

CHAPTER 9-20
INITIATIVE AND REFERENDUM

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9-20-1. Percentage of voters required to propose ordinance or resolution.

The registered voters of any municipality may propose ordinances and resolutions for the government of the municipality if the petition is signed by at least five percent of the registered voters in the municipality. The percentage shall be based on the number of registered voters of the municipality as recorded by the county auditor on the second Tuesday in January in the year the petition is filed. If the petition is filed before the second Tuesday in January, the prior year's calculation of registered voters shall be used.

Source: SDC 1939, § 45.1018; SL 1947, ch 199, § 1; SL 1968, ch 183, § 2; SL 2002, ch 40, § 2; SL 2017, ch 57, § 2; SL 2019, ch 53, § 1.

9-20-2. Petition proposing ordinance or resolution--Contents.

A petition to propose an ordinance or resolution shall be filed with the finance officer, containing in proper form the proposed ordinance or resolution. It shall be signed by the required number of the resident registered voters of the municipality. The signer or circulator shall add the signer's residence address, county of voter registration, and date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. No signature on a petition is valid if signed more than six months prior to the filing of the petitions.

Source: SDC 1939, § 45.1019; SL 1947, ch 199, § 2; SL 1957, ch 245, § 2; SL 1980, ch 64, § 3; SL 1983, ch 52, § 7; SL 1990, ch 104, § 4; SL 1992, ch 110, § 5; SL 1999, ch 41, § 1.

9-20-3. Ordinance may not be initiated to nullify bond purposes.

The right to initiate an ordinance shall not be applicable to ordinances proposed to nullify the purpose for which bonds have been sold by a municipality pursuant to statutory authority.

Source: SL 1961, ch 247; SL 1980, ch 66, § 1.

9-20-4. Presentation of initiative petition to governing body--Submission to voters.

When a petition to initiate is filed with the finance officer, the finance officer shall present the petition to the governing body at its first ensuing regular or special meeting. The governing body shall submit the petition to a vote of the voters in the manner prescribed for a referendum.

Source: SDC 1939, § 45.1020; SL 1947, ch 199, § 3; SL 1980, ch 67, § 1; SL 2003, ch 41, § 1.

9-20-5. Majority vote to approve initiated measure--Effective date.

No initiated ordinance or resolution is effective unless approved by a majority of the votes cast for and against the ordinance or resolution. If approved, the ordinance or resolution is effective the day following the completion of the canvass of the election returns.

Source: SL 1899, ch 94, § 13; RPolC 1903, § 1226; SL 1913, ch 119, § 50; RC 1919, § 6264; SDC 1939, § 45.1021; SL 1947, ch 199, § 4; SL 2025, ch 37, § 4.

9-20-5.1. Year's waiting period required before amendment or repeal.

No initiated ordinance or resolution may be amended or repealed by the governing body of a municipality until at least one year has passed from its effective date.

Source: SL 1977, ch 72.

9-20-6. Time for filing referendum petition.

The required number of voters residing in any municipality may file within twenty days after the publication of any ordinance or resolution subject to referendum a petition with the auditor or clerk, requiring the submission of any such ordinance or resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the twentieth day after publication, such petitions shall be filed no later than normal closing hours of the city hall or city auditor's office on said twentieth day.

Source: SL 1899, ch 94, § 2; RPolC 1903, § 1215; SL 1913, ch 119, § 39; RC 1919, § 6254; SDC 1939, § 45.1011; SL 1947, ch 198; SL 1975, ch 119, § 20.

9-20-7. Description in referendum petition of matter covered.

If the matter intended to be covered by the referendum petition is the whole of any ordinance or resolution, the petition shall contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length.

Source: SL 1899, ch 94, § 3; RPolC 1903, § 1216; SL 1913, ch 119, § 40; RC 1919, § 6255; SL 1921, ch 300, § 1; SDC 1939, § 45.1012; SL 1957, ch 245, § 1.

9-20-8. Percentage of voters required to sign referendum petition--Data concerning signers.

The referendum petition shall be signed by at least five percent of the registered voters in the municipality. The percentage shall be based on the number of registered voters of the municipality as recorded by the county auditor on the second Tuesday in January in the year the petition is filed. If the petition is filed before the second Tuesday in January, the prior year's calculation of registered voters shall be used. The signer or circulator shall add the signer's residence address, county of voter registration, and date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class.

Source: SDC 1939, § 45.1012; SL 1957, ch 245, § 1; SL 1968, ch 183, § 1; SL 1979, ch 50, § 7; SL 1980, ch 64, § 4; SL 1987, ch 78; SL 1990, ch 104, § 5; SL 1992, ch 110, § 6; SL 1999, ch 41, § 2; SL 2002, ch 40, § 3; SL 2017, ch 57, § 3; SL 2019, ch 53, § 2.

9-20-9. Requirements for persons circulating petition--Board of elections to promulgate rules--Scope of rules.

Any person circulating an initiative or referendum petition shall verify that each person signing the petition is a resident and qualified voter of the municipality. The State Board of Elections shall promulgate rules pursuant to chapter 1-26 prescribing the format for an initiative and referendum petition and its verification.

Source: SDC 1939, § 45.1013; SL 1999, ch 41, § 3; SL 2000, ch 19, § 3.

9-20-10. Liberal construction of referendum petition.

Such petition may be made up and signed and shall be liberally construed as provided by the statute governing an initiated law.

Source: SDC 1939, § 45.1012; SL 1957, ch 245, § 1.

9-20-11. Date of referendum election--No action pending election.

Within ten days of the presentation of a petition pursuant to § 9-20-6, the governing body shall submit the question to the electors at a special election to be held on a Tuesday no sooner than sixty nor later than ninety days from the date of the order of the governing body. If the petition is presented before the next regular municipal election or the next general election and within sufficient time to comply with the provisions of § 9-13-14, the question may be submitted at that election.

Pending the election, the governing body may not take any action with respect to the subject matter of the petition that would alter or preempt the effect of the proposed petition.

Source: SL 1899, ch 94, § 2; RPolC 1903, § 1215; SL 1913, ch 119, § 39; RC 1919, § 6254; SDC 1939, § 45.1011; SL 1947, ch 198; SL 1977, ch 68, § 8; SL 1980, ch 67, § 2; SL 1983, ch 53, § 6; SL 1995, ch 47, § 1; SL 2026, ch 32, § 27.

9-20-11.1. Repealed by SL 2003, ch 41, § 2.

9-20-11.2. Date to certify ballot language to county auditor.

If a municipality submits a question to the electors at the next general election pursuant to § 9-20-11, the municipality shall certify the ballot language to the county auditor by the first Tuesday in August of the year of the general election. However, the county auditor may extend the certification deadline for the municipality, if the county auditor determines that the extension will not prevent absentee ballots from being available by the date to begin absentee voting.

Source: SL 1995, ch 47, § 3; SL 2003, ch 41, § 3; SL 2007, ch 81, § 3; SL 2009, ch 69, § 10; SL 2018, ch 51, § 1.

9-20-11.3. Additional election costs paid by municipality.

If a municipality submits a question to the electors at the next general election pursuant to § 9-20-11, the municipality shall pay the additional election cost related to the municipal question. The cost shall be agreed upon by the county auditor and the municipal finance officer.

Source: SL 1995, ch 47, § 4.

9-20-12. Publication of referred ordinance or resolution--Notice of election.

The auditor or clerk shall cause the entire referred ordinance or resolution to be published once a week for two successive weeks immediately preceding the election.

Such publication shall include a notice that on the day of election therein stated such ordinance or resolution will be submitted to the voters or, if only a portion thereof is covered by the petition, then notice as to what portion will be submitted.

Source: SL 1899, ch 94, § 5; RPolC 1903, § 1218; SL 1913, ch 119, § 42; RC 1919, § 6257; SDC 1939, § 45.1014.

9-20-13. Ballots used in referendum election--Form and contents.

The auditor or clerk shall have ballots printed for the vote upon such referred ordinance or resolution and cause the same to be distributed as other official ballots are distributed.

Such ballots shall conform as near as may be to the law governing the submission of questions by the Legislature, except that the statement required to be printed on the ballots shall be prepared by the city attorney, or if there be no city attorney, by an attorney at law employed by the governing body for that purpose.

All questions to be voted upon at the same election may be submitted upon the same ballot.

Source: SL 1899, ch 94, § 6; RPolC 1903, § 1219; SL 1913, ch 119, § 43; RC 1919, § 6258; SDC 1939, § 45.1015.

9-20-14. General municipal election law applicable to referendum elections.

The elections provided for in this chapter shall be governed by the provisions of chapter 9-13 except as to the form of the ballots otherwise specifically provided.

Source: SL 1899, ch 94, § 9; RPolC 1903, §§ 1222, 1227; SL 1913, ch 119, §§ 46, 51; RC 1919, § 6265; SDC 1939, § 45.1022.

9-20-15. Majority vote to approve referred measure--Effective date.

No referred ordinance or resolution is effective unless approved by a majority of the votes cast for and against the ordinance or resolution. If approved, the ordinance or resolution is effective the day following the completion of the canvass of the election returns.

Source: SL 1899, ch 94, § 8; RPolC 1903, § 1221; SL 1913, ch 119, § 45; RC 1919, § 6260; SDC 1939, § 45.1017; SL 2025, ch 37, § 5.

9-20-16. Preservation of referendum petitions--Open to public inspection.

The auditor or clerk shall preserve all petitions invoking the referendum filed in his office for a period of at least two years, during which time such petitions shall be open to public inspection upon reasonable request.

Source: SL 1899, ch 94, § 7; RPolC 1903, § 1220; SL 1913, ch 119, § 44; RC 1919, § 6259; SDC 1939, § 45.1016.

9-20-17. Waiting period for new action after referendum election.

No referred ordinance or resolution may be again voted upon by the government of any municipality within one year from the date of the election thereon.

Source: SDC Supp 1960, § 45.1022 as enacted by SL 1961, ch 246.

9-20-18. Legislative finding--Actions of municipal governing boards subject to referendum.

The Legislature finds that in making past grants of decision-making authority to municipal governing authorities, its intent was to grant that authority to the governing bodies of municipalities and that such actions, unless otherwise excluded from the referendum and initiative process by other state law, are subject to the initiative and referendum process. Therefore, the contrary holding in *Baker v. Jackson*, 372 NW2d 142 (SD, July 31, 1985) is hereby abrogated.

Source: SL 1986, ch 73, § 1.

9-20-19. Legislative decision of governing body subject to referendum--Administrative decision not subject to referendum.

Any legislative decision of a governing body is subject to the referendum process. A legislative decision is one that enacts a permanent law or lays down a rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of a permanent or general character is a legislative decision.

No administrative decision of a governing body is subject to the referendum process, unless specifically authorized by this code. An administrative decision is one that merely puts into execution a plan already adopted by the governing body itself or by the Legislature. Supervision of a program is an administrative decision. Hiring, disciplining, and setting the salaries of employees are administrative decisions.

Source: SL 1986, ch 73, § 2.

SUMMARY ON HOW TO FILE AN INITIATIVE PETITION

SDCL CHAPTER 9-20

Drafting a Petition: Petitions can be found on the South Dakota Secretary of State Webpage: <https://sdsos.gov/elections-voting/nominating-petitions/download-nominating-petition.aspx>

We recommend hiring legal counsel to make sure the petition is in proper format.

Five Percent of the Registered Voters Within Municipality as of 01/13/2026: 101 registered voters.

How to Circulate a Municipal Ballot Question Petition: Refer to the South Dakota Secretary of State's pamphlet attached to this Summary.

Validity: Once the petitions are turned in, the Finance Officer will check for the required number of the resident registered voters of the municipality and that the petition is in correct form.

Petition Filed: The Finance Officer will present the petition to the governing board at its first ensuing regular or special meeting.

Governing Board: Within ten days of the presentation of a petition pursuant to § 9-20-6, the governing body shall submit the question to the electors at a special election to be held on a Tuesday no sooner than sixty nor later than ninety days from the date of the order of the governing body. If the petition is presented before the next regular municipal election or the next general election and within sufficient time to comply with the provisions of § 9-13-14, the question may be submitted at that election.

Pending the election, the governing body may not take any action with respect to the subject matter of the petition that would alter or preempt the effect of the proposed petition.

Passage: Majority of the votes cast for and against. If approved, it is effective the day following the completion of the canvass of the election returns.