

Ordinance for the Recall of Elected Officials of the Town of Gorham

SECTION 1. Establishment

Under M.R.S.A. Title 30-A Section 2602 (6), a town may enact an ordinance for the recall of elected municipal officials with the exception of school board members ("Elected Officials")

SECTION 2. Purpose and Authority

This ordinance provides the means and method by which the voters of Gorham may seek the recall of Elected Officials. This ordinance is enacted pursuant to Title 30-A M.R.S.A., §2528, §2602, §3001, and §3002.

SECTION 3. Procedure

- a.** The petition for recall must contain only signatures of the registered voters of the Town of Gorham, equal to, or greater than, 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.
- b.** The petition shall be addressed to those members of the Town Council, whose recall is not the subject of the petition. If all Elected Officials are the subject of the recall, then the petition shall be addressed to the Town Clerk.
- c.** The petition shall state the name and office of the person whose removal is being sought, and specify the petitioners' reason(s) the recall is sought, as outlined in Section 3. d.
- d.** An Elected Official may be recalled for (i) failure to appropriately carry out duties and responsibilities of the office (such as failure to represent the will of the people of Gorham); (ii) engaging in conduct which brings the office into disrepute; (iii) engaging in conduct which displays an unfitness to hold the office; or (iv) for the indictment or conviction of a felony under the laws of the State of Maine or the laws of the United States, or the laws of any other State or Nation, or entry of a plea of guilty or no-contest to such an offense.
- e.** If recall of more than one Elected Official is being sought, there shall be a separate petition for each official whose recall is being sought.
- f.** Each page of the petition shall provide a space for the voter's signature, address and printed name.
- g.** The petition blanks shall be dated with the date the petitioner initiates the recall request. The petition shall be available for signatures for 30 calendar days. At the expiration of said 30 calendar days, the Town Clerk shall declare the petition closed.
- h.** A petition form may be circulated or signed only by a registered voter of the Town of Gorham. Petitions may not be left, unattended or unsupervised for signatures. Circulators are responsible for certifying the validity of signatures on a petition and certifying that the signatures were made in their presence.
- i.** All petition pages shall be filed as one document.

SECTION 4. Incumbent Duties Continued

The incumbent shall continue to perform the duties of the office until the results of the recall election are certified. If not recalled, the official shall continue in office for the remainder of the unexpired term, subject to the subsequent recall. If recalled, the official shall be deemed removed from office upon certification of the election results.

SECTION 5. Clerk's Certification

Within ten 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 of the qualifications as set forth in Section 3 of this 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.

SECTION 6. Calling the Recall Election

a. If the Town Clerk certifies the petition as sufficient, the Clerk will submit the petition with his or her certification to the Town Council at its next regular meeting and shall notify the official or officials whose removal is being sought of such action.

b. Subject to the provisions of Sec. 211 and Sec. 811 of the Town Charter, within ten days of receipt of the certified petition, the Town Council shall order an election by written, secret ballot, pursuant to 30-A MRSA § 2528, to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition. In such case, the Town Council may, at its discretion, provide for the holding of the recall election on the date of the regular municipal election.

c. In the event that the Town Council fails or refuses to order an election as herein provided, the Town Clerk shall call the election to be held not less than 45 days nor more than 60 days following the Town Council's failure or refusal to order the required election.

d. If, between the time of ordering the recall election and the 21st day before said election, the official whose recall is being sought requests a public hearing, the Town Council shall promptly schedule such a hearing to occur not fewer than 7 days before the election, and shall provide adequate posting at least 7 days before said hearing.

SECTION 7. Ballots for Recall Election

Unless the official or officials whose removal is being sought have resigned within ten days of receipt of the petition by the Town Council, the ballots shall be printed and shall ask the question: "SHALL (name of official) BE RECALLED?," and provide adjacent boxes for "Yes" or "No" responses.

SECTION 8. Result of Election; applicability

a. To be valid, the total number of votes cast in the recall election shall be at least 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.

b. If a 65% majority, or more, of those voting in a recall election shall vote in favor of recalling such official, such official is thereby removed from office upon certification of the vote by the Town Clerk. A tie vote will defeat the recall.

d. This ordinance shall apply to Elected Officials in office at the time of adoption of this ordinance, as well as those elected subsequently.

SECTION 9. Vacancies to be filled

A vacancy resulting from removal from office under this ordinance shall be filled in accordance with the provisions of Maine law and the Town Charter.

SECTION 10. Limitations

a. No petition for recall shall be filed against an official with fewer than 60 days of a multiyear term remaining.

b. If an official has been the subject of an unsuccessful recall election, no new recall petition shall be filed against that official until at least twelve months have passed since said recall election.

SECTION 11. Validity

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

SECTION 12. Effective date

This ordinance shall be in full force and effect as soon as passed by the Town Council.