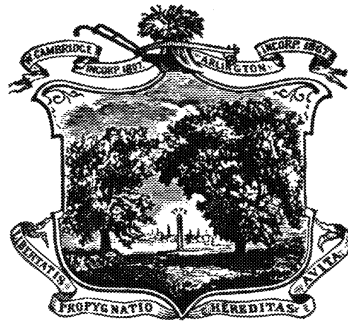


TOWN MANAGER ACT

OF THE

TOWN OF ARLINGTON, MASSACHUSETTS



AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF ARLINGTON

(Chapter 503 of the Acts of 1952 as Amended and Inserted by Chapter 634 of the Acts of 1956, Chapter 394 of the Acts of 1964, Chapter 122 of the Acts of 1967 Chapter 738 of the Acts of 1971, Chapter 731 of the Acts of 1973, Chapter 308 and Chapter 520 of the Acts of 1979, Chapter 355 of the Acts of 1967, Chapter 502 of the Acts of 1989, Chapter 226 of the Acts of 1990, Chapter 308 of the Acts of 1979 and Chapter 425 of the Acts of 1993)

Amendments made after 1991 are cited in the margin. Such citations are not part of the Act.

**TOWN MANAGER ACT
OF THE
TOWN OF ARLINGTON, MASSACHUSETTS**

SECTION 1.

Upon the acceptance of this act by the Town of Arlington, as hereinafter provided, beginning with the year following its adoption, the regular town election of said town for the purpose of electing town officers including town meeting members, in accordance with provisions of this act, and for the submission of questions to the voters of the town, if required to be submitted thereat, shall be held annually on the first Saturday in April, unless otherwise established by the town by-laws and shall be considered part of the annual town meeting held in that year. All articles in the warrant for any regular town meeting to be acted upon and determined otherwise than by ballot shall be considered at a town meeting to be held annually on the fourth Monday of April at eight o'clock in the evening, unless otherwise established by the town by-laws.

SECTION 2. Election of Moderator.

The office shall continue as presently provided in said town.

SECTION 3. Election of Selectmen.

At the first annual election held in said town after the acceptance of this act, the number of selectmen shall be increased to five. Such increase shall be effected in the following manner: the two members of the Board of Selectmen whose terms have not then expired shall continue as such members until the expiration of the terms for which they were respectively elected, and at such annual election there shall be elected one selectman for one year, one for two years, and one for three years; and at each annual election there after, the town shall elect successors of the members whose terms have expired for the terms of three years. They shall serve until their successors are elected and qualified. When a vacancy occurs among the selectmen for any reason other than expiration of term, the remaining selectmen and the moderator, within thirty days after such vacancy occurs, shall appoint another selectman to fill the vacancy until the next town election, at which the voters shall elect a selectman for the remainder of the unexpired term. A majority of the ballots of the officers entitled to vote shall be necessary to such appointment.

SECTION 4. Appointive Powers of Selectmen.

The selectmen shall appoint and may remove the town accountant, election officers, the boards of appeal and the registrars of voters, except the Town Clerk as a registrar.

SECTION 5. Election of School Committee.

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

SECTION 6. Power of the School Committee.

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

SECTION 7. Election of Housing Authority.

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

SECTION 8. Election of Other Officers.

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

SECTION 9. Multiple Officers.

A member of the Board of Selectmen, or of the school committee, or of the finance committee shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office, except the office of town meeting member and except membership on a committee, board or commission when participation of such member is required by Town Bylaw or by a vote of the Town Meeting. Any person appointed by the Town Manager to any town office under the provisions of this act or of any general or special law shall be eligible during the term of said office to appointment to any other town office, except that the town accountant shall not be eligible to hold the position of town treasurer and collector. The Town Manager may, subject to any applicable provision of the General Laws, relating thereto, and subject to the approval of the Board of Selectmen, assume the duties of any office which he is authorized to fill by appointment.

SECTION 10. Investigations or Surveys.

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

SECTION 11. Appointment of Town Manager.

The selectmen shall appoint, as soon as practicable, for a term of three years a Town Manager, who shall be a professionally qualified person especially fitted by education, training and experience to perform the duties of the office, shall have at least three years' experience of significant municipal management or administrative experience, and shall be a citizen of the United States of America. Upon the expiration of such term the selectmen shall appoint, as soon as possible, but in any event not later than ninety days after the expiration of said term, his successor. The Town Manager shall be appointed without regard to his political beliefs. He may be appointed for successive terms of office. Before entering upon the duties of his office, the Town Manager shall be sworn to the faithful and impartial performance thereof by the chairman of the selectmen, or by the Town Clerk, or by a Justice of the Peace. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as shall be fixed or approved by the selectmen.

SECTION 12. Temporary Manager or Manager for Unexpired Term.

- (a) The Town Manager may, subject to approval by the Board of Selectmen, designate, by letter filed with the Town Clerk, a qualified officer of the town as temporary Town Manager to perform the duties of the manager during his temporary absence or his temporary disability, except during removal proceedings. In the event of the failure of the manager to make such designation, the selectmen shall forthwith, by resolution, designate an officer of the town to perform the duties of, and have the power of, the manager, until the manager shall return or his disability shall cease.
- (b) When a vacancy occurs in the office of Town Manager for any reason other than for expiration of his term, the selectmen shall appoint, as soon as possible, but in any event not later than ninety days after such vacancy occurs, a Town Manager for the balance of the unexpired term. Such appointment shall, in so far as practicable, be subject to the same conditions and qualifications for the office of Town Manager as set forth in section eleven; if not so practicable, the selectmen shall so appoint a qualified officer of the town as acting manager for the balance of the unexpired term.

SECTION 13. Removal of Manager.

The selectmen, by a majority vote of the full membership of the board, may remove the Town Manager. At least twenty days before proposed 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 removal of the Town Manager, a copy of which resolution shall be delivered to the Town Manager. The manager, within twenty days after notice, so filed, may reply in writing to the resolution and may request a public hearing. If the manager so requests, the Board of Selectmen shall hold a public hearing not earlier than twenty days not later than thirty days after the filing of such request.

The manager shall have the right to representation by counsel, to produce witnesses and exhibits on his behalf, and to cross-examine witnesses. 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 majority vote of the full membership of the board may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the manager from duty, but in any case his salary shall continue to be paid until the expiration of one month from the date of adoption of the final resolution of removal.

SECTION 14. Compensation of Manager.

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

SECTION 15. Powers and Duties of Manager.

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

- (a) The Town Manager shall supervise and direct the administration of all departments, commissions, boards and offices, except the Board of Selectmen, the School Committee, Moderator, Town Clerk, Town Treasurer and Collector, Comptroller and Coordinator of Data Processing, Assessors, Registrars of Voters, Election Officers, Boards of Appeal, the Finance Committee, the Capital Budget Committee and the Personnel Review and Appeals Board.

- (b) The Town Manager, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part, may establish such new departments, commissions, boards and offices as he deems necessary and make appointments to such boards, subject to the approval of the Board of Selectmen. He may in connection with such transfer of such powers or duties transfer the duties and powers of one department, commission, board or office to another and may, with the approval and consent of the finance committee, transfer the appropriation of such one department, commission, board or office to another. The Town Manager may temporarily establish such new positions, as he deems necessary and appoint temporary employees thereto. Such positions shall be placed under the Classification and Pay Plans at the next succeeding special or annual town meeting.

- (c) Subject to the provisions of chapter thirty-one of the General Laws where applicable, and except as otherwise provided by this act, the Town Manager shall appoint upon merit and fitness alone, and may transfer and remove all officers and employees of the town, including maintenance employees of the school department and school custodians, but excluding other employees of the school department. Town officers and full-time employees not subject to said chapter thirty-one shall not be removed by him except on ten working days' notice in writing to said officer or employee, setting forth the cause of such removal.
- (d) Subject to all applicable provisions of chapter thirty-one of the General Laws, and subject to the classification plan as established now or hereafter by the town by-laws, the Town Manager shall fix the compensation of all town officers and employees subject to removal by him.
- (e) The Town Manager shall keep full and complete records of his office, and shall render as often as may be required by the selectman a full report of his management during the period reported on.
- (f) The Town Manager shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.
- (g) The Town Manager shall have jurisdiction over the rental and use of all town property, except schools. He shall be responsible for the maintenance and repair of all town property including school buildings. Except as otherwise voted by the town, the school committee shall be responsible for the study, consideration and recommendations as to construction, reconstruction, alterations, improvements and other undertakings pertaining to school buildings or property. Except as otherwise voted by the town, the Town Manager shall be responsible for the preparation of plans and the supervision of work relating thereto, authorized by the town. Except as otherwise voted by the town, the Town Manager shall be responsible for the preparation of plans and the supervision of work on all other construction, reconstruction, alterations, improvements and other undertakings authorized by the town.
- (h) The Town Manager shall purchase all supplies and materials and equipment, except educational supplies, and books for schools, and books for libraries. He shall make purchases for departments not under his supervision only in accordance with requisitions duly signed by the heads of such departments. The Town Manager may delegate such purchasing power. Except as otherwise herein provided, he shall award all contracts for all departments of the town.

- (i) The Town Manager shall, with the approval of the selectmen, have authority to prosecute, defend and compromise all litigation, except that which pertains to tax assessments and abatements, to which the town is a party, and to employ special counsel to assist the town counsel whenever in his judgment it may be necessary.
- (j) The Town Manager shall perform such other duties, consistent with his office, as may be required of him by the by-laws or vote of the town or by vote of the selectmen.

SECTION 16. Investigations by the Manager.

The Town Manager may without notice cause the affairs of any division or department under his control or the conduct of any officer or employee thereof to be examined. The Town Manager shall have access to all town books and papers for information necessary for the proper performance of his duties.

SECTION 17. Appointment of Redevelopment Board.

The Redevelopment Board shall consist of five members, four to be appointed by the Town Manager, subject to the approval of the Board of Selectmen, and one to be appointed by the department of community affairs, hereinafter in this section referred to as the department. One of said persons shall be appointed to serve for an initial term of one year, two of said persons shall be appointed to serve for an initial term of two years, and one of said persons shall be appointed to serve for an initial term of three years. The member appointed by the department shall serve for an initial term of three years. Thereafter, as the term of a member expires, his successor shall be appointed in the same manner and by the same body for a term of three years from such expiration. The members shall serve until their respective successors are appointed and qualified. If for any reason a vacancy occurs in the membership of the Redevelopment Board, the vacancy shall be filled forthwith in the same manner and by the same body for the unexpired term. The, Town Manager may make or receive written charges against, and may accept the written resignation of, any member appointed by the Town Manager or a former Town Manager or may, after hearing and with the approval of the Board of Selectmen, remove any such member because of inefficiency, neglect of duty, or misconduct in office. Such member shall be given, not less than fourteen days before the date set for such hearing, a copy in writing of the charges against him and written notice of the date and place of the hearing to be held thereon, and at the hearing he shall be given the opportunity to be represented by counsel and to be heard in his defense. The Town Manager may make and receive written charges against the member of the Redevelopment Board appointed by the department and refer the same to the department which will proceed in the same manner as the Town Manager and the Board of Selectmen.

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

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

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

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

Section 2. The Redevelopment Board shall have all the powers and perform all the duties presently or from time to time hereafter conferred or imposed by statute or by-law or otherwise on planning boards of towns in the commonwealth established under the provisions of section eighty-one A of chapter forty-one of the General Laws and the town of Arlington shall be deemed to have a planning board established under said section eighty-one A and shall be empowered to take such actions and shall have such powers and perform such duties as it if had established a planning board under said section eighty-one A, except that the Redevelopment Board shall not have any of the powers or perform any of the duties of, or in conflict with the powers or duties of, a board of survey all of which powers and duties shall continue to be exercised and performed by the Board of Selectmen constituted as a board of survey unless and until such town by vote of a town meeting shall vote to terminate the existence of the board of survey or to accept the provisions of the subdivision control law contained in sections eighty-one K to eighty-one GG, inclusive, of said chapter forty-one and any amendments thereof or additions thereto, and the subdivision control law shall not be or be deemed to be in effect in such town unless and until such town by vote of a town meeting shall vote to accept the provisions thereof.

SECTION 18.

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

SECTION 19. Appointment of Board of Health.

The Town Manager, subject to the approval of the Board of Selectmen, shall appoint a board of health to consist of three suitably qualified persons. One of said persons shall be appointed for a term of one year, one for a term of two years, and one for a term of three years; and annually thereafter there shall be appointed by the Town Manager, subject to the approval of the Board of Selectmen, a member for a term of three years in the place of the member whose term is to expire. The members shall serve until their successors are appointed and qualified. If for any reason a vacancy occurs in the membership of the board of health, the vacancy shall be filled forthwith by the Town Manager, subject to the approval of the Board of Selectmen, for the unexpired term. Upon the appointment and qualification of the members of the board of health as provided in this section the terms of office of the members of the then existing board of health of the town shall terminate. The board of health appointed hereunder shall organize for the proper conduct of their duties and shall possess all the powers and rights and be subject to all the duties and liabilities conferred or imposed by law upon boards of health of towns, but in the performance of their duties they shall be subject to the general supervision and direction of the Town Manager. They shall be sworn to the faithful performance of their duties by the Town Clerk or by a Justice of the Peace.

SECTION 20. Appointment of a Park and Recreation Commission.

The Town Manager, subject to the approval of the Board of Selectmen, shall appoint a Park and Recreation Commission to consist of five suitably qualified persons. One of said persons shall be appointed for a term of one year, two for a term of two years, and two for a term of three years; and annually thereafter there shall be appointed by the Town Manager, subject to the approval of the Board of Selectmen, a member for a term of three years in the place of the member whose term is to expire. The members shall serve until their successors are appointed and qualified . If for any reason a vacancy occurs in the membership of the Park and Recreation Commission, the vacancy shall be filled forthwith by the Town Manager, subject to the approval of the Board of Selectmen, for the unexpired term. Upon the appointment and qualification of the members of the Park and Recreation Commission as provided in this section the terms of office of the members of the then existing Board of Park Commissioners of the Town shall terminate. The members of the Park and Recreation Commission appointed hereunder shall organize for the proper conduct of their duties and shall possess all the powers and rights and be subject to all the duties and liabilities conferred or imposed by law upon the Board of Park Commissioners of towns, but in the performance of their duties they shall be subject to the general supervision and direction of the Town Manager. They shall be sworn to the faithful performance of their duties by the Town Clerk or by a Justice of the Peace.

SECTION 21. Appointment of Board of Cemetery Commissioners.

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

SECTION 22. Appointment of Board of Library Trustees.

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

SECTION 23. Appointment of Board of Commissioners of Trust Funds.

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

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

SECTION 24. Human Resource Department

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

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

Section 24A. Human Resource Board.

There shall be established a Human Resource Board, which shall consist of three members to be appointed by the Town Manager. Each member shall be selected on the basis of professional experience and expertise in the area of personnel administration. Said Human Resource Board shall be empowered, after consultation with the Human Resource Director, to hear and rule on employee appeals of adverse reclassification determinations of the Human Resource Director. Said Human Resource Board shall perform such other functions as may be provided for in the town by-laws or in a collective bargaining agreement. Implementation of this section shall be guided by the town bylaws.

SECTION 25. Tree Warden.

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

SECTION 26.

The Board of Selectmen of the Town of Arlington, as constituted from time to time, from and after the first annual election following the acceptance of this act, shall also be a Board of Public Works, and in said capacity shall have and exercises, under the designation of Selectmen, all the powers, rights and duties possessed just prior to said election by the Board of Public Works or Board of Survey of said town created under chapter three of the acts of nineteen hundred and four, and vested just prior to said election and from time to time by general law in surveyors of highways, road commissioners, water commissioners or sewer commissioners; and said Board of Public Works so created shall thereupon be abolished during the time that this section is in operation, and during such time the operation of said chapter three shall be suspended. No contracts or liabilities then in force shall be affected by such abolition, but the Selectmen, acting as said Board of Public Works, shall in all respects be the lawful successor of the board so abolished.

SECTION 27. Department of Public Works.

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

SECTION 28. Appointment of Town Counsel.

The Town Manager shall appoint annually an attorney-at-law to act as Town Counsel, whose duties it shall be to commence and prosecute all actions and other proceedings on behalf of the Town, and to defend all actions and proceedings brought against the Town or any of its officers in their official capacity as such. He shall also appear before legislative committees, other boards, commissions and public officials or bodies, on behalf of the Town whenever his services may be required. He shall prepare all contracts, deeds and other legal instruments of the Town. Upon request by the Town Manager or by any other officer or board of the Town on a subject concerning the Town or related to the performance of the official duties of such officer or board, he shall furnish a legal opinion thereon; but whenever the opinion is required to be in writing, the question submitted for his consideration shall also be in writing. He shall perform such other legal services as may be requested of him, by vote of the Town, the Board of Selectmen or the Town Manager.

SECTION 29. Approval of Warrants.

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 shall be submitted to the Town Manager for his approval in lieu of the approval of the Board of Selectmen, but the Selectmen shall approve all warrants in the event of the absence or disability of the Town Manager or a vacancy in the Office of the Town Manager.

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

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

SECTION 31. Estimates of Expenditures.

On or before the second business day of January each year, all boards and departments not under the control of the Town Manager shall submit to the Town Manager in writing detailed estimates for their respective boards or departments of the fiscal requirements for the ensuing fiscal year. These submissions shall include detailed estimates of any revenues that support their budgets and shall be in a format as required by the Town

Manager or as provided by Town bylaws. No later than the fifteenth day of January each year, the Town Manager shall submit to the Selectmen, with copies to each member of the Finance Committee, a careful detailed estimate in writing of the fiscal requirements for the ensuing fiscal year of each fund and department of the Town along with a detailed listing of all projected revenues to support these requirements. The Town Manager shall state the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the Town. All the estimates required by this section shall include a statement of the budgeted amount for the current year and the actual expenditures for the two preceding years.

SECTION 32. Preparation of an Annual Budget and Final Budget Document.

The Selectmen shall consider the estimates submitted by the Town Manager and other department heads, and shall on or before the first day of February each year transmit their recommendations relative thereto to each member of the Finance Committee. On or before the first day of September each year, the Comptroller shall prepare and submit to the Selectmen, the Town Manager, and all other boards and departments not under the control of the Town Manager, including the School Department, a final budget document setting forth the boards and departments of the Town by name and the categories of expenditures from all sources to be made during the fiscal year. The name of the fund and the amount it contributes to each board and departmental budget shall be identified. A comparison of prior year budgeted to actual expenditures shall be included for each board and department in total. The budget shall include a summary schedule of all major revenues, expenditures and other financing sources of the Town. An update shall be prepared and distributed within thirty days of final adjournment of a Special Town Meeting wherein additional appropriations have been voted.

SECTION 33. Appointment of Finance Committee.

There shall be a Finance Committee the members of which shall be registered voters of the Town. There shall be one from each precinct of the Town and one member at large except if the number of precincts at any time is uneven in number, there shall be no member at large. Except as hereinafter provided, the Finance Committee shall be appointed by an appointing committee of three members, composed of the Moderator, the Chairman of the Finance Committee, and the Chairman of the Board of Trust Fund Commissioners, within twenty days after the final adjournment of the Annual Town Meeting. They shall be constituted and function as provided now or hereafter in the By-Laws of the Town when not inconsistent herewith. Those members of the Finance Committee when this act takes effect whose terms have not expired shall continue until expiration thereof. Vacancies shall be filled by the appointing power as provided now or hereafter by the Town By-Laws.

SECTION 34. Free Access to Financial Data.

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

SECTION 35. Annual Report.

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

SECTION 36. Holder of an Elective Office may be recalled.

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

SECTION 37. Recall Petition, Preparation, Filing.

Any fifty registered voters of the Town may file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The Town Clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, printed forms of which he shall keep available. The blanks shall be issued by the Town Clerk with this signature and official seal attached thereto. They shall be dated, shall be addressed to the Selectmen, and shall contain the names of the fifty persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in said office. A copy of the petition shall be entered in a record book to be kept in the Office of the Town Clerk. The recall petition shall be returned and filed with the Town Clerk within twenty days after the filing of the affidavit, and shall have been signed by at least twenty per cent of the registered voters of the Town, who shall add to their signatures the street and number, if any, of their residences.

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

SECTION 38. Removal and Election.

If the petition shall be found and certified by the Town Clerk to be sufficient, he shall submit the same with his certificate to the Selectmen without delay, and the Selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled, and shall, if the officer does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by them not less than twenty-five nor more than thirty-five days after the date of the Town Clerk's certificate that a sufficient petition is filed; provided, however, that if any other town election is to

occur within sixty days after the date of the certificate, the Selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this act.

SECTION 39. Nomination of Candidates.

The question of recalling any number of officers may be submitted at the same election. But as to each officer whose recall is sought there shall be a separate ballot. The nomination of candidates to succeed an officer whose recall is sought, the publication of the warrant for the recall election and the conduct of such election shall all be in accordance with the provisions of the General Laws applicable thereto.

SECTION 40. Ballots.

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

- Against the recall of (name of officer).
- For the recall of (name of officer).

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

SECTION 41. Election. If a majority of the votes cast on the question of recalling an officer shall be against his recall, he shall continue in office but subject to recall as provided in this act. If a majority of such votes be for the recall of the officer designated on the ballot, he shall, regardless of any defects in the recall petition be deemed removed from office. When an officer is recalled from office, the candidate to succeed the officer recalled shall be determined in accordance with the provisions of General Laws applicable thereto.

SECTION 42. Election in Event of Resignation. If an office in regard to which a sufficient recall petition is filed becomes vacant before the ballots are printed, the election shall be held as hereinbefore provided, except that the title of the ballot shall be "Town Election", that the propositions in regard to the recall shall be omitted from the ballot, and that above the names of the candidates there shall appear on the ballot the words "Candidates to succeed (Name of officer) resigned." (If he resigned his office.)

SECTION 43. Subsequent Recall.

No recall petition shall be filed against an officer within three months after he takes office, nor in the case of an officer subjected to a recall election and not recalled

thereby, until at least three months after the election at which his recall was submitted to the voters of the Town.

SECTION 44. PERSON RECALLED NOT TO BE APPOINTED TO ANY TOWN OFFICE WITHIN TWO YEARS.

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

SECTION 45. DUTIES OF CERTAIN TOWN OFFICIALS RELATIVE TO ELECTION.

It shall be the duty of the Selectmen and the Town Clerk in office and any other town official upon whom by reason of his office a duty devolves under the provisions of this act, when this act is accepted by the registered voters as herein provided, to comply with all the requirements of law relating to elections, to the end that all things may be done necessary for the nomination and election of the officers first to be elected under this act.

SECTION 46. BY-LAWS, RULES, ETC.

All laws, by-laws, rules and regulations in force in the Town of Arlington when this act takes effect, not inconsistent with its provisions, whether enacted by authority of the Town or any other authority, shall continue in full force and effect until otherwise provided by law, by-law or vote; all other laws, by-laws, rules and regulations, so far as they refer to the Town of Arlington, are hereby repealed and annulled, but such repeal shall not revive any pre-existing enactment.

SECTION 47.

This act shall be submitted to the qualified voters of the Town of Arlington for acceptance at the biennial state election in the current year, in the form of the following question which shall be placed on the official ballot to be used in said Town at said election: - "Shall an act passed by the general court in the year nineteen hundred and fifty-two entitled 'An Act establishing a Town Manager form of Government for the Town of Arlington', be accepted?" If this act shall be by a majority of the qualified voters voting thereon, it shall take effect immediately following the next Annual Town Election for the purpose of the appointment by the Selectmen as herein provided of a Town Manager.

All budgets and estimates of appropriations required for the current fiscal year prepared by head of departments under his control prior to the Annual Town Meeting shall be subject to the supervision and approval of the Town Manager. Upon acceptance by a majority of the qualified voters as herein provided, this act shall also take effect for the purpose of the annual meeting for the year following its acceptance and for all things that pertain to said election, and shall take full effect upon the election and qualifications of the Selectmen, except as herein provided. If this act is rejected by the

qualified voters of the Town of Arlington, when first submitted to said voters under this section, it shall be submitted for acceptance in like manner to such voters at the biennial state election in the year nineteen hundred and fifty-four, and, if accepted by a majority of such voters voting thereon at either of said elections, shall take effect as hereinbefore provided.

SECTION 48. REVOCATION OF ACCEPTANCE.

At any time after the expiration of three years from the date on which this act is accepted, and not less than sixty days before the date of an annual meeting, a petition, signed by not less than twenty per cent of the registered voters of the Town, may be filed with the Selectmen, requesting that the question of revoking the acceptance of this act be submitted to the voters. Thereupon the Selectmen shall cause the question of revocation of the acceptance to be placed on the ballot at the next annual election. At said election the vote shall be taken in answer to the following question which shall be printed on the official ballot: "Shall the acceptance by the Town of Arlington of an act passed by the General Court in the year nineteen hundred and fifty-two, entitled 'An Act establishing a Town Manager form of Government for the Town of Arlington' be revoked?" If such revocation is favored by a majority of the voters voting thereon by ballot, the acceptance of this act shall be revoked and this act shall become null and void beginning with the Annual Town Meeting next following such vote, which meeting shall be held at such time, in conformity with general law, as may be determined by vote of the Town provided, that all town officers holding office under this act shall continue to hold office until their successors have been duly qualified. At the first Annual Town Election following such vote of revocation the registered voters of the Town shall elect by ballot all elective officers and boards whose election to office was required prior to the acceptance of this act and the terms of office shall be so arranged that there shall be elected annually thereafter such officers as were elected annually prior to the acceptance of this act. It shall be the duty of the Selectmen and the Town Clerk in office and any other town official upon whom by reason of his office a duty devolves when this act is revoked, to comply with all the requirements of this section relating to elections, to the end that all things may be done necessary for the nomination and election of the officers required to be elected following the revocation of this act. The said revocation shall not affect any contract then existing or any action at law or any suit in equity or any other proceeding then pending, with the exception of any contract made by the Town with the Town Manager then in office, whose office shall be abolished upon the effective date of the said revocation. Any special laws relative to said Town which are repealed by this act shall be revived by such revocation. Any By-Law in force when said revocation takes effect, so far as consistent with the general laws respecting town government and town officers and with said special laws, shall not be effected thereby.

SECTION 49.

The provisions of this act are severable, and if any of its provisions shall be held invalid, such invalidity shall not affect or impair any of the remaining provisions.