

HOUSE No. 4285

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel R. Carey

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to recall elections in the town of Granby.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------|------------------------------------|-------------------|
| <i>Daniel R. Carey</i> | <i>2nd Hampshire</i> | <i>11/19/2021</i> |
| <i>Mindy Domb</i> | <i>3rd Hampshire</i> | <i>11/22/2021</i> |
| <i>Eric P. Lesser</i> | <i>First Hampden and Hampshire</i> | <i>11/22/2021</i> |

HOUSE No. 4285

By Mr. Carey of Easthampton, a petition (accompanied by bill, House, No. 4285) of Daniel R. Carey, Mindy Domb and Eric P. Lesser (by vote of the town) relative to recall elections in the town of Granby. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to recall elections in the town of Granby.

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

1 SECTION 1. Any holder of an elected office in the town of Granby may be recalled
2 therefrom by registered voters of the town as hereinafter provided. No recall petition shall be
3 filed against an officer within 6 months after the elected officer takes office, nor, in the case of
4 an official subjected to a recall election and not recalled thereby, until at least 6 months after the
5 election at which such officer’s recall was submitted to the voters. The recall of an elected
6 official shall consist of a 3-step process as set forth in this act.

7 SECTION 2. Step One – The Affidavit. Any 100 registered voters of the town of Granby
8 may initiate a recall petition by filing an affidavit with the town clerk. The affidavit shall contain
9 the name of the official sought to be recalled and a statement of the grounds of recall.

10 The select board may appoint a temporary or interim town clerk to handle the recall
11 process and election should the town clerk be the elected official subjected to the recall.

12 SECTION 3. Step Two - The Petition. If the affidavit process has been completed in
13 compliance with the requirements of Section 2, the town clerk shall provide a sufficient number
14 of copies of petition blanks demanding such recall, printed forms of which shall be kept on hand,
15 to the voters who made the affidavit. The blanks shall be issued by the town clerk and bear the
16 clerk's signature and official seal; they shall be dated and addressed to the select board and shall
17 contain the names of all persons to whom issued, the number of blanks so issued, the name of the
18 person sought to be recalled, the grounds of recall as stated in the affidavit and shall demand the
19 election of a successor to such office. Such blanks shall be provided within 5 town hall business
20 days during regular business hours. Said recall petition shall be returned and filed with the town
21 clerk on the 28th day after the requesting voter receives the blank petitions from the town clerk.
22 In the event that the town hall is not open on the 28th day, the petition may be filed during
23 normal business hours on the next town hall business day. The petition, before being returned
24 and filed, shall be signed by qualified voters of the town as of the date the affidavit was filed
25 with the town clerk. Every signature shall be accompanied by the signer's place of residence,
26 giving the street and number. The registrars of voters shall forthwith certify the number of
27 signatures.

28 SECTION 4. Step Three - The Recall Election. If the petition shall be found and certified
29 by the registrars of voters to be sufficient, the town clerk shall forthwith submit it with the
30 certificate to the select board. The select board shall forthwith give written notice to said official
31 of the receipt of said certificate and, if the official sought to be removed does not resign within 7
32 calendar days, shall order an election to be held on a day fixed by them not less than 45 days nor
33 more than 60 days after the date of the town clerk's certificate that a sufficient petition is filed.
34 However, if any other town election is to occur within 90 days after the date of said certificate

35 the select board may, at their discretion, postpone the holding of the recall election to the date of
36 such other election. If a vacancy occurs in said office after a recall election has been so ordered,
37 the election shall nevertheless proceed as in this section provided.

38 SECTION 5. The reason for which a recall may be initiated include but are not limited to:

39 (i) Lack of Fitness. Insobriety while performing official functions, involuntary
40 commitment to a mental health facility, being placed under guardianship or conservatorship by a
41 probate court.

42 (ii) Conviction. Conviction of a felony involving moral turpitude, conviction or bribery,
43 or extortion.

44 (iii) Neglect of Duties. Repeated absences from meetings without just cause. Just cause
45 shall include, but not be limited, to illness or regular vacation periods.

46 (iv) Misfeasance. Performance of official acts in an unlawful manner, or a willful
47 violation of the conflict of interest law, open meeting law or other ethical violations.

48 SECTION 6. The incumbent shall continue to perform the duties of their office until the
49 recall election. If the official is not recalled, they shall continue in the office for the remainder of
50 their unexpired term, subject to recall as before, except as provided in this act. If the official is
51 recalled in the recall election, they shall be deemed removed upon the election of their successor,
52 who shall hold office during the unexpired term. If the successor fails to take office within 5 days
53 after receiving notification of their election, the incumbent shall thereupon be deemed removed
54 and the office vacant.

55 SECTION 7. Ballots used in a recall election shall submit the following propositions in
56 the order indicated: For the recall of (name of official). Against the recall of (name of official).
57 Immediately at the right of each proposition, there shall be an oval above which reads “vote for
58 one”. The voter, by filling in said oval, may vote for either of such propositions. Under the
59 propositions shall appear the word “Candidates,” and the direction “vote for one” and beneath
60 this the names of candidates nominated as hereinbefore provided. In case of other forms of
61 balloting, appropriate provisions shall be made to allow the same intent of the voter.

62 SECTION 8. If a majority of the votes cast on the recall question is in the affirmative,
63 then the candidate who received the highest number of votes in the special election to fill the
64 vacancy shall be elected. If a majority of votes on the question is in the negative, the ballot for
65 candidates need not be counted.

66 SECTION 9. Any elected official sought to be recalled may not be a candidate to succeed
67 themselves. The nomination of candidates, the publication of the warrant for the recall election
68 and the conduct of the same shall all be in accordance with the provisions of law relating to
69 elections unless otherwise provided by this act.

70 SECTION 10. Any person who has been removed from an office or who has resigned
71 from office while recall proceedings were pending against them shall not be appointed to any
72 town office within 2 years after such removal or such resignation.

73 SECTION 11. This act shall take effect upon its passage.