ADMINISTRATIVE PROCEDURES

ON RECALL OF MEMBER OF COUNTY ASSEMBLY

I. PREAMBLE

1. The Commission is a statutory body established under Article 88 of the Constitution and is responsible for conducting or supervising referenda and elections to any elective body or office established by this Constitution, and any other elections as prescribed by an Act of Parliament.
2. Section 27 of the County Governments Act grants the electorate in a ward the power to recall their Member of the County Assembly before the end of the term of the Member.
3. The Commission is mandated to oversee the recall process of a member of the County Assembly.

II. PRESENTATION OF A RECALL PETITION.

A Recall process shall be initiated by a petition as provided hereunder;

1. The Petition shall be in writing.

2. The Petition shall be signed by a person who is a registered voter in the Ward in respect of which the recall is sought.
3. The Petition shall list the ground(s) for recall.
4. The grounds of recall are as follows: -
    a) Gross violation of the Constitution or any other law;
    b) Incompetence;
    c) Gross misconduct; and/or
    d) Conviction of an offence punishable by imprisonment for at least six (6) months.
5. The Petitioner shall swear an Affidavit in which he shall depose to the truth of the grounds of recall contained in the Petition.
6. The Affidavit shall contain the Petitioner's full Name, National Identification Card Number or Passport Number, both physical and Postal Addresses, Mobile Telephone Number and Email Address.
7. The Affidavit shall be sworn before a Commissioner for Oaths.
8. The Petitioner shall pay to the Commission the filing fee prescribed for an election Petition for member of County Assembly which currently stands at **Kshs. 15,000/=.**
9. Within 30 days of receipt of the Petition, the Petitioner shall avail the list of names of voters in the ward which shall represent at least 30% of the registered voters in that ward and shall depone by way of an Affidavit that the voters supporting the Petition represent diversity of the people in the ward.
10. The list of names shall contain addresses, National Identification Card/Passport Number and must be signed by all the voters supporting the Petition.

11. The voters supporting the Petition shall represent diversity of the people in the Ward.
12. The Commission and the supporters shall be guided by the workflow provided on recall process (**See annex A**).

III. PROCESSING PROCEDUREs AT THE COMMISISON

13. Within 30 days of receipt of the list of names of voters, the Commission shall confirm the following: -
    i. That the list contains the names, physical addresses, National Identification Card/Passport Number, contacts and signatures of the voters supporting the Petition. (**See annex B**)
    ii. That the list of names supporting the recall represents at least 30% of the registered voters in that ward.

IV. RECEIPT OF SIGNATURE PROCEDURES

14. Following the receipt of the recall petition the Commission shall;
    14.1. Arrange a formal meeting with the petitioner(s) to set ground rules on the collection and submission of signatures. These include;
        13.1.1. Recruitment and briefing of Receiving Clerks.
        13.1.2. Development of resource requirement and Budget.
        13.1.3. Administration of Oath of Secrecy to receiving clerks. (**See Annex C).**
        13.1.4. Identification of possible risk areas and possible mitigation measures.
    13.2. Submission Form by Petitioners, to commit the Petitioners on the documents on the documents and signatures to be presented. (**See Annex D**).

V. RECEIVING OF SIGNATURE DOCUMENTS

15. Once the Petitioner presents the record on his documents the same is presented to the Commission for processing in the following manner;

15.1. Upon arrival the Petitioner(s) meets the Commission and its technical team.

15.2. The Commission Chairperson briefs the Petitioner(s) on the process.

15.3. The Commission Chairperson receives the petition and any accompanying documents cross referenced through a Checklist for receiving of the electronic file. **(See Annex E)**

15.4. Once the petition and the accompanying documents are checked for compliance with the law, handing over/taking over form is filled by the Commission Chairperson and the Petitioner.

15.5. The Petition documents are handed over to the Commission's technical committee for processing. (**See Annex F**)

VI. SIGNATURE VERIFICATION PROCEDURES

The Commission shall undertake the recall exercise within the stipulated legal requirements and the timelines.

VII. PROCEDURE AFTER THE VERIFICATION EXERCISE

Following the verification exercise the Commission shall proceed depending on whether the recall petition succeeds or not. The following are the procedures for either process;

A. Where the recall petition does not meet the legal requirements;

14. The Commission, shall establish whether the Petition meets the following legal requirements;

i. That the petition is properly presented and supported with requisite documentation.

ii. That the petition is fully supported by accompanying signatures of supporters.

iii. That the list of supporters of the petition are 30% of the registered voters within the affected ward.

iv. That the requisite fee has been remitted to the Commission.

15. The Commission shall inform the Petitioner(s) vide a letter that their petition failed and the reasons thereof.

B. Where the recall petition satisfies the legal requirements the following procedure shall apply;

16. Within Fifteen (15) days of verification, the Commission shall, if satisfied that the requirements have been met, issue a notice of recall to the Speaker of the County Assembly for information.

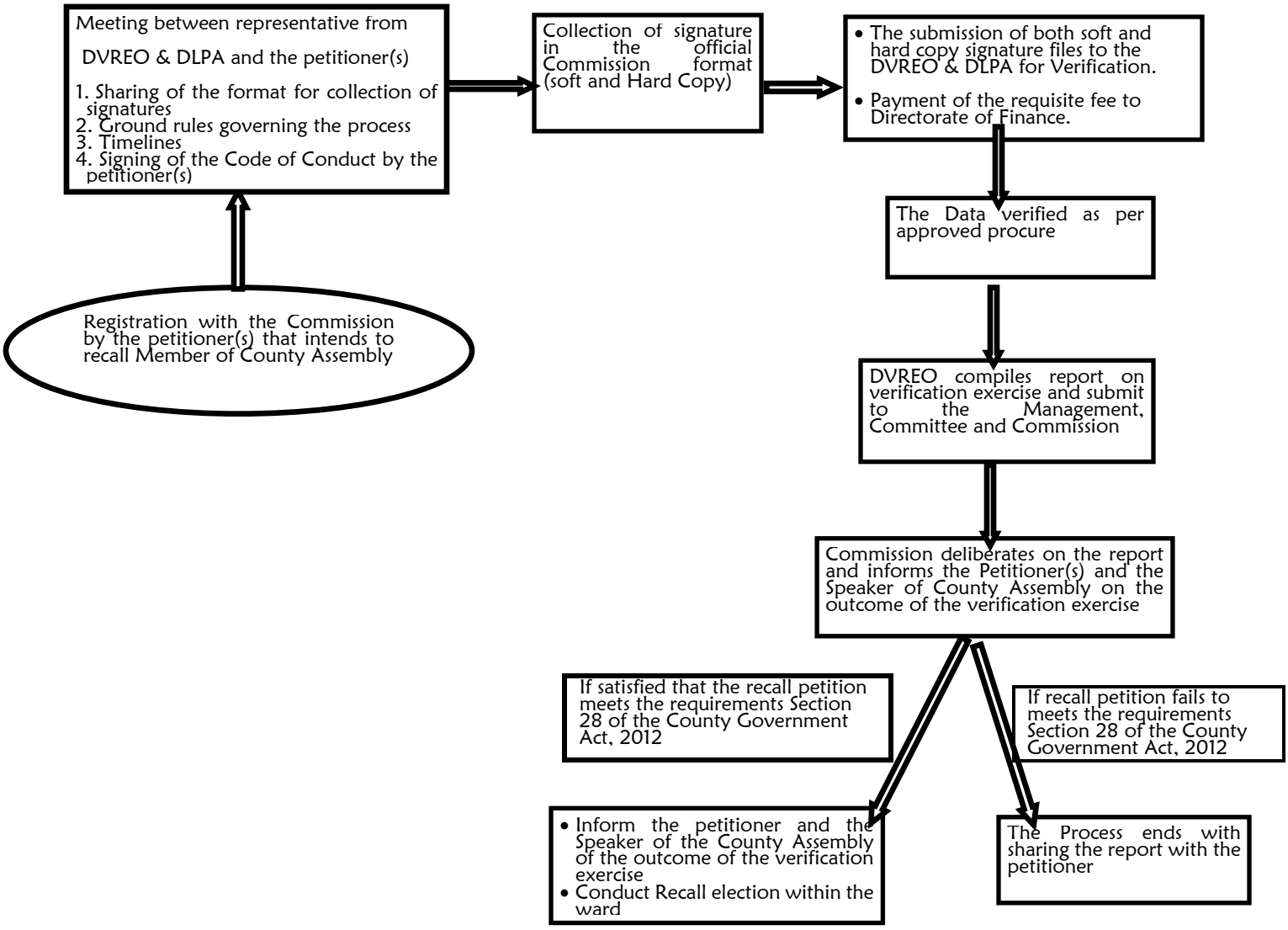
17. The Commission shall frame the question in such a manner as to require a *'Yes'* or *'No'* answer as to whether such member should be recalled and publish the question in the Kenya Gazette.

18. The Commission shall assign a symbol to each recall answer.

19. The Commission shall conduct a recall election in the ward within ninety (90) days of publication of the question.

20. The recall election shall be decided by a simple majority of the voters voting in the recall election.
21. Where the Recall election results in the removal of a member of the County Assembly, the Commission shall inform the Speaker of the County Assembly.
22. The Speaker of the County Assembly shall then issue a writ to the Commission to conduct a by-election in the affected ward within the tenets of relevant legal framework.
23. The By-election shall be conducted by the Commission in accordance with the subsisting Constitutional and legal framework on conduct of by-election.

ANNEX A - WORK FLOW



ANNEX B: THE LIST OF NAMES OF VOTERS

RECALL PETITION Serial N°_____.

We the undersigned registered voters in the Republic of Kenya and in the exercise of our sovereign powers, do hereby consent to the proposal to recall the County Assembly Member under Sections 27,28 and 29 of the County Government Act 2012. (ATTACH A LIST OF ISSUES)

1. ……
2. ……
3. ……

NO.	NAME	ID/PASSPORT NUMBER	ADDRESS	POSTAL CODE	MOBILE NUMBER	EMAIL ADDRESS	SIGNATURE / THUMPPRINT
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							

ANNEX C: ADMINISTRATION OF OATH OF SECRECY

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

ELECTIONS ACT, 2011

THIRD SCHEDULE

(S. 55A)

OATH OF SECRECY

I, ...

I.D./Passport No. ..... swear that I shall maintain the secrecy of the verification process conducted in the ……recall petition and shall not communicate, except for a purpose authorized by law before the verification process is closed, any information as to the name or number on the register of voters, of any voter whose details are or are not in the register of voters to the recall petition or do anything that compromises the process of verification.

(So help me God)

.....
Signature of person taking the oath

Before me

.....
(Signature)
Commissioner for Oaths/Magistrate

Date: .....

ANNEX D: SUBMISSION FORM BY PETITIONERS CONFIRMING AND COMMITTING THE DOCUMENTS AND SIGNATURES PRESENTED

The County Governments Act, 2012 (Section 28)

TO: Chairperson, Independent Electoral and Boundaries Commission

SUBMISSION OF A RECALL PETITION AND SUPPORTING SIGNATURES

We, ... I.D./Passport No, ……,……. I.D./Passport No, ……,……I.D./Passport No……. ……..., the Petitioners of the ……. recall petition hereby certify that we have submitted the Recall Petition supported by at least thirty percent of the registered voters in that Ward in accordance to Section 28 of the County Governments Act, 2012.

..... Date: .....

(Signature)

..... Date: .....

(Signature)

..... Date: .....

(Signature)

ANNEX E: CHECKLIST FOR RECEIVING OF THE ELECTRONIC FILE

REFEREDUM INITIATIVE PROMOTERS _____

RECEIVING DESK _____

A) Confirmation of the electronic file format received

SN	DESCRIPTION	DESCRIPTION	REMARKS
1.	File Name		
2.	File format (excel)		
3.	File size (Mb)		
4.	Date Created		

B) Confirmation of the fields in the electronic file received

SN	DESCRIPTION	YES	NO	REMARKS
1.	Voters Names			
2.	ID/Passport Number			
3.	County			
4.	Constituency			
5.	County Assembly Ward			
6.	Polling Station			
7.	Mobile Number			

For Official Use

Receiving Clerk Name _____ Signature _____ Date _____

Receiving Clerk Name _____ Signature _____ Date _____

Supervisor's Name _____ Signature _____Date _____

RPIC Chairman Name _____ Signature _____ Date ____

RI Promoters Representative _____ Signature _____ Date ___

ANNEX F: HANDING OVER –TAKING OVER FORM

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

Handing Over - Taking Over during the presentation of the list of supporters of an initiative to amend the Constitution

HANDING OVER	TAKING OVER
Number of records/files submitted: …….. Name of the Promoter of the referendum initiative: …… ID Number: …… Signature: …….. Date: ……..…. Time: ……	Number of records/files received: …….. Referendum Committee Chairperson: …… ID Number: …… Signature: …… Date: …… Time: ……..……..