

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

**AN ACT ESTABLISHING A SELECT BOARD-TOWN MANAGER
FORM OF ADMINISTRATION IN THE TOWN OF WESTFORD**

[As amended by Chapter 207 of the Acts of 2020 on November 13, 2020]

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. The inhabitants of the town of Westford within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the town of Westford.

SECTION 2. This instrument may be cited and shall be known as the Westford Home Rule Charter Act.

SECTION 3. The intent and purpose of this act is to secure for the voters of the town of Westford, through the adoption of this act, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and the laws of the commonwealth, as fully and as though each such power were specifically and individually enumerated herein. To the extent that the provisions of this act modify or repeal existing General Laws and special laws or the body of law which constitutes the town charter under section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

SECTION 4. The legislative powers of the town shall continue to be exercised by a town meeting open to all voters of the town.

SECTION 5. (a) There shall be a select board composed of five members elected for a term of three years each, so arranged that the term of as nearly equal number of members as it is possible shall expire each year.

(b) The executive powers of the town shall be vested in the select board who shall have all of the powers and duties given to boards of selectmen under the Constitution and laws of the commonwealth and such additional powers and duties as may be authorized by this act, by by-law or by other town meeting vote. The select board shall cause the laws and orders for the government of the town to be enforced and shall cause a record of its official acts to be maintained. The select board shall be the chief policy making board of the town and shall act by this issuance of policy statements and guidelines to be followed and implemented by all town agencies serving under the select board.

(c) The select board shall appoint a town counsel, conservation commission, board of appeals, all boards, committees, and commissions except as otherwise provided by this act, by by-law or by other town meeting vote and such other regional authorities, districts, or committees in accordance with any applicable laws or interlocal agreement.

SECTION 6. The select board shall appoint a town manager who shall serve at the pleasure of the select board. The town manager shall be especially fitted by education, training and experience in public or business administration to perform the duties of the office. Any vacancy in the office of town manager shall be filled as soon as possible by the select board. Pending the appointment of a town manager or the filling of any vacancy, the select board shall appoint a suitable person to perform the duties of the office. In the event of temporary absence or disability of the town manager the select board may designate a qualified person to serve as acting town manager and to perform the town manager's duties during such temporary absence or disability.

SECTION 7. The town manager shall receive such compensation for services as the select board shall determine, but it shall not exceed the amount appropriated therefor by the town.

SECTION 8. The town manager shall be the chief administrative officer of the town, shall act as the agent for the select board and shall be responsible to the select board for the proper operation of town affairs for which the town manager is given responsibility under this act. The town manager, under the policy direction of the select board, shall supervise, direct and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility, authority or control by this act, by by-law, by other town meeting vote, or by vote of the select board. The town manager shall have the power to delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town manager is authorized to exercise under this act. All actions that are performed under such delegation shall be deemed to be the actions of the town manager.

SECTION 9. Except as otherwise provided by this act, the town manager shall appoint, based upon merit and fitness alone, all department heads and officers, subordinates, and employees under the town manager's direct supervision; and officers, subordinates and employees for whom no other method of selection is provided in this act except employees of the school department and persons serving under officer, boards, commissions and committees elected directly by the voters of the town.

The town manager shall appoint the board of assessors¹, the cemetery commission, the water commission, the recreation commission, the Roudenbush community center committee, a town clerk, a treasurer-collector and a tree warden. Department heads appointed by the town manager may appoint ad hoc committees as is deemed necessary.

The town manager shall be the appointing authority for the police and fire chiefs subject to the confirmation of the select board. The town manager, after consultation with the police or fire chiefs, shall appoint all employees of the police department and the fire department, except that, the police and fire chiefs shall appoint clerical and maintenance employees under their charge.

Boards, commissions and committees shall appoint employees under their direct supervision.

Appointment of all department heads, officers, subordinates, and employees shall be subject to personnel policies, practices, or rules and regulations adopted in accordance with section ten of this act.

SECTION 10. The personnel management powers, duties and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

(a) to administer and to adopt, in consultation with the personnel board, personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements, except for school department agreements, entered into by the town;

(b) to fix compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan or collective bargaining agreements;

(c) to be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except the employees of the school department; such contracts shall be subject to the approval of the select board. Terms and conditions of employment of the library director and assistant library director shall remain with the library trustees². The town manager may, subject to the approval of the select board, employ special counsel to assist in the performance of these duties.

¹ amended 11-16-92 (inserted "board of assessors")

² amended 11-16-92 (original text: "Terms and conditions of employment of the library director, assistant library director and assistant assessors shall remain with the library trustees and the board of assessors respectively.")

SECTION 11. The financial management powers, duties and responsibilities of the town manager shall include but not be limited to the following:

- (a) to prepare and submit, after consultation with all town departments an annual operating budget and capital improvements program for all town departments;
- (b) to ensure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the select board as may be required;
- (c) to approve warrants for payments of town funds prepared by the town accountant;
- (d) to be responsible for the purchase of all supplies, materials, and equipment, except for the school department and for books and other media material for libraries. The town manager shall approve the award of all contracts for all town departments (with the exception of the school department and library)³, subject to approval of the select board;
- (e) to keep the select board and finance committee fully informed as to the financial condition of the town and in consultation with the finance committee to make recommendations to the select board and to other elected and appointed officials as deemed necessary or expedient;
- (f) to prepare, annually, a five year financial forecast of town revenue, expenditures and the general financial condition of the town. This plan shall be submitted to the select board, the finance committee, the board of assessors and the school committee and shall be available to the public.

SECTION 12. The administrative powers, duties and responsibilities of the town manager shall include but not be limited to the following:

- (a) to attend all regular and special meetings of the select board unless excused;
- (b) to attend all sessions of the town meeting and to answer all questions addressed to the town manager which are related to the warrant articles, and to matters under the town manager's general supervision;
- (c) to administer either directly or through a person or persons supervised by the town manager, in accordance with this act, provisions of general or special laws, by-laws and other town meeting votes;
- (d) to investigate or inquire into the affairs of any town department or office under the town manager's supervision;
- (e) to coordinate activities of town departments under the town manager's and the select board's direction with the activities of departments under the control of officers, boards or commissions elected by the voters;
- (f) to keep the select board fully informed as to the needs of the town requiring action by the select board or by the town, as the town manager deems necessary or expedient;
- (g) to be responsible for the efficient use, maintenance and repair of all town facilities, except those under the jurisdiction of the school committee and the library trustees;
- (h) to develop and maintain a full and complete inventory of all town owned real and personal property;
- (i) to perform such other duties as necessary or as may be assigned by this act, by-law, town meeting vote, or vote of the select board.

SECTION 13. The annual budget shall be developed by the town manager under the overall policy direction of the select board.

³ amended 11-16-92 (deleted "and assessors' office")

SECIION 14. The select board shall provide for a periodic audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest direct or indirect, in fiscal affairs of the town government or any of its offices.

SECTION 15. Subject only to an express prohibition of a general or special law, the town manager, with the approval of the select board, may reorganize, consolidate or abolish, create, merge, or divide, alter the term of office, the manner of selection, or, if a board, commission or committee, the number of members, in whole or in part, of any town department, office, board, commission, committee or function under the jurisdiction of the town manager. With the approval of the select board, the town manager may establish new departments, offices, boards, commissions and committees and may prescribe the functions, powers, duties and responsibilities of any such new departments, offices, boards, commissions and committees.

SECTION 16. The voters of the town of Westford shall, in accordance with any applicable laws, by-laws, votes of the town, or interlocal agreement continue to elect the following: select board, planning board, moderator, housing authority, school committee⁴, library trustees and the board of health.

In addition, the voters of the Town of Westford shall elect other such regional authorities, districts, or committees as may be established by law or interlocal agreement.

SECTION 17. (a) Upon the effective date of this act the incumbents serving as town clerk and treasurer-collector shall be appointed in accordance with section nine of this act for the balance of the terms for which they were elected. Upon the effective date of this act the incumbents serving in the office of town clerk and treasurer-collector shall be subject to provisions of the town's personnel by-law and shall be granted all benefits provided by said by-law. The incumbents shall be granted sick leave, vacation leave or other such leaves based upon the number of years said incumbents have served in an elective office and as an employee of the town of Westford.

(b) The incumbents serving as members of the cemetery commission shall continue to serve in said offices for the balance of the terms for which they were elected. Upon the expiration of said terms of office or if a vacancy shall sooner occur, the offices shall be appointed by the town manager in accordance with said section nine.

(c) The incumbent serving in the office of tree warden shall continue to serve in the office for the balance of the term for which said person was elected. Upon the expiration of said term of office or if a vacancy shall sooner occur, the office of tree warden shall be appointed by the town manager in accordance with said section nine.

(d) The incumbents serving as members of the water commission shall continue to serve in said offices for the balance of the terms for which they were elected. Upon the expiration of said terms of office or if a vacancy shall sooner occur, the offices shall be appointed by the town manager in accordance with section nine.

(e) The incumbents serving as members of the board of assessors shall continue to serve in said offices for the balance of the terms for which they were elected. Upon the expiration of said terms of office or, if a vacancy shall sooner occur, the offices shall be appointed by the town manager in accordance with section nine⁵ of this act.

SECTION 18. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Westford on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act shall continue to be in full force and effect until otherwise provided by other laws, bylaws, votes, rules and regulations, respectively. All other laws, by-laws, votes, rules and regulations so far as they refer to the town of Westford, are hereby

⁴ amended 11-16-92 (deleted "board of assessors")

⁵ amended 11-16-92 [inserted Section (e)]

suspended but such suspension shall not revive any pre-existing enactment. Nothing contained herein shall impair contractual rights established prior to the adoption of this act or any amendment hereto.

SECTION 19. Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform their duties until provisions shall have been made in accordance with this act for the performance of said duties by another person or agency. No person in the permanent full time service or employment of the town shall forfeit pay grade for time in service.

SECTION 20. The provisions of this act shall take effect upon its acceptance by the voters of the town at the next annual election.

House of Representatives, October 23, 1989

Passed to be enacted, (George Keverian signature) Speaker.

In Senate, October 23, 1989

Passed to be enacted, (William M. Bulger signature) President.

November 1, 1989.

(William Weld signature), Governor