

# Town of Stoneham Selectmen-Administrator Act

**State law reference**--Chapter 26 of the Acts and Resolves of 1981 (10-27-80, Art. 1). Chapter 120 of the Acts and Resolves of 1987 (11-3-86, Art. 10). Chapter 21 of the Acts and Resolves of 1994 (10-25-93). Chapter 296 of the Acts and Resolves of 1994 (5-9-94, Art. 17). Chapter 91 of the Acts and Resolves of 1996 (6-26-95, Art. 5). Chapter 444 of the Acts and Resolves of 1998 (10-26-98, Art. 4).

**Editors notes**--The Act Establishing a Selectmen-Administrator Form of Government for the Town of Stoneham (hereinafter referred to as the ("Selectmen-Administrator Act") was approved by the Governor on March 12, 1981 and became effective on March 13, 1981. It was subsequently amended, as referenced above. The Selectmen-Administrator Act as set out below includes amendments to date. The section headings are editorially supplied for convenience and reference only and in no way define or limit the scope or content of the Act or its provisions.

**CHAPTER 26**  
**OF THE ACTS AND RESOLVES**  
**OF MASSACHUSETTS**  
**ESTABLISHING A SELECTMEN-ADMINISTRATOR**  
**FORM OF GOVERNMENT**  
  
**AS AMENDED**

**Section**

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### **Sec. 1. Prior General Laws and Special Acts/References to gender.**

To the extent that the provisions of this act modify or repeal existing general laws and special acts or that body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern. For the purposes of this act, all references to officers, employees or other persons shall be read as applying equally to males and females, regardless of the gender of pronoun used.

### **Sec. 2. Appointments by Selectmen and Town Moderator.**

The selectmen shall appoint their administrative employees, the town administrator, town accountant, town counsel, and the members of multi-member boards, committees and commissions except those appointed by the moderator or elected under Article 1 of the annual town meeting.

If the moderator does not make an appointment within sixty days after notification of a vacancy in a position for which the moderator is the appointing authority or within sixty days after a committee is created by the town meeting for which he is the appointing authority, the board of selectmen shall have authority and responsibility for making such appointment.

### **Sec. 3. School Committee.**

The school committee shall continue to be elected in conformity with the votes of the Town Meeting. All powers, rights and duties, except as herein provided, now or hereafter conferred or imposed by law upon the school committee, shall be exercised and performed by 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.

### **Sec. 4. Multiple offices.**

A member of the board of selectmen, the school committee, or the finance and advisory board shall, during the term for which he was elected or appointed, be ineligible either by

election or appointment to hold any other town office. A person appointed by the town administrator to a town office under the provisions of this act or under any general or special law shall be eligible during the term of such office for appointment to any other town office; provided, however, that the town accountant shall not be eligible to hold the position of town treasurer or the position of town collector. The town administrator, subject to any applicable provision of the General Laws relating thereto, may assume the duties of any office which he is authorized to fill by appointment if legally qualified.

**Sec. 5. Town Administrator - Appointment/Qualifications/Contract.**

The selectmen elected as provided herein shall appoint, as soon as practicable, for an indefinite term, a town administrator who shall be a person especially fitted by education, training and experience to perform the duties of said office. The town administrator shall be appointed without regard to his political beliefs. Such town administrator shall not be required to be a resident of the town or of the commonwealth when appointed, but shall become a resident of the Commonwealth of Massachusetts within one year and live within a reasonable distance from Stoneham. Such administrator shall possess a college degree at the bachelor level and shall have had five years of full-time paid experience as a government manager or in a private administrative management position. A masters degree may substitute for not more than two years of such paid experience. Such administrator 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 may be fixed or approved by the selectmen. Such administrator shall serve under contract in accordance with the provisions of state law applicable to employment contracts for town administrators and receive a performance review within six months of his employment and annually thereafter. No contract shall affect the removal powers of the board of selectmen over the town administrator appointed hereunder, grant tenure to the town administrator, nor provide the town administrator any contractual or other right to compensation upon termination pursuant to section eight, greater than the severance pay provided in said section, but may provide for severance pay for situations other than removal pursuant to said section eight. At least one hundred and twenty days prior to the expiration of the town administrator's contract the board of selectmen shall notify the town administrator, in writing, of its intent to retain or not retain him. Failure to retain the town administrator pursuant to this notification provision, shall not entitle the town administrator to severance pursuant to said section eight, but shall not prohibit severance otherwise agreed to by contract.

**Sec. 6. Town Administrator - Vacancy.**

Any vacancy in the office of town administrator shall be filled as soon as possible by the selectmen. Pending the appointment of a town administrator, the selectmen shall, within seven working days, appoint a suitable person to perform the duties of the office.

**Sec. 7. Town Administrator - Temporary Absence/Disability.**

The town administrator may designate, by letter filed with the town clerk, an officer or department head of the town to perform his duties during his temporary absence or temporary disability not to exceed thirty consecutive days. In the event of failure of the administrator to make such designation, the selectmen may, by resolution, designate an officer or department head of the town to perform the duties of the administrator until he shall return or his temporary disability shall cease.

In the event the town administrator does not, or cannot appoint a person, or if an appointment by the town administrator would exceed thirty consecutive days, the selectmen shall designate a suitable person to perform the duties of the Town Administrator until he shall return or his temporary disability ceases.

**Sec. 8. Town Administrator - Removal.**

The selectmen, by three concurring votes at a meeting of the board, may move removal of the town administrator. At least twenty days before such 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 such proposed removal, a copy of which resolution shall be delivered to the town administrator. The administrator may, within ten days of service of such resolution, reply in writing and may request a public hearing. Service shall be deemed to have been accomplished by leaving a copy of such resolution at the administrator's last known address. If the administrator so requests, the board of selectmen shall hold a public hearing not earlier than ten days nor later than twenty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of twenty days following the filing of the preliminary resolution, and after full consideration, the selectmen by a three-fifths vote of the full membership of the board, may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the administrator from duty and such suspension shall be treated as a temporary absence. The town administrator shall continue to receive his compensation until final adjudication as provided herein. Upon the adoption of a final resolution of removal, the selectmen shall pay the administrator in the amount equal to one month's pay up to one full year of service to the town an additional month for each additional full year of service to the town, but in no event more than an amount equal to three month's pay; provided, however, that the cause for such removal is a criminal act all severance pay shall be withheld.

**Sec. 9. Town Administrator - Compensation.**

The town administrator shall receive such compensation for his services as the selectmen shall determine, but compensation funded directly by the town shall not exceed the amount appropriated therefor by town meeting.

**Sec. 10. Town Administrator - Powers and Duties.**

In addition to specific powers and duties provided in this act, the town administrator shall have the general powers and duties enumerated in this section:

(a) The town administrator shall supervise and direct all departments, commissions, boards and offices, excluding elected officials, departments and staff under elected officials, election officers, registrars of voters, boards appointed by the board of selectmen, the finance and advisory board, the town counsel, and the town accountant. (Acts of 1996, Ch. 91)

(b) The town administrator, 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 or offices as he deems necessary, and may transfer the powers and duties of one department, commission, board or office to another upon 15 days notification to the board of selectmen.

(c) In carrying out the activities related to personnel, the town administrator shall be governed by all applicable aspects of the personnel by-laws, which shall be updated biennially. In matters relating to hours and working conditions and related functions, those set out in the personnel by laws or those covered by collective bargaining agreements shall be adhered to by all officials.

(d) Notwithstanding the provisions of section one hundred and eight of chapter forty-one of the General Laws, but subject to all applicable provisions of chapter thirty-one of the General Laws, the town administrator shall fix the compensation of all town officers, employees appointed by him, and all employees of elected bodies, except school department, town counsel, town accountant and administrative employees of the board of selectmen.

(e) The town administrator shall attend all regular meetings of the board of selectmen.

(f) The town administrator shall keep full and complete records of his office and shall render to selectmen a full report of employment operations, issues and concerns at regular selectmen's meetings or as they arise.

(g) The town administrator shall keep the selectmen fully advised as to the needs of the town. The town administrator shall recommend to the selectmen for adoption all such measures requiring action by them or by the town.

(h) The town administrator shall have jurisdiction over the leasing, rental and use of all town land and buildings, except land and buildings under the control of the school committee, library trustees and the conservation commission.

Agreements, including leases and rentals, for the use of town owned land and buildings under the control of the town administrator shall not exceed twelve months and shall not be extended or renewed without a vote of town meeting.

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The town administrator shall also be responsible for the maintenance and repair of all town buildings, except land and buildings under the control of the school committee, library trustees and conservation commission. Said administrator shall be responsible for the preparation of plans and supervision of work on existing buildings or the construction of new buildings under his control as recommended by a vote of town meeting.

(i) The town administrator shall be the awarding authority and chief procurement officer for the purchase of all supplies, materials, equipment and services, except purchases of the school committee and library trustees for which said committee and board shall be the awarding authority and chief procurement officer, respectively. The town administrator shall only approve the award of contracts for departments not under his supervision only upon requisition duly signed by the head of each such department.

Annually the town administrator shall secure before December first, a list of all equipment under control of each department in the town.

(j) The town administrator shall administer, either directly or through a person or persons appointed by him in accordance with this act, all provisions of general and special laws applicable to said town and all by-laws and regulations and policies established by the selectmen. The town administrator shall perform such other duties consistent with the office, as may be required of him by the by-laws of the town or by vote of the selectmen or the town meeting.

(k) The town administrator shall have the authority to prosecute, defend and compromise all litigation which the town is a party, and shall be the executive officer of the town as referred to in chapter two hundred and fifty-eight of the General Laws pertaining to the processing of claims against the town.

(l) The town administrator shall be the selectmen's agent for collective bargaining and may employ special counsel to assist him in the performance of such duties.

(m) The town administrator shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

### **Sec. 10A. Town Administrator - Powers of former Board of Public Works and Personnel Board.**

The board of public works and the personnel board are hereby abolished. The town administrator shall succeed to all powers heretofore possessed by said boards.

### **Sec. 11. Town Administrator - Access to books and papers.**

The town administrator shall have access to all town books and papers for information necessary for the proper performance of his duties unless expressly prohibited by law.

**Sec. 12. Town Administrator - Chief Fiscal Officer.**

The town administrator shall be the chief fiscal officer of the town. 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 administrator. The approval of such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer but the selectmen shall approve all warrants in the event of a vacancy in the office of town administrator.

**Sec. 13. Town Administrator - Appointments.**

The Town Administrator shall appoint the town treasurer, tax collector and all other town officials whose appointment or election is not specifically provided for herein. The Board of Library Trustees shall appoint all library personnel. The Town Administrator shall appoint and may remove subject to the civil service laws where applicable, all department heads, all officers and subordinates and employees for whom no other method of appointment is provided in this act. Appointments to permanent positions made by the Town Administrator shall become effective seven working days following the date on which the notice of the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within seven days, by a majority of the full board, vote to reject any such appointment.

**Sec. 14. Election of Officers by voters.**

After the acceptance of this act, the registered voters of the town of Stoneham shall, in accordance with any applicable laws, by-laws and votes of the town continue to elect the following officers for the following terms:

| <b>Office</b>   | <b>Term</b> | <b>Members</b> |
|---|-------------|----------------|
| a. moderator  | 2 yrs.      | 1              |
| b. board of selectmen   | 3 yrs.      | 5              |
| c. school committee   | 3 yrs.      | 5              |
| d. planning board   | 5 yrs.      | 5              |
| e. board of health  | 3 yrs.      | 3              |
| f. board of assessors   | 3 yrs.      | 3              |
| g. library trustees   | 3 yrs.      | 6              |
| h. representative to northeast metropolitan<br>regional vocational school | 4 yrs.      | 1              |

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| <b>Office</b>        | <b>Term</b> | <b>Members</b> |
|----------------------|-------------|----------------|
| i. housing authority | 5 yrs.      | 5              |
| j. constables        | 3 yrs.      | 3              |
| k. town clerk        | 3 yrs.      | 1              |

The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable provisions of general and special laws, by-laws and votes of the town, except as otherwise expressly provided herein.

Such officers shall be available to the administrator for consultation, conference and discussion on matters relating to their respective offices.

**Sec. 15. Budgetary process - Town Administrator.**

At least seventy-five days prior to the annual town meeting, the town administrator shall submit to the selectmen 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 preceding year and an estimate of the expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the preceding fiscal year 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. He shall report the probable amount required to be levied and raised by taxation to defray 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 administrator to make up the annual estimates of expenditures, all boards, officers and committees of the town shall, at least ninety days prior to the annual town meeting furnish all information in their possession and submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal years.

**Sec. 16. Budgetary process - Board of Selectmen.**

The selectmen shall consider the tentative budget submitted by the town administrator and make such recommendations relative thereto as they deem expedient and proper in the interests of the town. On or before the fifty-fifth day prior to the annual town meeting, the selectmen shall transmit a copy of the budget, together with the recommendations, to the finance and advisory board.

