

Chapter 33
of the Acts of 2022

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the One Hundred and Ninety-Second General Court

AN ACT CREATING SELECT BOARD-TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF WAYLAND.

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. Chapter 320 of the acts of 2004 is hereby repealed.

SECTION 2. There shall be a select board-town manager form of government in the town of Wayland as established in this act.

SECTION 3. The board of selectmen in the town of Wayland shall hereafter be known as the select board and 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.

SECTION 4. (a) The select board shall be the chief executive officer of the town of Wayland and shall serve as the chief policymaking body of the town.

(b) The select board shall consist of 5 residents of the town, elected by ballot, to serve a term of 3 years. The terms of the members of the select board shall be staggered such that 1 or 2 members shall be elected each year. Upon the effective date of this act, the incumbent members of the board of selectmen shall continue in office for the duration of their elected terms but shall be referred to as members of the select board.

(c) The select board shall develop and promulgate policy directives and regulations that 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 policies and regulations 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 nor shall this provision be construed as conferring upon the select

board any policy-making directives or regulations specifically reserved to other town boards or commissions by statute or town code.

(d) The select board shall cause the town code, rules and regulations of the town to be enforced.

(e) 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 which no other method of appointment is provided by the town code, statute or special act.

(f) The select board shall have full authority as an agent of the town to employ counsel to commence, prosecute and defend suits in the name of the town, unless otherwise especially ordered by vote of the town; provided, however, that the authority shall not extend to employing counsel to the school committee.

(g) The select board shall cause an adequate supply of the full town report to be available in the town offices and in the public library from which to furnish a copy to any interested person and the select board shall cause the warrant and finance committee's report with recommendations to be served as provided in section 36-2 of the town code.

(h) The select board may declare a state of emergency upon the occurrence of any disaster, catastrophe, fire, flood, earthquake, storm, public health emergency, other natural calamity, act of terrorism or cyber attack. Any state of emergency proclaimed by the select board shall terminate 5 days from the day it takes effect, unless sooner terminated by proclamation of the select board.

(i) The select board may establish rules and regulations, binding upon all boards, commissions, committees, councils, authorities, officials and employees of the town, governing the use, marking, record-keeping, maintenance and reporting requirements pertaining to town-owned vehicles and reimbursement for the use of privately owned vehicles by employees and officials while on town business.

(j) The select board, by an affirmative vote of not less than 4 members, may appoint a town manager for a term of not more than 3 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 establish a written employment contract with the town manager pursuant to section 108N of chapter 41 of the General Laws, to provide for the salary,

fringe benefits and other conditions of employment. The town manager position shall be a non-union position.

(k) The town manager shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree from an accredited 4-year college or university. The town manager shall have considerable professional experience, consisting of compensated service in government administration or an equivalent combination of education and business management experience.

(l) 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 the town manager shall engage in no other business or occupation without advance written authorization by the select board.

SECTION 5. (a) The town manager shall be the chief administrative and operating officer of the town.

(b) The town manager shall be responsible for managing, supervising and executing all of the activities under this act, in 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.

(c) The town manager shall not set town policy, but shall ensure there is appropriate coordination in the implementation of town policy working across all town departments in conjunction with all elected and appointed boards, commissions and committees.

(d) The town manager shall ensure that all town employees, 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 and all regulations.

(e) The town manager shall be responsible for the management of all financial, administrative and operational affairs of the town and town 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 or policy-making authority as provided by state law.

(f) 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.

(g) The town manager shall understand and have a working knowledge of the statutory and regulatory authority and responsibility held by department heads and elected and appointed boards, commissions and committees so the town manager can effectively support these officers in the execution of their duties. Unless expressly stated in this act, nothing in this act shall 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.

(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 and shall be responsible for ensuring there is appropriate administration and coordination in the: (i) implementation and on-going adherence to town policies; and (ii) development and execution of such policies and programs.

(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.

(j) 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, reorganize, eliminate or consolidate town departments or functions, in whole or in part, and assign functions of a department to another department, subject to the approval of the select board.

(k) The town manager shall be the town's records access officer under the public records statute and shall, directly or through the town's various departments, boards, commissions and committees, be responsible for the preparation, filing and maintenance of all records and reports on behalf of the town.

(1) The town manager shall oversee crisis intervention in emergency situations, working with other key town department heads, and shall address 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.

SECTION 6. (a) The town manager shall be the chief financial officer of the town of Wayland.

(b) The town manager shall initiate, draft and have general oversight of the process of preparing the town's annual operating and capital budgets for submission to the finance committee. 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.

(c) The town manager shall draft and update a 5-year capital improvement plan for all town departments for submission to the finance committee.

(d) 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.

(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 the town manager's discretion, delegate any procurement responsibilities.

(f) Unless any general or special law provides to the contrary, the town manager may 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.

SECTION 7. (a) Except as expressly provided in this act, the town manager shall appoint on the basis of merit and fitness alone, all department heads or similar positions, in consultation with the respective boards, commissions and committees that the department heads or similar positions support and in compliance with any applicable provision of a collective bargaining agreement, with the exception of the school department and library.

(b) The town manager shall ultimately be responsible for appointing subordinates to department heads or similar positions. Unless otherwise provided by the terms of an applicable collective bargaining agreement, the department head or similar position may, with the consent of the town manager or their designee, appoint on the basis of merit and fitness alone, all subordinate employees of each town department, with the exception of the school department.

(c) Unless otherwise provided under this act, the town manager shall be responsible for appointing all other appointed employees for whom no other method of appointment is provided by the town code or other special act.

(d) The town manager may, for cause, discipline or remove any department head or similar position, with the exception of the school department and library director, and shall, in consultation with the applicable department head or similar position, discipline or remove all subordinate employees of each town department, with the exception of the school department.

(e) The town manager shall appoint, on the basis of merit and fitness alone, with ratification by a vote of not less than 3 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; and
- (iv) a town clerk.

(f) In the event of a vacancy, disability or absence anticipated to be greater than 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 for the period of such vacancy, disability or absence.

(g) 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.

(h) The town manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement.

(i) 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 shall incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads; provided, however, that evaluation of the library director shall include input from the town manager. The town manager shall be responsible for ensuring the completion of annual evaluations of the job performance of all subordinate town employees, excluding those of the school department.

(j) 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 chapter 150E of the General Laws; 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 designate appropriate employees to assist with collective bargaining.

SECTION 8. (a) Except as otherwise provided in chapter 347 of the acts of 2008, 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 section shall confer any authority upon the town manager to have access to information that is otherwise unauthorized under state law.

(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.

SECTION 9. (a) Upon the enactment of this act, the position of town administrator shall be abolished and the incumbent thereof shall serve as the acting town manager, or if there is no incumbent, the select board shall

appoint an acting town manager. The acting town manager shall serve until the select board appoints a permanent town manager.

(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 on a permanent basis.

(c) Following the enactment of this act, any reference to the town administrator existing in any provision of the town code or any other special act shall be construed as referring to the town manager. All powers and duties conferred upon the town administrator by the town code or other special act shall be vested in the town manager, unless otherwise provided in this act.

(d) Following the enactment of this act, sections 58 and 60 of the town code shall be repealed and be of no effect.

(e) Following the enactment of this act, all town officers, boards, commissions and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the enactment of this act, except that, upon the appointment of a town manager, the powers and duties outlined in this act shall be vested in the town manager.

SECTION 10. The town manager may be removed by an affirmative vote of not less than 4 members of the select board in accordance with the town manager's contract, if applicable.

SECTION 11. If the town manager shall be absent from their office for not more than 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. If the town manager shall be absent for more than 14 days or the office of town manager shall be vacant for more than 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 of not more than 6 months, but such appointment may be extended by majority vote of the select board.

SECTION 12. (a) Upon the effective date of this act, the position of town clerk shall cease to be an elected position and shall become a position appointed by the town manager pursuant to this act.

(b) The incumbent in the office of town clerk shall continue to serve until the expiration of the term for which the town clerk was elected and at the expiration of that term, a town clerk shall be appointed by the town manager as provided in this act. If the incumbent in the office of town clerk vacates the 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 this act.

SECTION 13. If there is a conflict between any provision of this act and any provision of the town code, rules, regulations, orders, special acts, acceptances of laws or other special acts pertaining to the town of Wayland, this act shall prevail. All other provisions of town code, resolutions, rules, regulations and votes of the town meeting that are in force at the time this act is enacted, not inconsistent with or superseded by the provisions of this act, shall continue in full force and effect until amended or repealed.

SECTION 14. This form of government shall take effect upon its passage.

SECTION 15. This act shall take effect upon its passage.


House of Representatives, March 9, 2022.

Passed to be enacted,

 , Speaker.



In Senate, March 10, 2022.

Passed to be enacted,

 , President.

 , 2022.

Approved,

at  o'clock and  minutes, P. M.


Governor.