

# Information Packet

## Town Manager Plan

### **Town Manager Plan by Charter or Statute**

Municipalities have two alternatives regarding the adoption of a town manager form of government. First, a municipality may adopt, revise, or amend its home rule charter to a professional administrative head, known as the town or city manager. Second, municipalities that lack a home rule charter governing them may institute a town manager form of government by the adoption of the statutory town manager plan

Regardless of the form, the hiring and firing of a manager and the establishment of the manager's compensation and other terms of employment rest exclusively with the municipal officers (selectmen or councilors) subject to certain statutory limitations and the contract negotiated between them.

### **Town Manager Plan by Statute (KINGFIELD)**

When adopting a statutory "town manager plan," there are certain prescribed procedures which a municipality must follow (there are also certain areas in which a municipality may exercise some discretion). As a broad overview, the basic process and requirements include:

The town manager plan must be adopted at a meeting held at least 90 days prior to the annual meeting at which it is to go into effect and, once adopted, is to remain in effect until revoked at a meeting held at least 90 days prior to the annual town meeting or by the adoption of a charter.

In regard to the appointment and qualifications of the town manager, the plan requires that he or she be appointed by the Board of Selectmen, solely on the basis of executive and administrative ability with special reference to actual experience. The town manager need not be a resident of the town but may reside outside the town with the approval of the board of selectmen.

The town manager may not serve as moderator, selectman, assessor or member of the school committee.

The town manager may hold office for an indefinite term unless otherwise specified by contract, and compensation is to be determined by the selectmen. However, under a town meeting form of government, the voters must still appropriate funds sufficient to pay the compensation agreed upon.

The plan also stipulates a certain procedure that must be strictly followed concerning the removal and suspension of the town manager.

Under a town manager plan, the board of selectmen continues to act as a body, exercising all administrative and executive powers.

Importantly, the statutes further stipulate that the government of each municipality functioning under the town manager plan must consist of the following: town meeting, elected board of selectmen, elected

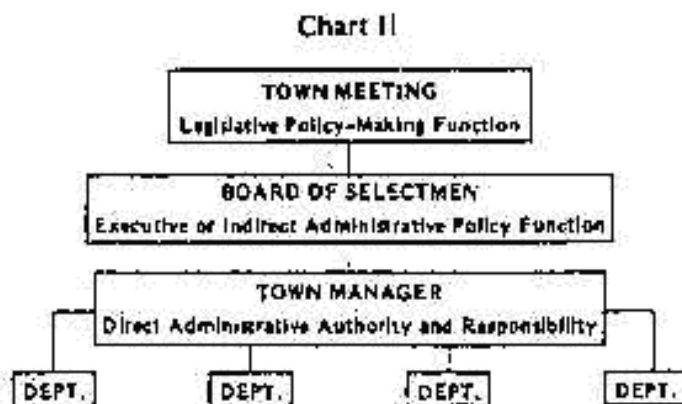
school committee, appointed town manager, and other officials and employees appointed as required by the plan, law or local ordinance.

However, except as limited by the above, the plan allows the town to continue or change the status of other town positions to a certain extent. The town may continue to elect by ballot the moderator, assessors, overseers of the poor, clerk, and treasurer. Furthermore, the election of town officials at the last annual town meeting prior to the adoption of the plan shall require that such officials continue to be elected unless the town otherwise designates.

### **Roles/Relationships Under Statutory Town Manager Plan:**

The most important functional aspect of the statutory town manager plan is the concept of the separation of the policy functions from the administrative functions of government. In theory, most town manager forms of government, including the Maine plan, differentiate between the legislative role (town meeting), the executive role (Board of Selectmen), and the administrative role (town manager). The legislative and executive roles together perform the political or policy-making function, while the town manager performs the management of municipal affairs or administrative function.

The town meeting-selectmen-manager form is as follows: the legislative and executive functions are divided where the town meeting not only performs the election function but also the legislative function of adopting governmental policy, levying taxes and raising and appropriating monies, authorizing the contracting of debts, etc. The Board of Selectmen is the executive body which interprets the policies of the town and chooses the course of action between town meetings, has ultimate administrative responsibility to see that the governmental policies are carried out (but must deal with administration solely through the town manager), and appoints and supervises the town manager. The town manager executes and carries out the government and fiscal policies with guidance from the selectmen and has direct responsibility for and authority over all administrative functions. See Chart II.



### **General Powers and Duties of Town Manager**

The town manager's powers and duties are derived from 30-A M.R.S. § 2636 which, in brief, provides that the town manager:

1. Is the chief executive and administrative officer;
2. Administers all departments and offices;
3. Executes laws and ordinances;
4. Is the department head when so directed by selectmen;
5. Appoints department heads subject to confirmation by selectmen;
6. Appoints, supervises, and controls town officials and employees (with some exceptions);
7. Is purchasing agent;
8. Must attend meetings of selectmen;
9. Shall make recommendations to the board of selectmen for the more efficient operation of the town;
10. Shall attend town meetings and hearings;
11. Shall inform the board of selectmen and town residents of the town's financial condition;
12. Shall collect data necessary to prepare the budget;
13. Shall assist residents; and
14. May remove all persons whom the manager is authorized to appoint.

### **Prohibited Offices**

The manager may not simultaneously serve as moderator, selectman (or councilor), assessor or school committee member. The statute draws no distinction between an "acting" or "interim" manager and a "permanent" manager in this regard; the prohibition is absolute and without exception. In addition, no former municipal officer may be appointed manager for at least one year after his or her term of office expired if the manager's compensation was increased during the term. This prohibition apparently applies whether or not the ex-officeholder personally voted for the increase and even if he or she would be paid less than the previous manager; the dilemma may be avoided, however, by ordinance or charter allowing the appointment.

### **Town Manager's Appointment Power**

Concerning appointed positions, unless the municipality provides otherwise by ordinance, the town manager plan statutes transfer the majority of the appointing powers from the selectmen to the manager as follows:

The manager does appoint all single town officials that the Maine statutes require the municipal officers to appoint.

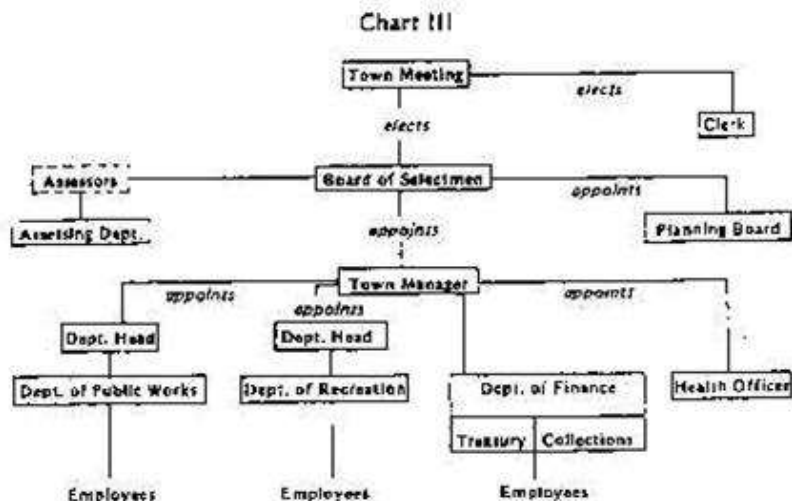
The manager does not appoint members of boards, commissioners, committees, or single assessors that the Maine statutes require the municipal officers to appoint. Such boards, committees, etc., remain appointed by the selectmen.

The manager does appoint all other officials, subordinates, and assistants.

The municipality may alter this pattern (and create additional positions to be appointed) but only by the adoption of an ordinance that so designates. Otherwise, the statutory pattern is controlling. See Chart III.

A municipality also may expand beyond the basics of the statutory plan in that it may, by ordinance, create, determine, and further define the powers and duties of various executive and administrative departments, boards, and offices of the town, in addition to those required by law, except the school department.

On the other hand, with regard to customarily elected town positions, the municipality may continue to elect to fill the office, change the office from an elected one to one filled by managerial appointment, or designate that the town manager shall serve in that capacity, except for those a manager is not allowed to hold.



### **Manager's Purchasing Authority**

Under the statutory plan, the manager, among other things, acts as purchasing agent for all departments except schools. In this capacity, the manager has broad authority to determine purchasing practices (e.g., advertising and procurement procedures) subject to any sealed bidding requirements imposed by the municipal officers or other purchasing regulations adopted by charter or ordinance. However, unless otherwise authorized (e.g., by charter, ordinance or vote of the legislative body), the manager has no authority to bind the municipality to contracts for purchases, sales, or other transactions.

*Source: Maine Municipal Association – Town Manager Plan – MMA Legal Services Information Packet*