

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH30635-LB-454* (5/14)

Short Title: Greensboro Recall Amendments.

(Local)

Sponsors: Representatives Harrison and Jones (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO TO CLARIFY THE INITIATIVE, REFERENDUM, AND RECALL PETITION PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 2.71 through 2.76 of the Charter of the City of Greensboro, being Chapter 1159 of the Session Laws of 1959, as amended by Chapter 55 of the Session Laws of 1963, Chapter 896 of the 1989 Session Laws, and Chapter 4 of the 1991 Session Laws, read as rewritten:

"Sec. 2.71. **Powers of Initiative, Referendum and Recall.**

(a)

- (1) The voters of the city shall have power, except as provided in paragraph (2) of this subsection, to propose ordinances to the city council. If the council rejects an ordinance proposed hereunder or passes it with amendment, the voters shall have power to approve or reject the proposed or amended ordinance at the polls. These powers comprise the initiative power.
- (2) The initiative shall not extend to the proposing of: (i) any part or all of the annual budget; (ii) or any ordinance making or repealing any appropriation of money, fixing the salaries of city officers or employees, or authorizing or repealing the levying of taxes.
- (3) Voters seeking to propose an ordinance subject to initiative shall proceed by way of initiative petition addressed to the council and containing the full text of the proposed ordinance. ~~Any initiative petition must be filed with the city clerk and must be signed by qualified voters of the city equal in number to at least 25% of the qualified voters of the city who voted at the last preceding election for~~

~~city council members. An initiative petition must be registered with the Guilford County Board of Elections, as required by G.S. 163-218, before it is circulated for signatures. The valid signatures required on the petition must equal twenty-five percent (25%), in number, of the number of persons voting at the last preceding citywide election for City Council members occurring before the registration of the initiative petition. It is not necessary that the signers of the petition have voted in the last election. The Petitioner's Committee shall have one year from the date of registration with the Board of Elections to file the initiative petition with the City Clerk.~~

(b)

- (1) The voters of the city shall have power, except as provided in paragraph (2) of this subsection, to require reconsideration by the council of any adopted ordinance, including any ordinance initiated under subsection (a) of this Section and adopted by the council. If the council fails to repeal an ordinance which it has been required to reconsider, the voters shall have power to approve or reject that ordinance at the polls. These powers comprise the referendum power.
- (2) The referendum power shall not extend to (i) any part or all of the annual budget or the property tax levied therein; (ii) to any ordinance making or repealing any appropriation of money or fixing the salary of any officer or employee; or (iii) to any repealing ordinance adopted by the council in compliance with a referendum petition.
- (3) Voters seeking a referendum on any ordinance shall proceed by way of a referendum petition addressed to the council, identifying the ordinance concerned and requesting that it be either amended, repealed, or referred to the voters of the city. Any referendum petition must be ~~filed with the city clerk~~ registered with the Guilford County Board of Elections, as required by G.S. 163-218, before it is circulated for signatures. Such registration must be within 30 days after adoption by the council of the ordinance concerned and must be signed by qualified voters of the city equal in number to at least 25% of the qualified voters of the city who voted at the last preceding election for city council members. The valid signatures required on the petition must equal twenty-five percent (25%), in number, of the number of persons voting at the last preceding citywide election for City Council Members occurring before the date of adoption of the ordinance referred. It is not necessary that the signers of the petition have voted in the last election. The Petitioner's Committee shall have one year from the date of registration with the Board of Elections to file the referendum petition with the City Clerk.

(c)

1 (1) The voters of the city shall have the power, which shall be known as
2 the recall power, to remove from office any member of the ~~city council~~
3 city council, including the Mayor.

4 (2) Voters seeking the recall of any member of the council shall proceed
5 by way of a recall petition addressed to the council identifying the
6 council member concerned, requesting his/her removal from office and
7 stating the grounds alleged for his/her removal. The grounds for recall
8 must be for cause, misfeasance, malfeasance, nonfeasance, or a
9 violation of the oath of office. A recall petition must be registered with
10 the Guilford County Board of Elections before it is circulated for
11 signatures; however, no recall petition may be registered within six
12 months before a general election involving the members named in the
13 petition. With respect to the Mayor or any council member elected at
14 large, any recall petition must be filed with the city clerk within one
15 year after registration and must be signed by qualified voters of the
16 city equal in number to at least 25% of the qualified voters of the city
17 who voted at the last preceding election of city council members. the
18 valid signatures required on the petition must equal twenty-five
19 percent (25%), in number, of the number of persons voting at the last
20 preceding citywide election for Mayor or City Council members
21 occurring before the registration of the recall petition. It is not
22 necessary that the signers of the petition have voted in the last election.
23 With respect to any city council member elected from a district, any
24 recall petition must be filed with the city clerk within one year after
25 registration and must be signed by qualified voters of that council
26 member's district equal in number to at least 25% of the qualified
27 voters of such district who voted at the last preceding election for its
28 city council member. the valid signatures required on the petition must
29 equal twenty-five percent (25)%, in number, of the number of persons
30 voting at the last preceding district election occurring before the
31 registration of the recall petition. It is not necessary that the signers of
32 the petition have voted in the last district election.

33 ~~(d) No initiative petition proposing an ordinance that addresses essentially the~~
34 ~~same issue as, or requiring an amendment to, an ordinance that was the subject of a~~
35 ~~referendum election may be filed within one year after the referendum election.~~

36 "Sec. 2.72. **Petitioners' Committee.**

37 In each initiative, referendum, or recall petition there shall be named a petitioners'
38 committee representing all the petitioners and composed of five members who shall be
39 qualified voters of the city and signers of the petition concerned. The petitioners'
40 committee shall be responsible for registration and circulation of the petition and for its
41 assembling and filing in proper form. The committee may also amend or withdraw its
42 petition as provided in this Article.

43 "Sec. 2.73. **Initiative, Referendum and Recall Petitions: Form and Sufficiency.**

1 (a) Initiative, referendum and recall petitions shall be governed by the rules
2 regarding form and sufficiency set out in this Section, as well as by such other rules
3 regarding form and sufficiency as the city council may impose by ordinance consistent
4 with the provisions and with the spirit and purpose of this charter.

5 (b) The signatures to a petition shall be executed in ink or indelible pencil and
6 need not all be affixed to one paper, but all papers of a petition shall be of uniform size
7 and style and shall be assembled as one instrument for filing with the city clerk. Each
8 signature shall be followed by the address of the signer. Petitions or petition papers
9 which reasonably comply with these requirements shall be accepted by the clerk without
10 delay upon presentation and their filing shall be completed by his acceptance.
11 Noncomplying petitions or papers may be rejected by the clerk until they are brought
12 into reasonable compliance.

13 (c) The clerk shall not accept any petition until it indicates (1) by name and
14 address, the five petitioners who constitute the petitioners' committee for that petition
15 and (2) the address to which all notices for the petitioners' committee are to be sent.

16 (d) Any petition shall be certified or determined insufficient which: (1) is validly
17 signed by less than the required number of qualified voters of the city, (2) proposes, or
18 requests repeal of, an ordinance not subject to the power under which the petitioners are
19 proceeding, (3) if a ~~referendum~~-petition, is not registered or filed within the time
20 allowed, or (4) if a recall petition, seeks the removal of an official not subject to recall
21 hereunder.

22 (e) No signature on a petition paper shall be counted in support of the petition
23 involved if that paper (1) being part of an initiative petition, has not contained or had
24 attached to it throughout its circulation the full text of the proposed ordinance, (2) being
25 part of a referendum petition, has not contained throughout its circulation a clear,
26 concise designation and description of the ordinance concerned, or (3) being part of a
27 recall petition has not contained or had attached to it throughout its circulation a copy of
28 the recall petition identifying the council member concerned and stating the grounds
29 alleged for his removal.

30 (f) No signature on a petition paper shall be counted in support of the petition
31 involved if that paper at the time of filing, does not have attached to it an affidavit,
32 executed by the circulator of that paper, to the effect: (1) that he personally circulated
33 the paper; (2) that each signature on the paper was affixed in his presence; (3) that he
34 believes each signature to be the genuine signature of the person whose name it purports
35 to be; (4) if an initiative petition is concerned, that the full text of the proposed measure
36 was attached to or contained in the accompanying paper throughout its circulation, and
37 that each signer of the accompanying paper had an opportunity before signing to read
38 the full text of the ordinance attached; and (5) if a referendum petition is concerned, that
39 each signer of the accompanying paper had an opportunity before signing to read the
40 designation and description of the ordinance in question; and (6) if a recall petition is
41 concerned, that a copy of the recall petition was attached to or contained in
42 accompanying paper throughout its circulation, and that each signer of the
43 accompanying paper had an opportunity before signing to read the full text.

1 (g) Upon receipt of a petition that complies with the requirements of subsections
2 (b) and (c) of this Section, the clerk shall examine the petition to determine whether, on
3 its face, it is insufficient under paragraphs (1), (2) or (3) of subsection (d). If he finds the
4 petition insufficient on its face for any of these reasons, he shall so certify to the city
5 council at the next regular council meeting occurring not sooner than five days after the
6 filing of the petition, and the determination shall be subject to review in the manner
7 provided in subsection (e) of Section 2.75. If he does not find the petition insufficient
8 for these reasons, the clerk shall determine which signatures on the petition papers may
9 be counted in support of the petition under subsections (e) and (f). He shall then clearly
10 mark the signatures that may be so counted. Within ten days after the filing of the
11 petition he shall deliver the petition papers with signatures marked to the Guilford
12 County Board of Elections for a checking of the marked signatures against the
13 registration books. The Board of Elections shall complete its check within 15 days after
14 receipt of the petition papers; except that the said board shall not be obligated to
15 conduct a check in any 30-day period immediately preceding, or in any 10-day period
16 immediately following, a county-wide or city-wide election. Upon completion of its
17 check, the board of elections shall forthwith certify to the city clerk: (1) The total
18 number of registered voters of the city or the municipal electoral district, whichever is
19 applicable, at the time of the ~~most recent~~ relevant election of members of the city
20 council; and (2) the number of voters registered in the city or in the municipal electoral
21 district, if applicable, whose signatures, marked by the clerk, appear on the petition
22 papers that the board found it necessary to examine. If it was found unnecessary to
23 check all names on the petition papers, this fact shall be indicated on the certificate. The
24 petition papers shall be returned to the city clerk by the Board of Elections together with
25 its certificate.

26 (h) A petition may be delivered to the city clerk at each 90-day interval after it is
27 registered to have the accumulated signatures verified as to validity. The clerk shall
28 determine which signatures on the petition papers may be counted in support of the
29 petition under subsections (e) and (f) of this section. The clerk shall then clearly mark
30 the signatures that may be so counted. Within five working days after the delivery of the
31 petition she/he shall deliver the petition papers with signatures marked to the Guilford
32 County Board of Elections for a checking of the marked signatures against the
33 registration books. The Board of Elections shall complete its check within 10 working
34 days after receipt of the petition papers; except that the said board shall not be obligated
35 to conduct a check in any 30-day period immediately preceding, or in any 10-day period
36 immediately following, a countywide or citywide election. Upon completion of its
37 check, the Board of Elections shall forthwith certify to the city clerk the number of
38 voters registered in the city or in the municipal electoral district, if applicable, whose
39 signatures, marked by the clerk, appear on the petition papers that the board examined.
40 The petition papers shall be returned to the city clerk by the Board of Elections together
41 with its certificate. The clerk shall then return the unfiled petition to the Petitioner's
42 Committee for further circulation within three working days. This delivery to the clerk
43 shall not be deemed as a filing unless so designated by the Petitioner's Committee. Once

1 filed, a petition may not be retrieved by the Committee but may only be supplemented
2 as provided in Section 2.75 of this Charter.

3 **"Sec. 2.74. Referendum Petitions: Suspension of Ordinance after Filing.**

4 When, within the time allowed, a referendum petition is filed with the city clerk, the
5 ordinance to which that petition is directed shall immediately be and shall remain
6 suspended from taking effect. This suspension shall terminate when, in accordance with
7 this Article: (1) a final determination is made that the petition concerned is insufficient,
8 or (2) the petitioners' committee withdraws the petition, or (3) the council reconsiders
9 the ordinance and repeals it without modification. Any action taken pursuant to the
10 respective ordinance while it was in effect shall remain valid.

11 **"Sec. 2.75. Initiative, Referendum and Recall Petitions; Procedure after Filing.**

12 (a) Within five days after the return of the petition papers by the county board of
13 elections, the city clerk shall complete a certificate as to whether the petition is
14 sufficient. If the clerk certifies a petition insufficient, his certificate shall show the
15 particulars wherein the petition is defective. As soon as he has completed his certificate,
16 the clerk shall notify the committee of petitions of the contents of the certificate. If a
17 petition is certified sufficient, the clerk shall present his certificate to the city council at
18 its next meeting and that certificate shall be a final determination as to the sufficiency of
19 the petition. If a petition certified sufficient is a recall petition, the clerk shall also give
20 written notice of the action taken to the council member whose removal is sought. If a
21 petition is certified insufficient under Section 2.73 (d) (1), a majority of the committee
22 of petitioners may elect to amend the petition; but if a majority does not so elect to
23 amend the petition, the clerk shall present his certificate to the council at its next
24 meeting and that certificate shall be a final determination as to the sufficiency of the
25 petition.

26 (b) If a majority of the committee of petitioners elects to amend the petition, then
27 within ten days after notice of the contents of the clerk's certificate, the committee may
28 file, for purposes of amendment, a supplementary petition upon additional papers. The
29 supplementary petition shall be governed by the same requirements as an original
30 petition with respect to such matters as uniformity and assembly of papers, listing of the
31 petitioners' committee, text or designation and description of measures, circulators'
32 affidavits, the writing and counting but not the number of signatures; and the clerk shall
33 proceed as in the case of an original petition. Within two days after receipt of a
34 supplementary petition complying with the requirements of subsections (b) and (c) of
35 Section 2.73, the clerk shall deliver the supplementary petition papers to the county
36 board of elections for a checking of the marked signatures against the registration
37 books. The Board of Elections shall complete its check within five days after receipt of
38 the said petition papers; except that the said board shall not be obligated to conduct a
39 check in any 30-day period immediately preceding, or in any 10-day period
40 immediately following a countywide or city-wide election. Upon completion of this
41 check, the Board of Elections shall forthwith certify to the city clerk the number of
42 voters registered in the city whose signatures, marked by the clerk, appear on the
43 supplementary petition papers that the board found it necessary to examine. If it was
44 found unnecessary to check all names on the supplementary papers, this fact shall be

1 indicated in the certificate. The supplementary petition papers shall be returned to the
2 city clerk by the Board of Elections together with the certificate.

3 (c) Within two days after the return of the supplementary petition papers by the
4 Board of Elections, the clerk shall complete a second certificate as to whether the
5 original petition, as amended by the supplementary petition is sufficient. If the clerk
6 certifies the amended petition insufficient, his second certificate shall show the
7 particulars wherein the petition is still defective. As soon as he has completed his
8 second certificate, the clerk shall notify the petitioners' committee of its contents and
9 shall present that certificate to the council at its next meeting, and that certificate shall
10 be a final determination as to the sufficiency of the petition.

11 (d) If a petition has been certified insufficient and there is no election to amend
12 it, or if an amended petition is certified insufficient, the clerk shall present his latest
13 certificate on the petition to the council at its next meeting.

14 (e) If, in any one of the ways provided in this Section, a final determination has
15 been made that a petition is insufficient, that determination shall be subject to judicial
16 review, but no further action shall be taken on the petition unless the reviewing court
17 directs otherwise. Such a final determination, even if sustained upon review, shall not
18 prejudice the filing of a new petition for the same purposes.

19 **"Sec. 2.76. Consideration by the City Council and Submission to the Voters.**

20 (a) When the city council has been presented with, or has, an initiative or
21 referendum petition which has been finally determined sufficient in accordance with the
22 preceding Sections of this Article, it shall proceed at once to hold a public hearing
23 thereon and consider that petition. If an initiative petition is concerned, the ordinance it
24 proposes shall at once be introduced and shall undergo all other procedures required for
25 ordinances of the same kind; however, not later than 30 days after the date on which the
26 petition proposing the ordinance is finally determined to be sufficient, the council shall
27 complete its consideration of the proposed ordinance and shall adopt it with or without
28 amendment or reject it. If a referendum petition is concerned, the ordinance to which
29 that petition is directed shall be reconsidered by the council and, not later than 30 days
30 after the date on which the referendum petition was finally determined sufficient, the
31 council shall repeal or sustain the ordinance.

32 (b) If the council fails to adopt, or adopts with amendment, a proposed initiative
33 ordinance, or if the council fails to repeal an ordinance reconsidered pursuant to a
34 referendum petition, it shall submit the originally proposed initiative ordinance or refer
35 the reconsidered ordinance concerned to the voters of the city.

36 (c) When the council has been presented with, or has, a recall petition which has
37 been finally determined sufficient in accordance with the preceding Sections of this
38 subchapter, it shall thereupon fix a day for holding a recall election unless, prior to
39 council consideration of the matter, the council member whose removal is sought has
40 resigned and his resignation has been accepted by the council. Any recall election for a
41 council member from an electoral district shall be held within that district only.

42 (d) An initiative election shall be held at the next regularly scheduled primary or
43 general election in Guilford County for state, county or municipal officials following 90
44 days after the petition has been finally determined to be sufficient. A referendum or

1 recall election shall be held no sooner than 90 days and no later than 120 days after the
2 petition has been finally determined to be ~~suffieient~~ sufficient, but no recall election
3 shall be held within the first six months or the last six months of the term of office of
4 the member."

5 **SECTION 2.** Article 2 of Subchapter D of Chapter II of the Charter of the
6 City of Greensboro, being Chapter 1159 of the Session Laws of 1959, is amended by
7 adding a new section to read:

8 "Sec. 2.80. **Publication of ordinances; repeal and amendment; conflicts.**

9 No initiative petition proposing an ordinance that addresses essentially the same
10 issue as, or requiring an amendment to, an ordinance that was the subject of a
11 referendum election may be filed within one year after the referendum election."

12 **SECTION 3.** This act is effective when it becomes law.