

HOUSE No. 4311

The Commonwealth of Massachusetts

PRESENTED BY:

Smitty Pignatelli and Adam G. Hinds

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to recall elections in the town of Monterey.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>12/16/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>12/16/2021</i>

HOUSE No. 4311

By Representative Pignatelli of Lenox and Senator Hinds, a joint petition (accompanied by bill, House, No. 4311) of Smitty Pignatelli and Adam G. Hinds (by vote of the town) relative to recall elections in the town of Monterey. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to recall elections in the town of Monterey.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Any holder of an elective town office may be recalled and removed from
2 office by the registered voters of the town of Monterey as provided in this act.

3 SECTION 2. Thirty registered voters of the town of Monterey may initiate a recall
4 petition by filing with the town clerk an affidavit containing the name of the officer sought to be
5 recalled and a statement of the grounds for recall. Within 7 days of receipt of the affidavit, the
6 town clerk shall deliver to the voters making such affidavit sufficient number of copies of
7 petition sheets in blank demanding such recall and removal, each bearing the town clerk's
8 signature and official seal. The petition blanks shall: (i) be addressed to the select board, (ii) be
9 dated, (iii) contain the names of all persons to whom they are issued, the name of the person
10 whose recall is sought, the grounds of recall as stated in the initial affidavit and (iv) demand the
11 election of a successor to such office. A copy of the petition shall be entered in a record book to
12 be kept in the office of the town clerk. The recall petition shall be returned and filed with the

13 town clerk within 21 days after filing the affidavit and shall be signed by at least 15 per cent of
14 the registered voters of the town as of the date the affidavit was filed with the town clerk. The
15 number and street of each person's residence shall appear after their signature. The town clerk
16 shall forthwith submit the petition sheets to the board of registrars of voters. The board of
17 registrars of voters shall, within 5 working days of receipt of the recall petition sheets, forthwith
18 verify the number of signatures which are the names of registered voters of the town.

19 SECTION 3. If the total recall petition sheets shall be found and certified by the board of
20 registrars of voters of the town of Monterey to be sufficient, the certified petition shall be
21 submitted forthwith with the certificate of the town clerk to the select board. The select board
22 shall give written notice of the receipt of the petition to the officer sought to be recalled. If the
23 officer does not resign within 5 days of the date notice is given by the select board, then the
24 select board shall promptly order an election to be held on a date fixed by the select board which
25 is not less than 60 nor more than 90 days after receipt of the certified petition. However, if any
26 other town election is scheduled to occur within 100 days after the date of receipt of the certified
27 petition, the select board may postpone the holding of the recall election to the date of the other
28 election and may include the question of recall on the ballot for that other election.

29 SECTION 4. An officer sought to be recalled may be a candidate to succeed the officer in
30 an election to be held to fill the vacancy. The nomination of candidates, the publication of the
31 warrant for the recall election and the conduct of the nomination and publication, shall be in
32 accordance with the law relating to elections, unless otherwise provided in this act. A majority of
33 those voting at the recall election shall be sufficient to recall and remove such elected officer.

34 SECTION 5. The incumbent shall continue to perform the duties of the office until the
35 recall election. If the incumbent is not recalled, the incumbent shall continue in office for the
36 remainder of the unexpired term, subject to recall as before, except as provided in this act. If not
37 re-elected in the recall election, the incumbent shall be considered removed from office
38 immediately and the office vacant. No recall petition may be filed against an officer within the
39 first 6 months of their term of office or within 6 months of a recall election wherein the officer
40 was not recalled and removed.

41 SECTION 6. Ballots used in a recall election in the town of Monterey shall contain the
42 following propositions:

43 FOR the recall of (name of officer) _____

44 AGAINST the recall of (name of officer) _____

45 Next to each proposition there shall be a place to mark a vote. Under the propositions
46 shall appear the word "Candidates" and the direction "Vote for One", and beneath this the names
47 of candidates nominated as herein before provided. Next to the name of each candidate shall be a
48 place to mark a vote.

49 If a majority of the votes cast on the recall question is in the affirmative, then the
50 candidate who received the highest number of votes in the special election to fill the vacancy
51 shall be elected. If a majority of the votes on the question is in the negative, the ballots for
52 candidates to fill the potential vacancy need not be counted, nor any action taken relative thereto.