

An Act Providing for a Selectmen/Town Manager/Open Town Meeting form of government in the Town of Hull.

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

SECTION 1. Upon the effective date of this act, the town of Hull shall be governed by the provisions of this act. To the extent that the provisions of this act modify or repeal existing General Laws and special acts or the by-laws of the town of Hull, this act shall govern.

SECTION 2. The registered voters of the town of Hull shall, in accordance with any applicable laws, by-laws and votes of the town, continue to elect the following:

- A. Moderator
- B. Board of Selectmen
- C. School Committee
- D. Planning Board
- E. Town Clerk
- F. Board of Assessors
- G. Hull Redevelopment Authority
- H. Library Trustees
- I. Hull Housing Authority
- J. Municipal Light Board

The provisions of this act shall not affect the term of office of any such elected official or elected member of such board, committee or authority. Every other elective office, board, committee or commission of the town shall be terminated or shall become appointive as provided herein, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board, committee or commission existing as an elected office at the time of the passage of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of his successor.

The powers, duties and responsibilities of elected and appointed officials shall be as now or hereafter provided by applicable provisions of General Laws, special acts, by-laws and votes of the town, except as otherwise expressly provided herein.

Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to the town manager for consultation, conference and discussion on matters relating to their respective offices. The town manager may require all such officials, except the Selectmen, to prepare reports for the town manager necessary for the efficient administration of any of his responsibilities.

SECTION 3. A. The executive powers of the town shall be vested in the Board of Selectmen, who shall have all the powers given to boards of Selectmen by the general laws. The Board of Selectmen shall serve as the chief goal-setting, and policy-making agency of the town and as such shall not normally administer the day-to-day affairs of the town. The Board of Selectmen shall act through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority. Individual Selectmen shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board to do so.

B. The Board of Selectmen shall have the power to enact rules and regulations to implement policies and to issue interpretations.

C. The Board of Selectmen shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.

D. The Board of Selectmen shall appoint the town manager, town counsel, and any assistant or special counsels and all members of committees, boards, and commissions except those appointed by the moderator, elected by the voters, or as otherwise appointed as outlined in the town's by-laws. They may make appointments to all positions and committees they create for special or general purposes. The Retirement Board and System shall continue to be constituted and governed as outlined by state law.

E. The Board of Selectmen shall have general administrative oversight of such boards, committees, positions, or commissions appointed by the Board of Selectmen.

F. The Board of Selectmen shall have the responsibility and authority for licenses and other non-personnel related quasi-judicial functions as provided by the General Laws and the town of Hull by-laws, except as outlined in Section 4.C.3 herein.

G. The Board of Selectmen shall be responsible for the preparation of all town meeting warrants.

H. The Board of Selectmen shall review the annual proposed budget submitted by the town manager and make recommendations with respect thereto as they deem advisable. The town manager shall present the budget, incorporating the recommendations of the Selectmen, to the finance committee and the town meeting.

I. The Board of Selectmen, by at least three members voting in the affirmative, shall appoint a town manager for a term of three years, who shall be a person with executive and administrative qualifications and especially fitted by education, training and experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate. The Selectmen shall enter into a formal contract with the town manager and may set a job description for the town manager which shall take precedence over any personnel by-laws.

J. The Board of Selectmen may suspend and/or remove the town manager at any time by a vote of at least three members voting in the affirmative. At least thirty days before such proposed suspension and/or removal shall become effective, the Selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for the proposed suspension and/or removal, a copy of which resolution shall be delivered to the town manager. The manager may, within ten days of service of such resolution, reply in writing to the resolution and may request a public hearing. Service shall be deemed to have been accomplished by leaving a copy of such resolution at the manager's last known abode. If the manager so requests, the Board of Selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such a request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, the Selectmen by a vote of at least three affirmative votes of its members, may adopt the final resolution of suspension and/or removal. In the preliminary resolution, the Selectmen may suspend the manager from duty. Nothing contained herein shall limit the authority of the Board of Selectmen to suspend and/or remove the town manager as provided by state law. Any suspension may be with or without pay.

K. The Board of Selectmen shall set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.

L. The Board of Selectmen shall designate a qualified person to serve as acting town manager and to perform the duties of the office during any period of any vacancy, or any period of time in which the town manager cannot perform his or her job except as provided for elsewhere herein.

M. The Board of Selectmen shall appoint the members of the Board of Health, and the Park and Recreation Commission. The incumbents on these boards upon the effective date of this act shall continue to hold such office and perform the duties thereof until the expiration of their elected term and until the appointment and qualification of their successors.

SECTION 4. A. The town manager shall be the chief 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 manager's charge by this act, the Board of Selectmen by law, or vote of town meeting, and for the implementation of town policies placed in the manager's charge by the Board of Selectmen.

B. The town manager shall be the chief financial officer of the town, and shall be responsible for the design and preparation of the annual budget, filing grant applications, and controlling budget expenditures, including approval of the warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws. Without limiting the generality of the foregoing the town manager shall have the following specific budgetary powers:

1. The town manager shall submit to the Board of Selectmen a written proposed budget for town government for the ensuing fiscal year, including the budget as proposed by the school department. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current, and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, department, committee, purpose, and position, together with proposed financing methods; and the proposed budget shall include estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may, by by-law, establish additional financial information and reports to be provided by the town manager.
2. The town manager shall report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.
3. The calendar dates on or before which the proposed budget, revenue statement, and tax rate estimate are to be submitted to the Board of Selectmen, as required by subsection I of section two, shall be thirty days prior to the date the budget is required to be submitted to the Finance Committee as specified by by-law.
4. To assist the town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.
5. The town manager shall submit annually to the Board of Selectmen a five year capital improvements program to include: (a) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data; (b) cost estimates, methods of financing, and recommended time schedule, and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. A capital improvement shall be defined by by-law.

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

1. The town manager shall supervise all town departments under the jurisdiction of the Selectmen and direct the operation of the town.
2. The town manager shall be responsible for coordination of operational and strategic planning for the town.
3. The town manager shall appoint and may suspend and/or remove, subject to the civil service law where applicable, all department heads, all officers and all subordinates and employees of the town except those appointees for which another method of appointment is provided in this act, employees of the school committee, and appointments made by representatives of the commonwealth.

Employees not protected by Civil Service Law or Union Contract shall have the right to appeal the town manager's decision to discharge. Said appeal shall be initiated by filing a Written Notice of Appeal with the town manager within ten calendar days. Said appeal shall be heard by a mutually agreed upon arbitrator. In the absence of agreement on an arbitrator within thirty days, the appeal shall be heard by the American Arbitration Association or the Massachusetts Board of Conciliation and Arbitration.

Appointments made by the town manager for department heads shall become effective on the fifteenth day following the day notice of the appointment is filed with the Board of Selectmen or other relevant policy board unless the Board of Selectmen or other relevant policy board shall within that period, by a majority of its members present and voting, vote to reject the said appointment or removal. Within said fifteen day period the Board of Selectmen or the relevant policy board may, by a majority of its members present and voting, vote to waive its power to reject the appointment, whereupon the appointment shall become effective immediately.

Appointments by the town manager for all positions except department heads shall become effective immediately.

4. The town manager, subject to any applicable provisions of the General Laws relating thereto, may assume, temporarily, the duties of any office which the manager is authorized to fill by appointment.
5. The town manager is responsible for administration of personnel evaluation policies and practices, enforcement labor contracts, labor relations, collective bargaining and state and federal equal opportunities law compliance functions of the town.
6. The town manager shall keep full and complete records of the office and annually submit to the Selectmen, unless requested to do so more frequently, a full written report of the operations of the office of town manager.
7. The town manager shall advise the Selectmen of all matters requiring action by them or the town.
8. The town manager shall attend all meetings of the Board of Selectmen and all town meetings and shall be permitted to speak when recognized by the moderator.
9. The town manager shall act as central purchasing agent for all town departments and activities, except those under the jurisdiction of the school committee, unless requested by that agency.
10. The town manager shall manage and be responsible for all town buildings, property and facilities, except those under the jurisdiction of the school committee, unless requested by that agency.
11. The town manager shall be responsible for the negotiations of all contracts, which are subject to execution by the Board of Selectmen.
12. The town manager shall administer, either directly or through a person or persons appointed by him or the Board of Selectmen, in accordance with this act, all provisions of general and special laws applicable to said town, all by-laws, and all regulations established by the Board of Selectmen.
13. The town manager may represent the town at local, state, federal and regional meetings.
14. During his temporary absence, the town manager shall designate by letter filed with the Board of Selectmen, a qualified administrative employee or officer to exercise the powers and perform the duties of town manager.
15. The town manager may perform such other duties consistent with the office, as may be required of the manager by by-law or by vote of the Board of Selectmen or town meeting.

Notwithstanding the provisions of any general or special law to the contrary, the office of treasurer/collector of taxes shall be appointed by and serve at the will of the town manager. The incumbent in the office upon the effective date of this act shall continue to hold such office and perform the duties thereof until the expiration of the term for which she was elected and until the appointment and qualification of her successor.

Nothing contained in this act shall affect the operation of the Fire Department, which shall continue to function under Massachusetts General Laws Chapter 48, §42 nor shall it affect the operation of the Police Department, which will continue to function under Massachusetts General Laws Chapter 41, §97A.

SECTION 5. The town manager shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town manager. The town manager may, without notice, cause the affairs of any division or department under the manager's supervision for the conduct of any officer or employee thereof to be examined.

SECTION 6. The organization of the town into operating agencies may be accomplished through either of the methods provided in this section.

1. By-laws. Subject only to express prohibitions in the Constitution and General and Special Laws and provisions of this act, the Board of Selectmen or the town manager may petition the town meeting, and the town meeting may, by by-law, reorganize, consolidate, or abolish any town agency, in whole or in part; establish such new town agencies as it deems necessary or advisable and may prescribe the functions of any such town agency; provided, however, that no function assigned by this act to a particular town agency may be discontinued or, unless the act specifically so provides, assigned to any other.

2. Administrative Code. The Board of Selectmen, upon recommendation of the town manager, may from time to time adopt departmental rules and regulations and operating procedures for town agencies for the orderly, efficient or convenient conduct of the business of the town.

Prior to the approval of such a plan the Board of Selectmen shall hold one or more public hearings on the proposal giving notice by publication in a newspaper of general circulation in the town not less than seven days in advance, which notice shall describe the scope of the proposal and time and place at which the hearing shall be held. Following such public hearing, the Board of Selectmen shall by a vote of at least three of its members voting in the affirmative accept or reject the proposal in its entirety or as modified.

An organization or reorganization plan shall become effective at the expiration of ninety days following the date of the meeting of the Board of Selectmen at which the proposal is approved.

The Board of Selectmen may through the administrative code, and subject only to express prohibitions in the constitution, general laws and this special act, reorganize, consolidate or abolish all town agencies in whole or in part; establish such new town agencies as they deem necessary; and for such purpose may transfer the duties and powers and so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one town agency to another; provided, however, that no function assigned by this special act to a particular town agency may be discontinued, or, unless this special act specifically so provides, assigned to any other.

3. SPECIAL LEGISLATION. Nothing contained herein shall limit the authority of the town to petition the General Court for special legislation to organize operating agencies within the town.

SECTION 7. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Hull on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, by-laws, votes, rules and regulations, respectively.

SECTION 8. No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

SECTION 9. Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of said duties by another person or agency. No person who continues in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. The position of executive administrator to the Board of Selectmen shall be terminated upon assumption of office by the town manager or acting town manager.

SECTION 10. Should any section or provision of this Act be declared or determined to be invalid, such section or provision shall be deemed stricken and shall not invalidate or impair the other sections or provisions of this Act.

SECTION 11. This act shall take effect upon its passage.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety-three

AN ACT RELATIVE TO THE OPERATION OF THE MUNICIPAL LIGHT PLANT IN THE TOWN OF HULL.

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. Subsection C of section 4 of chapter 8 of the acts of 1989 is hereby amended by inserting after paragraph 14 the following paragraph:-

14A. The town manager shall supervise the operation of the municipal light plant and shall have the authority to hire, suspend or remove personnel and to negotiate personnel and all other contracts and shall be responsible for the day to day functioning and operation of said light plant in accordance with the provisions of chapter one hundred and sixty-four of the General Laws. The municipal light board shall set rates and advise the town manager on general policy. The town manager shall present the annual budget of the light plant to the finance committee and board of selectmen.

SECTION 2. This act shall take effect upon its passage.

House of Representatives, June 23, 1993.

Passed to be enacted,  Speaker.

In Senate, June 24, 1993.  
Passed to be enacted,  , President.

1 July, 1993.

Approved, at two o'clock and 7 minutes, P. M.



Governor.