

Chapter 85
of the Acts of 2024

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the One Hundred and Ninety-Third General Court

AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF TYNGSBOROUGH.

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. (a) There shall be a department of public works in the town of Tyngsborough responsible for the performance of all public works activities of the town placed under its control by by-law, or otherwise, including but not limited to, forestry services, protection of natural resources, cemetery, parks, recreation, sewers and sewerage systems, street and roads, and maintenance of all buildings and grounds, other than those under the jurisdiction of the school department, board of library trustees and the conservation commission, unless otherwise agreed by the department.

(b) The department of public works shall assume all of the duties and responsibilities in the performance of public works functions including, but not limited to, those performed prior to the adoption of this act by and under the authority of the tree warden, park commission, cemetery commission, board of highway surveyors or road commissioners and select board. The department of public works shall assume limited duties and responsibilities in the performance of public works functions related to the sewer commission as described in section 5.

SECTION 2. (a) The department of public works shall be under the direct control of a superintendent of public works who shall be appointed by the town manager and who shall serve at the pleasure of, and be directly responsible to, the town manager. The superintendent shall be a person especially fitted by education, training and previous experience to perform the duties of the office.

(b) The superintendent of public works shall be responsible for the supervision and coordination of the department in accordance with state statutes, town by-laws, and directives of the town manager. The superintendent may, with the approval of the town manager and select board,

establish within the department various operational divisions, such as, but not limited to, highway, facilities, parks and sewers.

SECTION 3. Unless otherwise described in section 5, the select board shall be responsible for the establishment of priorities and policies to govern the operation of the department, and through the town manager, shall have ultimate responsibility therefor.

SECTION 4. As of the effective date of this act, the offices of board of highway surveyors or road commissioners, by whatever name, and the cemetery commission shall be abolished, the terms of any incumbents thereof terminated and all powers, duties and responsibilities of such offices shall be immediately transferred to the department of public works. No existing contract or liability shall be affected by the abolition or change in the manner of selection of any board or office in this section or the creation of the department of public works, and the department of public works shall in all respects be the lawful successor of such boards, departments and offices so abolished. Any permanent employee of any of the boards or committees or departments abolished by the creation of the department of public works or of a department whose authority has changed as a result thereof, shall be transferred to and become an employee of the department of public works in a capacity as similar to the employee's former position as is practical without loss of seniority, retirement, holiday, sick leave or vacation leave. Until such time as a superintendent of public works is appointed, the town manager shall act as the superintendent of public works.

SECTION 5. (a) Notwithstanding this act to the contrary, the incumbent members of the board of sewer commissioners, referred to as the "sewer commission" both herein and as of the effective date of this act, shall remain elected. The sewer commission shall continue to serve as the authority with respect to any sewer construction projects ongoing as of the effective date of this act and to any future sewer expansion phases, setting sewer rates and ensuring compliance with the sewer enterprise fund in accordance with section 53F1/2 of chapter 44 of the General Laws, including review of all expenditures from the enterprise fund on a regular basis. The superintendent of public works shall serve in an advisory capacity and provide technical assistance to the sewer commission on matters within the commission's authority as described in this section. The sewer commission shall serve in an advisory capacity to the board of selectmen on intermunicipal agreements affecting the town's sewer system, capacity or flow.

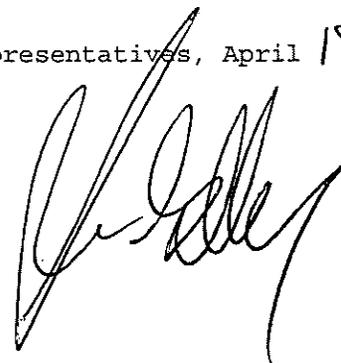
(b) The board of sewer commissioners may set sewer rates and promulgate regulations in connection with the scope of authority of the department of public works. Prior to taking any action hereunder, the sewer commission shall, in conjunction with the superintendent of public works, hold a public hearing for which notice shall be published in a newspaper of general circulation in the town once in each of 2 successive weeks; provided, however, that the first publication to be not less than 14 days before the day of said hearing; and provided further, that such notice shall be posted in a conspicuous place in or at town hall for a period of not less than 14 days before the day of said hearing.

(c) The department of public works, under the authority of a superintendent of public works, shall be responsible for the maintenance of the existing sewer system, day-to-day operations, employees, contracting and procurement, and other matters not under the authority of the board of sewer commissioners as outlined in subsections (a) and (b). Appointments at the level of sewer senior foreman or above, including sewer administrator, shall be made only after consultation with the sewer commission but shall be the responsibility of the town manager pursuant to chapter 342 of the acts of 2022. Contracts related to any sewer construction projects ongoing as of the effective date of this act and any future sewer construction expansion phases, shall be approved and signed by the sewer commission. The superintendent of public works shall have a voice, but no vote, in any of the sewer commission's proceedings.

(d) The board of sewer commissioners may, by unanimous vote of the full commission, and after holding a public hearing, determine that no future phases of sewer expansion are required and that the commission shall be abolished. In this instance, the remaining powers and duties of the board shall, effective immediately upon abolition of the board of sewer commissioners, transfer to the department of public works in a manner consistent with section 4, and the select board shall be responsible for holding public hearings to set sewer rates and promulgate regulations in accordance with subsection (b).

House of Representatives, April 18, 2024.

Passed to be enacted,

 Speaker.

In Senate, April , 2024.

Passed to be enacted,

Mark Collier, President.

April 27, 2024.

Approved,

M. T. Healy

Governor.