

Part I	ADMINISTRATION OF THE GOVERNMENT
Title VII	CITIES, TOWNS AND DISTRICTS
Chapter 41	OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS
Section 10	FAILURE TO ELECT; PROCEDURE TO FILL VACANCY; NOTICE

Section 10. If there is a failure at an election to choose a town officer, except a selectman, or if a person chosen shall not accept such office, or if a vacancy shall occur, the town may at any meeting elect a person to such office.

If, at an election of town officers for which official ballots are used, there is a failure to elect a town officer, he may be elected at an adjourned or succeeding meeting; and ballots shall be prepared and furnished for such meeting, containing the nominations already made and such as may subsequently be made for the office.

The proceedings in such election and the qualifications of a person to be elected or appointed in case of failure to elect, refusal to accept or vacancy shall be the same as in an original election.

If there is a failure to elect or a vacancy occurs in the office of selectman, the remaining selectmen or selectman may call a special election to fill the vacancy and shall call such election upon the request in writing of two hundred registered voters of the town, or twenty per cent of the total

number of registered voters of the town, whichever number is the lesser; provided, that such request is filed with them or him not less than one hundred days prior to the date of the next annual election.

If there is a resignation of a town officer creating a vacancy at some later time certain, and such resignation is filed with the town clerk in accordance with the provisions of section one hundred and nine, said town clerk shall certify a vacancy shall occur at the later time certain and the board of selectmen may call a special election as provided in this section; provided, however, that no such election may be held prior to the effective date of the resignation creating such vacancy.

No election shall be held for any office pursuant to this section unless the selectmen file with the town clerk notice of an election for such office not less than fifteen days before the last day to submit nomination papers to the registrars of voters for certification, before the election or any preceding primary, caucus, or preliminary election.

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Section 11	APPOINTMENT TO FILL VACANCY IN TOWN OFFICE

Section 11. As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.

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Chapter 41	OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS
Section 81A	PLANNING BOARD; ESTABLISHMENT; MEMBERSHIP; TENURE; VACANCIES

Section 81A. Any city except Boston, and, except as hereinafter provided, any town may at any time establish a planning board hereunder. Every town not having any planning board shall, upon attaining a population of ten thousand, so establish a planning board under this section. A planning board established hereunder shall consist of not less than five nor more than nine members. Such members shall in cities be appointed by the mayor, subject to confirmation by the city council and in towns be elected at the annual town meeting or be appointed in such manner as an annual town meeting may determine; provided, that a town which has a planning board established under section seventy may, at an annual town meeting or at a special town meeting called for the purpose, vote to establish a planning board under this section and may provide that the members of the planning board then in office shall serve as members of the planning board under this section until the next annual town meeting. When a planning board is first established or when the terms of members of the planning board established under section seventy serving

as members of the planning board under this section expire, as the case may be, the members of the planning board under this section shall be elected or appointed for terms of such length and so arranged that the term of at least one member will expire each year, and their successors shall be elected or appointed for terms of three or five years each as determined by the city council in the case of a city and by the town meeting in the case of a town. Any member of a board so established in a city may be removed for cause, after a public hearing, by the mayor, with the approval of the city council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term, in a city, in the same manner as an original appointment, and, in a town, if the members of the board are appointed, in the same manner as the original appointment. If the members of a planning board are elected, any unexpired term shall be filled by appointment by the board of selectmen and the remainder of the members of the planning board until the next annual election, at which time, such office shall be filled, by election, for the remainder of the unexpired term. All appointments pursuant to this section shall be in the manner provided in section eleven. Such a board shall elect annually a chairman and a clerk from among its own number, and may employ experts and clerical and other assistants. It may appoint a custodian of its plan and records, who may be the city engineer or town clerk. No member of a planning board shall represent before such board any party of interest in any matter pending before it.

Towns of less than ten thousand inhabitants, having no planning board established under this section may, by vote of the town meeting, authorize the board of selectmen to act as a planning board under this

section until such a board is established; provided, that any such town, upon attaining a population of ten thousand, shall establish a planning board hereunder.

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Section 45	BOARD OF COMMISSIONERS OF TRUST FUNDS; MEMBERSHIP; POWERS AND DUTIES

Section 45. Any city or town, except Boston, may create a board of commissioners of trust funds, consisting of three persons who shall have the management of all trust funds given or bequeathed for the benefit of the town or the inhabitants thereof, unless the donor in making the gift or bequest shall otherwise provide. In cities the commissioners shall be appointed by the mayor and confirmed by the council. In towns they shall be elected in the same manner as other town officers. At the time of creating said board there shall be appointed or elected one member for one year, one member for two years, and one member for three years; and there shall be appointed or elected annually thereafter one member for three years. Vacancies shall be filled by the mayor, with the approval of the council, or by the selectmen.