

TOWN OF MONTVILLE

ORDINANCE FOR RECALL OF ELECTED TOWN OFFICIALS

Effective date of approval

Section 1. Establishment

This Ordinance is adopted pursuant to 30-A M.R.S. §2602(6)(B) and §3001. As provided in 30-A M.R.S. §2505, this Ordinance governs the recall of elected officials of the Town of Montville in place of the procedure set out in §2505.

Section 2. Applicability

Any elected officer or official of the Town of Montville, except for School Board members, may be recalled and removed from office as herein provided.

Section 3. Petitions for Recall

- a. The petition for recall must contain only signatures of the registered voters of the Town of Montville, equal to ten percent (10%) or more of the number of votes cast in the last Gubernatorial election but in all cases no less than twenty.
- b. The petition shall be addressed to the Board of Selectmen and filed with the Town Clerk. Section 5(e) governs the participation of any member of the Board whose recall is sought.
- c. The petition shall state the name and office of the person, on each page, whose removal is being sought, and a general statement of the reasons such removal is desired.
- d. If recall of more than one official is being sought, there shall be separate petitions for each officer or official whose removal is being sought.
- e. Each page of the petition shall provide a space for the voter's signature, address and printed name.
- f. Each signature shall be executed in ink.
- g. All petition pages thereof shall be filed as one document.
- h. No more than one recall petition can be filed against the same elected official in any six (6) month period. A petition found insufficient under Section 4 shall not count toward this limit.
- i. Before circulating a petition, the person initiating it shall file with the Town Clerk a written notice of intention of recall stating the name and office of the officer or official whose removal is being sought.
- j. Within three (3) business days of receiving a notice of intention, the Town Clerk shall issue petition forms to the person who filed it. Only signatures on forms issued by the Town Clerk shall be counted. The completed petition must be filed with the Town Clerk within fourteen (14) days after the forms are issued; a petition filed after that time is insufficient.

k. Each circulator shall sign a sworn statement on each petition page that they have personally witnessed each signature on that page and believes each signer to be a registered voter of the Town of Montville.

Section 4. Clerk's Certification

Within ten (10) days of receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all the qualifications as set forth in Section 3 of the ordinance. Should the petition be found insufficient, the petition will be filed in the Clerk's Office, and the voter who filed the petition will be notified. The date of the Town Clerk's certification of a sufficient petition is the date from which the time periods in Section 5 are measured.

Section 5. Calling the Recall Election

a. If the petition is certified by the Town Clerk to be sufficient, they will, within two (2) business days of certification, submit the same with his or her certification to the Board of Selectmen and shall notify the official or officials whose removal is being sought of such action.

b. The Town elects its officers and officials at Town Meeting. The recall vote shall therefore be held at a town meeting called by a warrant in accordance with 30-A M.R.S. §2521 and §2523. Within ten (10) business days of the Town Clerk's certification, the Selectmen shall schedule the recall vote and issue the warrant. The town meeting shall be held no less than forty-five (45) days nor more than seventy-five (75) days after the Town Clerk's certification, unless a regular municipal election is scheduled to be held within ninety (90) days of the certification, in which case the recall vote shall be held on the date of the regular municipal election. For purposes of this Ordinance, "regular municipal election" means the Town's annual town meeting at which Town officials are elected.

c. The warrant shall state the recall question in a distinct article as provided in Section 6, shall be posted in the manner required by 30-A M.R.S. §2523 (or by any method of notification the Town has adopted), and, if the meeting is a special town meeting, shall include an article to elect a moderator. The recall question shall be voted on in the same manner in which the Town elects its officials at Town Meeting.

d. If the Selectmen fail to schedule the recall vote within the time required by subsection (b), the Town Clerk shall schedule it in accordance with the date requirements of subsection (b) and shall notify the Selectmen, who shall promptly issue and sign the warrant for that date. If the Selectmen fail or refuse to do so, the meeting may be called as provided in 30-A M.R.S. §2521.

e. Because 30-A M.R.S. §2521 requires a town meeting warrant to be signed by a majority of the members of the Board of Selectmen, issuing and signing a warrant under this Ordinance is a ministerial duty that each member of the Board shall perform, including a member whose recall is sought. A member whose recall is sought shall not otherwise take part in the Board's consideration of any matter under this Ordinance concerning that member's petition. If a majority of the members of the Board do not remain in office, or the Town has no Board of Selectmen, the town meeting shall be called as provided in 30-A M.R.S. §2521. If the recall of the Town Clerk is sought, the Deputy Town Clerk or, if there is none, a person appointed by the Board of Selectmen who is not the subject of a pending recall petition shall perform the Clerk's duties under this Ordinance with respect to that petition.

Section 6. Recall Question and Ballots

- a. The recall article in the warrant, and any ballot used for the vote, shall read “SHALL _____ BE RECALLED?” with the name of the officer or official whose recall is being sought inserted in the blank space.
- b. Unless the officer or official whose removal is being sought resigns within ten (10) days of receipt of the certified petition by the Board of Selectmen, the recall article shall be placed in the warrant and any ballots shall be printed.
- c. If the officer or official resigns after the warrant has been issued but before the vote is taken, the recall article shall be dismissed as moot at the town meeting, and the vacancy shall be filled as provided in Section 8.

Section 7. Result of Election

The recall question is decided by a majority of the votes cast on the question. In the event of a majority affirmative vote for removal, the Moderator shall declare the result, and the Town Clerk shall certify and record the result in the records of the meeting within two (2) business days and notify the Board of Selectmen. Removal shall take effect as of the recording of the vote tabulation into records. If a majority of the votes cast on the question are not in favor of removal, the officer or official shall remain in office.

Section 8. Vacancies to be Filled

Any vacancy resulting from removal from office under this ordinance shall be filled in accordance with 30-A M.R.S. §2602 and the other applicable provisions of the Maine State Statutes. If removal leaves the Board of Selectmen without a majority of its members in office, a majority of the members remaining may call a town meeting to fill the vacancies; if no member of the Board remains, a notary public may call the meeting on the written petition of any three (3) voters, as provided in 30-A M.R.S. §2521.

Section 9. Limitation on Recall Petitions.

No recall petition shall be filed against an elected officer or official within four (4) months after such official takes office. In the case of an officer or official subject to a recall election and not removed thereby, no recall petition shall be filed against the official until at least six (6) months after the recall election.

Section 10. Separability

It is the intention of the municipality that each section of this ordinance shall be deemed independent of all other sections herein and that if any provision within the ordinance is declared invalid, all other sections shall remain valid and enforceable.