

GUIDE TO FILING REFERENDA



DEPARTMENT OF ELECTIONS

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DRAFT VERSION- SUBJECT TO CHANGE

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction	3
II. Answers to Frequently Asked Questions About Referenda	4
III. Referendum Petition Format	6
IV. Petition Circulator	8
V. Verification of Petition Signatures	10
VI. Submission of the Ordinance to the Voters	10
VII. Campaign Finance Disclosure	11

ATTACHMENTS

1. *Sample* Petition Format



I. INTRODUCTION

A referendum provides the voters with a method to nullify an ordinance approved by the Board of Supervisors. Prior to the effective date of an ordinance, a referendum on the ordinance may be proposed by filing with the **Clerk of the Board of Supervisors** a petition protesting the passage of the ordinance. Upon filing this petition, the effective date of the ordinance is suspended, and the Board must reconsider the ordinance. If the Board does not repeal the challenged ordinance in its entirety, the ordinance must be presented to the voters. The ordinance goes into effect only if it is approved by the voters.

This guide summarizes the procedures and requirements for filing a referendum. This guide does not have the force and effect of law, regulation, or rule, and interested parties should not rely on this guide, but should consult their legal advisor to ensure they meet all legal requirements for a referendum. If there is a conflict between this guide and any applicable law, regulation, or rule, the law, regulation or rule applies.

The San Francisco Charter and the San Francisco Municipal Elections Code (MEC) establishes many of the procedures and requirements for a referendum. Where the Charter or MEC does not address a particular aspect of the referendum process, applicable provisions of California law apply. The San Francisco Charter and San Francisco Municipal Elections Code are available online at www.municode.com. The California Elections Code is available online at www.leginfo.ca.gov/calaw.html.

Please note that if you are circulating a referendum petition, you may be required to file campaign finance disclosure statements under the State's Political Reform Act. Consult your legal counsel, the Technical Assistance Division of the Fair Political Practices Commission (866) 275-3772 or www.fppc.ca.gov or the San Francisco Ethics Commission (415) 252-3100 or www.sfethics.org for more information.

The Department of Elections is open from 8:00 a.m. to 5:00 p.m., Monday through Friday, to assist with any issues you might have. You may visit us in City Hall Rm. 48, on the web at <http://www.sfgov.org/elections>, or you may call us at (415) 554-4375.

The Department of Elections strongly recommends that proponents consult with an attorney on the referendum process, including technical requirements about the format of referendum petitions. The Department does not review referendum petitions prior to circulation. The Department will not verify signatures on referendum petitions that fail to meet the legal requirements. The proponent should obtain the most up-to-date information available because of possible changes in the law or procedure since the publication of this information.

II. ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT REFERENDA

What is a referendum?

A referendum is a petition protesting an ordinance passed by the Board of Supervisors and asking that the Board of Supervisors reconsider the matter. If the Board does not repeal the ordinance, it is submitted to the voters at the next general municipal election or a special election. The operation of the ordinance is suspended until approved by the voters. (SF Charter § 14.102; SF Municipal Elections Code § 310; California Elections Code § 9235, et seq.)

What ordinances are subject to referenda?

Ordinances involving legislative matters are subject to referenda. (SF Charter §14.102 and Art. II.) The referendum power does not extend to the annual budget or appropriations ordinances, annual salary ordinances, ordinances authorizing the City Attorney to settle litigation, ordinances levying taxes, ordinances that relate to purely administrative affairs, ordinances necessary for the Mayor's exercise of emergency powers, and ordinances providing for the issuance of general obligation bonds.

Who may circulate a referendum petition?

Any person who is 18 years of age or older may circulate a referendum. (CEC §§ 102)

Who may sign a referendum petition?

Any registered voter in San Francisco may sign a petition to place a referendum on the San Francisco ballot. The voter must personally affix all information on the petition. (CEC §§ 100, 9237.)

Who may file a petition?

Only the proponent, or a person authorized in writing by the proponent, may file the petition. (CEC §§ 9210, 9239.) The petition must be filed with the **Clerk of the Board of Supervisors, City Hall, Room 244**, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA during regular business hours, 8:00 a.m. to 5:00 p.m. No supplemental petition sections will be accepted. (S.F. Charter § 14.102; CEC §§ 9210, 9242.)

What is the deadline for filing a referendum petition?

In general, an ordinance goes into effect 30 days after it is signed by the Mayor, or after the expiration of the 10-day period for the Mayor to sign or veto the ordinance. (S.F. Charter §§ 2.105, 3.103.) In order to suspend its effective date and place the ordinance on the ballot, the proponent of the referendum must file all sections of the petition, less than 30 days after the effective date of the ordinance. (CEC § 9237.) If, for example, an ordinance is passed by the Board of Supervisors on November 30th and signed by the Mayor on December 5th, the 30-day period begins on December 6th. Since the 30th day after December 5th is January 4th, the last day to submit the referendum petition would be January 3rd. If no petition is filed by 5:00 p.m. on January 3rd, the ordinance goes into effect on January 4th. (S.F. Charter § 2.105; CEC §§ 9237, 9242.)

NOTE: In some cases, there may be other types of ordinances that may have a different effective date. For example, ordinances adopting or amending a redevelopment plan are subject to referendum if a petition is properly submitted within 90 days of the effective date.

Please check with the **Clerk of the Board of Supervisors, City Hall, Room 244**. At 1 Dr. Carlton B. Goodlett Place, San Francisco, CA, during regular business hours, 8:00 a.m. to 5:00 p.m.

Where does the referendum proponent file the petition?

All referendum petitions must be filed with the **Clerk of the Board of Supervisors, City Hall, Room 244**, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA during regular business hours, 8:00 a.m. to 5:00 p.m. (S.F. Charter § 14.102.)

How many signatures are required to qualify a referendum?

In general, the referendum proponent must submit the valid signatures of at least **19,405** registered San Francisco voters to suspend the effective date of the ordinance and compel the Board to reconsider the ordinance. This number equals 10% of the votes cast for Mayor (**194,046** votes were cast for Mayor in the November 8, 2011 election.)

When the ordinance grants a franchise, at least **9,702** valid signatures are required. This number equals 5% all the votes cast for Mayor in the November 8, 2011 election. (S.F. Charter § 14.102.)

Can the proponent turn in sections of the petition on a rolling basis, until reaching the required number of signatures?

The proponent must turn in all sections of the petition at one time. Once a petition is filed, the **Clerk of the Board of Supervisors** cannot accept additional petition sections, and the petition cannot be amended except by court order. (CEC §§ 9210, 9239, 9242, 9265.)

May a circulator register a person to vote and at the same time obtain that person's signature on a referendum petition?

Yes. As long as the voter registration card is received and processed by the Department of Elections before or at the time of submission of the referendum petition, the petition signature is valid. (CEC § 2102 (b).)

What if a voter wants to sign a referendum petition but is unable (due to a disability or other reason) to personally complete and sign the petition?

The voter may request another person to print the voter's name and residence information on the referendum petition, but the voter must personally mark or sign the petition, and another person must witness the mark or signature. The witness must sign the petition to indicate that the witness in fact witnessed the mark or signature. (CEC § 100.5.)

May a person who signs a referendum petition withdraw her or his signature?

Any voter may withdraw his or her signature from a referendum petition by filing a written request with the Department of Elections prior to the day the petition is filed. Once the petition is filed, no signatures may be withdrawn. (S.F. Charter § 14.104; CEC §§ 103, 9602.)

III. REFERENDUM PETITION FORMAT

As indicated above, all referendum petitions must be filed with the Clerk of the Board of Supervisors during the Clerk's regular business hours. The Clerk of the Board of Supervisors cannot accept referendum petitions that do not substantially conform to the requirements described below.

Each page of the petition must include the following statement (everything in italics must appear in the petition exactly as written here):

“REFERENDUM AGAINST AN ORDINANCE PASSED BY THE BOARD OF SUPERVISORS”

Below this required statement on each page, the Department of Elections recommends including the following or similar language that describes what the proponents are seeking:

“We the undersigned, registered, and qualified voters of San Francisco, hereby protest the adoption by the Board of Supervisors of Ordinance Number 000-00, [Title], File Number 000-000-00, adopted by the Board on [Month] [00], 2013 and signed by the Mayor on [Month] [00], 2013, and we petition the Board to reconsider and repeal said ordinance, or, if not entirely repealed, then to submit the ordinance to a vote of the electors. The text of the ordinance is as follows:”

In addition to the required statement noted above and the recommended language, each section of the petition must contain the identifying number or title and text of the ordinance, or portion of the ordinance, that is the subject of the referendum. (CEC § 9238.) The “text” of the ordinance includes the language of the ordinance and any additional documents attached or incorporated by reference. Any such documents should be attached to the petition for circulation.

Each referendum petition includes "sections." Each section of the petition must also include the following information, which must be written before the petition signatures in no less than 12-point type:

NOTICE TO THE PUBLIC

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

(CEC § 101.)

Each section must include space sufficient for each signer to personally affix all of the following:

- His or her signature;
- His or her printed name;
- His or her residence address, including street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.
- The name of his or her city and zip code.

(CEC §§ 9020, 9238.)

The spaces for petition signatures must:

- Be numbered consecutively commencing with number one (1);
- Include at least one inch after each name for use by Department of Elections staff.

(CEC § 100.)

Each section of the petition must include a declaration of the petition circulator following the petition signatures. The circulator declaration must be completed *in the circulator's own hand writing* (typewritten declarations will invalidate the petition) and signed by the circulator. (CEC §§ 104, 9022, 9238.)

The circulator's declaration must include all of the following:

1. The printed name of the circulator.
2. The residence address of the circulator at the time of the signing of the declaration, including the street and number or, if no street or number exists, enough information about the residence so that the Department of Elections can readily determine the location.
3. The circulator's statement that he or she circulated that section of the petition and witnessed the signatures being written.
4. The dates between which the circulator obtained all the signatures on the petition.
5. The circulator's statement that, on his or her best information or belief, each signature is the genuine signature of the person whose name it purports to be.

6. The circulator's certification as to the truth and correctness of the declaration, signed under penalty of perjury. The circulator must include his or her given name and middle name or initial, and must indicate the date and place of signing the declaration. (CEC §§ 104, 9022, 9238.)

IV. PETITION CIRCULATORS

- A. The proponent(s) of an initiative measure are required to ensure that any person, company, or other organization who solicits signatures to qualify the proposed initiative measure, whether they are paid or volunteers, receives instruction on the requirements and prohibitions imposed by state law with respect to the circulation of petitions and the gathering of signatures. Such instructions must emphasize the prohibition of the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot. (CAEC § 9607.) The petition may be circulated by a number of individuals carrying separate, identical parts of the petition called sections. Each petition circulator who obtains signatures must complete the attached declaration to the petition. Preprinted dates or generalized dates, other than the particular range of dates during which the petition section was actually circulated, are not allowed (Assembly v. Deukmejian 30 Cal.3d 638, 653 (1982).) The declaration must be signed under penalty of perjury under the laws of the State of California. It need not be sworn before a notary public or other officer authorized to administer oaths, but must include the circulator's signature, date, and place of signing (Cal. Civ. Proc. Code Section 2015.5.)

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 proponent(s) a signed statement that reads as follows (see Attachment 4; CAEC § 9609.)

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__

This statement shall be kept on file by the proponent(s) for not less than eight months after the certification of the results of the election for which the petition qualified or, if

the measure did not qualify, eight months after the deadline for submission of the petition to elections officials.

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

In addition, all paid circulators shall execute and submit to the person, company official, or other organizational officer who is in charge of signature gathering a signed statement, prior to soliciting signatures on an initiative petition, that reads as follows (see Attachment 5; CAEC § 9610.)

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 Paid Circulator)

Dated this ____ day of _____, 20____

This statement shall be kept on file by the person, company official, or other organizational officer who is in charge of signature gathering for not less than eight months after the certification of the results of the election for which the petition qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials. This section does not apply to unpaid circulators.

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

B. Petition Circulator Identification Requirements

Upon request, the Department of Elections will provide to any petition circulator or person in charge of petition circulators, badges indicating whether a circulator is paid or is a volunteer. Any person who intentionally fails to wear the appropriate badge is guilty of an infraction. (MEC § 335.) In addition, upon request by any person, petition circulators must disclose the names of the proponents of the petition. (MEC § 335.)

V. VERIFICATION OF PETITION SIGNATURES

How long will it take to determine whether there are enough signatures to qualify the measure for the ballot?

Within 30 days from the date of filing, excluding Saturdays, Sundays and holidays, the Department of Elections will notify the referendum proponent whether the proposed measure qualifies for the ballot. If the measure qualifies – if the petition contains a sufficient number of valid signatures -- the Director of Elections will certify the results to the Board of Supervisors. (CEC §§ 9114, 9115, 9240.)

Note: The Department of Elections strongly encourages referendum proponents to separate petition sections into groups with ten (10) signatures per page, nine (9) signatures per page, etc. This will facilitate signature verification and certification of results.

Does the Department of Elections verify every signature on the petition?

The California Elections Code provides that if a petition contains more than 500 signatures, the Department of Elections may use a random sampling technique to verify petition signatures. (CEC §§ 9115, 9240.) The sampling technique is described in detail in California Administrative Code (2 C.C.R. §§ 20520-40.) The random sample must be drawn so that each petition signature has an equal chance of selection and must include at least 500 or 3% of signatures, whichever is greater. (CEC §§ 9115, 9240.)

VI. SUBMISSION OF THE ORDINANCE TO THE VOTERS

If the referendum petition contains a sufficient number of signatures, what happens next?

If a referendum petition conforms to all legal requirements and contains a sufficient number of valid signatures, the effective date of the ordinance is suspended and the Board of Supervisors is required to reconsider the ordinance. If the Board declines to repeal the entire ordinance, the measure will be on the ballot of the next scheduled general municipal election or at a special election called by the Board of Supervisors to vote on the measure. (SF Charter §14.102; CEC § 9241.)

How soon could the ordinance be submitted to the voters?

The election at which the ordinance is submitted to the voters must be at least 88 days after the Board of Supervisors refuses to repeal the ordinance. (CEC § 9241.)

How many votes does it take for the ordinance to become effective?

A simple majority (50% of the votes cast on the measure plus one) is required to approve the ordinance and therefore allow it to take effect. (MEC § 380; CEC § 9241.)

What does a “yes” vote mean? A “no” vote?

A yes vote means a voter wants the ordinance which was passed by the Board of Supervisors to go into effect. A no vote means a voter does not want the ordinance to go into effect.

If adopted by the voters, when will the ordinance become effective?

If the ordinance is approved by more than 50% of the voters, it will take effect 10 days after the Board of Supervisors declares the results of the election. (MEC § 380.)

If the ordinance is repealed by the Board of Supervisors, or if the Board refuses to repeal and the ordinance is subsequently rejected by the voters, can the Board later adopt the same ordinance?

If the Board repeals the ordinance, or submits it to the voters and the voters reject it, the ordinance shall not again be enacted by the Board for a period of one year after the date of its repeal by the Board or disapproval by the voters. (CEC § 9241.)

VII. CAMPAIGN FINANCE DISCLOSURE

Campaign Finance Disclosure

Section 1.113 of the S.F. Campaign & Governmental Conduct Code requires committees that have raised or spent funds to support or oppose a measure during the signature-gathering period to file supplemental campaign finance statements with the San Francisco Ethics Commission. Committees subject to this requirement include: committees primarily formed to support or oppose the measure, general purpose recipient committees that are proponents of the measure, and committees making independent expenditures of \$1,000 or more to support or oppose the measure.

Within 24 hours of the first date that a petition is circulated for signatures, the proponent(s) must complete SFEC Form 113 to notify the Ethics Commission that they have begun to circulate the petition. SFEC Form 113 may be sent by email or facsimile to: ethics.commission@sfgov.org or (415) 252-3112.

During the circulation period, these committees must file campaign finance disclosure statements on the 5th of every month covering through the last day of the previous month AND on the 20th day of every month covering through the 15th day of the month. The signature-gathering period begins on the date that the proponent(s) begin to circulate the petition.

More information regarding compliance with section 1.113 is available on the Ethics Commission’s website at www.sfethics.org. You may also call the Ethics Commission at (415) 252-3100 with any questions or concerns regarding these reporting requirements.

"REFERENDUM AGAINST AN ORDINANCE PASSED BY THE BOARD OF SUPERVISORS"

We, the undersigned, registered and qualified voters of San Francisco hereby protest the adoption by the Board of Supervisors of Ordinance Number 000-00, 'Title,' File Number 000-000-00, adopted by the Board on Month 00, 2012 and signed by the Mayor on Month 00, 2012, and we petition the Board to reconsider and repeal said ordinance, or, if not entirely repealed, then to submit the ordinance to a vote of the electors. The text of the ordinance is as follows:

→ Insert text here Draft

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 (CEC§ 101).

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

	Use Pen Only - PLEASE PRINT ALL INFORMATION EXCEPT SIGNATURE	Official Use Only	
1	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
2	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
3	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
4	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
5	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
6	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
7	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
8	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	
9	_____ Print Name _____ Sign As Registered To Vote	_____ Residence Address ONLY _____ City	

DRAFT

TO BE ENTERED BY CLERK - AFTER VALIDATION		
Date	# Valid - This Section	By Deputy
I	I	I

DECLARATION OF CIRCULATOR

(To be completed in Circulator's own handwriting after above signatures have been obtained)

I, _____, am 18 years or older.
Print Name of Circulator (First name M.I., last name)

My residence address is: _____
(Address, city, state, zip)

I circulated this section of the petition and witnessed each of the appended signatures being written. Each signature on this petition is, to the best of my information and belief, the genuine signature of the person whose name it purports to be. All signatures on this document were obtained between the dates of _____ and _____. I declare under penalty of perjury under the laws of the

State of California that the foregoing is true and correct.

Executed on: _____, _____ at _____
(Month and day) (Year) (Place of signing) (Circulator's Signature)

NOTE: The department recommends that this petition be submitted on legal size paper (8½ x 14) to fit more signatures per page.