

Forms of Town Government

There are two basic forms of *town* government under New Hampshire law: (1) traditional, board of selectmen/open town meeting form; and (2) town council/town manager form described in [RSA Chapter 49-D](#). Each form has several variations.

1. Board of Selectmen/Open Town Meeting

This is the traditional, "pure democracy" form of town government, where the voters themselves, acting at town meeting, are the legislative body. Budgetary and other questions are put before the voters in the form of warrant articles, the merits of which are debated, and then voted on at the meeting. There are three variations of the board of selectmen/open town meeting form of government, two of which require specific adoption under the charter process set forth in [RSA Chapter 49-B](#). The three variations are:

a. Official Ballot Referendum Form of Meeting

This official title is a bit cumbersome, which may be why this form of government is better known as "SB 2" (for Senate Bill 2, the legislation creating this option, and codified at [RSA 40:12 - :16](#), that was enacted by the legislature in 1995). The official ballot/SB 2 form may be adopted only by a three - fifths majority of the voters voting on the question. [RSA 40:14](#). Towns may adopt this "standardized" official ballot option by following the provisions of RSA 40:14. Under this form, warrant articles - either submitted by the board of selectmen or by petition - come before the voters, are debated, and may be amended at a "first session" (also known as the "deliberative session") of town meeting. [RSA 40:13](#). The final vote on the warrant articles, as amended, occurs later, at the "second session" of the voters, at the polls, by means of an official ballot. This second session is the official "election" date.

b. Official Ballot Town Meeting

This is the "customized" official ballot option, as opposed to the "standard" SB 2 version. Under this variation, also enacted by the legislature in 1995, the details of how the official ballot would be used is up to the community's discretion and must be adopted by following the charter process outlined in [RSA 49-13](#). According to [RSA 49-D:3, II-a](#), a charter must specify with precision the following information: what types of questions will go on the official ballot (budgetary and non-budgetary); a finalization process for the budget in the event it is rejected by the ballot vote; the process for public hearing, debate, and amendment of questions to be placed on the official ballot; the procedure for transferring funds among various departments and accounts during the year; and the procedure for balloting at special town meetings. General laws relative to town meeting apply to those utilizing this option, such as the warning of meetings, the right for petitioned warrant articles, the conduct of the meeting, and the type of majority required for bond issues.

c. Representative Town Meeting

This is the third variation on the traditional open town meeting form of government, and is the second of the three variations that must be adopted by means of the charter process described below. Instead of vesting legislative authority in a town meeting made up of all registered voters in the town, this option vests legislative authority in a group of people elected to represent districts within the town. [RSA 49-D:3, III](#). The representative town meeting has all the powers of town meeting conferred by statute and the state constitution. The charter must specify: the manner of district representation; how vacancies are filled; requirements of attendance and quorum; residency or eligibility requirements (up to one year in the town or district and continued residency during the term); specific procedures for annual budget adoption, including preparation, presentation and public hearing; designation of a fiscal year; an annual election date; and audit requirements. The charter may provide for referenda on certain issues to the registered voters of the town at large at special town meetings called for the purpose of deciding those issues. In addition to elected members of town meeting, the board of selectmen, the town clerk and the budget committee chairman are designated as members-at-large of the representative town meeting, with the same rights, privileges, and duties of the elected members. [RSA 49-D:3, III](#).

2. Town Council/Town Manager

This second form of town government (with its three variations) allows a town to adopt a charter establishing a *representative* body - the town council - which has powers similar to those of a city council. The charter must provide for the appointment of a town manager by the council, who shall have all the powers of town managers as set out in [RSA Chapter 37](#). The provisions of the charter adopting this form of government must comply with the requirements of [RSA Chapter 49-B](#) and [RSA 49-D:2](#). The council may have as many as 15 members, and must have an odd number unless the vote of the chair is reserved for breaking ties. [RSA 49-D:3, 1\(b\)](#).

a. Board of Selectmen/Open Town Meeting Abolished

The adoption of a town council town manager charter abolishes the traditional board of selectmen/open town meeting form of government.

b. Legislative Body Options

Under the town council form of government, [RSA 49-D: 2, II\(a\)](#) requires establishment of a *legislative body* to replace the traditional open town meeting. However, the charter may reserve authority, by referendum, to the town voters over amendments to land use ordinances and approval of bond issues. [RSA 49-D:2, I](#). [RSA 49-D:3](#) spells out three charter options for choosing the type of legislative body:

i. Town Council functions as both the governing body and legislative body, as do city councils in cities. Where the town council is both the governing body and the legislative body, it generally has all the powers and duties of selectmen, city councils and boards of aldermen, and may address all matters that general law requires to be done at town meetings, all as provided by [RSA 49-D:3, 1\(a\)](#). The charter may provide for voter referenda on certain issues at special town meetings called for the sole purpose of deciding those issues. [RSA 49-D:3, 1\(e\)](#). (Of course, some state statutes require that certain questions be decided by official ballot vote.)

ii. Official Ballot Town Council is a variation of the town council form (enacted by the legislature in 1995) that limits the power of the town council by authorizing the charter to specify certain matters on which the voters will vote by official ballot. These matters may be some or all such matters that the general laws require annual or special town meetings to vote on. *Thus, the town council is vested only with authority to vote on such matters not voted on by official ballot.* The charter must specify with precision the budgetary items to be included on the official ballot, a finalization process for the annual budget, and a process for public hearings, debate, discussion and amendment of questions to be placed on the ballot. [RSA 49-D:3, I-a](#).

iii. Budgetary Town Meeting has the limited authority to vote on the annual operating budget as presented by the town council. [RSA 49-D:3, II](#). Under a charter providing for a budgetary town meeting, although the legally effective business to come before the town meeting is the budget, some towns use the annual meeting as an advisory session, where the voters may express concerns publicly.

3. Changes without Charters

Towns have many statutory options for making adjustments in their form of government without adopting charters, e.g., adoption of the Municipal Budget Act ([RSA 32:14](#) et seq.), adoption of the 5-member board of selectmen ([RSA 41:8-a - :8-e](#)), adoption of the official ballot referendum (SB 2) discussed above, and - one of the most popular options - adoption of the town manager statute, [RSA Chapter 37](#).