

HOUSE No. 4931

The Commonwealth of Massachusetts

PRESENTED BY:

Sean Garballey and Cindy F. Friedman

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 amending the Town Manager Act of the town of Arlington.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Cindy F. Friedman

Fourth Middlesex

Sean Garballey

23rd Middlesex

HOUSE No. 4931

By Representative Garballey of Arlington and Senator Friedman, a joint petition (accompanied by bill, House, No. 4931) of Sean Garballey and Cindy F. Friedman (by vote of the town) relative to the town manager of the town of Arlington. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act amending the Town Manager Act of the town of Arlington.

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 503 of the acts of 1952, as most recently amended by chapter 101
2 of the acts of 2016, is hereby further amended by striking out sections 2 to 44, inclusive, and
3 inserting in place thereof the following 43 sections:-

4 Section 2. Election of Moderator.

5 The office shall continue as presently provided in said town.

6 Section 3. Election of Select Board.

7 At the first annual election held in said town after the acceptance of this act, the number
8 of select board members shall be increased to five. Such increase shall be effected in the
9 following manner: the two members of the Select Board whose terms have not then expired
10 shall continue as such members until the expiration of the terms for which they were respectively
11 elected, and at such annual election there shall be elected one select board member for one year,

12 one for two years, and one for three years; and at each annual election there after, the town shall
13 elect successors of the members whose terms have expired for the terms of three years. They
14 shall serve until their successors are elected and qualified. When a vacancy occurs among the
15 select board members for any reason other than expiration of term, the remaining select board
16 members and the moderator, within thirty days after such vacancy occurs, shall appoint another
17 select board member to fill the vacancy until the next town election, at which the voters shall
18 elect a select board member for the remainder of the unexpired term. A majority of the ballots of
19 the officers entitled to vote shall be necessary to such appointment.

20 Section 4. Appointive Powers of Select Board.

21 The select board shall appoint and may remove election officers, the boards of appeal and
22 the registrars of voters, except the Town Clerk as a registrar.

23 Section 5. Election of School Committee.

24 The election of the school committee shall continue as presently provided in said town
25 except that the number of positions thereon shall be limited to seven. When a vacancy occurs in
26 the membership of the school committee, the remaining members of the school committee shall
27 after one week's notice, fill such vacancy by ballot. A majority of the ballots of the members
28 entitled to vote shall be necessary to such election. The person so appointed shall perform the
29 duties of the office until the next annual election, at which the voters shall elect a member of the
30 school committee for the remainder of the unexpired term.

31 Section 6. Power of the School Committee.

32 Nothing in this act shall be construed to affect the powers and duties of the school
33 committee as provided by law, except as specifically provided herein.

34 Section 7. Election of Housing Authority.

35 The election of the elected members of the Arlington Housing Authority shall continue as
36 presently provided.

37 Section 8. Election of Other Officers.

38 The election of Town Clerk, treasurer and town collector, and assessors shall continue as
39 presently provided. Notwithstanding the election of the officers named in this section, by voters
40 of the town, they shall be subject to the call of the manager for consultation, conference and
41 discussion on matters relating to their respective offices.

42 Section 9. Multiple Officers.

43 A member of the Select Board, or of the school committee, or of the finance committee
44 shall, during the term for which the member was elected or appointed, be ineligible either by
45 election or appointment to hold any other town office, except the office of town meeting member
46 and except membership on a committee, board or commission when participation of such
47 member is required by Town Bylaw or by a vote of the Town Meeting. Any person appointed
48 by the Town Manager to any town office under the provisions of this act or of any general or
49 special law shall be eligible during the term of said office to appointment to any other town
50 office, except that the town accountant shall not be eligible to hold the position of town treasurer
51 and collector. The Town Manager may, subject to any applicable provision of the General Laws,

52 relating thereto, and subject to the approval of the Select Board, assume the duties of any office
53 which said town manager is authorized to fill by appointment.

54 Section 10. Investigations or Surveys.

55 For the purpose of making investigations or surveys, the select board may employ such
56 experts, counsel and other assistants and incur such other expenses, not exceeding in any year the
57 sum of one thousand dollars, or such larger sums as may be appropriated for the purpose by the
58 town, as they may deem necessary, and the same shall be paid by the treasurer upon a warrant
59 signed by a majority of the Select Board.

60 Section 11. Appointment of Town Manager.

61 The select board shall appoint, as soon as practicable, for a term of three years a Town
62 Manager, who shall be a professionally qualified person especially fitted by education, training
63 and experience to perform the duties of the office, shall have at least three years' experience of
64 significant municipal management or administrative experience, and shall be a citizen of the
65 United States of America. Upon the expiration of such term the select board shall appoint, as
66 soon as possible, but in any event not later than ninety days after the expiration of said term, the
67 town manager's successor. The Town Manager shall be appointed without regard to their
68 political beliefs. The Town Manager may be appointed for successive terms of office. Before
69 entering upon the duties of their office, the Town Manager shall be sworn to the faithful and
70 impartial performance thereof by the chairperson of the select board, or by the Town Clerk, or by
71 a Justice of the Peace. The Town Manager shall execute a bond in favor of the town for the
72 faithful performance of their duties in such sum and with such surety or sureties as shall be fixed
73 or approved by the select board.

74 Section 12. Temporary Manager or Manager for Unexpired Term.

75 (a) The Town Manager may, subject to approval by the Select Board, designate, by
76 letter filed with the Town Clerk, a qualified officer of the town as temporary Town Manager to
77 perform the duties of the manager during their temporary absence or temporary disability, except
78 during removal proceedings. In the event of the failure of the manager to make such designation,
79 the select board shall forthwith, by resolution, designate an officer of the town to perform the
80 duties of, and have the power of, the manager, until the manager shall return or their disability
81 shall cease.

82 (b) When a vacancy occurs in the office of Town Manager for any reason other than
83 for expiration of their term, the select board shall appoint, as soon as possible, but in any event
84 not later than ninety days after such vacancy occurs, a Town Manager for the balance of the
85 unexpired term. Such appointment shall, in so far as practicable, be subject to the same
86 conditions and qualifications for the office of Town Manager as set forth in section eleven; if not
87 so practicable, the select board shall so appoint a qualified officer of the town as acting manager
88 for the balance of the unexpired term.

89 Section 13. Removal of Manager.

90 The select board, by a majority vote of the full membership of the board, may remove the
91 Town Manager. At least twenty days before proposed removal shall become effective, the select
92 board shall file a preliminary written resolution with the Town Clerk setting forth in detail the
93 specific reasons for the proposed removal of the Town Manager, a copy of which resolution shall
94 be delivered to the Town Manager. The manager, within twenty days after notice, so filed, may
95 reply in writing to the resolution and may request a public hearing. If the manager so requests,

96 the Select Board shall hold a public hearing not earlier than twenty days not later than thirty days
97 after the filing of such request.

98 The manager shall have the right to representation by counsel, to produce witnesses and
99 exhibits on their behalf, and to cross-examine witnesses. After such public hearing, if any,
100 otherwise at the expiration of thirty days following the filing of the preliminary resolution, and
101 after full consideration, the select board by a majority vote of the full membership of the board
102 may adopt a final resolution of removal. In the preliminary resolution, the select board may
103 suspend the manager from duty, but in any case their salary shall continue to be paid until the
104 expiration of one month from the date of adoption of the final resolution of removal.

105 Section 14. Compensation of Manager.

106 The Town Manager shall receive such compensation for their services as may be
107 appropriated by the town, and any Town Manager appointed for an unexpired term, who meets
108 the requirements of section eleven, shall receive such compensation as is recommended by the
109 select board, which shall not exceed the amount appropriated therefor by the town.

110 Section 15. Powers and Duties of Manager.

111 Amended by Chapter 101 of the Acts of 2016

112 In addition to the specific powers and duties provided in this act the Town Manager shall
113 have the general powers and duties enumerated in this section:

114 (a) The Town Manager shall supervise and direct the administration of all
115 departments, commissions, boards and offices, except the Select Board, the School Committee,
116 Moderator, Town Clerk, Town Treasurer and Collector, Board of Assessors, Registrars of

117 Voters, Election Officers, Boards of Appeal, the Finance Committee, the Capital Budget
118 Committee and the Personnel Review and Appeals Board.

119 While the town manager shall not supervise the board of assessors as an elected body, the
120 town manager shall supervise and direct the administration of the assessors' office and appoint
121 the director of assessments in accordance with subsection (c). The director of assessments and all
122 other assessors' office personnel, except for the board of assessors, employed or in office when
123 this act takes effect shall continue in their respective positions subject to chapter 31 or 150E of
124 the General Laws, or both such chapters, if applicable, but otherwise subject to removal by the
125 town manager as provided in this section.

126 Nothing in this section shall otherwise abridge the authorities or responsibilities of the
127 board of assessors as set forth in chapter 41 of the General Laws or any other general law.

128 (b) The Town Manager, in accordance with the provisions of this act and except as
129 otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish
130 departments, commissions, boards or offices under their direction and supervision, in whole or in
131 part, may establish such new departments, commissions, boards and offices as they deems
132 necessary and make appointments to such boards, subject to the approval of the Select Board.
133 The Town Manager may in connection with such transfer of such powers or duties transfer the
134 duties and powers of one department, commission, board or office to another and may, with the
135 approval and consent of the finance committee, transfer the appropriation of such one
136 department, commission, board or office to another. The Town Manager may temporarily
137 establish such new positions, as they deems necessary and appoint temporary employees thereto.

138 Such positions shall be placed under the Classification and Pay Plans at the next succeeding
139 special or annual town meeting.

140 (c) Subject to the provisions of chapter thirty-one of the General Laws where
141 applicable, and except as otherwise provided by this act, the Town Manager shall appoint upon
142 merit and fitness alone, and may transfer and remove all officers and employees of the town,
143 including maintenance employees of the school department and school custodians, but excluding
144 other employees of the school department. Town officers and full-time employees not subject to
145 said chapter thirty-one shall not be removed by the Town Manager except on ten working days'
146 notice in writing to said officer or employee, setting forth the cause of such removal.

147 The town manager shall also appoint upon merit and fitness alone, the Town's
148 Comptroller (also vested with the authorities of a "Town Accountant") subject to the approval of
149 the Select Board. Appointment of the Comptroller shall become effective upon the approval of
150 the Select Board. If the Select Board fails to act by approving, rejecting, or requesting additional
151 reasonable time to consider a candidate however, appointment shall become effective on the
152 thirtieth day following the day on which notice of the proposed appointment is filed with the
153 Board. For the purposes of this section, notice of appointment shall be considered filed with the
154 board when such notice is filed at an open meeting of the Select Board.

155 The Comptroller may be removed by the town manager subject to the approval of the
156 Select Board. Removal of the Comptroller shall become effective upon approval of the Select
157 Board. If the Select Board shall fail to act, by approving, rejecting, or requesting additional
158 reasonable time to consider a termination however, removals made by the town manager shall
159 become effective on the fifteenth day following the day on which notice of the proposed removal

160 is filed with the Select Board. For the purposes of this section, notice of removal shall be
161 considered filed with the Board when such notice is filed at an open meeting of the Select Board.
162 Nothing in this paragraph shall supersede or abridge the Comptroller's employment rights
163 afforded by state law.

164 Notwithstanding the foregoing section (c), the Comptroller shall be authorized to report
165 directly to the Chairperson of the Select Board, or any Member of the Board, on any matter in
166 the Town at any time, without the necessity of prior approval from the Town manager or any
167 other official.

168 (d) Subject to all applicable provisions of chapter thirty-one of the General Laws, and
169 subject to the classification plan as established now or hereafter by the town by-laws, the Town
170 Manager shall fix the compensation of all town officers and employees subject to removal by
171 said town manager.

172 (e) The Town Manager shall keep full and complete records of their office, and shall
173 render as often as may be required by the select board a full report of their management during
174 the period reported on.

175 (f) The Town Manager shall keep the select board fully advised as to the needs of the
176 town and shall recommend to the select board for adoption such measures requiring action by
177 them or by the town as they may deem necessary or expedient.

178 (g) The Town Manager shall have jurisdiction over the rental and use of all town
179 property, except schools. They shall be responsible for the maintenance and repair of all town
180 property including school buildings. Except as otherwise voted by the town, the school
181 committee shall be responsible for the study, consideration and recommendations as to

182 construction, reconstruction, alterations, improvements and other undertakings pertaining to
183 school buildings or property. Except as otherwise voted by the town, the Town Manager shall be
184 responsible for the preparation of plans and the supervision of work relating thereto, authorized
185 by the town. Except as otherwise voted by the town, the Town Manager shall be responsible for
186 the preparation of plans and the supervision of work on all other construction, reconstruction,
187 alterations, improvements and other undertakings authorized by the town.

188 (h) The Town Manager shall purchase all supplies and materials and equipment,
189 except educational supplies, and books for schools, and books for libraries. The Town Manager
190 shall make purchases for departments not under their supervision only in accordance with
191 requisitions duly signed by the heads of such departments. The Town Manager may delegate
192 such purchasing power. Except as otherwise herein provided, the Town Manager shall award all
193 contracts for all departments of the town.

194 (i) The Town Manager shall, with the approval of the select board, have authority to
195 prosecute, defend and compromise all litigation, except that which pertains to tax assessments
196 and abatements, to which the town is a party, and to employ special counsel to assist the town
197 counsel whenever in their judgment it may be necessary.

198 (j) The Town Manager shall perform such other duties, consistent with their office,
199 as may be required of them by the by-laws or vote of the town or by vote of the select board.

200 Section 16. Investigations by the Manager.

201 The Town Manager may without notice cause the affairs of any division or department
202 under their control or the conduct of any officer or employee thereof to be examined. The Town

203 Manager shall have access to all town books and papers for information necessary for the proper
204 performance of their duties.

205 Section 17. Appointment of Redevelopment Board.

206 The Redevelopment Board shall consist of five members, four to be appointed by the
207 Town Manager, subject to the approval of the Select Board, and one to be appointed by the
208 department of community affairs, hereinafter in this section referred to as the department. One
209 of said persons shall be appointed to serve for an initial term of one year, two of said persons
210 shall be appointed to serve for an initial term of two years, and one of said persons shall be
211 appointed to serve for an initial term of three years. The member appointed by the department
212 shall serve for an initial term of three years. Thereafter, as the term of a member expires, their
213 successor shall be appointed in the same manner and by the same body for a term of three years
214 from such expiration. The members shall serve until their respective successors are appointed
215 and qualified. If for any reason a vacancy occurs in the membership of the Redevelopment
216 Board, the vacancy shall be filled forthwith in the same manner and by the same body for the
217 unexpired term. The Town Manager may make or receive written charges against, and may
218 accept the written resignation of, any member appointed by the Town Manager or a former Town
219 Manager or may, after hearing and with the approval of the Select Board, remove any such
220 member because of inefficiency, neglect of duty, or misconduct in office. Such member shall be
221 given, not less than fourteen days before the date set for such hearing, a copy in writing of the
222 charges against them and written notice of the date and place of the hearing to be held thereon,
223 and at the hearing they shall be given the opportunity to be represented by counsel and to be
224 heard in their defense. The Town Manager may make and receive written charges against the

225 member of the Redevelopment Board appointed by the department and refer the same to the
226 department which will proceed in the same manner as the Town Manager and the Select Board.

227 Pending final action upon such charges, the officer or officers having the power to
228 remove such member may temporarily suspend them, provided they shall immediately reinstate
229 them in office if they find such charges have not been substantiated, and may appoint a person to
230 perform the duties of such suspended member until the member is reinstated or removed and
231 their successor is qualified. In case of any such removal, the removing authority shall forthwith
232 deliver to the clerk of the town attested copies of such charges and of its findings thereon and the
233 clerk shall cause the same to be filed with the department and the state secretary. Membership
234 shall be restricted to residents of the town and a member who ceases to be a resident of the town
235 shall be deemed to have resigned effective upon the date of their change of residence.

236 Members of the board shall be sworn to the faithful performance of their duties by the
237 Town Clerk or a Justice of the Peace. The board shall organize for the proper conduct of its
238 duties, shall elect from among its members a chairperson and a vice-chairperson, shall appoint
239 such other officers and agents as it deems necessary, shall determine their respective duties and
240 may delegate to one or more of its members, officers or agents such powers and duties as it
241 deems necessary or proper for the carrying out of any action determined upon by it. The director
242 of planning and community development, hereinafter called the director, shall be ex-officio the
243 secretary of the board. The director shall be appointed by the Town Manager to serve at their
244 pleasure; neither chapter thirty-one of the General Laws nor any rule made thereunder shall
245 apply to the director.

246 The town, acting by and through the Redevelopment Board, shall, except as herein
247 specifically provided otherwise, be and have all the powers of an operating agency subject to the
248 limitations provided in sections forty-five to fifty-nine, inclusive, of chapter one hundred and
249 twenty-one B of the General Laws, and have such further powers and be subject to such further
250 limitations as would from time to time be applicable to a redevelopment authority if such an
251 authority had been organized in the town; provided, however, that notwithstanding sections
252 eleven, forty-seven and forty-eight of said chapter one hundred and twenty-one B, no urban
253 renewal project or rehabilitation project shall be undertaken by the Redevelopment Board, nor
254 shall any property be acquired for any such project by eminent domain or otherwise, until the
255 plan for such project has been approved by an annual or special town meeting; and provided
256 further, that the Redevelopment Board shall not borrow or agree to borrow money without the
257 approval of an annual or special town meeting. Without limiting the generality of the foregoing,
258 the town, with the approval of an annual or special town meeting may raise and appropriate, or
259 may borrow, or may agree to raise and appropriate or to borrow, or may do or agree to do other
260 things with or without consideration, in aid of any project or activity planned or undertaken by
261 the Redevelopment Board to the same extent and subject to the same limitations as if the board
262 were a redevelopment authority.

263 Nothing herein shall, however, alter or limit the powers and rights of the town or any
264 other operating agency therein with respect to the powers and limitations in sections twenty-five
265 to forty-four, inclusive, of said chapter one hundred and twenty-one B.

266 The Redevelopment Board shall have all the powers and perform all the duties presently
267 or from time to time hereafter conferred or imposed by statute or by-law or otherwise on
268 planning boards of towns in the commonwealth established under the provisions of section

269 eighty-one A of chapter forty-one of the General Laws and the town of Arlington shall be
270 deemed to have a planning board established under said section eighty-one A and shall be
271 empowered to take such actions and shall have such powers and perform such duties as it if had
272 established a planning board under said section eighty-one A, except that the Redevelopment
273 Board shall not have any of the powers or perform any of the duties of, or in conflict with the
274 powers or duties of, a board of survey all of which powers and duties shall continue to be
275 exercised and performed by the Select Board constituted as a board of survey unless and until
276 such town by vote of a town meeting shall vote to terminate the existence of the board of survey
277 or to accept the provisions of the subdivision control law contained in sections eighty-one K to
278 eighty-one GG, inclusive, of said chapter forty-one and any amendments thereof or additions
279 thereto, and the subdivision control law shall not be or be deemed to be in effect in such town
280 unless and until such town by vote of a town meeting shall vote to accept the provisions thereof.

281 Section 18.

282

283 (Deleted by Section 3 of Chapter 738 of the Acts of 1971)

284 Section 19. Appointment of Board of Health.

285 The Town Manager, subject to the approval of the Select Board, shall appoint a board of
286 health to consist of three suitably qualified persons. One of said persons shall be appointed for a
287 term of one year, one for a term of two years, and one for a term of three years; and annually
288 thereafter there shall be appointed by the Town Manager, subject to the approval of the Select
289 Board, a member for a term of three years in the place of the member whose term is to expire.
290 The members shall serve until their successors are appointed and qualified. If for any reason a

291 vacancy occurs in the membership of the board of health, the vacancy shall be filled forthwith by
292 the Town Manager, subject to the approval of the Select Board, for the unexpired term. Upon
293 the appointment and qualification of the members of the board of health as provided in this
294 section the terms of office of the members of the then existing board of health of the town shall
295 terminate. The board of health appointed hereunder shall organize for the proper conduct of their
296 duties and shall possess all the powers and rights and be subject to all the duties and liabilities
297 conferred or imposed by law upon boards of health of towns, but in the performance of their
298 duties they shall be subject to the general supervision and direction of the Town Manager. They
299 shall be sworn to the faithful performance of their duties by the Town Clerk or by a Justice of the
300 Peace.

301 Section 20. Appointment of a Park and Recreation Commission.

302 The Town Manager, subject to the approval of the Select Board, shall appoint a Park and
303 Recreation Commission to consist of five suitably qualified persons. One of said persons shall
304 be appointed for a term of one year, two for a term of two years, and two for a term of three
305 years; and annually thereafter there shall be appointed by the Town Manager, subject to the
306 approval of the Select Board, a member for a term of three years in the place of the member
307 whose term is to expire. The members shall serve until their successors are appointed and
308 qualified. If for any reason a vacancy occurs in the membership of the Park and Recreation
309 Commission, the vacancy shall be filled forthwith by the Town Manager, subject to the approval
310 of the Select Board, for the unexpired term. Upon the appointment and qualification of the
311 members of the Park and Recreation Commission as provided in this section the terms of office
312 of the members of the then existing Board of Park Commissioners of the Town shall terminate.
313 The members of the Park and Recreation Commission appointed hereunder shall organize for the

314 proper conduct of their duties and shall possess all the powers and rights and be subject to all the
315 duties and liabilities conferred or imposed by law upon the Board of Park Commissioners of
316 towns, but in the performance of their duties they shall be subject to the general supervision and
317 direction of the Town Manager. They shall be sworn to the faithful performance of their duties
318 by the Town Clerk or by a Justice of the Peace.

319 Section 21. Appointment of Board of Cemetery Commissioners.

320 The Town Manager, subject to the approval of the Select Board, shall appoint a Board of
321 Cemetery Commissioners to consist of three suitably qualified persons. One of said persons
322 shall be appointed for a term of one year, one for a term of two years, and one for a term of three
323 years; and annually thereafter there shall be appointed by the Town Manager, subject to the
324 approval of the Select Board, a member for a term of three years in the place of the member
325 whose term is to expire. The members shall serve until their successors are appointed and
326 qualified. If for any reason a vacancy occurs in the membership of the Board of Cemetery
327 Commissioners, the vacancy shall be filled forthwith by the Town Manager, subject to the
328 approval of the Select Board, for the unexpired term. Upon the appointment and qualification of
329 the members of the Board of Cemetery Commissioners as provided in this section the terms of
330 office of the members of the then existing Board of Cemetery Commissioners of the Town shall
331 terminate. The Board of Cemetery Commissioners appointed hereunder shall organize for the
332 proper conduct of their duties and shall possess all the powers and rights and be subject to all the
333 duties and liabilities conferred or imposed by law upon Boards of Cemetery Commissioners of
334 Towns, but in the performance of their duties they shall be subject to the general supervision and
335 direction of the Town Manager. They shall have administration of all cemetery trust funds.

336 They shall be sworn to the faithful performance of their duties by the Town Clerk or by a Justice
337 of the Peace.

338 Section 22. Appointment of Board of Library Trustees.

339 The Town Manager, subject to the approval of the Select Board, shall appoint a Board of
340 Library Trustees to consist of seven suitably qualified persons. One of said persons shall be
341 appointed for a term of one year, two for a term of two years, and four for a term of three years;
342 and annually thereafter there shall be appointed by the Town Manager, subject to the approval of
343 the Select Board, a member for a term of three years in the place of the member whose term is to
344 expire. The members shall serve until their successors are appointed and qualified. If for any
345 reason a vacancy occurs in the membership of the Board of Library Trustees, the vacancy shall
346 be filled forthwith by the Town Manager, subject to the approval of the Select Board, for the
347 unexpired term. Upon the appointment and qualification of the members of the Board of
348 Trustees as provided in this section the terms of office of the then existing Board of Library
349 Trustees shall terminate. The Board of Library Trustees appointed hereunder shall organize for
350 the proper conduct of their duties and shall possess all the powers and rights and be subject to the
351 duties and liabilities conferred or imposed by law upon boards of library trustees of towns, but in
352 the performance of their duties they shall be subject to the general supervision and direction of
353 the Town Manager. They shall have administration of all library trust funds. They shall be
354 sworn to the faithful performance of their duties by the Town Clerk or a Justice of the Peace.

355 Section 23. Appointment of Board of Commissioners of Trust Funds.

356 The Town Manager, subject to the approval of the Select Board, shall appoint a Board of
357 Commissioners of Trust Funds to consist of three suitably qualified persons. One of said persons

358 shall be appointed for a term of one year, one for a term of two years, and one for a term of three
359 years; and annually thereafter there shall be appointed by the Town Manager, subject to the
360 approval of the Select Board, a member for a term of three years in the place of the member
361 whose term is to expire. The members shall serve until their successors are appointed and
362 qualified. If for any reason a vacancy occurs in the membership of the Board of Commissioners
363 of Trust Funds, the vacancy shall be filled forthwith by the Town Manager, subject to the
364 approval of the Select Board, for the unexpired term. Upon the appointment and qualification of
365 the members of the Board of commissioners of Trust Funds as provided in this section the terms
366 of office of the then existing trustees of Trust Funds of the Town shall terminate, except those
367 trustees appointed pursuant to the terms of a trust instrument or will, and those trustees appointed
368 pursuant to the provisions of any special law or town by-law. The Board of Commissioners of
369 Trust Funds appointed hereunder shall organize for the proper conduct of their duties and shall
370 possess all the powers and rights and be subject to all the duties and liabilities conferred or
371 imposed by law upon boards of commissioners of trust funds of town, but in the performance of
372 their duties they shall be subject to the general supervision and direction of the Town Manager.

373 They shall have administration of all trust funds of the town except those trust funds
374 under the administration of a trustee or trustees appointed pursuant to the terms of a trust
375 instrument or will or pursuant to the provisions of any special law or town by-law, and except the
376 Cemetery Trust Funds and the Library Trust Funds. They shall be sworn to the faithful
377 performance of their duties by the Chairperson of the Select Board or by a Justice of the Peace.

378 Section 24. Human Resource Department

379 (Amended by C. 216 of the Acts of 2011)

380 The Town Manager shall appoint a suitably qualified person to be Human Resource
381 Director of the Town, who shall have overall supervision of the Human Resource Department of
382 the Town, and who shall be responsible for the development and implementation of personnel
383 policies and procedures based on the concept of merit. It shall be the duty of the Director to
384 administer the pay and classification plans as now or hereinafter provided in the town by-laws, to
385 maintain employee records, and to perform such other duties as may be assigned by a vote of the
386 town meeting. All Town Appointing Authorities shall process the hiring of staff through the
387 Town Human Resource Department. The Human Resource Department will work with Town
388 Appointing Authorities to prepare job descriptions and job posting materials, will post positions
389 and receive application materials, and will turn application materials over to Appointing
390 Authorities for their consideration and final decision.

391 Upon the School Department, as provided for under Chapter 71 Section 37M, of the
392 Massachusetts General Laws, voting to consolidate its human resource functions with those of
393 the Town, all of the duties described above relating to the School Department are subject to
394 review and approval by the Superintendent of Schools, and the Town Manager shall seek input
395 from the Superintendent of Schools relating to the appointment and performance evaluation of
396 the Director of the Human Resource Department.

397 Section 24A. Human Resource Board.

398 There shall be established a Human Resource Board, which shall consist of three
399 members to be appointed by the Town Manager. Each member shall be selected on the basis of
400 professional experience and expertise in the area of personnel administration. Said Human
401 Resource Board shall be empowered, after consultation with the Human Resource Director, to

402 hear and rule on employee appeals of adverse reclassification determinations of the Human
403 Resource Director. Said Human Resource Board shall perform such other functions as may be
404 provided for in the town by-laws or in a collective bargaining agreement. Implementation of this
405 section shall be guided by the town bylaws.

406 Section 25. Tree Warden.

407 The Town Manager, subject to the approval of the Select Board, shall appoint a suitably
408 qualified person to the office of Tree Warden. The existing elective office of Tree Warden shall
409 be continued until the person appointed to said office of Tree Warden shall have qualified, at
410 which time the elective office of Tree Warden shall terminate. The Tree Warden shall have the
411 powers, perform the duties and be subject to the liabilities and penalties now or hereafter
412 conferred or imposed by law upon tree wardens but in the conduct of their office they shall be
413 subject to the supervision and direction of the Town Manager. The tree warden shall be sworn to
414 the faithful performance of their duties by the Town Clerk or a Justice of the Peace.

415 Section 26.

416 The Select Board of the Town of Arlington, as constituted from time to time, from and
417 after the first annual election following the acceptance of this act, shall also be a Board of Public
418 Works, and in said capacity shall have and exercises, under the designation of Select Board, all
419 the powers, rights and duties possessed just prior to said election by the Board of Public Works
420 or Board of Survey of said town created under chapter three of the acts of nineteen hundred and
421 four, and vested just prior to said election and from time to time by general law in surveyors of
422 highways, road commissioners, water commissioners or sewer commissioners; and said Board of
423 Public Works so created shall thereupon be abolished during the time that this section is in

424 operation, and during such time the operation of said chapter three shall be suspended. No
425 contracts or liabilities then in force shall be affected by such abolition, but the Select Board,
426 acting as said Board of Public Works, shall in all respects be the lawful successor of the board so
427 abolished.

428 Section 27. Department of Public Works.

429 There shall be established, by the Select Board, a Department of Public Works as herein
430 provided. The Town Manager shall appoint a suitably qualified person to the Office of
431 Superintendent of Public Works. The Superintendent of Public Works in office when this act
432 becomes effective shall continue in office subject to the provisions of chapter thirty-one of the
433 General Laws, if applicable, but otherwise subject to removal by the Town Manager as provided
434 herein. The Superintendent of Public Works shall have the powers, perform the duties and be
435 subject to the liabilities and penalties now or hereafter imposed by law upon a superintendent of
436 streets in towns and such other duties as may be assigned to the Superintendent of Public Works.
437 In the performance of their duties they shall be subject to the general supervision and direction of
438 the Town Manager. The Superintendent of Public Works shall be sworn to the faithful
439 performance of their duties by the Town Clerk or by a Justice of the Peace. The Town Manager
440 shall establish such divisions and subordinate offices within the Department of Public Works as
441 they deems necessary and shall prescribe the powers, rights, duties and liabilities of the same.

442 Section 28. Appointment of Town Counsel.

443 The Town Manager shall appoint annually an attorney-at-law to act as Town Counsel,
444 whose duties it shall be to commence and prosecute all actions and other proceedings on behalf
445 of the Town, and to defend all actions and proceedings brought against the Town or any of its

446 officers in their official capacity as such. The Town Counsel shall also appear before legislative
447 committees, other boards, commissions and public officials or bodies, on behalf of the Town
448 whenever their services may be required. They shall prepare all contracts, deeds and other legal
449 instruments of the Town. Upon request by the Town Manager or by any other officer or board of
450 the Town on a subject concerning the Town or related to the performance of the official duties of
451 such officer or board, they shall furnish a legal opinion thereon; but whenever the opinion is
452 required to be in writing, the question submitted for their consideration shall also be in writing.
453 Town Counsel shall perform such other legal services as may be requested, by vote of the Town,
454 the Select Board or the Town Manager.

455 Section 28A. Finance Department

456 There shall be established, by the Select Board, a Finance Department as herein provided.
457 The Town Manager shall appoint a suitably qualified person to the position of Finance Director.
458 The Finance Director shall be eligible to also hold the position of Comptroller, Treasurer and
459 Collector, Deputy Town Manager or Assistant Town Manager. The Finance Director shall be
460 sworn to the faithful performance of their duties by the Town Clerk or by a Justice of the Peace.
461 The Town Manager shall establish such divisions and subordinate offices within the Finance
462 Department as they deem necessary and shall prescribe the powers, rights, duties and liabilities
463 of the same.

464 Section 29. Approval of Warrants.

465 Warrants for the payment of town funds prepared by the town accountant in accordance
466 with the provisions of section fifty-six of chapter forty-one of the General Laws shall be
467 submitted to the Town Manager for approval in lieu of the approval of the Select Board, but the

468 Select Board shall approve all warrants in the event of the absence or disability of the Town
469 Manager or a vacancy in the Office of the Town Manager.

470 Section 30. Officers, Agents and Employees of the Town not to make Contracts with the
471 Town,
472 nor to Represent Persons in Certain Criminal Proceedings.

473 No town officer or member of any board or committee chosen by the Town, or any agent
474 of any such officer, board or committee, shall have any pecuniary interest in any contract,
475 agreement, sale, bargain or the settlement of any claim by or against the Town made or approved
476 on behalf of the Town by themselves or any board or committee of which they are a member or
477 for which they may act as agent and no such officer, member or agent shall represent a claimant
478 or defendant in any legal proceeding, civil or criminal, by or against the Town or any of its
479 officers or agents acting in their official capacities. No such officer, member or agent shall
480 represent a defendant in any criminal proceeding instituted by a member of the police department
481 for the prosecution of a crime committed within the jurisdiction of such department or for any
482 violation of the By-Laws of the Town.

483 Section 31. Estimates of Expenditures.

484 (Amended by C. 201 of the Acts of 2011)

485 On or before the second business day of January each year, all boards and departments
486 not under the control of the Town Manager shall submit to the Town Manager in writing detailed
487 estimates for their respective boards or departments of the fiscal requirements for the ensuing
488 fiscal year. These submissions shall include detailed estimates of any revenues that support their

489 budgets and shall be in a format as required by the Town Manager or as provided by Town
490 bylaws. No later than the fifteenth day of January each year, the Town Manager shall submit to
491 the Select Board, with copies to each member of the Finance Committee, a careful detailed
492 estimate in writing of the fiscal requirements for the ensuing fiscal year of each fund and
493 department of the Town along with a detailed listing of all projected revenues to support these
494 requirements.

495 The Town Manager shall state the amount required to meet the interest and maturing
496 bonds and notes or other outstanding indebtedness of the Town. All the estimates required by
497 this section shall include a statement of the budgeted amount for the current year and the actual
498 expenditures for the two preceding years.

499 Section 32. Preparation of an Annual Budget and Final Budget Document.

500 The Select Board shall consider the estimates submitted by the Town Manager and other
501 department heads, and shall on or before the first day of February each year transmit their
502 recommendations relative thereto to each member of the Finance Committee. On or before the
503 first day of September each year, the Comptroller shall prepare and submit to the Select Board,
504 the Town Manager, and all other boards and departments not under the control of the Town
505 Manager, including the School Department, a final budget document setting forth the boards and
506 departments of the Town by name and the categories of expenditures from all sources to be made
507 during the fiscal year. The name of the fund and the amount it contributes to each board and
508 departmental budget shall be identified. A comparison of prior year budgeted to actual
509 expenditures shall be included for each board and department in total. The budget shall include a
510 summary schedule of all major revenues, expenditures and other financing sources of the Town.

511 An update shall be prepared and distributed within thirty days of final adjournment of a Special
512 Town Meeting wherein additional appropriations have been voted.

513 Section 33. Appointment of Finance Committee.

514 There shall be a Finance Committee the members of which shall be registered voters of
515 the Town. There shall be one from each precinct of the Town and one member at large except if
516 the number of precincts at any time is uneven in number, there shall be no member at large. If
517 the appointing committee is unable to secure an appropriate candidate from any precinct of the
518 town, then the committee may appoint a substitute member, preferably from an adjacent precinct
519 or a member-at-large to serve in place of the member from that precinct, but no precinct shall
520 have more than 2 members, nor shall there be more than 3-at-large members at any given time.
521 The term of a substitute or at-large member shall expire on October 31 of the fiscal year
522 following the fiscal year in which the member was appointed. No substitute or at-large member
523 shall be appointed to fill a vacant position on the Finance Committee unless no qualified
524 applicant from the precinct applies for appointment before December 15.

525 Except as hereinafter provided, the Finance Committee shall be appointed by an
526 appointing committee of three members, composed of the Moderator, the Chair of the Finance
527 Committee, and the Chair of the Board of Trust Fund Commissioners, within twenty days after
528 the final adjournment of the Annual Town Meeting. They shall be constituted and function as
529 provided now or hereafter in the By-Laws of the Town when not inconsistent herewith. Those
530 members of the Finance Committee when this act takes effect whose terms have not expired
531 shall continue until expiration thereof. Vacancies shall be filled by the appointing power as
532 provided now or hereafter by the Town By-Laws.

533 Section 34. Free Access to Financial Data.

534 In the discharge of its duty, said committee shall have free access to all books of records
535 and accounts, payrolls, bills and vouchers on which money has been or may be paid from the
536 town treasury. Officers, boards and committees of the Town shall, upon request, furnish such
537 information pertaining to their several activities as said committee may require.

538 Section 35. Annual Report.

539 It shall be the duty of the Finance Committee to make an annual report of its doings, with
540 recommendations relative to financial matters and the conduct of town business, which shall be
541 included in the Annual Town Report.

542 Section 36. Holder of an Elective Office may be recalled.

543 Any holder of an elective office may be recalled therefrom by the registered voters of the
544 Town as herein provided.

545 Section 37. Recall Petition, Preparation, Filing.

546 Any fifty registered voters of the Town may file with the Town Clerk an affidavit
547 containing the name of the officer sought to be recalled and a statement of the grounds for recall.
548 The Town Clerk shall thereupon deliver to said voters making the affidavit copies of petition
549 blanks demanding such recall, printed forms of which the Town Clerk shall keep available. The
550 blanks shall be issued by the Town Clerk with the signature and official seal attached thereto.
551 They shall be dated, shall be addressed to the Select Board, and shall contain the names of the
552 fifty persons to whom they are issued, the name of the person whose recall is sought, the grounds
553 of recall as stated in the affidavit, and shall demand the election of a successor in said office. A

554 copy of the petition shall be entered in a record book to be kept in the Office of the Town Clerk.
555 The recall petition shall be returned and filed with the Town Clerk within twenty days after the
556 filing of the affidavit, and shall have been signed by at least twenty per cent of the registered
557 voters of the Town, who shall add to their signatures the street and number, if any, of their
558 residences.

559 The Town Clerk shall submit the petition to the Registrars of Voters in the Town, and the
560 Registrars shall forthwith certify thereon the number of signatures which are names of registered
561 voters of the Town.

562 Section 38. Removal and Election.

563 If the petition shall be found and certified by the Town Clerk to be sufficient, the Town
564 Clerk shall submit the same with said certificate to the Select Board without delay, and the Select
565 Board shall forthwith give written notice of the receipt of the certificate to the officer sought to
566 be recalled, and shall, if the officer does not resign within five days thereafter, thereupon order
567 an election to be held on a Tuesday fixed by them not less than twenty-five nor more than thirty-
568 five days after the date of the Town Clerk's certificate that a sufficient petition is filed; provided,
569 however, that if any other town election is to occur within sixty days after the date of the
570 certificate, the Select Board shall postpone the holding of the recall election to the date of such
571 other election. If a vacancy occurs in said office after a recall election has been ordered, the
572 election shall nevertheless proceed as provided in this act.

573 Section 39. Nomination of Candidates.

574 The question of recalling any number of officers may be submitted at the same election.
575 But as to each officer whose recall is sought there shall be a separate ballot. The nomination of

576 candidates to succeed an officer whose recall is sought, the publication of the warrant for the
577 recall election and the conduct of such election shall all be in accordance with the provisions of
578 the General Laws applicable thereto.

579 Section 40. Ballots.

580 Ballots used in a recall election shall submit the following propositions in the order
581 indicated:

582 Against the recall of (name of officer).

583 For the recall of (name of officer).

584 Immediately at the right of each proposition there shall be a square in which the voter, by
585 making a cross mark (X), may vote for either of the said propositions. Under the proposition
586 shall appear the word "Candidates," the directions to voters required by section four of chapter
587 fifty-four A of the General Laws, and beneath this the names of candidates nominated as
588 hereinbefore provided.

589 Section 41. Election.

590 If a majority of the votes cast on the question of recalling an officer shall be against their
591 recall, they shall continue in office but subject to recall as provided in this act. If a majority of
592 such votes be for the recall of the officer designated on the ballot, they shall, regardless of any
593 defects in the recall petition be deemed removed from office. When an officer is recalled from
594 office, the candidate to succeed the officer recalled shall be determined in accordance with the
595 provisions of General Laws applicable thereto.

596 Section 42. Election in Event of Resignation.

597 If an office in regard to which a sufficient recall petition is filed becomes vacant before
598 the ballots are printed, the election shall be held as hereinbefore provided, except that the title of
599 the ballot shall be “Town Election”, that the propositions in regard to the recall shall be omitted
600 from the ballot, and that above the names of the candidates there shall appear on the ballot the
601 words “Candidates to succeed (Name of officer) resigned.” (If they resigned their office.)

602 Section 43. Subsequent Recall.

603 No recall petition shall be filed against an officer within three months after they take
604 office, nor in the case of an officer subjected to a recall election and not recalled thereby, until at
605 least three months after the election at which their recall was submitted to the voters of the
606 Town.

607 Section 44. Person Recalled Not to be Appointed to Any Town Office Within Two
608 Years

609 No person who has been recalled from an office, or who has resigned from office while
610 recall proceedings were pending against them, shall be appointed to any town office within two
611 years after such recall or such resignation.

612 SECTION 2. Section 45 of said chapter 503 is hereby further amended by striking out, in
613 line 2,

614 the word “selectmen” and inserting in place thereof the following words:- Select Board.

615 SECTION 3. Said section 45 of said chapter 503 is hereby further amended by striking
616 out, in line

617 4, the word “his” and inserting in place thereof the following word:- their.

618 SECTION 4. Section 47 of said chapter 503 is hereby amended by striking out, in lines
619 12 and 22, the word “selectmen” and inserting in place thereof, in each instance, the following
620 words:- Select Board.

621 SECTION 5. Said section 47 of said chapter 503 is hereby further amended by striking
622 out, in line

623 15, the word “his” and inserting in place thereof the following words:- the Town
624 Manager’s.

625 SECTION 6. Section 48 of said chapter 503 is hereby amended by striking out, in lines 6,
626 8 and

627 31, the word “selectmen” and inserting in place thereof, in each instance, the following
628 words:-

629 Select Board.

630 SECTION 7. Said section 48 of said chapter 503 is hereby further amended by striking
631 out, in line

632 33, the word “his” and inserting in place thereof the following word:- their.

633 SECTION 8. This act shall take effect upon its passage.