

HOUSE No. 4080

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer E. Benson

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act Establishing the Position of Town Manager in the Town of Ayer.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Jennifer E. Benson

37th Middlesex

James B. Eldridge

Middlesex and Worcester

HOUSE No. 4080

By Ms. Benson of Lunenburg, a petition (accompanied by bill, House, No. 4080) of Jennifer E. Benson and James B. Eldridge (by vote of the town) that the town of Ayer be authorized to establish an appointed town manager in said town. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act Establishing the Position of Town Manager in the Town of Ayer.

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. TOWN MANAGER

2 There shall be established in the town of Ayer the office of town manager, who shall be
3 appointed by the board of selectmen for a term not to exceed 3 years. The town manager shall be
4 a person of demonstrated ability with administrative experience in public management or
5 business administration and who is qualified by reason of education and experience. The town
6 manager shall devote full time to the duties of said office and shall not engage in any other
7 business or occupation during the term of the town manager’s employment unless approved by
8 the board of selectmen in advance. The town manager shall hold no elective office in the town
9 during the town manager’s tenure as town manager, but the board of selectmen may appoint the
10 town manager to any non-elective office or position consistent with the responsibilities of the
11 town manager, and such office or position shall be deemed to be part of the position of town
12 manager. The board of selectmen shall annually set the compensation of the town manager in an

13 amount not to exceed that appropriated by town meeting for such purposes. Additional terms
14 and conditions of employment may be established by contract between the Ayer board of
15 selectmen and the town manager in accordance with section 108N of chapter 41 of the General
16 Laws.

17 SECTION 2. POWERS AND DUTIES

18 The town manager shall be the chief administrative officer of the town, responsible to the
19 board of selectmen for the effective management of all town affairs placed in the town
20 manager's charge by this act, bylaw, the board of selectmen, or town meeting. The town
21 manager shall be responsible for the implementation of town policies established by the board of
22 selectmen. The powers and duties of the town manager shall include, but not be limited to, the
23 following:

24 (A) Appoint and remove members of multiple-member bodies as well as all
25 department heads, officers, subordinates and employees, except employees of the school
26 committee and firefighters. The town manager shall, prior to appointing a department head
27 subject to the policy direction of a multiple-member body, consult with such multiple-member
28 body. Appointment or removal of a department head or member of a multiple member body
29 shall take effect 15 days following notice to the board of selectmen of such action, unless the
30 board of selectmen shall sooner vote to approve or reject such appointment or removal. All
31 appointments and removals made by a temporary or acting town manager under section 3 of this
32 act shall be approved by the board of selectmen;

33 (B) Manage, supervise and be responsible for the efficient and coordinated
34 administration of all town functions under the town manager's control by this act, bylaw, town

35 meeting or the board of selectmen, including all appointed officers and their respective
36 departments, and coordinate the activities of all town agencies, including those under the control
37 of other officers and multiple-member bodies elected by the voters, and to authorize the town
38 manager to reasonably require persons so-elected or appointed, or their representatives, to meet
39 with the town manager for such purposes, or, at the town manager's request, to provide such
40 information as may be necessary and appropriate to have available for purposes of such
41 coordination;

42 (C) Be responsible for the town personnel system, including but not limited to,
43 administering personnel policies and practices, rules and regulations, personnel by-laws and
44 collective bargaining agreements;

45 (D) Fix the compensation of all appointed officers and employees within the limits
46 established by town meeting;

47 (E) Attend all regular and special meetings of the board of selectmen unless excused
48 in advance by the chair of the board of selectmen, and the town manager shall have a voice, but
49 no vote, in all of the proceedings of the board of selectmen;

50 (F) Keep the board of selectmen fully advised concerning the status of all matters
51 referred by the board of selectmen to the town manager and as to the needs of the town; and
52 recommend to the board of selectmen and other elected and appointed town officers and agencies
53 such measures requiring action by them or town meeting as the town manager may deem
54 necessary or desirable;

55 (G) Attend all town meetings and, as authorized by the moderator, answer questions
56 that relate to matters over which the town manager exercises supervision;

57 (H) Have full jurisdiction over the rental and use of all town facilities and property
58 except property under the control of the school committee, conservation commission, and board
59 of library trustees; provided, however, that the town manager shall be responsible for the
60 maintenance and repair of all town buildings and facilities placed under the town manager's
61 control by this act, by by-law, by vote of town meeting, or otherwise;

62 (I) Establish and maintain a full and complete inventory of all real and personal
63 property of the town;

64 (J) Serve as the chief procurement officer for purposes of chapter 30B of the General
65 Laws and be responsible for purchasing all services, supplies, material and equipment for all
66 departments and activities of the town, including execution of contracts therefor; provided,
67 however, that the town manager shall examine, or cause to be examined, the quantity, quality
68 and condition of all supplies, material and equipment delivered to or received by any town
69 agency; and provided further, that the town manager shall be responsible for the disposal of all
70 supplies, material and equipment that have been declared surplus by any town agency. All
71 contracts for purchase of services, supplies, material and equipment negotiated by a temporary or
72 acting town manager under section 3 of this act shall be approved by the board of selectmen;

73 (K) Negotiate collective bargaining agreements and all other contracts involving any
74 subject within the jurisdiction of the office of the town manager, including contracts with town
75 employees other than employees of the school department involving wages, hours and other
76 terms and conditions of employment; provided, however, that all such contracts shall be subject
77 to ratification and execution by the board of selectmen;

78 (L) Assure that full and complete records of the financial and administrative activities
79 of the town are kept and render, as often as may be required by the board of selectmen, a full
80 report of all town administrative operations during the period reported on;

81 (M) Sign warrants for payment prepared and signed by the town accountant in
82 accordance with section 56 of chapter 41 of the General Laws; provided, however, that 1
83 selectman designated by vote of the board of selectmen shall approve all warrants for payment in
84 the absence of the town manager or in the event an acting or interim town manager has been
85 appointed in accordance with section 3 of this act;

86 (N) Inquire or make investigation, at any time, into the conduct of office or
87 performance of duties of any officer or employee, department, board, commission or other town
88 agency;

89 (O) Ensure that all provisions of the general laws and any special laws applicable to
90 the town, town by-laws and other votes of town meeting and the board of selectmen that require
91 enforcement by the town manager or officers subject to the direction and supervision of the town
92 manager, are faithfully executed, performed or otherwise carried out;

93 (P) Act as the liaison with and represent the board of selectmen before state, federal
94 and regional authorities;

95 (Q) Delegate to any subordinate officer or employee authority to exercise any power
96 or perform any function or duty which is assigned to the office of the town manager, other than
97 the signing of warrants for payment; provided, however, that all acts performed under any such
98 delegation shall be deemed to be the acts of the town manager; and

99 (R) Perform any other duties as are required to be performed by the town manager by
100 town by-laws, town meeting, the board of selectmen or otherwise.

101 SECTION 3. TEMPORARY ABSENCE OR VACANCY

102 (A) Temporary absence—By letter filed with the town clerk and board of selectmen,
103 the town manager shall designate a qualified town administrative officer or employee to exercise
104 the powers and perform the duties of town manager during a temporary absence or disability not
105 in excess of ten business days, which person shall, when acting in that capacity, be known as the
106 acting town manager. Following the expiration of such period, the board of selectmen may
107 revoke such designation and appoint another qualified town administrative officer or employee
108 to serve as the temporary town manager until the town manager returns. The powers of an acting
109 town manager shall be limited to matters not permitting of delay and shall include authority to
110 make temporary, emergency appointments or designations to town office or employment but not
111 to make permanent appointments or designations.

112 (B) Vacancy –Any vacancy in the office of town manager shall be filled as soon as
113 possible by the board of selectmen; provided, however, that pending such permanent
114 appointment, the board of selectmen shall appoint a qualified town administrative officer or
115 employee to perform the duties of the office on an acting basis, which person shall be known as
116 the interim town manager. Such appointment shall not exceed 6 months, but 1 renewal may be
117 voted by the board of selectmen not to exceed a second 6 months. Compensation for such person
118 shall be set by the board of selectmen within the appropriation made by town meeting for the
119 office of town manager.

120 SECTION 4. REMOVAL AND SUSPENSION

121 The board of selectmen by majority vote of the entire board may terminate, remove or
122 suspend the town manager from office; provided, however, that further conditions applicable to
123 termination, removal and suspension may be addressed by the terms of any contract between the
124 board of selectmen and the town manager.

125 SECTION 5. TRANSITIONAL PROVISIONS

126 The office of town administrator shall be abolished upon the effective date of this act, and
127 the office of the town manager shall in all respects be its lawful successor. The appointed town
128 administrator holding office as of the effective date of this act shall become the first Ayer town
129 manager and shall serve for a period of time equivalent to the remainder of his appointed term as
130 town administrator or sooner vacating of office. A town manager shall thereafter be appointed
131 by the board of selectmen in accordance with section 1 of this act, and previous service as the
132 town administrator shall not disqualify such person from being appointed as the town manager
133 under this act.