

BARNSTABLE COUNTY
In the Year Two Thousand Twenty
Ordinance 20-10

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.

This Section provides for the removal from office of any member of the Board of Regional Commissioners.

1. Recall of a Member of Board of Regional Commissioners elected by the voters

Any member of the Board of Regional Commissioners may be removed from office by the voters of the Cape Cod Regional Government through the recall process described in this Section.

2. Time for Recall

A recall may not commence under this section until a member of the Board of Regional Commissioners has served at least one year of the term of office. A "Petition for a Recall Ballot Question" of any member of the Board of Regional Commissioners, pursuant to this Section, must be filed with the Cape Cod Regional Government Clerk on or before June 30 in the year of the next state election after the commencement of the term of any member of the Board of Regional Commissioners elected by the voters.

3. Grounds for Recall

Grounds for recall for actions during the term of office are:

- malfeasance
- misconduct
- neglect of duty
- inability to perform official duties

4. Citizens Request for a Recall

A “Citizen’s Request for a Recall” must be filed with the Cape Cod Regional Government Clerk by filing an Affidavit containing the name 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.

- a. An Affidavit seeking the recall of a Member of the Board of Regional Commissioners shall include the signatures of at least 120 voters with a minimum of 20 each from five different Barnstable County municipalities.

When the “Citizens Request for 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 Cape Cod Regional Government Clerk shall determine if the “Citizen’s Request for a Recall” meets the requirements of this Section.

5. Petition for a Recall Ballot Question

Within five business days of receipt of a “Citizens Request for a Recall”, the Cape Cod Regional Government Clerk shall deliver blank “Petition for a Recall Ballot Question” forms to the first ten persons certified by the registrars of voters named on the “Citizens Request for a Recall”. The Cape Cod Regional Government Clerk shall keep these forms available.

The blank “Petition for a Recall Ballot Question”:

- a. may be completed by printing or typewriting;
- b. shall be addressed to the Assembly of Delegates;
- c. shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit;
- d. shall demand the recall of an elected official; and
- e. shall be dated and signed by the Cape Cod Regional Government Clerk.

The “Petition for a Recall Ballot Question” form shall be returned to the Cape Cod Regional Government Clerk within 45 days following the date they are issued.

- a. A “Petition for a Recall Ballot Question” form seeking to recall a member of the Board of Regional Commissioners shall be signed by at least three (3) percent of the total number of persons registered to vote in Barnstable County as of the date of the most recent state election.

6. Submission of Petitions for a Recall Ballot Question to Registrars and Notification to Cape Cod Regional Government Clerk

The signatories to the Affidavit shall, within five business days following the filing of the “Petition for a Recall Ballot Question”, submit the Petitions to the board of registrars of voters in the municipality or municipalities from which collected which boards of registrars shall certify thereon the number of signatures which are the names of voters. Within five (5) days of certification by the board of registrars, the Petitions shall be filed with the Cape Cod Regional Government Clerk.

7. Notification to Municipal Clerks and Official Sought to be Recalled

After the Cape Cod Regional Government Clerk determines that sufficient signatures have been certified to authorize a recall election, the Cape Cod Regional Government Clerk shall provide a written statement to that effect to the Clerk of the municipalities that comprise Barnstable County. The Cape Cod Regional Government Clerk shall simultaneously cause to be served upon the person sought to be recalled a certified copy of the “Petition for a Recall Ballot Question” within ten (10) days after certification of the signatures.

8. Petition for a Recall Ballot Question and Statement

The person sought to be recalled shall have ten (10) days from receipt of notification to file with the Cape Cod Regional Government Clerk a statement of no more than 300 words. After receipt of proof of service upon the person sought to be recalled, the Cape Cod Regional Government Clerk shall prepare a form titled “Petition for a Recall Ballot Question and Statement” which shall include the Petition and a statement from the person sought to be recalled (but only if a statement is provided within the required time period), and shall cause the Petition and any statement to be published on the Cape Cod Regional Government website.

9. Resignation of Official Sought to be Recalled

Following the determination by the Cape Cod Regional Government Clerk that sufficient signatures have been certified by the board of registrars of the municipality(ies) of the Cape Cod Regional Government for the recall of a member of the Board of Regional Commissioners, the person sought to be recalled may provide a written resignation to the Cape Cod Government Regional Clerk within fifteen (15) days of receipt of a certified copy of the Petition as provided herein for. A resignation within the designated period shall be given immediate effect and there shall be no further action taken under this Section.

10. Request to Secretary of the Commonwealth to Place Recall Question on Ballot

If a written resignation by the person sought to be recalled is not received as provided in Section 9, the Cape Cod Regional Government Clerk shall notify the Clerks of the municipalities where the recall is proposed to request the Secretary of the Commonwealth to place the recall question on the ballot on the next state election.

11. Ballot Question

The ballots for a recall election shall include this question:

Shall (name of person) be removed from the office of Board of Regional Commissioners by recall?

12. Authorization to Cape Cod Regional Government Clerk

The Cape Cod Regional Government Clerk shall be empowered and authorized to take any actions necessary to comply with the provisions of this enactment with the Clerks of the municipalities that comprise Barnstable County and the Secretary of the Commonwealth.

13. Appointment of Successor to Official Removed from Office

In the event a member of the Board of Regional Commissioners is removed from office in accordance with this Section of the Charter, a successor shall be appointed in accordance with the provisions of Section 3-9 of the Charter.

Adopted by the Assembly of Delegates on September 2, 2020



E. Suzanne McAuliffe, Speaker
Assembly of Delegates

Approved by the Board of County Commissioners on September 9, 2020.



Ronald Bergstrom, Chairman
Board of Regional Commissioners

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

At a regular meeting of the Barnstable County Board of Regional Commissioners, on the ninth day of September, A.D. 2020, held through remote participation pursuant to Massachusetts Governor Charles D. Baker's Order Suspending Certain Provisions of the Open Meeting Law on March 12, 2020, motion by Commissioner Beaty to approve Ordinance 20-10, 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, and authorize the filing of a Petition to the Massachusetts General Court for Special Legislation filed by the Assembly of Delegates with the Approval of the Board of Regional Commissioners, pursuant to Section 3 – 8(e) of the Barnstable County Home Rule Charter, 2nd by Commissioner Flynn, approved 2-0-1 (YES: Bergstrom, Flynn. ABSTAIN: Beaty)

Ronald Bergstrom, Chair: Y

Mary Pat Flynn, Vice-Chair: Y

Ronald R. Beaty, Commissioner: ABS

A true copy, attest, September 9, 2020


Janice O'Connell
Janice O'Connell, Regional Clerk