

AN ACT ESTABLISHING A TOWN MANAGER IN THE TOWN OF WEST NEWBURY

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. Chapter 270 of the acts of 1990 is hereby repealed.

SECTION 2. Notwithstanding any general or special law to the contrary, there shall be a town manager in the town of West Newbury who shall have the powers, duties and limitations described in this act.

SECTION 3. (a) Upon the effective date of this act, any person holding a position listed in this section shall continue to hold the position until the expiration of that person's current term, after which the registered voters of the town of West Newbury shall, in accordance with any applicable laws, by-laws, votes of the town or inter-local agreements elect the following:-

- (i) members of the board of selectmen;
- (ii) a town moderator;
- (iii) the West Newbury members of the Pentucket school committee;
- (iv) members of the board of trustees of the G.A.R. memorial library;
- (v) members of the board of assessors;
- (vi) members of the board of health;
- (vii) members of West Newbury housing authority;
- (viii) members of the planning board;
- (ix) members of the board of parks and recreation;
- (x) members of the board of water commissioners; and
- (xi) constables.

(b) Except as otherwise provided in this act, the elected and appointed officials of the town of West Newbury shall have the powers, duties and responsibilities set forth by applicable General Laws, special acts, town by-laws and votes of the town meeting.

(c) The officers elected under subsection (a) shall be available to the town manager and the board of selectmen for consultation, conference and discussion on matters relating to the officers' respective offices. The town manager and the board of selectmen may require such officers to prepare necessary reports for the administration of the town's government.

SECTION 4. (a) The executive powers of the town of West Newbury shall be vested in the board of selectmen, which shall have all the powers given to boards of selectmen in the General Laws.

(b) The board of selectmen shall consist of 3 members elected by the voters of the town. Each member of the board of selectmen shall serve for a terms of 3 years or until a successor takes office. The board of selectmen shall annually elect a chairperson and a clerk from among its members.

(c) The board of selectmen shall serve as the chief goal-setting and policy-making body of the town and shall not normally administer the day-to-day affairs of the town. The board of selectmen shall set guidelines and policy directives that are to be implemented by the town manager and by other officers and employees appointed by or under its authority. The board of selectmen shall have the power and authority to enact rules and regulations to implement policies, issue directives and issue interpretations of the town's rules and regulations.

(d) The board of selectmen shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.

(e) The board of selectmen shall appoint the town manager, the town counsel, the chief of police, the independent auditor, the town accountant, the assistant or special counsel and the executive administrator to the board of selectmen by a majority vote with the full board present. The board of selectmen shall appoint all members of town committees, boards and commissions, except for those positions that are elected or another method of appointment is provided for in the town by-laws or by federal or state law or regulation.

(f) The board of selectmen shall have oversight of the boards, committees, positions and commissions appointed by the board of selectmen and the general powers provided in section 23B of chapter 41 of the General Laws.

(g) The board of selectmen shall be the licensing authority for the town, make necessary rules and regulations regarding the issuance of licenses, attach conditions and restrictions to licenses as it deems to be in the public interest, enforce the laws and regulations relating to such licenses and manage all other non-personnel matters as provided by the town by-laws or as provided in the General Laws.

(h) The board of selectmen shall be responsible for and shall approve the form and content of all town meeting warrants before such warrants are submitted to the town meeting for deliberation.

(i) The board of selectmen shall be responsible for establishing and maintaining a written process for the preparation of the budget in the town. The board of selectmen shall annually issue not less than 1 written budget message, including fiscal guidelines and the timeline of budget makers, at the beginning of each budget cycle or at a time established by the town by-laws.

(j) The board of selectmen shall review the annual proposed budget prepared by the town manager and make changes as the board of selectmen deems advisable. The town manager shall present the budget which incorporates the changes of the board of selectmen to the finance committee and the town meeting.

SECTION 5. (a) The board of selectmen of the town of West Newbury shall create a search committee composed of West Newbury residents to assist in the selection of candidates for the position of town manager. The candidates shall have a demonstrated ability with administrative experience in public management or business administration and who are qualified by reason of education and experience for the position of town manager. The search committee shall recommend to the board of selectmen not less than 3 qualified candidates. After receiving the recommendations of the search committee, the board of selectmen shall appoint a town manager from the recommended candidates; provided, however, that the board of selectmen shall not be required to appoint any of the recommended

candidates and may request that the search committee continue the screening process or the board of selectmen may appoint a new search committee to continue or restart the search.

(b) A member or former member of the board of selectmen shall not be eligible to be appointed to the position of town manager within 15 months of serving on the board of selectmen.

(c) The board of selectmen may enter into a formal written contract with the town manager and may set contract terms that shall have precedence over any personnel by-laws.

(d) The town manager may be appointed for successive terms of office. A term of office shall not be more than 3 years. The board of selectmen shall not be obligated to renew an expired contract. The town manager shall be sworn to the faithful and impartial performance of the duties of the office the town manager by the town clerk or a notary public before taking office.

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

(f) The board of selectmen shall set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.

SECTION 6. (a) The board of selectmen of the town of West Newbury may remove the town manager by a majority vote with the full board present. Not less than 30 days before that removal is effective, the board of selectmen shall file a preliminary resolution in writing with the town clerk setting forth the reason, if any, for the removal and shall cause a copy of the preliminary resolution to be delivered to the town manager by hand delivery or by certified mail to the address listed for the town manager in the payroll records of the town of West Newbury.

(b) The town manager may reply in writing to the preliminary resolution and may request a public hearing; provided, however, that the town manager shall cause a copy of such request to be delivered to the town clerk not later than 10 days after the town manager's receipt of the preliminary resolution. If the town manager requests a public hearing, the board of selectmen shall hold a public hearing not less than 10 days nor more than 20 days after the filing of such request.

(c) Following the public hearing or, if there is no public hearing, at the expiration of 30 days from the date of delivery of the preliminary resolution to the town manager, the board of selectmen may adopt a final resolution of removal.

(d) As part of the preliminary resolution, the board of selectmen may suspend the town manager from duty.

(e) Nothing in this section shall limit the authority of the board of selectmen to suspend or remove the town manager as provided by the General Laws.

(f) Any suspension of the town manager may be with or without pay.

SECTION 7. (a) During a temporary absence of not more than 30 days, the town manager of the town of West Newbury shall designate a temporary town administrator to perform the duties of the office by filing a letter with the town clerk and the board of selectmen. Such delegation shall be limited to those duties of the office not allowing for delay during the town manager's absence.

(b) The board of selectmen reserves the right to select a different temporary town administrator, in place of the town manager's designee or in the case of the failure of the town manager to select a temporary town administrator, to perform the functions of the town manager during the absence of the town manager. Such a delegation shall be limited to those duties of the office not allowing for delay during the town manager's absence.

(c) During an extended absence of the town manager for more than 30 days due to disability, illness or other circumstance, the board of selectmen shall appoint an acting town manager for the duration of the extended absence. Such designation will cease upon the return of the town manager.

(d) If the individual serving as acting town manager is a town officer or employee, the individual shall return to the position held before being appointed the acting town manager.

(e) A member of the board of selectmen shall not serve as acting town manager.

(f) If the board of selectmen determines that the town manager is unable to resume the duties of the office for any reason including, but not limited to, resignation, termination or illness, the office of the town manager shall be filled as soon as practicable by the board of selectmen; provided, however, that the board of selectmen may appoint an acting town manager to serve until a new town manager is appointed.

(g) The board of selectmen shall determine the powers and responsibilities of the temporary town administrator or the acting town manager.

SECTION 8. (a) The town manager of the town of West Newbury shall be the chief operating and administrative officer of the town and 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, by the board of selectmen, by town by-laws or by vote of the town meeting and for the implementation of town policies placed in the town manager's charge by the board of selectmen.

(b) The town manager shall supervise all town departments and direct the day-to-day affairs of the town.

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

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

(e) The town manager shall oversee the town's personnel system and staff in accordance with town by-laws and shall oversee personnel evaluation policies and practices, employee benefit programs, enforcement of labor contracts, labor relations, collective bargaining, state and federal equal opportunities law compliance in the town and such other human resource obligations as designated by the board of selectmen.

(f) The town manager shall attend all meetings of the board of selectmen, except when excused, and all annual and special town meetings.

(g) The town manager shall have access to all information necessary for the proper performance of the duties of town manager in accordance with the town by-laws, except for attorney-client privileged

information that is provided to or by the board of selectmen, unless the board of selectmen specifically authorizes such access.

(h) The town manager shall keep the board of selectmen fully informed regarding all departmental operations, fiscal affairs, general problems and administrative actions and shall submit periodic reports to the board of selectmen.

(i) The town manager shall coordinate the activities among boards, commissions and committees concerned with current development and the long-range municipal planning.

(j) The town manager shall develop, keep and annually update a full and complete inventory of all property of the town, both real and personal. The town manager shall have jurisdiction over the rental of all town facilities and real property. The use of town property shall not conflict with policies, rental fees and other practices established by the board of selectmen.

(k) With the approval of the board of selectmen, the town manager shall prosecute, defend or compromise all litigation matters to which the town is a party.

(l) The town manager shall devote full working time to the duties of the office and shall not engage in any business activity during the term of office, except with the written consent of the board of selectmen.

(m) The town manager shall keep full and complete records of the town manager's office and shall annually submit to the board of selectmen, unless requested to do so more frequently, a full written report of the operations of the town manager's office.

SECTION 9. (a) The town manager of the town of West Newbury shall be the chief financial officer of the town.

(b) The town manager may approve any warrants for payment of town funds prepared by the town accountant; provided, however, that the approval of any such warrant by the town manager shall be in compliance with the policies for payment as promulgated by the board of selectmen and such warrant shall be sufficient to authorize payment by the treasurer. If there is a vacancy of the town manager, in the town manager's absence or at any other time, the board of selectmen or a designee of 1 of the members of the board of selectmen may approve such warrants.

(c) The town manager shall annually prepare and propose a budget to be included in the annual town meeting warrant. The proposed budget shall be prepared in accordance with the most current budget process established by the board of selectmen. The proposed budget shall detail all estimated revenue from all sources and all proposed expenditures.

(d) The town manager shall annually submit a town departmental and organizational structure and that town departmental and organization structure shall be subject to the approval of the board of selectmen. The town manager shall recommend the salaries and pay rates for town employees, except for those employees covered by a collective bargaining agreement; provided, however, that the salaries and pay rates recommended by the town manager shall be subject to modification and approval by the board of selectmen.

## Chapter 97 of the Acts of 2017

(e) The town manager shall be responsible for filing grant applications and for informing the board of selectmen of the status of such applications.

(f) The town manager shall notify and inform the board of selectmen of any matter impacting the expenditures or revenues of the town.

SECTION 10. (a) The town manager of the town of West Newbury shall appoint and may remove all department heads as the term may be defined in the town departmental and organizational structure and any other employees for which a method of selection is not provided in this act or by law.

(b) Appointments or removals made by the town manager pursuant to subsection (a) shall be effective 15 calendar days from the date of the filing of a written notice of the appointment or removal with the board of selectmen, unless the board of selectmen vote to reject such appointment or removal. The board of selectmen may waive the 15-day period and allow the action of the town manager to take immediate effect.

SECTION 11. (a) The town manager of the town of West Newbury or a negotiating committee authorized by the board of selectmen shall negotiate collective bargaining contracts on behalf of the board of selectmen; provided, however, that such contracts shall be subject to the approval, ratification and execution by the board of selectmen.

(b) The board of selectmen may authorize the use of additional counsel or persons to assist the town manager or the negotiating committee in the negotiations for any collective bargaining contract.

SECTION 12. This act shall take effect upon its passage.

Approved, October 19, 2017