



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

February 23, 2024

City Council President Naomi Carney and Honorable Members of the City Council
133 William Street, Room 215
New Bedford, MA 02740

Re: Home Rule Petition Providing for the Recall of Elected Officers

Dear President Carney and Members of the City Council:

I write to request your approval of the attached home rule petition which would establish a process for the recall of elected officers in New Bedford. A related order is also enclosed.

Unlike most American cities, New Bedford does not have a mechanism by which elected officers can be recalled. Because the recalling of an elected official effectively negates the outcome of an election, it should not be undertaken except under extraordinary circumstances. Nevertheless, I believe a recall process should be available to voters to protect themselves against egregious breaches of public trust.

The attached home rule petition is based on an extensive review by the City's attorneys of recall provisions in municipalities in Massachusetts and elsewhere with city forms of government. Because the recalling of an elected official entails the negating of an election, the prevailing practice is to set a bar for recall that is sufficiently high that it would not be invoked over mere policy disagreements. Our proposal is consistent with this line of thought, in that it requires:

- Signatures of 600 voters to initiate a recall petition for an officer elected at large (and a minimum of 100 signatures from each ward), and 100 voters to initiate a recall petition for an officer elected by ward;
- That once the petition is certified by the elections office, at least 15% of the registered voters must sign the recall petition itself to place the recall question on the ballot; and
- That in order for the recall election to be effective, 15% of the registered voters must vote in the recall election.

In addition, the home rule petition provides that if an officer is recalled, the vacancy caused by such recall will be filled in the manner provided by charter. An elected officer who has been

recalled will be ineligible to fill the vacancy caused by their recall, either in a subsequent election or through appointment.

I believe that these provisions strike the proper balance between providing voters with a recall mechanism for extraordinary circumstances and ensuring that the undoing of an election cannot occur without significant debate and broad public support.

I look forward to discussing this proposal with you. Thank you for your consideration.

Sincerely,

Jon Mitchell
Mayor

A handwritten signature in blue ink, appearing to read 'Jon Mitchell', is written over the printed name and title. The signature is stylized and somewhat illegible due to the cursive nature of the handwriting.



CITY OF NEW BEDFORD

CITY COUNCIL

March 14, 2024

ORDERED, that the Mayor of the City of New Bedford is authorized to petition the General Court for a special act entitled, "An Act Providing for the Recall of Elected Officers in the City of New Bedford"; provided, however, that the General Court may make clerical or editorial changes of form only to the bill.

The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND TWENTY-FOUR

AN ACT PROVIDING FOR THE RECALL OF ELECTED OFFICERS IN THE CITY OF NEW BEDFORD

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. Any holder of an elective office in the city of New Bedford may be recalled therefrom by the registered voters of the city as hereinafter provided.

SECTION 2. A recall petition shall not be filed against an officer within 3 months after the officer takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the officer's term in office. A recall election shall not be held if less than 6 months of the term of office of the person whose recall is sought remains at the time of the certification of the recall petition forms.

SECTION 3. (a) Six hundred (600) or more registered voters may initiate a recall petition for an officer elected at large by filing with the board of election commissioners an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on such affidavit shall contain the names and addresses

of at least 100 voters residing in each of the wards into which the city is divided for the purpose of elections.

(b) One hundred (100) or more registered voters from the ward where an officer elected by such ward may initiate a recall petition by filing with the board of election commissioners an affidavit containing the name of the officer whose recall is sought and a statement of the grounds for recall. The signatures on such affidavit shall contain the names and addresses only of voters residing in the ward from which the officer whose recall is sought was elected.

(c) The board of election commissioners shall, within 14 days of receipt of an affidavit filed pursuant to subsection (a) or (b) of this section, certify whether the affidavit contains a sufficient number of valid signatures of registered voters. If the board of election commissioners certifies that the affidavit contains a sufficient number of valid signatures of registered voters, then the board of election commissioners shall deliver to the registered voter first named on the affidavit a sufficient number of petition blanks demanding the recall. The petition blanks shall: (i) be issued by the chair of the board of election commissioners and contain the chair's signature and official city seal; (ii) be dated and addressed to the city council; and (iii) contain the name and office of the elected officer sought to be recalled and the grounds of recall as stated in the affidavit. A copy of the recall petition shall be entered in a record book to be kept in the office of the board of election commissioners.

(d) The recall petition forms shall be filed with the board of election commissioners within 45 days after the date they are issued and contain the signatures, names and street

addresses of not less than 15% of the total number of registered voters residing in a ward for an officer elected by ward and of not less than 15% of the number of registered voters of the city for an officer elected at large. In addition, no less than 10% of the signatures, names and street addresses on the recall petition forms for an officer elected at large shall be from voters residing in each of the wards into which the city is divided for the purpose of elections. Within 21 days following the date the recall petition forms are filed, the board of election commissioners shall certify the number of valid signatures of registered voters and the percentage that number represents of the total number of registered voters in the applicable ward for an officer elected by ward and of the city for an officer elected at large; for an officer elected at large, the board of election commissioners shall also certify the percentage of the total number of valid signatures from each of the city's wards. For purposes of this subsection, "the total number of registered voters" shall mean the total number of registered voters as of the date of the most recent regular city election.

SECTION 4. If the board of election commissioners certifies that the recall petition forms contain a sufficient number of valid signatures of registered voters, it shall, within 5 days, submit the recall petition forms, with the board of election commissioners' certificate, to the city council. Upon receipt of the certified recall petition forms, the city council shall, within 5 days, give written notice to the officer whose recall is sought of the validity of such petitions. If the officer whose recall is sought does not resign the office within 5 days following delivery of said notice, or by the leaving of said notice at the officer's last known residence, the city council shall forthwith order a recall election to be held no less than 45 nor more than 70 days after the city council's receipt of the certified recall

petition forms. However, if another city election is to occur within 90 days of the city council's receipt of the certified recall petition forms, the city council may postpone the holding of the recall election to the date of such other city election. If a vacancy occurs in the office after a recall election has been ordered, the recall election shall not proceed.

SECTION 5. Ballots used at the recall election shall state the proposition in substantially the following form:

Shall [insert name of officer] be recalled from office [insert name of office held]?

YES ___

NO ___

SECTION 6. If the officer whose recall is sought has not resigned the office, the officer shall continue to hold and perform the duties of the office until the recall election. If a majority of the votes cast upon the question of recall is in the affirmative, the officer shall be deemed recalled, and the office shall be vacant upon the certification of the election results. If a majority of the votes cast on the question is in the negative, the person whose recall was sought shall continue in the office until the expiration of the term for which elected. No recall election for an officer elected at large shall be effective unless 15% of the total number of registered voters of the city as of the date of the recall election vote in such recall election, and no recall election for an officer elected by ward shall be effective unless 15% of the total number of registered voters of a ward as of the date of the recall election vote in such recall election.

SECTION 7. Vacancies shall be filled in the manner provided by the city of New Bedford's charter. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person shall be eligible to be a candidate in an election to fill any vacancy created by that recall, nor shall such person be eligible to be appointed to fill any vacancy created by that recall.

SECTION 8. This act shall take effect upon its passage.