

Town of Clyde Park Ordinance:

2.00.070. Elections and Nominations.

E. Any or all of the elected officials provided for in this Code may be removed from office by the electors. The procedure to effect such removal shall be as prescribed by law. (Enacted, Ordinance No. 84, December 7, 2005)

Summary:

To recall an elected official in Montana, a petition must be filed that meets the signature requirements (based on the type of office) and is signed by qualified electors . The petition must be filed with the appropriate official, and if enough valid signatures are collected, a recall election is held. The Montana Recall Act, found in the Montana Code Annotated (MCA), Title 2, Chapter 16, Part 6, is the governing legislation, according to the {Link: Montana Legislature.

Steps for a recall election

1. **Meet the signature requirements:** Gather signatures from a number of qualified electors that is a specific percentage of the total registered voters in the last relevant election. The percentage varies by office (e.g., 10% for state officers, 15% for state-district or county officers).
2. **File the petition:** The petition must be filed with the official who accepts nominations or petitions for the office being recalled.
3. **Wait for verification:** Election officials will verify the signatures.
4. **Hold a recall election:** If the petition is valid, a special recall election will be held to determine if the official should be removed from office.
5. **Determine the outcome:** If the majority of voters choose to recall the official, the office becomes vacant, and the vacancy is filled according to law.

1.

Important details

- **grounds for recall:** A public officer can only be recalled for reasons such as a physical or mental lack of fitness, incompetence, violation of their oath of office, official misconduct, or felony conviction. They cannot be recalled for performing a mandatory duty or for not performing an act that would have subjected them to prosecution for official misconduct.
- **Role of the officer:** The officer remains in office until the results of the recall election are officially declared.
- **Resignation:** The officer may resign at any point before the results are declared.

Relevant Law in Montana:

Montana Code Annotated 2023

TITLE 2. GOVERNMENT STRUCTURE AND ADMINISTRATION

CHAPTER 16. PUBLIC OFFICERS

Part 6. Montana Recall Act

Officers Subject To Recall -- Grounds For Recall

2-16-603. Officers subject to recall -- grounds for recall. (1) Any person holding a public office of the state or any of its political subdivisions, either by election or appointment, is subject to recall from office.

(2) A public officer holding an elective office may be recalled by the qualified electors entitled to vote for the elective officer's successor. A public officer holding an appointive office may be recalled by the qualified electors entitled to vote for the successor or successors of the elective officer or officers who have the authority to appoint a person to that position.

(3) Physical or mental lack of fitness, incompetence, violation of the oath of office, official misconduct, or conviction of a felony offense enumerated in Title 45 are the only grounds for recall. A person may not be recalled for performing a mandatory duty of the office that the person holds or for not performing any act that, if performed, would subject the person to prosecution for official misconduct.

History: En. Sec. 2, I.M. No. 73, approved November 2, 1976; amd. Sec. 3, Ch. 364, L. 1977; R.C.M. 1947, 59-612; amd. Sec. 1, Ch. 398, L. 1979; amd. Sec. 109, Ch. 61, L. 2007.

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TITLE 2. GOVERNMENT STRUCTURE AND ADMINISTRATION

CHAPTER 16. PUBLIC OFFICERS

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Filing Of Recall Petitions -- Mandamus For Refusal

2-16-615. Filing of recall petitions -- mandamus for refusal. (1) Recall petitions for elected officers shall be filed with the official who is provided by law to accept the declaration of nomination or petition for nomination for such office. Recall petitions for appointed state officers shall be filed with the secretary of state and for appointed county or municipal officers shall be filed with the county election administrator. Recall petitions for appointed officers from other political subdivisions shall be filed with the county election administrator if the boundaries of the political subdivisions lie wholly within one county or otherwise with the secretary of state.

(2) If the secretary of state, county election administrator or other filing official refuses to accept and file any petition for recall with the proper number of signatures of qualified electors, any elector may within 10 days after such refusal apply to the district court for a writ of mandamus. If it is determined that the petition is sufficient, the district court shall order the petition to be filed with a certified copy of the writ attached thereto, as of the date when it was originally offered for filing. On a showing that any filed petition is not sufficient, the court may enjoin certification, printing, or recall election.

(3) All such suits or appeals therefrom shall be advanced on the court docket and heard and decided by the court as expeditiously as possible.

(4) Any aggrieved party may file an appeal within 10 days after any adverse order or decision as provided by law.

MONTANA CODE ANNOTATED RECALL LAW

History: En. Secs. 6, 12, I.M. No. 73, approved November 2, 1976; R.C.M. 1947, 59-616, 59-623; amd. Sec. 375, Ch. 571, L. 1979.

2-16-635. Officer to remain in office until results declared -- filling of vacancy. The officer named in the recall petition continues in office until he resigns or the results of the recall election are officially declared. If a majority of those voting on the question vote to remove the officer, the office becomes vacant and the vacancy shall be filled as provided by law, provided that the officer recalled may in no event be appointed to fill the vacancy.

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Form Of Recall Petition

2-16-616. Form of recall petition. (1) The form of the recall petition must be substantially as follows:

WARNING

A person who knowingly signs a name other than the person's own to this petition, who signs the person's name more than once upon a petition to recall the same officer at one election, or who is not, at the time of signing this petition, a qualified elector of the state of Montana entitled to vote for the successor of the elected officer to be recalled or the successor or successors of the officer or officers who have the authority to appoint a person to the position held by the appointed officer to be recalled is punishable by a fine of no more than \$500 or imprisonment in the county jail for a term not to exceed 6 months, or both, or a fine of \$500 or imprisonment in the state prison for a term not to exceed 10 years, or both.

RECALL PETITION

To the Honorable, Secretary of State of the State of Montana (or name and office of other filing officer): We, the undersigned qualified electors of the State of Montana (or name of appropriate state-district or political subdivision) respectfully petition that an election be held as provided by law on the question of whether, holding the office of, should be recalled for the following reasons: (Setting out a general statement of the reasons for recall in not more than 200 words). Each signer certifies: I have personally signed this petition; I am a qualified elector of the state of Montana and (name of appropriate political subdivision); and my residence and post-office address are correctly written after my name to the best of my knowledge and belief.

(2) Numbered lines must follow the language in subsection (1). Each numbered line must contain spaces for the signature, post-office address, and printed last name of the signer. Each separate sheet of the petition must contain the heading and reasons for the proposed recall as prescribed in subsection (1).

History: En. Sec. 7, I.M. No. 73, approved November 2, 1976; amd. Sec. 5, Ch. 364, L. 1977; R.C.M. 1947, 59-617; amd. Sec. 112, Ch. 61, L. 2007.

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Form Of Circulation Sheets

2-16-617. Form of circulation sheets. (1) The signatures on each petition must be placed on sheets of paper known as circulation sheets. Each circulation sheet must be substantially 8 1/2 x 14 inches or a continuous sheet may be folded so as to meet this size limitation. The circulation sheets must be ruled with a horizontal line 1 1/2 inches from the top of the sheet. The space above the line must remain blank and must be for the purpose of binding.

(2) The petition, for purposes of circulation, may be divided into sections, each section to contain not more than 25 circulation sheets.

(3) Before a petition may be circulated for signatures, a sample circulation sheet must be submitted to the officer with whom the petition must be filed in the form in which it will be circulated. The filing officer shall review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, within 1 week of receiving the sheet.

(4) The petition form submitted must be accompanied by a written statement containing the reasons for the desired recall as stated on the petition. The truth of purported facts contained in the statement must be sworn to by at least one of the petitioners before a person authorized to administer oaths.

(5) The filing officer shall serially number all approved petitions continuously from year to year.

History: En. Sec. 8, I.M. No. 73, approved November 2, 1976; amd. Sec. 6, Ch. 364, L. 1977; R.C.M. 1947, 59-618; amd. Sec. 113, Ch. 61, L. 2007.

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County Clerk To Verify Signatures

2-16-620. County clerk to verify signatures. (1) The county clerk in each county in which a recall petition is signed shall verify and compare the signatures of each person who has signed the petition to ensure that the person is an elector in that county and, if satisfied that the signatures are genuine, shall certify that fact to the officer with whom the recall petition is to be filed, in substantially the following form:

To the Honorable, Secretary of State of the State of Montana (or name and title of other officer):

I,, (title) of County, certify that I have compared the signatures on sheets (specifying number of sheets) of the petition for recall No. attached, in the manner prescribed by law, and I believe (number) signatures are valid for the purpose of the petition. I further certify that the affidavit of the circulator of the (sheet) (section) of

the petition is attached and that the post-office address is completed for each valid signature.

Signed: (Date).....(Signature)

Seal.....(Title)

(2) The certificate is prima facie evidence of the facts stated in the certificate, and the secretary of state or other officer receiving the recall petition may consider and count only the signatures that are certified. However, the officer with whom the recall petition is filed shall consider and count any remaining signatures of the registered voters that prove to be genuine, and those signatures must be considered and counted if they are attested to in the manner and form provided for initiative and referendum petitions.

(3) The county clerk and recorder may not retain any portion of a petition for more than 30 days following the receipt of that portion. At the expiration of that period, the county clerk and recorder shall certify the valid signatures on that portion of the petition and deliver the same to the person with whom the petition is required to be filed.

History: En. Sec. 11, I.M. No. 73, approved November 2, 1976; amd. Sec. 9, Ch. 364, L. 1977; R.C.M. 1947, 59-622; amd. Sec. 2, Ch. 159, L. 1983; amd. Sec. 114, Ch. 61, L. 2007.

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Notification To Officer -- Statement Of Justification

2-16-621. Notification to officer -- statement of justification. Upon filing the petition or a portion of the petition containing the number of valid signatures required under [2-16-614](#), the official with whom it is filed shall immediately give written notice to the officer named in the petition. The notice must state that a recall petition has been filed, must set forth the reasons contained in the petition, and must notify the officer named in the recall petition that the officer has the right to prepare and have printed on the ballot a statement containing not more than 200 words giving reasons why the officer should not be recalled. A statement of justification may not be printed on the ballot unless it is delivered to the filing official within 10 days of the date notice is given.

History: En. Sec. 14, I.M. No. 73, approved November 2, 1976; R.C.M. 1947, 59-625; amd. Sec. 3, Ch. 159, L. 1983; amd. Sec. 115, Ch. 61, L. 2007.

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Expenses Of Election

2-16-634. Expenses of election. Expenses of a recall election shall be paid in the same manner as the expenses for any other election. The expenditure of such funds constitutes an emergency expenditure of funds, and the political subdivision affected may fund the costs of such an election through emergency funding procedures. In the event a recall

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election is held for a state or state-district officer, the legislature shall appropriate funds to reimburse the counties involved for costs incurred in running the election.

History: En. Sec. 19, I.M. No. 73, approved November 2, 1976; amd. Sec. 14, Ch. 364, L. 1977; R.C.M. 1947, 59-630.