

**Chapter 106 of the Acts of 2016**  
**THE COMMONWEALTH OF MASSACHUSETTS**  
**In the One Hundred and Eighty-Ninth General Court**  
**AN ACT REVISING THE CHARTER OF THE TOWN OF SWAMPSCOTT.**

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

**SECTION 1.** Chapter 119 of the acts of 1949 is hereby amended by striking out section 1, as appearing in section 1 of chapter 416 of the acts of 1969, and inserting in place thereof the following section:-

**Section 1.** There shall be in the town of Swampscott a Swampscott War Memorial Scholarship Fund. The town of Swampscott may raise and appropriate the sum of \$40,000.00 to provide high school and preparatory school graduates who are residents of the town with financial assistance for higher education. The fund shall be dedicated as a memorial to veterans of World War II, the Korean War and the Vietnam War.

**SECTION 2.** Section 2 of said chapter 119 is hereby amended by adding the following sentence: - The board of trustees shall have a chairperson and a secretary and any vacancy in the office of trustees shall be filled by appointment by the board of selectmen.

**SECTION 3.** Chapter 330 of the acts of 1998 is hereby repealed.

**SECTION 4.** Chapter 22 of the acts of 2000 is hereby repealed.

**SECTION 5.** Chapter 7 of the acts of 2002 is hereby repealed.

**SECTION 6.** Notwithstanding any general or special law to the contrary, the following shall be the charter of the town of Swampscott:

**CHARTER OF THE TOWN OF SWAMPSCOTT**

**PREAMBLE.** We, the people of the town of Swampscott, not unmindful of the practical necessity of delegating to a duly constituted general court the power to act on behalf of all the inhabitants of the commonwealth in matters which transcend the boundaries of a single town but firmly believing that the best government is that which is most directly that of the people themselves, of which belief we recognize Article LXXXIX of the Amendments to the Constitution of the Commonwealth to be an expression, do hereby adopt and establish this charter of the town of Swampscott.

**Chapter 1: INTRODUCTION**

**Section 1-1.** Pursuant to Article LXXXIX of the Constitution of the Commonwealth and chapter 43B of the General Laws, the town of Swampscott adopts this charter.

**Section 1-2.** The effective date of this charter shall be July 1, 1969.

**CHAPTER 2: TOWN MEETING**

**Section 2-1.** Precincts. The existing precinct boundaries of the town shall be reviewed and, if necessary, wholly or partly revised by the selectmen in October 1969, and once in every 10 years thereafter or in October of any year when so directed by a vote of a representative town meeting held not later than September 20 of that year or otherwise as required by law so that there shall be precincts, of compact and contiguous territory, bounded as far as possible by the center line of known streets and ways or by other well-defined limits and containing approximately an equal number of persons.

The board of selectmen shall, within 10 days after any revision of the precincts, file a report of their doings with the town clerk, the board of registrar of voters and the board of assessors with a description of the precincts and the names and residences of the voters therein and shall post in the town all such description, names and residences. Any revision of those precincts shall take effect upon the

date of the filing of the report therefor with the board of registrar of voters or otherwise as required by law. Whenever the precincts are revised, the board of registrar of voters shall give written notice thereof to the state secretary. Meetings of the voters of the several precincts for elections, for primaries and for voting upon any question to be submitted to all of the voters of the town shall be held on the day, at the hour and at such places within the town as the selectmen shall direct in the warrant for the meeting.

**Section 2-2.** Precincts; Revision. If the precinct boundaries are wholly or partly revised by the board of selectmen, the voters in each precinct shall, at the first town election following any such revisions, conformably to the laws relative to elections, elect by ballot 54 voters in the precinct to be town meeting members. The first 18 in the order of votes received shall serve for 3 years, the second 18 shall serve for 2 years and the remaining 18 shall serve for 1 year from the date of the annual town meeting. In case of a tie vote affecting the division into thirds, the members from the precinct determine the same by ballot. Except as otherwise provided herein, if the precinct boundaries are not revised, at each annual town election, the voters of each precinct shall elect 18 town meeting members for a term of 3 years and shall, at such election, fill each vacancy for the unexpired term then existing. Upon every revision of the precincts, the terms of office of all town meeting members shall cease upon the qualification of their successors who shall be elected at the annual town election held after such revision. The town clerk shall, after every election of town meeting members, forthwith notify each member by mail of that member's election. Each town meeting member shall be sworn to the faithful and impartial performance of duties of the office of town meeting member but failure to comply with this requirement shall not affect the validity of any action taken at any town meeting. The town meeting members shall be the judge of the election and qualification of their members.

**Section 2-3.** Warrants; Notice; Quorum. The articles for the warrant for each town meeting, so far as they relate to the election of the moderator, town officers and town meeting members, and as herein provided, to referenda, and all matters to be acted upon and determined by ballot shall be so acted upon and determined by the voters of the town in their respective precincts. All other articles in the warrant for each town meeting shall be acted upon and determined exclusively by town meeting members. The annual town meeting shall meet on the third Monday of May each year and at such other times and places as shall be set forth by the selectmen in the warrant for the meeting. The board of selectmen may convene a special town meeting, subject to section 10 of chapter 39 of the General Laws. A special town meeting may also convene upon petition in accordance with section 12 of said chapter 39. The town clerk shall notify the town meeting members of the time and place at which representative town meetings are to be held which shall be sent by mail at least 7 days before any town meeting. A majority of the town meeting members shall constitute a quorum for doing business but a lesser number may organize temporarily for the purposes of adjourning such meeting to a time, date and place certain. All town meetings shall be open to the public. The town meeting members shall receive no compensation for service as town meeting members. Subject to such conditions as may be determined from time to time by the town meeting members, any voter of the town who is not a town meeting member may speak at any town meeting but shall not vote.

**Section 2-4.** Moderator. A moderator shall be elected by ballot at each annual town meeting and shall serve as a moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members in accordance with section 14 of chapter 39 of the General Laws.

**Section 2-5.** Members; Resignation. A town meeting member may resign by filing a written resignation with the town clerk and such resignation shall take effect on the date of filing. A town meeting member who moves out of the town shall cease to be a town meeting member and a town meeting member who moves to another precinct may serve only until the next annual town meeting. Any vacancy in town meeting membership caused by the resignation of a town meeting member shall be filled by offering the position to the person who received the next highest number of votes at the last election. If there is a tie, then the process to fill the vacancy shall be by lottery. If the person who received the next highest vote declines appointment, then the vacancy shall be offered to the person who got the next highest vote or, if a lottery shall be held and if that person declines or if there is no list of persons who got the next highest vote, then the vacancy shall be filled by the precinct caucus, by ballot, by a majority of those present and voting for the unexpired term. Upon written acceptance by a person so chosen, that person shall be deemed elected, subject to the right of all town meeting members to judge the election and qualifications of the member as set forth in this chapter.

**Section 2-5A. Members; Removal.** A town meeting member who has missed 3 consecutive sessions of any town meeting may be removed by a 2/3 vote of the town meeting members of that precinct that are present and voting at a meeting convened for that purpose.

**Section 2-6. Votes; Petition.** No affirmative vote, except a vote to adjourn or authorize the borrowing of money in anticipation of receipt of taxes for the current year, passed at any representative town meeting, shall be operative until after the expiration of 5 days from the date on which the possibility of reconsideration of such vote has expired or become exhausted. If, within such 5 days a petition, signed by not less than 5 per cent of the voters of the town, containing their names and addresses as they appear on the list of voters, is filed with the selectmen and asking that any questions involved in such vote be submitted to the voters of the town, the selectmen shall forthwith call a special election for the purpose of presenting any such question to the voters. The hours of voting shall be the same as at the previous annual town election and all other election laws shall be applicable to that special election.

The question shall be stated upon the ballot in substantially the same language and form in which it was stated to the representative town meeting by the moderator as it appears from the records of the meeting in a form similar to the following:

“Shall this town vote to approve the action of the representative town meeting whereby it was voted on (insert date of meeting) to (insert full text of action taken by town meeting in the form in which it was stated to the town meeting by the moderator)?”

Notwithstanding the preceding sentence, if the action taken by the representative town meeting would exceed more than 2 paragraphs of text on the ballot, the board of selectmen may direct town counsel to prepare a fair and concise description of the action to be included on the ballot and the full text shall be posted on the town’s official bulletin board and on the town’s official website.

**Section 2-7. Finance Committee.** The moderator shall appoint a finance committee consisting of 1 voter from each precinct and 3 additional voters at large who shall serve for 3-year terms; provided, however, that not more than 2 voters from any 1 precinct shall serve at the same time on the finance committee. Matters referred to this committee shall include all questions pertaining to the appropriation or expenditure of money, the creation of debt, the disposition of town property and all other questions affecting the town, for the purpose of making recommendations, but this shall not prohibit the appointment of special committees to investigate matters pertaining to the town or to execute work authorized by it. The finance committee may consult with all departments, officers, employees, agents or committees of the town and all such departments, officers, employees, agents and committees shall furnish such information as they possess that may be required by the finance committee. The finance committee may also examine all books, vouchers, papers and other instruments in the custody or possession of any officer, employee, agent or committee of the town.

**Section 2-8. Powers.** The town shall have the capacity to act through and be bound by its town meeting members who shall, when convened from time to time as herein provided, constitute representative town meetings and such representative town meetings shall exercise exclusively all powers vested in the town. Action in conformity with all laws now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by any representative town meeting in accordance with this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town.

**Section 2-9. Capital Improvements Committee.**

- (a) There shall be a capital improvement committee to be appointed by the moderator which shall consist of 5 registered voters for alternating 3 years each, beginning on the first day of July following appointment and expiring 3 years thereafter. The town administrator and the director of public works and, at the discretion of the moderator, 1 additional town employee or official shall be ex-officio, nonvoting members of the committee. Any vacancy on the committee arising otherwise than by expiration of term shall be filled for the remainder of the unexpired term. If any member of the committee ceases to be a resident or voter of the town, that member shall forthwith cease to be a member of the committee. The committee shall choose its own officers.
- (b) The committee shall study articles for proposed capital projects and improvements involving major nonrecurring tangible assets and projects which: (i) are purchased or undertaken at intervals of not less than 3 years; (ii) have a useful life of at least 3 years; and (iii) cost over \$20,000.00. All officers, boards, departments and committees, including the board of selectmen and school committee shall, by December 31 of each year, give to the committee, on forms prepared by it, information concerning all anticipated projects requiring town meeting action during the ensuing 6 years, including all capital

improvement article requests for the annual town meeting. The committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town.

- (c) No appropriation shall be voted by town meeting for a capital improvement requested by a department, board or commission unless the proposed capital improvement has been submitted to the committee for consideration. The committee shall report its findings to the finance committee as part of the finance committee's budget deliberations.
- (d) The committee shall prepare an annual report recommending a capital improvement budget for the next fiscal year and a capital improvement program, including recommended capital improvements for the following 5 fiscal years. The report shall be submitted to the town meeting for its consideration and approval. The board shall submit its approved budget to the annual town meeting for adoption by the town or take any action relative thereto.

**Section 2-10.** Conformance. To the extent that any provision of chapter 300 of the acts of 1927 is inconsistent with any provision of this charter, the charter provision shall control.

### **CHAPTER 3: ELECTION OF TOWN OFFICIALS**

**Section 3-1.** Board of Selectmen. The board of selectmen shall consist of 5 members elected for alternating 3-year terms, with not more than 2 seats expiring in any 1 year.

**Section 3-2.** Other Elected Officials. There shall be such other town officers, boards and committees serving for such terms as are now or hereafter provided for by law, by-law or vote of the town. The adoption of this charter shall not change the present officers, boards or committees or their powers, duties or terms of office except as expressly provided in this chapter.

**Section 3-2A.** Vacancies. An elective or appointive office shall become vacant upon the death, resignation or removal from office of the office holder in a manner authorized by law. Any vacancy in an office, committee or board, with the exception of the board of selectmen and town meeting members, originally filled by election shall be filled by a majority vote of the board of selectmen and the remaining members of the respective office, board or committee until the next annual election, at which time the vacancy shall be filled for the remainder of the unexpired term.

Any vacancy in an office, board or committee to which the holder was originally appointed shall be filled for the remainder of the unexpired term by any officials having the original power of appointment.

#### **Section 3-3.**

- (a) Board of Assessors; Powers and Duties. The elected board of assessors shall annually make a valuation of all property, both real and personal, within the town in accordance with the law. The board shall, except as expressly provided herein, have all the powers and duties given to boards of assessors under the constitution of the commonwealth, the General Laws and any other general or special law and such additional powers and duties as may be authorized by the charter, by-laws or other town meeting vote. The board of assessors shall also provide policy guidance to the assessing department in areas within its jurisdiction.
- (b) Appointment of Full-Time or Part-Time Assistant Assessors. Full-time or part-time assistant assessors shall be appointed as provided in this subsection. The board of assessors shall serve as a screening committee in accordance with clause 8 of subsection (a) of section 21 of chapter 30A of the General Laws and shall recommend to the town administrator not less than 3 finalists for appointment. The town administrator shall recommend to the board of selectmen, in accordance with subsection (c) of section 6-2, 1 such finalist for appointment. If the town administrator chooses not to recommend any such finalist, the town administrator may direct the board of assessors to conduct a new search.

#### **Section 3-4.**

- (a) Board of Health. There shall be an elected board of health consisting of 3 members for terms of 3 years each, so arranged that the term of office of 1 member shall expire each year.
- (b) Powers and Duties. The board of health shall enforce all regulations and by-laws relating to environmental control and shall annually submit, for the consideration of the town meeting, such regulations and by-laws as it deems proper to accomplish its purposes including, but not limited to, matters concerning noise abatement and the like, as provided in clause (22) of section 21 of chapter 40 of the General Laws. The board of health shall be responsible for advising the town administrator and board of selectmen on all matters relating to health issues. The board of health shall, except as

expressly provided herein, have all the powers and duties given to the board of health under the constitution of the commonwealth, the General Laws and any other general or special law and such additional powers and duties as may be authorized by the charter, by-laws or other town meeting vote. The board of health may advise the health department, when warranted, on all matters.

- (c) Appointment of Health Agent. The health agent shall be a person especially fitted by education, training or previous experience to perform the duties of the office. The health agent shall be appointed in the manner provided in this subsection. The elected board of health shall serve as a screening committee in accordance with clause 9 of subsection (a) of section 21 of chapter 30A of the General Laws and shall recommend to the town administrator not less than 3 applicants for appointment. Thereafter, the town administrator shall recommend to the board of selectmen, in accordance with subsection (c) of section 6-2, 1 such finalist for appointment. If the town administrator chooses not to recommend a finalist, the town administrator may direct the board of health to conduct a new search.

#### **Section 3-5.**

- (a) Board of Library Trustees; Composition, Term of Office. There shall be an elected board of library trustees which shall consist of 3 members for terms of 3 years each, so arranged so that the term of office of 1 member shall expire each year.
- (b) Powers and Duties. The board of library trustees shall have all the powers and duties given to a board of library trustees under the constitution of the commonwealth and the General Laws and such additional powers and duties as may be authorized by the charter, by-law or other town meeting vote. The board of library trustees may advise the library department, when warranted, on all other matters.
- (c) Appointment of Head Librarian. The head librarian shall be appointed as provided in this subsection. The board of library trustees shall serve as a screening committee in accordance with clause 8 of subsection (a) of section 2 of chapter 30A of the General Laws and shall recommend to the town administrator not less than 3 applicants for appointment. Thereafter, the town administrator shall recommend to the board of selectmen, in accordance with subsection (c) of section 6-2, 1 such finalist for appointment. If the town administrator chooses not to recommend a finalist, the town administrator may direct the board of library trustees to conduct a new search.

### **CHAPTER 4: RECALL**

**Section 4-1. Process.** This section providing for recall shall apply to all elected town officials, regardless of length or term of office.

- (a) Recall action may be commenced at any time after election to office, subject to the limitations in subsection (1); provided however, that a recall shall not be initiated with respect to any elected official if there are 3 months or less remaining in the term of office of the official sought to be recalled.
- (b) A minimum of 25 registered voters may file an affidavit, signed under oath or before a notary public, containing their signatures and setting forth the name and office of the elected official sought to be recalled and the specific reasons for the recall. At the time of filing, 1 signer shall be identified as the primary petitioner.
- (c) After the board of registrars of voters has verified that at least 25 or more signatures on the affidavit are those of registered voters of the town, the town clerk shall, within 5 days after receipt of the affidavit, issue to the primary petitioner petition forms, in sufficient quantity, containing the name and office held by the elected official sought to be recalled, the names and address of the first 10 signers of the petition, the specific reasons for recall and the date and time that the petition forms were issued to the primary petitioner.
- (d) Recall petition forms shall be returned and filed with the board of registrars of voters by not later than 5:00 p.m. on the twentieth day following the date on which the town clerk has issued petition forms; provided, however, that if such day is a Saturday, Sunday or legal holiday, the petitions shall be filed on the next business day. The petitions so filed shall contain the signatures of at least 15 per cent of the registered voters of the town, calculated as of the date of the last town election.
- (e) The board of registrar of voters shall certify the validity of the required number of signatures, increased by 1/5 thereof to the extent additional signatures have been filed or submitted, with 5 days after the last day fixed for filing the petition forms.
- (f) Immediately after the certification pursuant to subsection (e), the board of registrars of voters shall order that written notice be given to the official sought to be recalled, such notice to be served in hand

on that official or otherwise by a town constable or other process server in hand or at the elected official's place of residence as shown on the official list of voters and set forth the specific reasons given for the recall and shall also contain a statement advising the official concerned of the official's right to tender a written resignation to the town clerk within 7 calendar days after service of the written notice as provided in this subsection.

- (g) If the official sought to be recalled does not resign as provided in subsection (f), the board of selectmen shall forthwith set a date for the recall election and the calling and conduct of the election shall be in accordance with all General Laws relative to elections.
- (h) A recall election shall be held on a date not less than 64 days or more than 90 days from the date the board of selectmen called for the recall election. The polls shall be open for recall election voting during the same hours as they were set for the most recent annual town election and the result shall be determined by a majority vote. In the event that the annual town election is scheduled to take place within 100 days of the date on which the board of registrars of voters certifies the recall petitions, the recall election shall be postponed until the date of such annual town election and the recall election may, at the discretion of the board of selectmen, appear on the ballot therefor or on a separate ballot.
- (i) If the official sought to be recalled does not resign as provided in subsection (f), the official shall continue to perform the duties of the official's office until the recall election and shall, at the official's discretion appear on the ballot as a candidate for the office which is the subject of the recall election by notifying the town clerk in writing of the same. The recall election shall take place notwithstanding any vacancy occurring prior thereto.
- (j) The recall election ballot shall contain 2 propositions in the order indicated:
  - For the Recall of (Name of Official, Name of Office)
  - Against the Recall of (name of Official, Name of Office)
- (k) The recall election ballot shall also contain the names of the candidates nominated as hereinbefore provided to fill a vacancy resulting from a vote for recall. If recall is voted under subsection (j), the candidate receiving the greatest number of votes shall be deemed elected, or reelected, to fill the remainder of the term of office subject to the recall election.
- (l) A second recall against any elected town official shall not be initiated until at least 6 months after the date of the first recall election.

## **CHAPTER 5: BOARD OF SELECTMEN**

### **Section 5-1. Powers and Duties.**

- (a) Powers and duties in General. The board of selectmen shall serve as the chief policy making agency of the town and shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it. The board of selectmen shall also be responsible for the development and promulgation of policy guidelines for elected town officers and multiple member bodies not serving under the board, in conjunction with those officers and bodies. The board of selectmen shall recommend to the town meeting for approval, disapproval or other appropriate action each article presented in the warrant. The recommendation shall be printed in the town meeting warrant, if then available, and the town moderator shall, after a motion has been made on each article, request that the board's recommendation be announced by a member of the board or its designated representative.
- (b) Licensing Authority. The board of selectmen shall be the licensing board for the town and may issue licenses in accordance with the General Laws and town by-laws.
- (c) Appointment Powers. The board of selectmen shall appoint a town administrator, persons to serve as representatives or delegates of the town to the governing or advisory boards of regional or district authorities and such other town officials and members of multiple member bodies as provided for in this chapter.
- (d) Investigations. The board of selectmen may make, or authorize the town administrator to make, investigations into the affairs of the town and the conduct of any town agency. The report of the results of any such investigation shall be placed on file in the office of the board of selectmen and a

report summarizing the results of any such investigation shall be printed in the next annual town report.

- (e) Contracts. The board of selectmen shall be the signatory authority for all contracts within its jurisdiction as provided for in the General Laws, town by-laws, by vote of the town meeting or otherwise.

**Section 5-2.** Appointments. The board of selectmen may appoint:

- (i) A town administrator, subject to chapter 6;
- (ii) A conservation commission which shall consist of 7 members who shall serve for terms of 3 years;
- (iii) The zoning board of appeals which shall consist of 5 regular members who shall serve for terms of 5 years and 3 associate members who shall serve for terms of 2 years;
- (iv) A council on aging s provided by by-law
- (v) A cable television oversight committee
- (vi) Constables
- (vii) An arts council
- (viii) A historical commission
- (ix) A building code board of appeals
- (x) A harbor advisory board
- (xi) A recreation commission as provided in chapter 7
- (xii) An affirmative action committee
- (xiii) A 4<sup>th</sup> of July committee
- (xiv) A Veteran's Day committee
- (xv) A Memorial Day Committee
- (xvi) A War Memorial Scholarship Fund committee
- (xvii) The board of registrars of voters
- (xviii) A disability commission
- (xix) An athletic field and facilities advisory committee as provided in chapter 10; and
- (xx) Any other committee not referred to in this charter which the town meeting or the board of selectmen deems appropriate.

## **CHAPTER 6: TOWN ADMINISTRATOR**

**Section 6-1.** Appointment; Qualifications; Term. The board of selectmen shall appoint a town administrator from a list prepared by a screening committee. The board of selectmen shall appoint the town administrator to serve for a renewable contract period not to exceed 5 years and shall fix the compensation for the town administrator annually within the amount appropriated by the town meeting. The town administrator shall be appointed solely on the basis of demonstrated executive and administrative qualifications. The town administrator shall be a person especially fitted by education, training and previous experience in public or business administration to perform the duties of the office. The town administrator need not be a resident of the town. The town administrator shall not have served in an elective office in the town of Swampscott government for at least 12 months prior to appointment, with the exception of service as a town meeting member.

The town administrator shall devote full-time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during such service, unless such action is approved in advance and in writing by the board of selectmen.

The board of selectmen shall provide for a review of the job performance of the town administrator twice in the first year of a new contract and annually thereafter which shall, at least in summary form be, a public record.

Any vacancy in the office of the town administrator shall be filled as soon as possible by the board of selectmen and, in the interim, the board of selectmen shall appoint a qualified town administrative officer or employee to serve as a temporary town administrator to perform the duties of the office. A temporary appointment shall not exceed 6 months but 1 renewal of the temporary appointment may be approved by the board of selectmen to extend the temporary appointment for a second 6 months. Compensation for the temporary town administrator shall be set by the board of selectmen.

**Section 6-2. Powers and Duties.** The town administrator shall be the chief administrative and financial officer of the town and shall be directly responsible to the board of selectmen for the administration of all town affairs not specifically reserved to another elected body. The power and duties of the town administrator shall include, but not be limited to, the following:

- (i) To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town administrator is given authority, responsibility or control by the town charter, by-laws, by town meeting vote, by vote of the board of selectmen or otherwise;
- (ii) To attend all sessions of all town meetings and, at the request of a town meeting member or voter and at the discretion of the town moderator, provide an explanation of any warrant articles and answer all questions which relate to warrant articles; provided, however, that the town administrator shall also provide appropriate information to town meeting including, for example, written summaries of town meeting warrant articles and such other information as the town administrator or the board of selectmen deems appropriate and helpful to inform town meeting;
- (iii) To appoint, hire, remove and discipline, subject to the civil service law and any applicable collective bargaining agreements, all nonschool department officials and nonschool department employees for whom no other method of selection or discipline is provided in this charter; provided, however, that notwithstanding the foregoing, the town administrator shall recommend and the board of selectmen shall appoint, hire, remove and discipline, subject to the civil service law and any applicable collective bargaining agreements, the following officials and employees, which appointment, hire, discipline or removal shall become effective upon approval of the majority of the members of the board of selectmen:
  - (1) Superintendent/director of public works;
  - (2) Police chief;
  - (3) Fire chief;
  - (4) Assistant town administrator;
  - (5) Town accountant;
  - (6) Town clerk;
  - (7) Treasurer/collector;
  - (8) Town counsel and all other employees of that office;
  - (9) Full-time and part-time assistant assessors;
  - (10) Head librarian;
  - (11) Harbormaster;
  - (12) Inspector of buildings;
  - (13) Veterans' agent;
  - (14) Health agent; and
  - (15) Town planner.
- (iv) To be entrusted with the administration of a town personnel system, except for the school department, and including, but not limited to, personnel policies and practices, rules and regulations, including provisions for an annual employee performance review, personnel by-laws and collective bargaining agreements entered into by the town; provided, however, that the town administrator shall also prepare and keep current a plan establishing the personnel staffing requirements for each town department;
- (v) To attend all regular and special meetings of the board of selectmen and other meetings deemed appropriate by the board of selectmen unless unavailable for reasonable cause; provided, however, that the town administrator shall have a voice, but not a vote, in all of its proceedings;
- (vi) To assure that full and complete records of the financial and administrative activities of the town are kept and to render as often as may be required by the board of selectmen, but at least once each year, a full report of all town financial and administrative operations during the period reported on, which report shall be made available to the public;
- (vii) To keep the board of selectmen fully advised as to the needs of the town and shall recommend to the board of selectmen and to other elected town officers and agencies for adoption such measures requiring action by them or by the town meeting as the town administrator may deem necessary or expedient;
- (viii) To have full jurisdiction over the rental and use of all town facilities and property except school property; provided, however, that the town administrator shall be responsible for the maintenance

- and repair of all town buildings and facilities placed under the town administrator's control by by-law or by vote of the town or otherwise;
- (ix) To prepare and present each year a balanced annual operating budget for the town and a proposed capital outlay program for the 5 fiscal years next ensuing in accordance with existing by-laws;
  - (x) To assure that an inventory of property of the town, both real and personal, is kept, including property within the jurisdiction of the school committee, in accordance with generally accepted government accounting principles;
  - (xi) To negotiate all contracts involving any subject within the jurisdiction of the office of town administrator, including contracts with town employees, except employees of the school department, involving wages, hours and other terms and conditions of employment;
  - (xii) To be responsible for purchasing all supplies, materials and equipment for all departments and activities of the town, but not including food for schools, school books and other instructional materials, supplies and equipment unless otherwise specifically requested by the school committee; provided, however, that the town administrator shall examine, or cause to be examined, the quantity, quality and condition of all supplies, materials and equipment delivered to or received by any town department, except schools; provided further, that the town administrator shall be responsible for the disposal of all supplies, materials and equipment which have been declared surplus by any town agency; and provided further, that the town administrator, or the town administrator's designee, shall be the chief procurement officer for the town;
  - (xiii) To see that all of the General Laws, the town charter, the town by-laws and the votes of the town meeting and board of selectmen and other elected boards that the town administrator has operational jurisdiction over, which require enforcement by the town administrator or other officials subject to the direction and supervision of the town administrator, are faithfully executed, performed or otherwise carried out;
  - (xiv) To inquire, at any time, into the conduct of the officials or the performance of duties of any official, employee, department, board, commission or other town agency, excluding schools;
  - (xv) To recommend to the board of selectmen, who are granted the authority to make such changes upon majority vote, the reorganization, consolidation or abolishment of town departments or agencies serving under the supervision of the town administrator, in whole or in part, to provide for new departments or agencies and to recommend a reassignment of powers, duties and responsibilities among such departments or agencies so established or existing;
  - (xvi) To coordinate the activities of all town departments or agencies serving under the office of the town administrator and the board of selectmen with those under the control of other officials and multiple member bodies elected directly by the voters; provided, however, that for this purpose, the town administrator may require the persons so elected or their representatives, to meet with the town administrator at reasonable times for the purpose of affecting coordination and cooperation among all departments or agencies of the town; and
  - (xvii) To perform any other duties as may be required to be performed by the town administrator by by-law, administrative code, vote of the town meeting or vote of the board of selectmen or otherwise.

### **Section 6-3: ACTING TOWN ADMINISTRATOR**

- (a) **Temporary Absence.** By letter filed with the town clerk, the town administrator shall recommend a qualified town administrative officer or employee who, with the approval of the board of selectmen, shall exercise the powers and perform the duties of town administrator during a temporary absence. During a temporary absence, the board of selectmen shall not revoke such designation until at least 10 working days have elapsed, whereupon it may appoint another qualified town administrative officer or employee to serve until the town administrator shall return.
- (b) **Vacancy.** Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen; provided, however, that pending such regular appointment, the board of selectmen shall appoint a qualified town administrative officer or employee to perform the duties of the office on an acting basis.
- (c) **Powers and Duties.** The powers of a temporary or acting town administrator under subsections (a) and (b) shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

**Section 6-4: Removal and Suspension.**

- (a) The board of selectmen may, by a vote of at least 4 of its members, terminate and remove or suspend the town administrator in accordance with this section.
- (b) The board of selectmen shall adopt a preliminary resolution of removal by at least 4 of its members which shall state the reasons for removal. The preliminary resolution may suspend the town administrator for a period not to exceed 45 days. A copy of the resolution shall be delivered in hand or by certified mail, return receipt requested, to the town administrator.
- (c) Within 5 days after receipt of the preliminary resolution, the town administrator may request a public hearing by filing a written request therefor with the Board of Selectmen. The hearing shall be held at a meeting of the board of selectmen not later than 30 days and not earlier than 20 days after the request is filled. The town administrator may file a written statement responding to the reasons stated in the resolution of removal with the board of selectmen provided that the written statement is received at the office of the board of selectmen more than 48 hours in advance of the public hearing.
- (d) If the town administrator does not request a public hearing, the board of selectmen may, by the affirmative vote of at least 4 of its members, not less than 10 days and not more than 21 days following the delivery of the preliminary resolution to the town administrator, adopt a final resolution of removal, which may be made effective immediately. If the town administrator requests a public hearing, the board of selectmen may, by the affirmative vote of at least 4 of its members within 10 days following the close of the public hearing, adopt a final resolution of removal, which may be made effective immediately. Failure to adopt a final resolution of removal within the time periods provided in this subsection shall nullify the preliminary resolution of removal and the town administrator shall, at the expiration of that time, immediately resume duties of the office. The town administrator shall continue to receive full pay and benefits until the adoption of a final resolution by the board of selectmen.
- (e) The action of the board of selectmen in suspending or removing the town administrator shall be final.

**Section 6-5. Appointment of Town Administrator; Qualifications.**

- (a) Upon the occurrence of a vacancy in the office of the town administrator, a screening committee shall be established for the purpose of soliciting, receiving and evaluating applications for the position of town administrator.

The screening committee should consist of 5 persons, 1 of whom shall be a member of the board of selectmen or a designee, the school committee and the finance committee and 2 of whom shall be elected town meeting members appointed by the town moderator. A person named as a designee of any aforementioned members may, but need not be, members of the agency from which they are designated. Appointments made by the town moderator shall be made last in time in order that in making appointments the town moderator may, insofar as it may be feasible to do so, appoint persons who will broaden the membership base of the committee to be most representative of the demographic and occupational base of the town.

If in the sole judgment of the screening committee there are no candidates deemed acceptable, then the screening committee shall report to the board of selectmen and request that the advertising and solicitation process be reinstituted. The screening committee may employ a professional search firm to aid in this process, subject to funding, but all final decisions shall be made by the screening committee except that the search firm shall not be required to forward applications to the screening committee that the search firm deems unqualified for the position. The screening committee shall have full access to the relevant files of the search firm.

Not more than 90 days following the date on which the screening committee meets to organize, the screening committee shall submit to the board of selectmen the names of not less than 3 and not more than 5 persons whom it believes to be best suited to perform the duties of the office of town administrator. The board of selectmen may, upon request by a majority vote of the screening committee, grant an extension of the 90-day period; provided, however, that such extension not to exceed 30 days. The board of selectmen may grant only 3 such 30-day extensions.

Within 30 days following the date the list of nominees is submitted to it, the board of selectmen shall choose, by the affirmative vote of at least 3 of its members, 1 of the nominees to serve as town administrator. If the board of selectmen does not select 1 of the finalists submitted, the process shall commence again beginning with the advertising of a vacancy and solicitation of candidates.

Upon the appointment of a town administrator, the screening committee established hereunder shall be discharged.

- (b) Town Administrator Qualifications - Until such time as the town meeting may act by by-law to establish different qualifications for the office, the town administrator shall have:
  - (i) At least a Master's degree from a recognized, accredited college or university in a relevant discipline;
  - (ii) A Bachelor's degree from a recognized, accredited college or university and 3 additional years of experience; or
  - (iii) Served full-time as an administrative officer of a city or town for not less than 3 years or have demonstrated executive, management and administrative qualifications and be fitted by education, training and previous experience in the public or private sector.

## **CHAPTER 7: RECREATION COMMISSION**

**Section 7-1.** Establishment and Composition. There shall be a recreation commission which shall consist of 7 voters of the town who shall be appointed by the board of selectmen for terms of 3 years.

## **CHAPTER 8: FINANCE AND FISCAL PROCEDURES**

**Section 8-1.** Fiscal Year. The fiscal year of the town shall begin on the July 1 and shall end on the June 30 unless another period is required by the General Laws.

**Section 8-2.** School Committee Budget. Submission to Town Administrator –

The budget for the ensuing fiscal year as adopted by the school committee shall be submitted to the town administrator in sufficient time, but not later than February 15, to enable the town administrator to consider the effect of the school department's requested appropriation upon the total town operating budget which is required to be submitted under this charter.

**Section 8-3.** Finance Committee. The finance committee shall perform its responsibilities as provided in section 2-7.

**Section 8-4.** Submission of Budget and Budget Summary. Within the time fixed by by-law, before the town meeting is to convene, the town administrator, after consultation with the board of selectmen, shall submit concurrently to the board of selectmen and the finance committee a proposed town operating budget for the ensuing fiscal year with an accompanying budget summary and supporting analysis. The proposed operating budget, summary and supporting analysis shall be based, in part, on annual departmental appropriation requests received by the town administrator, who shall provide copies of the same within 7 days after receipt thereof, to the finance committee. Complete copies of the proposed operating budget shall be available for examination by the public. The board of selectmen shall by a majority vote approve a balanced budget and submit the budget to the finance committee not later than March 1 for the ensuing fiscal year.

**Section 8-5.** Budget Summary. The budget summary prepared by the town administrator shall explain the budget for all town departments, both in fiscal terms and in terms of work programs. It shall describe important features of the budget, indicate any major variations from the current year in financial policies, expenditures and revenues, together with the reasons for such variations, summarize the town's debt position and include such other materials as the town administrator deems desirable or as the board of selectmen may reasonably require.

**Section 8-6.** The budget. The proposed operating budget shall provide a complete financial plan for all town funds and activities for the ensuing fiscal year. The budget shall include supplemental information showing in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service, for the following year. Supplemental information shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (i) Proposed expenditures for current and new operations during the ensuing fiscal year, detailed by town department and position in terms of work programs and the method of financing such expenditures; and
- (ii) Proposed capital expenditures for current operations during the ensuing fiscal year, detailed by town department, and the proposed methods of financing each such capital expenditures, the estimated surplus revenue and free cash at the end of the current fiscal year and estimated balances in any special accounts established for specific purposes.

**Section 8-7.** Action on the Budget. Action by Town Meeting – Upon receipt of the proposed operating budget approved by the board of selectmen, the finance committee may review, investigate and amend the proposal as it deems necessary and appropriate. The finance committee budget proposal, as amended, shall be placed before town meeting for its approval, subject to further amendments from the floor. Supplemental budget information including, but not limited to, the budget summary, income and expense projections and program descriptions shall also be available to town meeting for its approval. Supplemental budget information shall not be subject to town meeting approval.

**Section 8-8.** Intentionally Omitted.

**Section 8-9.** Approval of Warrants. 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 General Laws shall be submitted to the town administrator. The approval of any such warrant by the town administrator shall authorize payment by the town treasurer but, in the event of an absence of the town administrator or a vacancy in the office of town administrator, the board of selectmen shall approve all warrants.

**Section 8-10.** Annual Financial Forecast. The town administrator shall report to the board of selectmen, the finance committee, and the school committee by not later than November 15 of each year and present a financial forecast for the next fiscal year detailing anticipated revenues, transfers and expenditures.

**Section 8-11.** 5-Year Budget Plan. The town administrator shall submit as supplemental information to town meeting a 5-year budget plan detailing anticipated revenues and expenditures, including, without limitation, a 5-year capital budget identifying future capital expenditures and providing a prioritized list of town capital needs as recommended by the town administrator.

## **CHAPTER 9: INTENTIONALLY OMITTED**

## **CHAPTER 10: ATHLETIC FIELD AND FACILITIES ADVISORY COMMITTEE**

**Section 10-1.** Creation. There shall be an athletic field and facilities advisory committee which shall be appointed by the board of selectmen. The advisory committee shall provide recommendations to the board of selectmen and the town administrator concerning the use, maintenance and upkeep of the town's athletic fields and facilities, excluding school-owned property. The recommendations may include possible alternative and supplemental funding sources. The size and membership of the committee shall be determined by the board of selectmen; provided, however, that the recreation director and director of public works shall be ex-officio members to the committee; and provided further, that a member of the recreation commission, as designated by the recreation commission, shall be a voting member of the committee. The membership of the committee shall include, to the extent possible, representatives of athletic groups of different types, ages and genders, and others with relative backgrounds in the design, care and maintenance of athletic fields and facilities.

## **CHAPTER 11: CONTINUATION OF GOVERNMENT; EXISTING LAWS, SEVERABILITY AND TRANSITION**

**Section 11-1.** Continuation of Government. All town agencies shall continue to perform their duties until reappointed, reelected or until successors to their respective positions are duly appointed or elected or until their duties have been transferred and assumed by another town agency in accordance with this charter.

**Section 11-2.** All other special acts, by-laws, rules and regulations for the town of Swampscott which are not inconsistent with this charter shall remain in full force.

**Section 11-3.** Severability. The provisions of this charter shall be severable. If any provision of the charter is held invalid by the final judgment of a court of competent jurisdiction, the other provisions shall not be affected thereby. If the application of the charter to any person or circumstance is held invalid by the final judgment of a court of competent jurisdiction, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

**SECTION 7.** On the effective date of this act and notwithstanding chapter 119 of the acts of 1949, the trustees of the World War II Memorial Fund established pursuant to section 1 of said chapter 119 shall become the trustees of the Swampscott War Memorial Scholarship Fund for the administration

of the fund and shall have the same responsibilities and the same terms of office as the trustees of the World War II Memorial Fund shall have had.

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

House of Representatives, May 5, 2016.

Passed to be enacted,

*Louis K. Hoffa* Acting  
Speaker.

In Senate, May 5, 2016.

Passed to be enacted,

*Steven Rosenbaum* President.

May 13, 2016.

Approved,  
at 1 o'clock and 15 minutes, P. M.

*Charles D. B. B.*  
Governor.