
April 28, 2011 Town Meeting, Article 15 – Home Rule Petition amending the Charter relative to the recall of elected officials has been enacted by the Senate and the House under General Court.

ARTICLE 15. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation amending the Town Charter as it relates to the recall of elected officers by clarifying and modifying the timetable for the recall process, increasing the recall petition requirement from 10 to 15 percent, and increasing the period of ineligibility for a person recalled to an appointment to a town office from one year to two years as set forth below:

AN ACT AMENDING THE CHARTER OF THE TOWN OF CHELMSFORD RELATIVE TO THE RECALL OF ELECTED OFFICERS

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

SECTION 1. The charter of the Town of Chelmsford, which is on file in the office of the archivist of the commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended in Section 3-12 Recall of Elected Officers as follows {deleted language is noted a strikethrough, new language is underlined}:

Section 3-12 Recall of Elected Officers

(a) Application. Any holder of an elected office in the town, except town meeting members, with more than six months remaining in the term of office for which the officer was elected, may be recalled therefrom by the voters of the town in the manner provided in this section. No recall petition shall be filed against an officer within three months after taking office.

(b) Recall Affidavit and Petition.

(i) A recall petition may be initiated by the filing of an affidavit, on a form provided by the town clerk, containing the name of the officer sought to be recalled, appearing as registered on the current voting list prepared under G.L. c.51, §§37 and 37A, and a statement of the grounds for recall. The Town Clerk shall provide to the person requesting the affidavit form the name of the person whose recall is sought as it appears on the current voting list. Such, ~~provided that the~~ affidavit is shall be signed by at least twenty-five voters from each of the precincts into which the town is divided for the purpose of electing town meeting members. Signatures shall be collected on a single affidavit form for each precinct; provided, however, that if the affiants wish to collect more signatures than can be accommodated on a single form, an additional form may be requested from the Town Clerk. Blank affidavit forms shall not be photocopied or otherwise reproduced. The town clerk shall within 24 hours of receipt submit the affidavit to the registrars of voters, who shall, within five working days, certify thereon the number of signatures which are names of registered voters of the town.

(ii) The town clerk shall, within five business days following said certification, thereupon deliver make available to the lead petitioner, as designated on said voters making the affidavit, copies of petition blanks containing the number of signatures required below, multiplied by five, demanding such recall,

copies of which printed forms the town clerk shall keep available. Such blanks shall be issued by the town clerk, with signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of ~~all~~ the lead petitioner and the voter first named on each of the precinct affidavits, persons to whom they are issued the number of blanks so issued, the name of the person whose recall is sought appearing as registered on the current voter list, the office from which removal is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Blank recall petitions shall not be photocopied or reproduced. Said recall petition shall be returned and filed with the town clerk within twenty fourteen ~~fourteen~~ days after the filing of the affidavit, and shall have been signed by at least ~~ten~~ fifteen per cent of the registered voters of the town as of the date of the most recent town election.

The town clerk shall within twenty-four hours of receipt submit the petition to the registrars of voters in the town, and the registrars shall within five working days certify thereon the number of signatures which are names of registered voters of the town.

(c) Recall Election. If the petition shall be found and certified by the board of registrars ~~town clerk~~ to be sufficient, the town clerk shall submit the same with ~~such certificate~~ a letter of notice to the selectmen within five working days, and the selectmen shall within five working days give written notice of the receipt of the ~~certificate~~ petition to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, forthwith order an election to be held on a date fixed by them not less than sixty and not more than ninety days after the date the election is called; ~~of the town clerk's certificate that a sufficient petition has been filed~~ provided, however that if any other town election is to occur within one hundred days after the date of the said certificate the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section and notice shall be provided of the cancellation on the Town's website, be posted in such locations as would the warrant for a town meeting, and through whatever other means the board of selectmen deems appropriate.

(d) Office Holder. The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not removed, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with General Law, Chapter 41.

(e) Ballot Proposition. Ballots used in a recall election shall submit the following propositions in the order indicated:

The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?"

If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

(f) Repeat of Recall. In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least ninety days after the election at which the officer's recall was submitted to the voters of the town.

(g) Office Holder Recalled. No person who has been recalled from an office or who has resigned from office after the filing of a recall petition under Section 3-12(b)(ii) ~~while recall proceedings were pending against such person,~~ shall be appointed to any town office within ~~one~~ two years after such recall or such resignation.

SECTION 2. This act shall take effect upon passage.

Provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition; or act in relation thereto.

SUBMITTED BY: **Board of Selectmen**
 Town Manager
 Town Clerk

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