

**DRAFT 6/21/19**  
**SELECT BOARD/TOWN MANAGER ACT**

**Special Act of Legislation Creating Select Board/Town Manager Form of Government in the Town of Wayland**

[HISTORY: Adopted by the Annual Town Meeting of the Town of Wayland 5-3-2004 by Art.11. Amendments noted where applicable.]

**GENERAL REFERENCES**

Boards, commissions and committees — See Ch. 6.

Finances — See Ch. 19.

Personnel — See Ch. 43.

Board of Selectmen — See Ch. 58.

Town Administrator – See Ch. 60.

Treasurer and Collector — See Ch. 72.

Director of Public Works – See Ch. 151.

**§ 1. Renaming of Select Board. *(new)***

1.1 The Board of Selectmen in the Town of Wayland shall hereafter be known as the Select Board, who shall be vested with all of the powers and duties conferred upon a board of selectmen by any general or special law. All references to the Board of Selectmen contained in the Town Code shall be construed as referring to the Select Board, and all powers and duties conferred upon the Board of Selectmen by the Town Code shall be vested in the Select Board.

1.2 The executive powers of the Town shall be vested in the Select Board, and the Select Board shall serve as the chief policymaking body of the Town.

1.3 The Select Board shall develop and promulgate policy directives and guidelines which shall be followed by all agencies serving under it and, in conjunction with other elected Town officers and multiple-member bodies, shall develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony; provided, however, nothing in this section shall authorize any member of the Select Board or a majority of such members to become involved in the day-to-day administration of a town agency.

1.4 The Select Board shall cause the by-laws, rules and regulations of the Town to be enforced.

1.5 The Select Board shall have full authority as agents of the Town to employ counsel to commence, prosecute and defend suits in the name of the Town. Said authority shall not extend to employing counsel to the School Committee.

1.6 The Select Board shall appoint a Town Manager, Town Counsel, independent auditor and any other boards, committees, and commissions according to Town Code, statute or any special act. The Select Board shall also appoint any other multi-member boards for whom no other method of appointment is provided by Town Code, statute or special act.

## **§ 2. Appointment and qualifications of Town Manager.**

2.1 The Select Board, by an affirmative vote of at least four (4) members, may appoint a Town Manager as the Town's chief executive officer for a term of years as the Select Board deems to be in the best interests of the Town. The Town Manager shall receive such aggregate compensation and benefits, not exceeding the amount appropriated, as the Select Board may determine. The Select Board may, but is not required to, establish a written employment contract with the Town Manager pursuant to Massachusetts General Laws Chapter 41, Section 108N, to provide for the salary, fringe benefits, and other conditions of employment. The Town Manager position shall be a non-union position. *(modified from current Code)*

2.2 The Town Manager shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree in a related field of study from an accredited four-year college or university. The Town Manager shall have considerable professional experience, consisting of compensated service in municipal administration or an equivalent combination of education and business management experience. *(in current Code)*

2.3 The Town Manager shall devote full-time to the responsibilities of the office. The Town Manager shall hold no elective Wayland Town office. The Town Manager may be appointed by the Select Board to any other compatible Town office or position, but he/she shall engage in no other business or occupation without advance written authorization by the Select Board. *(in current Code)*

## **§ 3. Authority and responsibilities of Town Manager.**

### **3.1 Administrative Authority and Responsibilities**

- a. The Town Manager shall be the chief administrative and operating officer of the Town. *(new)*
- b. The Town Manager shall be responsible for managing, supervising and executing all of the activities noted in this Act, the Town Manager's job description, and any other duties assigned to the Town Manager by the Select Board or in compliance with federal and state law and the Town Code and Town policies. *(in current Code)*
- c. The Town Manager will not set Town policy, but will ensure there is appropriate coordination in the implementation of Town policy working across all Town departments in conjunction with all elected and appointed boards and committees. *(in current Code)*
- d. The Town Manager shall ensure that all Town departments, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, Town Code, federal and state law. *(modified from current Code)*

- e. The Town Manager shall be responsible for overseeing, coordinating, and making recommendations that may impact multiple Town boards and committees, broadly or in detail, regarding Town financial, personnel and legal activities. *(in current Code)*
- f. The Town Manager shall be responsible for the management of all financial, administrative and operational affairs of the Town and Town departments, including the Police and Fire Departments and all boards, commissions and committees but excluding the School Department, provided, however, that all boards, commissions and committees shall continue to exercise permitting and/or policy-making authority as provided in state law. *(modified from current Code)*
- g. The Town Manager shall understand and have a working knowledge of the statutory authority and responsibility held by certain department heads and elected and appointed boards, commissions and committees so s/he can effectively support these officers in the execution of their duties. Unless expressly stated herein, nothing in this Act is intended to reassign policy-making or permit granting statutory authority of any department head or any elected or appointed board, commission or committee to the Town Manager. *(modified from current Code)*
- h. With respect to Town policies and programs that impact multiple areas of Town government, the Town Manager shall work with all elected and appointed boards, commissions and committees and Town department heads, be accountable for ensuring there is appropriate administration and coordination both (i) in the implementation and on-going adherence to Town policies; and (ii) in the development and execution of such policies and programs. *(in current Code)*
- i. With respect to the development, implementation and execution of policies and programs affecting various Town departments, the Town Manager shall:
  - i) Coordinate the setting of priorities with the rest of the Town government;
  - ii) Communicate activities, including projects, plans and studies, so that necessary input is received from all areas of Town government that should be involved in those initiatives; and
  - iii) Coordinate efforts so that cross-functional services to residents and others are effectively and consistently delivered. *(in current Code)*
- j. The Town Manager is designated as the Town's Records Access Officer under the Public Records statute. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, provide for the preparation, filing and maintenance of all records and reports on behalf of the Town. *(modified from current Code)*
- k. The Town Manager oversees crisis intervention in emergency situations, working with other key Town department heads, and addresses any systemic problems impacting multiple areas of the Town as they arise. The Town Manager shall ensure priority items are properly attended to and bring concerns about problem resolution to related boards, commissions and committees, and ultimately, to the Select Board for assistance in resolution, if necessary. *(in current Code)*

### 3.2 Financial Authority and Responsibilities

- a. The Town Manager shall be the chief financial officer of the Town. *(new)*
- b. The Town Manager shall initiate, prepare and have general oversight of the process of preparing the Town's annual operating and capital budgets. To assist the Town Manager in preparing the proposed annual operating and capital budgets, all department heads, boards, commissions and committees of the Town, including the School Department, shall furnish all relevant information and submit to the Town Manager, in writing and in such form as the Town Manager shall prescribe, a detailed estimate of the appropriations required and available funds. *(new)*
- c. The Town Manager shall work with the Finance Director and Finance Committee to:
  - i) Develop long-term financial strategies addressing operational and capital financial needs of the Town;
  - ii) Establish set budgetary guidelines to be used in the development of annual budgets;
  - iii) Review all operating and capital budgets of all Town departments and make recommendations to the affected boards, commissions and committees and to the Finance Committee about priorities important to budget development; and
  - iv) Evaluate actual expenditures and receipts against budgets and coordinate with affected department heads, boards, commissions and committees the development of plans to manage to the budget or obtain Finance Committee approval for Reserve Fund transfers, in advance of spending, when possible. *(in current Code)*
- d. The Town Manager shall prepare and update a five-year capital budget for all Town departments. *(new)*
- e. The Town Manager shall serve as the Town's chief procurement officer pursuant to state and federal law and shall ensure that all Town departments comply with applicable procurement laws. The Town Manager may, in his or her discretion, delegate any procurement responsibilities. *(modified from current Code)*
- f. Unless any statute or special act provides to the contrary, the Town Manager shall be authorized to execute all grant applications and shall award and execute all contracts binding the Town up to a set amount to be established by policy set by the Select Board. *(new)*

### 3.3 Personnel Authority and Responsibilities

- a. Department Heads with Elected Boards: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone, all department heads or similar positions, in consultation with the respective elected boards, commissions and committees and in compliance with any applicable provision of a

collective bargaining agreement, with the exception of the School Department and Library. *(modified from current Code)*

- b. Department Heads with Appointed Boards: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone all department heads for departments with appointed boards, commissions and committees and in compliance with any applicable provision of a collective bargaining agreement. *(modified from current Code)*
- c. Department Employees (subordinate to Department Head or similar position): The Town Manager shall be responsible for appointing on the basis of merit and fitness alone, all subordinate employees of each Town department, with the exception of the School Department. *(modified from current Code)*
- d. Unless otherwise provided under this Act, the Town Manager shall be responsible for appointing all other appointed officers or employees for whom no other method of appointment is provided by the Town Code or other special act. *(new)*
- e. Discipline and Removal for Cause: The Town Manager may, for cause, remove or discipline any department head or similar position, with the exception of the School Department and Library Director, and all subordinate employees of each Town department, with the exception of the School Department. *(new)*
- f. The Town Manager shall appoint, on the basis of merit and fitness alone, with ratification by a vote of at least three members of the Select Board, and evaluate, discipline and, for cause, remove, without the ratification of the Select Board:
  - i) A Police Chief;
  - ii) A Fire Chief;
  - iii) A Finance Director who may have the authority and responsibilities of a Town accountant; and *(modified from current Code and special act)*
  - iv) A Town Clerk. *(new)*
- g. In the event of a vacancy, disability or absence greater than thirty (30) days, of any department head or any position appointed by the Town Manager, the Town Manager may appoint someone to serve in an acting or interim capacity. *(new)*
- h. With the exception of the School Department and Library, and except as otherwise provided in the Town Code or Chapter 347 of the Acts of 2008, to streamline services, the Town Manager may create a new department, may reorganize, eliminate or consolidate Town departments or functions, in whole or in part, and may assign functions of one department to another department, subject to the approval of the Select Board. *(new)*
- i. Working with the Town's Human Resource Department, the Town Manager shall be responsible for the daily administration of the Town-wide personnel system, including the maintenance of personnel records and the enforcement of personnel

policies, rules and regulations and managing personnel costs to ensure maximum efficiency and fairness across Town departments. *(in current Code)*

- j. Evaluations: The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new) The Town Manager shall be responsible for the annual evaluation of job performance of all Town department heads, including the Town Clerk and other positions appointed by the Town Manager but excluding the School Department and Library Director, and may incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads. Evaluation of the Library Director shall include input of the Town Manager. The Town Manager may also be responsible for annually evaluating the job performance of subordinate Town employees, excluding those of the School Department. *(modified from current Code)*
- k. The Town Manager shall serve as the agent of the Select Board and negotiate collective bargaining agreements on behalf of the Select Board in accordance with General Laws Chapter 150E, provided, however, that such agreements shall be subject to ratification by the Select Board and subject to funding by Town Meeting. The Town Manager may appoint confidential staff to assist with collective bargaining. *(new)*

#### 3.4 Facilities/Property Authority and Responsibilities

- a. The Town Manager shall be responsible for the construction, reconstruction, restoration, rehabilitation, repair and maintenance of all Town buildings and all Town real and personal property, and information technology and infrastructure. Nothing in this provision shall be construed as conferring any authority upon the Town Manager to have access to information that is otherwise unauthorized under state law. *(new)*
- b. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, maintain an inventory of all Town-owned real and personal property. *(in current Code)*

#### 3.5 Transitional Authority and Responsibilities *(all new)*

- a. With the enactment of this Act by the General Court, Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed.
- b. Following the enactment of this Act, the Select Board shall appoint a Town Manager, and if the Select Board so chooses, the incumbent Town Administrator may be appointed Town Manager.

#### **§ 4. Removal of the Town Manager.**

The Town Manager may be removed by an affirmative vote of at least four (4) members of the Select Board in accordance with the provisions of the Town Manager's contract. *(modified from current Code)*

#### **§ 5. Acting Town Manager.**

If the Town Manager shall be absent from his/her office for up to fourteen (14) days, the Town Manager may designate a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during this period of absence. In the event the office of Town Manager shall be vacant for more than fourteen (14) days, the Select Board may appoint a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during the period of any vacancy caused by the Town Manager's absence, illness, suspensions, removal or resignation. The appointment by the Select Board shall be for a period not to exceed six months, but such appointment may be extended by an additional two months by majority vote of the Select Board. *(modified from current Code)*

#### **§ 6. Town Clerk To Become Appointed Position. (new)**

6.1 Upon the effective date of this Act, the position of Town Clerk shall cease to be elected and shall become a position appointed by the Town Manager pursuant to Sections 2.3.b and 6 of this Act.

6.2 The incumbent in the office of Town Clerk shall continue to serve until the expiration of the term for which elected as Town Clerk, and at the expiration of that term, the Town Clerk shall be appointed by the Town Manager as provided in Section 2 of this Act. If the incumbent in the office of Town Clerk vacates said office prior to the expiration of the term for which the Town Clerk was elected, the office of Town Clerk shall cease to be an elected position and shall be appointed by the Town Manager as provided in Section 2 of this Act.

#### **§ 7. Conflict with Other Acts or Town Code.**

In the event that there is a conflict between any provision of this Act and any provision of the Town Code or other special act pertaining to the Town of Wayland, this Act shall prevail.

#### **§ 8. Time for Taking Effect. (new)**

This Act shall take effect upon its passage by the General Court.