



OFFICE OF THE CITY CLERK

REPORT

To The Honorable Mayor And City Council

DATE: JULY 17, 1997

REPORT NO: 97-04

SUBJECT: PROPOSED AMENDMENTS THE SAN DIEGO MUNICIPAL CODE
RELATING TO RECALL

ISSUE

Division 27 of the San Diego Municipal Code, relating to Recall, was first adopted in 1968. Minor revisions were made to the ordinance following the voter approval of District Elections in 1988. During the recent referendum, the Clerk became aware of the need to revise the Referendum section of the code. Since certain of these provisions are identical in both Referendum and Recall, the Clerk is proposing minor amendments to the Recall provisions as well. No other amendments are being proposed at this time because of the stated intent of several parties to initiate the Recall process.

RECOMMENDATION

Adopt the amendments to the Municipal Code as proposed.

FISCAL IMPACT

The proposed amendments to the Recall section of the code will result in minor cost savings. Staff time required to witness circulator signatures, an accepted alternative to notarization, will be eliminated. Because of the potential for litigation on the notary issue, approving these amendments will result in an avoidance of litigation costs as well.

DISCUSSION

Sections 27.2701 through 27.2732 of the Municipal Code establish procedures for Recall. These provisions were adopted in 1968. Minor amendments were made in 1989 following voter approval of District Elections in 1988. Because of the recent referendum, the Clerk has become aware of the need to revise the Referendum provisions of the code. Among the changes proposed are clarifying the format of the petition to facilitate the verification process, eliminating the unnecessarily prohibitive and expensive requirement that the circulator affidavit be notarized, and clarifying voter signature requirements. Since these provisions are virtually identical in both the Referendum and Recall procedures, we are recommending minor amendments to accomplish these same goals in the Recall provisions as well.

Specifically, the proposed changes are as follows:


- a. Amended Section 27.2711 ("Form of Voter Signature Sheets for Recall Petition") clarifies the requirements for signatures. It makes amendments to the petition format by adding the requirement that there be a space for the voter's printed name and a space for the Clerk's use in verifying signatures.
- b. Amended Section 27.2712 ("Form of Affidavit of Authenticity for Recall Petition") eliminates the requirement that the circulator's signature be notarized. It provides instead that the circulator shall sign under penalty of perjury. It also requires that the circulator indicate and attest to the beginning and ending dates of circulation of the petition. This parallels Initiative provisions of the Municipal Code and petition requirements in state law.
- c. Amended Section 27.2714 ("Signing Voter's Information for Recall Petition") clarifies existing law contained in this section. It provides that each voter who signs the petition must also personally affix his or her printed name. References to the date of signing have been deleted.

SUMMARY

In summary, the City Clerk proposes these amendments in order to clarify certain provisions of the Recall process. These amendments include clarifying the petition format to facilitate the verification process, eliminating the unnecessarily prohibitive and expensive requirement that the circulator affidavit be notarized, and clarifying voter

signature requirements. Similar changes are being proposed to the Referendum provisions in the code. No other amendments are being proposed at this time because of the stated intent of several parties to initiate the Recall process in the near future.

I look forward to your consideration of these amendments and, as always, should you have any questions or comments, I would be pleased to respond.

A handwritten signature in black ink, appearing to read "Charles G. Abdelnour", with a stylized flourish at the end.

Charles G. Abdelnour
City Clerk

CGA:JL

SEC. 27.2711

Signatures — Recall Form of Voter Signature Sheets for Recall Petition

(a) Voter signature sheets shall be arranged and lined to provide space for the voter's signature, voter's printed name and place of voter's residence. A space at least one inch wide shall be left blank, on the right hand side of the sheet, for the use of the City Clerk in verifying the petition.

(b) The s Signature sheets for voters shall be in substantially the following form:

<u>Signature</u>	<u>Residence</u>	<u>Date</u>
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-----	-----	-----
-----	-----	-----

<u>NAME</u>	<u>RESIDENCE</u>	<u>(CLERK'S USE ONLY)</u>
<u>SIGN</u>		
<u>PRINT</u>		
<u>SIGN</u>		
<u>PRINT</u>		
<u>SIGN</u>		
<u>PRINT</u>		

(NOTE: Recall Petitions for Mayor, and City Attorney and those Councilmembers elected by City-wide vote may be signed by any voter of the City. Recall Petitions for Councilmembers who were elected by district vote may be signed only by voters within the district represented by the Councilmember.)

(Added 7-9-68 by O-9839 N.S.; formerly Sec. 27.1612; amended 3-31-86 by O-16617 N.S.; amended 6-12-89 by O-17311 N.S.)

SEC. 27.2712 Form of Affidavit of Authenticity — Recall for Recall Petition

Each recall petition shall have attached to it an affidavit of authenticity of a voter in the following form:

AFFIDAVIT

COUNTY OF SAN DIEGO)
STATE OF CALIFORNIA) ss.

Under penalty of perjury I, (printed name of circulator), declare: being duly sworn, deposes and says:

That I am a registered voter of (The City of San Diego) (San Diego Unified School District) and that all of the signatures on each sheet petition section were made in my presence and were observed by me, and that all of the sheets constituting this paper petition section were fastened together at the time such signatures were appended thereto made; and that to the best of my knowledge and belief such signatures are the genuine signatures of the persons who whose names purport to be hereunto subscribed, have signed the petition; and that the signatures were obtained between:

_____ and _____
(Beginning date of circulation) (Final date of circulation)

(Circulator's Printed Name) (Circulator's Signature) (Circulator's Residence) (Date Signed by Circulator)

(Residence) (Signature)
Subscribed and sworn to before me this _____ day of _____

(Signature of Officer) (Title of Officer)

SEC. 27.2714 Signing Voter's Petitioner's Information -- Recall for Recall Petition

Signatures shall be executed by voters in their own handwriting and each signer shall also affix his or her printed name, and Voters must indicate place of residence, including street and house number, or other designation from which the location of the place of residence can may be readily ascertained. Post office box numbers, business addresses, or mailing addresses are not permitted, and, if used, shall make that voter's signature invalid. The date of execution must also be indicated by voters.