You’ve Been Served! Now what?

The first step in processing an initiative, referendum or recall is typically receiving service of an official notice.

From that point on, the clock is ticking and the Clerk is often at the center of what usually becomes a very political election issue.
This session will focus on the key responsibilities of the Clerk, as well as provide best practices for completing the various tasks according to the required timelines.

Learn why the Election Code is your most important resource, and how to creatively use checklists and calendars to ensure nothing is missed.

We will follow up with highlights and review lessons learned from several real case scenarios of initiative, referendum and recalls.
Similarities and Differences

**Initiatives**
- Adopts an Ordinance
  - Agency or Citizen Led
  - Clerk Reviews Petition as to Form
  - Signature Gathering period is 180 days
  - Council can act based on petition

**Referendum**
- Repeals an Ordinance
  - Citizen Led
  - Clerk Does Not Review Petition
  - Signature Gathering period is 30 days
  - Council can act based on petition

**Recall**
- Removes an Officer
  - Citizen Led
  - Clerk Reviews Petition as to Form
  - Signature Gathering period depends on # of registered voters
  - Must be submitted to voters if it qualifies

**Similarities and Differences**
- City Attorney prepares ballot title and summary
- 10% of voters to sign (less than 1000 need 25%) for next regular election
- 15% of voters to sign (less than 1000 need 25%) for special election*
- Special Election window is 88-125 days from Council Action

**Initiatives**
- Elections Code spells out language
- Most agencies need 10% of voters to sign (less than 1000 voters need 25%)*
- Regular or Special Election window is 88-125 days from Council Action

**Recall**
- Elections Code spells out title language
- # of signatures dependent upon # of registered voters
- Regular or Special Election window is 88-125 days from Council Action

*25% or 100 voters, whichever is less
Initiatives

Key Points to Remember

- EC 9200-9226
- A way for the citizens to enact a law without the City Council’s approval
- Requires action by the City Clerk, City Attorney, and City Council
- Whether Special or Regular Election depends on # of signatures and proponents making a request
- Allows for the legislative body to request an impact report prior to placing on ballot
- Process starts with filing of Notice of Intention

Sign the Petition!
Referendum

Referendums
Key Points to Remember

- EC 9235-9247
- A way for citizens to repeal a law enacted by the legislative body
- Process starts with filing of petition (EC §9237)
- Ordinance is suspended if filed within 30 days of adoption
- Petition form must comply with EC §9020
- 1st Clerk Duty is to Pull the Last Report of Registration filed by your ROV to the Secretary of State
Recalls

Key Points to Remember

- Most political of all measures
- Process begins with serving the officer a Notice of Intention (EC §11021)
- 1st Clerk notification is receipt of COPY of Notice of Intention
- Clerk has ALL the authority in this process
- You may terminate the process at any step if proponents fail to meet requirements
- Officer holder has the right to buy a candidate statement in Voter Guide (Sample Ballot)
Key Points that Apply to All

- Prima Facie count is open and public
  - Book a conference room
  - Use Gloves
- Have witnesses during key interactions
- Send all correspondence with trackable mail
- Transmit petitions to ROV same day or next day

EXERCISE
Best Practices

- Use Checklists
- Establish Potential Calendar Scenarios
- Maintain Neutrality (Be Switzerland)
- Retail control of the process
  - Consult City Attorney, but do not relinquish your role as Elections Official
- Treat Proponents with respect
- Always Purchase the Most Current Election Code Book
- Phone a Friend

Questions?

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Initiative – Checklist

☐ Original Notice of Intention filed with City Clerk on _______________

Contains:
☐ written text of the initiative
☐ May have a 500-word written statement explaining the reason for the proposed petition
☐ Signed by one, but no more than three proponents and follow the form set out in EC 9202
☐ Pay a fee established by the legislative body not to exceed $200
☐ A request for a Ballot Title and Measure that includes the address of the person proposing the measure

☐ Submit proposed measure to the City Attorney for ballot title and summary

☐ Fifteen (15) day period for City Attorney to provide ballot title and summary expires on ______________.

☐ Transmit ballot title and summary to proponents.

☐ Receive affidavit of publication from proponents on ________________.

☐ Verify filing of affidavit is within ten days of publication.

☐ Obtain from Registrar of Voters the latest report of voter registration filed with the Secretary of State (save in PDF and date).

☐ Calculate 180 days date of publication – filing deadline is ________________.

☐ Calculate 10% of registered voters – required number.

☐ Calculate 15% of registered voters – required number if proponents make specific request at the time the petition is filed.

☐ Arrange for open/public meeting room to count petitions in proponents presence.

☐ Purchase/obtain safety gloves for handling petitions.

☐ Date stamp one section of petition at the time of arrival for counting.

☐ Arrange for assistance of at least two other employees to count, plus one Director level person to supervise the proponents/provide security.

☐ Verify each section of the petition complies with EC 9203.

☐ Separate petition sections into number of signatures found i.e., put all sections with 10 signatures in one pile, all with 9 signatures in one pile, etc.
☐ Count the number of sections in each pile, multiple by number of signatures to obtain total.

☐ Provide a receipt to proponents in the event the prima facie count is sufficient.

☐ Transmit to ROV as soon as possible, same day preferred. Keep under lock and key if not possible.

☐ Date submitted to ROV ________________.

☐ Thirty (30) business day, no holidays or weekends included, period expires on _________________.

☐ While waiting for signature verification, calendar City Council meeting where you will present the results, if sufficient.

☐ Petition certified by ROV on _________________. ☐ N/A

☐ Petition deemed insufficient by City Clerk on _________________. ☐ N/A

☐ Notify proponents of decision on sufficiency.

☐ If petition sufficient, Governing Body to receive at next regular meeting date

☐ Prepare Agenda Report highlighting options, i.e., adopt ordinance outright, call election to submit ordinance to voters, or report on ramifications of adoption. Include possible election dates (at least 88 days, Tuesday, no Holidays, whether general or special). Allow Governing Body to select date. (Highly political decision, provide options and then let them decide).

☐ Report ordered on _________________. ☐ N/A

☐ Report presented to Council (no more than 30 days after date ordered by Council) ☐ N/A

☐ Ten (10) day period for Council to adopt ordinance or call election expires on _________________. (Within ten days of receipt of report)

☐ Notify ROV of the chosen election date, provide Resolution calling election, and requesting services of ROV if necessary, as soon as possible. ☐ N/A

☐ Public Notice of Election as soon as possible.

☐ Request FPPC filing deadline calendar from FPPC (send email to advice@fppc.ca.gov with date of election, requesting special calendar.)
☐ Conduct election as you would any municipal election.

☐ Canvass of ballots due on ________________.

☐ Meeting for City Council to receive election results is scheduled ________________.

   Ordinance becomes effective that date, if majority of voters approve.
Referendum– Checklist

☐ Subject Ordinance Adopted on __________________.

☐ Original Petition filed with City Clerk on __________________ (within 30 days of adoption).

☐ Obtain from Registrar of Voters the latest report of voter registration filed with the Secretary of State (save in PDF and date).

☐ Calculate 10% of registered voters – required number.

☐ Arrange for open/public meeting room to count petitions in proponents presence.

☐ Purchase/obtain safety gloves for handling petitions.

☐ Date stamp one section of petition at the time of arrival for counting.

☐ Arrange for assistance of at least two other employees to count, plus one Director level person to supervise the proponents/provide security.

☐ Verify each section of the petition contains the Header complying with EC 9237.5a, and has attached the full text of the Ordinance.

☐ Separate petition sections into number of signatures found i.e., put all sections with 10 signatures in one pile, all with 9 signatures in one pile, etc.

☐ Count the number of sections in each pile, multiple by number of signatures to obtain total.

☐ Provide a receipt to proponents in the event the prima facie count is sufficient.

☐ Transmit to ROV as soon as possible, same day preferred. Keep under lock and key if not possible.

☐ Date submitted to ROV ________________.

☐ Thirty (30) business day, no holidays or weekends included, period expires on ____________________.

☐ While waiting for signature verification, calendar City Council meeting where you will present the results, if sufficient.

☐ Petition certified by ROV on ______________________. ☐ N/A

☐ Petition deemed insufficient by City Clerk on ______________________ bob N/A
☐ Notify proponents of decision on sufficiency.

☐ If petition sufficient, Governing Body to certify at next regular meeting date

☐ Prepare Agenda Report highlighting options, i.e., repeal ordinance outright, or call election to submit ordinance to voters. Include possible election dates (at least 88 days, Tuesday, no Holidays, may push out to next general election). Allow Governing Body to select date. (Highly political decision, provide options and then let them decide).

☐ Notify ROV of the chosen election date, provide Resolution calling election, and requesting services of ROV if necessary, as soon as possible.

☐ Public Notice of Election as soon as possible.

☐ Request FPPC filing deadline calendar from FPPC (send email to advice@fppc.ca.gov with date of election, requesting special calendar).

☐ Conduct election as you would any municipal election.

☐ Canvass of ballots due on ____________________.

☐ Meeting for City Council to receive election results is scheduled _______________. Ordinance becomes effective that date, if majority of voters approve.
Recalls – Checklist

☐ Original Notice of Intention filed with City Clerk on _________________

☐ Affidavit of Service to Officer Sought to be recalled dated no earlier than 7 days prior to filing of NOI with City Clerk.

☐ Separate Notice of Intention filed for each officer sought to be recalled ☐ N/A

☐ NOI signed by at least ten, or minimum # of signatures required on nomination papers, whichever is higher.

☐ Obtain from Registrar of Voters the latest report of voter registration filed with the Secretary of State (save in PDF and date).

☐ Notify Officer sought to be recalled of filing of NOI; 7 day period to file an answer with City Clerk expires on _________________.

☐ If answer is filed by Officer, verify it contains address, and printed name and signature of officer.

☐ Ask for answer to be filed in paper and Word version for ease of transmittal to ROV in the event the Recall qualifies for election.

☐ Within 10 days of filing of answer by Officer, or within 10 days of deadline for Officer to file, proponents to file two blank copies of the petition, along with affidavit of publication of Notice of Intention, including names and addresses of proponents who signed. Period expires on _________________.

☐ Within 10 days of filing of blank petition, City Clerk to verify form complies with EC 11043 and 11043.5, using template provided by Secretary of State. Period expires on _________________.

☐ Petition format rejected on _________________. ☐ N/A

☐ 10 day period to submit revised petition expires on _________________.

☐ 10 day period to review resubmitted blank petition expires on _________________.

☐ Petition certified for circulation on _________________.

☐ Deadline for submittal of signed petitions expires on _________________.

☐ Arrange for open/public meeting room to count petitions in proponents presence.

☐ Purchase/obtain safety gloves for handling petitions.
☐ Date stamp one section of petition at the time of arrival for counting.

☐ Arrange for assistance of at least two other employees to count, plus one Director level person to supervise the proponents/provide security.

☐ Separate petition sections into number of signatures found i.e., put all sections with 10 signatures in one pile, all with 9 signatures in one pile, etc.

☐ Count the number of sections in each pile, multiple by number of signatures to obtain total.

☐ Provide a receipt to proponents in the event the prima facie count is sufficient.

☐ Transmit to ROV as soon as possible, same day preferred. Keep under lock and key if not possible.

☐ Date submitted to ROV ________________.

☐ Thirty (30) business day, no holidays or weekends included, period expires on ________________.

☐ While waiting for signature verification, calendar City Council meeting where you will present the results, if sufficient.

☐ Begin preparing candidate paperwork/campaign notebook in the event petition is sufficient.

☐ Petition certified by ROV on ______________________. ☐ N/A

☐ Petition deemed insufficient by City Clerk on ______________________. ☐ N/A

☐ Notify proponents of decision on sufficiency.

☐ If petition sufficient, Governing Body to certify at next regular meeting date

☐ Within fourteen days of meeting where Governing Body certifies, Governing Body must schedule election. Strictest interpretation of EC 11227 and 11240.

☐ Prepare Agenda Report with all possible election dates (88-125 days, Tuesday, no holidays). Allow Governing Body to select date. (Highly political decision, provide options and then let them decide).

☐ Notify ROV of the chosen election date, provide Resolution calling election, and requesting services of ROV if necessary, as soon as possible.
☐ Public Notice of Election as soon as possible.

☐ Request FPPC filing deadline calendar from FPPC (send email to advice@fppc.ca.gov with date of election, requesting special calendar.

☐ Open Nomination period for candidates to replace the Officer if sufficient.

☐ Candidate nomination period closes on ______________ (E-75, per EC 11381b).

☐ Notify Officer sought to be recalled he/she may file a 200 word Candidate Statement for same fee as candidates seeking to replace the Officer.

☐ Publish Notice of Nominees as soon as possible. No later than 7 days prior to Election.

☐ Conduct election as you would any municipal election.

☐ Notify City Attorney and City Manager of provisions of Government Code 36503.5. Regardless of apparent outcome, officer sought to be recalled may not participate in any decision/vote to expend or encumber City funds from election day through date of certification of results.

☐ Canvass of ballots due on ________________.

☐ Meeting for City Council to receive election results is scheduled ________________.

☐ Certify election results and install new City Council Member, if successful.