

HOUSE No. 4856

The Commonwealth of Massachusetts

PRESENTED BY:

Edward R. Philips and Paul R. Feeney

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 regarding the recall of elected officers of the town of Sharon.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Edward R. Philips</i>	<i>8th Norfolk</i>	<i>6/18/2024</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>6/26/2024</i>

HOUSE No. 4856

By Representative Philips of Sharon and Senator Feeney, a joint petition (accompanied by bill, House, No. 4856) of Edward R. Philips and Paul R. Feeney (by vote of the town) relative to the recall of elected officers in the town of Sharon. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act regarding the recall of elected officers of the town of Sharon.

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 elective office of the Town of Sharon may be recalled and
2 removed from office by the qualified voters of the town as herein provided.

3 No fewer than fifty (50) registered voters of Sharon may initiate recall by filing with the
4 Town Clerk an affidavit of intent to recall, signed under the penalties of perjury and including
5 the place of residence of each signer with the street and number, containing the name of the
6 officer and the office held whose recall is sought and a statement of the grounds of recall.

7 SECTION 2. Recall may be initiated for any holder of elective office in the Town of
8 Sharon for any misconduct, abuse of office or authority, or other actions that call into question
9 the officeholder’s fitness or ability to serve the people of Sharon.

10 The grounds may include, but are not limited to, the following:

- 11 1. Conviction of a felony, or other serious crime involving moral turpitude.

12 2. Failure to take the oath by swearing in with the Town Clerk within 30 days of
13 election.

14 3. Unless having taken it prior to election, failure to take the Massachusetts Ethics
15 Training Course within 30 days of election.

16 4. The finding of an intentional violation of the responsibilities described in the oath
17 and ethics training described above.

18 5. A poor attendance record that impairs the ability of a board, commission or
19 committee to function.

20 An elected official's opinions or votes on any subject within the public's body's
21 jurisdiction cannot constitute grounds for recall. Members of boards, commissions and
22 committees should be able to make decisions within their authority without fear of recall. An
23 exception may be made if an official's vote or actions are found to be an intentional violation as
24 described in 930 C. M.R. 1.00 – 7.00.

25 SECTION 3. Within seven (7) business days of receipt of an Affidavit of Intent, the
26 Town Clerk shall verify whether the petition contains the required number of signatures and
27 whether the petition represents a valid ground for which to seek recall. The Town Clerk shall
28 certify the names of voters of the town who signed the affidavit of intent to make sure the names
29 of voters are valid.

30 SECTION 4. Upon certification by the Town Clerk of a sufficient number of signatures
31 related to the Affidavit of Intent, the Town Clerk shall, within two (2) business days following
32 said certification, notify the primary petitioner, who shall be the voter first named on such notice

33 of intent, that copies of blank petitions are available at the office of the Town Clerk. The blanks
34 shall be issued by the Town Clerk with the Town Clerk's signature and official seal attached
35 thereto.

36 The blank petitions shall be dated and addressed to the Select Board and shall contain the
37 name of the person whose recall is sought, the office from which recall is sought and the grounds
38 for recall as stated in the affidavit and shall demand the election of a successor to such office.
39 The names of the first 10 signers of the affidavit of intent shall be listed above the voter signature
40 lines and any instructions to signers. A copy of the petition with all required signers of the
41 affidavit of intent shall be entered in a record book to be kept in the office of the Town Clerk.

42 SECTION 5. The recall petition shall be signed by not less than 10 per cent (10%) of the
43 registered voters of the Town of Sharon as of the last annual town election and every signature
44 shall include the place of residence of the signer with the street and number.

45 The recall petition shall be returned and filed with the Town Clerk and Board of
46 Registrars not later than the posted closing time of town hall on the 60th calendar day following
47 the date the Clerk notifies the primary petitioner of the availability of the petition, or the next
48 business day if the sixtieth day falls on a Saturday, Sunday, or legal holiday. The clerk shall
49 notify the primary petitioner of the final date and hour for filing.

50 Within seven (7) business days following the date of such filing, the Town Clerk and
51 Board of Registrars shall certify in writing thereon the number of signatures that are names of
52 registered voters in the town as of the date the affidavit was filed with the Town Clerk.

53 SECTION 6. If the petition shall be found and certified by the Town Clerk to be
54 sufficient, the Town Clerk shall submit the certified petition to the Select Board within two (2)

55 business days from certification of sufficient signatures and the Select Board shall immediately,
56 and in not more than 3 business days, cause written notice of the receipt of the certificate to be
57 given to the elected officer whose recall is being sought.

58 If the officer sought to be recalled does not resign within 3 business days thereafter, the
59 Select board shall, within 5 additional business days, vote to order a recall election to be held not
60 less than 64 nor more than 90 calendar days from the date of the vote scheduling the election; ;
61 provided, however, that if any other town election is to occur within 100 calendar days after the
62 date of the vote, the Select Board may, in its discretion, place the question of recall on the ballot
63 at such other election. If a vacancy occurs in the office sought to be recalled after a recall
64 election has been ordered, but not yet been conducted, the election shall nevertheless proceed as
65 provided in this act.

66 SECTION 7. Any officer sought to be recalled may be a candidate to succeed themselves,
67 and unless they request otherwise in writing, the Town Clerk shall place their name on the
68 official ballot without nomination. The nomination of other candidates, the publication of the
69 warrant for the recall election, and the conduct of the same shall be in accordance with the
70 provisions of law relating to elections.

71 SECTION 8. The subject of the recall shall continue to perform the duties of their office
72 until the recall election. If then re-elected, they shall continue in office for the remainder of their
73 unexpired term, subject to recall as before, except as provided in the paragraph titled “Limitation
74 on Petitions”. If not re-elected in the recall election, they shall be deemed removed upon the
75 qualification of their successor, who shall hold office during the unexpired term. If the successor

76 fails to qualify within seven business days after receiving notification of their election, the
77 subject of the recall shall thereupon be deemed removed and the office vacant.

78 SECTION 9. Ballots used in a recall election shall submit the following propositions in
79 the order indicated:

80 For the recall of (name of officer).

81 Against the recall of (name of officer).

82 Under the proposition shall appear the word "Candidates" with directions to the voters as
83 required by section 42 of chapter 54 of the General Laws. Beneath this, listed alphabetically,
84 shall appear the names of the candidate(s) nominated as provided by law. If a majority of the
85 votes cast on the recall question is in favor of the recall, the elected official shall be recalled and
86 the ballots for the candidate shall be counted. The candidate who received the higher number of
87 votes shall be elected to the office. If a majority of the votes cast on the recall question is in the
88 negative, the votes for candidates to fill the potential vacancy need not be counted.

89 SECTION 10. No recall petition shall be filed against an officer within six months after
90 they take office or within the last six (6) months of their term, nor, in the case of an officer
91 subjected to a recall election and not removed thereby, until at least six (6) months after that
92 election.

93 SECTION 11. No person who has been recalled from an office or who has resigned from
94 office while recall proceedings were pending against them shall be appointed to any Town office
95 within two (2) years after such removal by recall or resignation.

96 SECTION 12. This act shall take effect upon its passage.