

**Subject:** RE: Pledge of Allegiance / City Council  
**Date:** Tuesday, July 9, 2019 at 11:49:00 AM Central Daylight Time  
**From:** Soren Mattick  
**To:** 'kathy w'  
**CC:** 'Jake Spano', Tom Harmening  
**Attachments:** image001.png

Kathy,

The web page you linked describes the recall procedure in Article VIII, Section 6, of the Minnesota Constitution (see [https://www.revisor.mn.gov/constitution/#article\\_8](https://www.revisor.mn.gov/constitution/#article_8)). That part of the MN Constitution contains an exhaustive list of the individuals subject to recall: members of the senate or house of representatives, executive officers of the state identified in section 1 of article V of the constitution, and judges of the supreme, court, court of appeals, or district court. The executive officers listed in Article V, Section 1, are the governor, lieutenant governor, secretary of state, auditor, and attorney general. Local government officials are not included.

As a City Attorney, I do not “determine the validity” of anything. My job is to analyze existing laws and provide legal advice to the City. My review of the laws of the state of Minnesota have led me to conclude that there is no existing law by which St. Louis Park City Council Members may be recalled.

**Soren M. Mattick**

Attorney

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**From:** kathy w <kdwikstrom@[REDACTED]>  
**Sent:** Thursday, July 4, 2019 6:54 AM  
**To:** Soren Mattick <SMattick@[REDACTED]>  
**Subject:** Re: Pledge of Allegiance / City Council

[https://ballotpedia.org/Laws\\_governing\\_recall\\_in\\_Minnesota](https://ballotpedia.org/Laws_governing_recall_in_Minnesota)

Sir, Please highlight for me in the attached Document where a City Attorney determines the validity of a Recall. Links to Laws would be helpful.

## [Laws governing recall in Minnesota - Ballotpedia](#)

The amount of valid signatures required for recall election are 25 percent of total votes cast for the position at last election. First, a "Proposed Recall Petition" must be submitted to the Minnesota Secretary of State specifying the grounds upon which the official should be

ballotpedia.org

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**From:** Soren Mattick <[SMattick@](mailto:SMattick@)>  
**Sent:** Monday, July 1, 2019 1:50 PM  
**To:** 'Jake Spano'; kathy w  
**Cc:** [THARMENING@](mailto:THARMENING@); Nancy Deno  
**Subject:** RE: Pledge of Allegiance / City Council

Kathy,

There isn't a procedure to recall a member of the St. Louis Park City Council.

The League of Minnesota Cities has written on this topic. St. Louis Park is a Charter city (see second paragraph). However, there is nothing in the Charter that contemplates a recall.

### **E. Recall or removal from office**

Section IV:  
*Unauthorized elections on questions.*  
Minn. Stat. § 351.02 (5).  
Minn. Stat. § 410.20.  
Minn. Const. art. VIII, § 6.  
*Jacobsen v. Nagel*, 255 Minn. 300, 96 N.W. 2d 569 (1959).  
Minn. Stat. § 351.01.  
Minn. Const. art. VIII, § 5.  
Minn. Stat. § 410.20.  
*State ex rel. Martin v. Burnquist*, 141 Minn. 308, 170 N.W. 201 (Minn. 1918).

Local voters often ask if the city can hold a vote to remove a particular local official from office in a special election. As discussed previously, voters in statutory cities have only those powers delegated to them by the state legislature. Currently, voters in statutory cities have no authority to petition for, or vote on, removing an elected official from the city council. In some situations, councilmembers lose office by operation of law, for example if a person is convicted of a felony; but there is no authority to remove officers by a vote.

Charter cities may have limited authority in the charter to remove elected officials. Recall elections in charter cities are limited by the Minnesota Constitution. The charter may allow for a recall election to remove an elected official due to malfeasance or nonfeasance in the performance of his or her duties. To constitute malfeasance or nonfeasance the conduct must affect the person's performance of official duties rather than conduct that affects their personal character as a private individual. All of this is a fact specific determination so charter cities must consult the city attorney before seeking an election to recall or remove a city official from office.

*State ex rel.  
Kinsella v.  
Eberhart,  
116 Minn.  
313, 133  
N.W. 857  
(Minn.  
1911).*

**Soren M. Mattick**

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**From:** Jake Spano <[mayorjakespano@\[REDACTED\]](mailto:mayorjakespano@[REDACTED])>

**Sent:** Saturday, June 29, 2019 9:04 PM

**To:** kathy w <[kdwikstrom@\[REDACTED\]](mailto:kdwikstrom@[REDACTED])>

**Cc:** Soren Mattick <[SMattick@\[REDACTED\]](mailto:SMattick@[REDACTED])>; [THARMENING@\[REDACTED\]](mailto:THARMENING@[REDACTED]); Nancy Deno <[ndeno@\[REDACTED\]](mailto:ndeno@[REDACTED])>

**Subject:** Re: Pledge of Allegiance / City Council

Kathy-

By way of cc I'm connecting you to our city attorney and senior staff for follow up on your question.

Jake Spano

Mayor

St. Louis Park, Minnesota

On Jun 29, 2019, at 3:44 PM, kathy w <[kdwikstrom@\[REDACTED\]](mailto:kdwikstrom@[REDACTED])> wrote:

Sir, I would like to know the procedure for initiating Recall for each of the City Council Members. I have been unable to find any references to this Procedure nor does the Cities search engine give any useful information! I will also be contacting both the State Democratic and Republican Parties for answers to this question.  
Thank you for your consideration.