

CITY COUNCIL MEETING

AUGUST 3, 1983

PLANNING COMMISSION

City Manager Graves gave the following report of the Planning Commission Meeting of July 25, 1983:

ITEMS OF INTEREST

The Planning Commission:

ITEMS SET FOR PUBLIC HEARING

1. Recommended that the City Council amend P-D (17), Planned Development District No. 17 by increasing the density to 30 units per acre with a parking ratio of 1 to 1 to provide for a 96 unit complex for senior citizens to be located on the westerly 484.55 feet of 800 North Church Street.
2. Recommended that the City Council certify the filing of a Negative Declaration by the Community Development Director as adequate environmental documentation on the above project.

ITEMS SET FOR PUBLIC HEARING

On motion of Council Member Murphy, Snider second, Council set the heretofore listed items for Public Hearing on Wednesday, August 17, 1983 at 8:00 p.m.

The Planning Commission also -

ITEMS OF INTEREST

1. conditionally approved the request of Ronald B. Thomas on behalf of Arbor Retirement Center for a Use Permit to construct a 49 bed residential care facility on the easterly 126.63 feet of 800 North Church Street in an area zoned P-D (17), Planned Development District No. 17.
2. certified the filing of a Negative Declaration by the Community Development Director as adequate environmental documentation on the above project.
3. by a 3 to 3 vote with Chairman Hoffman absent, denied the request of Tony Canton on behalf of Bocan construction for a Zoning Variance to permit the construction of a non-conforming 16-unit apartment house at the site formerly occupied by the Cosmopolitan Hotel at 100 East Oak Street in an area zoned M-1, Light Industrial.



RECEIVED

MEMORANDUM, City of Lodi, Community Development Department
1983 JUL 28 AM 8 45

TO: CITY MANAGER
FROM: COMMUNITY DEVELOPMENT DIRECTOR
DATE: JULY 27, 1983
SUBJECT: PLANNING COMMISSION ACTIONS - JULY 25, 1983

ALICE M. REYNOLDS
CITY CLERK
CITY OF LODI

FOR ACTION OF THE CITY COUNCIL

1. Recommended that the City Council amend P-D (17), Planned Development District No. 17 by increasing the density to 30 units per acre with a parking ratio of 1 to 1 to provide for a 96 unit complex for senior citizens to be located on the westerly 484.55 feet of 800 North Church Street.
2. Recommended that the City Council certify the filing of a Negative Declaration by the Community Development Director as adequate environmental documentation on the above project.

OF INTEREST TO THE CITY COUNCIL

1. Conditionally approved the request of Ronald B. Thomas on behalf of Arbor Retirement Center for a Use Permit to construct a 49-bed residential care facility on the easterly 126.63 feet of 800 North Church Street in an area zoned P-D (17), Planned Development District No. 17.
2. Certified the filing of a Negative Declaration by the Community Development Director as adequate environmental documentation on the above project.
3. By a 3 to 3 vote with Chairman Hoffman absent, denied the request of Tony Canton on behalf of Bocan Construction for a Zoning Variance to permit the construction of a non-conforming 16-unit apartment house at the site formerly occupied by the Cosmopolitan Hotel at 100 East Oak Street in an area zoned M-1, Light Industrial.

Elections Code

Section

4002 Before circulating an initiative petition in any City, a Notice of Intent must be published.

4003 Instructions for Publication of initiative petition

June 1, 1983

4004 Proof of Publication must be submitted to City Clerk within 10 days after publication

June 10, 1983

4005 Petitions may not be circulated for 21 days after publication of Notice of Intention. Each Section of Petition shall bear a copy of the Notice of Intention and Statement.

June 22, 1983

4006 Signatures upon petitions and the petitions with all sections thereof shall be filed within 180 days from the date of publication.

4009 The Clerk shall have 30 days from the date of filing to compare the signatures.

July 3, 1983

Aug 3
Council Meeting

Certified Petitions to Council - Call for measure to be placed on ballot.

Order election within 88-103 days.

§ 4001

MUNICIPAL ELECTIONS

Div. 5

Even though plaintiffs' original initiative petition for councilmanic redistricting ordinance contained signatures of 11 per cent of the voters on filing date, plaintiffs were not thereby prevented from filing a supplemental petition increasing the number of signatures to 16% of the registered voters and thereby obtain submission of ordinance to voters at a special election rather than its submission at the next regular municipal election. Id.

to withdraw names until referendum petition was filed with or presented to city council. Knowlton v. Hezmalhalch (1939) 80 P.2d 1100, 32 C.A.2d 410.

Under the city initiative and referendum statutes, right of signers to withdraw names from referendum petition is restricted to the period before the filing of the petition with the officer or body authorized to receive it. Id.

5. Withdrawal of names

City clerk was without authority to withdraw names or to allow names to be withdrawn from referendum petition after it had been filed with him, since the filing of petition with city clerk was "presenting it to the legislative body" within meaning of the referendum act as against contention that signers of petition had the right

Separate acts of city council relating to selection of city hall site and construction of city hall constituted the declaration of a public purpose and provision for ways and means of its accomplishment and was subject to referendum as an entire act and it was not necessary that separate petition be procured for each of the resolutions relating to the construction of the city hall. Id.

§ 4002. Notice of intent to circulate petition; signatures; publication; form

Before circulating an initiative petition in any city, or any petition relating to the annexation of territory by a city, the consolidation of cities, or the dissolution of a city, the proponents of such matter shall publish a notice of intention so to do, which notice shall be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than five, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention of the persons whose names appear hereon of their intention to circulate the petition within the City of _____ for the purpose of _____ A statement of the reasons of the proposed action as contemplated in said petition is as follows:

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4002, enacted by Stats.1961, c. 23, p. 635, § 4002, amended by Stats.1967, c. 1148, p. 2824, § 2; Stats.1969, c. 774, p. 1551, § 1, which related to the same subject, was repealed by Stats.1976, c. 248, § 2.

by Stats.1967, c. 1148, p. 2824, § 2; Stats.1969, c. 774, p. 1551, § 1.

Elec.C.1930, § 1702 (Stats.1930, c. 26, p. 93, amended by Stats.1930, c. 572, p. 1080; Stats.1933, c. 315, p. 1535, § 1).

Derivation: Former § 4002, enacted by Stats.1961, c. 23, p. 635, § 4002, amended

Pol.C. § 1083d, added Stats.1937, c. 719, p. 2003, § 1.

Forms

See West's California Code Forms, Elections.

Cross References

Annexation of territory, petitions for, see Government Code § 35000 et seq.
 Circulation of petition, see § 4005; Government Code § 35114.
 Consolidation, see Government Code § 35700 et seq.
 Initiative petition, generally, see § 4001.
 Notice of intention to annex, see Government Code §§ 35111, 35112.
 Notice of petition to consolidate, and election, see Government Code §§ 35706, 35707.
 Persons authorized to circulate petitions, see §§ 42, 3517, 4005.
 Publication of notice, see §§ 4003, 4004.
 Signature, defined, see Civil Code § 14; Code of Civil Procedure § 17.
 Time for circulating petition, see § 4006.

Library References

Municipal Corporations ⇐ 108.3.

C.J.S. Municipal Corporations § 435 et seq.

Notes of Decisions

In general 2
 Validity 1

1. Validity

The constitutional right to election upon initiative petition is granted under such procedure as may be provided by law, and former provision of this section proscribing the circulation of petition for disincorporation of city within two years of incorporation was not an unconstitutional abridgment of that right. *Ryder v. City of Los Altos* (1954) 270 P.2d 532, 125 C.A.2d 200.

2. In general

An unpublished petition cannot qualify as a petition for recall of municipal officers, and filing by clerk of petition of recall which did not conform to publication requirements of statutes would be a useless and idle act. *Moore v. City*

Council of City of Maywood (1908) 53 Cal.Rptr. 603, 244 C.A.2d 802.

Former provision of this section that no petition for disincorporation may be circulated until after expiration of two years from date of incorporation prevailed over Government Code provisions which contained no limitation as to the time for such an election, and petition for election on disincorporation, filed within two years of incorporation, was properly denied. *Ryder v. City of Los Altos* (1954) 270 P.2d 532, 125 C.A.2d 200.

Provision of Elec.C.1939, § 1702, prohibiting circulation of petitions for disincorporation of city of sixth class for two years following incorporation was applicable to petition presented in September, 1932, to disincorporate sixth class city incorporated in June, 1932. *Bohn v. Mayor and City Council of City of Fontana* (1953) 263 P.2d 836, 121 C.A.2d 637.

§ 4003. Publication; posting

A notice of intention and statement as referred to in Section 4002, shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Section 6000 et seq. of the Government Code, adjudicated as such, said notice and statement shall be published therein at least once; or

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, said notice and statement shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and said notice and statement shall be posted in three (3) public places within the city, which pub-

§ 4003**MUNICIPAL ELECTIONS**

Div. 5

lic places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code; or

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the said notice and statement shall be posted in the manner described in subdivision (b) of this section.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4003, enacted by Stats.1961, c. 23, p. 635, § 4003, amended by Stats. 1967, c. 1148, p. 2824, § 3, which related to the same subject matter, was repealed by Stats.1976, c. 248, § 2.

Elec.C.1939, §§ 1703, 1704 (Stats.1939, c. 26, p. 94).

Pol.C. § 1083d, added Stats.1937, c. 710, p. 2003, § 1.

Derivation: Former § 4003, enacted by Stats.1961, c. 23, p. 635, § 4003, amended by Stats.1967, c. 1148, p. 2824, § 3.

Cross References

Newspaper of general circulation.

Adjudication, see Government Code § 1023.

Definitions, see Government Code §§ 6000, 6008.

Notice of intention to circulate, see § 4002; Government Code § 35111.

Publication, generally, see Government Code § 6000 et seq.

Library References

Municipal Corporations ⇐108.3.

C.J.S. Municipal Corporations § 455 et seq.

§ 4004. Proof of publication or posting; filing

Within 10 days after the date of publication or posting, or both, of the notice of intention and statement, the proponents shall file a copy of the notice and statement as published or posted, or both, together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

Such affidavit, together with a copy of the notice of intention and statement, shall be filed with the clerk of the legislative body of the city.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4004, formerly § 4003, enacted by Stats.1961, c. 23, p. 635, § 4003, renumbered § 4004 and amended by Stats. 1967, c. 1148, p. 2824, § 5; Stats.1969, c. 774, p. 1552, § 2, was repealed by Stats. 1976, c. 248, § 2.

Former § 4004, enacted by Stats.1961, c. 23, p. 635, § 4004, which related to publication or posting in the absence of a newspaper published in the city, amended by Stats.1963, c. 94, p. 1083, § 1, was repealed by Stats.1967, c. 1148, p. 2824, § 1.

Derivation: Former § 4005, enacted by Stats.1961, c. 23, p. 635, § 4005, renumbered § 4004 and amended by Stats.1967, c. 1148, p. 2824, § 5; Stats.1969, c. 774, p. 1552, § 2.

Elec.C.1939, § 1705 (Stats.1939, c. 26, p. 91).

Pol.C. § 10834, added Stats.1937, c. 719, p. 2903, § 1.

Forms

See West's California Code Forms, Elections.

Cross References

Affidavit, defined, see Code of Civil Procedure § 2003.

Clerk, defined, see §§ 14, 14000.

False returns, certifications or affidavits by public officials, see § 29781.

Filing copy of notice, and affidavit of publishing, see Government Code § 35112.

Notice of intention to circulate, see § 4002; Government Code § 35111.

Publication of notice, see § 4003.

Library References

Municipal Corporations ⇨ 108.3.

C.I.S. Municipal Corporations § 455 et seq.

§ 4005. Circulation of petition

Twenty-one days after the publication or posting or both of the notice of intention and statement, the petition may be circulated among the voters of the city for signatures by any registered voter of the city. Each section of the petition shall bear a copy of the notice of intention and statement.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4005, formerly § 4006 enacted 1961, c. 23, p. 635, § 4006, renumbered § 4005 and amended by Stats.1967, c. 1148, p. 2825, § 6, which related to circulation of the petition, was repealed by Stats. 1976, c. 248, § 2.

Original § 4005, which related to proof of publication or posting, enacted by Stats.1961, c. 23, p. 635, § 4004, was renumbered § 4004 and amended by Stats. 1967, c. 1148, p. 2824, § 5.

Derivation: Former § 4006, enacted by Stats.1961, c. 23, p. 635, § 4006, renumbered § 4005 and amended by Stats.1967, c. 1148, p. 2825, § 6.

Elec.C.1939, § 1706 (Stats.1939, c. 26, p. 94).

Pol.C. § 10834, 6th, added Stats.1937, c. 719, p. 2903, § 1.

Forms

See West's California Code Forms, Elections.

Cross References

Circulation of petition for annexation, see Government Code § 35114.

Circulation of petition for charter amendment, see § 4082.

Design of sections of petition, see § 3516.

False or illegible signatures on petition, see § 29730 et seq.

Improper payments to prevent petition circulation and filing, see § 29740 et seq.

Improper signature gathering tactics, see § 29720 et seq.

Misuse of signatures on petition, see § 29770.

Notice of intention to circulate, see § 4002; Government Code § 35111.

§ 4005

MUNICIPAL ELECTIONS

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Ch. 3

Notice of petition to consolidate and election, see Government Code § 35706.

Persons authorized to circulate petitions, see §§ 42, 3517.

Petition,

Persons authorized to sign, see § 3510.

Publication generally, see Government Code § 6000 et seq.

Publication or posting of notice, see §§ 4003, 4004.

Signature, defined, see Civil Code § 14; Code of Civil Procedure § 17.

Signing petitions and papers, persons authorized, verification, see § 41.

Threats and theft to prevent petition circulation and filing, see 29750 et seq.

Time for obtaining signatures, see § 4003.

Withdrawal of name from petition, see § 5352.

Library References

Municipal Corporations § 108.3.

C.J.S. Municipal Corporations § 455 et seq.

§ 4006. Time limit; validity

Signatures upon petitions and sections thereof shall be secured, and the petition, together with all sections thereof, shall be filed within 180 days from the date of publication or posting or both of the notice of intention and statement, or in the case of a petition relating to the annexation of territory to the city, within 180 days of the date on which the first signature was affixed to said petition. If such petitions are not filed within the time permitted by this section, the same shall be void for all purposes.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4006, formerly § 4007 enacted by Stats.1961, c. 23, p. 635, § 4007, renumbered § 4006 and amended by Stats. 1967, c. 1148, p. 2825, § 7, which related to the time limit for circulating the petition, was repealed by Stats.1976, c. 248, § 2.

Original § 4006, which specified when the circulation of the petition could start, was renumbered § 4005 and amended by Stats.1967, c. 1148, p. 2825, § 6.

Derivation: Former § 4007, enacted by Stats.1961, c. 23, p. 635, § 4007, renumbered § 4006 and amended by Stats.1967, c. 248, § 2.

Elec.C.1939, § 1707 (Stats.1939, c. 26, p. 04).

Pol.C. § 1063d, added Stats.1937, c. 719, p. 2003, § 1.

Cross References

Affidavits of circulators, see §§ 41, 3510, 4007.

Analysis of city measure, see § 5011.

Arguments, authority to file, see § 4015.

Arguments concerning city measures, see § 5012 et seq.

Computation of time, see Government Code § 6800 et seq.

Filing petitions to defeat an initiative or referendum, offer- see § 29790.

Notice of intention to,

Annex, see Government Code § 35111.

Circulate, see § 4002.

Publication of notice, see §§ 4003, 4004.

Signing petitions and papers, persons authorized, verification, see § 41.

Withdrawal of name from petition, see § 5352.

Library References

Municipal Corporations § 108.3.

C.J.S. Municipal Corporations § 455 et seq.

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§ 4008

MUNICIPAL ELECTIONS

Div. 5

2. Correction of mistake

Action of municipal clerk in correcting mistake in certification of referendum pe-

tition related back to date of original certification. *Truman v. Royer* (1961) 11 Cal.Rptr. 159, 189 C.A.2d 240.

§ 4009. Examination of petition; signatures; preservation

After the petition has been filed, as herein provided, the clerk shall examine the petition in the same manner as are county petitions in accordance with Sections 3707 and 3708 except that, for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

The petition shall be preserved by the city clerk in the same manner as are county measures as set forth in Section 3756.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4009, added by Stats.1967, c. 1148, p. 2826, § 10, amended by Stats. 1969, c. 940, p. 1879, § 5, relating to examination of signatures and addresses on petition, was repealed by Stats.1976, c. 248, § 2.

Original § 4009, which required the clerk to examine the petition and certify his findings, enacted by Stats.1961, c. 23,

p. 635, § 4009, was renumbered section 4008 and amended by Stats.1967, c. 1148, p. 2826, § 9.

Derivation: Former § 4009, added by Stats.1967, c. 1148, p. 2826, § 10, amended by Stats.1969, c. 940, p. 1879, § 5.

Former § 4009.1, added by Stats.1967, c. 1148, p. 2826, § 11.

Cross References

- Clerk, defined, see §§ 14, 14000.
- False affidavits concerning petitions, see § 29780.
- False or ineligible signatures on petition, see § 29730 et seq.
- False returns, certifications or affidavits by public officials, see § 29781.
- Filing petitions to defeat an initiative or referendum, offense, see § 29790.
- Legislative body, defined, see Government Code § 34000.
- Misuse of signatures on petition, see § 29770.
- Petitions not public records, restrictions on examination, see Government Code § 6251.5.
- Signature, defined, see Civil Code § 14; Code of Civil Procedure § 17.
- Withdrawal of name from petition, see § 6352.

Library References

- Municipal Corporations ¶108.2
- C.J.S. Municipal Corporations § 455 et seq.

§§ 4009.1, 4009.2. Repealed by Stats.1976, c. 248, § 2

Historical Note

The repealed sections, added by Stats. 1967, c. 1148, p. 2826, §§ 11, 12, amended by Stats.1969, c. 940, p. 1879, §§ 6, 7, required the clerk to complete examination within 30 days, certify the results to leg-

islative body and proponents, but if the petition were insufficient, provision was made for a supplementary petition procedure. See, now, § 4009.

§ 4010. Signatures for submittal at special election

If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's last official re-

Elections Code

Section

4002

Before circulating an initiative petition in any City, a Notice of Intent must be published.

4003

Instructions for Publication of initiative petition

June 1, 1983

4004

Proof of Publication must be submitted to City Clerk within 10 days after publication

June 10, 1983

4005

Petitions may not be circulated for 21 days after publication of Notice of Intention. Each Section of Petition shall bear a copy of the Notice of Intention and Statement.

June 22, 1983

4006

Signatures upon petitions and the petitions with all sections thereof shall be filed within 180 days from the date of publication.

4009

The Clerk shall have 30 days from the date of filing to compare the signatures.

July 3, 1983

Aug. 3

Council Meeting

Certified Petitions to Council - Call for measure to be placed on ballot.

Order election within 88-103 days.

Even though plaintiffs' original initiative petition for councilmanic redistricting ordinance contained signatures of 11 per cent of the voters on filing date, plaintiffs were not thereby prevented from filing a supplemental petition increasing the number of signatures to 16% of the registered voters and thereby obtain submission of ordinance to voters at a special election rather than its submission at the next regular municipal election. *Id.*

to withdraw names until referendum petition was filed with or presented to city council. *Knowlton v. Hezmalhalch (1939) 80 P.2d 1169, 32 C.A.2d 410.*

Under the city initiative and referendum statutes, right of signers to withdraw names from referendum petition is restricted to the period before the filing of the petition with the officer or body authorized to receive it. *Id.*

5. Withdrawal of names

City clerk was without authority to withdraw names or to allow names to be withdrawn from referendum petition after it had been filed with him, since the filing of petition with city clerk was "presenting it to the legislative body" within meaning of the referendum act as against contention that signers of petition had the right

Separate acts of city council relating to selection of city hall site and construction of city hall constituted the declaration of a public purpose and provision for ways and means of its accomplishment and was subject to referendum as an entire act and it was not necessary that separate petition be procured for each of the resolutions relating to the construction of the city hall. *Id.*

§ 4002. Notice of intent to circulate petition; signatures; publication; form

Before circulating an initiative petition in any city, or any petition relating to the annexation of territory by a city, the consolidation of cities, or the dissolution of a city, the proponents of such matter shall publish a notice of intention so to do, which notice shall be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than five, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention of the persons whose names appear hereon of their intention to circulate the petition within the City of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in said petition is as follows:

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4002, enacted by Stats.1961, c. 23, p. 635, § 4002, amended by Stats.1967, c. 1148, p. 2834, § 2; Stats.1969, c. 774, p. 1551, § 1, which related to the same subject, was repealed by Stats.1970, c. 248, § 2.

by Stats.1967, c. 1148, p. 2834, § 2; Stats.1969, c. 774, p. 1551, § 1.

Elec.C.1930, § 1702 (Stats.1930, c. 26, p. 83, amended by Stats.1930, c. 672, p. 1840; Stats.1933, c. 315, p. 1555, § 1).

Derivation: Former § 4002, enacted by Stats.1961, c. 23, p. 635, § 4002, amended

Pol.C. § 1093d, added Stats.1937, c. 710, p. 2003, § 1.

Forms

See West's California Code Forms, Elections.

Cross References

Annexation of territory, petitions for, see Government Code § 35000 et seq.
 Circulation of petition, see § 4005; Government Code § 35114.
 Consolidation, see Government Code § 35700 et seq.
 Initiative petition, generally, see § 4001.
 Notice of intention to annex, see Government Code §§ 35111, 35112.
 Notice of petition to consolidate, and election, see Government Code §§ 35706, 35707.
 Persons authorized to circulate petitions, see §§ 42, 3517, 4005.
 Publication of notice, see §§ 4003, 4004.
 Signature, defined, see Civil Code § 14; Code of Civil Procedure § 17.
 Time for circulating petition, see § 4006.

Library References

Municipal Corporations ⇨ 108.3.

C.J.S. Municipal Corporations § 455 et seq.

Notes of Decisions

In general 2
 Validity 1

1. Validity

The constitutional right to election upon initiative petition is granted under such procedure as may be provided by law, and former provision of this section proscribing the circulation of petition for disincorporation of city within two years of incorporation was not an unconstitutional abridgment of that right. *Ryder v. City of Los Altos* (1954) 270 P.2d 532, 125 C.A.2d 200.

2. In general

An unpublished petition cannot qualify as a petition for recall of municipal elected officers, and filing by clerk of petition of recall which did not conform to publication requirements of statutes would be a useless and idle act. *Moore v. City*

Council of City of Maywood (1906) 53 Cal.Rptr. 603, 241 C.A.2d 892.

Former provision of this section that no petition for disincorporation may be circulated until after expiration of two years from date of incorporation prevailed over Government Code provisions which contained no limitation as to the time for such an election, and petition for election on disincorporation, filed within two years of incorporation, was properly denied. *Ryder v. City of Los Altos* (1954) 270 P.2d 532, 125 C.A.2d 200.

Provision of Elec.C.1939, § 1702, prohibiting circulation of petitions for disincorporation of city of sixth class for two years following incorporation was applicable to petition presented in September, 1952, to disincorporate sixth class city incorporated in June, 1952. *Bohn v. Mayor and City Council of City of Fontana* (1953) 263 P.2d 836, 121 C.A.2d 637.

§ 4003. Publication; posting

A notice of intention and statement as referred to in Section 4002, shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Section 6000 et seq. of the Government Code, adjudicated as such, said notice and statement shall be published therein at least once; or

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, said notice and statement shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and said notice and statement shall be posted in three (3) public places within the city, which pub-

§ 4003**MUNICIPAL ELECTIONS**

Div. 5

lic places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code; or

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the said notice and statement shall be posted in the manner described in subdivision (b) of this section.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4003, enacted by Stats.1961, c. 23, p. 635, § 4003, amended by Stats. 1967, c. 1148, p. 2824, § 3, which related to the same subject matter, was repealed by Stats.1976, c. 248, § 2.

Elec.C.1939, §§ 1703, 1704 (Stats.1939, c. 26, p. 94).

Pol.C. § 1083d, added Stats.1937, c. 713, p. 2003, § 1.

Derivation: Former § 4003, enacted by Stats.1961, c. 23, p. 635, § 4003, amended by Stats.1967, c. 1148, p. 2824, § 3.

Cross References

Newspaper of general circulation.

Adjudication, see Government Code § 6023.

Definitions, see Government Code §§ 6000, 6008.

Notice of intention to circulate, see § 4002; Government Code § 35111.

Publication, generally, see Government Code § 6000 et seq.

Library References

Municipal Corporations § 108.3.

C.J.S. Municipal Corporations § 455 et seq.

§ 4004. Proof of publication or posting; filing

Within 10 days after the date of publication or posting, or both, of the notice of intention and statement, the proponents shall file a copy of the notice and statement as published or posted, or both, together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

Such affidavit, together with a copy of the notice of intention and statement, shall be filed with the clerk of the legislative body of the city.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4004, formerly § 4005, enacted by Stats.1961, c. 23, p. 635, § 4005, renumbered § 4004 and amended by Stats. 1967, c. 1148, p. 2824, § 5; Stats.1969, c. 774, p. 1552, § 2, was repealed by Stats. 1976, c. 248, § 2.

Former § 4004, enacted by Stats.1961, c. 23, p. 635, § 4004, which related to publication or posting in the absence of a newspaper published in the city, amended by Stats.1965, c. 94, p. 1035, § 1, was repealed by Stats.1967, c. 1148, p. 2824, § 4.

Derivation: Former § 4005, enacted by Stats.1961, c. 23, p. 635, § 4005, renumbered § 4004 and amended by Stats.1967, c. 1148, p. 2821, § 5; Stats.1969, c. 774, p. 1552, § 2.

Elec.C.1939, § 1705 (Stats.1939, c. 26, p. 91).

Pol.C. § 1083d, added Stats.1937, c. 719, p. 2003, § 1.

Forms

See West's California Code Forms, Elections.

Cross References

Affidavit, defined, see Code of Civil Procedure § 2003.

Clerk, defined, see §§ 14, 14000.

False returns, certifications or affidavits by public officials, see § 29781.

Filing copy of notice, and affidavit of publishing, see Government Code § 35112.

Notice of intention to circulate, see § 4002; Government Code § 35111.

Publication of notice, see § 4003.

Library References

Municipal Corporations ⇐ 108.3.

C.J.S. Municipal Corporations § 455 et seq.

§ 4005. Circulation of petition

Twenty-one days after the publication or posting or both of the notice of intention and statement, the petition may be circulated among the voters of the city for signatures by any registered voter of the city. Each section of the petition shall bear a copy of the notice of intention and statement.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4005, formerly § 4006 enacted 1961, c. 23, p. 635, § 4006, renumbered § 4005 and amended by Stats.1967, c. 1148, p. 2825, § 6, which related to circulation of the petition, was repealed by Stats. 1976, c. 248, § 2.

Original § 4005, which related to proof of publication or posting, enacted by Stats.1961, c. 23, p. 635, § 4004, was renumbered § 4004 and amended by Stats. 1967, c. 1148, p. 2824, § 5.

Derivation: Former § 4006, enacted by Stats.1961, c. 23, p. 635, § 4006, renumbered § 4005 and amended by Stats.1967, c. 1148, p. 2825, § 6.

Elec.C.1939, § 1706 (Stats.1939, c. 26, p. 91).

Pol.C. § 1083d, 6th, added Stats.1937, c. 719, p. 2003, § 1.

Forms

See West's California Code Forms, Elections.

Cross References

Circulation of petition for annexation, see Government Code § 35114.

Circulation of petition for charter amendment, see § 4082.

Design of sections of petition, see § 3516.

False or ineligible signatures on petition, see § 29730 et seq.

Improper payments to prevent petition circulation and filing, see § 29740 et seq.

Improper signature gathering tactics, see § 29720 et seq.

Misuse of signatures on petition, see § 29770.

Notice of intention to circulate, see § 4002; Government Code § 35111.

Notice of petition to consolidate and election, see Government Code § 35706.
Persons authorized to circulate petitions, see §§ 42, 3517.

Petition.

- Persons authorized to sign, see § 3516.
- Publication generally, see Government Code § 6000 et seq.
- Publication or posting of notice, see §§ 4003, 4004.
- Signature, defined, see Civil Code § 11. Code of Civil Procedure § 17.
- Signing petitions and papers, persons authorized, verification, see § 41.
- Threats and theft to prevent petition circulation and filing, see 29750 et seq.
- Time for obtaining signatures, see § 4006.
- Withdrawal of name from petition, see § 5352.

Library References

Municipal Corporations ⇐108.3. C.J.S. Municipal Corporations § 455 et seq.

§ 4006. Time limit; validity

Signatures upon petitions and sections thereof shall be secured, and the petition, together with all sections thereof, shall be filed within 180 days from the date of publication or posting or both of the notice of intention and statement, or in the case of a petition relating to the annexation of territory to the city, within 180 days of the date on which the first signature was affixed to said petition. If such petitions are not filed within the time permitted by this section, the same shall be void for all purposes.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4006, formerly § 4007 enacted by Stats.1961, c. 23, p. 635, § 4007, renumbered § 4006 and amended by Stats. 1967, c. 1148, p. 2825, § 7, which related to the time limit for circulating the petition, was repealed by Stats.1976, c. 248, § 2.

Derivation: Former § 4007, enacted by Stats.1961, c. 23, p. 635, § 4007, renumbered § 4006 and amended by Stats.1967, c. 248, § 2.

Elec.C.1939, § 1707 (Stats.1939, c. 26, p. 94).

Pol.C. § 1083d, added Stats.1937, c. 719, p. 2003, § 1.

Original § 4006, which specified when the circulation of the petition could start, was renumbered § 4005 and amended by Stats.1967, c. 1148, p. 2825, § 6.

Cross References

- Affidavits of circulators, see §§ 44, 3519, 4007.
- Analysis of city measure, see § 5011.
- Arguments, authority to file, see § 4015.
- Arguments concerning city measure, see § 5012 et seq.
- Computation of time, see Government Code § 6900 et seq.
- Filing petitions to defeat an initiative or referendum, offense, see § 29790.
- Notice of intention to,
 - Annex, see Government Code § 35111.
 - Circulate, see § 4002.
- Publication of notice, see §§ 4003, 4004.
- Signing petitions and papers, persons authorized, verification, see § 41.
- Withdrawal of name from petition, see § 5352.

Library References

Municipal Corporations ⇐108.3. C.J.S. Municipal Corporations § 455 et seq.

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§ 4008

MUNICIPAL ELECTIONS

Div. 5

2. Correction of mistake

Action of municipal clerk in correcting mistake in certification of referendum pe-

tion related back to date of original certification. *Truman v. Royer* (1961) 11 Cal.Rptr. 159, 189 C.A.2d 240.

§ 4009. Examination of petition; signatures; preservation

After the petition has been filed, as herein provided, the clerk shall examine the petition in the same manner as are county petitions in accordance with Sections 3707 and 3708 except that, for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

The petition shall be preserved by the city clerk in the same manner as are county measures as set forth in Section 3756.

(Added by Stats.1976, c. 248, § 3.)

Historical Note

Former § 4000, added by Stats.1967, c. 1148, p. 2826, § 10, amended by Stats. 1969, c. 940, p. 1879, § 5, relating to examination of signatures and addresses on petition, was repealed by Stats.1976, c. 248, § 2.

Original § 4000, which required the clerk to examine the petition and certify his findings, enacted by Stats.1961, c. 23,

p. 635, § 4000, was renumbered section 4008 and amended by Stats.1967, c. 1148, p. 2825, § 9.

Derivation: Former § 4000, added by Stats.1967, c. 1148, p. 2826, § 10, amended by Stats.1969, c. 940, p. 1879, § 5.

Former § 4000.1, added by Stats.1967, c. 1148, p. 2826, § 11.

Cross References

Clerk, defined, see §§ 14, 14000.

False affidavits concerning petitions, see § 29790.

False or ineligible signatures on petition, see § 29750 et seq.

False returns, certifications or affidavits by public officials, see § 29781.

Filing petitions to defeat an initiative or referendum, offense, see § 29790.

Legislative body, defined, see Government Code § 34000.

Misuse of signatures on petition, see § 29770.

Petitions not public records, restrictions on examination, see Government Code § 8253.5.

Signature, defined, see Civil Code § 15; Code of Civil Procedure § 17.

Withdrawal of name from petition, see § 6352.

Library References

Municipal Corporations § 106.3.

C.J.S. Municipal Corporations § 455 et seq.

§§ 4009.1, 4009.2. Repealed by Stats.1976, c. 248, § 2

Historical Note

The repealed sections, added by Stats. 1967, c. 1148, p. 2826, §§ 11, 12, amended by Stats.1969, c. 940, p. 1879, §§ 6, 7, required the clerk to complete examination within 30 days, certify the results to leg-

islative body and proponents, but if the petition were insufficient, provision was made for a supplementary petition procedure. See, now, § 4009.

§ 4010. Signatures for submittal at special election

If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's last official re-