

## ARTICLE IV

**An Act Establishing a Selectboard-Town Administrator Form of Government for the Town of South Hadley****[Acts of 2012, Ch. 458, approved 1-10-2013]**

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. SELECTBOARD.**

- (A) Composition. There shall be a selectboard consisting of five members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.
- (B) Vacancy in office. Vacancies on the selectboard shall be filled by a special election in accordance with the General Laws.
- (C) Executive powers.
  - (1) The selectboard shall serve as the chief policymaking body of the town and shall have all of the executive powers given to boards of selectmen by the General Laws, except for those granted herein to the town administrator.
  - (2) The selectboard 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 to develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the selectboard, or a majority of such members, to become involved in the day-to-day administration of any town agency. The selectboard shall act only through the adoption of broad policy guidelines, which shall be implemented by officers and employees serving under it.
  - (3) The selectboard shall cause the by-laws, rules and regulations for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.
  - (4) The selectboard shall appoint and may remove the town administrator as provided in sections 3 and 6, respectively, and the town counsel, and shall approve the appointment of department heads as provided in paragraph (1) of subsection (B) of section 4.
  - (5) The selectboard shall appoint the Board of Appeals, registrars of voters, conservation commission, recreation commission, historical commission, trustees of special funds and members of all appointed multiple member bodies for whom no other method of selection is provided by this act or by by-law, except persons serving under other elected town officers and members appointed by state officers.
  - (6) The selectboard shall be the licensing board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest. The selectboard shall enforce the laws relating to all businesses for

which it issues licenses.

- (7) The selectboard shall be responsible for providing timely audits as required by law. The audits shall be made by a certified public accountant, or by a firm of accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the government of the town of South Hadley or any of its officers. The selectboard shall approve the selection of the town audit firm, which shall be recommended by the town administrator.

### **SECTION 3. TOWN ADMINISTRATOR - APPOINTMENT, QUALIFICATIONS, RESTRICTIONS AND TERMS OF EMPLOYMENT.**

- (A) Appointment. There shall be established in the town of South Hadley the office of town administrator, who shall be appointed by the selectboard for a term not to exceed three years, as the selectboard may determine, and who may be appointed for successive terms of office. Whenever a vacancy shall occur in the office of town administrator, the selectboard shall appoint a town administrator screening committee to identify and recommend qualified candidates for the position. The selectboard shall provide the screening committee with a written charge and statement of qualifications and duties of the position that have been approved by the selectboard. The screening committee shall design and undertake a recruitment process and shall present candidates to the selectboard. The selectboard shall, within 45 days following the date of receipt of the list of candidates, either choose one candidate from the list to fill the position of town administrator or reject all candidates and direct that the screening committee resume the search.
- (B) Qualifications. The town administrator shall be a person of demonstrated ability who is qualified by reason of education, skills and experience in public management or business administration. The selectboard may establish additional qualifications for the office of town administrator.
- (C) Restrictions. The town administrator shall devote full-time to the duties of the office and shall not engage in any other business or occupation during such employment by the town unless such action is approved in advance, in writing, by the selectboard. The town administrator shall hold no elective office in the town while serving as town administrator, but the selectboard may appoint the town administrator to any nonelective office or position consistent with the responsibilities of the town administrator. Before entering upon its duties, the town administrator shall be sworn to the faithful and impartial performance thereof by the town clerk.
- (D) Terms of employment.
  - (1) To the extent permitted by law, the terms of the town administrator's employment may be the subject of a written agreement between the parties.
  - (2) The selectboard shall set the compensation of the town administrator.
  - (3) The selectboard 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.

**SECTION 4. TOWN ADMINISTRATOR - POWERS AND DUTIES.**

(A) Chief administrative officer. The town administrator shall be the chief administrative and financial officer of the town and shall be responsible to the selectboard for the effective management of all town affairs placed in the town administrator's charge by this act, by the selectboard or by vote of the town Meeting. The town administrator shall be responsible for the implementation of town policies established by the selectboard and shall supervise, manage and coordinate the day-to-day activities of all town departments and employees under the jurisdiction of the selectboard, and shall coordinate all activities of such town departments with the activities of other departments under the jurisdiction of other elected town boards and commissions. The town administrator may delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the town administrator is authorized to exercise, provided, however, that all acts which are performed under such delegation shall be deemed to be the acts of the town administrator. The functions and duties of the town administrator shall include, but not be limited to, the functions and duties as herein described.

(B) Powers of appointment.

- (1) Subject to the approval of the selectboard, the town administrator shall appoint and may remove the police chief, superintendent of public works and town accountant.
- (2) Except as provided in this act, the town administrator shall appoint and may remove all other department heads, including those that serve with an appointed board, commission or committee, and other employees for whom no other method is provided under this act, and shall approve the appointment and removal of all other employees pursuant to the General Laws or this act. The town administrator shall consult with the appropriate appointed board, commission or committee prior to making any appointment or removal under this subsection. This subsection shall not apply to any department heads or employees that serve with elected boards, commissions or committees.
- (3) Department heads shall appoint and may remove, subject to the approval of the town administrator, assistant department heads, subordinates and employees, provided, however, that the town administrator may undertake removal proceedings if the town administrator determines that such action is necessary to assure the effective operations and management of any department.

The department head seeking to make such appointments shall consult with the appropriate appointed board, commission, committee or official prior to making the appointment or removal unless otherwise provided under the General Laws or this act. This subsection shall not apply to any assistant department heads, subordinates and employees that serve with elected boards, commissions or committees.

- (4) The town administrator may, in consultation with department heads and any affected boards, as applicable, transfer personnel between departments as needed. Such transfer shall be presumed to be temporary and shall require the approval of the affected board. This subsection shall not apply to personnel of the school department.
- (5) All personnel appointments of the town administrator shall be based on education, skills

and experience alone.

- (6) Copies of notices of board and commission vacancies, job vacancies and opportunities and requests for volunteers shall be conspicuously posted in the town hall and on the town's official website.
- (C) Administrative duties. The town administrator shall:
- (1) Be responsible for the day-to-day supervision of all town departments and direction of the operations of the town; provided, however, that this section shall not apply to employees of the school department and to the statutory responsibilities and functions of the school committee;
  - (2) Supervise, direct and be responsible for the efficient administration of all officers appointed by the town administrator and the selectboard, and their representative departments, and of all functions for which the town administrator is given responsibility, authority or control by this act, by-law, town Meeting vote or vote of the selectboard;
  - (3) Reorganize, consolidate or establish any department or position under the town administrator's direction or supervision, at the town administrator's discretion and with the selectboard's approval. With the approval of both the selectboard and appropriations committee, the town administrator may transfer all or part of any unexpended appropriation of a reorganized or consolidated department, board or office to any other town department, board or office;
  - (4) Administer, either directly or through a person appointed by the town administrator, all provisions of general and special laws applicable to the town, including federal and Massachusetts emergency management agencies' requirements, by-laws, votes of the town within the scope of the town administrator's duty and all policy rules and regulations made by the selectboard; provided, however, that all acts that are performed under such delegation shall be deemed to be the acts of the town administrator;
  - (5) Establish control and data systems appropriate to monitoring expenditures by town boards and departments to enable the town administrator to make periodic reports to the selectboard and the town's appropriations committee on the status of the town's finances;
  - (6) Develop and administer, either directly or through a person appointed by the town administrator, a personnel system including, but not limited to, determination of compensation, the development and implementation of ongoing training programs, personnel and hiring policies, practices and regulation and evaluation process, for town employees;
  - (7) Manage and be responsible for all town buildings, properties and facilities, except those under the control of the school committee, library trustees and conservation commission; provided, however, that the town administrator may maintain and repair school committee, library trustees and conservation commission buildings, properties and facilities to the extent the school committee, library trustees and conservation commission may request and authorize the same;

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- (8) Attend and participate in all regular and special selectboard meetings and town Meetings, unless excused therefrom by the selectboard;
  - (9) Cause full and complete records of meetings of the selectboard to be taken and maintained and compile reports of the meetings as requested by the selectboard;
  - (10) Act as the liaison to, and represent the selectboard before, state, federal and regional authorities;
  - (11) Be responsible for approving all grant requests and applications submitted on behalf of the town; and
  - (12) Perform any other duties consistent with the office of the town administrator as may be required by by-law or by vote of the town or by vote of the selectboard.
- (D) Financial powers and duties.
- (1)
    - (a) At a time fixed by by-law, the selectboard, after consultation with the town administrator and the appropriations committee, shall issue a policy statement relating to the budget for the next fiscal year. The statement shall establish the parameters of expected budget growth, if any, for the town, with appropriate guidance provided to various town agencies, officers and committees for use in the preparation of operating budgets for the ensuing fiscal year.
    - (b) The town administrator shall prepare and submit to the selectboard and appropriations committee at a public meeting prior to the annual town meeting a written proposed balanced budget for town government, including the school department, for the ensuing fiscal year. To assist the town administrator in preparing the proposed annual budget of revenues and expenditures, all boards, officers and committees of the town, including the school committee, shall, within the time frame requested by the town administrator, furnish all relevant information in their possession and submit to the town administrator, in writing and in such form as the town administrator shall establish, a detailed estimate of the appropriations required and available funds.
    - (c) The proposed budget shall detail all estimated revenues from all sources and all expenditures, including debt service, for the previous, current and upcoming years.
    - (d) It shall include proposed expenditures for both current operations and capital expenditures during the next fiscal year, together with estimated revenues and free cash available at the close of the current fiscal year, including estimated balances in special accounts.
  - (2)
    - (a) The town administrator shall negotiate collective bargaining contracts on behalf of the selectboard, which contracts shall be subject to approval, ratification and execution by the selectboard. The selectboard may authorize, at its discretion, use of additional counsel to assist the town administrator in the negotiations.
    - (b) The town administrator shall administrator and enforce collective bargaining agreements, personnel rules and regulations and by-laws adopted by the town.

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- (3) (a) The town administrator shall be responsible for procurement under chapter 30B of the General Laws and shall be responsible for the purchasing of all supplies, materials and equipment for the town, including the bidding and awarding of all contracts, subject to policies established by the selectboard, except for the school department.
- (b) The town administrator may delegate such purchasing power as provided in chapter 30B of the General Laws.
- (4) (a) Warrants for payments of town funds prepared by the town accountant in accordance with the General Laws shall be submitted to the town administrator for approval. Subject to policies established by the selectboard, the approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town. Any warrants generated by the office of the town administrator shall be signed by the selectboard. The selectboard shall approve all warrants in the event of the absence of the town administrator or a vacancy in the office of town administrator.

**SECTION 5. TOWN ADMINISTRATOR — VACANCY.**

- (A) Permanent vacancy. The selectboard shall fill any permanent vacancy in the office of the town administrator as soon as feasible in accordance with subsection (A) of section 3. Pending the appointment of a town administrator or filling of a vacancy, the selectboard shall, within a reasonable period of time not to exceed 14 days, appoint some other qualified person to temporarily perform the duties of the town administrator until a permanent replacement is appointed.
- (B) Temporary absence or disability.
  - (1) The town administrator may designate by letter filed with the town clerk and selectboard a qualified officer of the town to perform the duties of town administrator during a temporary absence or disability.
  - (2) If the absence or disability exceeds 30 days, any designation by the town administrator shall be subject to approval by the selectboard. If the town administrator fails to make such a designation or if the person so designated is unable to serve, the selectboard may designate some other qualified person to perform the duties of town administrator.
  - (3) The powers and duties of the acting town administrator shall be limited to matters not permitting 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 authorized by the selectboard.

**SECTION 6. TOWN ADMINISTRATOR — REMOVAL, SUSPENSION.**

Removal, suspension. The selectboard may terminate and remove or suspend the town administrator by a majority vote of the selectboard. Prior to any termination or removal or if a suspension is to exceed five days, notice shall be given and the reasons for the proposed action shall be provided in writing to the town administrator and an opportunity shall be provided for the

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town administrator to meet with the selectboard and respond to the selectboard's notice. After such meeting, if any, the selectboard may act by majority vote of the entire selectboard to terminate, remove, or suspend the town administrator.

**SECTION 7. CONTINUATION OF EXISTING GOVERNMENT.**

- (A) Continuation of existing laws. All laws, by-laws, rules and regulations of or pertaining to the town of South Hadley which are in force on the effective date of this act and which are not inconsistent with this act shall continue in full force and effect until amended or repealed. Elected and appointed officers, boards, commissions and committees shall have all of the powers, duties and responsibilities which are in force on the effective date of this act that are not inconsistent with this act, which are given to the respective officers, boards, commissions and committees by law, this act, town by-law or vote of the town meeting. If any provision of this act conflicts with any law, by-law or rule or regulation of the town of South Hadley, this act shall govern.
- (B) Continuation of personnel. Any office or position in the administrative service of the town of South Hadley and incumbents in those offices on the effective date of this act shall continue to function as the office, position or incumbent did previously until a change in such office, position or incumbent is effected in accordance with this act.

**SECTION 8.**

Section 3 of chapter 558 of the acts of 1986 is hereby amended by striking out the first and the fifth paragraphs.

**SECTION 9.**

This act shall take effect upon its passage.