

## **HISTORY OF THE CHARTER OF THE TOWN OF CONCORD**

On March 12, 1956, the Selectmen-Manager form of government became effective in the Town of Concord. This was the result of a special act passed by the General Court in 1952\*, which act was accepted by the Town of Concord at the Annual Town Election of 1955.

Although adopted in 1956, the Charter falls under the 1966 Home Rule Amendment (Article 89) of the Massachusetts State Constitution. This was made certain by a letter from the Commonwealth's Attorney General to the Concord Town Counsel, dated June 29, 1972. Amendments to the Charter may therefore be made according to the procedures defined by the Home Rule Amendment in its Section 9.

The Charter was amended by a special act passed by the General Court in 1973 ("An Act Providing for the Election of Persons to Fill Vacancies in the Membership of the Board of Selectmen of the Town of Concord") upon petition by the Town voted at the Town Meeting in October 1972.

It has also been amended by referendum vote. A list of these amendments is provided on page 11 of this document. They are referenced by number in the Charter text.

The contents of the special act of 1952, as amended, are set forth in this Section.

The document as a whole will be referred to as the "Selectmen-Manager Charter," or simply as the "Charter".

\*Passed by the General Court in 1952 (Acts 1952, Chapter 280);  
Accepted by the Town of Concord at Town Election, March 7, 1955;  
Effective 11:58 p.m., March 12, 1956.

# AN ACT ESTABLISHING A SELECTMEN-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CONCORD

## THE CONCORD TOWN CHARTER

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

### SECTION 1. ELECTED OFFICIALS

At the town election following the acceptance of this act the registered voters of the town of Concord shall elect the following officials:

- A. A moderator for a term of one year;
- B. Two members of the select board for terms of three years each, two members of the select board for terms of two years each and one member of the select board for a term of one year;
- C. Two members of the school committee for terms of three years each, two members for terms of two years each, and one member for a term of one year. At each annual town election thereafter a moderator shall be elected for a term of one year and members of the select board and school committee for terms of three years to replace those whose terms expire. When a vacancy or vacancies occur in the membership of the select board, the select board shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except that if such vacancy or vacancies occur less than 100 days prior to the annual election and not less than three members of such board remain in office, the vacancy or vacancies shall remain unfilled until such annual election (See Note #1, Amendments). When a vacancy or vacancies occur in the membership of the school committee, the select board shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except that if such vacancy or vacancies occur less than 100 days prior to the annual election and not less than three members of such committee remain in office, the vacancy or vacancies shall remain unfilled until such annual election (See Note #2, Amendments). If the moderator is absent, disabled from the performance of the moderator's duties or has been recused from acting as moderator, the deputy moderator elected at the annual town meeting shall act as moderator. If there is a vacancy in the position of moderator, the deputy moderator shall act as moderator until the next regularly elected moderator takes office. The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable statutes and bylaws and votes of the town, except as herein otherwise provided.

## SECTION 2. APPOINTED OFFICIALS

- A. The select board shall appoint a town manager as provided in Section 5, who may thereafter be removed as provided in Section 7.
- B. The select board shall appoint a library committee, a planning board, a board of appeals, a town accountant, trustees of town donations, a personnel board, a public ceremonies and celebrations committee (see Note #3, Amendments), election officers, registrars of voters other than the town clerk and such other officers, boards and committees as they shall hereafter be directed to appoint by bylaw or vote of the town, and such temporary or ad hoc committees as in their judgment shall from time to time be necessary or desirable (see Note #3, Amendments). The select board may, by majority vote, undertake an investigation of the affairs of any committee, board or official appointed by them or by the town manager, and they shall have access to all records and other documents which they may deem necessary or desirable for this purpose. The select board may remove, after such hearing as the select board may deem advisable, any of the officers, boards or committees appointed by them under the provisions of this paragraph B, or any member thereof, other than the town clerk.

The select board shall, at the respective times specified in clauses 1 and 2 herein and at intervals of not more than ten (10) years thereafter appoint the following special committees:

- 1. within one year after this paragraph takes effect, a committee for the purposes of reviewing and recodifying the existing zoning bylaw; and
- 2. within one year after this paragraph takes effect, a committee for the purpose of reviewing and recodifying all other existing bylaws of the town.

(Clause 3 deleted. See Note #8, Amendments)

Within one year following its appointment, each such committee shall submit a report to the select board with specific recommendations for action to be taken to accomplish the purpose of such committee. (See Note #5, Amendments)

- C. The moderator shall appoint a finance committee and such other officers, boards and committees as the moderator shall herein after be directed to appoint by bylaw or vote of the town.

- D. The town manager shall appoint, upon merit and fitness alone, and may remove for cause:
1. a town clerk, a town treasurer, a town collector and a board of five assessors (see Note #7, Amendments), subject however, in each instance, to the approval of the select board;
  2. all other officers, boards, committees and employees of the town, with the exception of the elected officials specified in Section 1, officials, boards and committees appointed by the school committee and by the select board and moderator as herein before in this Section 2 provided and employees of the same.

**SECTION 3. MEMBERSHIP; TERMS; POWERS, DUTIES, RESPONSIBILITIES; TERMINATION**

The membership of boards and committees appointed as provided in Section 2, the length of the term of each member thereof and of officers so appointed, and the powers, duties and responsibilities of the same shall be as now or hereafter provided by applicable statutes and bylaws and votes of the town, except as herein otherwise provided. Upon appointment and qualification of the various officials as provided for in Section 2, the term of office and all powers and duties of each person theretofore holding each such office shall cease and be terminated.

**SECTION 4. MULTIPLE OFFICERS**

Neither the moderator nor any member of the select board, the school committee, or the finance committee may, during the term for which the moderator, select board member, school committee member or finance committee member was elected or appointed, be elected or appointed to any other town office, except as otherwise provided herein. Any person appointed by the town manager to any town office under the provisions of this act or of any other statute of the Commonwealth shall be eligible during the term of said office to appointment to any other town office, except the town accountant shall not be eligible to hold the position of town treasurer or town collector. Subject to the approval of the select board, the town manager may assume the powers, duties, and responsibilities of any officer, board or committee which the town manager is authorized to appoint, such assumption to be evidenced by and effective upon the filing with the town clerk of a written declaration of such assumption signed by the town manager, and thereupon each officer, board or committee whose powers, duties and responsibilities are so assumed by the town manager shall be discharged and shall have no further powers, duties or responsibilities as such.

## **SECTION 5. APPOINTMENT OF TOWN MANAGER**

The select board elected as provided herein shall appoint, as soon as practicable, for a term of three years, a town manager who shall be a person especially fitted, in their opinion, by education, training and experience to perform the duties of the office. The town manager shall be appointed without regard to the town manager's political beliefs. (Sentence deleted. See Note #9, Amendments). No holder of elective office in the town shall within two years of holding of such office be eligible for appointment as town manager. The town manager may be appointed for successive terms of office. Before entering upon the duties of office, the town manager shall be sworn, in the presence of a majority of the select board, to the faithful and impartial performance thereof by the town clerk or by a justice of the peace or notary public. The town manager shall execute a bond in favor of the town for the faithful performance of the town manager's duties in such sum and with such sureties as may be fixed or approved by the select board.

## **SECTION 6. APPOINTMENT OF A TEMPORARY TOWN MANAGER**

In the event of the temporary absence or disability of the town manager, the town manager may appoint, subject to the approval of the select board, a suitable person to perform the duties of the manager during such absence or disability. If the town manager fails to make such appointment or the person so appointed fails to serve, the select board may appoint a suitable person, who may be a member of the select board, to perform such duties. In the event of any vacancy in the office of town manager or the suspension of the town manager as hereinafter provided, the select board shall, within seven days, appoint the person to perform such duties.

## **SECTION 7. REMOVAL OF TOWN MANAGER**

The select board may remove the town manager by the affirmative vote of at least three members of the board. At least thirty days before such proposed removal shall become effective, the select board shall file a preliminary written resolution with the town clerk setting forth the specific reasons for the town manager's proposed removal. The town clerk shall forthwith deliver a copy of such resolution to the town manager or mail the same to the town manager by registered mail at the town manager's last known address. The manager may file with the select board, within seven days after receipt of such copy, a written request for a public hearing not earlier than ten days nor later than twenty days after the filing of such request. After such public hearings, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution and after full consideration, the select board, by the affirmative vote of at least three members of the board may adopt a final resolution of removal. In the preliminary resolution, the select board may suspend the manager from duty, but shall in any case cause to be paid to the town manager forthwith any unpaid balance of the town manager's salary for the then current

month and, at the discretion of the select board, such additional amount not in excess of three months' salary, as the select board shall deem proper.

## **SECTION 8. COMPENSATION OF TOWN MANAGER**

The town manager shall receive such compensation for all services performed by the town manager as the select board shall determine, but it shall not exceed the amount appropriated therefor by the town.

## **SECTION 9. POWERS AND DUTIES OF TOWN MANAGER**

In addition to specific powers and duties provided elsewhere 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 and shall be responsible for the efficient administration of all officers, boards and committees appointed by the town manager and their respective departments.
- B. The town manager may, with the approval of not less than 3 members of the select board, establish, combine, reorganize, or discontinue departments under the town manager's supervision; and, with the approval of both the select board and the finance committee, the town manager may transfer all or part of the appropriation of a discontinued department to any other department, any balance not so transferred to be returned to the town treasury.
- C. With respect to the wage or salary and classification of employees appointed by the town manager, the town manager shall be governed by the provisions of the "Wage and Salary Classification Plan – Town of Concord, Massachusetts", as the same may be amended from time to time and for so long as the same may remain in force.
- D. The town manager shall keep full and complete records of the town manager's office, and shall render as often as may be required by the select board a full report of all operations during the period reported on.
- E. With the exception of property under the jurisdiction of the school committee, the town manager shall have full and exclusive jurisdiction over the rental and use of all town property, and shall be responsible for the proper maintenance and repair thereof; and, upon request by the school committee, the town manager shall be responsible for the maintenance and repair of property under its jurisdiction, but only to such extent and for such period as the school committee shall from time to time specify. The

town manager shall be responsible for the preparation of plans and the supervision of work on existing and on new buildings and grounds, unless a special committee of the town is created for such purpose.

- F. The town manager shall purchase all supplies and materials and equipment and award all contracts for all departments of the town, but the town manager shall make purchases for departments not under the town manager's supervision only upon requisition duly authorized by the head of such department.
- G. The town manager shall administer either directly or through a person or persons appointed by the town manager in accordance with this act all provisions of general and special laws applicable to the town and bylaws and votes of the town, within the scope of the town manager's duties, and all rules and regulations made by the select board.
- H. The town manager, subject to the approval of the select board, shall have authority to prosecute, defend and compromise all litigation to which the town is a party, and to employ counsel whenever in the town manager's judgment it may be necessary.
- I. The town manager shall perform such other duties consistent with the town manager's office as may be required by bylaw or vote of the town or by vote of the select board.

#### **SECTION 10. INVESTIGATION BY TOWN MANAGER**

The town manager may without notice cause the affairs of any committee, board, or official under the town manager's 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 performance of the town manager's duties.

#### **SECTION 11. RELATIVE TO DUTIES OF BOARDS AND OFFICERS APPOINTED BY TOWN MANAGER**

Except as otherwise herein provided, each committee, board and officer appointed by the town manager shall, in the performance of their duties, be subject to the general supervision and direction of the town manager. Such committees and boards shall promptly organize for the proper conduct of their respective offices. Each committee and board member and each officer appointed by the town manager shall hold office until a successor has been appointed and qualifies, unless the office shall have become vacant by reason of resignation or removal.

## **SECTION 12. VACANCIES TO BE FILLED BY TOWN MANAGER**

Any vacancy in an office or committee or board over which the town manager has power of appointment shall be filled by the town manager, as hereinbefore provided.

## **SECTION 13. OATH OF OFFICE OF TOWN OFFICIALS**

All elected officials shall be sworn to the faithful performance of their respective duties by the town clerk or a justice of the peace or notary public, except that the town clerk shall be sworn to the faithful performance of the town clerk's duties by the select board chair or by a justice of the peace or notary public.

## **SECTION 14. WARRANTS**

A copy of each warrant for the payment of town funds prepared by the town accountant shall be submitted to the town manager who shall make recommendation to the select board with respect to the approval or disapproval by them of each such warrant or of any item or items in any such warrant.

## **SECTION 15. RECEIPTS PAID TO TREASURY**

Every official shall pay into the treasury of the town all amounts received by the official on behalf of the town and all fees received by the official in accordance with the provisions of any general or special law and shall make a full and true return thereof to the town accountant.

## **SECTION 16. ESTIMATES OF EXPENDITURES**

Not less than 90 days before the annual town meeting each year (See Note #4, Amendments), the town manager shall submit to the select board a careful detailed estimate in writing of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the two preceding years and an estimate of the expenditures for the current year. The town manager shall also submit a statement showing all revenues received by the town in the two preceding fiscal years together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. The town manager shall report the probable amount required to be levied and raised by taxation to de-

fray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise said amount. For the purpose of enabling the town manager to make up the annual estimates of expenditures, all boards, officers, and committees of the town shall, upon the town manager's written request, furnish all information in their possession and submit to the town manager in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

#### **SECTION 17. ANNUAL BUDGET**

The select board shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they may deem expedient and proper in the interests of the town. Not less than 60 days before the annual town meeting each year the select board shall transmit a copy of the budget together with their recommendations relative thereto to each member of the finance committee. (See Note #6, Amendments)

#### **SECTION 18. DUTIES OF CERTAIN TOWN OFFICIALS RELATIVE TO ELECTION**

It shall be the duty of the select board and the town clerk in office and any other town official upon whom by reason of the official's office a duty devolves under the provisions of their 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 19. SUBMISSION OF ACT AND TIME OF TAKING EFFECT**

This act shall be submitted to the qualified voters of the town of Concord for acceptance at the first annual town election occurring not less than thirty days after the passage of this act. The vote shall be taken by ballot in answer to the question which shall be printed on the official ballot: "Shall an act passed by the General Court in the year nineteen hundred and fifty-two entitled 'AN ACT ESTABLISHING A SELECTMEN-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CONCORD' be accepted?" If this act shall be so accepted by a majority of the qualified voters voting thereon it shall become and be in full force and effect immediately after the final adjournment of the annual town meeting held in the year following the year in which this act is so accepted, provided, however, that said annual town meeting shall be held in conformance with the provisions of this act. If this act is rejected by the qualified voters of the town of Concord when first submitted to said voters under this section, it shall be submitted for acceptance in like manner to such voters at the next following annual town election in said town, and if it is not accepted at said annual election, it shall again be

submitted for acceptance in like manner to such voters at the next following annual election and, if accepted by a majority of such voters voting thereon at either of said elections, shall take effect as hereinbefore provided.

## **SECTION 20. BYLAWS, RULES, ETC.**

All laws, bylaws, votes, rules and regulations in force in the town of Concord 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, bylaw, or vote; all other laws, bylaws, votes, rules and regulations, so far as they refer to the town of Concord, are hereby repealed and annulled, but such repeal shall not revive any pre-existing enactment.

## **SECTION 21. 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 120 days before the date of an annual meeting, a petition, signed by not less than twenty percent of the registered voters of the town, may be filed with the select board, requesting that the question of revoking the acceptance of this act be submitted to the voters at the next annual town meeting. At said election the question shall be printed on the official ballot: "Shall the acceptance by the town of Concord of an act passed by the General Court in the year nineteen hundred and fifty-two entitled 'AN ACT ESTABLISHING A SELECTMEN-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CONCORD' be revoked?" If such revocation is favored by a majority of the qualified voters voting thereon, 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, 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, boards, and committees whose election to office was required immediately prior to the acceptance of this act, provided however, that the town does not vote to accept other plans which provide for a different arrangement from that existing immediately prior to the acceptance of this act. It shall be the duty of the select board and the town clerk in office and any other town official upon whom by reason of the official's office a duty devolves when this act is revoked, to comply with all of 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 proceedings then pending, with the exception of any contract made by the town with the town manager then in office, whose contract shall be terminated immediately upon such vote, but who shall receive three months' compensation from the date following such vote. The select board shall be charged with all the powers and duties of the town manager which duties and responsibilities may be dis-

charged by themselves or by a temporary town manager appointed by them. Any special laws relative to said town which are repealed by this act shall be revived by such revocation. All laws, bylaws, votes, and rules and regulations repealed and annulled, as provided in Section 20, shall be revived by such revocation. Bylaws, votes and rules and regulations in force when said revocation takes effect, so far as consistent with the general laws respecting town government and town officers and with special laws, shall not be affected thereby.

Approved May 5, 1952

## **NOTES ON CHARTER AMENDMENTS**

### **Section Amended Noted Below**

1. Article 2, Town Meeting, October 10, 1972; passed by the General Court, Acts 1973, Chapter 179 (Section 1C amended)
2. Article 3, Town Meeting, October 10, 1972; accepted by the Town of Concord at Town Election 1973 (Section 1C amended)
3. Article 4, Town Meeting, October 10, 1972; accepted by the Town of Concord at Town Election 1973 (Section 2B amended)
4. Article 5, Town Meeting, October 10, 1972; accepted by the Town of Concord at Town Election 1973 (Section 16 amended)
5. Article 18, Town Meeting, March 6, 1973; accepted by the Town of Concord at Town Election 1974 (Section 2B amended)
6. Article 8, Town Meeting, May 6, 1974; accepted by the Town of Concord at Town Election 1975 (Section 17 amended)
7. Article 39, Town Meeting, April 4, 1978; accepted by the Town of Concord at Town Election 1979 (Section 2D amended)
8. Article 48, Town Meeting, April 9, 1984; accepted by the Town of Concord at Town Election 1985 (Section 2B amended)
9. Article 69, Town Meeting, May 8, 2003; passed by the General Court, Acts 2004, Chapter 347, September 16, 2004 (Section 5 amended)
10. Articles 7, 8, and 9, Town Meeting April 12, 2015; passed by the General Court, Acts of 2018, Chapter 10, January 25, 2018 (Gender neutral language and Sections 1, 2, and 21 amended)