

(9/20/2009)

Ordinance No. 2009 - _____

**Adding Chapter 2.70, Recall of Elected Officials,
to the Buffalo Grove Municipal Code,**

WHEREAS, the Village of Buffalo Grove is a Home Rule Unit pursuant to the Illinois Constitution of 1970; and,

WHEREAS, elected officials are responsible and accountable to the electorate for their behavior in office; and,

WHEREAS, the electorate is entitled to expect its elected officials to properly and appropriately discharge their responsibilities of office; and,

WHEREAS, the power to recall will provide an expeditious and effective means for removing from office an elected official who has failed to sustain the public's trust; and,

WHEREAS, the Corporate Authorities of the Village of Buffalo Grove have determined that it is in the best interest of the Village to amend Title 2 of the Buffalo Grove Municipal Code, to provide codified standards for recall of elected officials.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BUFFALO GROVE, COOK AND LAKE COUNTIES, ILLINOIS:

Section 1. The foregoing recitals are hereby adopted and incorporated herein as if fully set forth hereby.

Section 2. Chapter 2.70 entitled Recall of Elected Officials is hereby added to the Village of Buffalo Grove Municipal Code, to read as follows:

CHAPTER 2.70
RECALL OF ELECTED OFFICIALS

Sections:

- 2.70.010 Purpose.
- 2.70.020 Short title.
- 2.70.030 Authority.
- 2.70.040 Definitions.
- 2.70.050 Recall of elected officials.
- 2.70.060 Recall procedures – Initiation – Limitations.
- 2.70.070 Notice of intention to recall – Form – Filing requirements.
- 2.70.080 Recall petitions.
- 2.70.090 Review, Certification and Challenges to Recall Petitions.
- 2.70.100 Recall referenda.
- 2.70.110 Filling vacancies created by recall.
- 2.70.120 Disqualification of recalled official.
- 2.70.130 Defense of legal action related to recall.

2.70.010 Purpose.

This chapter shall vest the power in the electorate to recall officials elected by them so that the officials may be directly responsible for their behavior in office to the electorate.

The electorate is entitled to expect elected officials to properly discharge their responsibilities. The power of the electorate to recall should serve as an impetus to elected officials to be faithful to the public trust. It also is intended to provide an expeditious and effective means for removing from office any Elected Official who has failed to sustain such trust.

While no specific charges are required to be lodged formally against an Elected Official to subject the official to Recall Referendum, the individual reasons of each Elector for signing a Recall Petition or voting accordingly shall be deemed sufficient cause for a Recall.

2.70.020 Short title.

This chapter shall be known and may be cited as the “Village of Buffalo Grove Recall Ordinance.”

2.70.030 Authority.

The ordinance codified in this chapter is adopted by the Corporate Authorities of the Village of Buffalo Grove pursuant to the Home Rule

authority granted by Article VII, Section 6 of the Illinois Constitution of 1970.

2.70.040 Definitions.

As used in this chapter, the following terms have the meanings prescribed in this section:

A. “Elected Official” means the Village President (Mayor), Village Trustees and the Village Clerk of the Village Board of the Village of Buffalo Grove, irrespective of whether the person holding any such office was elected, appointed to fill a vacancy, or succeeded by operation of law. However, in the event the Village of Buffalo Grove adopts another form of Municipal government, “Elected Official” shall mean all officials holding offices regularly filled by election under such form of government.

B. “Local Electoral Board” shall consist of the municipal officers designated as the municipal officers electoral board in the Illinois Election Code (10 ILCS 5/10-9(3)) relating to the election of municipal officers, namely the Village President, Village Clerk and Senior Trustee. However, whenever a Recall Petition comes before the Electoral Board in which a member of the Local Electoral Board is a subject of the Recall Petition, that member shall be disqualified to serve on the Local Electoral Board and be replaced in the manner provided in the Illinois Election Code (10 ILCS 5/10-9).

C. “Senior Trustee,” for the purpose of service on the Local Electoral Board under this chapter, shall be the Village Trustee with the most continuous months of service. However, if two or more Village Trustees are of the same seniority, then the Senior Trustee shall be determined by a drawing of blind lots by those Village Trustees, to be administered by the Village Manager and witnessed by the other members of the Local Electoral Board.

D. “Elector” means any person registered to vote under the laws of the State of Illinois whose residence from which he or she is registered to vote lies within the corporate boundaries of the Village of Buffalo Grove.

2.70.050 Recall of elected officials.

A. Elected Officials shall hold office subject to the right of recall vested by this chapter in the Electors of the Village of Buffalo Grove. Any Elected Official may be recalled and removed from office by majority vote of the Electors at a Recall Referendum initiated as provided in this chapter.

B. The proposition for recall of an Elected Official shall be in the following form:

Shall (name of Elected Official) be recalled and removed from the office of (Title of Office) of the Village of Buffalo Grove, and disqualified from being elected or appointed to any office of the Village of Buffalo Grove for four years? YES/NO

C. Except as specifically provided herein, the conduct of a Recall Referendum, Recall Petition and any challenge to a Recall Petition or the outcome of a Recall Referendum shall conform, as nearly as possible, with the provisions of the Illinois Election Code relating to the election of municipal officers and the submission of public questions.

D. If a majority of the Electors voting on the proposition for recall of an Elected Official vote in favor of such recall, the Elected Official shall be removed from office, and shall be disqualified from being elected or appointed as an Elected Official of the Village of Buffalo Grove for four (4) years following such recall vote.

E. The removal from office shall be effective immediately upon the official proclamation of such vote on the recall proposition, notwithstanding any contest of the results of such vote which may be brought in the Circuit Court.

F. If the result of an affirmative vote on a recall proposition is reversed by final order of any court of competent jurisdiction, the recalled official shall thereupon be restored to office, and all rights appurtenant thereto shall be restored and shall relate back to the date of removal as if such official had not been ousted upon such final order. Any interim appointment to fill the vacancy created by the recall shall thereupon be terminated. However, any official actions taken by the Village with or by such interim appointee and all official actions done by such interim appointee shall be valid and binding.

G. If the result of a negative vote finding the official should not be recalled on a recall proposition is reversed by a final order of any court of competent jurisdiction, the official shall be removed from office as of the date of such final order, but the four (4) year disqualification for future office shall relate from the date of the recall vote.

2.70.060 Recall procedures – Initiation – Limitations.

A. A Recall Referendum shall be initiated by the filing of a Notice of Intention to Recall and subsequent Recall Petition in the office of the

Village Clerk, with the date and time of filing to be indicated on the Notice of Intention to Recall and the Recall Petition by the Village Clerk upon receipt.

B. A Notice of Intention to Recall which names an Elected Official must be filed by an Elector, in accordance with the requirements of Section 2.70.070 of this Chapter, prior to any circulation of any Recall Petition against such Elected Official. Recall Petitions must be circulated by Electors and filed within ninety (90) calendar days after a Notice of Intention to Recall is filed naming the official against whom the Recall Petition is directed. The ninety (90) day period for filing the Recall Petition may not be extended by the filing of subsequent Notice(s) of Intention to Recall.

C. A Notice of Intention to Recall may name only one Elected Official. A Recall Petition may name only one Elected Official. However, more than one Elected Official may be subject to recall at any election.

D. A Recall Petition must be signed by Electors numbering not less than twenty-five percent (25%) of the total number of votes cast in the last preceding Municipal election at which a Village Trustee was elected by the voters of the Village of Buffalo Grove. However, if a Recall Referendum has been conducted against an Elected Official, any subsequent Recall Petitions against the same Elected Official during the same term of office must be signed by Electors numbering not less than fifty percent (50%) of the total number of votes cast at the last preceding Municipal election at which a Village Trustee was elected by the voters of the Village of Buffalo Grove.

E. No Recall Petition may be filed against any Elected Official within the first six (6) months following the date of election or appointment of the Elected Official, or during the last six (6) months of the term of office of such Elected Official.

F. If the Recall Petition(s) filed against an Elected Official are subsequently determined to be invalid, no further Notices of Intention to Recall or Recall Petitions may be filed against such Elected Official for nine (9) months following the filing of the invalid Recall Petitions.

2.70.070 Notice of intention to recall – Form – Filing requirements.

A. The form of Notice of Intention to Recall shall be substantially as follows:

**VILLAGE OF BUFFALO GROVE, ILLINOIS
NOTICE OF INTENTION TO RECALL**

Notice is hereby given to the citizens of the Village of Buffalo Grove, Illinois, that within the next 90 days Recall Petitions will be circulated requesting that a Recall Referendum be held to remove the following official of the Village of Buffalo Grove from their term of office.

Name of Elected Official	Title of Office

Took office: _____ (Date Official Took Office in Present Term)

Term Ends: _____ (Date Present Term Ends)

Filed this _____ day of _____, _____

Circulation period ends _____, _____

Filed By:	(Name of Elector)
	(Address)

B. A Notice of Intention to Recall must be filed together with a proof of service attached to a copy thereof in substantially the following form:

PROOF OF SERVICE OF NOTICE OF INTENTION TO RECALL

I, _____, an Elector of the Village of Buffalo Grove, did this day (or within two (2) days prior to filing of said Notice) mail a true copy of the attached Notice of Intention to Recall showing the true date of filing thereon to the Elected Official named below at their residence, by registered or certified mail, return receipt requested, with all postage and fees properly paid and affixed, as follows:

Name of Elected Official	Address

SWORN UNDER PENALTY OF LAW:

(Signature of Elector)

(Address)

SUBSCRIBED and SWORN to (or affirmed) before me this _____
day of _____, _____

Notary Public's Signature (Seal)

C. For illustration purposes, a sample form Notice of Intention to Recall is appended as Exhibit A hereto.

D. No Notice of Intention to Recall shall be valid or shall be accepted for filing by the Village Clerk unless filed with the proof of service required in subsection B of this section.

E. Upon the filing of a Notice of Intention to Recall, the Village Clerk shall, as soon as possible, but no later than ten (10) calendar days after such filing, cause such Notice of Intention to Recall to be printed in a newspaper of general circulation in the Village of Buffalo Grove. A defect in such publication or a failure to publish shall be nonfeasance of office as to the Village Clerk, but shall not be grounds for challenging any Recall Petition or Recall Referendum pursuant to the notice.

2.70.080 Recall Petitions.

A. Recall Petitions may be signed only by Electors and in their own hand. Each Elector signing a Recall Petition must write his or her residence address. An Elector may sign a Recall Petition only once.

B. Recall Petitions shall be in the substantially the following form:

**VILLAGE OF BUFFALO GROVE, ILLINOIS
RECALL PETITION**

We, the undersigned qualified voters of the Village of Buffalo Grove hereby petition for a Recall Referendum for the recall and removal of (name of Elected Official) from the office of (Title of Office) of the Village of Buffalo Grove, the term of which office was entered on _____, _____, and will expire on _____, _____, and that the recall proposition, stated below, be submitted to the Electors of the Village of Buffalo Grove in the manner required by the Village of Buffalo Grove Recall Ordinance.

Shall (name of Elected Official) be recalled and removed from the office of (Title of Office) of the Village of Buffalo Grove, and disqualified from being elected or appointed to any office of the Village of Buffalo Grove

for four years? YES/NO

Name (Voter's Signature)	Street Address	Village	County
1			
2			

C. Each sheet of the Recall Petition shall have the following statement appended to it by the circulator of the Recall Petition, who shall be an Elector in the Village of Buffalo Grove:

I (Circulator's Name), a registered voter of the Village of Buffalo Grove, hereby certify that I reside at (street address) in the Village of Buffalo Grove, Illinois 60089, County of _____, that I am 18 years of age or older, that I am a citizen of the United States, and that each of the signatures on this sheet were signed in my presence, are genuine and that to the best of my knowledge and belief the persons so signing were at the time of signing registered voters of the Village of Buffalo Grove, that the respective residences are correctly stated and that none were placed on said Recall Petition prior to the date of filing of the Notice of Intention to Recall.

(Circulator's Signature)

SUBSCRIBED and SWORN to (or affirmed) by (Name of Circulator) before me this _____ day of _____, _____

Notary Public's Signature (Seal)

D. For illustration purposes, a sample form Recall Petition is appended as Exhibit B hereto.

E. A Recall Petition shall consist of printed or typewritten sheets reproduced to be the same size and shall contain the same heading. A Recall Petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. The several pages of a Recall Petition shall be consecutively numbered and securely bound together at the top or on one side, and each page shall contain the affidavit of the circulator as provided in subsection C of this section.

2.70.090

Review, Certification and Challenges to Recall Petitions.

A. Each Recall Petition filed within the ninety (90) day period specified in subsection 2.70.060 shall have the time received by the Village Clerk indicated when filed. By noon on the second business day following filing of a Recall Petition, the Village Clerk shall cause a copy of the Recall Petition to be delivered to the Elected Official who is the subject of the Recall Petition.

B. In accordance with the State Election Code (10 ILCS 5/10-8), a Recall Petition shall be deemed valid unless objection thereto is made in writing within five (5) business days after the Recall Petition is filed.

C. Upon expiration of the period for filing objections, if no timely objection is filed with regard to a Recall Petition, and not later than three (3) days thereafter, the Village Clerk shall request that the agenda for the next Village Board meeting include adoption of an ordinance authorizing that a Recall Referendum question be placed on the ballot for the next earliest Regular election (including a general election, general primary election, consolidated election and consolidated primary election regularly scheduled pursuant to Article 2A of the State Election Code (10 ILCS 5/1-3, 10 ILCS 5/2A-1, et. seq.)) permitted by law which is not less than sixty-five (65) days from the date of the ordinance.

D. If one or more timely objection is filed with regard to a Recall Petition, the Village Clerk shall by noon on the second business day following the expiration of the filing period: (a) cause copies of the Recall Petition and objector's petition to be delivered to the chairman of the Local Electoral Board; and (b) cause a copy of the objector's petition to be delivered to the Elector who filed the Notice of Intention to Recall.

E. The Local Electoral Board shall conduct a hearing and render a decision with regard to each filed objection to a Recall Petition, in accordance with the State Election Code (10 ILCS 5/10-10). The hearing shall be held no sooner than three (3) nor later than five (5) calendar days after receipt of the Recall Petition and objector's petition by the chairman of the Local Electoral Board.

F. The Local Electoral Board shall render a decision on each filed objection to a Recall Petition within seven (7) days after its initial hearing. If more than one separate Recall Petition is directed at the same Elected Official, each such Recall Petition shall be treated separately and independently. An Elector's signature appearing on more than one Recall Petition shall be valid as to each such separate Recall Petition. An Elector, however, may be counted only once as to any single Recall Petition.

G. If the Local Electoral Board determines that a Recall Petition is

invalid or insufficient, it shall so certify. Such Certification shall be a final order and shall be entered upon the records of the Village and no Recall Referendum shall be held, unless such determination is reversed by a final order of a Court of competent jurisdiction.

H. If the Local Electoral Board determines that a Recall Petition is valid and sufficient, it shall so certify. A Recall Petition that is determined to be valid and sufficient shall be certified by the Local Electoral Board to the Village Clerk. Such Certification shall be a final order and shall be entered on the records of the Village.

I. If the Local Electoral Board determines that a Recall Petition is valid and sufficient, and not later than three (3) days thereafter, the chairman of the Local Electoral Board shall request that the agenda for the next Village Board meeting include adoption of an ordinance authorizing that a Recall Referendum question be placed on the ballot for the next earliest Regular election (including a general election, general primary election, consolidated election and consolidated primary election regularly scheduled pursuant to Article 2A of the State Election Code (10 ILCS 5/1-3, 10 ILCS 5/2A-1, et. seq.)) permitted by law which is not less than sixty-five (65) days from the date of the ordinance.

2.70.100 Recall referenda.

A. If a Recall Petition is filed, which is not deemed invalid by the Local Election Board, the Village Board shall adopt an ordinance authorizing that a Recall Referendum question be placed on the ballot for the next earliest Regular election (including a general election, general primary election, consolidated election and consolidated primary election regularly scheduled pursuant to Article 2A of the State Election Code (10 ILCS 5/1-3, 10 ILCS 5/2A-1, et. seq.)) permitted by law which is not less than sixty-five (65) days from the date of the ordinance.

B. Upon passage of the appropriate ordinance authorizing a Recall Referendum question to be placed on the ballot, and not later than three (3) days thereafter, the Village Clerk shall certify the referendum question to the County Clerk.

C. A party aggrieved of the decision of the Local Electoral Board may seek judicial review in accordance with the State Election Code (10 ILCS 5/10-10.1). The pendency of a request for judicial review, however, shall not preclude or prevent compliance with subsections A and B of this Section.

D. Notwithstanding the foregoing provisions of this chapter, a Recall Referendum shall not be held if the Elected Official who is the subject of a

Recall Petition resigns from office prior to the scheduled date of the Recall Referendum.

2.70.110 Filling vacancies created by recall.

The Local Electoral Board shall canvas the results of the Recall Referendum. If a majority of votes cast shall be in favor of the recall of the named Elected Official, the office shall be declared vacant and the office shall then be filled in the manner provided by law for the filling of a vacancy. The Village Clerk shall certify the Recall Referendum proposition to the proper election officials as may be required by the election laws of the State of Illinois.

2.70.120 Disqualification of recalled official.

No person who has been removed from office by a Recall Referendum shall be eligible for election or appointment as an Elected Official of the Village of Buffalo Grove within four (4) years following the Elected Official's removal.

2.70.130 Defense of Legal Action Related to Recall.

In the event an Elected Official being the subject of the recall takes legal action against the Village and/or its elected or appointed officials as a result of the recall, no Municipal funds shall be expended on behalf of the Elected Official who is the subject of the recall in prosecuting such legal action.

Section 3. Every section and provision of this ordinance shall be separable, and the invalidity of any portion of this ordinance shall not affect the validity of any other portion of this ordinance.

Section 4. This ordinance shall be in full force and effect from and after its passage, approval and publication. This ordinance may be published in pamphlet form.

AYES: _____
NAYES: _____
ABSENT: _____
ABSTAIN: _____
PASSED: _____, 2009.
APPROVED: _____, 2009.

PUBLISHED: _____, 2009.

APPROVED:

Village President

ATTEST:

Village Clerk

**VILLAGE OF BUFFALO GROVE, ILLINOIS
NOTICE OF INTENTION TO RECALL**

Notice is hereby given to the citizens of the Village of Buffalo Grove, Illinois, that within the next 90 days Recall Petitions will be circulated requesting that a Recall Referendum be held to remove the following official of the Village of Buffalo Grove from their term of office.

Name of Elected Official	Title of Office

Took office: _____ (Date Official Took Office in Present Term)

Term Ends: _____ (Date Present Term Ends)

Filed this _____ day of _____, _____

Circulation period ends _____, _____

Filed By:	(Name of Elector)
	(Address)

PROOF OF SERVICE OF NOTICE OF INTENTION TO RECALL

State of _____)
 County of _____) SS.

I, _____, an Elector of the Village of Buffalo Grove, did this day (or within two (2) days prior to filing of said Notice) mail a true copy of the attached Notice of Intention to Recall showing the true date of filing thereon to the Elected Official named below at their residence, by registered or certified mail, return receipt requested, with all postage and fees properly paid and affixed, as follows:

Name of Elected Official	Address

SWORN UNDER PENALTY OF LAW:

 (Signature of Elector)

 (Address)

SUBSCRIBED and SWORN to (or affirmed) before me this _____ day of _____, _____

 Notary Public's Signature (Seal)

X...BIND HERE...X

RECALL PETITION

We, the undersigned qualified voters of the Village of Buffalo Grove hereby petition for a Recall Referendum for the recall and removal of _____ (Elected Official) from the office of _____ of the Village of Buffalo Grove, the term of which office was entered on _____, _____, and will expire on _____, _____, and that the recall proposition, stated below, be submitted to the Electors of the Village of Buffalo Grove in the manner required by the Village of Buffalo Grove Recall Ordinance.

SHALL _____ BE RECALLED AND REMOVED FROM THE OFFICE OF _____ OF THE VILLAGE OF BUFFALO GROVE, AND DISQUALIFIED FROM BEING ELECTED OR APPOINTED TO ANY OFFICE OF THE VILLAGE OF BUFFALO GROVE FOR FOUR YEARS? YES / NO

Table with 4 columns: NAME (VOTER'S SIGNATURE), STREET ADDRESS, VILLAGE, COUNTY. Rows 1-10, all with Buffalo Grove in the Village column.

State of _____)
County of _____)
SS.

I, _____ (Circulator's Name), a registered voter of the Village of Buffalo Grove, hereby certify that I reside at _____ in the Village of Buffalo Grove, Illinois 60089, County of _____, that I am 18 years of age or older, that I am a citizen of the United States, and that each of the signatures on this sheet were signed in my presence, are genuine and that to the best of my knowledge and belief the persons so signing were at the time of signing registered voters of the Village of Buffalo Grove, that the respective residences are correctly stated and that none were placed on said Recall Petition prior to the date of filing of the Notice of Intention to Recall.

(Circulator's Signature)

SUBSCRIBED and SWORN to (or affirmed) by _____ before me this _____ day of _____.

Notary Public's Signature (Seal)

SHEET NO. _____