

## New Hampshire Town And City

### Town Managers vs. Town Administrators: What's the Difference?

*New Hampshire Town and City, June 2006*

By

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It would be hard to imagine any board of selectmen that could operate efficiently and effectively without the assistance of capable administrators and office staff. Selectmen are called upon to make many important decisions as they "manage the prudential affairs" of the town, and to do so, they often turn to town managers and town administrators to assist them.

**Q: Is there a difference between having a town manager or a town administrator working for the town?**

**A:** Yes, and it's a pretty significant difference. A town manager has the power and duties that are outlined in RSA Chapter 37 (<http://gencourt.state.nh.us/rsa/html/III/37/37-mrg.htm>), while a town administrator (or administrative assistant, business manager or other similar titles) has no similar statutory authority, but instead works under the direct supervision of the board of selectmen, which retains all of its statutory authority.

**Q: Who decides whether the town will have a town manager?**

**A:** The legislative body. In order to have a town manager, the voters must adopt the provisions of RSA Chapter 37 (<http://gencourt.state.nh.us/rsa/html/III/37/37-mrg.htm>) at an annual meeting. The question must be included on the warrant upon the written application of 10 or more voters, or one-sixth of the voters in town. RSA 37:12 (<http://gencourt.state.nh.us/rsa/html/III/37/37-12.htm>). The selectmen may place the question on the warrant as well. The question must be placed on the official ballot to be voted on simultaneously with the balloting for town officers. Without a vote at town meeting, following the procedures set out in the statute, the town may not operate under the town manager form of government. RSA 37:15 (<http://gencourt.state.nh.us/rsa/html/III/37/37-15.htm>). If there is no authority for a town manager, the selectmen remain the executive, managerial and administrative body that carries out the votes enacted at town meeting.

**Q: If there is no provision for a town manager, can the selectmen hire a town administrator?**

**A:** Yes, subject to budgetary considerations, the selectmen may hire a town administrator, administrative assistant or other staff they deem necessary to assist them in running the everyday business of the town. The legislative body has the option to create any elected or appointed officials it deems necessary to perform the work of the town. RSA 41:2 (<http://gencourt.state.nh.us/rsa/html/III/41/41-2.htm>). They may vote to create the position of town administrator, administrative assistant, or other positions, to assist the selectmen in the management of the town. Often, town meeting delegates the tasks of supervising the work performance and job descriptions of these various positions to the selectmen.

**Q: Do the selectmen lose some of their authority under a town manager form of government?**

**A:** Yes. This is an important distinction between the town manager position and the town administrator position. By adopting the town manager form of government, the legislative body is placing some of the authority that would otherwise be held by the selectmen into the hands of a non-elected official. While the town manager is subject to the direction and supervision of the selectmen, he or she assumes several important duties when appointed. For example, the town manager becomes the administrative head of all town departments and has the authority to hire and fire employees under his or her control and to set their salary. The town manager also has the authority to approve the payment of bills incurred by the departments under his or her supervision. See RSA 37:6 (<http://gencourt.state.nh.us/rsa/html/III/37/37-6.htm>) for a complete list of the powers and duties of a town manager. The town administrator does not have these statutory powers and duties.

**Q: Is there any difference between the town manager and the town administrator in the area of hiring and termination?**

**A:** Yes. The statutes require that the town manager be selected by the selectmen "with special reference to his education, training, and experience to perform the duties of his office [.]". As discussed earlier, there is no statutory provision for a

town administrator, or other administrative positions, so the selectmen may hire personnel with whatever qualifications they feel necessary. They may hire a person with no experience at all and allow the person to "learn on the job." This is not the case with the town manager position, who must be selected based on experience and training to perform the job. In the case of termination, a town manager may be removed by the selectman at any time "for cause." This is in contrast to a town administrator, who is an employee "at will" and who may be removed without notice or cause. An important caveat: while New Hampshire is an "at will" state, employment contracts and personnel policies often contain provisions that require the employer to take certain steps before terminating an employee. Additionally, there may be statutory requirements that must be followed before action may be taken against some positions, for example, police officers, some fire department staff and library staff. Before taking any employment action, review the town's policies and contact the town's attorney.

**Q: Can an official ballot referendum (SB 2) town have a town manager?**

**A:** Yes. Either a traditional town meeting town or an official ballot referendum (SB 2) town may adopt the provision of RSA Chapter 37 (<http://gencourt.state.nh.us/rsa/html/III/37/37-mrg.htm>) and operate as a town manager form of government. The provisions of RSA Chapter 37 (<http://gencourt.state.nh.us/rsa/html/III/37/37-mrg.htm>) apply to towns (unless it is a town council town, in which case it is a council-manager form of government that is adopted as part of the town's charter) and village districts or precincts. However, it does not apply to cities or school districts.

**Q: What happens if there is a vacancy?**

**A:** If there is a vacancy in the office of town manager, the selectmen must fill the position as soon as practical. While they search for a qualified replacement, they may appoint a person to fill the position on a temporary basis. RSA 37:8 (<http://gencourt.state.nh.us/rsa/html/III/37/37-8.htm>). If there is a vacancy in the town administrator position, the position may or may not be filled, as the selectmen deem appropriate and in accordance with the town's personnel policies, if any.

**Q: Can the legislative body decide to elect the town manager or town administrator?**

**A:** A town manager cannot be elected because the statute provides that the selectmen make the appointment. RSA 37:2 (<http://gencourt.state.nh.us/rsa/html/III/37/37-2.htm>). A town administrator may be appointed or elected pursuant to RSA 669:17, IX (<http://gencourt.state.nh.us/rsa/html/LXIII/669/669-17.htm>) which allows for the election of any other officers the town may judge necessary for managing its affairs. The most common way to fill the position of town administrator is by appointment by the selectmen.

**Q: Can a town manager or a town administrator serve on the budget committee?**

**A:** A town manager may not serve as a member-at-large of the budget committee in the town he or she serves, but may serve as the alternate for the ex-officio member representing the governing body, if so designated. RSA 32:15, I (b) & V (<http://gencourt.state.nh.us/rsa/html/III/32/32-15.htm>). A town administrator is similarly precluded from serving as a member-at-large on the budget committee if he or she is a full-time employee or a part-time department head. Like the town manager, the town administrator could serve as the alternate for the ex-officio member representing the governing body. When serving as an alternate, the person so designated has the same authority as the regular member.

**Q: Can a town vote to discontinue the town manager form of government?**

**A:** Yes. The legislative body may vote to discontinue the town manager form of government in the same manner that it adopted it. The question must be placed on the warrant and voted on in the same way as balloting for town officers. If the voters decide to discontinue the town manager form of government, the revocation will become effective on the second Tuesday in April following the vote. RSA 37:15 (<http://gencourt.state.nh.us/rsa/html/III/37/37-15.htm>).

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