



**Article: 29**

**Warrant Article Title:**

HOME RULE LEGISLATION / RECALL ELECTIONS

**Warrant Article Text:**

To see if the Town will vote to authorize and request the Select Board to file Home Rule Legislation to amend Sections 36 through 44 of the Town Manager Act to update provisions for recall elections; or take any action related thereto.

**Requested By:**

the Town Clerk

**Report Excerpt:**

Vote and comment to Town Meeting - Favorable Action (4-0)  
Mr. Helmuth recused himself.

This article calls for the filing of a home rule petition that would allow the Town to amend the Town Manager Act to revise the process for calling and conducting a recall election.

Town Clerk, Juli Brazile appeared before the Board and explained that the goal of the legislation is to update the current recall election language so that it is consistent with state election law. Ms. Brazile noted that under the current timelines set forth in the Town Manager Act, it would be very difficult to meet the prescribed deadlines. The proposed legislation would not change the fact that Arlington is among approximately one half of Massachusetts communities that have a recall election process as part of its charter or bylaws. The Board supports the continuation of a recall election process and voted unanimously 4-

0 (Mr. Helmuth recused himself) in favor of the proposed home rule legislation.

**Vote Language:**

That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

**AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF ARLINGTON**

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. Delete Sections 36 through 44 and insert in its place the following:

Section 36. Recall Elections in the Town of Arlington.

- a. Applicable Offices. Any person who holds an elective office may be recalled from that office by the registered voters of the Town as provided herein.
- b. Recall Petition, Preparation, Filing.
  - a. An initial recall affidavit signed by not less than 50 registered voters of the town containing the voters' names and addresses may be filed with the town clerk. The initial recall affidavit shall contain
    - i. the name of the officer sought to be recalled;
    - ii. the name of the office sought to be recalled; and
    - iii. a statement describing the grounds for a recall.

The town clerk shall immediately forward the initial recall affidavit to the board of registrars of voters for verification of signatures.

- c. Verification of Signatures by the Board of Registrars. The board of registrars of voters shall verify the signatures on the initial recall affidavit within 14 calendar days of receipt

- of the initial recall affidavit. If the initial recall affidavit is found to contain a sufficient number of verified signatures, the town clerk shall deliver to the first 10 registered voters who signed the affidavit a formal numbered and printed recall petition sheet with the town clerk's official seal and addressed to the select board demanding the recall and the election of a successor to the office. Prior to the delivery of the recall petition sheet, the town clerk shall fill out the top portion of each recall petition sheet naming the elected official sought to be recalled, the grounds for recall stated in the initial recall affidavit, the names of the first 10 registered voters who signed the affidavit and shall demand the election of a successor to the office. A copy of the recall petition shall be entered in a record book to be kept in the office of the town clerk
- d. Filing of the Recall Petition Sheets. Not later than 20 days from the date of delivery of the recall petition sheets, the 10 registered voters of the town to whom the town clerk delivered recall petition sheets shall file their signed recall petition sheets with the town clerk containing the signatures, names and street addresses of not less than [20 per cent] of the registered voters of the town as of the date the initial recall affidavit was filed with the town clerk.
- e. Submission of Certified Petition. If the total recall petition sheets shall be found and certified by the board of registrars of voters to be sufficient, the certified petition shall be submitted with the certificate of the town clerk to the select board without delay. The select board shall give written notice of the receipt of the certified petition to the officers sought to be recalled. If the officer does not resign within 5 calendar days of the date notice is given by the select board, the select board shall promptly order an election to be held on a date fixed by them not less than 64 nor more than 90 days after receipt of the certified petition; provided, however, that if any other town election is scheduled to occur within 100 days after the date of receipt of the certified petition, the select board may

- postpone the holding of the recall election to the date of the other election and may include the question of recall on the ballot for that other election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this act.
- f. Successor to Office. An officer sought to be recalled may be a candidate to succeed the officer in an election to be held to fill the vacancy.
  - g. Nomination of Candidates. The question of recalling any number of officers may be submitted at the same election but each recall must be on a separate ballot. The nomination of candidates to succeed an officer whose recall is sought, the publication of the warrant for the recall election and the conduct of such election shall all be in accordance with the provisions of the General Laws applicable thereto.
  - h. Duties of the Incumbent. The incumbent shall continue to perform the duties of the office until the recall election. If the incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this act. If recalled and not re-elected in the recall election, the incumbent shall be considered removed from office immediately and the office vacant.
  - i. Ballots. Ballots used in a recall election shall contain the following propositions:

FOR THE RECALL OF [NAME OF OFFICER] ( )  
AGAINST THE RECALL OF [NAME OF OFFICER] ( )

Adjacent to each proposition, there shall be a place to mark a vote. Following the propositions shall appear the word "Candidates" with directions to voters as required by section 42 of chapter 54 of the General Laws. Beneath the word "Candidates" shall appear the names of candidates nominated as provided herein, and placed in order in accordance with Chapter 31 of the Acts of 1972.

- Adjacent to the name of each candidate shall be a place to mark a vote. If a majority of the votes cast upon the question of recall are in favor of recall, the officer shall be recalled and the votes for the candidates shall be counted. In that instance, the candidate receiving the highest number of votes shall be declared elected for the open office. If less than a majority of the votes cast are in favor of recall, the votes for candidates shall not be counted.
- j. Timing for Recall Petition. An initial recall affidavit shall not be filed against an officer within 3 months after the officer takes office or within the last 3 months of the term. In the case of an officer subjected to a recall election and not recalled, a new recall affidavit shall not be filed against that officer until at least 3 months have elapsed after the election at which the previous recall was submitted to the voters of the town.
  - k. Effect of Recall. A person who has been recalled from an office or who has resigned from office while a recall petition was pending against them shall not be appointed to any town office within 2 years after the recall or resignation.

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