

TOWN CHARTER

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

Upon the effective date of this act, the town of Tewksbury shall be governed by the provisions of this act. To the extent that the provisions of this act modify or repeal existing general laws and special acts or that body of law which constituted the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

SECTION 2.

The selectmen shall appoint the executive secretary, town counsel and except as otherwise provided by town bylaw, the members of all multimember boards, committees and commissions except those appointed by the moderator.

SECTION 3.

The school committee shall continue to be elected in conformity with the votes of the town meeting. All powers, rights and duties, except as herein provided, now or hereafter conferred or imposed by law upon the school committee, shall be exercised and performed by the school committee. Nothing in this act shall be construed to affect the powers and duties of the school committee as provided by law, except as specifically provided herein.

SECTION 4.

A member of the board of selectmen, or of the finance committee shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office. Any person appointed by the town manager to any town office under the provisions of this act or of any general or special law shall be eligible during the term of said office to appointment to any other town office, except that the town accountant shall not be eligible to hold the position of town treasurer or the position of town collector. The town manager, subject to any applicable provision of the General Laws relating thereto, may assume the duties of any office which he is authorized to fill by appointment.

SECTION 5.

After adoption of this act, the selectmen shall forthwith advertise for applicants to serve on a committee to be known as the "town manager screening committee". Relatives of, employees of or business associates of elected officials shall not serve as members of the town manager screening committee".

This committee shall be made up of five citizens of Tewksbury. Duties of this committee shall be to screen all applicants and to submit three applicants for consideration by the selectmen, of this group the selectmen shall appoint the town manager. Members of this committee shall be prohibited from holding elected or appointed positions in the town of Tewksbury. Employees of the town of Tewksbury shall be excluded from consideration as members of this committee.

The committee shall be appointed by the selectmen, for a one year term with no person to serve more than one consecutive term. Each selectman will appoint one member and in the event of a vacancy the selectman whose nominee vacates shall be filled by that selectman for the remainder of the unexpired term.

This committee shall convene in the event of a vacancy in the office of manager but shall not be involved in the process in the event of reappointment.

SECTION 5A.

The selectmen elected as provided herein shall appoint, by a four-fifths vote, as soon as practicable, a town manager who shall be a person especially fitted by education, training and experience to perform the duties of the office. The town manager shall be appointed without regard to his political beliefs. He need not be a resident of the town or of the commonwealth when appointed, but shall become a resident of the town or live within a ten mile radius of the town during the first year of his appointment. He shall possess at least a bachelors degree and five years experience as a city manager, assistant city manager, town manager, assistant town manager, or comparable position in government. A masters degree may be substituted for two years experience. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the

selectmen. The selectmen shall employ a town manager for renewable three year terms. During the first six months of his appointment, he shall be on a probationary period and may during said period be removed by the affirmative vote of at least four members of the board of selectmen at its convenience and without cause or hearing. Any person holding elective office in the town of Tewksbury shall be ineligible for appointment as town manager for a period of five years after leaving office.

SECTION 6.

Any vacancy in the office of town manager shall be filled as soon as possible by the selectmen. Pending the appointment of a town manager or the filling of any vacancy, the selectmen shall, within seven days, appoint a suitable person to perform the duties of the office.

SECTION 7.

The town manager may designate, by letter filed with the town clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. In the event of failure of the town manager to make such designation, the selectmen may, by resolution, designate an officer of the town to perform the duties of the town manager until he shall return or his disability shall cease.

SECTION 8.

The selectmen, by a four-fifths vote, may remove the town manager. At least thirty days before such proposed removal shall become effective, the selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for his proposed removal, a copy of which resolution shall be delivered to the town manager. The town manager may, within ten days of service of such resolution, reply in writing to the resolution and may request a public hearing. Service shall be deemed to have been accomplished by leaving a copy of such resolution at the town manager's last known abode. If the town manager so requests, the board of selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration the selectmen by a four-fifths vote of the full membership of the board, may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the town manager from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary during the period of consideration of the preliminary resolution. Upon the adoption of a final resolution of removal, the selectmen shall pay the town manager severance pay in the amount equal to one month's pay for each full year of service to the town, but in no event more than an amount equal to three month's pay.

SECTION 9.

The selectmen shall fix the salary of the town manager, subject to appropriation.

SECTION 10.

In addition to specific powers and duties provided in this act, the town manager shall have the general powers and duties enumerated in this section:

- (a) The town manager shall supervise and direct the administration of all departments, commissions, boards and offices except the board of selectmen, the school committee, election officers and the registrars of voters.
- (b) The town manager, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part, may establish such new departments, commissions, boards or offices as he deems necessary, and may transfer the powers and duties of one department, commission, board or office to another.
- (c) Except as otherwise provided by this act, the town manager shall appoint upon merit and fitness alone, and subject to the provisions of chapter thirty-one of the General Laws where applicable, may remove all officers and employees of the town, except employees of the school department; town officers and employees not subject to the provisions of said chapter thirty-one shall not be subject to the provisions of said chapter thirty-one shall not be removed by him except on ten days notice in writing, setting forth the cause of such removal.
- (d) Notwithstanding the provisions of this section one hundred and eight of chapter forty-one of the General Laws, but subject to all applicable provisions of chapter thirty-one of the General Laws, the town manager shall fix the compensation of all town officers and employees subject to removal by him.

- (e) The town manager shall attend all regular meetings of the board of selectmen except when excused by said board.
- (f) The town manager shall keep full and complete records of his office, and shall render as often as may be required by the selectmen, a full report of all operations during the period reported on.
- (g) The town manager shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.
- (h) With the exception of property under the jurisdiction of the school committee, the town manager shall have the jurisdiction over the rental and use of all town property and shall be responsible for the maintenance and repair of all town buildings. He shall be responsible for the preparation of plans and the supervision of work on existing buildings or the construction of new buildings.
- (i) The town manager shall be responsible for the purchase of all supplies and materials and equipment, except books and educational materials for schools and books and other media for libraries, and shall approve the award of all contracts for all departments of the town. He shall make purchases for departments not under his supervision only upon requisition duly signed by the head of such department.
- (j) The town manager shall administer either directly or through a person or persons appointed by him in accordance with this act all provisions of general and special laws applicable to said town, all bylaws and all regulations established by the selectmen.
- (k) The town manager shall have the authority to prosecute, defend and compromise all litigation to which the town is a party, and shall be the executive officer of the town as referred to in chapter two hundred and fifty-eight of the General Laws pertaining to the processing of claims against the town.
- (l) The town manager shall be the selectmen's agent for collective bargaining and may employ special counsel to assist him in the performance of these duties.
- (m) The town manager shall perform such other duties, consistent with his office, as may be required of him by the bylaws of the town or by vote of the selectmen or town meeting.
- (n) The town manager shall secure on or before December first of each year from all officers, boards and committees charged with equipment a list of all such equipment upon forms approved by the finance committee. Such list shall be filed with the town accountant who shall transmit them to the clerk of the finance committee.
- (o) The town manager shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

SECTION 11.

The town manager may without notice cause the affairs of any division or department under his supervision or the job related conduct of any officer or employee thereof to be examined. The town manager shall have access to all town books and papers for information necessary for the proper performance of his duties.

SECTION 12.

The board of public works is hereby abolished. The town manager shall succeed to all powers heretofore possessed or exercised by said board.

SECTION 13.

The town manager shall appoint the town accountant, chief assessor, town treasurer tax collector and all other town officials whose appointment or election is not specifically provided for herein. The town manager shall appoint, and may remove subject to all civil service laws where applicable, all department heads, all officers and all subordinates and employees for whom no other method of appointment is provided in this act, except persons serving under other elected agencies and appointments made by representatives of the commonwealth.

Appointments to permanent positions made by the town manager shall become effective on the fifteenth day following the day notice of appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority vote of the full board, vote to reject any such appointment.

SECTION 13A.

The building commissioner and assistant building commissioner shall be appointed by the town manager and the removal of the building commissioner or assistant building commissioner shall be by the town manager. Each may be removed for just cause but no such removal shall occur within ninety days following any town election in which there has been a change in the composition of the board of selectmen. Such building commissioner or assistant building commissioner shall be given written notice at least fourteen days prior to the building commissioner shall upon written request be granted a public hearing held by the board of selectmen shall, by a majority, vote either to confirm such removal or to reinstate the building commissioner or assistant building commissioner.

Said written request for a public hearing shall be made to the board of selectmen or through their office on or before the said date of removal. Said vote of the board of selectmen shall occur no later than seven days after the public hearing. If, after a written request for a public hearing, said hearing or said vote is not held as provided herein, the removed person shall be reinstated with full pay and benefits retroactive to the date of removal.

SECTION 13B.

The town manager shall appoint the town clerk. Notwithstanding any general or special law to the contrary, the town manager may remove, suspend or discipline the town clerk for just cause. The town clerk shall be given written notice at least 14 days prior to the date of removal, which shall specify the reasons for such removal. The town clerk shall, upon written request, be granted a public hearing held by the board of selectmen who shall vote to confirm such removal or to reinstate the town clerk by a majority vote.

The town clerk's written request for a public hearing shall be made to the board of selectmen on or before the date of removal. The vote of the board of selectmen shall occur not later than 7 days after the public hearing. If, after a written request for a public hearing, that hearing or vote fails to meet the standards in this section, the town clerk shall be reinstated with full pay and benefits retroactive to the date of removal.

SECTION 14.

The town treasurer tax collector shall receive as compensation a minimum of fifty percent of the salary of the town manager. The town accountant shall receive as compensation a minimum of thirty-three per cent of the salary of the town manager. The chief assessor shall receive as compensation a minimum of twenty-five (25) per cent of the salary of the town manager, or whatever such sum the town shall raise and appropriate as compensation at its annual town meeting.

SECTION 15.

After the adoption of this act, the registered voters of the town of Tewksbury shall, in accordance with any applicable laws, bylaws and votes of the town, continue to elect the following:

- (a) Moderator
- (b) Board of Selectmen
- (c) School Committee
- (d) Planning Board
- (e) Board of Health
- (f) Library Trustees
- (g) Representative to Shawsheen Regional and Vocational School District Committee
- (h) Housing Authority

The acceptance of this act shall not affect the term of office of any such elected member of such board, committee or authority. Every other elective office, board, committee, or commission of the town shall be terminated or shall become appointive as hereinafter provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board, committee or commission of the town, existing at the time of such acceptance and terminated hereunder, shall continue until the appointment of the town manager, and thereafter the said offices, boards, committees and commissions shall be abolished and all powers, duties and obligations conferred or imposed thereon by law, except as provided by this act, shall be conferred and imposed upon the town manager to the extent hereinafter provided. The term of office of any person elected to any office, board, committee or commission existing as an elected officer at the time of the acceptance of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of his successor.

The board of assessors shall consist of three members, to be appointed by the manager. The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable provisions of general laws, special acts, bylaws and votes of the town; except as otherwise expressly provided herein. The Trust Fund Commission shall consist of three (3) members to be appointed by the Board of Selectmen for a term of three (3) years. The term of office of the current members shall continue until the term for which that person was elected shall have expired or until the appointment and qualification of their successor.

The board of health shall be elected at the annual town election. The board shall consist of five (5) persons serving three (3) year terms with two (2) persons elected the first year, two (2) persons elected the second year and one (1) person elected the third year. For the purpose of implementation, the three (3) sitting members shall serve out their terms with two (2) open seats being filled at the next annual election, one (1) seat for three (3) years and the second for two (2) years.

Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to the town manager for consultation, conference and discussion on matters relating to their respective offices.

SECTION 15A.

- (a) Application Any person who holds an elected office with more than six months remaining of the term of office, may be recalled from the office by the voters in the manner provided in this section.
- (b) Recall Petitions One hundred and forty or more voters may file with the town clerk an affidavit containing the name of the office whose recall is sought and a statement of the grounds upon which the petition is based. The signatures on such petitions shall contain the names of at least twenty voters in each of the precincts.

If said petition is found to be valid the town clerk shall thereupon deliver to the ten persons first named on such petitions, petition blanks demanding such recall, printed on forms which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the town clerk within twenty days following the date they are issued, signed by at least fifty percent of the total number of persons voting at the previous annual town election.

The town clerk shall, within twenty-four hours following such filing with him, submit the petitions to the board of registrars of voters which shall within five days thereafter, certify thereon the number of signatures which are the names of voters.

- (c) Recall Elections If the petitions shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with his certificate to the board of selectmen. Upon its receipt of the certified petitions the board of selectmen shall forthwith give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign his office within five days following delivery of said notice, the board of selectmen shall order a special election to be held not less than thirty-five nor more than sixty days after the date of the certification of the town clerk that the petition is sufficient. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.
- (d) Nomination of Candidates An officer whose recall is sought may be a candidate to succeed all candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with this act and the General Laws regulating elections.
- (e) Propositions on the Ballot Ballots used at the recall election shall state the proposition in the order indicated:
 - For the recall of
(name of officer)
 - Against the recall of
(name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word "candidates" and the names of candidates arranged as prescribed by law. If a majority of the votes cast on the proposition is against the recall the votes for the candidates need not be counted. If a majority of the votes cast is in favor of the recall the votes for candidates shall be counted and the candidate receiving the highest number of votes shall be declared elected.

- (f) Officeholder The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is then not recalled he shall continue in his office for the remainder of his unexpired term, subject to recall as provided in paragraph (g).

If the officer is recalled he shall be deemed removed upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

- (g) Request of Recall Petition No recall petition shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

SECTION 16.

At the time provided by town by law, the town manager shall submit to the selectmen a careful, detailed estimate in writing of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the preceding fiscal year together with an estimate of the receipts of the current year and an estimate of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall report the probable amount required to be levied and raised by taxation to defray all expense and liabilities of the town together with an estimate of the tax rate necessary to raise said amount. For the purpose of enabling the town manager to make up the annual estimates of expenditures, all boards, officers, and committees of the town shall, at the time provided by town bylaw, furnish all information in their possession and submit to him in writing a detailed estimate of the appropriation required for the efficient and proper conduct of their respective departments during the next fiscal year.

SECTION 17.

The selectmen shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they deem expedient and proper in the interests of the town. At the time provided by town bylaw, the selectmen shall transmit a copy of the budget, together with all their recommendations relative thereto, to each member of the finance committee.

SECTION 18.

The town manager shall be chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws shall be submitted to the town manager. The approval of any such warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the selectmen shall approve all warrants in the event of a vacancy in the office of town manager.

SECTION 19.

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 Tewksbury 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 laws, bylaws, votes, rules and regulations, respectively. All other laws, bylaws, votes, rules and regulations so far as they refer to the town of Tewksbury are hereby suspended but such suspension shall not revive any preexisting enactment.

SECTION 20.

No contract existing and no action at law or suit in equity, or other proceeding pending at the time this act is accepted, or at the time of revocation of such acceptance, shall be affected by such acceptance or revocation, except that upon revocation any contract made by the town with the town manager then in office shall be terminated immediately upon such vote subject only to termination payment rights under section eight.

SECTION 21.

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of the said duties by another person or agency. No person in the permanent fulltime service or employment of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to his former capacity as is practical.

SECTION 22.

This act shall be submitted for acceptance to the voters of the Town of Tewksbury at a special or annual town election in the form of the following question, which shall be placed upon an official ballot to be used at said election: "Shall an act passed by the General Court in the year nineteen hundred and eighty-six, entitled "An Act establishing a selectmen town manager form of government in the town of Tewksbury" be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved by Special Town Meeting May 6, 1986

Approved by General Court July 16, 1986 (Chapter 275, Acts 1986)

Approved by Special Town Election November 8, 1986

Amended Annual Town Meeting May 4, 1987 (Change Section 2, 5A, 9, 10e, 16, 17) (Add Section 23

Rejected by General Court July 20, 1987)

Approved by General Court July 20, 1987 (Chapter 336, Acts 1987)

Approved by Governor July 23, 1987

Effective date October 14, 1987

Amended by Special Town Meeting February 17, 1988 (Add Section 13A)

Approved by General Court July 12, 1988 (Chapter 152, Acts 1988)

Approved by Governor July 15, 1988

Amended by Annual Town Meeting May 4, 1994 (Amend Section 15)

Approved by General Court November 15, 1995 (Chapter 229, Acts 1995)

Approved by Governor November 21, 1995

Approved by the Annual Town Meeting May 6, 2002

Approved by the General Court

Approved by the Governor January 1, 2003 (Chapter 474, Acts 2002)

Approved by the Annual Town Meeting May 5, 2003

Approved by the General Court

Approved by the Governor December 11, 2003 (Chapter 145, Acts 2003)

Amended by Special Town Meeting October 4, 2011(Add Section 13B Chapter 152 Acts 1988, Amend Section 15 by striking out subsection (i)

Approved by the General Court March 12, 2012 (Chapter 57, Acts 2012)

Approved by the Governor March 22, 2012