

**CITY OF BERKELEY  
CITY CLERK DEPARTMENT**

**5% AND 10% INITIATIVE PETITION  
REQUIREMENTS & POLICIES**

1. Guideline for Filing
2. Berkeley Charter – Article XIII, Section 92
3. State Elections Code Provisions
4. State Government Code Provisions
5. Berkeley Municipal Code Section 2.90
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- *Petitions submitted for review must be filed during regular business hours as posted.*
- *The total votes cast for the Office of Mayor at the Nov. 2008 Election was 55,575.*

**Berkeley City Charter Section 92(3)**

**Initiative Ordinance: Ten percent petition.**

If the petition accompanying the proposed ordinance be signed by electors equal in number to ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, and contain a request that said ordinance be submitted forthwith to the vote of the people at the next occurring regular statewide or general municipal election, then the Council shall either:

(a) Pass said ordinance without alteration within twenty days after the attachment of the City Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote, under the provision of Article XIV of this Charter); or

(b) Within twenty-five days after the City Clerk shall have attached to the petition accompanying such ordinance the certificate of sufficiency, the Council shall cause said ordinance without alteration to be submitted to a vote of the people at the next occurring regular statewide or general or special municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council.

**Berkeley City Charter Section 92(4)**

**Initiative Ordinance: Five percent petition.**

If the petition be signed by electors in number to at least five but less than ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, and said ordinance be not passed by the Council as provided in the preceding subdivision, then such ordinance, without alteration, shall be submitted by the Council to a vote of the people at the next general municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council.

**State of California, Elections Code Section 9214**

If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

**CAUTION**

*The following information is intended to be a preliminary guide for those interested in circulating a petition. You are cautioned that it is the ultimate responsibility of the petition proponent(s) to ensure that all legal and procedural steps are taken and that all requirements as to form are met.*

**CITY CLERK DEPARTMENT**  
**GUIDELINE FOR FILING INITIATIVE PETITIONS**  
**FOR THE**  
**NOVEMBER 6, 2012 BERKELEY GENERAL MUNICIPAL ELECTION**

The calendar below is a guide. Contact the City Clerk Department at (510) 981-6900 or visit the City's website at <http://www.cityofberkeley.info/clerk> for additional information.

<b>Date</b>	<b>Election Activity</b>
5/10/12	Recommended date for proponents to file initiative petitions. (Code allows 30 business days for signature verification)
6/22/12	Deadline for verification of signatures if filed on May 11, 2012.
7/17/12	Council Meeting (tentative date) to adopt Resolution calling Election for Ballot Measure. (Charter allows 25 days for Council to act on sufficient initiatives.)
	July 17 <sup>th</sup> is likely to be the last scheduled Council meeting before summer recess. Council must take action on all measures prior to August 10.
	The period for filing ballot arguments will begin after the Council has taken action on all measures to be placed on the ballot.
<b>10/08/12</b>	Absentee ballot period opens.
<b>10/22/12</b>	Deadline to register to vote for this election.
<b>11/06/12</b>	Election Day – Polls open 7 am to 8 pm.

**CHARTER OF THE CITY OF BERKELEY**  
**Section 92, Article XIII**

**ARTICLE XIII.**  
**THE INITIATIVE**

**Section 92. Direct legislation.**

The qualified voters of the City shall have power through the initiative and otherwise, as provided by this Charter and the general laws of the State, to enact appropriate legislation to carry out and enforce any of the powers of the City or any of the powers of the Council.

(1) Any proposed ordinance or charter amendment may be submitted to the Council by a petition signed by registered electors of the City equal in number to the percentage hereinafter required.

(2) **Provisions of Article III apply.**

The provisions of Article III respecting the forms and conditions of the petition and the mode of verification and certification and filing shall be substantially followed, with such modification as the nature of the case requires.

(3) **Initiative Ordinance: Ten percent petition.**

If the petition accompanying the proposed ordinance be signed by electors equal in number to ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, and contain a request that said ordinance be submitted forthwith to the vote of the people at the next occurring regular statewide or general municipal election, then the Council shall either:

(a) Pass said ordinance without alteration within twenty days after the attachment of the City Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote, under the provision of Article XIV of this Charter); or

(b) Within twenty-five days after the City Clerk shall have attached to the petition accompanying such ordinance the certificate of sufficiency, the Council shall cause said ordinance without alteration to be submitted to a vote of the people at the next occurring regular statewide or general or special municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council.

(4) **Initiative Ordinance: Five percent petition.**

If the petition be signed by electors in number to at least five but less than ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, and said ordinance be not passed by the Council as provided in the preceding subdivision, then such ordinance, without alteration, shall be submitted by the Council to a vote of the people at the next general municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council.

**CHARTER OF THE CITY OF BERKELEY**  
**Section 92, Article XIII**

**(6) Publicizing of Popular Ordinance or Charter Amendment.**

Whenever any ordinance, charter amendment, or proposition is required by this Charter to be submitted to the voters of the City at any election, (a) the Council shall cause the ordinance, charter amendment, or proposition to be printed and it shall be the duty of the City Clerk to enclose a printed copy thereof in an envelope with a sample ballot and mail the same to each voter prior to the election, and (b) the Council shall order such ordinance, charter amendment, or proposition to be printed in the official newspaper of the City and publicized in the like manner as ordinances adopted by the Council are required to be publicized.

**(8) Several ordinances or charter amendments at one election.**

Any number of proposed ordinances, charter amendments, or both may be voted upon at the same election, in accordance with the provisions of this Article.

**(9) Repeal of popular ordinance or charter amendment.**

The Council may submit a proposition for the repeal of any such ordinance, charter amendment, or for amendments thereto, to be voted on at any succeeding general municipal election; and should such proposition, so submitted, receive a majority of the votes cast thereon at such election, such ordinance or charter amendment shall be repealed or amended accordingly. An ordinance or charter amendment proposed by petition, or adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

# CALIFORNIA ELECTIONS CODE

## Division 9, Chapter 3. Municipal Elections Article 1. Initiative

### **9200. Scope of article.**

Ordinances may be enacted by and for any incorporated city pursuant to this article.  
(Added by Stats. 1994, c. 920, §2.)

### **9201. Proposed ordinance may be submitted by petition.**

Any proposed ordinance may be submitted to the legislative body of the city by a petition filed with the elections official of the legislative body, in the manner hereinafter prescribed, after being signed by not less than the number of voters specified in this article. The petition may be in separate sections, providing that the petition complies with this article. The first page of each section shall contain the title of the petition and the text of the measure. The petition sections shall be designated in the manner set forth in Section 9020.

(Added by Stats. 1994, c. 920, §2.)

### **9202. Notice of intent to circulate; filing, form.**

(a) Before circulating an initiative petition in any city, the proponents of the matter shall file with the elections official a notice of intention to do so, which shall be accompanied by the written text of the initiative and may be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

#### Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of \_\_\_ for the purpose of \_\_\_\_\_. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(b) Any person filing a notice of intent with the elections official shall pay a fee to be established by the legislative body not to exceed two hundred dollars (\$200)\* to be refunded to the filer if, within one year of the date of filing the notice of intent, the elections official certifies the sufficiency of the petition.

(Added by Stats. 1994, c. 920, §2.)

*\*The City of Berkeley does not charge a fee to file a notice of intent.*

### **9203. Proposed measure; title and summary.**

(a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the elections official with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The elections official shall immediately transmit a copy of the proposed measure to the city attorney. Within 15 days after the proposed measure is filed, the city attorney shall provide and return to the city elections official a ballot title for and summary of the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the

## CALIFORNIA ELECTIONS CODE

proposed measure.

(b) The elections official shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12 point, the ballot title prepared by the city attorney. The text of the measure shall be printed in type not smaller than 8 point.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to be Submitted Directly to the Voters

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)  
(Amended by Stats. 1999, c. 312, §21.)

### **9204. Title or summary; writ of mandate.**

Any elector of the city may seek a writ of mandate requiring the ballot title or summary prepared by the city attorney to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9203.

(Amended by Stats. 2002, c. 237, §2.)

### **9205. Where notice is published or posted.**

A notice of intention and the title and summary of the proposed measure shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Chapter 1 (commencing with Section 6000) of Division 7 of Title 1 of the Government Code, adjudicated as such, the notice, title, and summary shall be published therein at least once.

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, the notice, title, and summary shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and the notice, title, and summary shall be posted in three (3) public places within the city, which public places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code.

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the notice, title, and summary shall be posted in the manner described in subdivision (b).

(Added by Stats. 1994, c. 920, §2.) \*\* At the present time the only three newspapers in the City of Berkeley that meet this standard are the Berkeley Voice, the Daily Californian and the Oakland Tribune.

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### **9206. Filing of publication affidavit.**

Within 10 days after the date of publication or posting, or both, of the notice of intention and title and summary, the proponents shall file a copy of the notice and title and summary as published or posted together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

If the notice and title and summary are both published and posted pursuant to subdivision (b) of Section 9205, the proponents shall file affidavits as required by this section made by a representative of the newspaper in which the notice was published certifying to the fact that the notice was published and by a voter of the city certifying to the fact that the notice was posted.

These affidavits, together with a copy of the notice of intention and title and summary, shall be filed with the elections official of the legislative body of the city in his or her office during normal office hours as posted.

*(Added by Stats. 1994, c. 920, §2.)*

### **9207. When petition may be circulated.**

The proponents may commence to circulate the petitions among the voters of the city for signatures by any registered voter of the city after publication or posting, or both, as required by Section 9205, of the title and summary prepared by the city attorney. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the city attorney.

*(Added by Stats. 1994, c. 920, §2.)*

### **9208. Securing of signatures and petition filing time.**

Signatures upon petitions and sections of petitions shall be secured, and the petition, together with all sections of the petition, shall be filed within 180 days from the date of receipt of the title and summary, or after termination of any action for a writ of mandate pursuant to Section 9204, and, if applicable, after receipt of an amended title or summary or both, whichever occurs later. Petitions and sections thereof shall be filed in the office of the elections official during normal office hours as posted. If the petitions are not filed within the time permitted by this section, the petitions shall be void for all purposes.

*(Added by Stats. 1994, c. 920, §2.)*

### **9209. Affidavit attached to petition.**

Each section shall have attached thereto the declaration of the person soliciting the signatures. This declaration shall be substantially in the same form as set forth in Section 9022, except that the declaration shall declare that the circulator is a voter or is qualified to register as a voter of the city\*, and shall state his or her residence address at the time of the execution of the declaration.

*(Added by Stats. 2001, c. 105, §4.)*

*\* In the legal decision *Preserve Shorecliff Homeowners v. City of San Clemente* the appellate court affirmed the lower court ruling that a circulator must be qualified to be a voter of the State of California and does not have to be qualified to be a voter in the city or local jurisdiction. The sample petition below includes this change.*

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### **9210. Filing of petition.**

The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction

When the petition is presented for filing, the elections official shall do all of the following:

~~(a) Ascertain the number of registered voters of the city last reported by the county elections official to the Secretary of State pursuant to Section 2187 effective at the time the notice specified in Section 9202 was published.~~ *\*\* Article XIII, Section 92 of the City Charter dictates the number of signatures required.*

(b) Determine the total number of signatures affixed to the petition. If, from this examination, the elections official determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, he or she shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not accepted for filing shall be returned to the proponents.

*(Added by Stats. 1994, c. 920, §2.)*

### **9211. Examination of signatures.**

After the petition has been filed, as herein provided, the elections official shall examine the petition in the same manner as are county petitions in accordance with Sections 9114 and 9115, except that for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

*(Added by Stats. 1994, c. 920, §2.)*

### **9212. Report on effect of proposed initiative to legislative body.**

(a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

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(8) Any other matters the legislative body requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

*(Amended by Stats. 2000, c. 496, §2.)*

### **9213. Report on municipal initiatives submitted to Secretary of State; time.**

On or before April 1 of each odd-numbered year, the elections official of each legislative body shall file a report with the Secretary of State containing the following information:

(a) The number of municipal initiative petitions circulated during the preceding two calendar years which did not qualify for the ballot, and the number of these proposed initiatives for which reports were prepared pursuant to Section 9212.

(b) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

(c) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were not approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

*(Added by Stats. 1994, c. 920, §2.)*

### **9217. Valid ordinance if majority.**

If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the city. The ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect 10 days after that date. No ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance.

*(Added by Stats. 1994, c. 920, §2.)*

### **9218. More than one ordinance at same election.**

Any number of proposed ordinances may be voted upon at the same election, but the same subject matter shall not be voted upon twice within any 12-month period at a special election under the provisions of this article.

*(Added by Stats. 1994, c. 920, §2.)*

### **9219. Arguments for and against ordinance.**

The persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance. Neither argument shall exceed 300 words in length, and both arguments shall be printed upon the same sheet of paper and mailed to each voter with the sample ballot for the election.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

“Arguments in support of or in opposition to the proposed laws are the opinions of the authors.”

Printed arguments submitted to voters in accordance with this section shall be titled either “Argument In Favor Of Measure \_\_\_\_” or “Argument Against Measure \_\_\_\_” accordingly, the

## CALIFORNIA ELECTIONS CODE

blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the elections official, the word “Proposition” may be substituted for the word “Measure” in the titles. Words used in the title shall not be counted when determining the length of any argument.

*(Added by Stats. 1994, c. 920, §2.)*

### **9220. Rebuttal arguments.**

(a) If the legislative body submits an argument against the ordinance, it shall immediately send copies of the argument to the persons filing the initiative petition. The persons filing the initiative petition may prepare and submit a rebuttal argument not exceeding 250 words. The legislative body may prepare and submit a rebuttal to the argument in favor of the ordinance not exceeding 250 words. The rebuttal arguments shall be filed with the elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

(b) Subdivision (a) shall only apply if, not later than the day on which the legislative body calls an election, the legislative body, by a majority vote, approves its application; in which case, subdivision (a) shall apply at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accord with this subdivision.

*(Added by Stats. 1994, c. 920, §2.)*

### **9221. Conflicting ordinances.**

If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

*(Added by Stats. 1994, c. 920, §2.)*

### **9222. Legislative body may submit proposed ordinance to voters.**

The legislative body of the city may submit to the voters, without a petition therefor, a proposition for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular or special city election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be repealed, amended, or enacted accordingly. A proposition may be submitted, or a special election may be called for the purpose of voting on a proposition, by ordinance or resolution. The election shall be held not less than 88 days after the date of the order of the election.

*(Added by Stats. 2002, c. 371, §1.)*

### **9223. Copy of ordinance made available to voter.**

Whenever any ordinance or measure is required by this article to be submitted to the voters of a city at any election, the elections official of the legislative body shall cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

*(Added by Stats. 1994, c. 920, §2.)*

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### **9224. Enacting clause of ordinance.**

The enacting clause of an ordinance submitted to the voters of a city shall be substantially in the following form:

“The people of the City of \_\_\_\_\_ do ordain as follows:”.  
(Added by Stats. 1994, c. 920, §2.)

### **9607. Instructions on requirements and prohibitions of state law**

The proponents of an initiative measure shall ensure that any person, company, or other organization that is paid, or who volunteers, to solicit signatures to qualify the proposed measure for the ballot shall receive instruction on the requirements and prohibitions imposed by state law with respect to circulation of the petition and signature gathering thereon, with an emphasis on the prohibition on the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot.

### **9608. Signed statement of proponent**

(a) A proponent of an initiative measure shall execute and submit, along with the request for a title and summary for the proposed measure, a signed statement that reads as follows:

I, \_\_\_\_\_, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

\_\_\_\_\_  
(Signature of Proponent)

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

(b) The certification required by subdivision (a) shall be kept on file by the agency authorized to prepare the title and summary for the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

### **9609. Signed statement of circulator**

(a) Prior to allowing a person to circulate an initiative petition for signatures, the person, company official, or other organizational officer who is in charge of signature gathering shall execute and submit to the proponents a signed statement that reads as follows:

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I, \_\_\_\_\_, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

---

(Signature of Official)

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

(b) The certification required by subdivision (a) shall be kept on file by the proponents of the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

### **9610. Signed statement of circulator**

(a) Prior to soliciting signatures on an initiative petition, a circulator shall execute and submit to the person, company official, or other organizational officer who is in charge of signature gathering a signed statement that reads as follows:

I, \_\_\_\_\_, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the Proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

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(Signature of Circulator)

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

(b) The certification required by subdivision (a) shall be kept on file by the person, company official, or other organizational officer who is in charge of signature gathering for the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) This section shall not apply to unpaid circulators of state or local initiative petitions.

(d) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

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**Division 0.5, Chapter 2. Petitions and Petition Signers**

**100. Only registered voter entitled to sign petition; printed name and place of residence; form of petition.**

Notwithstanding any other provision of law, whenever any initiative, referendum, recall, nominating petition or paper, or any other petition or paper, is required to be signed by voters of any county, city, school district, or special district subject to petitioning, only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign it. Each signer shall at the time of signing the petition or paper personally affix his or her signature, printed name, and place of residence, giving street and number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained. A space at least one inch wide shall be left blank after each name for the use of the elections official in verifying the petition or paper. The part of a petition for the voters' signatures, printed names, and residence addresses and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially in the following form:

Official  
Use  
Only

1. _____	(Print Name)	(Residence Address ONLY)	
	(Signature)	(City)	
2. _____	(Print Name)	(Residence Address ONLY)	
	(Signature)	(City)	

*(Added by Stats. 1994, c. 920, §2.)*

**100.5. Allow another person to print name and residence for those unable to do so.**

Notwithstanding Section 100, a voter who is unable to personally affix on a petition or paper the information required by Section 100 may request another person to print the voter's name and place of residence on the appropriate spaces of the petition or paper, but the voter shall personally affix his or her mark or signature on the appropriate space of the petition or paper, which shall be witnessed by one person by subscribing his or her name thereon.

*(Amended by Stats. 2001, c. 922, §2.)*

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### **101. Petition notice to the public.**

Notwithstanding any other provision of law, any state or local initiative petition required to be signed by voters shall contain in 12-point type, prior to that portion of the petition for voters' signatures, printed names, and residence addresses, the following language:

“NOTICE TO THE PUBLIC

THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.”

*(Added by Stats. 1994, c. 920, §2.)*

### **102. Voter may circulate petition.**

A person who is a voter or who is qualified to register to vote in this state may circulate an initiative or referendum petition in accordance with this code. A person who is a voter may circulate a recall petition in accordance with this code.

*(Amended by Stats. 2001, c. 105, §1.)*

### **103. Signature withdrawn from petition.**

Any voter who has signed an initiative, referendum or recall petition pursuant to the Constitution or laws of this state shall have his or her signature withdrawn from the petition upon filing a written request therefor with the appropriate county elections official or city elections official prior to the day the petition is filed.

*(Added by Stats. 1994, c. 920, §2.)*

### **104. Declaration of circulator attached to petition; form.**

(a) Wherever any petition or paper is submitted to the elections official, each section of the petition or paper shall have attached to it a declaration signed by the circulator of the petition or paper, setting forth, in the circulator's own hand, the following:

(1) The printed name of the circulator.

(2) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(3) The dates between which all the signatures to the petition or paper were obtained.

(b) Each declaration submitted pursuant to this section shall also set forth the following:

(1) That the circulator circulated that section and witnessed the appended signatures being written.

(2) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(c) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

*(Added by Stats. 1994, c. 920, §2.)*

## CALIFORNIA ELECTIONS CODE

### **105. Examination of petitions; residence address verification.**

For purposes of verifying signatures on any initiative, referendum, recall, nomination, or other election petition or paper, the elections official shall determine that the residence address on the petition or paper is the same as the residence address on the affidavit of registration. If the addresses are different, or if the petition or paper does not specify the residence address, or, in the case of an initiative or referendum petition, if the information specified in Section 9020 is not contained in the petition, the affected signature shall not be counted as valid.

Any signature invalidated pursuant to this section shall not affect the validity of other valid signatures on the particular petition or paper.

*(Added by Stats. 1994, c. 920, §2.)*

### **106. Nomination papers' signatures.**

Notwithstanding any other provision of law:

(a) Any registered voter who is a candidate for any office may obtain signatures to and sign his or her own nomination papers. The candidate's signature shall be given the same effect as that of any other qualified signer.

(b) Any person engaged in obtaining signatures to the nomination papers of a candidate for any office or to any recall, initiative or referendum petition, may, if otherwise qualified to sign the papers or petition, sign the papers or petition. The signature of the person shall be given the same effect as that of any other qualified signer.

*(Added by Stats. 1994, c. 920, §2.)*

# CALIFORNIA ELECTIONS CODE

## Division 9, Chapter 1. State Elections Article 2. Petition Signatures

### **9020. Form of petition; signature and address.**

The petition sections shall be designed so that each signer shall personally affix all of the following:

(a) His or her signature.

(b) His or her printed name.

(c) His or her residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(d) The name of his or her incorporated city or unincorporated community.

Only a person who is a qualified registered voter at the time of signing the petition is entitled to sign it.

The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

*(Added by Stats. 1994, c. 920, §2.)*

### **9021. Registered voter may circulate; section must show county.**

A person who is a voter or who is qualified to register to vote in this state may circulate an initiative or referendum petition anywhere within the state. Each section of the petition shall bear the name of a county or city and county, and only qualified registered voters of that county or city and county may sign that section.

The circulator may sign the section he or she is circulating as provided in Section 106.

*(Amended by Stats. 2001, c. 105, §2.)*

### **9022. Declaration of circulator.**

(a) Each section shall have attached thereto the declaration of the person soliciting the signatures setting forth the information required by Section 104 and stating that the circulator is a voter or is qualified to register to vote in the state.

(b) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name and middle name or initial. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

Another declaration thereto may not be required.

Petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing are qualified voters. Unless and until otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters.

*(Amended by Stats. 2001, c. 105, §3.)*

# CALIFORNIA ELECTIONS CODE

## Division 9, Chapter 2. County Elections Article 1. Initiative

### **9114. Examination of signatures.**

Except as provided in Section 9115, within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, the elections official shall examine the petition, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters. A certificate showing the results of this examination shall be attached to the petition.

In determining the number of valid signatures, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

The elections official shall notify the proponents of the petition as to the sufficiency or insufficiency of the petition.

If the petition is found insufficient, no further action shall be taken. However, the failure to secure sufficient signatures, shall not preclude the filing of a new petition on the same subject, at a later date.

If the petition is found sufficient, the elections official shall certify the results of the examination to the board of supervisors at the next regular meeting of the board.

*(Added by Stats. 1994, c. 920, §2.)*

### **9115. Sample examination of signatures.**

(a) Within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, if, from the examination of petitions pursuant to Section 9114 shows that more than 500 signatures have been signed on the petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn so that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500, or 3 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the elections official shall, within 60 days from the date of the filing of the petition, excluding Saturdays, Sundays, and holidays, examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the petition, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(d) The elections official shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(e) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.

(f) If the petition is found to be sufficient, the elections official shall certify the results of the examination to the board of supervisors at the next regular meeting of the board.

*(Amended by Stats. 2001, c. 70, §1.)*

## CALIFORNIA GOVERNMENT CODE

### **§ 6000. Newspaper of general circulation**

A “newspaper of general circulation” is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement. (*Stats.1943, c. 134, p. 987, § 6000.*)

*\*\* At the present time the only three newspapers that meet this standard in the City of Berkeley are the Berkeley Voice, Daily Californian and Oakland Tribune.*

## Chapter 2.90

### BINDING REVIEW OF INITIATIVE AND REFERENDUM PETITIONS BY THE CITY CLERK AS TO FORM

#### Sections:

- 2.90.010 Findings.**
- 2.90.020 City Clerk review.**
- 2.90.030 Time of review.**
- 2.90.040 City Clerk review binding.**
- 2.90.050 Retention of copies of petitions and City Clerk's determination.**

#### **Section 2.90.010 Findings.**

The council finds as follows:

A. The initiative and referendum process provides an important method for citizens of Berkeley to propose legislation and review council enacted legislation.

B. The initiative and referendum provisions of the California Election Code specify certain requirements as to form that each petition must meet prior to acceptance of the petition by the City Clerk.

C. The California Election Code provisions are complex and difficult to interpret.

D. In order to facilitate the circulation of citizen initiatives and referenda, it is necessary for the City Clerk to provide some guidance to citizens regarding the petition requirements of the California Election Code.

E. City Charter Section 92(10) authorizes the council to enact by ordinance appropriate legislation necessary to implement Charter Section 92 regarding initiatives; Charter Section 95 authorizes the council to enact appropriate legislation to implement Article XIV of the Charter regarding referendum and Charter Section 118 authorizes the council to enact legislation which may be necessary and proper to carry out any of the provisions of the Charter.

F. Enactment of legislation providing for review of initiative or referendum petitions by the City Clerk is necessary and proper for the reasons set forth above. (Ord. 5729-NS § 1, 1986)

#### **Section 2.90.020 City Clerk review.**

The City Clerk, at the request of proponents of an initiative or referendum, shall review any referendum or initiative petition prior to circulation and advise proponents, in writing, of any violation of the California Election Code apparent on the face of the petition. (Ord. 5729-NS § 2, 1986)

**Section 2.90.030 Time of review.**

A. The City Clerk shall complete any requested review of an initiative petition within three working days after a review is requested.

B. The City Clerk will complete any review of a referendum petition within one working day of submission. (Ord. 5729-NS § 3, 1986)

**Section 2.90.040 City Clerk review binding.**

No initiative or referendum petition shall thereafter be deemed insufficient as to form by the City Clerk if the alleged defect was present at the time of the City Clerk's review and the City Clerk failed to advise the proponents of such defect in writing. In such event, the initiative or referendum shall be deemed to have substantially followed the applicable legal requirements notwithstanding any such pre-existing defect. (Ord. 5729-NS § 4, 1986)

**Section 2.90.050 Retention of copies of petitions and City Clerk's determination.**

The City Clerk shall retain a copy of all petitions reviewed as well as the Clerk's written determination as to the legal sufficiency of such petitions for six months subsequent to such review. (Ord. 5729-NS § 5, 1986)

**Important Note:** The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction. (Elections Code §9210)

## CITY OF BERKELEY SAMPLE INITIATIVE PETITION FORM

*Please leave a 1" margin at the top, and a 1/2" margin at the bottom, left and right of the petition section.*

### Initiative Measure to be Submitted Directly to the Voters (EC 9203)

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

**(Set forth the title and summary prepared by the city attorney here. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear. Title and summary must be printed in roman boldface type not smaller than 12 point.)**

*The first page of each section shall contain the petition title and the entire text of the measure. (EC 9201)*

*The text of the measure shall be printed in type not smaller than 8 point. (EC 9203)*

*Each section of the petition shall bear a copy of the notice of intention (EC 9207)*

*The enacting clause of the proposed measure shall be in substantially the following form: (EC 9224)*

“The people of the City of Berkeley do ordain as follows:”

#### NOTICE TO THE PUBLIC

THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER.  
YOU HAVE THE RIGHT TO ASK. (EC 101)

***If compensation is received by any person for obtaining signatures or for the circulation of petitions to place a measure on the ballot, the terms of such compensation shall be clear and visible on the signature sheet of the petition. (Berkeley Election Reform Act Sec. 2.12.405)***

*1" space  
(EC 100)*

			Official Use Only
1.	Print Name _____ Signature _____	Residence _____ Address _____ City _____	
2.	Print Name _____ Signature _____	Residence _____ Address _____ City _____	
3.	Print Name _____ Signature _____	Residence _____ Address _____ City _____	
4.	Print Name _____ Signature _____	Residence _____ Address _____ City _____	
5.	Print Name _____ Signature _____	Residence _____ Address _____ City _____	

6.	Print Name _____ Signature _____	Residence Address _____ City _____	
7.	Print Name _____ Signature _____	Residence Address _____ City _____	
8.	Print Name _____ Signature _____	Residence Address _____ City _____	
9.	Print Name _____ Signature _____	Residence Address _____ City _____	
10.	Print Name _____ Signature _____	Residence Address _____ City _____	
11.	Print Name _____ Signature _____	Residence Address _____ City _____	
12.	Print Name _____ Signature _____	Residence Address _____ City _____	
13.	Print Name _____ Signature _____	Residence Address _____ City _____	
14.	Print Name _____ Signature _____	Residence Address _____ City _____	
15.	Print Name _____ Signature _____	Residence Address _____ City _____	

**DECLARATION OF PERSON CIRCULATING PETITION SECTION (EC 104, 9238c)**

(To be completed in circulator's own hand)

I, \_\_\_\_\_, declare:  
(Print Your Full Name)

My residence address is \_\_\_\_\_ and \_\_\_\_\_  
(Number, Street and City)

I am a registered voter in the State of California or qualified to register as a voter in the State of California.

I personally circulated this petition section and witnessed each of the appended signatures being written on the petition and to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be and the appended signatures were obtained between the dates of: \_\_\_\_\_ and \_\_\_\_\_, inclusive.  
(Month, Day, Year) (Month, Day Year)

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_  
(Month, Day, Year) (Place of Signing)

Signed \_\_\_\_\_  
(Signature of Petition Circulator - First Name, Middle Name or Initial, Last Name)