



**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 7 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 the 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 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.

BERKELEY CITY CHARTER

SECTION 7, ARTICLE IV RECALL OF ELECTIVE OFFICERS

Section 7. Recall of Elective Officers.

(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. Recall proceedings may not be commenced if the office holder's term of office ends in six months or less.

(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 as indicated by the most recent Report of Registration by the county elections official to the Secretary of State.

(4) Repealed.

(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.

The proponents shall serve, file and publish a notice of intention to circulate a recall petition. Said notice shall contain 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 be recalled, and a copy thereof with a certificate of the time and manner of service shall be filed with the City Clerk.

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(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 indicating 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 filing an affidavit of publication of the notice, statement and answer, if any, with the City Clerk, 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 90 days from the filing of the affidavit of publication.

(10) Signatures.

The signatures appended to the petition need not all be appended to one paper but may be in sections. Each signer shall print his or her name, add his or her signature, and list his or her residence, giving street and number. If no street or number exists, then a designation of the place of residence shall be given which will enable the location to be readily ascertained.

(11) Affidavit of Circulator.

Each section of the petition shall have attached to it an affidavit made by the circulator of the petition. The affidavit shall be sworn to under penalty of perjury and shall conform to the requirements of the state Elections Code Sections 104 and 9022 or their successors.

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

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(12) Clerk's examination of 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 30 business days from the date the petition is filed, 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.

(13) Insufficient petition.

If the certificate of the City Clerk shows that the petition is insufficient, no action shall be taken thereon. The petition shall remain on file pursuant to Elections Code Section 11226 as it may be amended from time to time, 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 is sufficient, the Clerk shall submit certification of petition's sufficiency to the Council without delay. The Council shall at once order a special election to be held, not less than 100 nor more than 180 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, a previously called special municipal election, or any statewide election is to be held within this time period, the Council may order the recall election to be held on the day of that election.

(15) Nominations.

(a) The provisions of Section 6 1/2 of Article III of the Charter shall be applicable in recall proceedings and elections.

(b) The officer sought to be recalled as well as the candidate or candidates nominated to succeed him or her may file the candidate's statement provided for in Section 6 1/2 of Article III of the Charter. 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.

(c) The City Council shall set the nomination period by resolution. Said filing period shall end no later than the 88th day prior to the election.

(15.5) Sample ballot.

The Clerk shall cause to have mailed 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

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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.

(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. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. Voting procedure shall be in accordance with Article III, Section 5, Paragraph 12 and Article V, Section 9 of the City Charter.

(18) Canvass of votes.

The City Council shall meet at its usual place of meeting on the first Tuesday after the completion of the canvass of votes cast to 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. The quorum shall fill the remaining vacancies by appointments. If there are any unfilled vacancies remaining 60 days after the completion of the canvass of votes cast, and more than 180 days will elapse before the next general municipal election will be held, the City Council shall immediately cause an election to be held to fill the vacancies.

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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) Vacancy in office after recall petition is filed.

(1) If a vacancy occurs in the office sought to be recalled and more than one candidate has been nominated for the office, then the election shall be held as a special election to fill the vacancy and the recall question shall not appear on the ballot.

(2) If a vacancy occurs in the office sought to be recalled and 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.

CALIFORNIA ELECTIONS CODE

Division 0.5, Chapter 2. Petitions and Petition Signers

100. Petitions and Petition Signers; Form of Petition; Only registered voter entitled to sign petition; printed name and place of residence; form of petition.

(a) Notwithstanding any other provision of law, whenever an initiative, referendum, recall, nominating petition or paper, or any other petition or paper, is required to be signed by voters of a 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 the petition or paper. A person who submits his or her affidavit of registration pursuant to subdivision (d) of Section 2102 is not eligible to sign a petition or paper unless at the time of the signing of the petition or paper he or she is 18 years of age.

(b) A signer shall at the time of signing the petition or paper personally affix his or her signature, printed name, and place of residence, including the street and number of the place of residence, and if no street or number for the place of residence exists, then a designation of the place of residence that will enable the location to be readily ascertained. An incomplete or inaccurate apartment or unit number in the signer's residence address shall not invalidate his or her signature pursuant to Section 105. 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.

(c) The part of a petition for the signatures, printed names, and residence addresses of the voters 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
(Print Name) 1.	(Residence Address ONLY)	
(Signature)	(City)	
(Print Name) 2.	(Residence Address ONLY)	
(Signature)	(City)	

(Amended (as amended by Stats. 2009, Ch. 364) by Stats. 2014, Ch. 909, §3. Effective January 1, 2015. Amendment by Stats. 2009, Ch. 364, with text revised by this amendment, became operative on September 26, 2016, when the Secretary of State issued the certification prescribed by Sec. 7 of Ch. 364.)

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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, Ch. 922, Sec. 2. Effective January 1, 2002.)

102. Voter may circulate petition. Age of circulator.

A person shall not circulate a state or local initiative, referendum, or recall petition or nominating paper unless the person is 18 years of age or older.

(Amended by Stats. 2013, Ch. 278, Sec. 1. Effective January 1, 2014.)

103. Signature withdrawn from petition.

A 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 that includes the voter's name, residence address, and signature with the appropriate county elections official or city elections official prior to the day the petition is filed. A written request made under this section shall not constitute a petition or paper for purposes of Section 104.

(Amended by Stats. 2015, Ch. 731, Sec. 1. Effective January 1, 2016.)

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.

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(3) That the circulator is 18 years of age or older.

(4) If the petition does not include the disclosure statement described by subdivision (b) of Section 107, that the circulator showed each signer a valid and unfalsified "Official Top Funders" sheet, as required by Section 107.

(c) The circulator shall certify 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 the circulator's name. The circulator shall state the date and the place of execution on the declaration immediately preceding the circulator's signature.
(Amended by Stats. 2019, Ch. 563, Sec. 2. (SB 47) Effective January 1, 2020.)

105. Examination of petitions; residence address verification.

(a) (1) For purposes of verifying a signature on an 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, the information specified in Section 9020 is not contained in the petition, the affected signature shall not be counted as valid.

(2) Notwithstanding paragraph (1), the elections official shall not invalidate a signature for an incomplete or inaccurate apartment or unit number in the signer's residence address.

(b) A signature invalidated pursuant to this section shall not affect the validity of another valid signature on the particular petition or paper.
(Amended by Stats. 2014, Ch. 909, Sec. 4. Effective January 1, 2015.)

CALIFORNIA ELECTIONS CODE

Division 11, Chapter 1, General Procedures: General Provisions and Initial Steps in the Recall

11005. Proponents must be registered voters of jurisdiction.

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

(Enacted by Stats. 1994, Ch. 920, Sec. 2.)

11040. Number of sections and signatures.

(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.

(Enacted by Stats. 1994, Ch. 920, Sec. 2.)

Division 11. Recall Elections, Chapter 3, Recall of Local Officers: Intermediate Steps in the Recall

11222. Filing and examination of petition.

(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. A section of the petition not so filed is 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 official shall not take further action.

(Amended by Stats. 2018, Ch. 58, Sec. 12. (AB 3259) Effective January 1, 2019.)

Division 11. Recall Elections, Chapter 4, General Procedures: Final Steps in the Recall

11301. Examination of petition signatures when found insufficient.

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.

(Amended by Stats. 1996, Ch. 714, Sec. 22. Effective January 1, 1997.)

11303. Withdrawal of signature.

A voter who has signed a recall petition shall have his or her signature withdrawn from the petition upon filing a written request that includes the voter's name, residence address, and signature with the elections official prior to the day the petition section bearing the voter's signature is filed. A written request made under this section shall not constitute a petition or paper for purposes of Section 104.

(Amended by Stats. 2015, Ch. 731, Sec. 7. Effective January 1, 2016.)