

Town of Topsham, ME
Thursday, September 12, 2019

Chapter 6. Administration of Government

Article I. Form of Town Government

§ 6-1. Town Meeting - Selectman - Manager form of government.

The Town of Topsham has adopted the Town Meeting - Selectman - Manager form of government. Under this form of government the legislative and executive functions are divided. The purpose of this section is to define the executive role and attendant duties of the Board of Selectmen in carrying out its policy functions as part of Topsham's town government, to clarify the separation of the Board's executive role from the legislative role of the Town Meeting, and the administrative role of the Town Manager.

- A. The Town Meeting performs the election function and the legislative function of adopting governmental policy, levying taxes and raising and appropriating monies, authorizing the contracting of debts, among other things.
- B. Board of Selectmen.
- (1) The Board of Selectmen is the executive body that interprets, processes, and sets the policies of the Town and chooses the course of action between Town Meetings, has ultimate administrative responsibility to see that governmental policies are carried out (but must deal with administration solely through the Town Manager), and appoints and supervises the Town Manager.
 - (2) 30-A M.R.S.A. § 2635 states that the Board of Selectmen is to act as a body and that administrative service is to be performed through the Town Manager, Town departments and Town committees. The statute states "It is the intention of this subchapter that the Board of Selectmen as a **body** [emphasis added] shall exercise all administrative and executive powers of the Town except as provided in this subchapter."
 - (3) The Board of Selectmen shall deal with the administrative services totally through the Town Manager and shall not give orders to any subordinates of the Manager, either publically or privately. This section does not prevent the Board of Selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the Town.
 - (4) Duties of the Board of Selectmen. A member of the Board of Selectmen, in relation to his or her community should:
 - (a) Realize that his or her basic function is to make policy, with administration delegated to the Town Manager;
 - (b) Realize that he or she is one of a team and should abide by, and carry out, all Board decisions once they are made;
 - (c) Be well informed concerning the duties of a Board member on both local and state levels;
 - (d) Remember that he or she represents the entire community at all times;

- (e) Accept that the role of a member is a means of unselfish service, not to benefit personally or politically from his or her Board activities;
 - (f) Abide by the ethics guidelines established by the State of Maine and not use the position of Selectmen to obtain inside information on matters that may benefit someone personally.
- (5) A member of the Board of Selectmen, in his or her relations with the Town Manager, should:
- (a) Endeavor to establish sound and clearly defined policies that will direct and support the administration for the benefit of the staff and residents of the community;
 - (b) Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration;
 - (c) Give the Town Manager full responsibility for discharging his or her disposition and/or solutions;
 - (d) When a situation comes to the attention of a Board member, convey that information to the Town Manager for consideration and resolution or action as the Town Manager may deem appropriate. Inform the other Board members of suggestions and information conveyed to the Town Manager;
 - (e) Not give orders or directions to the Town Manager for action as an individual Board member;
 - (f) Not give instructions to or request assistance from the Town department heads, but rather channel all such activities through the full Board and the Town Manager.
- (6) A member of the Board of Selectmen, in his or her relations with fellow Board members, should:
- (a) Recognize that action at official legal meetings is binding, and that he or she alone cannot bind the Board outside of such meetings;
 - (b) Not make statements or promises of how he or she will vote on matters that will come before the Board until he or she has had an opportunity to hear the pros and cons of the issue during a Board meeting;
 - (c) Uphold the intent of executive session and respect the privileged communication that exists in executive session;
 - (d) Make decisions only after all facts on a question have been presented and discussed;
 - (e) Refrain from communicating the position of the Board of Selectmen to anyone unless the full Board has previously agreed on both the position and the language of the statement conveying the position;
 - (f) Treat with respect the rights of all members of the Board despite differences of opinion.
- (7) A member of the Board of Selectmen, in his or her relations with Town staff, should:
- (a) Treat all staff as professionals and respect the abilities, experience, and dignity of each individual;
 - (b) Limit contact to specific Town staff. Questions of Town staff and/or requests for additional background information should be directed only to the Town Manager;

- (c) Never publically criticize an individual employee. Concerns about staff performance should only be made to the Town Manager through private conversation;
- (d) Insure that all requests for staff support go through the Town Manager's office;
- (e) Insure that any materials or information provided to the Selectmen from a staff member be made available to all Selectmen.

C. Town Manager.

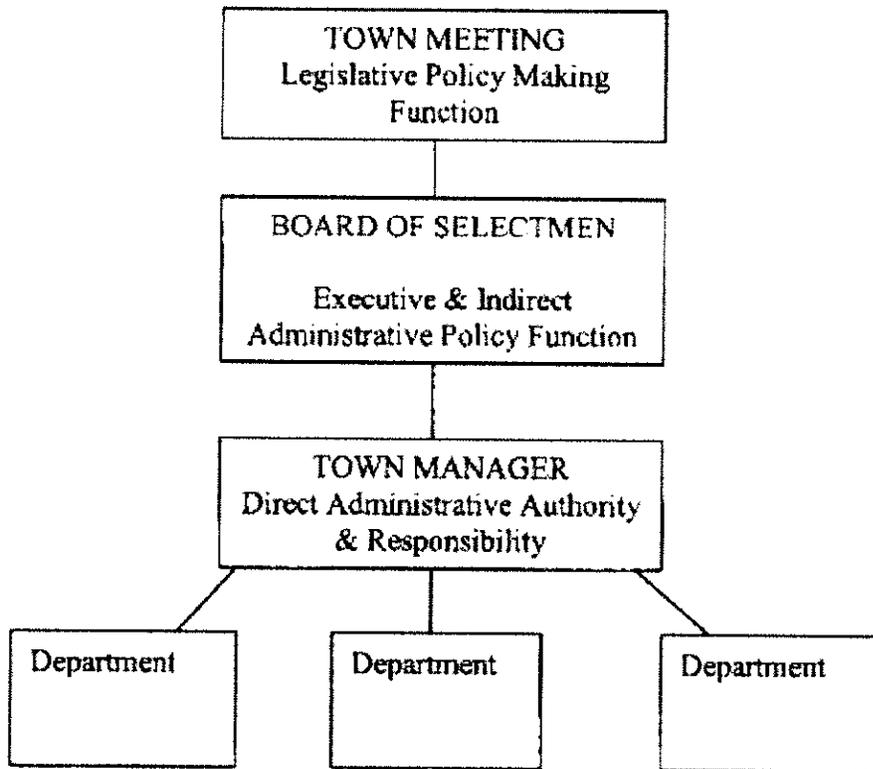
- (1) Powers and duties of the Town Manager. The powers and duties of the Town. Manager are as described in 30-A M.R.S.A. § 2636: The Town Manager shall perform such other duties related to the functions, duties and authorities as may be prescribed by the Board of Selectmen and by any applicable state or local laws or ordinances.
- (2) The Town Manager executes and carries out the government and fiscal policies with guidance from the Board of Selectmen and has direct responsibility for and authority over all administrative functions. The Town Manager carries out the day-to-day operations of the Town, acting as Chief Administrator.
- (3) The Town Manager is the single chief administrator accountable to the Board of Selectmen for the performance of his/her duties. The Town Manager is given the responsibility to appoint, subject to the personnel policies of the Town of Topsham, all department heads, and through them, all other employees. The Town Manager prepares the financial plan for approval by the legislative body and is responsible for administering the budget once enacted. The Town Manager is specifically responsible for all the administrative functions. The Town Manager coordinates all administrative activities. The Town Manager is in a position to provide expert information on the needs and status of various governmental activities. The Town Manager regulates departmental spending and reports on the financial needs of each of the branches of government. Within the framework of the policies laid down by the legislative and executive body of the Town, the Town Manager can formulate and carry out an administrative plan for governmental activity allowing for regular and orderly development. (Source of reference - National Municipal League, Forms of Municipal Government, 1968, p. 12).

Source of reference - JJ Haag, The Manager Plan in Maine, 1971, pp. 42 (see chart 11)

Town Meeting/Board of Selectmen/Town Manager Form of Government

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Town Meeting/Board of Selectmen/Town Manager Form of Government



Article II. Town Meeting

§ 6-2. Holding of meetings required.

A Town Meeting shall be held annually to elect officials at municipal polling places on the first Tuesday following the first Monday in November. A Town Meeting will be held annually in May to enact a municipal budget and to conduct such other business as may be necessary. Additional Town Meetings will be held two additional times each year, usually in March and September to conduct municipal business, as necessary. Special Town Meetings shall be held at such times as provided by statute or ordinance.

§ 6-3. Reports.

At the general business meeting of the Town each May, an annual report of the Town will be made and shall include a State of the Town message from the executive branch of the Town government summarizing the general condition of the Town. Other reports of Town officers and of standing and special committees shall be made available to the public. Reports required by statute or by the Town to be published shall be posted on the Town's website and printed for distribution one week before the Town Meeting.

§ 6-4. Speaking limits.

No person shall speak more than twice on any one question or more than five minutes at a time at Town Meeting without permission of the Moderator or assembled Town Meeting body to do so.

§ 6-5. Invocation.

Prior to the election of the Town Meeting Moderator, the Town Clerk may call the assembled body to order with an invocation and may use the following:

We are gathered here together in a civil assembly.

We gather as a community, in the oldest sense of the word.

We gather together to by and make decisions, about what we think is right, and about what we think is wrong.

Let us advocate for our positions, but never at the expense of others.

Let us remember that there is an immense gap between saying "I think I am right" and "I am right".

Let us always remember that our neighbors with whom we might disagree at Town Meeting are good people with hopes and dreams as true and as high as our own.

Let us not forget the citizens who have served our town in the past as well as those who are serving it today.

Most importantly, let us remember that, in the end, caring for each other, and our community, is of far greater importance than any differences we may have at this meeting.

§ 6-6. Moderator.

A Moderator shall be elected to serve at every general business meeting of the Town. The election of the Moderator shall be conducted as governed by statute or ordinance. The Moderator shall follow the Maine Moderator's Manual or such other rules as may be allowed by statute or ordinance. The Moderator shall make a summary presentation to the assembled body about the rules of procedure and decorum to be followed at the meeting.

§ 6-7. Opening of general business meetings.

Every general business meeting of the Town shall be opened with a prayer.

§ 6-8. Materials.

All materials made available at Town Meeting shall disclose who is responsible for making them available to the assembled body. Any materials developed by Town officials or Town staff shall be identifiable as Town materials through the use of some form of authentic identification method.

§ 6-9. Annual citizen recognition.

At the general business meeting of the Town each May, the Town may bestow a recognition award on a citizen of the Town. The Town Meeting Committee shall be responsible for developing a nomination and selection process. The name of the award recipient shall not be disclosed prior to the meeting.

§ 6-10. Reconsideration.

No motion shall be entertained at a reconvened meeting for reconsideration of any vote passed at the original meeting, or any adjournment thereof, unless notice of such action to reconsider shall have been given at such original meeting or at some intervening reconvened meeting, but this section may be suspended in any particular case by a vote of three-fourths (3/4) of those present and voting.

Article III. Selectmen

§ 6-11. Membership; Chairman; terms of office; Overseers of the Poor.

The number of members of the Board of Selectmen shall be five, and the Board shall choose its own Chairman. The normal term of Selectmen shall be three years. Selectmen shall serve staggered terms with two positions open for election on consecutive years and one position open for election on the third year. Vacancies on the Board of Selectmen shall be filled in accordance with state statutes (currently 30-A M.R.S.A. § 2602, Subdivision 3). The Selectmen shall serve as Overseers of the Poor.

Article IV. Committees

§ 6-12. Standing Committees.

The following shall be the standing committees of the Town of Topsham.

- A. Planning Board (7 members).
- B. Board of Appeals (5 members, two alternates).
- C. Finance Committee (9 members).
- D. Board of Assessment Review (3 members, two alternates).
- E. Historic District Commission (5 members).
- F. Conservation Commission (5 members).

§ 6-13. Powers and duties of standing committees.

- A. Planning Board: The powers and duties of the Planning Board shall be those powers and duties established by Town of Topsham ordinance and state law.
- B. Board of Appeals: The powers and duties of the Board of Appeals shall be those powers and duties established by Town of Topsham ordinance and state law.
- C. Finance Committee: It shall examine all Town Meeting articles that call for an appropriation or expenditure of money and make its recommendations to the Town Meeting.
- D. Board of Assessment Review: A Board of Assessment Review is adopted pursuant to 30-A M.R.S.A. § 2526, Subsection 6, and shall consist of three members and two alternates. Initially, one member shall be appointed for one year, one member for two years and one member for three years. One alternate shall be appointed for one year and one alternate for two years. Thereafter, the term of each new member or alternate is three years.
- E. Conservation Commission: The powers and duties of the Conservation Commission shall be those powers and duties established by the Town of Topsham ordinance and state law.^[1]

[1] *Editor's Note: See Ch. 10, Conservation Commission.*

§ 6-14. Standing committee general provisions.

- A. Quorum. Except as may be permitted by Town of Topsham ordinance or state law, no meeting of a standing committee shall be held without a quorum consisting of a majority of appointed members.
- B. Voting. Notwithstanding Town of Topsham ordinance or state law, any action of a standing committee shall require the affirmative vote of a majority of its membership present and voting.

§ 6-15. Standing committee prohibited appointments.

The following may not be appointed to standing committees:

- A. Selectmen.
- B. Full-time and part-time regular employees, except Fire Department on-call employees may serve on standing committees.
- C. Spouses and domestic partners of Selectmen and employees as described above.

§ 6-16. Standing committee terms.

- A. Appointments subsequent to the amendment of this Code shall be for a three-year term.
- B. All appointments and reappointments subsequent to amending the Code will commence and terminate consistent with the Town's fiscal year (July 1 through June 30).

§ 6-17. Standing committee vacancies.

The Board of Selectmen shall appoint new members to the standing committees as necessary. In the event of the resignation of any Committee member, or his or her inability to serve, or unapproved absence of three (3) or more consecutive meetings, the Board of Selectmen shall appoint a member to finish any unexpired term that might remain at its earliest convenience.

§ 6-18. Ad-hoc committees.

The Board of Selectmen is authorized to establish committees that are temporary and have a specific purpose. The number of members on an ad-hoc committee may be whatever the Selectmen determine and may be composed of individuals without restriction. Ad-hoc committees shall not be established to undermine the powers and duties of standing committees. The term, powers, and duties shall be whatever the Selectmen determine at the point in time that the committee is established. Ad-hoc committees may be established for an indefinite term if appropriate.

Article V. Assessment

§ 6-19. Tax Assessor.

A single Tax Assessor shall be appointed by the Selectmen.

Article VI. Finance

§ 6-20. Fiscal year.

The Town shall operate on a twelve-month fiscal year, with the fiscal year and Town accounts starting on the first day of July of each year and the fiscal year ending and Town accounts closing on the 30th day of June of each year.

§ 6-21. Disbursement of Treasurer's warrants.

- A. Purpose. The purpose of this section is to provide an alternate to the statutory procedure for approval of warrants authorizing the Treasurer to disburse money.
- B. Authority. This section is enacted pursuant to 30-A M.R.S.A. §§ 3001 (municipal home rule) and 5603, Subsection 2A.
- C. Procedure for approval. The Treasurer may disburse money only on the authority of a warrant drawn for the purpose, either:
 - (1) Affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting;
 - (2) Seen and signed by a majority of them acting individually and separately; or
 - (3) Signed as otherwise provided by law for the disbursement of employees' wages and benefits and payment of municipal education costs.

Article VII. Municipal Property

§ 6-22. Tax-acquired property.

The Treasurer may, from time to time, with the consent of the Selectmen, convey by deeds of quitclaim the title and interest of the Town in and to any real estate acquired by the Town by virtue of the Revised Statutes of Maine, at any sale for taxes, to such persons and for such consideration as the Treasurer and the Selectmen may, in each case, determine.

Article VIII. Budget

§ 6-23. Budget development.

- A. Presentation to Board of Selectmen: It shall be the responsibility of the Town Manager to present a draft budget to the Board of Selectmen no later than 90 days in advance of the Town Meeting at which the subsequent fiscal year's budget is to be adopted.
- B. Town Manager and department head role: The Town Manager shall have the discretion to determine the method of developing the draft budget to be presented to the Selectmen. Department heads shall have the opportunity to work with the Manager to draft their respective departmental budgets.
- C. Selectmen's initial review: Upon presentation to the Board of Selectmen, the Selectmen shall review and make preliminary recommendations of the budget.
- D. Meetings with Finance Committee: The Selectmen shall meet with the Finance Committee and, with support from the Town Manager and other staff as appropriate, shall review the draft budget and preliminary Selectmen recommendations with the Finance Committee.

- E. Preliminary budget: Upon completed review by the Selectmen and Finance Committee, a preliminary budget shall be developed. The preliminary budget shall identify appropriations and expenditures by proposed Town Meeting warrant article. Each proposed warrant article shall include the amount of funds being appropriated and expended, the source of the appropriation and the preliminary recommendations of the Board of Selectmen and Finance Committee.
- F. Joint public hearing on preliminary budget: The Board of Selectmen and Finance Committee shall hold one public hearing on the preliminary budget at least 14 days in advance of the Town Meeting scheduled to adopt the budget. The purpose of the public hearing shall be to present the preliminary budget to the Town and to receive comments from the interested parties. Following the public hearing, the Board of Selectmen and the Finance Committee shall finalize their budget recommendations.
- G. Finalization of the budget: Once the preliminary budget has been presented at the public hearing and final recommendations are determined by the Board of Selectmen and the Finance Committee, the budget shall be presented in final form for Town Meeting review and adoption.

§ 6-24. Community Fund.

[Added 5-18-2011 STM, Art. 15¹]

The purpose of the Topsham Community Fund (TCF) is to assist the Town in: developing its financial capacity to make investments in the community; making the community a more desirable and vibrant place for residents to live, work and raise a family; and in supporting the belief that community development investments make the community a more desirable location for future economic development investments.

- A. Fund description.
 - (1) The fund shall be a nonlapsing capital fund of the Town of Topsham, and funds remaining at the end of a fiscal year shall not be credited to the Town's undesignated fund balance, but rather shown in the Capital Improvement Plan for the Town.
 - (2) Expenditures from the TCF shall be made in accordance with the Town's purchasing policies, as administered by the Board of Selectmen and Town Manager.
- B. (Reserved)
- C. Funds from the TCF shall be used for capital investments, including for purposes in support of capital investments (such as plans, surveys, designs, studies) in the areas of recreation, arts, social services, parks, heritage/history, natural resources, conservation and environmental stewardship.
- D. Funds from the TCF can be used to leverage funding from nonmunicipal sources.
- E. Topsham Community Fund Committee.
 - (1) The TCF Committee shall consist of five members, including two representatives from Topsham Conservation Commission and one representative from each of the following Topsham standing committees and boards, appointed by the respective committees and boards:
 - (a) Topsham Development, Inc.
 - (b) Planning Board.
 - (c) Historic District Commission.

- (2) One of the Conservation Commission representatives shall serve as the Chair of the TCF Committee, and the Topsham Development, Inc., representative shall serve as the Vice Chair.
- (3) The following Town department heads shall be nonvoting members:
 - (a) Parks and Recreation Department.
 - (b) Planning Department.
 - (c) Economic and Community Development Department.
 - (d) Department of Public Works.

F. Annual plan.

- (1) On an annual basis, the Chair or Vice Chair of the TCF Committee shall convene the Committee to develop an annual TCF plan.
- (2) The TCF Committee shall prepare the annual TCF plan for submission to the Town Manager by November 30 for consideration in the Capital Improvement Budget.
- (3) In preparing this report, the various department and committee representatives shall hold a public meeting, providing the following information, at a minimum:
 - (a) Current status of previously approved and active projects.
 - (b) Current status of uncommitted funds in the TCF, and the source of such funds.
 - (c) Proposed new projects for the coming year(s) and the anticipated capital cost of each.
 - (d) Proposed nonmunicipal sources of revenue for future projects.
 - (e) Proposed municipal sources of funds for future projects.
 - (f) Estimates for ongoing maintenance and operational costs for individual departments.
- (4) The TCF Committee shall actively solicit the input of members of pertinent standing or ad hoc Town committees, and pertinent community groups active in Topsham.
- (5) Recommendations to the Town Manager can include expenditures for the coming fiscal year, or appropriations to the TCF to be held for future expenditures.
- (6) The TCF can also be used as a repository for funds from additional funding sources.

[1] *Editor's Note: This article also repealed former § 6-24, Economic and Community Development Plan.*

Article IX. General Provisions

§ 6-25. Revision.

It shall be the duty of the Town to revise and bring up to date this chapter at least once in every ten (10) years, and a committee of seven (7) citizens, three (3) of whom may be Selectmen, shall be chosen for this purpose.

§ 6-26. Severability.

The invalidity of any provision of this chapter shall not affect the validity of any other provision.

§ 6-27. Publication.

The Board of Selectmen shall have the authority to publish in a book or pamphlet form this chapter, as accepted and voted upon at Town Meeting, at any time after acceptance of this chapter and until such time as this chapter is no longer in effect.

§ 6-28. When effective.

This chapter is to become effective upon being adopted by a Town Meeting vote.

Article X. Town Manager Plan

§ 6-29. Adoption of plan.

- A. The Town of Topsham hereby adopts the form of government known as the "Town Manager Plan" as provided in 30-A M.R.S.A. § 2631 et seq., to become effective at the Annual Town Meeting for 1991.
- B. Any reference to the "Town Administrator" is hereby amended to "Town Manager," and any provision in the Code, ordinances, rules and regulations of the Town which is inconsistent with the Town Manager Plan is hereby repealed.