

## THE COMMONWEALTH OF MASSACHUSETTS

*In the Year One Thousand Nine Hundred and Ninety-four*

AN ACT ESTABLISHING A BOARD OF SELECTMEN-TOWN MANAGER FORM OF ADMINISTRATION IN THE TOWN OF SUDBURY.

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 following shall be the charter of the town of Sudbury.

PART I. INCORPORATION AND AUTHORITY.

Section 1. Incorporation continued.

The inhabitants of the Town of Sudbury, 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 Sudbury.

Section 2. Short title.

This instrument may be cited and shall be known as the Sudbury Home Rule Charter Act.

Section 3. Powers of the town.

The intent and purpose of this act is to secure for the voters of the town of Sudbury, 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 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.

PART II. LEGISLATIVE BRANCH.

Section 4. Town meeting.

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

PART III. CHIEF EXECUTIVE FUNCTION.

Section 5. Board of selectmen.

(a) Composition, term of office.

There shall be a board of selectmen composed of three members elected for terms of three years each, so arranged that the term of one member shall expire each year.

(b) Powers and duties.

The executive powers of the town shall be vested in the board of selectmen. The board of selectmen 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 board of selectmen 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 board of selectmen shall be the chief policy making board of the town and shall act by the issuance of policy statements and guidelines to be followed and implemented by all town agencies serving under the board.

The board of selectmen shall be the licensing authority of the town and shall have power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

To aid the board of selectmen in the conduct of its official business and duties, the board of selectmen shall appoint a town manager.

(c) Appointment powers.

The board of selectmen shall appoint a town manager, town counsel, and town accountant. The board of selectmen shall also appoint all boards, committees, and commissions except as otherwise provided by this act, by by-law or other vote of the town meeting and such other regional authorities, districts, or committees in accordance with any applicable laws, or interlocal agreement.

PART IV. ADMINISTRATIVE OFFICER/TOWN MANAGER.

Section 6. Appointment, qualifications for the town manager.

The board of selectmen shall appoint a town manager who shall serve at the pleasure of the 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 board of selectmen. Pending the appointment of a town manager or the filling of any vacancy, the board of selectmen 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 board of selectmen may designate a qualified person to serve as acting town manager and to perform the duties of the town manager during such temporary absence or disability. The town manager shall receive such compensation for services as the board of selectmen shall determine, but such compensation shall not exceed the amount appropriated therefor by the town.

Section 7. General responsibilities of the town manager.

The town manager shall be the chief administrative officer of the town, shall act as the agent for the board of selectmen and shall be responsible to the board of selectmen 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 board of selectmen, 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 town meeting vote, or by vote of the board of selectmen. 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 8. Appointment responsibilities.

Except as otherwise provided by this act, the town manager shall appoint, based upon merit and fitness alone, a director of finance, a police chief, a fire chief, a town clerk, a treasurer-collector, a director of assessing, a director of public works and all department heads and officers, subordinates, and employees under the direct supervision of the town manager and officers, subordinates, employees for whom no other method of selection is provided in this act, except employees of the school and health departments. The town manager may appoint ad hoc committees as is deemed necessary.

Section 9. Personnel management responsibilities.

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 personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all municipi-

pal 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 and/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 employees of the school department; such contracts shall be subject to the approval of the board of selectmen. The town manager may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties.

Section 10. Financial management responsibilities.

The town manager, with the assistance of the finance director and the treasurer-collector, shall be responsible for all the financial management functions of the town, unless otherwise provided by this act. Such functions shall include, but are not intended to be limited to, the following:

(a) to prepare and submit, after consultation with all town departments, an annual operating budget and capital improvement program for all town departments.

(b) to insure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the board of selectmen 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 books and other educational materials for schools and books and other media materials for libraries. The town manager shall award all contracts for all town departments with the exception of the school and health departments, subject to the approval of the board of selectmen.

(e) to keep the board of selectmen and finance committee fully informed as to the financial condition of the town and to make recommendations to the board of selectmen and to other elected and appointed officials as the town manager deems necessary or expedient.

(f) to prepare, annually, a financial forecast of town revenue; expenditures and the general financial condition of the town.

Section 11. Administrative responsibilities.

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

(a) to attend all regular and special meetings of the board of selectmen, 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 general supervision of the town manager.

(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 votes of the town meeting.

(d) to investigate or inquire into the affairs of any town department or office, under the supervision of the town manager.

(e) to coordinate activities of all town departments, officers, boards or commissions of the town.

(f) to keep the board of selectmen fully informed as to the needs of the town requiring action by them, 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.

(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 board of selectmen.

PART V. ADMINISTRATIVE ORGANIZATION.

Section 12. General power to reorganization.

The town manager may reorganize, consolidate or abolish, create, merge, or divide, alter the term of office, the manner of selection of any town department, office, agency or function under the jurisdiction of the town manager.

The board of selectmen may reorganize, consolidate or abolish, create, merge, reassign responsibilities and duties or divide, alter the term of office, the number of members, the manner of selection, of any board, commission or committee of the Town under the jurisdiction of the board of selectmen.

Section 13. Department of public works.

Until such time as another form of organization is provided for in accordance with section twelve of this act, there shall be established a department

of public works. The department of public works shall be charged with responsibility for the management of public works operations of the town including, but not limited to, the following: highways; solid waste and recycling activities; maintenance of cemeteries, town property, open space, public memorials, and commons; engineering services; building maintenance of all town buildings, except those of the school department; maintenance of vehicles and equipment; and other operations, and functions as may be deemed necessary or desirable. The department of public works shall also perform such functions and responsibilities as required by bylaw, vote of the town meeting or upon direction of the town manager or board of selectmen. The functions of the highway surveyor and the tree warden shall be incorporated into the department of public works. The town manager shall appoint a director of public works. The director shall be especially fitted by education, training and experience to perform the duties of the office; the director shall have such other qualifications as the town manager may from time to time provide.

Until such time as another form of organization is provided for in accordance with section twelve of this act, personnel responsible for building inspection and zoning enforcement, electrical, gas and plumbing inspection shall be under the direction of the director of public works.

PART VI. ELECTED TOWN OFFICERS.

Section 14. Elected town officials.

The registered voters of the town of Sudbury shall, in accordance with any applicable laws, by-laws, votes of the town, or interlocal agreement continue to elect the following:

Board of assessors

Board of health

Board of selectmen

Moderator

School committee

Library trustees

Planning board

Housing authority

Park and Recreation commission

Other such regional authorities, districts, or committees as may be established by law or interlocal agreement.

Section 15. Transition provisions.

(a) Upon the adoption of this act the incumbent serving as town clerk, shall continue to serve in said office for the balance of the term for which the town clerk was elected. Thereafter, the town clerk shall be appointed in accordance with this act.

(b) Upon the adoption of this act the incumbent serving as highway surveyor shall continue to serve in said office for the balance of the term for which elected. Upon the expiration of said term of office or if a vacancy shall sooner occur, the functions of the office shall be transferred to the department of public works.

(c) The incumbents serving as constables 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 board of selectmen.

(d) The department of public works shall become operational thirty days after the appointment of the director of public works.

(e) Within six months of the effective date of this act the board of selectmen shall appoint a town manager.

PART VII. GENERAL PROVISIONS.

Section 16. Severability.

The provisions of this act are severable. If any of the provisions of this act are held to be unconstitutional or invalid, the remaining provisions of this act shall not be affected thereby.

Section 17. Existing law.

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 Sudbury on the effective day 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, by-laws, votes, rules and regulations, respectively.

Nothing contained herein shall impair contractual rights established prior to the adoption of this act, or any amendment thereto.

Section 18. Existing employees.

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 perma-

ment full-time service or employment of the town shall forfeit pay grade for time in service.

SECTION 2. The state secretary shall cause the following question to be placed on the official ballot to be used in the town of Sudbury at the biennial state election to be held in the year nineteen hundred and ninety-four: "Shall an act passed by the general court in the year nineteen hundred and ninety-four, entitled 'An act establishing a board of selectmen-town manager form of administration in the town of Sudbury', be accepted?" If a majority of the voters voting on this question shall vote in the affirmative, said act shall take effect immediately. If a majority of the voters voting on this question shall vote in the negative, this act shall thereupon become void.

SECTION 3. Section 2 shall take effect upon its passage.



**Acts****2012****Chapter 410** AN ACT INCREASING THE BOARD OF SELECTMEN MEMBERSHIP IN THE TOWN OF SUDBURY FROM THREE TO FIVE.

*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. Section 1 of chapter 131 of the acts of 1994 is hereby amended by striking out subsection (a) of section 5 of part III and inserting in place thereof the following subsection:-

(a) There shall be a board of selectmen composed of 5 members elected for terms of 3 years each, so arranged so that the term of at least 1 member shall expire each year.

SECTION 2. Notwithstanding any general or special law to the contrary, section 1 shall take effect upon the approval by a majority of registered voters in the town of Sudbury voting on this question at the next election held as part of the annual town meeting. Upon approval, additional selectmen shall be elected at either the annual election of 2014 or through a special election, which may be called by the board of selectmen or shall be called by the board of selectmen upon the request, in writing, of 10 per cent of the total number of registered voters in the town.

If the election is held as part of the annual election in March 2014 3 selectmen shall be elected, 1 for 2 years and 2 for 3 years, with terms expiring on the last day of the appropriate annual town meetings, and thereafter the elections shall be for a term of 3 years.

If a special election is held prior to the March 2014 annual election 2 selectmen shall be elected, 1 for a term of not more than 2 years, ending no later than the last day of the annual town meeting in 2015, and 1 for a term of not more than 3 years, ending no later than the last day of the annual town meeting in 2016, and thereafter the elections shall be for a term of 3 years. Said election shall occur no later than the election held as part of the annual town meeting in 2014.

SECTION 3. This act shall take effect upon its passage.

*Approved, January 4, 2013.*