

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-3
HOUSE BILL 1195**

**AN ACT TO PROVIDE A PROCEDURE TO RECALL ELECTED OFFICIALS IN
THE TOWN OF PLEASANT GARDEN.**

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Pleasant Garden, being Session Law 1997-344, as amended by Session Laws 1998-205, 1999-57, and 1999-331, is amended by adding a new Chapter to read:

"CHAPTER VI.

"RECALL OF ELECTED OFFICIALS.

"Sec. 6-1. The Mayor and any member of the Town Council of the Town of Pleasant Garden may be removed from office in the manner provided for in this act.

"Sec. 6-2. Any registered voter of the Town may file an affidavit with the Guilford County Director of Elections containing the name of the elected official whose removal is sought and a general statement of the grounds alleged for removal. The Director of Elections shall provide the registered voter filing the affidavit with petition forms for demanding the removal of a Town elected official. The petition forms shall:

- (1) Be signed by the Director of Elections.
- (2) Be dated on the date of issuance.
- (3) Be addressed to the Guilford County Board of Elections.
- (4) Contain the name of the person to whom the form is issued.
- (5) Contain the name of the official whose removal is sought.
- (6) Contain a general statement of the grounds on which the removal is sought.
- (7) Provide a place for signatures.

The Director of Elections shall promptly deliver a copy of the petition issued by the Director of Elections to the Town Clerk, who shall enter the copy of the petition in a record book kept for that purpose. The record book shall be maintained at the Office of the Clerk.

"Sec. 6-3. To be effective, a recall petition must be returned to the Board of Elections within 30 days after the filing of the affidavit. To be sufficient, a recall petition must bear the signatures of at least thirty-three percent (33%) of the registered voters of the Town as shown by the registration records of the last preceding general municipal election.

"Sec. 6-4. The signatures to the petition need not all be appended to one paper. Each signer shall add his or her signature and the signer's place of residence, giving the residence address including town. One of the signers of each paper shall take an oath before an officer competent to administer oaths that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

"Sec. 6-5. The Board of Elections shall investigate the sufficiency of any petition and certify the results of the investigation to the Town Council. The Board of Elections may employ persons as it deems necessary to undertake that investigation. The Town Council shall reimburse the Board of Elections for the reasonable cost of the investigation. The Board of Elections may adopt rules concerning the validation of signatures appearing on the recall petition.

"Sec. 6-6. The Board of Elections shall complete its investigation and issue its certification of the results of the investigation within 15 days after the filing of any petition. If, by the Board of Elections' certification, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Board shall, within 10 days after any amendment, complete an investigation of the amended petition. If the certification of the results of the investigation shows the amended petition to be insufficient, a copy of the petition shall be returned to the person filing the petition, without prejudice to the filing of a new petition.

"Sec. 6-7. Upon a determination that a sufficient recall petition has been submitted, the Board of Elections shall submit the petition to the Town Clerk, who shall submit it to the Town Council and shall notify the officer whose removal is sought. If the officer whose removal is sought does not resign within five days after receiving the notice, the Town Council shall order and fix a date for holding a recall election. Subject to the remaining provisions of this section, an election shall be held not less than 90 nor more than 120 days after the petition has been certified as being sufficient. If any other general or special election is scheduled within this period, the Town Council shall schedule the special election at the same time. If the provisions of general law prohibit the holding of a special election during this time period and no general or special election is otherwise scheduled during that period of time, then the Town Council shall schedule the special recall election for a date within 10 days after the last day of the period of time during which special elections are prohibited by general law.

"Sec. 6-8. The Board of Elections shall cause legal notice of the election to be published. That notice shall include the general statement of the grounds on which the recall is sought as alleged in the affidavit and shall make all arrangements for holding the election in accordance with general law. The recall election shall be conducted, returned, and the results declared as in other elections in Pleasant Garden. The Town shall reimburse the reasonable costs of the recall election to the Board of Elections.

"Sec. 6-9. The question of recalling any number of officials may be submitted at the same election. But as to each such official, a separate petition shall be filed and there shall be an entirely separate ballot.

"Sec. 6-10. The ballots used in a recall election shall submit the following proposition:

" FOR AGAINST

The recall of (name and title of official)."

"Sec. 6-11. If less than a majority of the votes cast on the question of recalling an official are for recall, the official shall continue in office for the remainder of the unexpired term and, except as provided by Section 13 of this act, shall be subject to the recall as before. If a majority of such votes are for the recall of the official designated on the ballot, the official shall be deemed removed from office.

"Sec. 6-12. If an official concerning whom a sufficient recall petition is submitted to the Town Council resigns before the recall election or is removed from office as a result of the recall election, the vacancy shall be filled in the manner provided by law for filling vacancies in that office. An official removed from office by the voters as a result of a recall election shall not be appointed to fill the vacancy caused by that official's own removal or resignation.

"Sec. 6-13. No recall petition shall be filed against an officer who has been subjected to a recall election, and not removed thereby, until at least six months after that recall election. No recall petition shall be filed against an officer during the first three months of the term of that office.

"Sec. 6-14. If the recalls of a majority of the members of the Town Council are effected at a single recall election, the successors of the officers recalled shall be elected by the registered voters of the Town at a special municipal election, and the successors shall serve for the remainder of the terms of the officers recalled. The members of the Town Council who have not been recalled shall call that special election, which shall be conducted by the Guilford County Board of Elections under the laws then governing

elections in the State. If the recall of all the members of the Town Council is effected at a single election, they shall continue in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as provided in this section. That election shall also be conducted by the Guilford County Board of Elections under the laws then governing elections in the State."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of June, 2008.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives