

RULE 5. Initiated Ordinance Petitions. (Enacted 6/06/12)

5.1 Certification of Compliance. Upon receipt of written notice from the director of city council staff and the city attorney certifying the proponents' compliance with the review and comment hearing requirement, the clerk and recorder may receive and act upon any affidavit or notice of intent commencing the initiation of ordinance.¹⁰

5.2 Petitions for Initiated Ordinance. A petition for initiated ordinance may be filed at any time.¹¹ Such initiated ordinance will be placed on the ballot when a petition is verified containing signatures numbering at a minimum five (5) percent of the total vote for the office of mayor in the last election at which a mayor was elected.¹²

5.2.1 Deadline to File Completed Petition. A completed petition for initiated ordinance must be filed with the clerk and recorder no later than one hundred eighty (180) days from the date of approval of the affidavit, ballot title, and petition sample by the clerk and recorder.¹³

5.2.2 Ballot Title and Text. Any petition for an initiative shall specify in full the text of the ordinance to be initiated and shall contain a ballot title, which shall contain in summary form the major provisions of the ordinance, and which shall be true and impartial and shall not be an argument, nor likely to create bias, either for or against the measure.¹⁴

5.2.3 Wording of Title. The title for an initiated ordinance shall begin with the words: "Shall the voters of the City and County of Denver adopt ..." unless different wording is required by the state constitution.¹⁵

5.3 Petitioners' Committee. Any five (5) registered electors of the City and County of Denver may begin proceedings for initiative by filing with the clerk and recorder an affidavit constituting themselves as a petitioners' committee for such purpose and specifying the intent to circulate an initiative petition.¹⁶

5.3.1 Affidavit of Petitioners' Committee. The affidavit shall contain the notarized signatures of each member of the petitioners' committee; shall state the names, addresses, and telephone numbers of each member of the petitioners' committee and an address to which notices to the committee will be sent; and shall specify one member of the committee to serve as primary contact.¹⁷ Contact information for the primary contact should include an email address.

¹⁰ Charter § 8.3.7, D.R.M.C § 15-3

¹¹ Charter § 8.3.1

¹² Charter § 8.3.3(A)

¹³ Charter § 8.3.3(B)

¹⁴ Charter § 8.3.2(B)

¹⁵ Charter § 8.3.2(B)

¹⁶ Charter § 8.3.2(A)

¹⁷ Charter § 8.3.2(B)

5.3.2 Sample Petition. The petitioners' committee must append to any affidavit a sample petition form in the style and format that complies with the Charter of the City and County of Denver and the requirements of the clerk and recorder.¹⁸

5.4 Form of Petition. The form of petitions for initiated ordinance may consist of multiple petition sections.¹⁹ Each section is to consist of multiple sheets fastened together with a blue manuscript cover. Each section must have a consecutive four-digit number. The number may be printed by a printer, hand-stamped with a manual stamp or legibly handwritten. The order of each petition section will be: 1) the affidavit of the petitioners' committee on which the title and full text of the proposed initiated ordinance that is the subject of the petition is printed; 2) instructions to circulators; 3) signature pages; and 4) affidavit of circulator.

5.4.1 Instructions to Circulators. To each petition section, following the affidavit of petitioners' committee and immediately preceding the signature pages, must be attached the *Instructions to Circulators*, which must be in substantial compliance with the sample instructions to circulators contained in the initiated ordinance information packet that may be obtained from the clerk and recorder.²⁰

5.4.2 Signature Pages. To each petition section must be attached *Signature Pages* that must be in substantial compliance with the sample signature page contained in the initiated ordinance information packet that may be obtained from the clerk and recorder.

A. Warning. At the top of each signature page of every initiative petition section, the following warning statement must be printed in bold:

**WARNING:
IT IS AGAINST THE LAW:**

For anyone to sign any initiative petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE IN THE CITY AND COUNTY OF DENVER.

¹⁸ Charter § 8.3.2(B)

¹⁹ Charter §§ 8.3.2(B)(C) and (D); C.R.S. § 31-11-106

²⁰ Charter § 8.3.2(G)

Do not sign this petition unless you have read or have had read to you the proposed initiative in its entirety and understand its meaning.²¹

- B. Signature Lines.** All signature pages must contain ruled lines numbered consecutively for registered electors' signatures, and have up to ten (10) signature lines on each page. Each signature line must have space provided for date, last name, first name, middle initial, year of birth, street address, city and signature.
- C. Signature Page Numbering.** If a petition section contains multiple signature pages, all signature pages must be sequentially numbered starting with page 1 at the bottom of the first signature page.²²

5.4.3 Affidavit of Circulator. To each petition section must be attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section. The *Affidavit of Circulator* must be in substantial compliance with the sample affidavit of circulator contained in the initiated ordinance information packet that may be obtained from the clerk and recorder, and must include the following information for the affiant (the circulator):

- A.** The circulator's printed name and signature,
- B.** The permanent address at which the circulator resides, including the street name and number, apartment or unit number, city or town, county, and state (if outside Colorado);
- C.** The temporary Colorado residential address (if not a Colorado resident) at which the circulator resides, including the street name and number, apartment or unit number, city or town, and county;
- D.** The date the circulator signed the affidavit;
- E.** That the circulator has read and understands the laws governing the circulation of petitions;
- F.** That the circulator was eighteen (18) years of age or older at the time the petition section was circulated and signed by the listed electors;
- G.** That the circulator personally circulated the petition section;
- H.** That all signatures were affixed in the circulator's presence;
- I.** That each signature thereon is the signature of the person whose name it purports to be;

²¹ C.R.S. § 31-11-106(3)(a)

²² C.R.S. § 31-11-106(3)(c)

- J. That, to the best of the circulator's knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector of the city and county of Denver;
- K. That the circulator has not paid or will not in the future pay and that the circulator believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition, and²³
- L. That each signer had an opportunity to read the full text and ballot title of the initiative.²⁴

5.5 Review and Approval of Affidavit, Ballot Title, and Petition Sample.

The affidavit, ballot title, and petition sample will be reviewed by the clerk and recorder for a determination of compliance with the requirements of the Charter of the City and County of Denver, with any and all other applicable state or city and county laws, and with the Rules of the clerk and recorder. In reviewing the ballot title, the clerk and recorder will consider the public confusion that might be caused by a misleading title.²⁵

5.5.1 Review Period. The clerk and recorder will have three (3) full working days from the time of the filing of the affidavit, petition sample, and ballot title to review these materials. At the end of the three (3) working days, the clerk and recorder will either accept or reject the affidavit, petition sample, or ballot title. If the affidavit, petition sample, or ballot title is rejected, the clerk and recorder will make written findings specifying the defects.²⁶

5.5.2 Method of Filing Petition Sample Materials. All petition sample materials must be filed for review in original paper format via hand or mail delivery, and may not be filed with the clerk and recorder by facsimile, email or other electronic means.

5.5.3 Approval Requirement. No petition may be circulated nor may any signatures be procured until such affidavit, petition sample, and ballot title are approved by the clerk and recorder.²⁷

5.5.4 No Extraneous Material. Petition sections submitted for approval will contain only those elements required by applicable laws and may not contain any extraneous material.²⁸

²³ Charter § 8.3.2(G); C.R.S. §§ 31-11-106, 31-11-107

²⁴ Charter § 8.2.3(G)

²⁵ Charter § 8.3.2(C)

²⁶ Charter § 8.3.2(C)

²⁷ Charter § 8.3.2(C)

²⁸ C.R.S. § 31-11-106(1)

5.5.5 Rejection for Failure to Propose Municipal Legislation. The clerk and recorder may reject a petition sample on the grounds that the petition does not propose municipal legislation.²⁹

5.6 Circulation of Petition for Initiated Ordinance.

5.6.1 Circulators. No person may circulate a petition section for an initiated ordinance unless the person is a citizen of the United States and at least eighteen (18) years of age at the time the petition is circulated.³⁰

5.6.2 Signing of Petitions. Petitions may be signed only by registered electors who are eligible to vote on the measure. Each registered elector must sign his or her own signature and must print his or her name, the address at which he or she resides, including the street number and name, the city or town, the county, and the date of signing.³¹ Each registered elector signing a petition should be encouraged by the circulator of the petition to sign the petition in ink.³²

5.6.3 Assistance to Signers. In the event a registered elector is physically disabled or has limited literacy and wishes to sign the petition, the elector must sign or make his or her mark in the space so provided. Any person except a circulator may assist an elector who is physically disabled or has limited literacy in completing the remaining information required by this section. The person providing assistance must sign his or her name and address directly below the elector's signature line and must state that such assistance was given to the elector.³³

5.7 Verification of Petitions for Initiated Ordinance. This rule sets forth the methodology of the clerk and recorder for verification of signatures and validity of petitions, including the identity and residence address of the petition signers and other information required on the petitions.³⁴

5.7.1 General Procedures for Submission of Completed Petitions for Initiated Ordinance to the Clerk and Recorder.

A. When Petition May be Filed. After signatures have been obtained, the petitioners' committee must file the completed petition with the clerk and recorder no later than close of business on a normal business day. All petition sections must be filed at the same time.³⁵

B. Method of Filing Petitions. All completed petitions must be filed in their original paper format via hand or mail delivery and may not be

²⁹ C.R.S. § 31-11-106(1)

³⁰ Charter § 8.3.2(G); C.R.S. § 31-11-107

³¹ Charter § 8.3.2(E); C.R.S. § 31-11-108

³² C.R.S. § 31-11-108

³³ C.R.S. § 31-11-108

³⁴ Charter § 8.3.2(F)

³⁵ Charter § 8.3.2(H)

filed with the clerk and recorder by facsimile, email or other electronic means.

- C. Receipt of Petitions.** When the petition sections are received by the clerk and recorder, each section will be date stamped and a unique number will be assigned to the petition and recorded by the clerk and recorder.³⁶
- D. Holding Period.** The clerk and recorder will hold the petition for a period of twenty-five (25) days following receipt, during which time the clerk and recorder will determine whether the petition is signed by the requisite number of registered electors.
- E. Disassembly.** Each petition section will be reviewed for evidence of disassembly. If it appears that the petition section was disassembled, all entries in the section will be rejected.³⁷
- F. Recording of Number of Entries.** The number of entries for each petition section will be recorded. If the number of entries is fewer than the total number of signatures required to certify the initiated ordinance to the ballot, a statement of insufficiency will be issued. The block of information that consists of the date, last name, first name, middle initial, year of birth, street address, city and signature is considered a line. Each line with writing will be counted on each petition section and will be considered an entry for sufficiency review.³⁸
- i.** A line that has no writing or marks on it will not be considered an entry.
 - ii.** A line that has writing on it but is completely crossed out will not be considered an entry.
 - iii.** A line that has writing on it but is incomplete or that is partially crossed out will be considered an entry to be included in this count.

5.7.2 Verification of the Affidavit of Circulator. Each petition section will be reviewed for the following:

- A. Compliance with Completion Requirements.** Each petition section will be reviewed to verify that it contains an *Affidavit of Circulator*.
- i.** The *Affidavit of Circulator* will be reviewed for each petition section to ensure it has been completed in accordance with these Rules.

³⁶ Charter § 8.3.2(H)

³⁷ C.R.S. § 31-11-106(3)(e)(II)

³⁸ Charter § 8.3.2(H); C.R.S. § 31-11-109

ii. The clerk and recorder will not accept for filing any section of a petition that does not have attached to it the notarized affidavit as required by these Rules.³⁹

B. Compliance with Notary Public Requirement. The *Affidavit of Circulator* for each petition section must be completed and signed in the presence of a notary public who will witness the affidavit and stamp it with a seal. The notary clause at the end of the *Affidavit of Circulator* will be reviewed for each petition section.

i. If any information is missing in the notary clause, all entries in the petition section will be rejected.

ii. If the date on the notary clause is not the same date as the date the circulator signed the affidavit, all entries in the petition section will be rejected.⁴⁰

5.7.3 Verification of Signature Pages. Every signature on circulated petitions will be verified by comparison with the signatures on file in the master voter registration files to ensure that each elector was registered in the City and County of Denver at the time the petition was signed.

A. Date of Signing.

i. If a signature was placed on the petition section prior to the circulation period or prior to the final approval of the petition format by the clerk and recorder, the entry will be rejected.⁴¹

ii. If the signer was not a registered elector in the City and County of Denver at the time of signing, the entry will be rejected.⁴²

iii. If a signature is placed on the petition section after the date on the circulator's affidavit, the entry will be rejected.⁴³

B. Match of Name to Voter Record. To be accepted, the name on the entry must be in a form similar to that found on the master voter registration files. Signatures that are common variants of the name found on the voter record will be counted.

i. If the middle initial or middle name is not a part of either the petition section signature line or the master voter registration files the entry will be accepted if the first and last names are the same on both records.

³⁹ Charter § 8.3.2(G); C.R.S. § 31-11-106(3)

⁴⁰ Charter § 8.3.2(G); C.R.S. § 31-11-106(3)

⁴¹ C.R.S. § 31-11-106(1)

⁴² C.R.S. §§ 31-11-108, 31-11-109

⁴³ C.R.S. § 31-11-106(3)(e)(III)

ii. If the middle initial or middle name on the petition section signature line is different than the middle initial or middle name on the master voter registration files, the entry will be rejected.

iii. If an indicator such as Jr., Sr., or II is not part of either the petition section signature line or the master voter registration files, the entry will be accepted.

iv. If two persons with the same name reside at the same address as found on the master voter registration files, the entry will be rejected, unless the identity of the signer can be determined conclusively from the petition section or the master voter registration files.

C. Match of Voter Information to Record. If the information on the master voter registration files does not match the information on the entry, the elector's voter registration history will be checked to determine if the information on the entry matches the master voter registration files at the time the entry was signed.

i. If the address on the petition section signature line either includes or omits a letter or number identifying an apartment or the directional location of a street, such as "E" for east, "SW" for southwest, etc., the entry will be accepted.

ii. If the petition section signer gives a post office box for the address, the entry will be rejected.

D. No Match Found. If the signer of the petition is not found on the master voter registration files, the entry will be rejected.

E. Signature Line.

i. Except as provided in subsection (C) above, if the petition section signature line is incomplete, with at least one piece of information omitted, the entry will be rejected.

ii. If the signature and printed name are illegible so that the master voter registration files cannot be verified, the entry will be rejected.

iii. If the elector has previously signed the same petition, the first valid entry will be counted and all other entries will be rejected.

F. Assistance to Signer. If assistance appears to have been given to the signer and a statement of assistance does not accompany the signature or mark explaining the variance in the script as required in these Rules, the entry will be rejected.⁴⁴

⁴⁴ C.R.S. § 31-11-108

- G. Reason Codes.** Each reason for rejection of an entry will be recorded by separate code and a master record of the rejected entries will be maintained. A master record will also be maintained of each entry that is accepted.

5.8 Notification of Sufficiency Decision for Initiated Ordinance Petitions, and Cure.

5.8.1 Sufficiency. Once the twenty-five (25) day holding period has passed, if the petition is deemed to contain a sufficient number of valid signatures, the clerk and recorder will notify the petitioners' committee in writing.⁴⁵

5.8.2 Insufficiency. In the event the clerk and recorder determines that the petition contains an insufficient number of signatures and/or there is a defective circulator's affidavit, the clerk and recorder will notify the petitioners' committee of the insufficiency, and the petitioners' committee may cure the insufficiency by filing an addendum to the original petition for the purpose of offering such number of additional signatures and/or offering a corrected circulator's affidavit as will cure the insufficiency. Any addendum must be filed within the time period allowed for the original petition. The clerk and recorder will record and hold any addendum for an additional period of twenty-five (25) days and will verify the signatures on the addendum in the same manner as provided for in the original petition.⁴⁶

5.9 Protest of Petition for Initiated Ordinance. Within the twenty-five (25) day holding period of the petition or any addendum thereto, a protest subscribed and sworn to under oath may be filed by a registered elector of the City and County of Denver. A protestor must identify by name the signers protested against or specify the factual and legal basis of any other alleged defects in the petition. The clerk and recorder will appoint a hearing officer who will consider the grounds of protest and may hear evidence, after giving notice of the hearings to the petitioners' committee, the protestors, and others the clerk and recorder may require for the hearings. Hearings will be concluded and findings issued as soon as practicable but not more than fifty (50) days after the filing of a protest with the clerk and recorder.⁴⁷

5.10 Placement of Petition for Initiated Ordinance on Ballot. The alphabetical and/or numeric designation of an initiated ordinance on the ballot for an election will be in the order in which the measure is certified to the ballot after the protest period has ended or, if a protest was filed, in order of the date of the issuance of the written findings of fact by the hearing officer.⁴⁸

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⁴⁵ Charter § 8.3.2(H)

⁴⁶ Charter § 8.3.2(H); C.R.S. § 31-11-109

⁴⁷ Charter § 8.3.2(H); C.R.S. § 31-11-110

⁴⁸ Charter § 8.3.2(H); C.R.S. § 1-5-407(5)(a)