

HOUSE No. 3883

The Commonwealth of Massachusetts

PRESENTED BY:

Alice Hanlon Peisch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing for a selectmen – town manager form of government in the town of Wellesley.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>

HOUSE No. 3883

By Ms. Peisch of Wellesley, a petition (accompanied by bill, House, No. 3883) of Alice Hanlon Peisch, Cynthia S. Creem and Richard J. Ross (by vote of the town) relative to a selectman-town manager form of government in the town of Wellesley. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing for a selectmen – town manager form of government in the town of Wellesley.

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

1 Section 1. Board of Selectmen

2

3 (A) The board of selectmen of the town of Wellesley shall consist of five registered
4 voters of the town elected for a term of three years each, the terms of no more than two of which
5 shall expire in any year.

6

7 (B) The executive powers of the town shall be vested in the board of selectmen, who
8 shall have all of the powers and duties granted to boards of selectmen by the Constitution and
9 General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as
10 may be provided by special law, by town bylaw, or by town meeting vote, except for those
11 powers expressly granted thereby to the town manager.

12

13 (C) The town of Wellesley may, by bylaw, authorize the board of selectmen to
14 appoint, by vote of a majority of its members, a town manager with the powers set forth in
15 Section 3 of this act or an acting town manager with such powers as the board of selectmen may
16 deem necessary or appropriate. The board shall appoint a town counsel, special police in
17 accordance with Chapter 330 of the Acts of 1946 as amended and any other appointed board or
18 committee member or official for whom no other method of selection has been provided
19 pursuant to this act or by town bylaw.

20 (D) Notwithstanding the provisions of any general law to the contrary, the board of
21 selectmen or its designee shall be the local licensing authority of the town and shall have the
22 power to issue licenses, to make all necessary rules and regulations regarding the issuance of
23 such licenses, to attach such conditions and restrictions thereto as it deems to be in the public
24 interest, and to enforce the laws relating to all businesses for which it issues licenses. The board
25 of selectmen shall be the local licensing authority for the issuance and amendment of all
26 common victualler licenses pursuant to Chapter 140 of the General Laws; provided, however,
27 that the board may delegate the authority to issue renewals and amendments involving no
28 substantial expansion or alteration. The board of selectmen shall be the local licensing authority
29 for the issuance of all licenses pursuant to Chapter 138 of the General Laws; provided, however,
30 that the board of selectmen or its designee may issue temporary licenses in accordance with
31 Chapter 138, Section 14 of the General Laws.

32 Section 2. Town Manager

33

34 (A) The town manager of the town of Wellesley shall be appointed solely on the basis
35 of executive and administrative qualifications. The town manager shall be a professionally
36 qualified person of proven ability, especially fitted by education, training and previous
37 experience. No person holding elective public office in the town with the exception of a town
38 meeting member shall, within twelve months of holding the office, be eligible for appointment as
39 town manager. The town may, by bylaw, establish such additional qualifications as it may deem
40 necessary and appropriate; provided, however, that the board of selectmen may establish such
41 further additional qualifications as it may deem necessary and appropriate.

42 (B) The terms of the town manager's employment may be the subject of a written
43 contract entered into pursuant to Chapter 41, Section 108N of the General Laws. The town
44 manager's compensation shall not exceed the amount annually appropriated for that purpose.

45
46 (C) After an initial term of no more than three years, the town manager may be re-
47 appointed for subsequent terms of office, no term of which shall be for more than five years.

48 Section 3. Powers and Duties of Town Manager

49 (A) Upon appointment, the town manager shall be the chief administrative officer of
50 the town, shall be vested with the powers and duties set forth in Section 3(B), and shall be
51 responsible to the board of selectmen for the proper administration of all town affairs placed in
52 the town manager's charge by or in accordance with this act.

53

54 (B) The town manager's powers and duties shall include:

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56 (1) Notwithstanding the provisions of Chapter 41, Sections 69E and 97A, the town
57 manager may fix the compensation of all town officers and employees appointed by the town
58 manager within the limits established by applicable appropriations and any compensation plan in
59 effect at such time.

60 (2) Notwithstanding the provisions of Chapter 48, section 42 or 42A, if accepted at
61 any time by the town, or any other general or special law to the contrary, the town manager may
62 appoint a police chief, a fire chief or chief fire engineer and all other department heads and
63 officers; provided, however, that appointment of subordinates and all other employees shall be
64 made by the department head or chief staff employee of the affected department, except for
65 police officers, police department employees, fire engineers, firefighters and other fire
66 department employees, who shall be appointed by the town manager in accordance with
67 applicable procedures established by the town; and provided further that, notwithstanding the
68 provisions of chapter 40, sections 8D and 8E of the General Laws, the Board of Selectmen shall
69 appoint the members of the Historical Commission and Youth Commission. Appointments of the
70 police chief and fire chief or chief fire engineer shall not take effect unless approved by the
71 board of selectmen. Any appointment of other department heads or chief staff employees of
72 elected and appointed boards and committees shall be made only after consultation with such
73 board or committee regarding applicable duties and qualifications; and an opportunity for such
74 board or committee to interview one or more final candidates submitted by the town manager or
75 through a process under the direction of the town manager. Such appointment shall take effect
76 no sooner than (1) it is approved by such board or committee; or (2) 15 calendar days after notice
77 of the appointment has been provided to such board or committee without any action thereon;

78 whichever occurs first. The town manager may remove any employee. The Town Manager shall
79 provide notice to the affected board or committee at least five days before any removal of a
80 department head or chief staff employee of such board or committee. This subsection shall not
81 apply to employees of the school committee, the municipal light board, appointments made by
82 the commonwealth or appointments for which another method of appointment is provided in this
83 act.

84

85 (3) The town manager shall manage and supervise all town departments except for
86 the school department and the municipal light department.

87 (4) The town manager may, except as otherwise prohibited by law, re-organize,
88 consolidate, abolish or create town departments in whole or in part, and transfer the duties,
89 powers and appropriations incidental to the reorganization of one town department to another as
90 follows:

91 (i) For town departments under the supervision of the board of selectmen, with the
92 approval of the board of selectmen; and

93 (ii) For all other town departments, after consultation with the affected board, and
94 with the approval of the affected board or Town Meeting.

95

96 (5) The town manager shall direct the operational planning and implement the
97 strategic planning for the town.

98

99 (6) The town manager shall provide for the execution and enforcement of the
100 provisions of law that require enforcement by town officers and employees subject to the town
101 manager’s direction and supervision.

102

103 (7) The town manager shall keep the board of selectmen fully informed as to the
104 financial condition and needs of the town and to make such recommendations to the board of
105 selectmen as the town manager may deem necessary or appropriate.

106

107 (8) The town manager shall ensure that a full and complete record of the financial and
108 administrative activities of the Town is kept, and render a report of such activities to the board of
109 selectmen at the end of each fiscal year and at such other times as may be required by the board
110 of selectmen.

111

112 (9) The town manager shall negotiate collective bargaining agreements for execution
113 by the board of selectmen.

114

115 (10) The town manager shall attend all regular and special meetings of the board of
116 selectmen except when excused.

117

118 (11) The town manager shall attend all sessions of town meeting in order to be
119 available to answer all questions directed to the town manager that are related to the town
120 manager's office or to matters within the town manager's authority.

121

122 (12) The town manager shall prepare and submit a proposed town-wide annual
123 operating budget, financial plan and the long-range capital budget program.

124

125 (13) The town manager shall have the authority to approve any warrants for the
126 payment of town funds prepared by the finance director; provided, however, that the approval of
127 any such warrant by the town manager shall be sufficient to authorize payment by the treasurer,
128 and provided further that the board of selectmen or its designee shall have the authority to
129 approve such warrants in the event of a vacancy in the office of town manager or in the town
130 manager's absence.

131

132 (14) The town manager shall serve as the Executive Officer of the town for the
133 purposes of Chapter 258 of the General Laws.

134 (15) The town manager shall devote full-time to the office and except as expressly
135 authorized by the board of selectmen, shall not engage in any other business or occupation
136 during the term of office. Except as expressly provided in this act, the town manager shall not
137 hold any other public elective or appointive office in the town; provided, however, that, with the
138 approval of the board of selectmen, the town manager may serve as the town's representative to

139 regional boards, commissions, and the like, but the town manager may not receive additional
140 compensation for such services.

141

142 (16) The town manager shall perform any other duties required by town bylaw, town
143 meeting vote or the board of selectmen not inconsistent with this act.

144 Section 4. Removal Procedures. The board of selectmen may terminate the town
145 manager in accordance with applicable procedures established by the town.

146

147 Section 5. Section 3 of Chapter 555 of the Acts of 1978, as amended by Section 1 of
148 Chapter 247 of the Acts of 1995 and Section 1 of Chapter 164 of the Acts of 2005, is hereby
149 further amended by striking the first and second paragraphs in their entirety and inserting, in
150 place thereof, the following –

151 Notwithstanding any general or special law to the contrary, the town of Wellesley is
152 hereby authorized to establish by town bylaw a finance department. Any such bylaw shall
153 provide that the department shall be responsible to the town manager. The department's duties
154 and responsibilities may include coordination and administration of town financial services and
155 activities, including the town's financial planning; investment of town funds; maintenance of
156 town accounting records and financial statements; payment of all town obligations after securing
157 required approvals; assisting in the development of budgets and reviewing all budgets for format,
158 completeness, and accuracy before submission to the advisory committee; monitoring of all
159 expenditures of town funds; timely reporting to the town manager and to appropriate boards and

160 officers of actual or foreseeable obligations of expenditures of funds in excess of budgeted
161 appropriations; maintenance of payroll and other financial records relating to all town personnel;
162 preparing and supervising town purchasing and inventory control procedures; administering the
163 disposal of town property; and assisting the town manager in the supervision of all data
164 processing and the development and enforcement of internal controls.

165 The finance department shall be under the supervision and management of the finance
166 director, who shall be appointed by the town manager, subject to the approval of the board of
167 selectmen, for a term of up to three years. The finance director shall be the chief financial officer
168 of the town and shall serve as the town comptroller and town accountant. Subject to the approval
169 of the town manager, the finance director shall appoint, for up to a three-year term, a town
170 treasurer and collector of taxes, who shall be under the supervision and management of the
171 finance director and shall have, except as otherwise expressly provided by this act, the powers
172 and duties vested by law in town treasurers and collectors of taxes.

173 Section 6. Chapter 555 of the Acts of 1978 is hereby amended by striking out Section
174 4 in its entirety and inserting, in place thereof, the following –

175 Section 4. Notwithstanding any contrary provisions of the General Laws, the town is
176 authorized to establish by bylaw a natural resources commission consisting of five members
177 elected for a term of three years, which shall have the powers and duties of conservation
178 commissions and forest committees under the General Laws and the powers and duties (currently
179 vested in the board of public works of the town) of park commissioners, tree wardens, moth
180 superintendents and superintendents of insect pest control under the General Laws, and which
181 shall appoint a wetlands protection committee to which shall be delegated the power and

182 authority to administer and enforce the provisions of section 40 of chapter 131 of the General
183 Laws, a landscape advisory committee and a long-range planning committee. The town manager
184 shall appoint a director of natural resources and the director shall appoint such other staff for
185 whom funding has been provided. Any such commission shall have overall authority and
186 responsibility with respect to: the use, acquisition, management, preservation, and protection of
187 conservation land, park land and such other land as may be transferred to or acquired by the
188 commission, forest and tree nursery management, insect pest and moth control, and
189 administration of the conservation fund under sections 5(51) and 8C of chapter 40 of the General
190 Laws. In addition, it shall study and make recommendations regarding the use, maintenance,
191 management, preservation, and protection of the natural resources of the town which are under
192 the jurisdiction of other boards, establish general policies to be implemented by the department
193 of public works for the carrying out of work affecting natural resources, propose for acquisition
194 by the town those natural resources that the commission deems useful or important to the town,
195 and carry out such other related responsibilities as the town may assign to it or as may be
196 permitted or required by law.

197 Section 7. Chapter 555 of the Acts of 1978 is hereby amended by striking out Section
198 9 in its entirety and inserting, in place thereof, the following -

199 Section 9. Notwithstanding any contrary provisions of Section 69E of Chapter 41 of
200 the General Laws, the superintendent of public works appointed by the town manager shall have
201 the title "Director of Public Works."

202 Section 8. Sections 5 through 7, inclusive, take effect, and the position of executive
203 director of general government services, created by Section 1 of Chapter 247 of the Acts of 1995,

204 shall be abolished upon the initial appointment of a town manager pursuant to Section 1(C) or
205 the thirtieth day of November, two thousand sixteen, whichever is later.

206 Section 9. All laws, bylaws, votes, rules and regulations, whether enacted by
207 authority of the town or any other authority, that are in force in the town of Wellesley on the
208 effective date of this Act, or any portion or portions thereof, not inconsistent with the provisions
209 of this Act, shall continue in full force and effect until modified in accordance with applicable
210 law.

211 Section 10. Nothing in this Act shall be construed to abridge, alter, or amend the powers
212 and duties of the municipal light board or manager of the municipal light plant as set forth in
213 Chapter 164 of the General Laws.

214 Section 11. This act shall be submitted for acceptance to the qualified voters of the
215 town of Wellesley at the next regular or special town election following its enactment in the form
216 of the following question, which shall be placed upon the official ballot to be used at said
217 election: -- "Shall an act passed by the General Court in the year two thousand sixteen entitled
218 'An Act providing for a selectmen-town manager form of government in the town of Wellesley',
219 be adopted?"

220 If a majority of the votes cast in answer to the question is in the affirmative, this act shall
221 take effect in the town, but not otherwise.