provision which states a different time period shall apply.

(e) The civil penalty and/or order of the hearing officer shall be in addition to whatever penalties are provided for in C.R.S. § 31-10-1504 and/or the provisions of the Fair Campaign Practices Act C.R.S. 1-45-101 et seq., as amended.

(f) The decision of the hearing officer shall be final and subject to review by the Jefferson County District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.


Sec. 30-4. - Voting districts and precincts.
(a) The boundaries of the districts of the City of Arvada are hereby changed so that each of the districts of the city shall consist of and contain the general election precincts listed below the number of each district of the city on Exhibit "A" attached hereto and made a part hereof by this reference; provided, however, that no portion of any general election precinct lying outside of the boundaries of the City of Arvada shall constitute a part of any district of the city. The official legal boundaries of the districts are set forth in a detailed map which is on file in the city clerk's office and is available for public inspection during regular office hours. The official map is marked Exhibit "B" and made a part hereof by this reference.

(b) The city council hereby finds and determines that the districts consist of the general precincts as provided for herein are as compact and as equal in population as is practicable, taking into consideration the boundaries, nature, and characteristics of the City of Arvada.

(Code 1981, § 11-4; Ord. No. 3511, § 2, 2-1-1999; Ord. No. 3527, § 1, 4-19-1999, Ord. No. 4377, §§ 1, 2, 3-4-2013)

Sec. 30-5. - Annexed lands.

Any area annexed to the city in the future shall be automatically considered as a part of the council district and voting precinct of which it is a part by extension of district and precinct boundaries in a straight line.


Charter reference— Authority for above section, § 4.1.1.

Sec. 30-6. - Boundary changes.

Changes in voting precincts or voting districts or the establishment of new voting districts or voting precincts shall be completed not less than 90 days prior to any regular or special municipal election.


Sec. 30-7. - Limitations on contributions and contributions in kind.

(a) No person or entity shall make contributions or contributions in kind as those terms are defined in C.R.S. § 1-45-103(4), as amended, to a candidate (mayor, at large, or district) or candidate committee which, in the aggregate, exceed $750.00 for mayoral and at large or $500.00 for district in amount or value.

(b) The limitation imposed by subsection (a) of this section shall not apply to:

(1) Contributions of a candidate's personal funds, the funds of the candidate's immediate family, or a business entity in which the candidate owns at least five percent to the candidate's own campaign; or

(2) Any loan which is personally guaranteed in writing by the candidate, the candidate's immediate family, or a business entity in which the candidate owns at least five percent; or

(3) Any loan which is secured by real or personal property owned by the candidate, the candidate's immediate family, or a business entity in which the candidate owns at least five percent.

For purpose of this section, the term "immediate family" shall include spouse, child, parent, or sibling whether by blood, adoption, marriage, or common-law marriage.

(c) The limitation imposed by subsection (a) of this section shall apply only to regular municipal and special elections.

(d) The limitation imposed by subsection (a) of this section shall apply only to contributions or contributions in kind made directly to the candidate or candidate committee in a municipal election.
(e) There shall be no violation of this article in the event that a:

1. Monetary contribution, in excess of the amount set forth in section 30-7, is returned to the contributor as set forth in section 30-8

2. Candidate uses good faith in attempting to place a reasonable estimate of fair market value on a contribution in kind in excess of the amount set forth in section 30-7, and the value of such excess contribution in kind or the actual excess contribution in kind is returned to the contributor as set forth in section 30-8

(Code 1981, § 11-7; Ord. No. 3511, § 2, 2-1-1999)

Sec. 30-8. - Return of excess monetary contributions and contributions in kind.

(a) For purposes of this section, the term "receipt" shall mean the date upon which the candidate knows or reasonably should know that an excess monetary contribution or contribution in kind has been received.

(b) In the event a candidate receives monetary contributions or contributions in kind which exceeds the aggregate limit set forth in section 30-7, such candidate shall make a good faith attempt to return the excess amount to the contributor by personally returning the excess amount or by placing the excess contribution in kind or the actual excess contribution in kind is returned to the contributor as set forth in section 30-8

(Code 1981, § 11-8; Ord. No. 3511, § 2, 2-1-1999)

Sec. 30-9. - Mail ballot election; additional report required.

The provisions of C.R.S. § 1-45-108, as amended, which relate to reporting campaign contributions and expenditures are incorporated by reference into this section. In addition to the reports required by C.R.S. § 1-45-108, as amended, candidates or campaign treasurers shall file a report of all contributions received and all expenditures made by or on behalf of such candidate, 45 days prior to a mail ballot election. All reports shall be complete as of five days prior to the filing date. Any person that makes a late filing of the 45 day report, shall be subject to the same civil penalty as is measured in the Fair Campaign Practices Act.


Sec. 30-10. - Duties of the city clerk; city attorney.

(a) The city clerk shall:

1. Prescribe the forms required to be filed by this article and furnish such forms and information free of charge for use by candidates and other persons required to file such statements and information under this article.

2. Make the reports and statements filed with the city clerk available for public inspection and copying under city clerk staff supervision, commencing as soon as practicable but not later than the end of the second day following the day during which it was received. Information from reports may be copied by hand or duplication machine at the expense of the requesting person. No information copied from such reports and statements shall be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

3. Review all required filings for timeliness and completeness. In the event the city clerk determines that a filing is incomplete, the candidate or campaign treasurer which has made the incomplete filing shall have three business days from the date of receipt of notification to file a complete report. Notification from the city clerk shall be by certified mail. In the event that a report is not timely filed or is incomplete despite notification as set forth in this subsection, the city clerk shall refer the matter to the city attorney. In the event there is an allegation that the
excess contribution or mail ballot 45-day report contains erroneous information, the matter shall be referred to the city attorney.

(4) Upon receipt of a sworn, written complaint, the city clerk shall refer such complaint to the city attorney for preliminary review. Such written complaint shall be in the form of a sworn notarized affidavit which alleges that the complainant has personal knowledge of the facts and circumstances set forth in the written complaint, and believe them to be accurately described in the complaint.

(5) Subject to the city attorney's review and determination, the city clerk shall request that an investigation is made of the complaints which sufficiently allege facts which, if true, would constitute a violation of this article.

(b) The city attorney shall:

(1) Consult with the city clerk on all issues arising under this section as requested.

(2) Examine and review allegations set forth in a complaint for the purpose of determining whether such allegations, if true, sufficiently describe violation, under applicable standards, of this article to merit investigation as described in this section.


Sec. 30-11. - False reporting of campaign violations.

It shall be a violation of this section for a person to make or cause to be made a written complaint to the city clerk when such person knows that the facts and circumstances set forth in such complaint did not occur. In the event it is determined that a written complaint filed pursuant to this section contains false statements, an investigation shall be conducted and the results of such investigation shall be made to the city clerk and city attorney. The city clerk may issue a notice of violation and an order to show cause. The procedures set forth in chapter 2, division 3 of this City Code shall be followed including the appointment of a hearing officer by the city manager. In no instance shall such administrative hearing be set more than 60 calendar days from the date of the appointment of the hearing officer. The decision of the hearing officer shall be final and subject to review by the Jefferson County District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.


Sec. 30-12. - Civil penalties for violations of certain sections.

(a) It shall be unlawful for any person to fail to file a timely, complete, or mail ballot 45-day report as required by this article.

(b) Any person who is found to have violated any provisions of sections 30-7, 30-8, 30-9, 30-10, 30-11, or 30-12(a) shall, for each violation be subject to a civil penalty as determined by the hearing officer or city clerk. The hearing officer and/or city clerk shall have jurisdiction over all alleged violations of these sections.


Sec. 30-13. - Voluntary code of fair campaign practices.

(a) Persons who are candidates for public office in the city or persons representing organizations who campaign in support or opposition of a ballot issue may voluntarily commit to conduct themselves in accordance with a code of fair campaign practices. The Arvada Voluntary Code of Fair Campaign Practices shall include the following statements:

"As I seek public office in Arvada, (as I seek to support/oppose __________, ballot issue) I honor and will abide by the following principles as a guide to my conduct:

(1) I will address valid issues in my campaign, will tell the truth as to my intentions if I am elected.
(2) I will not engage in conduct that seeks to deflect the public's attention by falsifying issues that obscure real concerns of the electorate.

(3) I will limit my comments or statements to legitimate challenges to that person's record, qualifications, and positions.

(4) I will neither use nor permit the use of untruths, deception, or vulgar or coarse and abusive innuendos about an opponent's personal and/or business life, nor will I make or condone unfounded accusations discrediting that person's integrity.

(5) I will take personal responsibility for approving or disavowing the substance of attacks on my opponent that may come from third parties supporting my candidacy.

(6) I will not use or permit the use of campaign material that falsifies, distorts, or misrepresents facts, or will deceive the public as to the real issues before the electorate.

(7) I will neither use nor permit the use of appeals to bigotry in any form, and specifically to prejudice based on race, sex, sexual orientation, religion, or national origin.

(8) I will neither use nor permit the use of last-minute charges made without giving any opponent reasonable time in which to respond before election day.

(9) I will demand that persons or organizations supporting me maintain these standards of fairness."

(b) The city clerk shall have available forms which may be signed and filed with the city clerk which contain the statements included in subsection (a) of this section.

(c) There shall be no codified penalty to enforce the provisions of this section. The citizens of the city shall judge violations of this voluntary code of fair campaign practices in the court of public opinion.


Sec. 30-14. - Compensation of judges of election.

Judges of municipal elections for the city shall receive full compensation for their services, the monetary sum to be determined by the city clerk based generally upon the monetary sum paid by the Jefferson County Clerk for Jefferson County Election Judges.

(Code 1981, § 11-14; Ord. No. 3511, § 2, 2-1-1999)

Secs. 30-15—30-30. - Reserved.

ARTICLE II. - INITIATIVE, REFERENDUM, AND CHARTER AMENDMENT SUPPLEMENTARY PROVISIONS

Sec. 30-31. - Charter.

Section 5.16 of the Charter authorizes city council to adopt supplementary provisions by ordinance for initiative and referendum. Section 13.9 of the Charter describes the manner in which the Charter may be amended. It is the purpose of this article to clarify the procedures to be followed for initiative, referendum, and Charter amendments without modifying the Charter.


Sec. 30-32. - Notice of intent and signature requirements.

(a) In the event a petition is to be circulated to commence the initiative, referendum, or Charter amendment process, not less than five petition representatives shall sign and submit to the city clerk a typewritten notice which is comprised of a statement indicating an intent to circulate a petition. All petition representatives shall be registered voters of the city. The city clerk shall not process any
notice which does not contain the required number of signatures of registered voters nor any other documentation which is not clearly delineated as a notice of intent. The filing of a notice of intent shall be a condition precedent to filing any petition for initiative, referendum, or Charter amendment.

(b) The city shall provide a notice to the designated representatives on the notice of intent as to the required number of valid signatures for a petition to be deemed sufficient. This notice shall not constitute an approval of the form or contents of the petition.

(c) In the event a notice of intent is filed for an initiative or referendum, the petition shall be signed by registered electors of the city in a number at least equal to ten percent of the total number of registered electors of the city as of the date the notice of intent is filed with the city clerk.

(d) In the event a notice of intent is filed for a Charter amendment, the notice shall state whether the petition shall be either a ten percent or a 15 percent petition, but not both. If the Charter amendment is to be submitted to the registered electors at the next regular municipal election, the petition shall be signed by registered electors of the city in a number at least equal to ten percent of the total number of registered electors as of the date of notice of intent is filed with the city clerk. If the Charter amendment is to be submitted to the registered electors at a special election, the petition shall be signed by the registered electors of the city in a number at least equal to 15 percent of the total number of registered electors of the city as of the date of the notice of intent is filed with the city clerk.


Sec. 30-33. - Ballot title and submission clause.

Procedures for fixing the ballot title and submission clause for petitions shall be as follows:

(1) All petitions shall be in the form of an ordinance. Upon finding that a petition is sufficient and that no protest has been filed within the designated time frame as set forth in section 30-36, the city clerk, with the assistance of the city attorney, shall designate and fix a submission clause and ballot title to the proposed ordinance which shall fairly and accurately express the intent and meaning of the proposed ordinance. In fixing the ballot title, the city clerk shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes" or "no" vote would be unclear. Ballot titles shall be brief and shall not conflict with titles selected for any petitions previously filed for the same election. Proceedings for fixing the submission clause, and ballot title shall be concluded within ten business days after the certificate of sufficiency is issued by the city clerk.

(2) If any person submitting a petition claims that the ballot title and submission clause do not fairly express the intent and meaning of the proposed measure, such person shall file a request for an administrative hearing with the city clerk not later than three business days after the ballot title and submission clause are fixed by the city clerk. The city clerk or designee shall appoint a hearing officer. An administrative hearing on the ballot title and submission clause shall be held within seven business days from the date of the request for hearing. If the hearing officer finds that the ballot title and submission clause fairly express the intent and meaning of the proposed measure, the person aggrieved by such decision may appeal such decision to the district court as set forth in the Colorado Rules of Civil Procedure.


Sec. 30-34. - Requirements for petition.

(a) At the top of each signature page of every petition shall be printed in plain red letters no smaller than the impression of ten-point, boldface type, the following:

"WARNING:
IT IS AGAINST THE LAW:"
For anyone to sign any petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to sign such petition when not a registered elector.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR:

TO BE A REGISTERED ELECTOR, YOU MUST BE:

1. At least 18 years of age.
3. A resident of the state and have resided in the state at least 22 days.
4. A resident of the city election precinct in which you live for at least 22 days.
5. Registered to vote pursuant to C.R.S. § 1-2-201 et seq., as amended.

Do not sign this petition unless you have read or had read to you the text of the proposal in its entirety and understand its meaning.

(b) Any petition circulated within the city shall be signed by registered electors. Each registered elector shall sign his own signature, after which he shall print his name; place of residence, including house or apartment number, street address, city; and the date of signing the petition. Signatures which do not contain all of the information required by this subsection shall be considered invalid. To each petition shall be attached a notarized affidavit of the circulator, stating the following.

1. The circulator's printed name.
2. The circulator actually circulated the petition.
3. Each signature on the petition was affixed in the circulator's presence.
4. To the best of the circulator's knowledge and belief, each person signing the petition was at the time of signing a registered elector.
5. The date the circulator signed the affidavit.
6. The circulator has not and will not in the future pay directly or indirectly any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix a signature to the petition.
7. To the best of the circulator's knowledge and belief, no other person has paid or will pay directly or indirectly any money or thing of value to any signer for the purpose of inducing or causing such signer to affix a signature to the petition.
8. The circulator accurately represented the text of the ordinance to the signer.
9. That at the time the petition section was transmitted to the petition representatives, the petition was completed through line no. _________.
10. The circulator who signs the affidavit shall include in the acknowledgement statement that they shall submit themselves to the jurisdiction of the hearing officer and that any failure to appear at a hearing regarding the sufficiency of the petition could result in the striking of all signatures on the sections of the petition that such circulator has circulated. In the event the circulator does not appear at a hearing pursuant to a duly authorized subpoena issued by a hearing officer, the signatures on the section of the petition circulated by said circulator may be stricken by the hearing officer.

(c) All petitions circulated under this article shall be printed on pages 8½ inches wide by 11 inches long, with a margin of one inch at the top for binding, and the sheets for signatures shall have their ruled lines numbered consecutively and shall be attached to a complete copy of what is proposed to be initiated or referred, including a summary of the measure.
(d) The petition may be circulated and signed in sections, provided each section, at the time of circulation, shall contain a full and accurate copy of the title and text of the petition. The signatures to such petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition and his place of residence including the street address in a form which meets all requirements of section 30-35(c). The summary of the measure shall appear on each page above the signature line. A section shall contain the title and text of the petition, as many signature sheets as were attached thereto at the time of circulation, and the oath and subscription of the person circulating said section in a form which meets all requirements of this chapter.

(e) Each petition section shall be pre-numbered serially in ink, prior to circulation, and shall have attached the circulator's affidavit with a matching serial number in ink.

(f) Each petition shall designate no more than five persons by name and address who are registered electors of the city to represent the signers thereof.

(g) The circulation of any petition described by this article by any medium other than personally by a circulator is prohibited.

(h) Any petition that fails to fully conform to the requirements of this article or is circulated in a manner other than that permitted in this section shall be invalid.

(i) Any disassembly of the petition which has the effect of separating the affidavits from the signatures shall render the petition invalid.


Sec. 30-35. - Circulation and city clerk review time frames; certificate of sufficiency.

(a) Petition representatives and circulators shall have the following time frames within which to circulate a petition:

(1) **Initiative petition**: Within 30 calendar days from the date of filing of the notice of intent.

(2) **Referendum petition**: Within 30 calendar days from the effective date of the ordinance.

(3) **Ten percent Charter amendment petition**: 90 calendar days from the date of filing the notice of intent.

(4) **Fifteen percent Charter amendment petition**: 90 calendar days from the date of filing the notice of intent.

(b) Upon filing of a signed petition, the city clerk shall review the petition within the following time frames:

(1) **Initiative petition**: Within 30 calendar days from the date of filing of the petition.

(2) **Referendum petition**: Within 30 calendar days from the date of filing of the petition.

(3) **Charter amendment petition**: 45 calendar days from the date of filing of the petition.

(c) Upon the filing of a signed petition, the city clerk shall initially review each petition and delete the signatures of the individuals in the following categories:

(1) The address of the signer is not located within the city limits of the city.

(2) An entry containing an illegible address, making it impossible to verify that the signer's address is located within the city limits of the city.

(3) A signature appears on the petition more than once. In such event, all signatures of the individual shall be deleted except one, provided that at least one entry by the individual is complete and in accordance with the requirements of this section.

(4) In the event more than one signature appears on one signature line, both signatures shall be deleted.
(5) An incomplete address has been given by the signer (i.e. omitted designation of street, avenue, drive, court, place, way, etc.).

(6) In the event the address for the signer is indicated as a post office box.

(7) Failure of the signer to be a registered voter of the city.

(8) Failure of the signer to be a registered voter at the address listed on the petition.

(9) Omission of date, an incomplete date, or an inappropriate date, including but not limited to, a date prior to the filing of the notice of intent, a date following the date of the circulator's affidavit, a date which is after the date of the submission of the petition to the city clerk. The omission of a year in the date shall not constitute an incomplete date.

(10) A signature which is not in a form similar to that found on the voter registration list. Signatures which are commonly recognized variants of names found on the voter registration list shall be counted.

(11) A signature which includes a middle initial or middle name which is different than the middle initial or middle name in the voter registration list. If the middle initial or middle name included with a signature is not included on the voter registration list but the first and last names of the entry match the voter registration list, the signature shall be counted.

(12) An illegible signature making it impossible to conclusively verify that the signer is a registered elector of the city.

(13) An entry which fails to contain all information is required where at least one piece of information is omitted.

(14) An entry which clearly indicates that the signer received assistance by variance in script of the entry and no statement of assistance accompanies the entry explaining the variance in the script.

(15) The use of ditto marks as a substitute for any required information.

(16) Where the city clerk has reason to believe that any signature or entry is fraudulent or otherwise improper. In such event, the city clerk shall state in writing the reasons for invalidation of the entry.

(d) Each section of a petition shall contain the affidavit of the circulator of the section of the petition. Such affidavit of the circulator shall contain all of the required information required by this chapter. The city clerk shall review each circulator's affidavit of each section of the petition in accordance with the following requirements:

(1) The notarization shall contain the signature authenticator's full name, the date, a statement that the circulator subscribed the affidavit under oath before the signature authenticator, the signature authenticator's stamp or other appropriate evidence of authorization, and the date of expiration of the signature authenticator's authorization to administer oaths. A circulator's affidavit that is subscribed under oath before a signature authenticator and which fails to include such information shall be invalidated.

(2) Any section of a petition which fails to contain a valid circulator's affidavit shall be invalidated.

(e) Any section of a petition failing to conform to the format required by this article shall be invalid.

(f) When the city clerk presents the petition to the city council, the city clerk shall also determine whether the petition qualifies for a ballot issue election or a ballot question election and shall advise the city council of such determination.

(1) Initiative petition. In the event an initiative petition is found to be sufficient, the city clerk shall issue a certificate of sufficiency within 30 days from the date of filing of said petition and shall present such findings to the city council at a regular or special meeting. Within 30 days after an initiative petition is presented by the city clerk, the city council shall either adopt without any change the initiated ordinance by a majority vote of all members of the city council or submit the
initiated ordinance to a vote of the registered electors within the time frames established by section 5.13 of the Charter.

(2) Referendum petition. In the event a referendum petition is found to be sufficient, the city clerk shall issue a certificate of sufficiency within 30 days from the date of filing of said petition and shall present such findings to the city council at their next regularly scheduled or a special meeting. Should the ordinance not be repealed in its entirety by a majority of all members of the city council, the ordinance shall be submitted without amendment or alteration to the registered electors within the time frames established by section 5.14 of the Charter.

(3) Charter amendment petition. In the event a Charter amendment petition is found to be sufficient, the city clerk shall issue a certificate of sufficiency within 45 days of the date of filing said petition and shall present such findings to the city council at its next regularly scheduled or a special meeting. Within 30 days after the Charter amendment petition is presented by the city clerk, the city council shall set a date to submit the initiated Charter amendment to a vote of the registered electors at a special election or at a regular municipal election to be held within 120 days, but not less than 30 days, after the petition is presented to the city council for a 15 percent petition, or at the next regular election for a ten percent petition.

(g) The city council, notwithstanding the above provisions, shall not act on any petition presented to it during the pendency of any protest proceeding provided for in section 30-36 or any review thereof or appeal therefrom.

(h) For petitions found to be sufficient, the city clerk shall mail, via certified U.S. mail, return receipt requested, a certificate of sufficiency to those persons designated as petition representatives.

(i) For petitions found to be insufficient, the city clerk shall mail, via certified U.S. mail, return receipt requested, a certificate of insufficiency, including the reasons therefore, to those persons designated as petition representatives. The city clerk shall also present the clerk's finding of insufficiency to the city council during the next scheduled regular or special meeting of the city council following the clerk's determination.

(j) The decision of the city clerk concerning either sufficiency or insufficiency of any petition shall be final for purposes of judicial review on the date of the city clerk's mailing of notice of sufficiency or insufficiency. Presentation of the city clerk's finding to the city council shall not be a prerequisite to a final decision for purposes of judicial review.


Sec. 30-36. - Protest.

(a) A protest in writing, under oath, may be filed with the city clerk by a registered elector, within 30 days for an initiated or referendum petition and within 45 days for a Charter amendment petition, setting forth with particularity the reasons of such protest and the names protested. The city clerk shall mail a copy of such protest to the petition representatives, together with a notice fixing a time for hearing such protest not less than ten or more than 20 days after such notice is mailed. All mailings will be via certified U.S. mail, return receipt requested.

(b) Upon the filing of any protest with the city clerk, all proceedings upon the petition shall be suspended until final disposition of such protest.


Sec. 30-37. - Protest hearing.

(a) Hearing. The hearing on any protest as provided for in section 30-36 shall be open to the public, and all testimony shall be under oath administered by a certified court reporter. The city clerk or his designee shall act as hearing officer. The hearing officer shall have the power to issue subpoenas, to compel the attendance of witnesses and the production of documents and to receive all testimony and documentary evidence before rendering a decision as to the sufficiency of the protest.
Subpoenas may be served via certified mail, return receipt requested, restricted delivery to addressee only. Upon failure of any witness to obey the subpoena, the hearing officer may petition the municipal court for an order compelling the witness to appear and testify or produce documentary evidence. In the event a petition circulator fails to comply with the subpoena, the hearing officer is prohibited from counting any signature in such circulator’s petition sections as a valid signature in support of the ballot issue or ballot question. The burden of proof shall be on the protestants to prove that the petition is insufficient. The result of such hearing shall be mailed to the petition representatives and protest representatives. The protest hearing shall be concluded and a decision by the hearing officer rendered not later than 30 days after the conclusion of the hearing. The hearing officer may request the city attorney’s office to provide legal advice during the hearing.

(b) Amended protest. If the hearing officer denies the protest in whole or in part, the person filing the protest, within ten days after such denial, may file an amended protest, a copy of which shall be mailed to the petition representatives, via U.S. mail, return receipt requested, named in the petition. A hearing shall be held on the amended protest as in the case of the original protest. No person shall be entitled to amend an amended protest.

(c) Appeal. The finding of the hearing officer as to the sufficiency or insufficiency of any petition following a protest may be appealed to the Jefferson County District Court.


Sec. 30-38. - Action by city council.

(a) No initiated ordinance which is adopted by the registered electors of the city may be amended or repealed by the city council during the six-month period following the date of the election on the initiated ordinance.

(b) No referred ordinance which is repealed by the registered electors may be subsequently adopted by the city council during the six-month period following the date of the election on the referred ordinance.

(c) City council shall have the power to make technical amendments to initiated or Charter amendment ordinances which do not change the intent of the ordinance adopted by the registered electors.

(d) City council shall have the power to resubmit to a vote any proposed ordinance reviving, repealing, or amending an ordinance which has been adopted or rejected by a vote of the registered electors upon city council’s own initiative without a petition.

(e) Any ballot issue, ballot question, or ballot title submitted through a petition process at a special election shall be prohibited to be submitted at a subsequent special election within a period of two years following the initial special election.

(f) City council shall have the power to submit any proposed or adopted ordinance or any ballot issue or ballot question to a vote of the registered electors without receipt of a petition.

(Code 1981, § 11-29; Ord. No. 3511, § 2, 2-1-1999)

Sec. 30-39. - Due date.

In the event any document is required to be filed or that any action is required to be taken by a particular date and such date happens to fall on a Saturday, Sunday, or officially recognized municipal holiday, the due date for such document or action shall be deemed to fall on the next business day.


Sec. 30-40. - Removing name from petition.

In the event a person who has signed a petition wishes to remove their name from such petition, such individual shall submit a request in writing for removal to the city clerk. The written request shall include the full name, complete address, and a general description of the subject of the petition which
was signed. The request to remove a name shall be effective only if it is filed with the city clerk prior to the issuance of the certificate of sufficiency.


Secs. 30-41—30-60. - Reserved.

ARTICLE III. - RECALL

FOOTNOTE(S):

--- (2) ---
Charter reference— Recall, § 3.6 (Back)
State Law reference— Recall, C.R.S. § 31-2-212 (Back)

Sec. 30-61. - Councilmembers.

Any councilmember of the city may be recalled from office at any time after holding office for six months, in the manner provided in section 3.6 of the Charter as supplemented by this article.


Sec. 30-62. - Notice of intent.

Petition representatives shall submit to the city clerk a typewritten notice of intent to circulate a recall petition. The city clerk shall, within 48 hours after the filing of the notice of intent, mail a copy of said notice, by certified mail to the councilmember named in the notice. The filing of a notice of intent shall be a condition precedent to the filing of any recall petition.

(Code 1981, § 11-33; Ord. No 3511, § 2, 2-1-1999)

Sec. 30-63. - Petition.

(a) Filing of petition/affidavit. Within ten days following the filing of the notice of intent, a prepared petition form containing the petitioner's affidavit provided for in section 3.6 of the Charter shall be submitted to the city clerk.

(b) Authority to circulate. After the petition containing the affidavit specified in subsection (a) of this section has been filed, the city clerk shall notify the councilmember as set forth in the Charter.

(c) To contain reasons. All petitions for recall shall contain the reasons for the recall, as stated in the affidavit filed with the city clerk, which statement of reasons are intended for the information of the electors, and the electors shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such reasons assigned for such recall, and said reasons shall not be open for review.

(d) Statement in defense. The city councilmember shall have ten business days to file with the city clerk a sworn statement in defense of the reasons stated in the petitioner's affidavit. All petitions for recall shall contain the city councilmember's statement in defense of the recall, if so requested by the person sought to be recalled, prior to the authorization to circulate the petition by the city clerk.

(e) Warning statement. All petitions for recall shall meet the requirements set forth in section 30-34

(f) The city clerk's authorization shall not constitute an approval of the form or contents of the petition, but rather, shall commence the running of the time periods provided herein.


Sec. 30-64. - Certification and verification of recall petition.
(a) Upon the filing of signed petition, the city clerk shall have 20 days to review the petition and issue a certificate of sufficiency.

(b) The provisions of sections 30-35(c) and (d) shall be followed in reviewing and certifying a recall petition, except that the signer must be a registered elector entitled to vote for the successor of the incumbent sought to be recalled.


Sec. 30-65. - Protest against petition.

(a) A protest in writing, under oath, may be filed with the city clerk within 20 days after the filing of the petition. The provisions of sections 30-36 and 30-37 shall be followed concerning the protest of a recall petition.

(b) The city clerk shall not base a determination of sufficiency upon the content of the reasons stated in the recall petition.


Sec. 30-66. - Setting of election upon certification of sufficiency and resolution.

When the petition is determined to be sufficient by the city clerk, the city clerk shall submit the original petition, certificate of sufficiency, and a resolution setting the date of the election to the city council for consideration.


Sec. 30-67. - Form of question.

At a recall election, the question of the proposed recall of the councilmember shall be submitted to the registered electors who would be entitled to vote for the successor of the incumbent sought to be recalled. On the official ballot at such election shall be printed, in not more than 200 words, the reasons set forth in the petition for demanding the councilmember's recall, and there shall also be printed, if desired by the councilmember subject to recall, the councilmember's justification for retention of office in not more than 300 words. The ballot upon which such proposed recall is submitted shall be as set forth in the following question:

SHALL (NAME OF PERSON AGAINST WHOM RECALL PETITION IS FILED) BE RECALLED FROM THE OFFICE OF (TITLE OF OFFICE)?

Following such question shall be the words "yes" and "no."


Sec. 30-68. - Procedure upon resultant vacancy.

In the event that an officer is recalled by a majority vote of those voting on the question, the office shall be deemed vacant and shall be filled as provided in section 4.6 of the Charter.


Sec. 30-69. - Reimbursement to incumbent not recalled.

If at any recall election, the incumbent whose recall is sought is not recalled, the councilmember may be repaid from the state treasury if permitted by and in accordance with applicable state law.

(Code 1981, § 11-40; Ord. No. 3511, § 2, 2-1-1999)

Sec. 30-70. - Special requirements for second recall.
After one recall petition and election, no further petition shall be filed against the same officer during the term for which he was elected unless the petitioners signing said petition equal 50 percent of all ballots cast for that office at the last preceding general municipal election.


Sec. 30-71. - Removal of name from petition.

Any person who seeks to remove their name from a recall petition shall follow the procedure set forth in section 30-40.


Sec. 30-72. - Resignation prior to election.

In the event a councilmember who is subject to a recall resigns after a recall election is set but prior to the recall election having been held, city council shall cancel the recall election and shall fill the vacant seat as set forth in section 4.6 of the Charter.


Sec. 30-73. - Unlawful acts.

Under this chapter, it shall be unlawful for any person to:

(1) Willfully and knowingly circulate or cause to be circulated, or sign or procure to be signed, any petition bearing the name, device, logo or motto of any person, organization, association, league, or political party; or purporting in anyway to be endorsed, approved, or submitted by any person, organization, association, league or political party, without the written consent, approval, and authorization of such person, organization, association, league or political party;

(2) Sign any name other than his own to any petition, or knowingly to sign his name more than once for the same measure at one election;

(3) Sign any petition who is not at the time of signing the same a registered elector of the city;

(4) Sign an affidavit as circulator without knowing or reasonably believing the statements made in such affidavit are true;

(5) For a notary to certify that an affidavit attached to a petition was subscribed or sworn to before him unless it was so subscribed and sworn to before him; or

(6) Willfully violate any provision of this article.

All violations of this section may, in the sole discretion of the city clerk, be remedied in the manner prescribed by the order of the city clerk.