

HOUSE No. 4315

Substituted by the House, on motion of Ms. Garlick of Needham, for a bill with the same title (House, No. 4087) [Local Approval Received]. January 3, 2022.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act creating select board/town manager form of government in the town of Wayland.

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

1 SECTION 1. Chapter 320 of the acts of 2004 is hereby repealed.

2 SECTION 2. There shall be a select board/town manager form of government in the town
3 of Wayland, which shall be established in this act.

4 SECTION 3. The board of selectmen in the town of Wayland shall hereafter be known as
5 the select board, who shall be vested with all of the powers and duties conferred upon a board of
6 selectmen by any general or special law. All references to the board of selectmen contained in
7 the town code shall be construed as referring to the select board, and all powers and duties
8 conferred upon the board of selectmen by the town code shall be vested in the select board.

9 SECTION 4. (a) The select board shall be the chief executive officers of the town and
10 shall serve as the chief policymaking body of the town.

11 (b) The select board shall consist of 5 residents of the town, elected by ballot, to serve a
12 term of 3 years. The terms of the members of the select board shall be staggered such that 1 or 2

13 members shall be elected each year. Upon the effective date of this act, the incumbent members
14 of the board of selectmen shall continue in office for the duration of their elected terms but shall
15 be referred to as members of the select board.

16 (c) The select board shall develop and promulgate policy directives and regulations that
17 shall be followed by all agencies serving under it and, in conjunction with other elected town
18 officers and multiple-member bodies, shall develop and promulgate policies and regulations
19 designed to bring the operation of all town agencies into harmony; provided, however, nothing in
20 this section shall authorize any member of the select board or a majority of such members to
21 become involved in the day-to-day administration of a town agency nor shall this provision be
22 construed as conferring upon the select board any policy-making directives or regulations
23 specifically reserved to other town boards or commissions by statute or town code.

24 (d) The select board shall cause the town code, rules and regulations of the town to be
25 enforced.

26 (e) The select board shall appoint a town manager, town counsel, independent auditor and
27 any other boards, committees and commissions according to town code, statute or any special
28 act. The select board shall also appoint any other multi-member boards for whom no other
29 method of appointment is provided by town code, statute or special act.

30 (f) The select board shall have full authority as agents of the town to employ counsel to
31 commence, prosecute and defend suits in the name of the town, unless otherwise especially
32 ordered by vote of the town. Said authority shall not extend to employing counsel to the school
33 committee.

34 (g) The select board shall cause an adequate supply of the full town report to be available
35 in the town offices and in the public library from which to furnish a copy to any interested
36 person, and it shall cause the warrant and finance committee's report with recommendations to
37 be served as provided in section 36-2 of the town code.

38 (h) The select board shall have the authority to declare a state of emergency in the town
39 of Wayland upon the occurrence of any disaster, catastrophe, fire, flood, earthquake, storm,
40 public health emergency, other natural calamity, act of terrorism or cyber attack. Any state of
41 emergency proclaimed by the select board shall, unless sooner terminated by proclamation of the
42 select board, terminate 5 days from the day it takes effect.

43 (i) The select board shall have full authority to establish rules and regulations, binding
44 upon all boards, commissions, committees, councils, authorities, officials and employees of the
45 town of Wayland, governing the use, marking, record-keeping, maintenance and reporting
46 requirements pertaining to town-owned vehicles and reimbursement for the use of privately
47 owned vehicles by employees and officials while on town business.

48 (j) The select board, by an affirmative vote of at least 4 members, may appoint a town
49 manager for a term not to exceed 3 years, as the select board deems to be in the best interests of
50 the town. The town manager shall receive such aggregate compensation and benefits, not
51 exceeding the amount appropriated, as the select board may determine. The select board may
52 establish a written employment contract with the town manager pursuant to section 108N of
53 chapter 41 of the general laws, to provide for the salary, fringe benefits, and other conditions of
54 employment. The town manager position shall be a non-union position.

55 (k) The town manager shall be appointed on the basis of educational, management and
56 administrative qualifications and experience, including at least a bachelor's degree from an
57 accredited 4-year college or university. The town manager shall have considerable professional
58 experience, consisting of compensated service in government administration or an equivalent
59 combination of education and business management experience.

60 (l) The town manager shall devote full-time to the responsibilities of the office. The town
61 manager shall hold no elective Wayland town office. The town manager may be appointed by the
62 select board to any other compatible town office or position, but the town manager shall engage
63 in no other business or occupation without advance written authorization by the select board.

64 SECTION 5. (a) The town manager shall be the chief administrative and operating officer
65 of the town.

66 (b) The town manager shall be responsible for managing, supervising and executing all of
67 the activities noted in this act, the town manager's job description and any other duties assigned
68 to the town manager by the select board or in compliance with federal and state law and the town
69 code and town policies.

70 (c) The town manager will not set town policy, but will ensure there is appropriate
71 coordination in the implementation of town policy working across all town departments in
72 conjunction with all elected and appointed boards and committees.

73 (d) The town manager shall ensure that all town employees, boards, commissions and
74 committees comply with the town's financial, personnel and legal policies and procedures, as
75 well as all town meeting votes, town code, federal and state law and all regulations.

76 (e) The town manager shall be responsible for the management of all financial,
77 administrative and operational affairs of the town and town departments and all boards,
78 commissions and committees but excluding the school department; provided, however, that all
79 boards, commissions and committees shall continue to exercise permitting or policy-making
80 authority as provided in state law.

81 (f) The town manager shall be responsible for overseeing, coordinating, and making
82 recommendations that may impact multiple town boards and committees, broadly or in detail,
83 regarding town financial, personnel and legal activities.

84 (g) The town manager shall understand and have a working knowledge of the statutory
85 and regulatory authority and responsibility held by department heads and elected and appointed
86 boards, commissions and committees so the town manager can effectively support these officers
87 in the execution of their duties. Unless expressly stated herein, nothing in this act is intended to
88 reassign policy-making or permit granting statutory authority of any department head or any
89 elected or appointed board, commission or committee to the town manager.

90 (h) With respect to town policies and programs that impact multiple areas of town
91 government, the town manager shall work with all elected and appointed boards, commissions
92 and committees and town department heads, be responsible for ensuring there is appropriate
93 administration and coordination both (i) in the implementation and on-going adherence to town
94 policies; and (ii) in the development and execution of such policies and programs.

95 (i) With respect to the development, implementation and execution of policies and
96 programs affecting various town departments, the town manager shall:

97 (i) coordinate the setting of priorities with the rest of the town government;

98 (ii) communicate activities, including projects, plans and studies, so that necessary input
99 is received from all areas of town government that should be involved in those initiatives; and

100 (iii) coordinate efforts so that cross-functional services to residents and others are
101 effectively and consistently delivered.

102 (j) With the exception of the school department and library, and except as otherwise
103 provided in the town code or chapter 347 of the acts of 2008, to streamline services, the town
104 manager may create a new department, may reorganize, eliminate or consolidate town
105 departments or functions, in whole or in part, and may assign functions of 1 department to
106 another department, subject to the approval of the select board.

107 (k) The town manager is designated as the town's records access officer under the public
108 records statute. The town manager shall, directly or through the town's various departments,
109 boards, commissions and committees, be responsible for the preparation, filing and maintenance
110 of all records and reports on behalf of the town.

111 (l) The town manager oversees crisis intervention in emergency situations, working with
112 other key town department heads, and addresses any systemic problems impacting multiple areas
113 of the town as they arise. The town manager shall ensure priority items are properly attended to
114 and bring concerns about problem resolution to related boards, commissions and committees,
115 and ultimately, to the select board for assistance in resolution, if necessary.

116 SECTION 6. (a) The town manager shall be the chief financial officer of the town.

117 (b) The town manager shall initiate, draft and have general oversight of the process of
118 preparing the town's annual operating and capital budgets for submission to the finance

119 committee. To assist the town manager in preparing the proposed annual operating and capital
120 budgets, all department heads, boards, commissions and committees of the town, including the
121 school department, shall furnish all relevant information and submit to the town manager, in
122 writing and in such form as the town manager shall prescribe, a detailed estimate of the
123 appropriations required and available funds.

124 (c) The town manager shall draft and update a 5-year capital improvement plan for all
125 town departments for submission to the finance committee.

126 (d) The town manager shall work with the finance director and finance committee to:

127 (i) develop long-term financial strategies addressing operational and capital financial
128 needs of the town;

129 (ii) establish set budgetary guidelines to be used in the development of annual budgets;

130 (iii) review all operating and capital budgets of all town departments and make
131 recommendations to the affected boards, commissions and committees and to the finance
132 committee about priorities important to budget development; and

133 (iv) evaluate actual expenditures and receipts against budgets and coordinate with
134 affected department heads, boards, commissions and committees the development of plans to
135 manage to the budget or obtain finance committee approval for reserve fund transfers, in advance
136 of spending, when possible.

137 (e) The town manager shall serve as the town's chief procurement officer pursuant to state
138 and federal law and shall ensure that all town departments comply with applicable procurement

139 laws. The town manager may, in the town manager's discretion, delegate any procurement
140 responsibilities.

141 (f) Unless any general or special law provides to the contrary, the town manager is
142 authorized to execute all grant applications and shall award and execute all contracts binding the
143 town up to a set amount to be established by policy set by the select board.

144 SECTION 7. (a) Except as expressly provided herein, the town manager shall appoint on
145 the basis of merit and fitness alone, all department heads or similar positions, in consultation
146 with the respective boards, commissions and committees that the department heads or similar
147 positions support and in compliance with any applicable provision of a collective bargaining
148 agreement, with the exception of the school department and library.

149 (b) The town manager shall ultimately be responsible for appointing subordinates to
150 department heads or similar positions. Unless otherwise provided by the terms of an applicable
151 collective bargaining agreement, the department head or similar position may, with the consent
152 of the town manager or his or her designee, appoint on the basis of merit and fitness alone, all
153 subordinate employees of each town department, with the exception of the school department.

154 (c) Unless otherwise provided under this act, the town manager shall be responsible for
155 appointing all other appointed employees for whom no other method of appointment is provided
156 by the town code or other special act.

157 (d) The town manager may, for cause, discipline or remove any department head or
158 similar position, with the exception of the school department and library director, and shall, in
159 consultation with the applicable department head or similar position, discipline or remove all
160 subordinate employees of each town department, with the exception of the school department.

161 (e) The town manager shall appoint, on the basis of merit and fitness alone, with
162 ratification by a vote of at least 3 members of the select board, and evaluate, discipline and, for
163 cause, remove, without the ratification of the select board:

164 (i) a police chief;

165 (ii) a fire chief;

166 (iii) a finance director; and

167 (iv) a town clerk.

168 (f) In the event of a vacancy, disability or absence anticipated to be greater than 30 days
169 of any department head or any position appointed by the town manager, the town manager may
170 appoint someone to serve in an acting or interim capacity for the period of such vacancy,
171 disability or absence.

172 (g) Working with the town's human resource department, the town manager shall be
173 responsible for the daily administration of the town-wide personnel system, including the
174 maintenance of personnel records and the enforcement of personnel policies, rules and
175 regulations and managing personnel costs to ensure maximum efficiency and fairness across
176 town departments.

177 (h) The town manager may develop a performance evaluation process and establish
178 performance standards not inconsistent with any terms of any collective bargaining agreement.

179 (i) The town manager shall be responsible for the annual evaluation of job performance
180 of all town department heads, including the town clerk and other positions appointed by the town
181 manager but excluding the school department and library director, and shall incorporate any

182 input or recommendations received from any elected or appointed board, commission or
183 committee served by such department heads. Evaluation of the library director shall include input
184 of the town manager. The town manager shall be responsible for ensuring the completion of
185 annual evaluations of the job performance of all subordinate town employees, excluding those of
186 the school department.

187 (j) The town manager shall serve as the agent of the select board and negotiate collective
188 bargaining agreements on behalf of the select board in accordance with chapter 150E of the
189 general laws; provided, however, that such agreements shall be subject to ratification by the
190 select board and subject to funding by town meeting. The town manager may designate
191 appropriate employees to assist with collective bargaining.

192 SECTION 8. (a) Except as otherwise provided in chapter 347 of the acts of 2008, the
193 town manager shall be responsible for the construction, reconstruction, restoration, rehabilitation,
194 repair and maintenance of all town buildings and all town real and personal property, and
195 information technology and infrastructure. Nothing in this provision shall be construed as
196 conferring any authority upon the town manager to have access to information that is otherwise
197 unauthorized under state law.

198 (b) The town manager shall, directly or through the town's various departments, boards,
199 commissions and committees, maintain an inventory of all town-owned real and personal
200 property.

201 SECTION 9. (a) Upon the enactment of this act the position of town administrator shall
202 be abolished and the incumbent thereof shall serve as the acting town manager, or if there is no

203 incumbent, the select board shall appoint an acting town manager. The acting town manager
204 shall serve until the select board appoints a permanent town manager.

205 (b) Following the enactment of this act, the select board shall appoint a town manager,
206 and if the select board so chooses, the incumbent town administrator may be appointed town
207 manager on a permanent basis.

208 (c) Following the enactment of this act, any reference to the town administrator existing
209 in any provision of the town code or any other special act shall be construed as referring to the
210 town manager. All powers and duties conferred upon the town administrator by the town code or
211 other special act shall be vested in the town manager, unless otherwise provided in this act.

212 (d) Following the enactment of this act, sections 58 and 60 of the town code shall be
213 repealed and be of no effect.

214 (e) Following the enactment of this act, all town officers, boards, commissions and
215 employees shall continue to perform their duties in the same manner and to the same extent as
216 they have performed the same prior to the enactment of this act, except that, upon the
217 appointment of a town manager, the powers and duties outlined herein shall be vested in the
218 town manager.

219 SECTION 10. The town manager may be removed by an affirmative vote of at least 4
220 members of the select board in accordance with the provisions of the town manager's contract, if
221 applicable.

222 SECTION 11. If the town manager shall be absent from their office for up to 14 days, the
223 town manager may designate a qualified person to serve as the acting town manager and to

224 perform the duties of the office of the town manager during this period of absence. In the event
225 the town manager shall be absent for more than 14 days or the office of town manager shall be
226 vacant for more than 14 days, the select board may appoint a qualified person to serve as the
227 acting town manager and to perform the duties of the office of the town manager during the
228 period of any vacancy caused by the town manager's absence, illness, suspensions, removal or
229 resignation. The appointment by the select board shall be for a period not to exceed 6 months,
230 but such appointment may be extended by majority vote of the select board.

231 SECTION 12. (a) Upon the effective date of this act, the position of town clerk shall
232 cease to be elected and shall become a position appointed by the town manager pursuant to this
233 act.

234 (b) The incumbent in the office of town clerk shall continue to serve until the expiration
235 of the term for which elected as town clerk, and at the expiration of that term, a town clerk shall
236 be appointed by the town manager as provided in this act. If the incumbent in the office of town
237 clerk vacates said office prior to the expiration of the term for which the town clerk was elected,
238 the office of town clerk shall cease to be an elected position and shall be appointed by the town
239 manager as provided in this act.

240 SECTION 13. In the event that there is a conflict between any provision of this act and
241 any provision of the town code, rules, regulations, orders, special acts, acceptances of laws or
242 other special act pertaining to the town of Wayland, this act shall prevail. All other provisions of
243 town code, resolutions, rules, regulations and votes of the town meeting that are in force at the
244 time this act is enacted, not inconsistent with or superseded by the provisions of this act, shall
245 continue in full force and effect until amended or repealed.

246 SECTION 14. This form of government shall take effect upon its passage.

247 SECTION 15. This act shall take effect upon its passage.