

# AN ACT PROVIDING FOR A SELECTMEN - TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF FOXBOROUGH.

*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.** The town of Foxborough shall be governed by this act. To the extent that this act is now in conflict with any general or special law including, but not limited to, chapter 46 of the acts of 1986 or the by-laws of the town of Foxborough, this act shall govern.

*(Amended December 4, 2013; Acts 2013, Chapter 173, Section 1)*

**SECTION 2.** Notwithstanding the election by the voters of the town of officers named in applicable laws, by-laws and votes of the town, such officers shall be available to the town manager for consultation, conference and discussion on matters relating to their respective officers. The town manager may require all such officials, except the selectmen, to prepare reports for the town manager necessary for the efficient administration of any of his responsibilities.

**SECTION 3.** (A) The executive powers of the town shall be vested in the board of selectmen, in this act referred to as BOS, who shall have all the powers given to boards of selectmen by the General Laws, except for those executive powers granted to the town manager and those executive powers granted to the board of water and sewer commissioners by chapter 46 of the acts of 1986; provided, however, that all personnel and collective bargaining powers of the board of water and sewer commissioners shall be vested with the town manager; and provided further, that any sale of sewer capacity outside of the town boundaries shall be subject to the joint approval of the board of selectmen and water and sewer commissioners.

*(Amended May 24, 2016; Acts of 2016, Chapter 114)*

(B) The BOS shall consist of 3 or 5 members, as determined from time to time by the town in accordance with law, each elected by the voters to a term of 3 years. If there is a 5 member BOS, at least 1 selectman will be elected each year with no more than 2 positions open for election during any given year except for a vacancy created by an unfinished term of an elected selectman and in the first year in which a 5 member BOS is created. If there is a 3 member BOS, at least 1 selectman will be elected each year except for a vacancy created by an unfinished term of an elected selectman.

(C) The BOS shall serve as the chief goal setting and policy-making agency of the town and as such shall not normally administer the day-to-day affairs of the town. The duties and responsibilities shall be delegated to the town manager. The BOS shall act through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority. Individual selectmen shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board.

(D) The BOS shall-

(1) Enact rules and regulations to implement policies and to issue interpretations.

(2) Exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.

(3) Appoint the town counsel and any special counsels, and all members of committees, boards and commissions except those appointed by the moderator or elected by the voters. They may make appointments to temporary posts and committees they create for special purposes.

(4) Have general administrative oversight of such boards, committees and commissions appointed by the BOS.

(5) Have the responsibility and authority for licenses and other quasi-judicial functions as provided by the General Laws and the town of Foxborough by-laws unless the General Laws provide otherwise.

(6) Prepare all town meeting warrants.

(7) Review the annual proposed budget submitted by the town manager and make recommendations with respect to the annual proposed budget as they deem advisable. The town manager shall present the budget, incorporating the recommendations of the BOS and the advisory committee.

(8) Appoint a town manager for a term of no less than 3 years, who shall be a person with executive and administrative qualifications and especially fitted by education, training and experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

(9) Remove the town manager at any time, with cause, by a majority vote of the full BOS. Removal shall be in accordance with the terms of the town manager's contract.

(10) Set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.

(11) Designate a qualified person to serve as acting town manager and perform the duties of the office during any period of any vacancy exceeding 30 days, caused by the town manager's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed 180 days.

(12) Advise the capital improvement committee of their overall policies and goals.

**SECTION 4.** (A) The town manager shall be the chief administrative officer of the town and shall act as the agent for the BOS. He shall be responsible to the BOS for coordinating and administering all town affairs under the jurisdiction of the BOS.

(B) The town manager's powers and duties shall include, but not be limited to, the following-

(1) Implement the policies of the BOS.

(2) Attend all meetings of the BOS, except when excused and have the right to speak on all matters that come before the board.

(3) Attend all town meetings and be permitted to speak when recognized by the moderator.

(4) Manage and direct the daily reporting and supervision of the following town departments: building commission, department of health, council on aging, police, civil defense, animal control officer, gas inspector, plumbing inspector, wiring inspector and weights and measures inspector, recreation, highway, tree and park, finance, finance director, collector, treasurer, accounting, veterans, town counsel, other committees appointed by and under the jurisdiction of the BOS; provided, however, that the listing of the department of health herein shall not affect the subject matter or policy jurisdiction or authority of the board of health of the town of Foxborough except as to the transfer herein established to the town manager of the responsibility of appointment, supervision, and removal of health department staff including, but not limited to, the health agent, secretary/environmental specialist and sanitarians. The appointment and removal of the town finance director shall remain with the BOS. The town manager shall manage and direct the daily reporting and supervision of the water and sewer department employees.

*(Amended January 19, 2012; Acts 2012, Chapter 11, Sections 1 and 2)*

*(Amended December 4, 2013; Acts 2013, Chapter 173, Section 2)*

(5) Approve all warrants for the payment of town funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.

(6) Administer the town's personnel policies, compensation plans and employee benefits program.

(7) Contract and administer the town's insurance policies, including the ability to settle claims. All new contracts must receive the approval of the BOS.

(8) Appoint and remove, with just cause, all department heads and employees of departments under the direct control of the town manager. For those town employees under the jurisdiction of another governing body or departmental head such as the town planner, library director and library employees, town clerk and staff and fire department, appointments and removals shall be conducted by the appropriate governing body or department head, through the town manager. In all cases, the established policies and procedures of the town's personnel by-laws shall provide the structure for the administration of any personnel issues.

*(Amended January 19, 2012; Acts 2012, Chapter 11, Section 3)*

*(Amended December 4, 2013; Acts 2013, Chapter 173, Section 3)*

(9) The BOS shall have the right to veto any department head level appointments or removals. A majority vote of the full BOS shall be required to enact a veto. The town manager shall have the authority to reorganize any departmental structures under his jurisdiction. The BOS shall have the right to veto any such reorganizations. A majority vote of the full BOS shall be required to enact a veto.

(10) Negotiate all collective bargaining contracts on behalf of the town, with the exception of the school department contracts, under the guidance of the BOS. The town manager may seek the assistance of labor counsel, as he deems necessary to effect successful negotiations. All final agreements must receive the approval of the BOS.

(11) Establish compensation packages for all town employees not subject to a collective bargaining agreement under the guidance of the BOS. All final agreements must receive the approval of the BOS.

(12) Submit to the BOS a written proposed budget for town government for the ensuing fiscal year, including the school department. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by department, committee, agency, purpose and position and proposed financing methods. The proposed budget shall include estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may by by-law establish additional financial information and reports to be provided by the town manager.

(13) Report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.

(14) Establish calendar dates on or before which the proposed budget, revenue statement and tax rate estimate are to be submitted to the BOS, as required by subsection 13 of the town of Foxborough, general by-law, shall be as specified by by-law.

(15) To assist the town manager in preparing the proposed annual budget of revenue and expenditures, the finance director, all boards, officers and committees of the town, including the

school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.

(16) Submit annually to the BOS a 5 year capital improvements program to include: (a) a list of all capital improvements and supporting data proposed to be undertaken during the next 5 years; (b) cost estimates, methods of financing and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. A capital improvement shall be defined by town by-law.

(17) Advise the BOS periodically, at least monthly, of all departmental year to date expenses. Advise the BOS periodically, at least monthly, of the town's year to date revenues. Direct action as deemed necessary to ensure that all operating and capital budgets under the direct control of the town manager are maintained in accordance with the town meeting vote that approved those budgets. Coordinate efforts with the governing bodies of those departments not under the direct supervision of the town manager to ensure that those operating and capital budgets are maintained in accordance with the town meeting vote that approved those budgets.

(18) Keep full and complete records of the office and annually submit to the BOS, unless requested to do so more frequently, a full report of the operations of the office of the town manager.

(19) Be responsible for coordination of operational and strategic planning for the town.

(20) Serve as the town's procurement officer.

(21) Manage and be responsible for all the town buildings, properties and facilities, except those under the jurisdiction of the school committee, library trustees, fire chief and the board of water and sewer commissioners, unless requested by that agency.

(22) Prepare application of all town warrants for approval by the BOS.

(23) Prosecute, defend or comprise all litigation for or against the town in accordance with the guidance provided by the BOS.

(24) Delegate and direct any qualified town official or employee to carry out any duty that is within the authority of the town manager.

(25) During his temporary absence, the town manager may designate by letter filed with the BOS a qualified administrative employee or officer to exercise the powers and perform the duties of the town manager as approved by the BOS.

(26) Perform any other duties or tasks assigned by the BOS.

**SECTION 5.** The town manager of the town of Foxborough shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town manager. The town manager may, without notice, cause the affairs of any division or department under the manager's supervision for the conduct of any officer or employee thereof to be examined.

**SECTION 6.** All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Foxborough on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, by-laws, votes, rules and regulations, respectively.

**SECTION 7.** No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

**SECTION 8.** Any person holding a town office or employment under the town of Foxborough shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of those duties by another person or agency. No person who continues in the permanent full-time service or employment of the town shall forfeit his pay, grade or time in service.

**SECTION 9.** This act shall take effect upon its passage.

*(Approved January 22, 2004; Acts of 2004, Chapter 5, with amendments through October 30, 2020).*