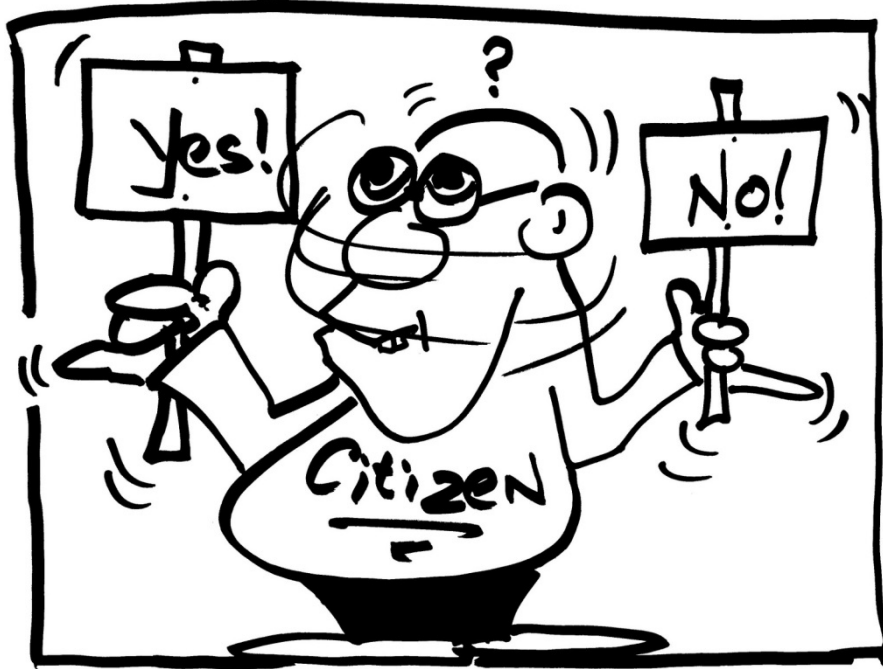


How to do a City Referendum

A Guide to Placing a City Referendum on the Ballot



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This guide was developed in an effort to provide answers to questions frequently asked the City of Santa Cruz elections official concerning a City referendum. It is for general information only and does not have the force and effect of law, regulation or rule. In case of conflict, the law, regulation or rule will apply. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties. For information on a County referendum, please contact the County Elections Department.

Difference Between Initiative and Referendum

“The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.” (Cal. Const. art. II, sec. 8(a).)

“The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.” (Cal. Const. art. II, sec. 9(a).)

In general, an initiative is a proposal by the people, a legislative act placed on the ballot by voters to be decided by voters. In contrast, a referendum is generally a political challenge by voters to an enactment already made by the legislative body. Both types of measures qualify for the ballot through submission of a petition signed by a designated percentage of the electorate.

And, to help avoid any confusion, referendum is singular. Referenda are used for plural as well as referendums.

The Referendum Process

The referendum process provides citizens with a vehicle to refer an ordinance passed by the City Council to a vote of the people. The very nature of the referendum process is that it must be accomplished in a very condensed timeframe. Therefore, there are no requirements for proponents to file notices, or publish intent, or obtain any document or input from the elections official or government official. It is truly a process of the people. It is advised that proponents obtain legal counsel to confirm that they are complying with the law. California Elections Code §§9235 through 9247 provide the procedures for the municipal referendum process. All code sections referred to in this document are the Elections Code unless otherwise noted.

City ordinances become effective 30 days after the date of final passage, except:

1. An ordinance calling or otherwise relating to an election;
2. An ordinance for the immediate preservation of the public peace, health, or safety that contains a declaration of, and the facts constituting, its urgency and is passed by a four-fifths vote of the City Council;
3. Ordinances relating to street improvement proceedings; and
4. Other ordinances governed by particular provision of state law prescribing the manner of their passage and adoption.

<p>Referendum Circulation & Format</p>	<p>Proponents may begin to circulate petitions to reconsider a City ordinance for voter signatures after the City Council takes final action on adoption of an ordinance.</p> <p>Across the top of each page of the referendum petition there shall be printed the following:</p> <p>“Referendum Against an Ordinance Passed by the City Council”</p> <p>Each section of the referendum petition shall contain:</p> <ol style="list-style-type: none"> 1) The identifying number or title; and 2) The text of the ordinance or the portion of the ordinance that is subject to referendum.
<p>Petition Signature Section</p>	<p>The petition sections shall be designed so that each signer shall personal affix all of the following:</p> <ol style="list-style-type: none"> 1) His or her signature; 2) His or her printed name; 3) 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; and 4) The name of his or her incorporated City or unincorporated community. <p>Only a person who is a qualified registered voter at the time of signing the petition is entitled to sign it. The address must be the same on the petition and the voter registration record. A voter may register to vote and sign a petition at the same time. It is up to the signature gatherer to turn in the voter registration cards prior to turning in the petitions.</p> <p>The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures. (§9020)</p>
<p>Affidavit of Circulator</p>	<p>Each section of the petition must have attached to it a declaration signed by the circulator (person soliciting signatures) of that section of the petition, setting forth in the circulator’s own hand, all of the following:</p> <ol style="list-style-type: none"> 1) Printed name of the circulator; 2) 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 determined; and 3) Dates between which all signatures to the petition were obtained.

Affidavit of Circulator (continued)	<p>The declaration must also include:</p> <ol style="list-style-type: none"> 1) That the circulator circulated that section and witnessed the appended signatures being written; 2) That the circulator is at least 18 years of age, 3) 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; 4) That the circulator certifies to the content of the declaration as to its truth and correctness, under penalty of perjury. The circulator shall state the date and the place of execution on the declaration along with the signature of his or her name at length, including given name and middle name or initial (§§104, 9022, 9238); 5) There is no state requiring that the circulator be a voter or an eligible voter of the City, and similar laws governing City referendums have been declared unconstitutional by the courts. (§102, 104, 9022)
Signature Requirement	<p>The effective date of the ordinance shall be suspended and the legislative body shall reconsider the ordinance if a petition protesting the adoption of an ordinance is submitted to the elections official of the legislative body of the City in his or her office during normal office hours, as posted, within 30 days of the adoption of the ordinance and is signed by not less than:</p> <ol style="list-style-type: none"> 1) 10% of the voters of the City according to the last official report of registration by the County Elections Official to the Secretary of State; or 2) In a city with 1,000 or less registered voters, by 25% of the voters or 100 voters of the City, whichever is the lesser. (§9237)
Verification of Signatures	<p>Within 30 days from the date of filing of the petition, excluding weekends and holidays, the elections official shall verify signatures. If the petition is found insufficient, no action shall be taken. If the petition is found to be sufficient, the elections official shall certify the result to the legislative body at the next regular meeting. (§9240)</p>
Ordinance Submitted to Voters	<p>If the legislative body does not entirely repeal the ordinance against which the petition is filed, the legislative body shall submit the ordinance to the voters, either at the next regular municipal election occurring not less than 88 days after the order of the legislative body, or at a special election called for the purpose, not less than 88 days after the order of the legislative body. (§§1410, 9241)</p>

Ordinance Submitted to Voters (continued)	A special election may be held on any Tuesday, as long as it is not the day before, the day of, or the day after a state holiday. (§§1003(e), 1100, 1400)
Enactment of Ordinance	<p>The ordinance shall not become effective until a majority of the voters voting on the ordinance vote in favor of it.</p> <p>If the legislative body repeals the ordinance or submits the ordinance to the voters, and a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal by the legislative body or disapproval by the voters. (§9241)</p>

Referendum Against Revenue Bonds

Ordinances authorizing the issuance of revenue bonds by a city as part of a joint powers entity pursuant to §67547 of the Government Code shall not take effect for 60 days. Follow procedures for above, except for the following variations:

Signature Requirement	<p>The number of signatures required is based on the total number of votes cast within the City for all candidates for Governor at the last gubernatorial election.</p> <ol style="list-style-type: none"> 1) When that number exceeds 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 5% of the entire vote cast within the boundaries of the City for all candidates for Governor at the last gubernatorial election. 2) When that number is less than 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 10% of the entire vote cast within the boundaries of the City for all candidates for Governor at the last gubernatorial election. (§9236(b))
Format of Ballot Question	<p>The ballot wording for a referendum against revenue bonds shall approximate the following:</p> <p>“Shall the (city name), as a member of the (joint powers entity name), authorize the issuance of revenue bonds by the joint powers entity in the amount of \$_____ pursuant to ordinance number _____, dated _____, the bonds to be used for the following purposes and to be redeemed in the following manner: _____? (§9236(c))</p>

How to Raise or Spend Money

First	Obtain a copy of “Campaign Disclosure Manual 3 – Information for Committees Primarily Formed to Support or Oppose a Ballot Measure” from the City elections official.
Second	<p>File an FPPC Form 410 (Statement of Organization) with the City’s election official. A \$50 fee to the Secretary of State is requested at the time of filing.</p> <p>Any group of persons that receive contributions totaling \$2,000 or more within a calendar year qualifies as a recipient committee and within 10 days of qualifying must file an FPPC Form 410 with the Secretary of State (submit original form) and to the City’s election official (submit a copy of the form)</p> <p>An FPPC Form 410 may be filed prior to qualifying. Upon receipt of the Form 410, the Secretary of State will issue a committee identification number that must be included on all campaign disclosure forms.</p>
Third	<p>Be prepared to file FPPC Form 460 (long form) or FPPC Form 450 (short form), pre-elections statements and semi-annual statements.</p> <p>These reports detailing your committee’s contributions and expenditures are filed at specified times prior to and following the election. There are also various specific reports that must be filed to amend forms or to provide supplemental information. Know the deadlines and the type of forms you must file.</p> <p>The City’s election officer will provide you with a calendar. For technical advice on completing the forms, call the Fair Political Practices Commission (FPPC) at (866) 275-3772 (1-866-ASK-FPPC); Fax: (916) 322-6440; or visit their website at www.fppc.ca.gov.</p>
Fourth	File FPPC Forms 410 and 460 to terminate the committee upon completion of your initiative efforts. An annual \$50 fee is required to the Secretary of State when committees remain active and not terminated.

If the Referendum Goes to Election

Calendar

The City elections official will develop a calendar for the election, including dates when arguments, rebuttals, and campaign statements need to be filed.

Arguments, Rebuttals, Analyses

The persons filing a referendum petition may file a written argument against the ordinance and the legislative body may submit an argument in favor of the ordinance. Check with the City's elections official to determine any rules governing arguments. The City's election official will also provide deadlines for filing arguments.

All arguments shall be accompanied by a signature statement to be signed by each proponent and by each author of the argument. (§9600)

Rebuttal arguments are limited to 250 words and must also be accompanied by a signature statement (§§9285, 9600)

Conflicting Measures

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. (§9221)

Enacting Clause

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.” (§9224)

Assigning a Letter

Letters designating measures will be assigned by the County elections official pursuant to Elections Code §13116. Measures will be assigned in alphabetical order beginning with the letter following the last letter assigned in the previous election and continuing through Z, or as close to the end of the alphabet as possible to accommodate all measures filed for the current election. For example, if the previous election ended with Measure V, and five measures are on the next ballot, the measures will be assigned A, B, C, D, E rather than W, X, Y, Z, A.

Measures will appear on the ballot in the following order: Schools, County, Cities, Districts. (§13109)

Council Action

The City Council may adopt a resolution calling the election and consolidating it with other elections being conducted in the same jurisdiction on the same day. (§10400, 10401)

The resolution will include the 75-word ballot question that is printed on the ballot. (§10403(a)(2))

Ballot Question

The statement of all measures submitted to the voters shall be abbreviated on the ballot. The statement shall contain no more than 75 words of each measure to be voted on, followed by the words, "Yes" and "No." (§13247)

Form of Ballot Question

The ballots used when voting upon a proposed City ordinance as a referendum measure shall have printed on them the words:

"Shall the ordinance (stating the nature thereof including any identifying number or title) be adopted?"

Opposite the statement of the ordinance to be voted on, and to its right, the words "Yes" and "No" shall be printed on separate lines, with appropriate voting target area. A yes vote is in favor of the adoption of the ordinance; a no vote shall be counted against its adoption. (§13120)

Analysis

The City Attorney shall prepare a 500-word or less impartial analysis of the measure showing the effect of the measure on the existing law and of the operation of the measure.

The Finance Director may prepare a fiscal analysis of the effect on City revenues or expenditures. (§9160)

In the event the entire text is not printed on the ballot nor in the Voter Information Pamphlet, immediately below the Impartial Analysis, in no less than 10-point bold type, the following shall be printed:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the office of the City's elections official (insert phone number) and a copy will be mailed at no cost to you." (§9280)

A Chart of the Referendum Process

