

CHAPTER 7

INITIATIVE AND REFERENDUM

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1-7-1: **DIRECT LEGISLATION; FORM OF PETITION:** Direct legislation by the people of the county through initiative and referendum elections is provided for pursuant to this chapter. The following shall be substantially the form of petition by any ordinance proposed by the initiative: (Ord. 86-1, 3-24-1986)

WARNING: It is a misdemeanor for anyone to sign an initiative or referendum petition with any name other than his or her own, or to knowingly sign his or her name more than once for the measure, or to sign such petition when he or she is not a registered voter.

INITIATIVE PETITION

To the County Clerk of the County of Cassia:

We, the undersigned citizens and registered voters of the County of Cassia, State of Idaho, respectfully demand that the following proposed law, to-wit: (Setting out the full text of the measure proposed) shall be submitted to the registered voters of the County of Cassia for their approval or rejection at a general or special election to be held pursuant to the ordinances of the County of Cassia, Idaho, and each for herself or himself says, "I have personally signed this petition; I am a registered voter of the County of Cassia, State of Idaho; my residence and post office address are correctly written after my name:

NAME RESIDENCE MAILING ADDRESS

(here follow 20 numbered lines for signatures)

The petition for referendum of any ordinance passed by the county commissioners shall be in substantially the same form with appropriate title and changes, setting out in full the text of the ordinance of the county commissioners to be referred to the people for their approval or rejection. (Ord. 86-1, 3-24-1986; amd. 2003 Code)

1-7-2: **REQUIREMENTS FOR CIRCULATING PETITION:** Before or at the time of beginning to circulate any petition for the referendum to the people of any ordinance passed by the county commissioners, or for any ordinance proposed by initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the county clerk a copy of such petition duly signed by at least twenty (20) electors of the county which shall be filed by the county clerk's office and who shall immediately examine and specify the form and kind and size of paper on which such petition shall be printed for circulation for signatures. All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality bond or ledger paper on pages eight and one-half inches (8 1/2") (numbered) in width by eleven inches (11") in length, with a margin of one and three-quarters inches (1 3/4") at the top for binding. To every sheet of petitioners' signatures shall be attached a full and correct copy of the measures so proposed by the initiative petition. Every sheet of petitioners' signatures on

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referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded. Not more than twenty (20) signatures on any one sheet shall be counted. (Ord. 86-1, 3-24-1986)

1-7-3: **CIRCULATION; NUMBER OF SIGNATURES:** After the form of the initiative or referendum petition has been approved by the county clerk the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the county for signatures of registered voters of the county. Before such petition shall be entitled to final filing and consideration by the county clerk there shall be affixed thereto the signatures of registered voters equal in number to not less than twenty percent (20%) of the total number of voters registered to vote at the last general election in the county next preceding the filing of such initiative or referendum petition. (Ord. 86-1, 3-24-1986)

1-7-4: **APPROVAL; EFFECTIVE DATE:** The county clerk shall cause every initiative approved by a majority of the votes cast to be printed with the ordinances of the county with the date of the county commissioners' proclamation declaring the same to have been approved by the people. Any ordinance subject to referendum that is approved by a majority of the votes cast shall be effective upon the county commissioners' proclamation declaring the same to have been approved by the people. (Ord. 86-1, 3-24-1986)

1-7-5: **VERIFICATION AFFIDAVIT:** Each and every sheet of every petition containing signatures shall be verified on the face thereof, in substantially the following form, by the person who circulated such sheet of said petition, by his or her affidavit thereon, and as a part thereof: (Ord. 86-1, 3-24-1986)

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STATE OF IDAHO)
) ss
 County of Cassia)

I, _____, being first
 duly sworn say, that every person who signed this sheet of the
 foregoing petition signed his or her name thereto in my
 presence; I believe that each has stated his or her name,
 mailing address, and residence correctly, and that each signer
 is a registered voter of the County of Cassia.

Signed

 Mailing address:

SUBSCRIBED AND SWORN to before me, this
 _____ day of _____, 20_____.

 Notary Public for Idaho

Residing at:_____

(Ord. 86-1, 3-24-1986; amd. 2003 Code)

1-7-6: **NONACCEPTANCE OF PETITION BY CLERK:** If the
 county clerk shall refuse to accept and file any petition for
 the initiative or for the referendum with the requisite number of signatures of
 bona fide electors thereto attached, any citizen may apply, within ten (10) days
 after such refusal, to the district court for a writ of mandamus to compel the clerk
 to do so. If it shall be decided by the court that such petition is legally sufficient,
 the county clerk shall then file it, with a certified copy of the judgment attached
 thereto, as of the date on which it was originally offered for filing in the office of
 the clerk. On a showing that any petition is not legally sufficient, the court may
 enjoin the county clerk and all other officers from certifying or printing on the
 official ballot for the ensuing election the ballot title and the number of such
 measure. (Ord. 86-1, 3-24-1986)

1-7-7: REVIEW BY ATTORNEY:

- A. Copy To Clerk: One copy of the petition for any measure to be referred to the citizens of Cassia County, either by the initiative or the referendum, shall be provided to the county clerk, and the county clerk shall forthwith transmit a copy thereof to the county attorney and give notice to the petitioner of such transmittal.
- B. Recommendations By Attorney: Upon receipt of the measure, the county attorney may confer with the petitioner and shall, within ten (10) days from the receipt thereof, review the proposal for the matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the county attorney shall be advisory only and the petitioner may accept or reject them in whole or in part. The county attorney shall issue a certificate of review to the county clerk certifying that the measure has been reviewed for form and style and the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendation.
- C. Certificate Of Review: The certificate of review shall be available for public inspection in the office of the county clerk.
- D. Filing Of Petition: Within fifteen (15) working days after notification of submittal of the petition to the county attorney, the petitioner, if desiring to proceed with the sponsorship of the petition, shall file the measure, as herein provided, together with the certificate of review with the county clerk for assignment of a ballot title, and the county clerk shall thereupon submit to the county attorney two (2) copies of the measure filed.
- E. Ballot Title: Within ten (10) days after receiving said copies the county attorney shall provide a ballot title therefor and return one of such copies to the county clerk, together with the ballot title so prepared. A copy of the ballot title as prepared by the county attorney shall be furnished to the person or persons, organization or organizations under whose authority the measure is initiated or referred. The ballot title shall contain:
1. Short Title: A distinctive short title not exceeding ten (10) words by which the measure is commonly referred to or spoken of.

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2. General Title: A general title, expressing, in not more than one hundred (100) words, the purpose of the measure.
3. Printing: The ballot title shall be printed with the numbers of the measure on the official ballot.
4. Impartial Language: In making such ballot title, the county attorney shall, to the best of his ability, give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. Any person who is dissatisfied with the ballot title or short title provided by the county attorney for any measure may appeal his decision to the district court by petition, praying for a different title and setting forth reason why title presented by the county attorney is insufficient or unfair. (Ord. 86-1, 3-24-1986)

1-7-8: **VOTING REQUIREMENTS:**

- A. Manner Of Voting: The manner of voting upon measures submitted to the people shall be the same as is now or may be required and provided by law, and no measure shall be adopted unless it receives an affirmative majority of the aggregate number of votes cast on such measure.
- B. Counting Of Votes: The votes on measures and questions shall be counted, canvassed and returned in the same manner as votes are counted, canvassed and returned in general county elections. (Ord. 86-1, 3-24-1986)

1-7-9: **QUALIFIED SIGNATURES:** Every person who is a registered elector in the county may sign a petition for the referendum or for the initiative. Any person signing any name other than his or her own to any petition, or knowingly signing his or her name more than once for the same measure at any one election, or who is not at the time of signing the same a registered voter of the county, or any officer or person willfully violating any provisions of this chapter shall, upon conviction thereof, be guilty of a misdemeanor. (Ord. 86-1, 3-24-1986)

1-7-10: **BALLOTS:** The county clerk shall provide a ballot clearly identifying the matter to be voted upon and which ballot shall be consecutively numbered and shall, insofar as possible, be in conformity to the

ballot printed by the county clerk for election of candidates to an office in the county. (Ord. 86-1, 3-24-1986)

1-7-11: **PROHIBITED ACTS:**

- A. **False Representation Regarding Content Of Measure:** It shall be unlawful for any person to willfully or knowingly circulate, publish or exhibit any false statement or representation concerning the content, purpose or effect of any petition mentioned in this chapter for the purpose of obtaining any signatures to any such petition, or for the purpose of persuading any person to sign any such petition.
- B. **Filing With Fraudulent Signatures:** It shall be unlawful for any person to file in the office of the county clerk or to receive for filing any petition mentioned in this chapter, to which is attached, appended or subscribed any signature which the person so filing said petition knows to be false or fraudulent or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto.
- C. **Circulation Of Petition Containing False Names:** It shall be unlawful for any person to circulate or cause to be circulated any petition mentioned herein, knowing the same to contain false, forged or fictitious names.
- D. **False Affidavit:** It shall be unlawful for any person to make any false affidavit concerning any petition mentioned in this chapter or the signatures appended thereto.
- E. **Signing Multiple Times Or Without Qualification:** It shall be unlawful for any person to sign his or her name more than once to any petition mentioned in this chapter or to sign his or her name to any petition knowing himself at the time of such signing not to be qualified to sign the same. (Ord. 86-1, 3-24-1986)

1-7-12: **TIME LIMIT FOR FILING PETITIONS:** Referendum petitions with the requisite number of signatures attached shall be filed with the county clerk not more than sixty (60) days after the adoption of the ordinance on which the referendum is demanded. All elections on measures referred to the people of the county shall be held at a regular general election or at a special election to be held in accordance with Idaho Code section 34-601, establishing uniform election dates. (Ord. 86-1, 3-24-1986; amd. 2003 Code)

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1-7-13: **VOTER'S PAMPHLET:**

- A. Content: As soon as practicable before the election on the initiative or referendum, the county clerk shall cause to be printed a voter's pamphlet which shall contain the following:
 - 1. Title And Text: A complete copy of the title and text of each measure with the number and form in which the ballot will be printed.
 - 2. Arguments And Rebuttals: A copy of the arguments and rebuttals for and against each measure.
- B. Mailing; Time Requirements: The county clerk shall mail a copy of the voter's pamphlet to each registered voter in the county. Other copies shall be available at the county clerk's office. In the event that the election is to be held on a day which does not enable the proponents or the opponents of the measure and the county clerk to comply with the time requirements of this section and section 1-7-14 of this chapter, then in such event the times shall be reduced proportionately commensurate with the time remaining to the date of election. (Ord. 86-1, 3-24-1986)

1-7-14: **ARGUMENTS FOR AND AGAINST:** Arguments for and against the matter to be submitted to the people shall be filed as follows subject to the provisions of subsection 1-7-13B of this chapter on reduced time schedules:

- A. Arguments For: Arguments for the measure shall be submitted not less than fifty (50) days before the election and shall not exceed five hundred (500) words.
- B. Arguments Against: Rebuttal arguments shall be submitted not less than forty (40) days before the election and shall contain not more than two hundred fifty (250) words. (Ord. 86-1, 3-24-1986)