

Chapter C

CHARTER

PREAMBLE: We, the people of the Town of Westwood, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the Home Rule Amendment of the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this town.

CHAPTER 1 POWERS OF THE TOWN

SECTION 1. Incorporation

1-1-1. The present Town of Westwood, Massachusetts, within its corporate limits as now established, shall continue to be a body politic and corporate under the name, Town of Westwood.

SECTION 2. Scope of Town Powers

1-2-1. The town shall possess and exercise all powers possible under the constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this chapter.

SECTION 3. Form of Government

1-3-1. This charter provides for ~~the~~a selectmen — open town meeting — ~~executive secretary~~town administrator form of town government.

SECTION 4. Construction of Charter

1-4-1. The power of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any measure the general powers of the town as stated in section 1-2-1.

SECTION 5. Intergovernmental Relations

1-5-1. The town may exercise, consistent with the provisions of law, any of its powers, or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more civil divisions, subdivisions, or agencies of the Commonwealth, other states, or of the United States government.

CHAPTER 2
ELECTIONS AND TOWN MEETING

SECTION 1. Legislative Power

2-1-1. The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

SECTION 2. Town Elections

2-2-1. The annual town meeting shall be held on the last Tuesday in April of each year, ~~except in years in which the presidential primary elections are held on the last Tuesday in April, then the annual town meeting shall be held on the second Tuesday in April,~~ but the only business to be conducted on that day shall be the election of town officers and the balloting on all matters which are to be determined by official ballot.

2-2-2. All general law provisions with regard to town elections shall apply, except as may herein be provided by this charter, and as may hereafter be provided by special act of the legislature.

SECTION 3. Elections to be Nonpartisan

2-3-1. All elections of town officers shall be nonpartisan, and election ballots for town officers shall be printed without any party mark, emblem or vignette, or designation whatsoever.

SECTION 4. Eligibility of Town Voters

2-4-1. Any registered voter of the town shall be eligible for election to any elective office or board of the town. Any person duly elected to any such office or board shall take up the duties of ~~his~~the office the day after the adjournment sine die of the town meeting at which ~~he~~the individual was elected, unless such office was vacant at the time of ~~his~~the election, in which case ~~he~~the individual shall take up the duties of ~~his~~the office immediately; provided, however, ~~he~~the individual shall first have been sworn to the faithful performance of ~~his~~the their duties by the Town Clerk.

SECTION 5. Initiative

2-5-1. ~~2-5-1. Petition.~~ Any ten voters of the town may secure, by written petition to the board of selectmen, the inclusion of an article for the warrant of any duly scheduled annual town meeting, and at least one hundred registered voters may secure the same for any duly scheduled special town meeting.

2-5-2. Pre-Petition.

(a) Any five voters of the town may submit to the board of selectmen and/or the finance and warrant commission by a date set by bylaw prior to the annual town meeting a proposed warrant article, and shall designate a lead petitioner for purposes of this section.

(b) The board of selectmen and/or the finance and warrant commission shall include the proposed article on an agenda at a regular or special meeting for discussion.

and provide the lead petitioner with nonbinding guidance, if any, concerning the same by a date set by bylaw which shall be no later than seven days prior to the close of the warrant.

- (c) Failure to submit an article under this section shall not prevent the filing of a petition under Section 2-5-1; and provided further that any guidance to the petitioners under this section shall not be binding on the finance and warrant commission or board of selectmen in the event the same petition is submitted under Section 2-5-1.

SECTION 6. Business Sessions of the Town Meeting

- 2-6-1. Business sessions of the annual town meeting shall be conducted at adjourned sessions thereof held on the first Monday in May, and may be continued on such additional days as may be decided by the town meeting. There shall also be a second business session of the annual town meeting held in the last three months of the calendar year on a date to be determined by the board of selectmen, which meeting shall be deemed an “annual town meeting” for purposes of the general laws; provided, however, that the board of selectmen may at its discretion, cancel said fall annual town meeting no later than September 15 in any year, so long as no more than 10 petitioned articles have been submitted for inclusion on the warrant at said fall annual town meeting, and notice of the board’s action with regard to such meeting shall be posted on the Town’s website and principal bulletin board. The board’s decision to hold or not to hold a fall town meeting as authorized hereunder shall not prohibit the board from calling for a special town meeting from time to time at its discretion.
- 2-6-2. Rules of procedure of the town meeting shall be determined through bylaw.
- 2-6-3. A journal of the proceedings of the town meeting shall be kept, and it shall be a public record.

SECTION 7. Finance and Warrant Commission Recommendation

- 2-7-1. The finance and warrant commission shall consider all articles in warrants for all town meetings and shall report in ~~print~~writing before each town meeting in the manner provided by bylaw its advice, estimates, and recommendations for consideration by the town meeting, and it shall hold a public meeting with respect to the warrant at least fourteen days prior to any town meeting. Failure to timely post, publish or mail such advice, estimates, and recommendations in the manner provided by bylaw shall not, however, affect the validity of the town meeting.

SECTION 8. Quorum

- 2-8-1. The town meeting shall establish through bylaw a quorum requirement for the conduct of its business, but a smaller number than the established quorum may adjourn forthwith any meeting to a stated date, time, and place.

SECTION 9. Presiding Officer

- 2-9-1. A moderator, who shall be a registered voter of the town, shall be elected for a one year term. ~~He~~The moderator shall preside at all sessions of the town meeting.
- 2-9-2. If the office of moderator becomes vacant, or if ~~he~~the moderator is absent, the board of selectmen shall appoint an acting moderator for a particular meeting or to serve until the next regular election of town officers.
- 2-9-3. No elected town officer shall be eligible to be appointed acting moderator.

CHAPTER 3
THE BOARD OF SELECTMEN

SECTION 1. Composition and Terms

- 3-1-1. A board of selectmen of three members shall be elected for three year overlapping terms. At each annual town election, one selectman shall be elected to fill the office the term of which is expiring. Members may receive such compensation as may be appropriated by the town meeting.

SECTION 2. Powers and Duties

- 3-2-1. The board shall exercise those powers and duties prescribed by general law, this charter, and bylaw.
- 3-2-2. The board shall have the power to establish, in the performance of its duties, rules and regulations not otherwise governed by general law, this charter, or bylaw.

SECTION 3. Power of Investigation

- 3-3-1. The board may conduct investigations into the conduct and operation of any town department in accordance with the provisions of general law.

SECTION 4. Power to Appoint Town Officers

- ~~3-4-1. 3-4-1.—~~The board shall have the power to fill by appointment ~~such individual town offices as are authorized by general law, this charter, or bylaw, and for which appointment is not otherwise provided~~the offices of: police chief, fire chief, department of public works director, and town counsel.

SECTION 5. Power to Appoint Town Boards and Commissions

- 3-5-1. The board shall have the power to appoint: a board of health, a council on aging, a conservation commission, a recreation commission, election officers, registrars of voters, and such other boards, commissions, and committees as are authorized by general law, this charter, bylaw, or the town meeting, and for whom appointment is not otherwise provided.

SECTION 6. Power to Rescind Appointments

3-6-1. The board shall have the power to rescind any appointment to any board, commission, committee, or individual office made under the authority of this chapter, provided that the appointee shall first have been served with written notice of the board's intention, and its reasons therefor, to rescind said appointment.

CHAPTER 4
ELECTED TOWN BOARDS AND OFFICERS

SECTION 1. School Committee

4-1-1. A school committee of five members shall be elected for three year overlapping terms. Members shall serve without compensation.

4-1-2. The committee shall have general charge of all public schools in the town, in accordance with general law, this charter, and bylaw.

SECTION 2. Board of Assessors

4-2-1. A board of assessors of three members shall be elected for three year overlapping terms. Members may receive such compensation as may be appropriated by the town meeting.

SECTION 3. Sewer Commission

4-3-1. A board of sewer commissioners of three members shall be elected for three year overlapping terms. Members may receive such compensation as may be appropriated by the town meeting.

4-3-2. The board of sewer commissioners shall be responsible for the development of general goals and long term plans for the town's sewer system and shall also establish the fees, user charges or rates necessary to fully fund the sewer system operations.

SECTION 4. Planning Board

4-4-1. A planning board of five members shall be elected for three year overlapping terms. Members shall serve without compensation.

4-4-2. The board shall meet regularly ~~at least once a month~~ and shall maintain a public record of its proceedings, resolutions, and determinations. It shall be responsible for the general, physical, economic, and environmental planning of the town in accordance with general law, this charter, and bylaw.

SECTION 5. Library Trustees

4-5-1. A board of six library trustees shall be elected for three year overlapping terms. Members shall serve without compensation.

4-5-2. The board shall be responsible for the administration and operation of the town library, including staffing, acquisitions, maintenance, and the promulgation of library rules and regulations.

SECTION 6. Associate Members

4-6-1 Notwithstanding any general or special law to the contrary, there shall be not more than two associate members of each board elected under Chapter 4 who shall be eligible to participate in all board matters. The chairman of the elected board may designate the associate member(s) to sit on the board in the case of absence, inability to act, or conflict of interest, on the part of any member of the board or in the event of a vacancy on the board. The associate member(s) shall be appointed for three-year rotating terms by majority vote of a joint meeting of the board of selectmen and the elected board being augmented with the associate member(s), and any vacancies arising in said position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

SECTION 6.7. Elected Officers

4-67-1. The following town officers shall be elected by ballot of the whole town ~~for one year terms:~~ a moderator, for a term of one year, and a town clerk, a town treasurer, and a tax collector for terms of three years. They may receive such compensation as may be appropriated by the town meeting.

SECTION 8. Recall¹

4-8-1 A holder of an elected office in the ~~town~~Town of Westwood may be recalled therefrom by the registered voters of said town as herein provided, except that the maximum number of members of a board that may be recalled is a majority, and as is otherwise limited by the provisions of Section 4-8-7.

4-8-2 Any two hundred registered voters of the ~~town~~Town of Westwood may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. ~~At least fifty names of registered voters shall be from each~~Not more than thirty-three and one-third percent of the signatures appearing thereon may be from any one precinct of the ~~voting precincts into which said town is divided.~~ Said town clerk shall thereupon ~~deliver to said voters making such affidavit,~~prepare a sufficient number of copies of petition blanks demanding such recall, a supply of which shall be kept on hand. Such blanks shall be issued by the town clerk, with ~~his~~the clerk's signature and official seal attached thereto. Further, such blanks shall be dated, shall be addressed to the selectmen of said town and shall contain the names of ~~all the persons to whom they are issued, the name~~the first ten signers to the affidavit, as designated by the person identified as the lead petitioner at the time of filing of the affidavit, the name and office of the person whose recall is sought and the grounds of recall

¹ Currently, there is an existing special act concerning recall of elected officials in Westwood that does not appear in the Charter. The bulk of the special act is repeated verbatim in this Section. Certain technical amendments have been made, however, to clarify the process, including the obligations of the persons submitting a recall petition or affidavit, and of town officials with regard to affidavits, petitions, and scheduling recall elections. To assist in the review of the edits, only the technical amendments appear as redlined changes in this draft charter.

as stated in the affidavit, and shall demand the election of a successor to said office. A copy of the affidavit shall be entered in a record book to be kept in the office of said town clerk. Said recall petition shall be returned and filed with the town clerk within twenty days after the ~~filing of the affidavit~~ recall petition blanks are made available to the lead petitioner and shall be signed by at least fifteen percent of the registered voters of said town as of the date of the most recent regular town election, who shall add to their signatures their place of residence, including their street, number and precinct; provided, however, that not more than thirty-three and one-third percent of the total number shall be from any one precinct.

The town clerk shall, within twenty-four hours of receipt thereof, submit the signed petition to the registrars of voters in the town and said registrars shall, within five working days, certify thereon the number of signatures which are names of registered voters of the town.

4-8-3 If the petition shall be found and certified by the town clerk to be sufficient said town clerk shall submit the same with ~~his~~ a certificate to the selectmen within five working days, and the selectmen shall, within five working days, give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, forthwith order an election to be held on a date fixed by them not less than sixty-five nor more than ninety days after the date ~~of the town clerk's certificate that a sufficient petition has been filed~~ the board of selectmen calls for said election; provided, however, that if any other town election is to occur within one hundred days ~~after the date of the certificate~~ thereafter, the selectmen shall postpone the holding of the recall election to the date of such other election. ~~No person shall be subject to recall if his term of office expires within ninety days of the certificate.~~ If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

4-8-4 An officer sought to be removed may be a candidate ~~to succeed himself~~ at such election and, unless such officer requests otherwise in writing, the town clerk shall place ~~his~~ the officer's name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election and the conduct of the same, shall be in accordance with the provisions of law relative to elections unless otherwise provided herein.

4-8-5 An incumbent shall continue to perform the duties of the office until a recall election is held. If not recalled, such officer shall continue in office for the remainder of ~~his~~ the unexpired term subject to recall as before, except as provided in ~~ection~~ Section 4-8-7. If such officer is recalled in the recall election, ~~he~~ the officer shall be deemed removed upon ~~the qualification of his successor, who shall hold office for the remainder of the unexpired term~~ certification of the election results. If a successor fails to qualify within ~~five~~ fifteen days after receiving notification of ~~his~~ election, the ~~incumbent~~ office shall thereupon be deemed ~~removed and the office~~ vacant.

4-8-6 Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name and title of officer).
Against the recall of (name and title of officer).

Immediate at the right of each proposition there shall be a ~~square~~location in which a voter, ~~by making a cross mark (X), or by indicating his intentions by suitable mechanical means,~~ may vote for either of said propositions. Under the propositions shall appear the word “Candidates”, the directions to the voters required by section forty-two of chapter fifty-four of the General Laws and, beneath this, the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If more than one-third of the votes on the question are in the negative, the ballots for candidates need not be counted.

4-8-7 No recall petition shall be filed against an officer within ninety days after ~~he takes office nor, in the officer takes office, nor shall any officer be subject to recall if the officer’s term of office expires within ninety days of the town clerk’s certificate issued under Section 4-7-3.~~ In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least ninety days after the election at which ~~his~~the officer’s recall was submitted to the voters. ~~No person shall be subject to recall if his term of office expires within ninety days of the town clerk’s certificate issued under Section _____.~~

4-8-8 No person who has been recalled from an office or who has resigned from office ~~while~~after the filing of a recall ~~proceedings were pending against him~~petition shall be appointed to town office within one year after such recall or such resignation.

~~4-6-2. Notwithstanding the provisions of paragraph 4-6-1, the following town officers shall be elected by ballot of the whole town for three year terms: a Town Treasurer, a Town Clerk and a Tax Collector, in the following manner:~~

- ~~1. Town Treasurer commencing at the Annual Town Election in 2003.~~
- ~~2. Town Clerk commencing at the Annual Town Election in 2004.~~
- ~~3. Tax Collector commencing at the Annual Town Election in 2005.~~

~~_____ They may receive such compensation as may be appropriated by the town meeting. _____~~

CHAPTER 5 APPOINTED TOWN BOARDS

SECTION 1. Board of Health

5-1-1. A board of health of three members shall be appointed by the board of selectmen for three year overlapping terms. Members shall serve without compensation. One member of the board, who shall not necessarily be the chairman, shall be a doctor of medicine, certified to practice medicine in Massachusetts or a registered nurse with current and valid Massachusetts registration.

5-1-2. The board shall exercise such public health functions as may be prescribed by general law, this charter, and bylaw.

SECTION 2. Council on Aging

5-2-1. A ~~Council~~council on ~~Aging~~aging of nine members shall be appointed by the ~~Board~~board of ~~Selectmen~~selectmen for three year overlapping terms. No member will be eligible for reappointment to a third term until and unless one year has elapsed from and after the expiration of that member's second full term. Members shall serve without compensation.

5-2-2. The council shall coordinate and carry out programs designed to meet the problems of aging persons, in accordance with general law, this charter, and bylaw.

SECTION 3. Conservation Commission

5-3-1. ~~5-3-1.~~—A conservation commission of seven members shall be appointed by the board of selectmen for three year overlapping terms in accordance with general law. Members shall serve without compensation.

5-3-2. The conservation commission shall exercise such conservation-related functions as may be prescribed by general law, this charter, and bylaw.

SECTION 4. Recreation Commission

5-4-1. A recreation commission of seven members shall be appointed by the board of selectmen for three year overlapping terms. Members shall serve without compensation.

~~5-5-1.~~ 5-4-2. The commission shall be responsible for the development and supervision of a town recreation program.

SECTION 5. Zoning Board of Appeals

5-5-1. A zoning board of appeals of three regular members and six associate members shall be appointed by the board of selectmen for three year overlapping terms. Members shall serve without compensation.

5-5-2. The zoning board of appeals shall exercise such zoning-related functions as may be prescribed by general law, this charter, and bylaw.

SECTION 6. Youth and Family Services

5-6-1. A youth and family services commission consisting of no less than three nor more than 17 members shall be appointed by the board of selectmen for three year overlapping terms. A quorum of the commission shall be a majority of those members then in office; provided however, that a lesser number may adjourn from time to time.

5-6-2. The youth and family services commission shall carry out programs designed or established to support the development of youth of the town as may be prescribed by general law, this charter, and bylaw.

SECTION 7. Associate Members

5-7-1 There shall be not more than two associate members of each board appointed under chapter 5, other than the zoning board of appeals, and chapter 7, who shall be eligible to participate in all board matters. The chairman of the appointed board may designate the associate member(s) to sit on the board in the case of absence, inability to act, or conflict of interest, on the part of any member of the appointed board or in the event of a vacancy on the appointed board. The associate members shall be appointed for three-year rotating terms by the board or officer responsible for appointing the board itself, and any vacancies arising in said position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

CHAPTER 6
EXECUTIVE SECRETARY
TOWN ADMINISTRATOR

SECTION 1. ~~Executive Secretary~~Town Administrator

~~6-1-1. 6-1-1.~~ ~~————~~ The board of selectmen shall appoint ~~an executive secretary~~ a town administrator for an indefinite term to serve at its pleasure, ~~and shall fix the compensation for such person, annually, within the amount appropriated by the town. The board of selectmen may establish an employment contract with the town administrator for salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of the duties or office, liability insurance, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave.~~

6-1-2. The town administrator shall not have served in an elective office in the town government for at least twelve months prior to appointment.

6-1-3. The town administrator shall devote full time to the office and shall not hold any other public office, elected or appointed, nor engage in any business or occupation during such service, unless such action is approved in advance by the board of selectmen; provided, however, that this section shall not be interpreted so as to prevent the town administrator from serving, at the direction of the board of selectmen, on any committee as an *ex officio* member, or as the board of selectmen's designee on other committees and boards. The board of selectmen shall provide for an annual review of the job performance of the town administrator.

SECTION 2. Duties

6-2-1. The ~~executive secretary~~town administrator shall be the chief administrative officer of the town and shall be directly responsible to the board of selectmen. ~~He shall perform such duties as may be required by this~~ The town administrator shall supervise, direct and be responsible for the efficient administration of all functions under the administrator's control as may be authorized by the charter, by bylaw, by town meeting vote, and or by the vote of the board of selectmen, including all department heads and employees appointed by him and/or the board of selectmen, and their respective departments, and shall coordinate activities of all town departments. The powers and duties of the town administrator shall include, but not be limited to:

(a) (i) Appoint, discipline, suspend, or remove town officers, department heads or principal deputies or agents of elected and appointed boards or officers, and other employees, including employees in civil service positions, for whom no other method of selection is provided by the charter or general or special laws, subject to the terms of any applicable collective bargaining agreements. Provided, however, that the town administrator shall keep the chairman of the board of selectmen, or the chairman's designee, informed as to status of all personnel decisions made or to be made hereunder, and shall consult with the appropriate department head or principal deputy or agent prior to hiring an employee for that department.

(ii) Appointments or removals of town officers, department heads or principal deputies or agents of elected and appointed boards or officers made by the town administrator under the preceding paragraph shall become effective on the 15th day following the day notice of proposed appointment or removal is filed with the board of selectmen unless said board shall, within said period, reject such appointment or removal, or has sooner voted to affirm it. Copies of notices of proposed appointments as filed with the board of selectmen shall simultaneously be posted on the town bulletin board.

(iii) The town administrator shall consult with the board of selectmen prior to appointing a finance director in accordance with the provisions of section 8-1-2 of this charter. Such appointment shall be subject to all other provisions of section 6-2-1(a).

(b) supervise and direct all appointed department heads and principal deputies or agents of part-time or volunteer elected and appointed boards or officers;

supervise and direct all appointed department heads and principal deputies or agents of part-time or volunteer elected and appointed boards or officers in consultation with such elected and appointed boards or officers;

(c) coordinate the activities of all town agencies serving under the office of the town administrator and the office of the board of selectmen with those under the control of other officers and multiple member bodies elected directly by the voters; for this purpose, the town administrator shall have authority to require the persons so elected, or their representatives, to meet with the town administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the town; the town administrator shall have the right to attend and speak at any public meeting of any multiple member body.

(d) administer and enforce, to the extent required, the General Laws, special acts of the commonwealth applicable to the town or town by-laws, and all regulations established by the board of selectmen;

(e) attend all regular and special meetings of the board of selectmen, unless excused, and shall have a voice but not a vote in all discussions;

(f) attend all sessions of the town meeting and answer all questions addressed to the town administrator which are related to the warrant articles and to matters under the general supervision of the town administrator;

(g) keep the board of selectmen fully informed as to the needs of the town and recommend to the selectmen for adoption such measures requiring action by them or by the town as the town administrator deems necessary or expedient;

(h) ensure that the complete and full records of the financial and administrative activity of the town are maintained and render reports to the board of selectmen as may be required;

(i) serve as the chief procurement officer under G.L. c.30B, and be responsible for the procurement and award of all contracts for supplies, services materials, and equipment

other than those for the school department and the library; provided, however, that any contract over \$100,000 shall require approval by the board of selectmen;

(j) develop and maintain a formal and complete inventory of all town-owned real and personal property and equipment;

(k) administer personnel policies, practices, rules and regulations, compensation and classification plan and related matters, in consultation with the personnel board, for all municipal employees; and administer all collective bargaining agreements entered into by the town;

(l) subject to the approval of the board of selectmen, fix the compensation of all officers, department heads, and employees officers appointed by the town administrator or the board of selectmen within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;

(m) be responsible for the negotiation of all contracts with town employees regarding wages, and other terms and conditions of employment, except employees of the school department. Collective bargaining agreements shall be subject to the approval of the board of selectmen and to chapter 150E of the General Laws;

(n) prepare, in consultation with the finance director, and submit an annual operating budget and capital improvement plan as provided in section 9-3-1 of this charter and be responsible for its administration after its adoption. The town administrator may transfer funds between individual line items within a department account at any time during the fiscal year, with the approval of the board of selectmen; notice of such proposed transfer shall be provided to the board of selectmen and the finance and warrant commission, and shall be posted on the town bulletin board, no less than fourteen days prior to said transfer;

(o) keep the board of selectmen and the finance and warrant commission fully informed as to the financial condition of the town and make recommendations to the board of selectmen;

(p) prepare and submit to the board of selectmen at the end of the fiscal year a comprehensive report on the finances and the activities and operations of all departments, boards and committees of the town;

(q) investigate or inquire into the affairs of any town department or office;

(r) delegate, authorize or direct any subordinate or employee in the town to exercise any power, duty, or responsibility which the office of town administrator may exercise; provided, however, that all acts performed under such delegation shall be deemed to be the acts of the town administrator;

(s) seek out and work to obtain resources from federal, state and other governmental jurisdictions that further town purposes;

(t) approve all payroll and expense warrants for payment of town funds; in the event of the absence of the town administrator, the board of selectmen shall approve such warrants; if a vacancy exists in the office of town administrator, the board of selectmen

shall approve all such warrants, or, may delegate such responsibility to an acting or temporary town administrator appointed pursuant to sections 6-5-1 or 6-5-2 of this charter;

(u) represent the board of selectmen, at its direction, at any county, regional, state, and federal meetings;

(v) supervise the issuance by the board of selectmen of licenses and permits, and schedule all hearings;

(w) serve as emergency management director, convening meetings and monitoring the centralized management issues during emergencies;

(x) coordinate litigation; authorize and monitor use of town counsel, special counsel, and consultants; and

(y) perform such other duties as necessary or as may be assigned by this charter, town by-law, town meeting vote or vote of the board of selectmen.

SECTION 3. Qualifications

6-3-1. The ~~executive secretary~~town administrator shall be appointed solely on the basis of ~~his~~ educational, executive, and administrative qualifications and experience. ~~His education~~The educational qualifications shall consist of ~~at least a bachelor's~~a master's degree granted by an accredited degree granting college or university, ~~and his~~in public or business administration or related field, and professional experience shall include at least ~~two~~five years of full-time, compensated service in public finance, government law, personnel administration. ~~6-3-2. — In selecting an executive secretary, preference shall be given in the first instance to non residents of the town.~~

~~SECTION 4. Removal 6-4-1., collective bargaining and/or organization development or extensive experience in working with the public and responding to customer service requests. The board of selectmen may initiate the removal of the executive secretary by adopting a resolution to this effect, provided that no such resolution shall be voted on within forty five days following a change in board membership. A copy of the resolution shall be delivered to the executive secretary who shall have five days in which to request a public hearing. If a hearing is requested, it shall be scheduled within two weeks by the board in a public place and advertised in a newspaper of local circulation as to date, time, and place. The hearing shall be conducted by an impartial party acceptable to the executive secretary, and both the executive secretary and the board may call witnesses and subpoena town records. — waive the education or experience requirements listed herein if the board determines that an applicant's qualifications provide an equivalent combination of education and experience and that such waiver is in the best interest of the town.~~

~~6-4-2. — Final removal of the executive secretary shall be effected by a vote of the board of selectmen at an open meeting of the board held after the public hearing. The salary of the executive secretary shall continue to be paid during these proceedings, and, in the case of a final removal, shall be continued for a period of thirty days.~~

SECTION 5. Acting ~~Executive Secretary~~ and Temporary Town Administrator

6-5-1. ~~6-5-1.—Acting Town Administrator~~ - The board of selectmen may designate, ~~for a period not to exceed four months;~~ a qualified person to exercise the rights and perform the duties of the ~~executive secretary during his temporary absence or temporary disability;~~ ~~or~~ town administrator during a temporary vacancy caused by the suspension, removal, or resignation of the ~~executive secretary.~~ town administrator. Members of the board of selectmen shall be ineligible to serve in this capacity.

6-5-2. Temporary Town Administrator - With the approval of the board of selectmen, the town administrator may designate a qualified town administrative officer or employee to exercise the powers and perform the duties of the town administrator during an absence of the town administrator. Such delegation shall be made by letter filed with the town clerk and the board of selectmen.

6-5-3. Powers and Duties - The powers and duties of the acting or temporary town administrator, under sections 6-5-1 and 6-5-2 shall be limited to matters not admitting 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 otherwise authorized by the board of selectmen.

CHAPTER 7
BOARDS AND COMMISSIONS APPOINTED BY MODERATOR

SECTION 1. Moderator's Power of Appointment

7-1-1. The moderator shall have the power to appoint members of those boards and commissions authorized under this chapter. Appointments made by the moderator shall in each instance be for a fixed term, and such appointments shall not be subject to review or confirmation by any other person or group.

SECTION 2. Power to Rescind Appointments

7-2-1. The moderator shall have power to rescind any appointment to any board or commission made under the authority of this chapter, provided that the appointee shall first have been served with a written notice of the moderator's intention, and the moderator's reasons therefor, to rescind said appointment.

SECTION 3. Finance and Warrant Commission

7-3-1. A finance and warrant commission of fifteen members shall be appointed for three year overlapping terms. Members shall serve without compensation, and no member may hold any other elective or appointive town position during ~~his~~ the member's term of office.

7-3-2. In making appointments to the commission, the moderator shall take into consideration the demographic composition of the town.

SECTION 4. Personnel Board

7-4-1. A personnel board of five persons shall be appointed for three year overlapping terms.

Members shall serve without compensation.

- 7-4-2. It shall be the responsibility of the board to administer, and to propose periodic revisions of the town classification and compensation plan, in accordance with the provisions of general law.

SECTION 5. Permanent Building Commission

- 7-5-1. A permanent building commission of not more than seven members shall be appointed for three year overlapping terms. In making appointments to the permanent building commission, the moderator shall endeavor to include town residents with architecture, engineering and/or construction experience, or knowledge of state public bidding laws. Members shall serve without compensation.

- 7-5-2. Temporary members. For each municipal project, a temporary member who is a member or representative of the appointed or elected board or committee sponsoring or requesting the project, or whose facility would benefit from the project, which project has an estimated cost of more than \$100,000, shall be appointed and may participate for the duration of the project as a voting member of the commission.

- 7-5-3. Ex officio members. For each project, the moderator may appoint town employees, or other town residents, with particular expertise or knowledge, to advise the commission related to the particular project. Any such request shall be made to the town moderator, who shall consult with the town administrator with regard to appointment of town employees other than school department employees, and to the superintendent of schools for school department employees. Ex officio members shall have a voice, but no vote, in the proceedings of the commission and shall not count towards the quorum needed to conduct business.

- 7-5-4. The commission shall have charge and direction of the construction and reconstruction of all buildings owned, leased, or occupied by the town, and it shall have the power to make recommendations concerning the design, plans, specifications, and location of other buildings financed, in whole or in part, by other public funds. From time to time the commission shall consult with the ultimate user of such buildings concerning said design, plans, specifications, and locations of such buildings.

CHAPTER 8 DEPARTMENTS

SECTION 1. Finance Department

- 8-1-1. There shall be a department of municipal finance which shall be responsible for the coordination of all financial services and activities of the town, the maintenance of all accounting records and other financial statements, payment of all obligations, receipt of all funds due, monitoring of and reporting on all fiscal and financial activities of the town, supervision of all purchases of goods, materials and supplies, and maintenance of inventory controls. Said department shall include the offices and functions of the town accountant, town treasurer, tax collector, and board of assessors; provided, however that although the offices of the town treasurer, tax collector, and board of assessors shall be part of the

department of municipal finance, such officers shall continue to exercise their respective duties and responsibilities under the general laws, except as otherwise provided herein. The department shall have such additional powers, duties and responsibilities with respect to municipal finance-related functions and activities as the town may from time to time provide by by-law.

8-1-2. **Finance Director.** The department of municipal finance shall be under the direct control and supervision of a director of municipal finance who shall be appointed by the town administrator, after consultation with the board of selectmen, and whose salary shall be fixed annually within the amount appropriated by the town. The appointment, and any discipline, suspension, or removal, of said finance director, shall be undertaken in accordance with the provisions of section 6-2-1(a)(i) through (iii).

8-1-3. **Finance Director, Qualifications.** The director of municipal finance shall be a person especially fitted by education, experience and training to perform the duties of the office. The educational qualifications shall consist of a master's degree in finance, accounting or public or business administration, granted by an accredited degree-granting college or university, and professional qualifications shall include at least three (3) years of prior full-time compensated service in accounting or business administration, or five (5) years or more of such professional experience and a bachelor's degree in an appropriate discipline. At the request of the Town Administrator, the board of selectmen may waive the education or experience requirements listed herein if the board determines that an applicant's qualifications provide an equivalent combination of education and experience and that such waiver is in the best interests of the town.

The salary, fringe benefits and other conditions of employment of the director of municipal finance, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of the duties of office, liability insurance, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave may be established by contract.

8-1-4. **Finance Director, Duties and Responsibilities.** The director shall be responsible for the supervision and coordination of all financial personnel, tasks and activities of the department in accordance with the charter, General Laws, town by-laws, and any applicable rules and regulations. The director of municipal finance may serve as the town accountant and shall be responsible for coordinating the fiscal management procedures of the offices of the town treasurer, tax collector, and board of assessors, and shall be the administrator of budgeting, including financial reporting, accountability and control, as well as an advisor to the board of selectmen, finance and warrant commission, and all other town departments, concerning financial and programmatic implications of current and future financial policies. The director of municipal finance shall provide such assistance to the town administrator as the town administrator shall request with regard to the preparation of the town budget and capital plan, and have such additional duties and responsibilities with regard thereto as set forth in section 6-2-1(n) and chapter 9 of the charter.

SECTION 2. Other Departments

8-2-1 Department of Public Works - There shall be a department of public works, as established by Chapter 140 of the Acts of 1992, with the powers, duties and responsibilities set forth therein, and as said chapter may be amended from time to time.

8-2-2 Fire Department – There shall be a fire department, as established by vote of the September 9, 1945 Town Meeting accepting the provisions of G.L. c.48, §§42, 43 and 44, with the powers, duties and responsibilities as set forth in such statutes.

8-2-3 Police Department – There shall be a police department, as established by vote of the March 12, 1951 Town Meeting accepting the provisions of chapter 595 of the Acts of 1948, now codified as G.L. c.41, §97A, with the powers, duties and responsibilities as set forth therein.

CHAPTER 9 **FINANCIAL PROCEDURES**

SECTION 1. Fiscal Year

~~89-1-1. Effective in 1971, the~~ The fiscal year of the town shall commence on July 1 and end on June 30, unless another uniform fiscal year for all towns shall be specified by state law.

SECTION 2. ~~Annual Audit~~ Committee

~~8-2-1. At least ninety days before the end of each fiscal year, the board of selectmen shall request the auditing agency of the state to conduct an audit of all accounts, books, records, and financial transactions of every department, board, and commission of the town government, including the school department.~~

~~8-2-2. If the board of selectmen has not been assured, at least thirty days before the end of the fiscal year, that the auditing agency of the state will carry out the requested audit, then the board may retain a certified public accountant or accounting firm to make said audit, and to file its report within one hundred and twenty days after the end of the fiscal year.~~

~~8-2-3. A copy of every auditor's report shall be filed with the town clerk, shall be a public record, and a summary thereof shall be published in the next annual town report.~~

9-2-1. There shall be an audit committee consisting of three members appointed by the board of selectmen for overlapping three year terms. The audit committee shall review annual financial statements of the town financial offices; and review the independent auditor's management recommendations; provide advice and counsel to the board of selectmen, town administrator and other financial staff.

SECTION 3. Budget - Preparation and Schedule

~~8-3-1. The proposed annual budget of the town shall be assembled by the executive secretary.~~

9-3-1. The town administrator shall prepare an annual operating budget for the town as described in Section 9-4-3. For such purposes, the town administrator shall establish a budget schedule for the development and submission of all departmental budgets to the town administrator and finance director, and for the compilation of a proposed consolidated operating budget for the town, or such schedule may be established by bylaw. The town administrator shall also prepare, in consultation with the finance director, a five-year

capital plan.

SECTION 4. Budgetary Procedures

~~89-4-1.~~ Not less than three months before the business session of the annual town meeting, the ~~executive secretary~~town administrator shall submit to the board of selectmen, ~~and file with the finance commission,~~ for its review and approval a proposed operating budget ~~for the ensuing fiscal year~~ for the town, along with a summary budget message and supporting documents, ~~and, in conjunction therewith, a five-year capital plan.~~ The board of selectmen may make such changes to the proposed operating budget and budget message as it deems appropriate. Following approval by the board of selectmen, the proposed annual operating budget, with summary budget message and supporting documents, and five-year capital plan, shall forthwith be forwarded to the finance and warrant commission.

~~89-4-2.~~ The summary budget message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the town for the ensuing year and shall indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes.

~~89-4-3.~~ The operating budget shall provide a complete financial plan for all town funds and activities and shall be in such form as the finance ~~committee~~and warrant commission may require, but it shall indicate proposed expenditures for both current operations and capital projects during the ensuing year, detailed by purpose, offices, departments, commissions and committees.

~~SECTION 5. Action on Proposed Budget~~

~~9-4-4~~ The five-year capital plan shall be designed to address unmet long-range needs and to implement the capital goals and objectives of the town, and shall include all town activities and departments. The capital improvements plan shall include: a clear summary of its contents; a list of all capital improvements proposed to be undertaken during the next 5 years, together with supporting data; cost estimates, methods of financing and recommended time schedules; and the estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired. The information required by this section may be revised and extended each year by the town administrator and shall apply each year to capital improvements pending or in the process of construction or acquisition.

~~89-54-1.5.~~ The finance and warrant commission shall conduct one or more public meetings on the proposed operating budget at least fourteen days prior to its submission at the annual town meeting.

~~89-54-2.6.~~ The board of selectmen shall be responsible for presenting the proposed operating budget to the town meeting.

~~9-4-7~~ Town meeting may, by bylaw, establish additional procedures applicable to consideration and adoption of the budget as are not inconsistent with this charter.

TOWN BYLAWS

SECTION 1. How Proposed

910-1-1. Town bylaws may be proposed in warrant article form in accordance with the provisions of general law and section 2-5-1 of this charter.

SECTION 2. How Adopted and Revised

910-2-1. Adoption of a new bylaw or bylaw revision shall be by a two-thirds vote of those voting at an annual or special town meeting.

SECTION 3. Revision and Publication

910-3-1. It shall be the responsibility of the board of selectmen to ensure that the bylaws are reviewed and prepared for any necessary revision at least every five years.

910-3-2. The town clerk shall codify and republish the bylaws every five years. Copies shall be made available to all registered voters who request them.

SECTION 4. Continuation of Bylaws

910-4-1. All special acts, bylaws, town meeting resolutions, rules and regulations of the town in force at the time this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force.

CHAPTER ~~10~~11 SEVERABILITY

SECTION 1.

~~1011~~11-1-1. If any section or partial section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of this charter, nor the context in which such section or partial section so held invalid may appear.

CHAPTER ~~11~~12 CHARTER REVISION

SECTION 1. Proposal of Amendments

~~1112~~12-1-1. Amendments to this charter relating in any way to the composition, mode of election or appointment, or terms of office of the town meeting, board of selectmen, or the ~~executive secretary~~town administrator may be proposed only by a charter commission elected under the general laws, or proposed as otherwise authorized by the Massachusetts constitution.

~~1112~~12-1-2. Amendments to the charter relating to other matters may be proposed by a two-thirds vote at a duly called town meeting in accordance with the general laws, or proposed as otherwise authorized by the Massachusetts constitution.

SECTION 2. Adoption of Amendments

~~12-2-1.~~ 1 Proposed amendments under this charter shall be acted upon by ballot of the whole town at a regular or special town meeting for the election of town officers in accordance with the general laws, or approved as otherwise authorized by the Massachusetts constitution.

SECTION 3. Periodic Review

12-3-1. The board of selectmen shall appoint a committee of no less than five nor more than nine members to review the charter and bylaws not less than once every ten years from the date of the last review undertaken in accordance with this section and said committee may make recommendations to a subsequent town meeting to amend said charter and bylaws.

CHAPTER ~~12~~13
TRANSITIONAL PROVISIONS

SECTION 1. Effective Date

12-1-1. ~~This~~The provisions of this charter shall take effect ~~on July 1, 1970, provided that it has first been approved by a majority of the voters voting thereon.~~ immediately upon acceptance of a special act enacted by the general court establishing the provisions set forth herein as the charter of the town of Westwood.

SECTION 2. Continuation of Government

12-2-1. Appointed or elected town officials holding office on the effective date of this charter shall continue to serve until their terms expire. All appointed officials serving on the effective date of this charter shall be eligible for reappointment, any contrary provision thereof notwithstanding.

12-2-2. No officer holding tenure of office by act of the legislature, or vote of the town, or both, shall have the same set aside as the result of the adoption of this charter.

~~12-2-3. The Westwood school survey committee, the water investigation committee, the Westwood transportation committee, and the town affairs study committee shall be discontinued on July 1, 1970. All other commissions, boards and departments, whether elective or appointive, shall continue to perform their duties and functions until successors have been elected or appointed, or until their functions have been otherwise assigned or discontinued.~~

12-2-3. Upon the effective date of this charter, the position of executive secretary shall be abolished. The person serving the town in the capacity of executive secretary/town administrator as of the effective date of this charter shall be deemed to be the first appointee to the newly created position of town administrator. Provided, however, that nothing set forth herein shall restrict the board of selectmen from reappointing, terminating, or taking other employment action with regard to said appointee in accordance with the provisions of this charter.

12-2-4. Upon the effective date of this charter, the position of _____ shall be abolished. The person serving the town in the capacity of _____ as of the effective date of this charter shall be deemed to be the first appointee to the newly created position of finance director. Provided, however, that nothing set forth herein shall restrict the town administrator from reappointing, terminating, or taking other employment action with regard to said appointee in accordance with the provisions of this charter.

12-2-5. No contracts or liabilities in force on the effective date of this charter shall be affected by the abolition or creation of appointed offices, the consolidation of financial functions of the town as provided for herein, or the newly created appointed offices and municipal finance department, and all such newly created offices and departments shall in all respects be the lawful successor of offices and departments so abolished or consolidated.

12-2-6. All records, property and equipment whatsoever of any office, department, or part thereof, the powers and duties of which are assigned in whole or in part to another office or department are assigned to such office or department.

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