



# Recall of a municipal councillor handbook



Recall of a Municipal Councillor Handbook | Municipal Affairs

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The contents of this publication are intended to provide general information. Readers should not rely on the contents herein to the exclusion of independent legal advice.



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## Introduction

The intent of this document is to identify those areas of the *Municipal Government Act (MGA)* relating to petitions to municipalities, and to supplement and explain the petitioning requirements with respect to recall petitions. **This is not a legal document.** If there is any discrepancy between this guidebook and the *MGA*, the recall provisions of the *MGA* prevail. Only a brief summary of the petitioning requirements is provided here, therefore **do not** base your decisions on this summary alone, but instead use in conjunction with the appropriate legislation.

Appendix A is a listing of the applicable references to petitions within the *MGA*. Copies of the *MGA* and the *Local Authorities Election Act (LAEA)* can be obtained from the King's Printer bookstore.

King's Printer Bookstore  
Suite 700, Park Plaza Building  
10611 – 98 Avenue NW  
Edmonton AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668  
Email: [kings-printer@gov.ab.ca](mailto:kings-printer@gov.ab.ca)  
Website: <https://www.alberta.ca/alberta-kings-printer.aspx>

This document is only a guide to the legislation. Consult your solicitor for advice on specific situations.

## Definitions

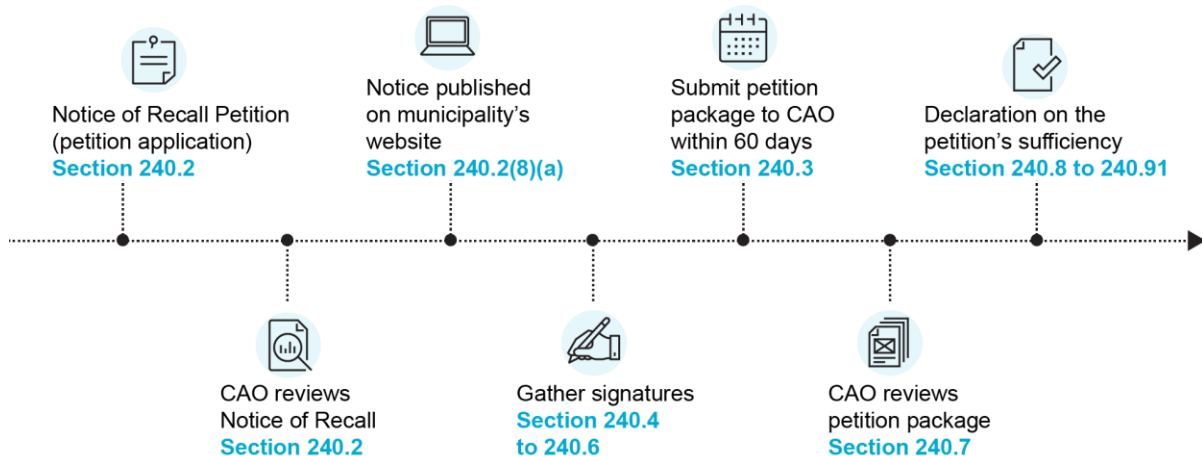
CAO	means the Chief Administrative Officer of the municipality as defined in section 1 of the <i>MGA</i> .
CEO	means the Chief Elected Official of the municipality as defined in section 1 of the <i>MGA</i> .
Council	means the elected council of a municipality as defined in section 1 of the <i>MGA</i> .
Elector	means a person who is eligible to vote in an election as defined in section 1 of the <i>MGA</i> and sections 1 and 12 of the <i>LAEA</i> .
LAEA	refers to the <i>Local Authorities Election Act</i> , Chapter L-21 of the Statutes of Alberta 2000, and amendments thereto.
<i>MGA</i>	refers to the <i>Municipal Government Act</i> , Chapter M-26 of the Statutes of Alberta 2000, and amendments thereto.
Petition	is a formal request to a Chief Administrative Officer signed by a required number of electors.
Petitioner	is an elector as defined in section 1 of the <i>MGA</i> and sections 1 and 12 of the <i>LAEA</i> who signs a petition.
RSA	Revised Statutes of Alberta.
Summer Village residence	means a parcel of land having at least one building the whole or any part of which was designed or intended for, or is used as, a residence by one person or as a shared residence by 2 or more persons, whether on a permanent, seasonal or occasional basis. For purposes of the definition of “summer village residence”, “building” includes a manufactured home, mobile home, modular home or travel trailer, but does not include a tent.
Witness	means an adult person who claims that they were personally present and saw the signatory sign their name on the petition.

## Recall of a Municipal Councillor

A recall petition within the context of the *Municipal Government Act* is a formal request to remove a sitting municipal councillor by gathering signatures. All the provisions related to municipal councillor recall are in Section 240.1 to 240.96 of the *Municipal Government Act*.

The flow chart below provides a basic overview of the recall petition process. The details of each step are outlined in the following sections.

### Process to Initiate a petition to recall a municipal councillor



### Who May Petition

Only the electors of a municipality or ward are eligible to be petitioners. Please refer to sections 12 and 47(1) of the *LAEA* to determine eligibility.

### Timeline for Application

Petitions may not be submitted within 18 months immediately following the election of a councillor or from January 1 of a general election year. This also means for summer villages that conduct general elections over the summer months, the window to start a recall petition will be earlier than the rest of the municipalities in the province.

### Protection of Personal Information

Personal information contained in a petition must not be disclosed to anyone except the CAO and the CAO's delegates, and must not be used for any purpose other than validating the petition.

The minimal disclosure that occurs during the collection of signatures is not considered to be a breach of privacy.

### Petition Application Requirements – Notice of Recall Petition

In order to initiate the petition process, a petitioner must first submit a **notice of recall** petition to the CAO (Sec 240.2(2)). The notice of recall must:

- identify the councillor to whom the recall petition relates by name,
- identify the representative recall petitioner by name, and

(c) confirm that the municipality may direct any inquiries about the petition to the representative recall petitioner, and indicate the contact information to be used for this purpose.

Section 240.2(3) stipulates that a notice of recall petition must also be accompanied by:

- (a) a statement signed by the representative recall petitioner that
  - (i) provides:
    - A. the street address of the representative recall petitioner or the legal description of the land on which the representative recall petitioner lives,
    - B. the representative recall petitioner's mailing address, if different, and
    - C. the representative recall petitioner's telephone number or email address, if any, and
  - (ii) confirms that the representative recall petitioner is an individual eligible to sign the recall petition under section 240.4 and consents to the responsibilities of leading the recall petition, gathering signatures and otherwise undertaking the role and discharging the duties of a representative recall petitioner under this Part and any other applicable enactment,
- (b) the application fee of \$500, and
- (c) any other information prescribed.

### **Petition Application (Notice of Recall) Responsibilities of the Chief Administrative Officer**

Upon receipt of the notice of recall package, the CAO must confirm within seven (7) days that the representative is eligible to sign the recall petition in accordance with Section 240.4 and that the application meets the requirements noted above.

If the requirements have been met, the CAO must:

- (a) within 7 days from the date when the notice of recall petition was submitted, publish the notice of recall petition on the municipality's website, and
- (b) provide the notice of recall petition to the following:
  - (i) the Minister of Municipal Affairs;
  - (ii) the representative recall petitioner;
  - (iii) the councillor named in the notice of recall petition.

Once the notice of recall has been published on the municipality's website (Section 240.2(8)(a)), the representative has **60 days** to gather the required signatures.

### **Recall Limitations**

Only an elector of a municipality who is eligible to vote in an election for a councillor under the *Local Authorities Election Act* may sign a recall petition with respect to that councillor and an individual shall sign any recall petition no more than once. If a ward system exists in a municipality, only the electors of a councillor's ward are eligible to sign.

In addition, an applicant may not submit an application within the 18-month period immediately following the day on which the election of the member in the application was elected and within the period starting January 1 of a year of a general election. Only one recall petition may be initiated for a councillor during this term of office.

## Number of Petitioners Required

<b>MGA Section</b>	<b>Purpose of Petition</b>	<b>Population Requirement</b>
Section 240.5	Recall of Municipal Official	40% of in the population of the municipality or ward  In the case of a summer village, equal in number to at least 50% of the number of summer village residences in the summer village.

A municipality may not pass a bylaw that modifies the requirements of a recall petition outlined in Part 7.1 of the *Municipal Government Act*.

In determining population numbers for a petition's sufficiency, municipalities must make use of the Municipal Affairs' Population List available at: [www.alberta.ca/municipal-population-lists.aspx](http://www.alberta.ca/municipal-population-lists.aspx). Further, Ministerial Order No. MSD:021/23 orders that the determination of population of the ward is delegated to the CAO of the municipality.

The CAO is required to determine the population of the ward and publish that population on the municipality's website by no later than the date of publication of the notice of recall petition on the municipality's website under Section 240.2(8)(a).

In determining population of wards, the CAO must use reasonable efforts to determine population in a ward by using the following information:

- (a) the municipal populations in the Municipal Affairs Population List; and
- (b) the ward boundaries as set by the municipality's bylaw or by an Order in Council, as the case may be.

### Other Requirements for a Recall Petition

In addition to the population requirements, Section 240.6 sets out that a recall petition must also:

- (a) consist of one or more pages, each of which must contain the notice of recall petition referred to in section 240.2(2), and
- (b) conform to the regulations, if any.

The recall petition must include the following in legible print, where applicable, and within reasonable proximity to the signature to which it relates, for each petitioner:

- (a) the printed surname and printed given names or initials of the petitioner;
- (b) the petitioner's signature;
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives;
- (d) the petitioner's telephone number or email address, if any;
- (e) the date on which the petitioner signed the petition.



Each signature must be witnessed by an adult person who must:

- (a) sign opposite the signature of the petitioner, and
- (b) make an affidavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.

The recall petition must have attached to it the affidavits referred to in Section 240.6(3). Finally, a recall petition may not be signed in digital form.

## **Counting Petitioners**

It is the role of the CAO to determine if a recall petition is sufficient. No name may be added to or removed from a recall petition after it has been filed with the CAO.

In counting the number of petitioners on a recall petition, the CAO must exclude the name of a person:

- (a) whose signature is not witnessed,
- (b) whose signature is witnessed but for which no affidavit is attached to the petition,
- (c) whose signature appears on any page or form that does not contain the notice of recall petition referred to in section 240.2(2),
- (d) whose printed name is not included or is incorrect,
- (e) whose street address or legal description of land is not included or is incorrect,
- (f) if the date when the person signed the recall petition is not stated,
- (g) when a recall petition is restricted to certain persons,
  - (i) who is not one of those persons, or
  - (ii) whose qualification as one of those persons is not, or is incorrectly, described or set out, or
- (h) who signed the recall petition after the expiry of the recall petition signature period.

If 5,000 or more petitioners are necessary to make a petition sufficient, a CAO may use a random statistical sampling method with a 95 per cent confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner.

## **Report on Petition Sufficiency**

The CAO of the municipality must, within 45 days after the date on which a recall petition is filed, determine whether the recall petition is sufficient or insufficient in accordance with the regulations, if any, and any direction and orders referred to in section 240.96.

In addition, the CAO must, at the first council meeting after determining whether the recall petition is sufficient or insufficient, make a declaration to the council as to the sufficiency of the petition (Section 240.8(1)).

## Process for Insufficient Recall Petition

If a recall petition is insufficient or if no recall petition is submitted to the CAO before the end of the recall petition signature period, the CAO of the municipality must:

- (a) publish the declaration of insufficiency referred to in section 240.8(2) on the municipality's website, and
- (b) provide the declaration to the following:
  - (i) the Minister of Municipal Affairs;
  - (ii) the representative recall petitioner;
  - (iii) the councillor named in the notice of recall petition.

## Process for Sufficient Recall Petition

If a recall petition is sufficient, the CAO must make a declaration at the next meeting of council that states:

- (a) the individual named as the councillor in the notice of recall petition is recalled,
- (b) the individual is no longer a member of the council or of any council committee, and
- (c) the position to which the individual was elected as a councillor is vacant.

As with an insufficient petition, the CAO must also:

- (a) publish the declaration of sufficiency referred to in section 240.8(2) on the municipality's website, and
- (b) provide the declaration to the following:
  - (i) the Minister;
  - (ii) the representative recall petitioner; and
  - (iii) the councillor named in the notice of recall petition.

Following the receipt of a declaration that a recall petition is sufficient, the council must hold a by-election in accordance with section 162 or 163 of the *MGA* as applicable. An individual recalled in accordance with this Part is eligible to be nominated for and be elected at the by-election initiated by a successful recall petition, a subsequent by-election or a subsequent general election in the municipality if the person is eligible for nomination under the *Local Authorities Election Act*.

## Recall Petition Retention Schedule

Once the CAO has made a declaration on whether a petition is sufficient or not, petition representatives are required to return the recall petition to the CAO (if it was returned to the representative), who shall destroy any additional copies of the material the representatives and their delegates made.

In accordance with Section 101 of the *Local Authorities Election Act*, CAOs are required to hold on to the petition materials for a minimum of 6 weeks and no later than 12 weeks. Two witnesses must sign an affidavit that they witnessed the destruction of the petition materials.

## Recall Process Regulations

The Lieutenant Governor in Council and the Minister of Municipal Affairs may make regulations that modify the requirements for recall petitions and associated processes. See Section 240.94 for further details.

## Appendices

### Appendix A – References to Petitions

Identification of the pertinent sections of the *Municipal Government Act* in regard to recall petitions.

219(2)	recall petitions must follow Part 7.1
240.2(1)	notice of recall petition requirements
240.3	recall petition time and sufficiency
240.4(1)	who can petition
240.5	number of signatures
240.6(1)	additional requirements
240.7(1)	counting petitioners
240.8(1)	reporting on sufficiency of petition
240.9	insufficient petition
240.91(1)	sufficient petition
240.92(1)	return of petition documents
240.94(1)	recall petition regulations

## Appendix B – Witness Check List

### Prior to Collecting Signatures

- Read the relevant sections of the *Municipal Government Act* and the *Local Authorities Election Act*.
- Ensure you have read and understand the Witness Affidavit prior to collecting any signatures. (Appendix E)

### During the Collection of Signatures

- Ensure each petitioner signature that you witness is an eligible elector by asking if they are:
  - A Canadian citizen, over 18 years of age, and a resident of the municipality or municipal ward (if applicable), ***and in the case of a summer village, an owner of the property.***
- Ensure you personally see the petitioner complete the petition document.

### After Collecting Signatures

- Ensure you complete the Witness Affidavit (Appendix E), and that it is properly signed by a Commissioner for Oaths.

## Appendix C – Representative of Petitioners Check List

- Read the relevant sections of the *Municipal Government Act* and the *Local Authorities Election Act*.
- Be aware of the number of signatures required for the type of petition you are presenting.
- Ensure the Witnesses are aware of their responsibility.
- Complete a Statement of Representative of Petitioners (Appendix F), which must be signed and dated.

When a petition is received by the CAO, it **must** include:

- Each page of the petition must contain an identical statement of the purpose of the petition (Appendix D).
- Each page of the petition must contain an identical statement of the protection of personal information on petitions (Appendix D).
- A completed Witness Affidavit for each witness (Appendix E), properly signed by a Commissioner for Oaths.

The personal information contained in this petition will not be disclosed to anyone except the chief administrative officer and the chief administrative officer's delegates, and will not be used for any purpose other than validating the petition.

**Appendix D – Petition by Electors**

(pursuant to the *Municipal Government Act* and amendments thereto)

To: The Chief Administrative Officer of the (type of municipality) of (name of municipality), in the Province of Alberta.

The undersigned persons, being electors of the (type of municipality) or (ward name) of (name of municipality), in the Province of Alberta, hereby petition the council of (name of municipality) or (name of ward of municipality) for/to:

**Accurately state purpose and objectives of Petition in this space.**

**EACH PETITIONER, by signing this petition, certifies that he (or she) is an elector of the (type of municipality) of (name of municipality).**

Signature of Petitioner	Printed Name	Street Address or Legal Land Description	Phone Number	Email Address	I am an elector of this municipality	Date	Signature of Adult Witness
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		

**NOTES:**

1. This form is a suggested form only and is prepared by Alberta Municipal Affairs for the information and convenience of interested individuals. It has no legislative effect. For certainty, **legal advice should be sought when a petition is being considered.**
2. Each page of the petition shall contain accurate and identical statements of the purpose and objectives and on personal information privacy.
3. In the absence of a street address, specify the legal description of the property on which the petitioner resides.
4. **Each petitioner shall indicate that they are an eligible elector of the municipality by checking this field.** A Canadian citizen, over 18 years of age, and a resident of the municipality. (See Sections 12, 47 and 48 of the *Local Authorities Election Act* for further information.)
5. Each person witnessing a signature on the petition is required to sign an Affidavit that to the best of their belief, the persons whose signatures they witnessed are electors of the municipality. See Appendix E

**Appendix E – Witness Affidavit**

**AFFIDAVIT**

I, (name) \_\_\_\_\_, pursuant to the *Municipal Government Act* and amendments thereto, of the (type of municipality) of (name of municipality), in the Province of Alberta, MAKE OATH AND SAY:

- 1. THAT I was personally present and did witness those signatures on the attached petition where I have signed my name as an adult person.
- 2. THAT to the best of my knowledge the persons whose signatures I have witnessed on this petition are electors of the (name of municipality).
  - a. An eligible elector, at a minimum, is a Canadian citizen, over 18 years of age, and a resident of the municipality. (See Sections 12, 47 and 48 of the *Local Authorities Election Act* for further information.)
  - b. I personally observed each person complete the petition document.

SWORN (or affirmed) before me at \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 in the Province of Alberta, \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 this \_\_\_\_\_ day of \_\_\_\_\_ )  
 20\_\_\_\_\_. \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )

\_\_\_\_\_  
 (Signature of person who witnessed signatures on the petition)

A Commissioner for Oaths/Notary Public in and for the Province of Alberta

\*(PRINT OR STAMP NAME HERE)

MY APPOINTMENT EXPIRES \_\_\_\_\_  
 \*(Must be legibly printed or stamped).

**Appendix F – Statement of Representative of Petitioners**

Statement of Representative of Petitioners

(pursuant to the *Municipal Government Act* and amendments thereto)

I, (name) \_\_\_\_\_, of (current address including postal code) \_\_\_\_\_ in the (type of municipality) \_\_\_\_\_ of (name of municipality) \_\_\_\_\_, in the Province of Alberta, state that I represent the petitioners and am the person to whom the municipal council may direct any inquiries with regard to the petition. I may be contacted by phone at \_\_\_\_\_ or email at \_\_\_\_\_.

DATED at the \_\_\_\_\_ of \_\_\_\_\_, in the

Province of Alberta, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Printed Name

**Note:** Use this as the last page of a Petition.

\_\_\_\_\_