
Chapter 3. AN ACT PROVIDING FOR A CHARTER FOR THE TOWN OF SWAMPSCOTT.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Swampscott is hereby amended by adding the following thirteen chapters:-

Chapter 7.

BOARD OF SELECTMEN.

Section 1. (a) Powers and duties in general - The board of selectmen shall serve as the chief policy making agency of the town. The board of selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it and, in conjunction with other elected town officers and multiple member bodies, the development and promulgation of policy guidelines.

(b) Licensing authority - The board of selectmen shall be the licensing board for the town and shall have a power to issue licenses as otherwise authorized by law.

(c) Appointment - The board of selectmen shall appoint a town administrator, constables, the members of the zoning board of appeals, the registrars of voters and other election officers, the conservation commission, members of multiple member bodies the functions of which do not involve direct operating responsibilities but are primarily policy making or advisory in nature, other than those enumerated herein, and individuals who are to serve as representatives or delegates of the town to the governing or advisory boards of regional or district authorities.

(d) Investigations - The board of selectmen may make investigations and may authorize the town administrator to investigate the affairs of the town and the conduct of any town agency including any doubtful claims against the town. The report of the results of such investigation shall be placed on file in the office of the board of selectmen and a report summarizing the results of such investigation shall be printed in the next annual town report.

Chapter 8.

TOWN ADMINISTRATOR.

Section 1. The board of selectmen shall appoint a town administrator from a list prepared by a screening committee. The board of selectmen shall appoint the town administrator to serve for a three-year renewable contract and shall fix the compensation for such person annually within the amount appropriated by the town. The town administrator shall be appointed solely on the basis of demonstrated executive and administrative qualifications. The town administrator shall be a person especially fitted by education, training and previous experience in public administration to perform the duties of the office. A town administrator need not be a resident of the town. The town administrator shall not have served in an elective office in the town government for at least twelve months prior to appointment, with the exception of town meeting member.

The town administrator shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during such service, unless such action is approved in advance and in writing by the board of selectmen.

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The board of selectmen shall provide for an annual review of the job performance of the town administrator which shall, at least in summary form, be a public record.

Any vacancy in the office of the town administrator shall be filled as soon as possible by the board of selectmen, and in the interim they shall appoint a qualified town administrative officer or employee to serve as temporary town administrator to perform the duties of the office. Such temporary appointment may not exceed three months, but one renewal may be voted by the board of selectmen to extend for a second three months. Compensation for such person shall be set by the board of selectmen.

Section 2. The town administrator shall be the chief administrative and financial officer of the town, directly responsible to the board of selectmen for the administration of all town affairs not specifically reserved to another elected body. The powers and duties of the town administrator shall include, but are not intended to be limited to, the following:

(a) to supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town administrator is given authority, responsibility or control by the town charter, by by-laws, by town meeting vote, by vote of the board of selectmen, or otherwise;

(b) to recommend for appointment and in appropriate circumstances to remove subject to the provisions of the civil service law and of any collective bargaining agreements as may be applicable, all department heads, officers, members of boards and commissions and employees for whom no other method of selection is provided. Such recommendations become effective upon approval of appointment by the majority of the board of selectmen. Recommendations of removal become effective upon concurrence of a majority of board of selectmen. Copies of the notices of all such appointments shall be posted on the town bulletin board when submitted to the board of selectmen;

(c) to be entrusted with the administration of a town personnel system, including but not limited to personnel policies and practices, rules and regulations, including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the town. The town administrator shall also prepare and keep current a plan establishing the personnel staffing requirements for each town agency, except the school department;

(d) to attend all regular and special meetings of the board of selectmen, unless unavailable for reasonable cause, and shall have a voice, but not vote, in all of its proceedings;

(e) to assure that full and complete records of the financial and administrative activities of the town are kept and to render as often as may be required by the board of selectmen, but not less than once in each year, a full report of all town administrative operations during the period reported on, which report shall be made available to the public;

(f) to keep the board of selectmen fully advised as to the needs of the town and shall recommend to the board of selectmen and to other elected town officers and agencies for adoption such measures requiring action by them or by the town meeting as the town administrator may deem necessary or expedient;

(g) to have full jurisdiction over the rental and use of all town facilities and property

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except school property and property under the control of the conservation commission, recreation commission and the public library. The town administrator shall be responsible for the maintenance and repair of all town buildings and facilities placed under the town administrator's control by by-law or by vote of the town or otherwise;

(h) the town administrator shall prepare and present an annual operating balanced budget for the town and a proposed capital outlay program for the five fiscal years next ensuing in accordance with existing by-laws;

(i) to assure that a full and complete inventory of all property of the town, both real and personal, is kept, including all property under the jurisdiction of the school committee;

(j) to negotiate all contracts involving any subject within the jurisdiction of the office of town administrator, including contracts with town employees, except employees of the school department, involving wages, hours and other terms and conditions of employment;

(k) to be responsible for purchasing all supplies, material and equipment for all departments and activities of the town, but not including food for schools, school books, and other instructional material, supplies and equipment, unless otherwise specifically requested by the school committee. The town administrator shall examine, or cause to be examined, the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency, except schools. The town administrator shall be responsible for the disposal of all supplies, material and equipment which have been declared surplus by any town agency;

(l) to see that all of the provisions of the General Laws, the town's charter and by-laws and other votes of the town meeting, and votes of the board of selectmen which require enforcement by the town administrator or officers subject to the direction and supervision of the town administrator are faithfully executed, performed or otherwise carried out;

(m) to inquire, at any time, into the conduct of office or performance of duties of any officer or employee, department, board, commission or other town agency, excluding schools;

(n) to attend all sessions of all town meetings and answer all questions raised by voters which relate to warrant articles and to matters over which the town administrator exercises any supervision;

(o) to recommend to the board of selectmen the reorganization, consolidation or abolishment of town agencies serving under the supervision of the town administrator, in whole or in part, provide for new town agencies, or providing, or to recommend providing, for a reassignment of powers, duties and responsibilities among such agencies so established or existing;

(p) to 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 members 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; and

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(q) to perform any other duties as are required to be performed by the town administrator by by-laws, administrative code, votes of the town meeting, or votes of the board of selectmen, or otherwise.

Section 3. (a) Temporary absence - By letter filed with the town clerk, the town administrator shall recommend a qualified town administrative officer or employee who, with the approval of the board of selectmen, shall exercise the powers and perform the duties of town administrator during a temporary absence. During a temporary absence the board of selectmen may not revoke such designation until at least ten working days have elapsed, whereupon it may appoint another qualified town administrative officer or employee to serve until the town administrator shall return.

(b) *Vacancy* - Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen, but, pending such regular appointment the board of selectmen shall appoint a qualified town administrative officer or employee to perform the duties of the office on an acting basis.

(c) *Powers and Duties* - The powers of temporary or acting town administrator under paragraphs (a) and (b) 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.

Section 4. The board of selectmen may, by a four-fifths vote of the full board, terminate and remove, or suspend, the town administrator from office in accordance with the following procedure.

(a) The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of four-fifths of all its members which must state the reason or reasons for removal. This preliminary resolution may suspend the town administrator for a period not to exceed forty-five days. A copy of the resolution shall be delivered to the town administrator forthwith.

(b) Within five days after receipt of the preliminary resolution the town administrator may request a public hearing by filing a written request for such hearing with the board of selectmen. This hearing shall be held at a meeting of the board of selectmen not later than thirty days after the request is filed nor earlier than twenty days. The town administrator may file a written statement responding to the reasons stated in the resolution of removal with the board of selectmen provided the same is received at its office more than forty-eight hours in advance of the public hearing.

(c) The board of selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a four-fifths vote of all of its members not less than ten nor more than twenty-one days following the date of delivery of a copy of the preliminary resolution to the town administrator, if the town administrator has not requested a public hearing; or within ten days following the close of the public hearing if the town administrator has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the administrator shall, at the expiration of said time, forthwith resume the duties of the office.

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The town administrator shall continue to receive a salary until the effective date of a final resolution of removal.

The action of the board of selectmen in suspending or removing the town administrator shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the board of selectmen.

Chapter 9.

FINANCE AND FISCAL PROCEDURES.

Section 1. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by the General Laws.

Section 2. Submission to town administrator - The budget as adopted by the school committee shall be submitted to the town administrator in sufficient time, but no later than March first, to enable the town administrator to consider the effect of the school department's requested appropriation upon the total town operating budget which is required to be submitted under this chapter.

Section 3. Within the time fixed by by-law, before the town meeting is to convene, the town administrator, after consultation with the board of selectmen, shall submit to the board of selectmen a proposed town operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The summary shall specifically indicate any major variations from the current operating budget and reason for such changes. Complete copies of the proposed operating budget shall be made available for examination by the public. The board of selectmen shall by a majority vote approve a balanced budget and submit said budget to the finance committee no later than the tenth day of March for the ensuing fiscal year. The selectmen shall submit to the town meeting their voted budget and budget summary.

Section 4. The budget message of the town administrator shall explain the budget for all town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position and include other materials as the town administrator deems desirable, or the selectmen may reasonably require.

Section 5. The proposed operating budget shall provide a complete financial plan for all town funds and activities for the ensuing fiscal year. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

(a) proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency and position in terms of work programs, and the method of financing such expenditures;

(b) proposed capital expenditures for current operations during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital ex-

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penditure; and

(c) estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

Section 6. Action by town meeting - The finance committee shall file a report containing its recommendations for action on the proposed operating budget, which report shall be available at least seven days before the date on which the town meeting acts on the proposed budget. When the budget proposed by the town administrator and the board of selectmen is before the town meeting for action, it shall first be subject to amendments, if any, proposed by the finance committee before any other amendments shall be proposed.

Section 7. The town administrator and the capital improvement committee shall submit a capital improvement program to the board of selectmen and the finance committee at least sixty days before the start of each fiscal year. It shall be based on material prepared by the capital improvement committee including:

(a) a clear and concise general summary of its contents;

(b) a list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need for each capital improvement;

(c) cost estimates, methods of financing and recommended time schedules for each improvement.

This information is to be annually revised by the town administrator and the capital improvement committee with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

Section 8. The town administrator shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of the General Laws shall be submitted to the town administrator. The approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer, but the board of selectmen shall approve all warrants in the event of the absence of the town administrator or a vacancy in the office of town administrator.

Section 9. The town administrator shall report to the board of selectmen, the finance committee, and the school committee no later than November fifteenth of each year and present a financial forecast for the next fiscal year detailing anticipated revenues and expenditures.

Section 10. The town administrator shall submit to town meeting a five-year budget plan detailing anticipated revenues and expenditures for the ensuing five fiscal years.

Chapter 10.

TRANSITIONAL PROVISIONS.

Section 1. (a) Screening committee - Forthwith following the election at which this government change is adopted, a screening committee shall be established for the purpose of soliciting, receiving, and evaluating applications for the position of town administrator.

The screening committee shall consist of five persons who shall be chosen as follows: one member or designee of the board of selectmen, the school committee, the finance committee, and two persons appointed by the town moderator. Persons designated

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by the said agencies may, but need not, be members of the agency by which they are designated. Appointments made by the town moderator shall be made last in time in order that in making appointments the moderator may, insofar as it may be feasible so to do, appoint persons who will broaden the membership base of the committee to be most representative of the demographic and occupational base of the town.

Not more than thirty days following the election at which this is adopted, the several persons chosen as aforesaid shall meet to organize and to plan a process to advertise the vacancy and to solicit by other means candidates for the office. The committee shall proceed notwithstanding the failure of any town agency to designate its representatives.

The screening committee shall review all applications received by it, screen all such applicants by checking and verifying work records and other credentials, and interview such number of candidates as it deems to be necessary, desirable or expedient.

Not more than one hundred and fifty days following the date on which the committee meets to organize, the committee shall submit to the board of selectmen the names of not less than five nor more than ten persons whom it believes to be best suited to perform the duties of the office of town administrator.

Within thirty days following the date the list of nominees is submitted to it, the board of selectmen shall choose, by a majority vote, one of the said nominees to serve as town administrator.

Upon the appointment of a town administrator the committee established hereunder shall be considered discharged.

Until such time as some other provision is made by by-law for another screening committee, a committee as above shall be established whenever the office of town administrator shall become vacant.

(b) Town administrator qualifications - Until such time as the town meeting may act, by by-law, to establish different qualifications for the office, the town administrator shall have the following specific qualifications:

(1) have at least earned a bachelor's level degree from a recognized, accredited college or university;

(2) have served full time as an administrative officer of a city or town for not less than three years, or have demonstrated executive and administrative qualifications and be fitted by education, training and previous experience in public administration to perform the duties of the office.

(c) Town administrator salary - Until such time as the salary of the town administrator is otherwise established, and to provide a range within which candidates can be recruited, the salary range for the office is hereby determined not to be more than one hundred and twenty percent of the base salary of the highest town employee excluding schools.

(d) First town administrator - Notwithstanding any provisions of chapters five, six and seven to the contrary, it is not expected that the first person to serve as town administrator shall forthwith upon appointment begin at once to perform all of the duties and exercise all of the powers, duties and responsibilities assigned by chapters five, six and seven

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to the office. It is recognized that in the best long-range interest of the town of Swampscott that such assumption must be gradual and on a phased-in basis.

Chapter 11.

BOARD OF ASSESSORS.

Section 1. There shall be a board of assessors consisting of three members appointed by the board of selectmen, upon the recommendation by the town administrator, for terms of three years each, so arranged so that the term of office of one member shall expire each year.

Section 2. The board of assessors shall annually make a valuation of all property, both real and personal within the town. It shall have all the powers and duties given to a board of assessors under the Constitution of the commonwealth and the General Laws, and such addition of powers and duties as may be authorized by the charter, by by-law or by other town meeting vote.

Section 3. Full-time or part-time assistant assessors shall be recommended by the town administrator for appointment by the board of selectmen. Those appointed shall be especially fitted by education, training, or previous experience to perform the duties of the office.

Chapter 12.

DEPARTMENT OF PUBLIC WORKS.

Section 1. There shall be a department of public works, headed by a director of public works appointed by the board of selectmen upon the recommendation of the town administrator. The director of public works so appointed shall be a person especially fitted by education, training, or previous experience to perform the duties of the office.

The director of public works shall be responsible for the supervision and coordination of all public works operations of the town. Other activities and functions which are related to a department of public works may from time to time be assigned to the department.

The board of selectmen, acting through the town administrator, shall be responsible for the overall supervision of the department of public works and for the establishment of policies and other guidelines to govern the operation of the department.

Section 2. (a) Composition, term of office - There shall be a public works advisory committee consisting of three members appointed by the board of selectmen for terms of three years each, so arranged that the term of office of one member shall expire each year.

(b) Powers and duties - The public works advisory committee shall be responsible for advising the town administrator and the board of selectmen on all aspects of public works operations and policy. The advisory committee shall assist in the preparation of long range comprehensive or master plans for the town in public works related matters including, but not limited to, street and road improvement and maintenance programs, water and sewer extension, improvement and development programs.

Chapter 13.

BOARD OF HEALTH.

Section 1. (a) Composition, term of office - There shall be a board of health advisory committee consisting of three members appointed by the board of selectmen for

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terms of three years each, so arranged that the term of office of one member shall expire each year.

(b) Powers and duties - The board of health advisory committee shall be responsible for advising the health officer, town administrator and board of selectmen on all aspects relating to health issues, including operations and policies of the health department.

(c) Appointment of health agent - The Swampscott health agent shall be appointed by the board of selectmen upon the recommendation of the town administrator. The health agent shall be a person especially fitted by education, training, or previous experience to perform the duties of the office.

Chapter 14.

TOWN TREASURER/COLLECTOR.

Section 1. The town treasurer/collector shall be appointed by the board of selectmen upon the recommendation of the town administrator. The town treasurer/collector shall be a person especially fitted by education, training, or previous experience to perform the duties of the office.

Chapter 15.

FIRE CHIEF.

Section 1. The fire chief shall be appointed by the board of selectmen upon the recommendation of the town administrator. The town hereby adopts the provisions of sections forty-two A, forty-three and forty-four of chapter forty-eight of the General Laws, to become effective coincidentally with the termination of service of the incumbent fire chief.

Chapter 16.

APPOINTMENT SUMMARY.

Section 1. The board of selectmen shall appoint: a town administrator to serve for a three year renewable term; a board of health advisory committee to consist of three members appointed for terms of three years each; a conservation commission to consist of seven members appointed for terms of three years each; a zoning board of appeals to consist of five regular members, appointed for terms of five years each, and two associate members, appointed for terms of two years each; a council on aging, as provided by by-law; a cable television oversight committee; constables; an arts lottery council; a Swampscott historical commission; a building code board of appeals; a harbor advisory board; a public works advisory committee; a recreation commission; an affirmative action committee (diversity committee); a 4th of July committee; a Veteran's Day committee; a Memorial Day committee; a War Memorial Scholarship Fund committee; a board of assessors; an election commission.

Section 2. The town administrator shall recommend and the board of selectmen shall appoint: a director of public works and all other employees of a department of public works; a police chief and other police officers to serve for indefinite terms; a fire chief and other firefighters, to serve for indefinite terms; a town accountant to serve for a term of three years; an inspector of buildings to serve for an indefinite term; a wire inspector to serve for an indefinite term; an inspector of gas appliances and gas fittings to serve for an indefinite

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term; a plumbing inspector to serve for an indefinite term; an animal control officer to serve for an indefinite term; a sealer of weights and measures to serve for an indefinite term; a parking clerk; a town counsel; a town engineer; a tree warden; a veteran's services director, veteran's agent, veteran's graves officer and burial agent; a health agent, animal inspector and other personnel of department of public health; a town treasurer/collector; a civil defense director and related civil defense personnel; full-time or part-time assistant assessors; a harbor master.

Chapter 17.

TERMS.

Section 1. All town officers and all members of all boards, commissions and committees who have heretofore been elected and who will henceforth be appointed under the provisions of this charter shall serve for the balance of the term for which they were elected, subject to their retirement or resignation, but their successors shall be appointed.

Boards and committees not specifically mentioned herein shall continue as is.

Chapter 18.

CONTINUATION OF GOVERNMENT.

Section 1. All town agencies shall continue to perform their duties until reappointed, reelected, or until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with the provisions of this charter.

Chapter 19.

REVIEW COMMITTEE TO BE APPOINTED.

Section 1. The town moderator shall appoint a committee consisting of one member of each of six precincts and one member at large which will prepare a report to be presented at the annual town meeting four years after the enactment of these articles of amendment to the town charter, to evaluate the position of town administrator. A majority vote will be required by town meeting to continue the position as is. The review committee will also have the power to make any recommendations deemed necessary in the interest of good town government.

SECTION 2. This act shall be submitted for acceptance to the voters of the town of Swampscott at the annual town elections to be held in the year nineteen hundred and ninety-four in the form of the following question, which shall be placed upon the official ballot:- "Shall an act passed by the general court in the year nineteen hundred and ninety-four, entitled 'An Act providing for a charter for the town of Swampscott', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative then this act shall take effect but not otherwise.

SECTION 3. Chapter eighteen of the charter of the town of Swampscott shall take effect on July first, nineteen hundred and ninety-four.

SECTION 4. This act shall take effect upon its passage.

Approved March 11, 1994.