

BARNSTABLE COUNTY
In the Year Two Thousand Twenty-Two
Proposed Ordinance 22-32

To revise and amend the Barnstable County Home Rule Charter in accordance with the third paragraph of Section 9-1 of the Barnstable County Home Rule Charter by amending the Charter to include a Recall provision for the removal from office of a member of the Board of Regional Commissioners. This Proposed Ordinance authorizes the filing of a Petition to the General Court for Special Legislation filed by the Assembly of Delegates with the Approval of the Board of Regional Commissioners.

The Cape Cod regional government, known as Barnstable County, hereby ordains;

Notwithstanding the provisions of any general or special law to the contrary, the county of Barnstable shall be governed by the provisions of the following revised home rule charter. If revisions and amendments are accepted by the voters of Barnstable County at the next eligible State election, the county of Barnstable shall thereafter be governed by the provisions of this ordinance: to the extent that the provisions of this ordinance modify or are otherwise inconsistent with any special or general law, the provisions of this act shall govern. The charter shall become effective upon its passage. In the event that this amendment to the charter is not approved by a majority of voters voting thereon, the Barnstable County Home Rule Charter as described in Chapter 163 of the Acts of 1988 and Chapter 716 of the Acts of 1989 and Chapter 2 of the Acts of 1990, as amended by the voters at the November election in 2000, shall remain in full force and effect.

The Assembly of Delegates, with the Approval of the Board of Regional Commissioners, respectfully Petitions the General Court of the Commonwealth to add a new section to the Charter with language shown below.

Section 7 - 7. Recall of Member of the Board of County Commissioners.

(a) Recall of a Member of Board of County Commissioners Elected by the Voters - Any member of the board of county commissioners may be removed from office by the voters of Barnstable county through the recall process described in this section.

(b) Time for Recall - A recall may not commence under this section until a member of the board of county commissioners has served at least 1 year of the term of office. An affidavit to Initiate a Recall shall be filed with the County Clerk not later than the second Tuesday in February and a petition for a recall ballot question of any member of the board of county commissioners shall be filed with the county clerk not later than the second Monday in June in the year of the next state election after the commencement of the term of any member of the board of county commissioners.

(c) Grounds for Recall - Grounds for recall for actions during the term of office shall be malfeasance, misconduct, neglect of duty or inability to perform official duties.

(d) Affidavit to Initiate a Recall - An affidavit to initiate a recall shall be filed with the county clerk not later than the second Tuesday in February in the year of the next state election after the commencement of the term of any member of the Board of County Commissioners containing the name and address of the elected official whose recall is sought and a statement of the grounds for recall. The form and requirements of the affidavit shall be approved by the assembly of delegates.

An affidavit to initiate the recall of a member of the board of county commissioners shall include the signatures of not less than 120 voters with not less than 20 signatures each from 5 different Barnstable county municipalities.

When an affidavit to initiate a recall is filed, the signatures shall be certified as the names of voters in said municipality by the registrars of voters of the municipalities in which they are collected. The signatures on the Affidavit shall be submitted to the registrars of each municipality on separate sheets and shall be certified by the registrars no later than the first Monday in February.

(e) Petition for a Recall Ballot Question - Within 5 business days of receipt of an Affidavit seeking a recall of a Member of the Board of County Commissioners, the county clerk shall deliver blank petitions for a recall ballot question forms to the 10 persons designated by the county clerk after the signatures have been certified by the registrars of voters on the affidavit to initiate a recall.

The blank petition for a recall ballot question may be completed by printing or typewriting and shall:

- (i) be addressed to the assembly of delegates;
- (ii) contain the names of the 10 persons to whom they are issued and the grounds for recall as stated in the affidavit;
- (iii) demand the recall of an elected official identified by name and address.
- (iv) be dated and signed by the county clerk.

A petition for a recall ballot question seeking to recall a member of the board of county commissioners shall be signed by not less than 3 per cent of the total number of persons registered to vote in Barnstable county as of the date of the most recent state election including not less than 50 signatures from each of the municipalities in Barnstable county.

(f) Submission of Petitions for a Recall Ballot Question to Registrars and Notification to County Clerk - The Petitioners shall submit the petitions to the board of registrars of voters in each of the municipalities in Barnstable County on or before the first Monday in May and the board of registrars shall certify thereon the number of signatures that are the names of voters on or before the first Monday in June. The petitioners shall pick up the certified petition forms from the registrars and file them with the county clerk on or before the second Monday in June. The county clerk shall determine if the petition for a recall meets the requirements of section (e) The county clerk shall thereafter certify that a Petition for a Recall Ballot Question has been filed on or before the third Tuesday in June.

(g) Resignation of Official Sought to be Recalled - Following the determination by the county clerk that sufficient signatures have been certified by the board of registrars of the municipalities of Barnstable county for the recall of a member of the board of county commissioners, the person sought to be recalled may provide a written resignation to the county clerk within 5 days of receipt of a certified copy of the petition as provided in section (f). A resignation within the designated period shall be given immediate effect and there shall be no further action taken under this section.

(h) Request to State Secretary to Place Recall Question on Ballot - If a written resignation by the person sought to be recalled is not received as provided in section (g), the county clerk shall notify the state secretary to place the recall question on the ballot on the next state election. The county clerk's notification to the state secretary shall be no later than 90 days prior to the date of the next state election.

(i) Ballot Question - The ballots in each municipality in the county for a recall election shall include the following question:

Shall (name of person) be removed from the office of board of county commissioners by recall?

(j) Authorization to County Clerk - The county clerk shall be empowered and authorized to take any action necessary to comply with this section with the clerks of the municipalities that comprise Barnstable county, including certification of the results of the ballots for a recall election. The county clerk shall declare that the person shall be deemed to be removed from office after certifying that a majority of voters have voted to remove the person sought to be recalled.

(k) Appointment of Successor to Official Removed from Office - If a member of the board of county commissioners is removed from office, a successor shall be appointed in accordance with section 3-9.

Introduced by Barnstable Delegate and Assembly Speaker Patrick Princi at a meeting of the Assembly of Delegates on December 21, 2022.