



Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** June 16, 2026

**Item Number:** 37

**Item Description:** **Placing a Charter Amendment Measure on the November 3, 2026 Ballot to Amend Multiple Administrative Provisions**

**Submitted by:** **Mark Numainville, City Clerk**

This supplemental material contains an annotated version of the proposed amendments to the City Charter with comments to provide additional background and detail.

## EXHIBIT A

AMENDMENT TO THE BERKELEY CITY CHARTER TO MODIFY THE FILING FEE PROCEDURES AND AMOUNT, MODIFY THE CANDIDATE STATEMENT REQUIREMENTS, ADJUST PUBLIC FINANCING ALLOCATIONS, AMEND RECALL PROCEDURES AND DEADLINES, UPDATE TERMINOLOGY, ALIGN DEADLINES WITH MODERN ELECTIONS PRACTICES, CLARIFY STAFF RESPONSIBILITIES FOR PETITIONS, AND UPDATE REFERENDUM PROCEDURES TO ALIGN WITH STATE ELECTIONS CODE

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley as follows:

Section 1. Sections 6.1 and 6.2 of Article III of the Charter of the City of Berkeley are amended as follows:

### **Section 6.1. Nomination - Filing Fee - Candidate's Statement of Qualifications.**

Candidates for council office shall be nominated by registered voters from the council district for which they nominate the council candidate, as further provided in the State of California Elections Code.

At the time of filing their nomination papers, each candidate for the office of mayor, councilmember, auditor, rent stabilization board commissioner, and school board director shall pay a filing fee, in ~~an~~ the amount prescribed by Elections Code Section 10228 or its successors of \$150. ~~The filing fee may be offset in whole or in part by the submission of up to 150 signatures of registered voters in the City. Each signature of a registered voter shall offset \$1 of the filing fee. Any such required submission of signatures, in lieu of filing fees, shall be in addition to the signatures otherwise required by the State of California Election Code to nominate a candidate, but may be of voters registered anywhere in the City.~~

At the time of filing their nomination papers, each candidate for an elective office may file with the City Clerk a verified statement showing the name of the candidate, the office for which they are a candidate, ~~their place of residence, place of birth,~~ present occupation, what public offices they have held, ~~whether they are a taxpayer in the City of Berkeley,~~ a statement giving information as to their experience and qualifications, and a recent photograph, to the end that the electors may be in a position to estimate their fitness to fill the office, and the names of not less than five or more than twenty residents of the City of Berkeley to whom they refer. ~~Until~~ Unless otherwise provided by ordinance, such statements of experience and qualifications shall not exceed two hundred words in length. At the time of filing said statement, each candidate shall also pay to the City Clerk a printing fee which, ~~shall be set by~~ until otherwise provided by ordinance, ~~shall be the sum of \$35.00.~~ The City Clerk shall cause said candidates' statements to be printed in

**Commented [MN1]:** The filing fee was intended to offset staff costs, however, Signatures In Lieu of filing fee (SIL) petitions create more demands on staff time while also reducing the amount of cost recovery. The current maximum fee in the Elections Code is \$25. Data shows no significant change in the number of candidates in an election immediately before and after the filing fee was raised and SIL petitions were instituted in 2004.

SIL petitions are extremely rare for cities and there is no compelling operational, electoral, or equity need for SIL petitions when the filing fee is \$25 or less.

**Commented [MN2]:** This information is unnecessary and potentially prejudicial. In addition, recent attacks on elected officials have raised safety concerns. State legislation has also been enacted to protect public officials.

The tax question is outdated and unclear - what kind of taxes? Sales tax is paid by all residents.

**Commented [MN3]:** BMC 2.16.010 sets the candidate statement fee at \$0. No charge to candidates.

some convenient form and shall mail a copy of said statements to each registered voter with the sample ballot, provided that no name to which the candidate refers shall be included in the publication by the City Clerk unless the written consent of the person named is filed with the City Clerk. The provisions of this section are self-executing, but the City Council, by ordinance, may more definitely prescribe the form of said candidate's statement. The printing fees so collected by the City Clerk shall be paid into the City Treasury, and the expense of printing said candidates' statements shall be paid from the City Treasury. No refund from printing fees shall be made to candidates, nor shall any extra charge be made, regardless of whether the printing expense is more or less than the amount of the fees received.

**Section 6.2. Fair Elections Fund.**

**(1) Establishment of Fair Elections Fund.**

A special, dedicated, non-lapsing Fair Elections Fund shall be established by the City Council for the purpose of:

(a) Providing public financing for the election campaigns of certified participating candidates; and

(b) Paying for the administrative and enforcement costs of the Berkeley Fair Campaign Practices Commission ("Commission") and City staff related to the Fair Elections Fund public campaign financing program. The administrative and enforcement costs shall not exceed ~~\$400,000~~250,000 in any four-year election cycle.

**(2) Appropriations to the Fair Elections Fund.**

(a) The City Council shall appropriate \$4 per Berkeley Resident per year, as determined by the most recent official United States Census Bureau Population Estimate for the City of Berkeley, from the City General Fund to the Fair Elections Fund.

(b) Other sources of revenue to be deposited in the Fund shall include:

i) Unspent funds distributed to any participating candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a participating candidate following the date of the election for which they were distributed;

ii) Fines levied by the Commission against candidates for violation of election laws;

iii) Voluntary donations made directly to the Fair Elections Fund;

**Commented [MN4]:** Administrative costs far exceed the initial allocation in the 2016 measure and the automatic inflator does not keep pace with increases. Increased cost recovery is needed. Current amount is approx. \$322,000 for four years.

- iv) Other funds appropriated by the City Council;
- v) Any interest generated by the Fund; and
- vi) Any other sources of revenue determined as necessary by the City Council.

(c) The amount in the Fair Elections Fund shall not exceed \$2 million at any time. In order to comply with this limitation, revenue that would otherwise be deposited in the Fair Elections Fund pursuant to subsections (a) and (b) shall instead be deposited in the City General Fund.

(d) The City Council may, by adoption of an ordinance by not less than two-thirds vote of its membership, make an official declaration of fiscal emergency and suspend or reduce the amount of the annual appropriation specified in subsection (a). Any such ordinance suspending or reducing the annual appropriation shall be effective for no more than one year.

**(3) Cost of Living Adjustments.**

The Commission shall adjust the dollar amounts specified in subsections (1)(b), (2)(a) and (2)(c) of this Section upward or downward, for changes in the cost of living, by the percent change in the Consumer Price Index.

Section 2. Section 7 of Article IV of the Charter of the City of Berkeley is amended as follows:

**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 from the beginning of the holder's current term 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.**

**Commented [MN5]:** Current language is ambiguous - six months in office since first election or most recent? This clarifies that proceedings may not be commenced if their \*current term\* is less than 6 months.

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 their 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.

**(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.

**(7.5) Statement and answer.**

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. This section shall not be deemed to make the statement and answer, or the authors of the statement or answer, free or exempt from any civil or criminal action or penalty because of any false, slanderous, or libelous material included in the statement or answer, or from any requirement dictating the form of the statement or answer.

**Commented [MN6]:** This amendment provides some recourse if the form of the statement or answer is not compliant.

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

Within 30 days after the deadline to file the answer with the City Clerk, 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.

**Commented [MN7]:** The amendments in (8) and (9) set deadlines for the proponent to move forward with the process. Currently, the process can remain in limbo indefinitely with no resolution.

**(9) Circulation of petition.**

Seven days after Upon 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, and the 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~~date of publication of the notice.

**(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 their name, add their signature, and list their 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.

**(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. The Clerk shall attach to the petition their certificate showing the result of their 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 them 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 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 their 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 they are 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 their 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.

A person appointed to office under this section shall hold office for the remainder of the unexpired term of the recalled officer whose position they are 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 their 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 them, shall not be a candidate for nor appointed to such office within one year after their 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.

Section 3. Sections 9, 10, 12, 12.1, and 13 of Article V of the Charter of the City of Berkeley are amended as follows:

**Section 9. Election and Districts.**

(a) The Mayor, Auditor and School Directors shall be elected at the general municipal election on a general ticket from the City at large.

(b) The Councilmembers shall be elected at the general municipal

election by districts. The Councilmembers shall be recalled by districts. Any person appointed to fill a vacancy on the City Council shall be a citizen of the United States and a ~~qualified elector~~ registered voter in the State of California and of the City of Berkeley as required in Article V, Section 10 of the City Charter, and must reside in the district in which they run for election.

**Commented [MN8]:** This change is made throughout the charter where legally required by code - “qualified elector” is not readily verifiable by the elections official; “registered voter” is verifiable.

(c) No later than April 1st of the second year following the year in which each decennial federal census is taken, commencing with the 2020 census, unless a later deadline is established by Section 9.5(d)(1), the City shall be divided into eight Council districts as set forth in Section 9.5 and any implementing legislation. Any such redistricting shall become effective as of the next general election of Councilmembers immediately following the effective date of the ordinance adopted pursuant to Section 9.5(d).

(d) Each Councilmember shall be elected by the electors within a Council district, must have resided in the District in which they are elected for a period of not less than thirty days immediately preceding the date they file a declaration of candidacy for the office of Councilmember, must continue to reside therein during their incumbency, and shall be removed from office upon ceasing to be such resident, except as set forth in Section 9.5(g)(6).

(e) The candidate receiving the highest number of votes for the offices, respectively, of Mayor, Auditor and Councilmembers of the City shall be elected to such offices, provided that such candidate receives at least 40% of the votes cast for each such office. In the event that no candidate for Mayor, Auditor and Councilmember for one or more Council offices receives at least 40% of the votes cast for that office, then there shall be a runoff election between the two candidates receiving the most votes, which runoff election shall be held on the first Tuesday after the first Monday in February of the odd numbered year following the initial election. No other issues shall appear on the ballot of any runoff election. The successful candidate in any runoff election shall assume office on March 1, after the election results have been declared by the Council. If the provisions of Article III, Section 5, Paragraph 12 related to instant runoff voting are operative, the vote threshold requirements in this section shall have no application to municipal elections.

(f) Should any provision of this section be held invalid, the remainder of this section shall not be affected thereby, and such word, phrase, sentence, part, section, subsection, or other portion shall be severable, and the remaining provisions of this section shall remain in full force and effect. The voters hereby declares that they would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more, subsections, sentences, clauses or phrases had been declared invalid.

**Section 10. Eligibility of Mayor, Auditor, Councilmember, and School Director.**

To be eligible for the office of Mayor, Auditor, Councilmember, or School Director, a person must, at the time of filing nomination papers for the office, be a citizen of the United States and a ~~qualified elector~~ registered voter of the State of California and of the City of Berkeley. Any person who has served as a voting member of the

Independent Redistricting Commission shall be ineligible to file nomination papers for the office of Council member in their district of residence or Mayor in the next occurring general municipal election in which said office appears on the ballot after their service on the Commission terminates under Sections 9.5(b)(2) or 9.5(e).

**Section 12. Vacancy in Office of Mayor or Councilmember.**

(1) If a vacancy shall occur in the office of Mayor or Councilmember:

(a) If the unexpired term is less than one year, the remaining members of the Council shall ~~elect~~ appoint a successor with requisite qualifications to fill the vacancy for the unexpired term. Vacancies shall be filled only at a regular meeting of the Council after reasonable notice of intent to fill the vacancy has been given to the public, all remaining members of the Council by any Councilmember by placement on the agenda. Should the Council fail to fill any vacancy within 60 days after its occurrence, the Council shall, within 10 days, order a special municipal election, to be held not less than ~~60-90~~ nor more than ~~90-120~~ days after the date of the order; provided, however, if any regular statewide or general municipal election is to be held in the City not more than 180 days or less than ~~80-100~~ days from the date of the occurrence of the vacancy, in the case of a regular statewide election, or not more than 180 days nor less than 60 days from the date of the occurrence of the vacancy in the case of a general municipal election, then the vacancy shall not be filled by the Council nor by special election, but at said regularly occurring election.

(b) If the unexpired term is for one year or more, the vacancy shall be filled by special election, to be called by the Council within ten days after the occurrence of the vacancy and to be held not less than ~~60-90~~ nor more than ~~90-120~~ days after the date of the order; provided, however, if any regular statewide or general municipal election is to be held in the City not more than 180 days nor less than ~~80-100~~ days from the date of the occurrence of the vacancy, in the case of a regular statewide election, or not more than 180 days nor less than 60 days from the date of the occurrence of the vacancy in the case of a general municipal election, then the vacancy shall not be filled by special election, but at said regularly occurring election.

(2) If at any municipal election a Mayor or the required number of Councilmembers be not elected by reason of a tie vote among any of the candidates therefor, then the Council, after the qualification of the persons, if any, elected thereto at such election, shall appoint one of the persons receiving such tie vote to fill such office. In such case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the ~~April-November~~ 30th following the next general municipal election.

**Section 12.1. Vacancy in office of Auditor.**

If a vacancy shall occur in the office of Auditor, the Council shall appoint a person to fill such vacancy. If at any municipal election an Auditor be not elected by reason of a tie vote among any of the candidates therefor, then the Council, after the

**Commented [MN9]:** Changes in timing reflect modern election timelines and the long-ago move from April elections to November elections.

The change will also allow for a longer nomination period for potential candidates in special elections.

Council “appoints” they do not “elect.”

**Commented [NML10]:** Since the City contracts for election services from the County for regular and special elections, only one timeline is needed.

**Commented [NML11]:** Same as above

**Commented [MN12]:** This same change is needed for all offices to align with November general elections. The general municipal election was held in April until 1982.

qualification of the persons, if any, elected thereto at such election, shall appoint one of the persons receiving such tie vote to fill such office as in the case of a vacancy therein. In such case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the ~~June~~November 30th following the next general municipal election.

**Section 13. Vacancy in office of School Director.**

If a vacancy shall occur in the office of School Director, the Board of Education shall appoint a person to fill such vacancy. If at any municipal election a School Director be not elected by reason of a tie vote among any of the candidates therefor, then the Board of Education, after the qualification of the persons, (if any, elected thereto at such election, shall appoint one of the persons) receiving such tie vote, to fill such office as in case of a vacancy therein. In each case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the ~~April~~November 30th following the next general municipal election.

Section 4. Sections 44 and 46 of Article VIII of the Charter of the City of Berkeley are amended as follows:

**Section 44. Ordinances, resolutions and motions.**

**(1) Action by Council.**

The Council may act by ordinance, resolution or motion.

**(2) Ayes and noes.**

The ayes and noes shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the journal of the proceedings of the Council.

**(3) Majority vote of Council.**

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative votes of at least five members of the Council.

**(4) Subject and title.**

Every ordinance or resolution, except an ordinance making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and every ordinance making appropriations shall be confined to the subject of appropriations. If any subject shall be embraced in an ordinance which shall not be expressed in its title, such ordinance shall be void only as to so much thereof as shall not be expressed in its title.

**(5) Enacting clause of ordinances.**

The enacting clause of all ordinances passed by the Council shall be in these words: "Be it ordained by the Council of the City of Berkeley as follows:".

**(6) Requirements of an ordinance.**

To constitute an ordinance a bill must before final action thereon be publicized as provided in Article III Section 5(2) with the ayes and noes for two days, and, in case of any amendment being made thereto before the final adoption of the ordinance, must in like manner be republicized as amended for not less than one day.

**(7) Ordinance required in certain cases.**

No action providing for the acquisition, sale or lease of public property; for the levying of any tax or assessment; for the granting of any franchise; for establishing or changing fire limits; or for the imposing of any penalty, shall be taken except by ordinance; provided, that such exceptions be observed as may be called for in cases where the Council takes action in pursuance of a general law of the State.

**(8) Reconsideration.**

When any bill is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council held not less than one week after the meeting at which such motion was made.

**(9) Signing and attesting.**

All resolutions and ordinances shall be signed by the Mayor and attested by the City Clerk.

**(10) Revision and amendment.**

No ordinance shall be revised, re-enacted or amended by reference to its title only; but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this section for the adoption of ordinances.

**(11) Repeal.**

No ordinance nor section thereof shall be repealed except by ordinance adopted in the manner provided in this section.

**(12) (repealed)**

**(13) Record of City ordinances.**

A true and correct copy of all ordinances shall be kept and certified to by the City Clerk in a book marked "City Ordinances." Such record copy, with such certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the City Clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance in the usual way.

**(14) Urgency ordinances.**

The Council may adopt an urgency ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its

**Commented [MN13]:** No change to the text. Moved here from Section 93 for subject matter alignment.

urgency, and is passed by a seven-ninths (7/9) vote of the Council, provided, that no grant of any franchise shall be construed to be an urgency measure.

**Section 45.** (repealed)

**Section 46.** ~~(repealed) Publication of Charter and ordinances.~~

~~The Council, during the first year after its organization under this Charter and from time to time thereafter, shall cause all ordinances at such time in force to be classified under appropriate heads, and, together with or separately from the Charter of the City and such provisions of the Constitution and laws of the State as the Council may deem expedient, to be published in book form.~~

**Commented [NML14]:** Inefficient and outdated provision

**Section 47. Repealed.**

Section 5. Section 92 of Article XIII of the Charter of the City of Berkeley are amended as follows:

**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~~ voters 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 or measure be signed by ~~electors~~ registered voters equal in number to ten percent of the entire vote cast for all qualified 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, ~~the~~ the City Clerk shall attach the certificate of sufficiency to the petition within 10 days of the completion of the signature verification process unless so delayed by an official administrative or judicial proceeding related to the petition. ~~Then,~~ the Council shall either:

**Commented [MN15]:** It is appropriate for there to be a deadline for City Clerk action to avoid undue delay.

(a) Pass said ordinance without alteration within ~~twenty~~ thirty 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

**Commented [MN16]:** The City Council has longer agenda publication deadlines with the passage of the Open Government Ordinance in 2011.

(b) Within ~~twenty-five~~thirty 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-registered voters~~ in number to at least five but less than ten percent of the entire vote cast for all qualified candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, the City Clerk shall attach the certificate of sufficiency to the petition within 10 days of the completion of the signature verification process unless so delayed by an official administrative or judicial proceeding related to the petition. ¶Then the Council shall either:

~~(a) and~~Pass said ordinance ~~be not passed by the Council~~ as provided in ~~the preceding subdivision~~Section 92, Paragraph (3)(a); or

~~(a)(b) , then such ordinance, without alteration, shall be s~~Submitted said ordinance ~~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.

**(5)** The Charter may be amended by initiative pursuant to the California Elections Code and Government Code.

**(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.

**(7)** (repealed)

**(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.**

**Commented [MN17]:** Same justification as the ten percent petitions.

**Commented [MN18]:** Specifically clarifies the reference to the controlling provision of the Charter.

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.

**(10) Further regulations.**

The Council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this section, and to adapt the provisions of Article III thereto.

Section 6. Sections 93 and 94 of Article XIV of the Charter of the City of Berkeley are amended as follows:

**Section 93. Mode of protesting against ordinances.**

~~(a) City Ordinances are subject to referendum pursuant to Division 9, Article 2 of the California State Elections Code. No ordinance passed by the Council shall go into effect before thirty days from the time of its final passage except when otherwise required by the general laws of the State or by the provisions of this Charter respecting street improvements, and except the an ordinance making the annual tax levy, and except an urgency ordinance, as defined in Section 44, for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by a seven ninths (7/9) vote of the Council, provided, that no grant of any franchise shall be construed to be an urgency measure, but all~~

~~(b) All franchises shall be subject to the referendum vote as herein provided.~~

~~(c) If during said thirty days a~~ petition signed by ~~qualified electors~~ registered voters of the City equal in number to at least ten percent of the entire vote cast for all qualified candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, filed by the prescribed deadline in the Elections Code, protesting against the passage of such ordinance, ~~be presented to the Council, the same shall thereupon be suspended~~ said ordinance from going into operation. ~~and it~~

~~(d) It shall be the duty of the Council to reconsider such ordinance, and if the same be not entirely repealed, the council shall submit the ordinance, as is provided in Article XIII, Section 92, Paragraph (3) of the Charter, to the vote of the electors of the city, 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, and s~~

~~(e) Such ordinance shall not go into effect or become operative unless a majority of the qualified electors~~ registered voters voting on the same shall vote in favor thereof. ~~The~~

**Commented [MN19]:** Moved Urgency Ordinance provisions to Section 44 which is specifically related to ordinances.

New changes in the state Elections Code created timing and applicability conflicts with the Charter provisions. Amended to follow the state rules for simplicity and harmony.

No change to the time allowed to collect signatures or any substantive requirement.

Minor associated grammar and syntax changes follow. Reformatted for clarity.

**Commented [MN20]:** Unnecessary language. Elections Code governs these practices.

~~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.~~

**Section 94. Reference of measures to popular vote.**

Any ordinance or measure that the Council or the ~~qualified electors~~registered voters of the City shall have authority to enact, the Council may of its own motion submit to the ~~electors-voters~~ for adoption or rejection at a regular statewide or general or special municipal election, in the same manner and with the same force and effect as is provided in this Charter for ordinances or measures submitted on petition. At any such election there shall be no bar to the submission of other questions to a vote of the electors in addition to the ordinance or measures herein provided for, if said other questions are such as may legally be submitted at such election. If the provisions of two or more measures approved or adopted at the same election conflict then the measure receiving the highest affirmative vote shall control.

Section 7. Section 121 of Article XVII of the Charter of the City of Berkeley is amended as follows:

**Section 121. Composition of Rent Board.**

There shall be in the City of Berkeley an elected Rent Stabilization Board. The Board shall consist of nine elected Commissioners. The Board shall elect annually one of its members to serve as Chairperson.

**(1) Eligibility.**

Residents who are duly ~~qualified electors~~registered voters of Berkeley are eligible to serve as Commissioners of the Board.

**(2) Full Disclosure of Holdings.**

Candidates for the position of Commissioner shall fulfill the requirements as set forth in this Charter in Article III, Sec. 6 1/2.

In addition, when filing nomination papers, candidates shall submit a verified statement of their interests and dealings in real property, including but not limited to its ownership, sale or management and investment in and association with partnerships, corporations, joint ventures and syndicates engaged in its ownership, sale or management during the previous three years.

**(3) Conflict of Interest.**

Commissioners shall be subject to the requirements of the California Political Reform Act and other applicable state and local conflict of interest codes.