



**CITY OF BERKELEY  
CITY CLERK DEPARTMENT**

**RECALL PETITION REQUIREMENTS**

- The Notice of Intention and the Certificate of Service required to be filed in Charter Section 6 shall be filed together, at the same time, by one of the Proponents named on the Notice of Intention, or by a person authorized to file by a Proponent named in the Notice of Intention.
- 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.

**RECALL PETITION POLICIES**

- Proponent(s) listed on Notice of Intention must authorize any other proponents in writing to execute required actions on behalf of recall effort. Any such authorization must list the name of the person so authorized.
- The City Clerk will mail a copy of any filing by the proponent to the officer sought to be recalled and will likewise mail a copy of any filing by the officer sought to be recalled to the proponent.
- The filing of any documents or petitions with the City Clerk regarding any recall or petition requirements must occur during normal business hours as posted.

Documents Included

1. Berkeley Charter – Article IV, Section 7
2. State Elections Code Provisions

**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 to ensure that all legal and procedural steps are taken and that all requirements as to form are met. It is advisable to personally review all relevant sections of the Charter and Elections Code. It may also be prudent to seek legal advice.

## **ARTICLE IV RECALL OF ELECTIVE OFFICERS**

### **Section 7. Recall.**

#### **(1) Persons subject to recall.**

Every incumbent of an elective office, whether elected by popular vote or appointed to fill a vacancy, is subject to recall by the voters of the City. The procedure for recall shall be as provided in this Section 7.

#### **(2) Commencement of recall proceedings.**

Recall proceedings may be commenced by the service, filing and publication of a notice of intention to circulate a recall petition pursuant to subdivision (6) of this Section 7. Proceedings may not be commenced against the holder of an office unless, at the time of commencement, the holder has held office for at least six months and no recall petition has been filed against such holder within the preceding six months.

#### **(3) Recall petition.**

A petition demanding the recall of the officer sought to be recalled shall be filed with the City Clerk. The petition shall be signed by not less than 25 percent of the registered electors of the City eligible to vote for said officer on the day the petition is filed with the City Clerk.

#### **(4) Occurrence of vacancy after filing petition.**

If a vacancy occurs in an office after a recall petition has been filed, the election shall nevertheless proceed as provided in this Section 7, except as provided in subdivision (20) hereof.

#### **(5) Recall of more than one officer.**

One election is sufficient for the recall of one or more officers, but a separate petition is necessary to propose the recall of each officer.

#### **(6) Notice of intention to circulate petition; statement.**

No signature may be affixed to the petition until the proponents have served, filed and published a notice of intention to circulate a recall petition, containing the name of the officer sought to be recalled and the title of his or her office, a statement in not more than 500 words of the grounds on which the recall is sought, and the name and address of at least one proponent. The notice of intention shall be served, personally or by certified mail, on the officer sought to

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be recalled, and a copy thereof with a certificate of the time and manner of service shall be filed with the City Clerk.

**(7) Answer to statement of proponents.**

Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the City Clerk an answer in not more than 500 words to the statement of the proponents, and, if an answer is filed, shall serve a copy thereof, personally or by certified mail, on one of the proponents named in the notice of intention. The statement and answer are intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect the validity of the election or proceedings.

**(8) Publication of notice, statement and answer.**

The notice, statement and answer, if any, shall be published by the proponents at least once in a newspaper of general circulation published in the City, or, if there be no such newspaper, then in a newspaper published in the County and of general circulation within the City. The provision of Section 68 of this Charter that posting shall be sufficient publication of any matter required by the Charter to be published shall not be applicable to the publication requirement of this Subdivision (8) of Section 7.

**(9) Circulation of petition.**

Seven days after the publication of the notice, statement and answer, if any, the recall petition may be circulated and signed. The petition shall bear a copy of the notice of intention, statement and answer, if any. If the officer has not answered, the petition shall so state. Signatures shall be secured and the petition filed within 75 days from the filing of the notice of intention.

**(10) Signatures.**

The signatures to the petition need not all be appended to one paper but may be in sections. Each signer shall add to his or her signature the date of his or her signing and his or her residence, giving street and number. If no street or number exist, then a designation of the place of residence shall be given which will enable the location to be readily ascertained. The petition, when filed, must have designated therein the name or number of the respective precinct in which each of the signers resides.

**(11) Affidavit.**

Each section of the petition shall have attached to it an affidavit made by a voter of the City. The affidavit shall be sworn to before an officer competent to administer oaths and shall state that the affiant solicited signatures to that

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particular section and saw written the signatures appearing thereon. The affidavit shall also state that according to the best information and belief of the affiant:

(a) Each signature is the genuine signature of the person whose name it purports to be.

(b) The signer is a qualified voter of the City.

Any section of a petition may include a number of attached sheets.

**(12) Clerk's examination of petition; supplemental petition.**

In order to be acceptable for filing, the petition must on its face purport to have appended to it signatures of voters in the required number. Within 15 days from the date of filing the petition, the Clerk shall examine and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters. He or she shall attach to the petition his or her certificate showing the result of his or her examination. If the Clerk's certificate shows the petition is insufficient, a supplemental petition, in form a duplicate of the original petition, may be filed within 15 days of the date of the certificate of insufficiency.

**(13) Insufficient petition.**

The Clerk shall, within 15 days after the supplemental petition is filed, examine it, and if his or her certificate shows that the petition is still insufficient, no action shall be taken thereon. The petition shall remain on file as a public record, and the failure to secure sufficient names shall not prejudice the filing later of an entirely new petition to the same effect.

**(14) Submission to Council; order for election.**

If the petition, together with supplementary petitions, if any, is sufficient, the Clerk shall submit it to the Council without delay. The Council shall at once order a special election to be held, not less than 60 nor more than 75 days after the date of the order, to determine whether the voters will recall the officer sought to be recalled. If a regular municipal election is to occur not more than 90 nor less than 60 days from the date of the order, the Council may order the special election to be held on the day of the regular election.

**(15) Sample ballot.**

The Clerk shall mail to each voter, at least 10 days prior to the election, a sample ballot and a separate printed copy of the statement of the proponents and of the answer, if any, of the officer sought to be recalled. If the recall of more than one officer is sought, the statement and answer for each shall be printed together and shall be clearly distinguished from those of any other officer. The provisions of

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Section 6 1/2 of Article III of the Charter shall be applicable in recall proceedings and elections, and the officer sought to be recalled as well as the candidate or candidates nominated to succeed him may file the candidate's statement provided for therein. The candidate's statement of the officer sought to be recalled shall be filed not later than the last day upon which nomination papers may be filed.

**(16) Form of recall question.**

There shall be printed on the recall ballot, as to each officer whose recall is to be voted on, the following question: "Shall (name of person) be recalled from the office of (title of the office)?" Following which question shall be the words "yes" and "no" on separate lines, with a voting square at the right of each, in which the voter shall indicate in the manner prescribed his or her vote for or against the recall.

**(17) Ballot; nominees; counting votes.**

On the recall ballots, under each question, there shall be printed the names of those persons who have been nominated, in the manner provided by this Charter for nominations at municipal elections, as candidates to succeed the incumbent if he or she is recalled from office by the recall election. No vote cast shall be counted for any candidate for the office unless the voter also voted on the question of the recall of the person sought to be recalled from that office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

**(18) Canvass of votes.**

The City Council shall meet at its usual place of meeting on the first Tuesday after the election to canvass the returns and declare the results as in a regular election. If a majority of those voting at the election voted in favor of the recall of any incumbent from office, the incumbent shall be deemed removed from office upon the qualification of his successor.

If all of the members of the City Council or Board of Education are recalled, and no candidates are elected to succeed them, the recall shall fail and the incumbents shall remain in office.

If all or part of the members of the City Council or Board of Education are recalled, and not enough candidates are elected to provide a quorum, the appointment of persons to bring the membership up to a quorum shall be by the remaining members of the City Council or Board of Education, as the case may be, after which the quorum shall fill the remaining vacancies by appointments. If there are any unfilled vacancies remaining 30 days after the recall election, and more than 75 days will elapse before the next general municipal election will be

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held, the City Council shall immediately cause an election to be held to fill the vacancies.

A person appointed to office under this section shall hold office for the remainder of the unexpired term of the recalled officer whose position he or she is appointed to fill.

**(19) Declaration of election of candidate; failure to qualify; filling vacancy.**

If the vote recalls the officer, the candidate who has received the highest number of votes for the office shall be declared elected for the unexpired term of the former incumbent. If the person who received the highest number of votes fails to qualify within 10 days after the declaration of his or her election, the office shall become vacant and shall be filled according to law.

**(20) Death or resignation of officer sought to be recalled.**

If the officer sought to be recalled dies more than 40 days prior to the election, the period for filing nomination papers to succeed the officer shall be extended to the 25th day prior to the election.

If the officer sought to be recalled resigns prior to the election, and at the close of the period for filing nomination papers only one person has been nominated for the office or no person has been nominated for the office, an election shall not be held. In such case the City Council or Board of Education, as the case may be, shall appoint to the office the person nominated, or, if no person has been nominated, shall appoint any qualified person.

**(21) Disqualification from office.**

A person who has been recalled, or who has resigned from office while recall proceedings were pending against him or her, shall not be a candidate for nor appointed to such office within one year after his or her resignation or recall.

**(22) Further regulations.**

The City Council may, by resolution, make such further regulations as may be necessary to carry out the provisions of this Section.

**(23) Withdrawal of candidate.**

Candidates nominated to succeed the incumbent if he or she is recalled from office by the recall election may withdraw from candidacy no later than the date the City Council may provide by resolution.

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**STATE ELECTIONS CODE**

100. 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:

For Official  
Use Only

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

100.5. 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.

101. 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:

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

102. 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.

103. 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.

104. (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.

105. 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.

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

106. 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.

11005. The proponents of a recall must be registered voters of the electoral jurisdiction of the officer they seek to recall.

11040. (a) The petition may consist of any number of separate sections, which shall be duplicates except as to signatures and matters required to be affixed by signers and circulators. The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

(b) Each section of the petition may consist of any number of separate pages. A page shall consist of each side of a sheet of paper on which any signatures appear.

11222. (a) The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by a proponent. **All sections of the petition shall be filed at the same time.**

(b) When the petition is presented for filing, the elections official shall 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, the elections official shall accept the petition for filing. The petition shall be deemed as filed on that date. Any sections of the petition not so filed shall be void for all purposes. If, from the elections official's examination, the elections official determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, the petition shall not be filed. Any petition not accepted for filing shall be returned to the proponents.

11301. If a petition is found insufficient by the elections official or, in the case of the recall of a state officer, the Secretary of State, the petition signatures may be examined in accordance with Section 6253.5 of the Government Code.

11303. Any voter who has signed a recall petition shall have his or her signature withdrawn from the petition upon filing a written request therefor with the elections official prior to the day the petition section bearing the voter's signature is filed.