

Citizen Petition

To see if the Town will vote to amend the Dudley General Bylaws, Ch. 68, Article II Town Administrator, by amending Sections § 68-18. Appointment; annual review; other activities, § 68-19. Powers and duties., § 68-20. Acting Town Administrator., § 68-21. Removal and suspension, as shown below, with deleted language stricken through with added language in Bold or take any action relative thereto

Article II Town Administrator

[Adopted 10-29-2018 by Art. 24 (Art. 50 of the 1952 General Bylaws)]

§ 68-18 Appointment; **Qualification**; annual review; other activities.

A. Appointment; term of office. The Board of Selectmen, by a simple majority vote of a full member board, shall appoint a Town Administrator to serve for a term of not more than three years; provided, however, that the first six months of any individual's first appointment to the office shall be considered a probationary period. The Board of Selectmen shall fix the compensation for such person, annually, within the amount recommended by the Personnel Board, the FAA and appropriated by the town. In addition, any terms and conditions within the proposed contract for the Town Administrator contract or the renewal contract, must be consistent with previous Town Administrator contracts and approved by the Personnel Board as well as a majority of the Board of Selectmen prior to execution.

B. Qualification ~~The Town Administrator shall be appointed on the basis of his/her executive and administrative qualifications. He/she shall be a person especially fitted by education, training and previous experience in business or public administration to perform the duties of the office of Town Administrator.~~

1. The town administrator shall be appointed on the basis of educational, executive, and administrative qualifications and experience.
2. The educational qualifications shall consist of a master's degree, preferably in public or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least three (3) years of prior full-time compensated executive service in public or business administration. Alternatively, five (5) years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify any applicant. Seven (7) years or more of prior full-time compensated service in public or business administration shall also qualify any applicant. The board of selectmen may, by a four-fifths (4/5ths) vote, waive the education or experience requirements listed above.
3. The town administrator need not be a resident of town or of the Commonwealth at the time of appointment, nor at any time during the period of such service.
4. The town administrator shall not have served in an elective office in the town of Dudley government for at least twelve months prior to appointment.
5. The town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate.

B. Review of performance. The Board of Selectmen shall annually provide for a review of the job performance of the Town Administrator which shall, at least be in summary form, be a public record.

C. Restriction on other activities. The Town Administrator shall devote his/her full time to the duties of his/her office and shall be eligible to be appointed to the position of Constable, upon majority vote of the Board of Selectmen and to a term concurrent with § 68-18A, and shall be permitted to serve as a Notary Public and Commissioner to Qualify Public Officers, but will not hold any other public office, elective or appointive, nor shall he/she engage in any other business, occupation or profession during his/her term unless such action is approved, in advance, in writing, by the Board of Selectmen.

[Amended 6-22-2020 by Art. 13]

§ 68-19 Powers and duties.

The Town Administrator shall be the Chief Administrative Officer of the Town and shall be responsible to the Board of Selectmen for the proper administration of all Town affairs placed under his /her charge by the Board of Selectmen or under Town bylaws. Acting by and for the Selectmen, the powers and duties of the Town Administrator shall include, but are not intended to be limited to, the following:

A. He/she shall supervise, direct and be responsible for the efficient administration of all functions placed under his /her control by bylaw, by Town Meeting vote, by vote of the Board of Selectmen, or otherwise, including all officers appointed by him/her.

B. He/she shall coordinate the activities of all Town departments under his/her control with those under the control of officers and multiple-member bodies who are elected directly by the voters of Dudley or appointed by the Board of Selectmen.

C. He/she shall recommend the appointment, and may recommend the removal, subject to the civil service law and any collective bargaining agreements as may be applicable, of all department heads, all officers, subordinates and employees for whom no other method of selection is provided by bylaws, unless otherwise provided by state law. Appointments made by the Town Administrator shall become effective only after Personnel Board review and approval and a subsequent affirming majority vote of the Board of Selectmen. ~~at his/her discretion, unless the Board of Selectmen shall within such period by majority vote of the Board vote to reject such appointment or has sooner voted to affirm it.~~

D. Under the Personnel Board's direction, The Town Administrator, and/or his/her designee, shall act as the Human Resources Manager, He/she shall, in conjunction with a Personnel Board established by and bylaw,[1] be entrusted with the faithful execution of the Town of Dudley Ch. 74, Personnel Policies and Procedures. ~~This includes implementing~~ ~~administration~~ of ~~thea~~ Town personnel system, including but not limited to personnel policies and practices, rules and regulations, including provisions for an annual employee performance review, personnel bylaw and all collective bargaining agreements entered into on behalf of the Town. He/she shall, in conjunction with the Personnel Board, prepare, maintain and keep current a plan establishing the personnel staffing requirements of each Town agency, except those under the jurisdiction of the School Committee. [1] Editor's Note: See Ch. 74, Personnel Policies and Procedures.

E. He/she shall attend all regular and special meetings of the Board of Selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its proceedings.

F. He/she shall attend all sessions of the Town Meeting and shall answer all questions addressed to him related to warrant articles and which are related to matters under his general supervision.

G. He/she shall assure that all provisions of state laws, the bylaws and other votes of the Town Meeting, votes of the Board of Selectmen and of other Town agencies which require enforcement by him or by officers or employees subject to his general supervision and direction are faithfully carried out, performed and enforced.

H. He/she shall prepare, propose and submit the fiscal documents pertaining to the annual operating budget and proposed capital outlay program for the Town.

I. He/she shall keep the Board of Selectmen fully informed as to the fiscal condition and needs of the Town and shall make such recommendations to the Board of Selectmen and to other elected and appointive officers upon their request, but at a minimum, on a monthly basis. ~~as he may deem to be necessary or desirable.~~

J. He/she shall assure that full and complete records of the financial and administrative activities of the Town are kept and shall render full reports to the Board of Selectmen at the end of each fiscal year or upon their request and at such other periods as it may reasonably require.

- K. He/she shall have full jurisdiction over the rental and use of all Town facilities. He/she shall be responsible for the maintenance and repair of all Town facilities.
- L. He/she may at any time inquire into the conduct of office or performance of duty of any Town officer, Town employee or Town agency under his general supervision. The Town Administrator, following the Town of Dudley Personnel Policies [1], may impose progressive discipline for any infractions subject to disciplinary actions, including verbal warning, written warning, performance improvement plans, suspension or administrative leave, and may recommend termination or any other action to the Board of Selectmen and the Personnel Board as may be necessary. [1] Ch. 74, Personnel Policies and Procedures.
- M. He/she shall assure that a full and complete inventory of all Town-owned property, both real and personal, is kept consistent with generally accepted accounting principles.
- N. Under the guidance of the Board of Selectmen and the Personnel Board, he/she shall be responsible for the negotiation of all contracts with Town employees over wages, hours, and other conditions of employment. Such final negotiated terms must be approved by the Personnel Board and consistent with the Town of Dudley Personnel Policies [1] and Town Bylaws. The Town Administrator shall serve as designee of the Board of Selectmen for the purposes of regional school district collective bargaining negotiations.
- O. He/she shall be responsible for the purchase of all supplies, materials and equipment, and shall award all contracts for supplies, materials and equipment for all departments and activities of the Town, except for the School Department. He shall examine and inspect, or cause to be examined and inspected, the quality and the condition of all supplies, materials and equipment delivered to or received by any Town department, except the Dudley Charlton Regional School District. He shall, in addition, be responsible for the disposal of all surplus supplies, materials and equipment for all departments and activities of the Town, except for the Dudley Charlton Regional School District.
- P. He/she shall be in charge of all machines and software, other than machines and software used for educational or classroom purposes, and shall allocate the use thereof among the several Town agencies.
- Q. He/she may authorize any subordinate officer or employee to exercise any power or duty which he is authorized to perform; provided, however, that all acts which are performed under any such delegation shall be deemed to be his acts.
- R. He/she shall be responsible to implement and maintain general security and public safety procedures in the Dudley Municipal Center (Town Hall) and extend and review policies and procedures to all buildings and properties controlled or owned by the Town, with the exception of those properties under the control of the Regional School Committee. This includes but is not limited to IT and network security.
- S. He/she shall perform such other duties as may be required by bylaw, by Town Meeting vote, by vote of the Board of Selectmen, or otherwise.

§ 68-20 Acting Town Administrator.

A. Temporary absence. The Town Administrator shall, by letter filed with the Board of Selectmen and a copy filed with the Town Clerk, designate a qualified Town officer or employee to exercise the powers and perform the duties of his office during his temporary absence. During the temporary absence of the Town Administrator, the Board of Selectmen may not revoke such designation until at least 10 working days have elapsed, whereupon it may designate another qualified Town officer or employee to serve as acting Town Administrator until the Town Administrator shall return and assume his duties.

B. Vacancy. Any vacancy in the office of Town Administrator shall be filled as soon as possible by the Board of Selectmen but pending such appointment the Board of Selectmen shall designate a qualified Town officer or employee or other qualified individual to perform the duties of the Town Administrator on an acting basis. The appointment of an acting Town Administrator shall be for a term not to exceed three months; provided, however, that a renewal, not to exceed an additional three months, may be

provided. In the case of an unexpected vacancy in the Town Administrator office, Section § 68-18, (B) (4) "The town administrator shall not have served in an elective office in the town of Dudley government for at least twelve months prior to appointment." is waived only for the period of time the Acting Town Administrator Role is temporarily filled.

C. Powers and duties. ~~The powers of a temporary or acting Town Administrator, under § 68-20A or B above, shall be limited to matters not admitting of delay and shall include authority to make appointments or designations to Town office or employment to the same extent and the same conditions as the Town Administrator, except that, for positions reporting directly to the Town Administrator, only an acting appointment or designation may be made.~~ The powers and duties of the temporary or acting town administrator 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 without a confirming majority vote of the Board of Selectmen.

§ 68-21 Removal and suspension.

A. The Board of Selectmen, by a majority vote taken of a full board present, ~~by a two-thirds vote taken with the full Board present,~~ may terminate and remove the Town Administrator from his office in accordance with the following procedure:

(1) During probationary period: ~~notice in writing of termination.~~ The six-month probationary or working test period shall be regarded as an integral part of the examination process. It shall be utilized by the Board of Selectmen for closely observing the newly hired Town Administrator's work and conduct, management style and effectiveness. The Board of Selectmen may reject, with a simple notice of termination, the continued employment of a Probationary Town Administrator whose performance does not meet the required work standards. The Board of Selectmen, by a majority vote, shall certify whether the employee's performance has been satisfactory at the completion of the probationary period.

(2) After probationary period: ~~The Town Administrator shall not be dismissed except for inefficiency, incapacity, conduct unbecoming the office, insubordination or other good cause; nor unless, at least 30 days prior to the meeting at which the vote is to be taken, he shall have been notified of such intended vote; nor unless, if he so requests in writing, he shall have been furnished by the Board of Selectmen with a written statement of the charge or charges or the cause or causes for which his dismissal is proposed; nor unless, if he so requests in writing, he has been given a hearing before the Board of Selectmen which may be either public or private, at the option of the Town Administrator, and at which he may be represented by counsel, present evidence, and call witnesses to testify in his behalf and examine them.~~

The board must provide a preliminary statement of removal to the town administrator setting forth the reasons for removal, which notice may provide for immediate suspension of the town administrator for a period of not more than 45 days. Within five days after receipt of said notice, the town administrator may request a public hearing by filing with the board of selectmen a written request for the same and may be represented by counsel at said hearing. If no request for a hearing is received upon the expiration of the above-referenced five days, the preliminary resolution of removal shall immediately become a final resolution of removal without further action by the board of selectmen. If a hearing is requested, no later than ten days following the close of the public hearing, the board of selectmen shall adopt, by a vote of three out of five members, a final resolution of removal, which may be made effective immediately. Failure to adopt a final resolution prior to the expiration of the ten days following the close of the public hearing shall nullify the preliminary resolution of removal, and the town administrator shall forthwith resume the duties of the office.

B. Anything contained in this provision to the contrary notwithstanding, the non-renewal of the term of appointment of the Town Administrator shall not be considered to be a dismissal and the provisions of § 68-21A (1) and (2) shall not apply.

C. The Town Administrator may be suspended from office by the Board of selectmen, by a majority vote of a full board present and voting, by a procedure following the same steps outlined above (A) for a removal.

D. The Town Administrator shall continue to receive his full salary until 30 days following the date a final vote of removal has become effective