

CHAPTER 12

INITIATIVE, REFERENDUM, AND RECALL

SECTION:

1-12-1:	<i>Direct Legislation</i>
1-12-2:	<i>Initiative Petition</i>
1-12-3:	<i>Examination By Clerk</i>
1-12-4:	<i>Signature Requirements</i>
1-12-5:	<i>Submission to Popular Vote By Council</i>
1-12-6:	<i>Referendum Petition</i>
1-12-7:	<i>Submission on Council's Own Motion</i>
1-12-8:	<i>Form of Ballot</i>
1-12-9:	<i>Publication</i>
1-12-10:	<i>Inconsistent Measures</i>
1-12-11:	<i>Required Time Between Elections</i>
1-12-12:	<i>Limitations on Right</i>
1-12-13:	<i>Recall</i>

1-12-1: **DIRECT LEGISLATION:** The people of the City, in addition to the method of legislation otherwise provided, shall have the power of direct legislation by initiative and referendum.

1-12-2: **INITIATIVE PETITION:** The initiative shall be exercised in the following manner:

- (A) A petition with the requisite number of signatures thereon, accompanied by the proposed legislative measure in the form of a proposed ordinance, and requesting that such ordinance be submitted to the vote of the people, shall be filed with the City Clerk. The petition for initiative shall be signed by registered voters equal to twenty percent (20%) of the total number of voters registered to vote at the last general election of the City.
- (B) Such petition shall be in substantially the following form:

We the undersigned, being qualified and registered electors of the City of Shelley, State of Idaho, hereby declare that we have read, or heard read at length, section by section, the proposed ordinance or measure attached hereto and fully understand its contents, meaning and purpose, and believe it should become a law of the City for the following reasons: (here state the reasons in not more than two hundred (200) words). We

1-12-3: EXAMINATION BY CLERK: Upon the filing of such petition, the Clerk shall ascertain whether or not said petition is signed by the requisite number of qualified and registered electors and otherwise conforms to law. The Clerk shall attach to the petition a certificate showing the result of such examination and if the petition is found insufficient, the certificate shall state the reasons therefor and the changes necessary to conform to law. The City Clerk may request the advice and counsel from the City Attorney for the purpose of determining the sufficiency of the petition. The Clerk's certificate shall be filed in the Clerk's office within fourteen (14) days after the petition was filed with the City Clerk, and the Clerk shall notify the person filing such petition of the filing of the Clerk's certificate which notice shall be in writing and shall be delivered within three (3) days after the filing of the certificate. Delivery of such notice shall be presumed complete upon its physical delivery to such person, or upon its deposit into the U.S. mail, postage prepaid, certified mail, return receipt request, addressed to the last known address of such person. If, by the Clerk's certificate, the petition is shown to be insufficient or defective, it may be amended, additional signatures added, or otherwise perfected, within thirty (30) days from the date of said certificate. If the petition is not perfected within thirty (30) days, the Clerk shall declare the petition null and void. If the petition filed with the Clerk is found by the Clerk to be in due form with the required number of signatures, the Clerk shall certify in writing that the petition is in proper form, and shall submit the same to the Council at its next regular meeting, provided however, if the Clerk's certification is made less than two (2) days prior to the next regular Council meeting, the petition may be submitted to the Council at the next following Council meeting.

1-12-4: SIGNATURE REQUIREMENTS: The requirements for signature, verification of valid petitions, printing of petition and time limits, except as expressly modified herein, shall generally conform to Chapter 18, Title 34, Idaho Code.

1-12-5: SUBMISSION TO POPULAR VOTE BY COUNCIL: Except as otherwise provided in this Chapter, the Council shall, within twenty (20) days after the date of the Clerk's certificate to the initiative petition, either pass such ordinance without alteration or call a special election within ninety (90) days after the date of the certification; provided however, that if any other City election is to be held within ninety (90) days after the filing of the certification, the proposed ordinance shall be submitted to the electorate without alteration at such election. If a majority of the electors voting on the proposed initiative measure vote in favor thereof, the same shall thereupon or at the time fixed therein, become effective as a City ordinance.

1-12-6: REFERENDUM PETITION: All petitions for referendum shall be filed not less than sixty (60) days following the final adoption of any ordinance subject to referendum, and shall be processed in the manner set forth in the preceding three (3) sections. The petition shall be substantially as follows:

We, the undersigned, being qualified and registered electors of the City of Shelley, Idaho, declare that we have read, or heard read in full (insert ordinance number

subject to referendum) and we understand its contents, meaning and purpose and believe it should not become a law of the City for the following reasons: (State reasons why ordinance should not be passed in two hundred (200) words or less.) We request that a referendum vote be called on this ordinance at a special election called for such purpose.

STATE OF IDAHO)
) ss.
County of Bingham)

I, _____, swear, under penalty of perjury, 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 and the accompanying information on the signature sheet correctly, and that the person was eligible to sign this petition.

_____ (Signed)

Post Office Address

Telephone Number

SUBSCRIBED AND SWORN to before me this _____ day
of _____, 19____.

Notary Public for Idaho
Residing at Shelley, Idaho
Commission expires:_____

(SEAL)

Within ninety (90) days after the date the Clerk certifies the referendum petition conforms to this chapter, the Council shall hold a special election to submit the referendum measure, without alteration, to the electorate unless the Council shall otherwise repeal such ordinance prior thereto, provided however, if any City general election is to be held within such ninety (90) days, the referendum measure shall be submitted to a vote at such election. If a majority of the voters voting on the measure vote in favor of the measure, the ordinance shall thereupon become null and void.

1-12-7: SUBMISSION ON COUNCIL'S OWN MOTION: The Council may submit to popular vote, for adoption or rejection, at any election any initiative or

referendum ordinance or measure in the same manner and with the same force and effect as provided herein. The Council may also call a special advisory election to obtain a non-binding vote on any matter.

1-12-8: **FORM OF BALLOT:** The form of ballot and method of voting on any initiative or referendum petition shall be the same as in any general City election.

1-12-9: **PUBLICATION:** The Clerk shall publish every proposed or referred ordinance at least twice in the official newspaper of this City before the date of the election at which such proposition or ordinance is to be voted upon. All special elections held pursuant to the Chapter shall be conducted, the votes canvassed and the result declared in the same manner as provided by law in respect to other City elections.

1-12-10: **INCONSISTENT MEASURES:** Nothing herein shall prevent two or more initiative measures concerning the same subject matter from being voted upon at the same election, provided however, if both initiative measures are approved and are inconsistent in any respect, the measure receiving the highest number of votes shall prevail, and the other shall entirely fail to become law.

1-12-11: **REQUIRED TIME BETWEEN ELECTIONS:** No more than one special referendum or initiative election may be held within any period of six (6) months.

1-12-12: **LIMITATIONS ON RIGHT:** The right of initiative or referendum shall not be exercised with respect to any measure pertaining to issuance of bonds, tax levies, fiscal appropriations, zoning or any other matter in conflict with the Constitution and laws of the State of Idaho. Such right or rights shall, to the extent consistent with the Constitution of the State of Idaho, be limited to legislative matters and shall not be exercised to impair any vested contract or property right or deprive any person of due process of law.

1-12-13: **RECALL:** The Mayor and members of the City Council shall be subject to recall in accordance with Chapter 17, Title 34, Idaho Code. Appointive officers of the City shall not be subject to recall.