

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 Year Two Thousand and Nine

AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF HANOVER.

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. CONTINUATION OF EXISTING GOVERNMENT

(A) Continuation of Existing Laws

All laws, by-laws, rules and regulations of or pertaining to the town of Hanover which are in force on the effective date of this act and which are not inconsistent with the provisions of this act, shall continue in full force and effect until amended or repealed. Elected and appointed officers, boards, commissions and committees shall have all of the powers, duties and responsibilities, which are in force on the effective date of this act that are not inconsistent with this act, which are given to the respective officers, boards, commissions and committees by law, this act, town by-law or by vote of town meeting.

If any provision of this act conflicts with any provision of any law, by-law, rule or regulation of the town of Hanover, this act shall govern.

(B) Continuation of Personnel

Any office or position in the administrative service of the town of Hanover and incumbents in such offices, on the effective date of this act shall continue to function as the office, position or incumbent did previously until a change in such office, position or incumbent is effected in accordance with the provisions of this act.

SECTION 2. BOARD OF SELECTMEN

(A) Composition

There shall be a board of selectmen consisting of 5 members elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

(B) Vacancy in Office

Vacancies in the office of selectmen shall be filled by a special election in accordance with the provisions of the General Laws.

(C) Executive Powers

The executive powers of the town shall be vested in the board of selectmen which shall serve as the chief policy making body of the town.

(1) The board of selectmen shall have all of the executive powers given to boards of selectmen by the General Laws except for those granted to the town manager. The board of selectmen shall be authorized to enter into intergovernmental or public or private agreements on such terms as it deems beneficial to the citizens of the town of Hanover.

(2) The board of selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it, and in conjunction with other elected town officers and multiple member bodies to develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the board of selectmen, or a majority of such members, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the board of selectmen shall act only through the adoption of broad policy guidelines, which are to be implemented by officers and employees serving under it.

(3) The board of selectmen shall cause the by-laws, rules and regulations for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

(4) The board of selectmen shall appoint the town manager and town counsel, and approve the hire of the town audit firm, which shall be chosen by the town manager.

(5) The board of selectmen shall be the licensing board of the town and shall have the 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. The board of selectmen shall enforce the laws relating to all businesses for which it issues such licenses. The board of selectmen under this act may delegate or reorganize any local licensing authority or process notwithstanding any general laws relating to local governance to the contrary.

(6) The board of selectmen shall be responsible for providing timely audits as required by law. The audits shall be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the town government of the town of Hanover or any of its officers.

SECTION 3. TOWN MANAGER

(A) Appointments, Qualifications, Terms of Office and Employment

(1) Appointment

After the establishment of the 5-member board of selectmen, there shall be established in the town of Hanover the office of town manager, who shall be

appointed by the board of selectmen for a term not to exceed 3 years, as the board may determine, and may be appointed for successive terms of office.

(2) Qualifications

The town manager shall be a person of demonstrated ability with administrative experience in public management or business administration and who is qualified by reason of education and experience.

(3) Terms of Office

The town manager shall devote full-time to the duties of said office and shall not engage in any other business or occupation during such employment by the town. The town manager shall hold no elective office in the town while serving as town manager, but the board of selectmen may appoint the town manager to any non-elective office or position consistent with the responsibilities of the town manager. Before entering upon his duties, the town manager shall be sworn to the faithful and impartial performance thereof by the town clerk. The town manager shall not have served in an elected office for the town of Hanover for at least 24 months prior to his appointment.

(4) Terms of Employment

(a) Additional Qualifications

The board of selectmen may, from time to time, establish additional qualifications for the position of town manager. To the extent permitted by law, the terms of the town manager's employment may be the subject of a written agreement between the parties setting forth the length of service, compensation, annual review, vacation, sick leave, benefits and such other matters, excluding tenure, as are customarily included in an employment contract.

(b) Compensation

The board of selectmen shall set the compensation of the town manager, not to exceed the amount appropriated by the town meeting.

SECTION 4. TOWN MANAGER - POWERS AND DUTIES

The town manager shall be the chief executive officer of the town. The town manager shall be responsible to the board of selectmen for the effective management of all town affairs placed in the town manager's charge by this act, the board of selectmen or vote of the town meeting. The town manager shall be responsible for the implementation of town policies established by the board of selectmen. The functions and duties of the town manager shall include, but not be limited to, the functions and duties in subsections (A), (B) and (C).

(A) Powers of Appointment

(1) As provided for in this act, the town manager shall appoint and remove all non-elected department heads, and approve the appointment and removal of all other employees except employees of the school department. The town manager shall consult with the appropriate elected or appointed board, commission, committee or official prior to making such department head appointments or removals. Appointments to such department head positions shall become effective on the twentieth day following the day notice of appointment or removal is filed with the board of selectmen, unless the board of selectmen shall, within that 20-day period, by at least a majority vote of the current elected members, vote to reject said appointment or removal, or sooner, by at least a majority vote of the current elected members, vote to affirm said appointment or removal.

(2) Department heads shall, subject to the consent and approval of the town manager, appoint or remove assistant department heads, officers, subordinates and employees, including employees serving under elected and appointed boards, commissions, committees and officials for whom no other method of selection is provided in this act, except employees of the school department; provided, however, that the department head shall consult with the appropriate elected or appointed board, commission, committee or official prior to making such appointments or removals. The town manager may transfer personnel between departments as needed.

(3) All appointments under this section shall be based on merit and fitness alone.

(4) Copies of notices of job opportunities and appointments shall be posted on the town bulletin board.

(B) Administrative Duties

The town manager shall:

(1) be responsible for the day-to-day supervision of all town departments and direction of the operations of the town; provided, however, that this section shall not apply to employees of the school department and to the statutory responsibilities and functions of the school committee;

(2) supervise, direct and be responsible for the efficient administration of all officers appointed by the town manager and their representative departments, and of all functions for which the town manager is given responsibility, authority or control by this act, by-law, town meeting vote, or vote of the board of selectmen;

(3) reorganize, consolidate or establish any department or position under the town manager's direction or supervision, at the town manager's discretion and with the board of selectmen's approval. With the approval of both the board of selectmen and advisory committee, the town manager may

transfer all or part of any unexpended appropriation of a reorganized or consolidated department, board or office to any other town department, board or office;

(4) administer, either directly or through a person that the town manger appoints, all provisions of general and special laws applicable to the town including federal and Massachusetts emergency management agencies' requirements, by-laws, votes of the town within the scope of the town manager's duty, and all policy rules and regulations made by the board of selectmen;

(5) establish control and data systems appropriate to monitoring expenditures by town boards and departments to enable the town manager to make periodic reports to the board of selectmen and the advisory committee on the status of the town's finances;

(6) develop and administer a personnel system, including, but not limited to, determination of rates of pay, the development and implementation of an ongoing training program, evaluation process, personnel and hiring policies, practices and regulations for town employees;

(7) manage and be responsible for all town buildings, properties and facilities, except those under the control of the school committee, parks and recreation department and conservation commission; provided, however, that the town manager may only maintain and repair school committee, parks and recreation department, open space committee and conservation commission buildings, properties and facilities to the extent the school committee, parks and recreation department or conservation commission may request and authorize same;

(8) attend and participate in all regular and special board of selectmen meetings and town meetings, unless excused therefrom by the board of selectmen;

(9) cause full and complete records of meetings of the board of selectmen to be taken and maintained, and compile reports of the meetings as requested by the board of selectmen;

(10) act as the liaison with, and represent the board of selectmen before, state, federal and regional authorities;

(11) subject to policies established by the board of selectmen, approve all warrants or vouchers, including payroll warrants, for payment of town funds submitted by the town accountant; provided, that any warrants generated by the town manager shall be signed by the board of selectmen;

(12) be responsible for approving all grants submitted on behalf of the town; and

(13) perform any other duties consistent with the office of the town manager as may be required by by-law or vote of the town or by vote of the board of selectmen.

(C) Financial Powers and Duties

(1) Budget

(a) The town manager shall prepare and submit at a public meeting to the board of selectmen and advisory committee, not later than 90 days prior to the annual town meeting, a written proposed balanced budget for town government, including the school department, for the ensuing fiscal year.

(b) The proposed budget shall detail all estimated revenues from all sources, and all expenditures, including debt service for the previous, current and ensuing year.

(c) It shall include proposed expenditures for both current operations and capital during the ensuing year, together with estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts.

(d) The town may, by by-law, establish additional financial reports to be provided by the town manager.

(e) To assist said town manager in preparing the proposed annual budget of revenues and expenditures, all boards, officers, and committees of the town, including the school committee shall, within the time frame requested by the town manager, furnish all relevant information in their possession and submit to the town manager, in writing and in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.

(2) Collective Bargaining

(a) The town manager shall negotiate collective bargaining contracts on behalf of the board of selectmen, which contracts shall be subject to approval, ratification and execution by the board. The board of selectmen may authorize use of additional counsel, as requested by the town manager to assist the town manager in the negotiations at its discretion.

(b) The town manager shall administer and enforce collective bargaining agreements, personnel rules and regulations, and by-laws adopted by the town.

(3) Procurement

(a) The town manager shall act as the chief procurement officer under the provisions of chapter 30B of the General Laws, and be responsible for the purchasing of all supplies, materials, and equipment for the town, including the bidding and awarding of all contracts, except for the school department.

SECTION 5. TOWN MANAGER - VACANCY

(A) Permanent Vacancy

The board of selectmen shall fill any permanent vacancy in the office of the town manager as soon as feasible in accordance with section 3 of this act. Pending the appointment of a town manager or filling of a vacancy, the board of selectmen shall, within a reasonable period of time, not to exceed 14 days, appoint some other qualified person to temporarily perform the duties of the town manager until a permanent replacement is appointed.

(B) Temporary Absence or Disability

(1) The town manager may designate by letter filed with the town clerk and board of selectmen a qualified officer of the town to perform the duties of town manager during a temporary absence or disability.

(2) If the absence or disability exceeds 30 days, any designation by the town manager shall be subject to approval by the board of selectmen. If the town manager fails to make such a designation, or if the person so designated is unable to serve, the board of selectmen may designate some other qualified person to perform the duties of town manager.

(3) Powers and Duties - The powers and duties of the acting town manager, under A and B (1) and B (2) above, shall be limited to matters not permitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment, but not to make permanent appointments or designations unless authorized by the board of selectmen.

SECTION 6. TOWN MANAGER - REMOVAL; SUSPENSION

The board of selectmen may terminate and remove or suspend the town manager by a majority vote of the entire board of selectmen. Prior to any termination or removal, or a suspension exceeding 5 days, notice shall be given and reasons for the proposed action shall be provided in writing to the town manager, and an opportunity shall be provided for the town manager to meet with the board of selectmen and respond to those reasons. After such meeting, if any, the board of selectmen may act by majority vote of the entire board of selectmen to terminate, remove or suspend the town manager.

SECTION 7. DEPARTMENT OF PUBLIC WORKS

There shall remain an elected board of public works consisting of 3 members serving 3-year staggered terms.

The superintendent of public works and town manager shall consult with the board of public works for the purpose of receiving advice and assistance in the development of policy guidelines for the operation of the department of public works, and the board of public works shall perform such other advisory functions related to the department of public works as the town manager or superintendent may request.

The authority of the special act, chapter 39 of the acts of 1930 creating the water commissioners, is hereby assumed by the town manager, except that changes in water rates shall be approved by the board of selectmen. The vote of the town of Hanover at the 1972 town election adopting the provisions of sections 69C to 69F, inclusive of chapter 41 of the General Laws, is hereby rescinded.

SECTION 8. TRANSITION PROVISIONS

(A) Addition to Board of Selectmen

At an annual election following the effective date of this act, 2 additional selectmen shall be elected 1 to a term expiring at the town election in the third year following the election at which this act was approved and 1 to a term expiring at the town election in the second year following the election at which this act was approved. Thereafter, as the terms of selectmen expire, a successor shall be elected for terms of 3 years.

(B) Town Administrator

The position of town administrator shall be abolished upon the assumption of office by the town manager. Should the position become vacant prior to the town manager assuming the duties of the office, the board of selectmen may appoint an acting town administrator to serve until the assumption of the duties of office by the town manager.

SECTION 9. This act shall take effect upon its passage.

House of Representatives, August 10, 2009.

Passed to be enacted,

Paul Donato Speaker.

In Senate, August 13, 2009.

Passed to be enacted,

Stanley G. Godden President.

20 August, 2009.

Approved,

at *10* o'clock and *10* minutes, *A*. M.

[Signature]
Governor.