

DRAFT – AN ACT ESTABLISHING THE POSITION OF TOWN MANAGER IN THE TOWN OF WAYLAND – DRAFT

Be it enacted, etc., as follows:

SECTION 1. DESIGNATION OF ELECTED OFFICIALS

(a) Upon the effective date of this act, the registered voters of the town of Wayland shall, in accordance with any applicable laws, bylaws, votes of the town or inter-local agreement continue to elect the following:

- (i) members of the select board;
- (ii) town moderator;
- (iii) town clerk;
- (iv) school committee members;
- (v) assessors;
- (vi) planning board members;
- (vii) board of health members;
- (viii) commissioners of trust funds;
- (ix) library trustees;
- (x) members of the board of public works;
- (xi) recreation commissioners; and
- (xii) housing authority members.

(b) The powers, duties and responsibilities of elected and appointed officials shall be as provided by applicable General Laws, special acts, bylaws, and votes of the town, except as otherwise expressly provided herein.

(c) Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available at reasonable times to the select board or town manager for consultation, conference, and discussion on matters relating to their respective offices.

SECTION 2. POWERS AND DUTIES OF THE SELECT BOARD

(a) The executive powers of the town shall be vested in the select board, who shall have all the powers given to boards of selectmen in the General Laws.

(b) The select board shall consist of 5 persons elected by the voters of the town. The term of each member of the select board shall be 3 years. The select board shall annually elect a chairperson from among its members.

(c) The select board shall serve as the chief goal-setting and policy-making body of the town. The select board shall set guidelines and policy directives that are to be implemented by the town manager and by other officers and employees appointed by or under its authority. The select board shall have the power to enact rules and regulations to implement policies and to issue interpretations of the rules and regulations.

(d) The select board shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town. The select board shall not normally administer the day-to-day affairs of the town.

(e) The select board shall appoint the town manager, town counsel, independent auditor, assistant or

special counsels, and all members of committees, boards, and commissions, except those positions that are elected by the voters or as otherwise expressly provided herein. The select board may make appointments to all positions and committees the select board creates for special or general purposes.

(f) The select board shall have oversight of such boards, committees, positions, or commissions appointed by the select board.

(g) The select board shall have the responsibility and authority for licenses and other non- personnel related functions as provided by the General Laws and the bylaws of the town.

(h) The select board shall be responsible for and shall approve the form and content of all town meeting warrants before such warrants are issued.

(i) The select board shall be responsible for establishing and maintaining written procedures for the preparation of the budget. The selectmen shall annually issue 1 or more written budget messages, including fiscal guidelines and the timeline, at the beginning of each budget cycle or at a time established by the town bylaws.

(j) The select board shall review the annual proposed budget prepared by the town manager and make revisions the select board deems advisable. The town manager shall present the budget as approved by the select board to the finance committee. The finance committee shall consider the budget proposed, shall establish the amounts which should, in its opinion, be appropriated for the ensuing fiscal year, shall add thereto such explanations and suggestions as it deems expedient, and shall report to the town meeting, in print or otherwise, such recommendations as it deems best for the interests of the town.

SECTION 3. APPOINTMENT OF THE TOWN MANAGER

(a) The select board shall appoint, by an affirmative vote of at least 4 members, a town manager who shall be the chief administrative officer of the town. The select board shall appoint the town manager solely on that person's executive and administrative qualifications. The town manager shall be a professionally qualified person of proven ability, especially fitted by education, training, and previous experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

(b) The town manager shall devote full time to the duties of the office and shall not engage in any other business or occupation during the term of employment by the town, unless such action is approved in advance, in writing, by the select board. The town manager shall hold no elective office in the town while serving as town manager, but the select board may appoint the town manager to any non-elective office or position consistent with the responsibilities of the town manager.

(c) The select board may enter into a formal contract with the town manager and may set contract terms that shall have precedence over any town personnel bylaws. The select board shall set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.

(d) No member or former member of the select board shall be eligible to be appointed to the position of the town manager within 15 months of termination of such member's service.

(e) Before entering upon the duties of the office, the town manager shall be sworn, in the presence of a majority of the members of the select board, to the faithful and impartial performance thereof by the town clerk or a notary public.

(f) The town manager shall execute a bond in favor of the town for the faithful performance of the town manager's duties in such sums and with such sureties as may be fixed and approved by the select board, the cost for which will be borne by the town.

(g) The select board shall provide for an annual review of the job performance of the town manager.

SECTION 4. REMOVAL OF TOWN MANAGER

- (a) The select board, by an affirmative vote of at least 4 members, may remove the town manager. At least 30 days before such removal shall be effective, the select board shall file a preliminary written resolution with the town clerk setting forth reasons, if any, for the proposed removal, a copy of which shall be delivered to the town manager.
- (b) The town manager may reply in writing to the resolution and may request, in writing, a public hearing; provided, however, that the request for a hearing shall be received by the town clerk not later than 10 days after the town manager's receipt of the resolution. If the town manager so requests, the select board shall hold a public hearing not earlier than 10 days nor later than 20 days after the filing of such request.
- (c) Following the public hearing or, if none, at the expiration of 30 days following the filing of the preliminary resolution, the select board may adopt a final resolution of removal.
- (d) As part of the preliminary resolution, the select board may suspend the town manager from duty.
- (e) Nothing contained herein shall limit the authority of the select board to suspend or remove the town manager as provided by the laws of the commonwealth.
- (f) The select board shall determine if such suspension shall be with or without pay.

SECTION 5. ABSENCE OR VACANCY OF TOWN MANAGER

- (a) During a temporary absence, not to exceed 30 days, the town manager shall designate by a letter filed with the chair of the select board, a temporary town manager to perform the duties of the office. Such delegation shall be limited to those matters not allowing for delay during the town manager's absence.
- (b) If, in the sole opinion of the select board, the town manager's designee is unable to effectively perform the duties of the office during the temporary absence of the town manager, the select board shall appoint a person to perform the duties of the office; provided, however, that those duties shall be limited to those matters not allowing for delay during the town manager's absence.
- (c) During an absence of the town manager for 30 or more days, due to disability, illness, or other similar circumstance, the select board shall appoint an acting town manager for the duration of the extended absence. Such designation will cease upon the return of the town manager.
- (d) If the individual serving as acting town manager is a town officer or employee, the individual shall return to the position held prior to being appointed as the acting town manager.
- (e) No member of the select board shall serve as acting town manager.
- (f) If the select board determines, by majority vote of the full membership, that the town manager will be unable to resume the duties of the job for any reasons, including, but not limited to, resignation, termination, or illness, the office of town manager shall be filled as soon as practical by the select board, provided that the select board may appoint an acting town manager to serve until a town manager is appointed. The duties of an acting town manager shall be limited to those matters not allowing for delay and shall include the authority to make temporary, emergency appointments or designations to town office or employment, but not to make permanent appointments or designations.

SECTION 6A. ADMINISTRATIVE RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

- (a) The town manager shall be the chief administrative officer of the town and shall be responsible to the select board for the effective management of all town affairs placed in the town manager's charge

by this act, by the select board, by bylaws, or by vote of the town meeting, and for the implementation of town policies placed in the town manager's charge by the select board.

(b) The town manager shall supervise all town departments, with the exception of the school department, and shall direct day-to-day affairs of the town.

(c) The town manager shall be responsible for assuring that the budget is administered as adopted by town meeting and in accordance with the General Laws, this act, and the town bylaws.

(d) The town manager shall advise the select board of all matters requiring action by the select board or by the town.

(e) The town manager shall, in consultation with the personnel board, oversee the town's personnel system and staff in accordance with the town bylaws, and shall oversee personnel evaluation policies and practices, enforcement of labor contracts, labor relations, collective bargaining, and all applicable state and federal regulations relating to employment. The town manager may appoint a human resources director to assist with these human resources duties.

(f) The town manager shall attend all meetings of the select board, except when excused, and shall have the right to speak but not vote. The town manager shall attend all annual and special town meetings and shall be permitted to speak when recognized by the moderator.

(g) The town manager shall administer, either directly or through a person appointed by the town manager in accordance with this act, the General Laws and special acts applicable to the town, all town bylaws, and all rules and regulations established by the select board.

(h) The town manager shall have access to all information necessary for the proper performance of the duties of town manager in accordance with the town bylaws, except for attorney-client privileged information that is provided to or by the select board, unless the select board specifically authorizes such access.

(i) The town manager may, without notice, cause the affairs of any division or department, except the school department, or the conduct of any officer or employee thereof, to be examined.

(j) The town manager shall keep the select board fully informed regarding all departmental operations, fiscal affairs, town priorities and concerns, and administrative actions, and shall submit periodic reports summarizing such matters to the select board.

(k) The town manager shall coordinate the activities among boards, commissions, and committees concerned with long-range municipal planning, including physical or economic development and environmental or resource protection of the town.

(l) The town manager shall be responsible for the maintenance all town buildings, property, and facilities, except those under the jurisdiction of the school department, unless requested by the school committee. The town manager shall develop, keep, and annually update a full and complete inventory of all property of the town, both real and personal.

(m) Under subsection (h) of section 2, the town manager shall be responsible for the preparation of all town meeting warrants in accordance with the town bylaws and distribute, or cause to be distributed, copies of town meeting warrants to the residences of all registered voters of the town.

(n) Upon request, and with the approval of the select board, the town manager shall prosecute, defend, or compromise all litigation to which the town is party.

(o) The town manager shall keep full and complete records of town manager's office and annually submit to the select board a full written report of the operations of the office.

(p) The town manager may authorize any subordinate officer or employee to exercise any power or perform any function or duty which the town manager is authorized to perform; provided, however, that all acts which are performed under any such delegation shall be deemed to be acts of the town manager.

SECTION 6B. FINANCIAL RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

- (a) The town manager shall be the chief financial officer of the town.
- (b) The town manager may, at the town manager's discretion and with the approval of the select board, establish a consolidated department of finance responsible for the coordination and overall supervision of all fiscal and financial affairs of all agencies of town government and may appoint a director of finance; provided, however, that the terms of persons holding the position of accountant, treasurer/collector, and director of assessing on the effective date of this act shall not be reduced by reason of the consolidation.
- (c) The town manager shall be responsible for controlling all appropriated budget expenditures, which includes the power to approve or reject all warrants, including payroll, for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.
- (d) The town manager shall be responsible for the preparation of the proposed operating budget to be included in the annual town meeting warrant. The proposed budget shall be prepared in accordance with the most current budget process by the date set pursuant to subsection (i) of section 2 as approved by the select board.
- (e) The town manager shall submit to the select board, by the date established pursuant to subsection (i) of section 2, a written proposed budget for the ensuing fiscal year.
 - (1) The proposed budget shall describe all actual or estimated revenue from all sources, and all actual or proposed expenditures, including debt service, for the previous, current, and ensuing fiscal years.
 - (2) The proposed budget shall detail all estimated expenditures for current operations during the ensuing fiscal year, detailed by agency, department, committee, purpose, and position.
 - (3) In addition, the town manager shall prepare a 5-year forecast, and include both as part of the proposed annual budget.
 - (4) For the purpose of preparing the budget for the ensuing fiscal year, the town manager shall include an estimate of revenues to be collected and free cash available at the close of the current fiscal year, including estimated balances in special accounts.
 - (5) The town manager shall report on the estimated funds required to be levied and raised by taxation to defray all expenses and liabilities of the proposed budget together with an estimate of the tax rate necessary to raise such amount and include the information in the proposed budget.
- (f) The town manager shall submit a preliminary budget to the select board and the finance committee pursuant to the budget process set forth in subsection (i) of section 2. The preliminary budget shall be submitted not later than 70 days prior to the date of the annual town meeting.
- (g) To assist the town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing, in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.
- (h) The town manager shall keep the select board informed regarding the availability of federal and state funds and how such funds might relate to the town's current and long-range needs.
- (i) The town manager shall be responsible for filing all grant applications.
- (j) After the close of each fiscal year and after the certification of free cash by the department of revenue, the town manager, as soon as practicable, shall cause to have prepared audited financial statements. Upon completion of the audit, the town manager shall promptly distribute the statements to the select board and the finance committee.

SECTION 6C. APPOINTMENT RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

(a) The town manager shall appoint, based upon merit and qualifications alone, and may remove, all department heads, officers, subordinates, and employees for whom no other method of selection is provided in the charter, except employees of the school department and employees identified in subsection (c) of this section.

(b) Appointments proposed by the town manager, except as noted in subsection (e) of this section, shall become effective on the 15th day following the day on which notice of the proposed appointment is filed at a select board meeting, unless the select board shall, within such period and by a majority vote, vote to reject such proposed appointment, or has sooner voted to affirm it.

(c) The town manager shall appoint, based upon merit and qualifications:

- i. a director of assessing, with the consent of the board of assessors;
- ii. a town planner, with the consent of the planning board;
- iii. a director of public health, with the consent of the board of health;
- iv. a library director, with the consent of the board of library trustees.
- v. a recreation director, with the consent of the recreation commission; and
- vi. a director of public works, with the consent of the board of public works.

For the purposes of this section, consent shall mean that each multiple-member body cited herein shall interview job candidates and make appointment recommendations to the town manager. The town manager shall not make an appointment under this section without the consent of the multiple-member body cited herein. In the case of employees appointed under this section, the town manager shall inform the chair of the appropriate multiple-member body prior to the commencement of any disciplinary action or termination process, except in cases of an emergency, and provide an opportunity to the chair to confidentially comment on the proposed action directly to the town manager.

(d) Relative to appointments made by the town manager under subsection (c) of section 5-5, the policies established by each multiple-member body derived directly from statutory authority shall be the non-administrative policy adhered to by the town manager and the town manager's staff.

(e) Appointments made by the town manager under subsection (c) of this section shall be effective immediately and shall not be subject to rejection by vote of the select board.

SECTION 6D. COLLECTIVE BARGAINING RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

(a) The town manager shall negotiate collective bargaining contracts on behalf of the select board; provided, however, that such contracts shall be subject to approval, ratification, and execution by the select board.

(b) The select board may authorize use of additional counsel or persons to assist the town manager in the negotiations at its discretion.

SECTION 6E. PROCUREMENT RESPONSIBILITIES AND POWERS OF THE TOWN MANAGER

The town manager shall be the chief procurement officer, pursuant to chapter 30B of the General Laws and all other applicable statutes, procedures, and bylaws, shall be responsible for purchasing for all

town functions and departments, and shall award all contracts needed for the operation of all town functions and departments, except for the school department, unless otherwise specifically requested by the school committee.

SECTION 7. ORGANIZATION OF AGENCIES

The town manager may reorganize, consolidate, establish, or abolish any department or position under the town manager's direction or supervision at the town manager's discretion and with the select board's approval. With the approval of both the select board and finance committee, the town manager may transfer all or part of any unexpended appropriation of a discontinued department, board, or office to any other town department, board, or office under the select board's jurisdiction.

SECTION 8. CONTINUATION OF EXISTING LAWS, CONTRACTS, AND EMPLOYMENT

(a) All laws, bylaws, votes, rules and regulations whether enacted by authority of the Town or any other authority, which are in force in the Town of Wayland on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, bylaws, votes, rules and regulations, respectively.

(b) No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

(c) Any person holding a town office or employment under the Town shall retain such office or employment and shall continue to perform the office or employment's 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 who continues in the permanent full-time service or employment of the Town shall forfeit pay grade or time in service.

SECTION 9. DISPOSITION OF CERTAIN SPECIAL LAWS

The following special laws, and any amendment thereto, which were enacted for special purposes and were limited in time by their own provisions, are hereby recognized as obsolete and are to stand repealed, but all acts taken under the authority of the said special laws is hereby preserved: [put list here]

SECTION 10. SUBMISSION TO VOTERS

This act shall be submitted to the voters of the Town of Wayland for acceptance at an annual or special town election in the form of the following question:

"Shall an act passed by the General Court in the year 2018 titled 'An Act Relative To The Position Of Town Manager In The Town Of Wayland,' be accepted?"

The Town shall include below the ballot question a fair and concise summary thereof prepared by town counsel and approved by the select board. If a majority of votes cast in answer to this question is in the

affirmative, Sections 1 through 9 of this act shall take effect sixty (60) days following acceptance by the voters.

SECTION 11. TIME OF TAKING EFFECT

Section 10 of this act shall take effect upon its passage.

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