

# Town of Essex Proposed Charter Revisions 2022

## The Vermont Statutes Online

### [Title 24 Appendix: Municipal Charters](#)

#### [Chapter 117: Town of Essex](#)

##### **Preamble**

*We the people of the Town of Essex, under the constitution and laws of the state of Vermont, in order to secure the benefits of local self-government and to provide for an honest and accountable select board government do hereby adopt this charter.*

*By this action, we affirm the values of representative democracy, professional management, strong political leadership, citizen participation, diversity and inclusiveness, and environmental stewardship.*

*Each individual shall have an equal opportunity to participate fully in the economic, cultural, and political life of the Town. Discrimination is prohibited based on race, color, religion, national origin, gender, age, sexual orientation, gender expression, marital status, military status, or physical or mental disability.*

##### **Subchapter 1: Powers of The Town**

###### **§ 117-101. Corporate existence retained**

The inhabitants of the Town of Essex, within the corporate limits as now established, shall continue to be a municipal corporation by the name of the Town of Essex. Notwithstanding the provisions of any other municipal charters, territory within the corporate limits shall not be annexed to or become a part of any other municipal corporation.

###### **§ 117-102. General law, application**

Except as modified by the provisions of this charter, or by any lawful regulation or ordinance of the Town of Essex, all provisions of the statutes of this State applicable to towns shall apply to the Town of Essex.

###### **§ 117-103. Powers of the Town**

(a) The Town shall have all of the powers granted to towns and municipal corporations by the Constitution and laws of this State, together with all the implied powers necessary to carry into execution all the powers granted. The Town may enact ordinances, bylaws, and regulations that are not inconsistent with the Constitution and laws of the State of Vermont or with this charter, and impose penalties for the violation of enacted ordinances, bylaws, and regulations.

(b) The Town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, or lease, and may sell, lease, mortgage, hold, manage, and control such property as its interests may acquire. The Town may further acquire property within its corporate limits by condemnation where granted to towns by the statutes of the State of Vermont.

(c) The Town may establish and maintain departments or divisions, as deemed appropriate by the Selectboard for the efficient maintenance and operation of Town affairs, to include, by way of illustration and not by way of limitation, police, fire, water, and public works departments.

###### **§ 117-104. [Repealed.]**

###### **§ 117-105. Reservation of Powers to the Town (previously § 117-110)**

Nothing in this charter shall be so construed to in any way to limit the powers and functions conferred upon the Town of Essex and the Selectboard of the Town by general or special enactments of State statutes or regulations in force or effect or hereafter enacted, and the powers and functions conferred by this charter shall be cumulative and in addition to the provisions of such general or special enactments.

###### **§ 117-106. Ordinances- Method of adoption and enforcement (previously § 117-105)**

(a) Ordinance-making authority granted to the Town by this charter and general law shall be exercised pursuant to the provisions of sections 301 through 307 of this charter.

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(b) The Town of Essex may adopt, amend, enforce, and repeal ordinances relating to any aspect of municipal concern for the peace, order, health, safety, comfort, protection, morality, and general welfare of the Town and of its citizens.

(c) In addition to powers otherwise conferred upon it by law and this charter, the Town is authorized adopt and enforce ordinances for the purpose of regulating, licensing, and fixing reasonable and necessary license fees for the following:

- (i) places of public resort, accommodation, assemblage, or amusement, whether indoor or outdoor;
- (ii) places dispensing food and drink to the public, such as restaurants, bars, or inns;
- iii) theaters;
- (iv) displays of fireworks;
- (v) public dances and musical performances;
- (vi) itinerant vendors;
- (vii) the exclusive occupancy of any specified portion of a public street or right-of-way;
- (viii) the keeping of dogs or other pets;
- (ix) other activities that the Town has the power to regulate or license by virtue of general law or this charter.

### **§ 117-107. Just Cause Eviction**

The Selectboard shall have the power:

(a) To provide by ordinance protections for residential tenants, as defined in Chapter 137 of Title 9 of the Vermont Statutes Annotated, from eviction without 'just cause,' where just cause shall include, but is not limited to:

- (1) a tenant's material breach of a written rental agreement,
- (2) a tenant's violation of state statutes regulating tenant obligations in residential rental agreements,
- (3) non-payment of rent, and
- (4) a tenant's failure to accept written, reasonable, good faith renewal terms.

(b) Such ordinance shall exclude from 'just cause' the expiration of a rental agreement as sole grounds for termination of tenancy. In addition to the exemptions in Chapter 137 of Title 9, the ordinance shall exempt from this provision, subject to mitigation provisions, sublets and in-unit rentals as well as the following properties but not limited to:

- (1) owner-occupied duplexes, and triplexes;
- (2) those being withdrawn from the rental market, including properties to be occupied by the owner or an immediate family member as a primary residence; and
- (3) those in need of substantial renovations which preclude occupancy.

(c) Such ordinance shall include provisions that:

- (1) mitigate potential negative impacts on tenants and property owners, including but not limited to requirements of adequate notice and reasonable relocation expenses,
- (2) provide for a reasonable probationary period after initial occupancy, and
- (3) limit unreasonable rent increases to prevent de facto evictions or non-renewals, although this shall not be construed to limit rents beyond the purpose of preventing individual evictions.

(d) The ordinance shall define what is 'reasonable' and 'adequate notice' in defining just cause and shall require that landlords provide notice of just cause and other legal requirements as part of the rental agreement.

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### ***Subchapter 2: Officers***

#### **§ 117-201. Officers generally**

The elected officers of the Town of Essex shall be Selectboard members and Moderator. These officers shall have all the powers and duties necessary to carry out the provisions of this charter as well as those provided by law.

#### **§ 117-202. Selectboard- Number, terms of office, election**

- (a) There shall be a Selectboard consisting of five members.
- (b) The terms of office of Selectboard members shall be for three years and the term of the officers shall commence on the first day of the month following the month of the election.
- (c) Unless necessary to fill a vacancy, no more than two Selectboard members shall be elected at any annual meeting. Notwithstanding, the terms of the presently elected Selectboard members shall not be modified by this section.
- (d) All Selectboard members shall be elected at large.

#### **§ 117-203. Compensation of Selectboard; appointees (previously § 117-208)**

(a) Compensation paid to the Selectboard members shall be set by the voters at the annual meeting, with a minimum of \$1500.00 a year each. Selectboard members' salaries must be set forth as a separate item in the annual budget presented to the meeting.

- (i) Selectboard members have the option to decline to take a salary for their service at any time during their term
- (ii) Selectboard members that have previously declined to take a salary at any time during their term may, at any time during their term request to resume their salary. Such salary will commence on the next full pay period and no back salary will be due.
- (iii) Selectboard members' can only request to decline or resume their salary once per term year.

(b) The Selectboard shall fix the compensation of all officers and employees, except as otherwise provided in this charter.

#### **§ 117-204. Organization (previously § 117-203)**

(a) As soon as practicable after the first day of the month of the month following annual Town meeting, the Selectboard shall organize and elect a Chairperson, Vice Chairperson and Clerk by a majority vote of the entire Board, and shall file a certificate of the election for record of the election of Selectboard Chairperson, Vice Chairperson and Clerk, in the office of the Town Clerk.

(b) The Chairperson of the Selectboard or in the Chairperson's absence, the Vice Chairperson, shall preside at all meetings of the Board and shall be recognized as the head of the Town government for all ceremonial purposes.

(c) In the event of a Selectboard member's or Town Moderator death, resignation, or removal from office or forfeiture of office in any manner authorized by this charter or law, of any Selectboard member or Town Moderator, the remaining members of the Board may appoint a person eligible to fill that position. At the next annual meeting, the vacancy shall be filled by election to serve the remaining balance of the term. A Selectboard member or Town Moderator shall be in forfeiture of office if the Selectboard member or Town Moderator:

1. No longer is a resident of the Town of Essex,
2. Violates any express prohibition of this charter, or
3. For select board members only, and not the Town moderator, Fails to attend at least 50 percent of the meetings of the Board in any calendar year.

(d) In the event the Board is unable to agree upon an interim replacement until the next annual Town meeting, a special election shall be held forthwith to fill the vacant membership position.

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### § 117-205. Recall of Selectboard Members

(a) A petition ~~signed~~ by fifteen percent of the registered voters of the municipality, based upon the total number of registered voters at the last preceding municipal election, demanding the election of a successor to the Selectboard member or members cited in the petition shall be filed with the Board of Civil Authority. The allowable grounds for removal are misconduct, malfeasance, nonfeasance, crimes in office, gross incompetency, corruption, ~~or theft, or gross partiality~~. The petition shall contain a specific statement of the grounds on which removal is sought. Disagreements with decisions made by the Selectboard on policy issues shall not be grounds for recall.

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(b) The Board of Civil Authority shall certify if the aforementioned grounds for removal have been met. The approval or rejection of such a petition shall be preceded by a public meeting held by the Board of Civil Authority at which time testimony is taken in support of or opposition to the petition. The Selectboard member or members named in the recall petition shall not sit as a member of the Board of Civil Authority for the purpose of this hearing and certification vote.

(c) If the Board of Civil Authority certifies that the petition meets the grounds for dismissal, that Board shall refer the petition to the Selectboard, which shall call for a public vote on the petition.

(d) The Selectboard member shall be removed only if at least as many registered voters of the Town vote as voted in the election wherein the officer was elected, or at least one-third of the registered voters of the Town vote, whichever is greater, and a majority of that number vote for removal. The Selectboard member or members shall be removed from office immediately and the Selectboard shall then name a successor in accordance with the replacement provisions of this Charter.

### § 117-206. Meetings (previously § 117-204)

(a) As soon as possible after the election of the Chairperson and Vice Chairperson, the Selectboard shall fix the time and place of its regular meetings and such meetings shall be held at least once a month.

(b) The Board shall determine its own rules and order of business.

(c) The presence of three members shall constitute a quorum.

(d) All meetings of the Board shall be open to the public unless, by an affirmative vote of the majority of the members present, the Board shall vote that any particular session shall be an executive session in accordance with 1 V.S.A. § 313.

(e) The abuse of executive sessions is offensive to the purpose of open meetings. The Selectboard should rarely use executive sessions. In making a motion to go into executive session, the Selectboard must publicly announce the specific matter to be discussed in such session and must detail its rationale for finding that "premature general public knowledge would clearly place the public body or person involved at a substantial disadvantage."

### § 117-207. Recording of proceedings (previously § 117-205)

(a) An official record of the proceedings (meeting minutes ~~—, which shall mean printed and or electronic copies of written minutes and not recordings of the meeting digital, text only~~), of the Selectboard shall be kept by its Clerk, who need not be a member of the Selectboard, which shall be kept in the office of the Town Clerk and shall be open for public inspection. The Town Clerk shall keep official record of the proceedings ~~(meeting minutes — printed and digital, text only)~~ of all special and annual Town meetings. Minutes of meetings shall be available on the Town website.

(b) Minutes shall cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting. Minutes shall include at least the following minimal information:

- (i) all members of the public body present;
- (ii) all other active participants in the meeting;
- (iii) all motions, proposals, and resolutions made, offered, and considered, and what disposition is made of the same; and

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(iv) the results of any votes, with a record of the individual vote of each member if a roll call is taken.

(b) The minutes of each meeting shall be approved by the Board at its next meeting and the official copy authenticated by the signature of the Clerk of the Board. Only the printed copy needs to be signed.

### **§ 117-208. Powers and duties (previously § 117-209)**

(a) The members of the Selectboard shall constitute the legislative body of the Town of Essex for all purposes required by statute and shall have all powers and authority given to, and perform all duties required of town legislative bodies or selectboards under the laws of the State of Vermont.

(b) Within the limitations of the foregoing, the Selectboard shall have the power to:

(1) appoint and remove the Town Manager and supervise, create, change, and abolish offices, commissions, or departments other than the offices, commissions, or departments established by this charter;

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(2) appoint the members of all boards, commissions, committees, or similar bodies unless specifically provided otherwise by this charter;

(3) provide for an independent audit by a registered or certified public accountant;

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(4) inquire into the conduct of any officer, commission, or department and investigate any and all municipal affairs;

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(5) exercise each and every other power that is not specifically set forth herein, but that is granted to the Selectboard by the statutes of the State of Vermont.

### **§ 117-209. Appointments by Selectboard (previously § 117-206)**

(a) The Selectboard shall appoint the members of the following permanent Commissions and positions:

(1) Development Review Board (will replace the Zoning Board on of Adjustment on or before July 1, 2024; ~~and~~ members ~~to shall~~ be appointed on or before but no later than July 1, 2024);

(2) Zoning Board of Adjustment (will be replaced by Development Review Board on or before but not later than July 1, 2024, all appointed terms ~~to shall end at that time when the Board terminates or sooner~~);

(3) Planning Commission;

(4) Commission on Public Safety;

~~(5)~~ Cemetery Commission;

~~(6)~~ Town Attorney;

~~(7)~~ Town Manager; and

~~(8) Energy Coordinator-~~

(b) The Selectboard may appoint such additional commissions and committees as they feel to be in the best interest of the Town and all other appointive or elective officers authorized by statute.

(c) The terms of all appointments shall commence on the day after the day of appointment unless the appointment is to fill a vacancy in an office, in which case the term shall commence at the time of appointment.

### **§ 117-210. Jurisdiction over other officers or employees (previously § 117-207)**

Neither the Selectboard nor any of its members shall direct or request the appointment, by any other officer or employee of the Town, of any person to office or employment, or his or her suspension or removal therefrom, or in any manner take part in the appointment, discipline, or removal of subordinates and employees of the Town, except as otherwise provided in this charter. The Selectboard and its members shall deal with that portion of the service of the Town for which the Manager is responsible solely through the Manager. This shall not be construed to prohibit the Selectboard from recommending to the Town Manager a prospective employee for his or her consideration, or bringing

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to the attention of the Manager any complaint concerning the actions of any officer or employee of the Town. This section shall not be construed to prohibit the review by the Selectboard of actions by the Manager or hearings brought to the Selectboard by employees pursuant to appellate rights granted them by statute.

### ***Subchapter 3: Ordinances (previously §§ 105(a), 106-108, and 304-305)***

#### **§ 117-301. Ordinances- Method of adoption and enforcement (previously § 117-106)**

Every ordinance shall be introduced in writing. The enacting clause of all ordinances shall be "The Selectboard of the Town of Essex hereby ordains...".

#### **§ 117-302. Publication (previously § 117-106)**

(a) If the Selectboard passes the proposed ordinance upon first reading they shall cause it to be entered into the minutes of the Selectboard meeting and posted in at least five conspicuous places within the Town within 14 days following the date when the proposed ordinance was adopted. The Selectboard, through the Town Clerk, shall arrange for one formal publication of the proposed ordinance in the form passed or a concise summary thereof published in a newspaper of general circulation in the Town circulating in the Town on a day not more than 14 days following the date when the proposed ordinance was passed by the Selectboard in the form passed, or a concise summary of it. The first formal publication of the proposed ordinance shall be at least one week prior to the date of said the public hearing on the same.

(b) The following information shall be included in the formal publication of the proposed ordinance:

- (i) The name of the Town;
- (ii) The name of the Town's website;
- (iii) The title and subject of the proposed ordinance;
- (iv) The name, telephone number, and mailing address of a Town official designated to answer questions and receive comments on the proposed ordinance;
- (v) A statement of the proposed ordinance's purpose, principal provisions, and table of contents or list of section headings;
- (vi) The location within the Town where copies of the full text of the proposed ordinance may be examined;
- (vii) An explanation of citizens' rights to petition for a vote on the proposed ordinance at an annual or special meeting, as provided in 24 V.S.A. § 1973; and
- (viii) The time and place a public hearing will be held to consider the proposed ordinance for final passage;

(c) The first such publication shall be at least one week prior to the date of the scheduled public hearing.

#### **§ 117-303. Consideration, Public Hearing, and Adoption**

(a) At the time and place so advertised for the public hearing, or at any time and place to which such public hearing may from time to time be adjourned, the proposed ordinance shall be introduced and read in full, except that by vote of a majority of the Selectboard the ordinance may be read by title, and after such reading, all persons interested shall be given an opportunity to be heard.

(b) After the public hearing, the Selectboard may finally pass the ordinance with or without amendment, except that if the Selectboard makes an amendment they shall cause the amended ordinance to be published pursuant to section 106(a) hereof at least once together with a notice of the time and place of a public hearing at which the amended ordinance will be further considered, which publication shall be at least three days prior to the public hearing.

(c) At the time so advertised for the public hearing regarding the amended proposed ordinance or at any time and place to which the public hearing may be adjourned, the amended ordinance shall be introduced, and after the public hearing, the Selectboard may pass the amended ordinance, or again amend it subject to the same procedures as outlined herein.

#### **§ 117-304. Enforcement (previously § 117-105(a))**

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(a) The Selectboard may:

- (i) provide **for** monetary penalties or injunctive relief for the breach of any ordinance authorized by general law or this charter;
- (ii) prosecute any person violating the same through the Town Attorney, Town legal counsel, police officers, or any other duly authorized prosecuting officer, who, for such purposes, shall be informing officers; and
- (iii) maintain actions to restrain actual or threatened violations of the same.

**(b)(iv)** The establishment of any fine or penalty shall be by ordinance.

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### **§ 117-305. Effective date (previously § 117-107)**

Every ordinance shall become effective upon passage unless otherwise specified in the ordinance. If adoption of the ordinance by the Selectboard is conditioned upon approval of the voters of the Town, then the ordinance shall become effective upon a favorable vote by Australian ballot of a majority of those voting at a special or annual Town meeting.

### **§ 117-306. Filing and Accessibility (previously § 117-108)**

The Town Clerk shall prepare and keep in the Town Clerk's office the ordinances passed by the Selectboard, together with a complete index of the ordinances according to subject matter. Town ordinances shall be available on the Town website.

### **§ 117-307. Repeal of Ordinances (previously § 117-304)**

All Town ordinances may be repealed by a vote of the Town at a special or annual Town meeting, as follows:

If, within 44 days after passage of an ordinance or rule by the Selectboard, a petition signed by voters of the Town not less in number than five percent of the registered voters of the Town is filed with the Town Clerk requesting that the ordinance be referred to a special or annual Town meeting, the Selectboard shall fix the time and place of such meeting. The special or annual Town meeting to which the ordinance has been referred shall be held within 60 days after the filing of the petition. Notice of said meeting shall be given in the manner provided by law in the calling of a special or annual Town meeting and with 24 V.S.A. § 1973. Voting shall be by Australian ballot. An ordinance so referred shall remain in effect upon the conclusion of the meeting or shall become effective at such later date as is specified in the ordinance or rule, unless those voting against the ordinance at the special or annual Town meeting exceeds five percent of the registered voters of the Town.

### **§ 117-308.5. Petition for enactment of ordinance; special meeting (previously § 117-305)**

(a) Subject to the provisions of section 307, 304 of this charter, voters of the Town may at any time petition, in the manner set forth in section 307, 304 of this charter, for the enactment of any lawful ordinance by filing the petition and the text of the ordinance; with the Town Clerk. The Selectboard shall call a special meeting or include the ordinance as business at an annual meeting, if the annual meeting is to be held within 60 days of when the petition is filed with the Town Clerk. The special meeting or annual meeting at which the proposed ordinance will be voted on shall be held within 60 days of the date of the filing of the petition with the Town Clerk, unless prior to the meeting Selectboard shall have enacted the ordinance.

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The warning for the meeting shall include the text of the proposed ordinance in full or in concise summary and shall provide for an Australian ballot vote as to the enactment of the proposed ordinance. The ordinance shall be adopted if the majority of those voters casting a vote on the proposed ordinance at the meeting do so in favor of enacting the ordinance. If adopted, the ordinance shall take effect on the 10th day following its adoption.

(b) The proposed ordinance shall be examined by the Town Attorney before being submitted to the special meeting or annual meeting. The Town Attorney is authorized, subject to the approval of the Selectboard, to correct the ordinance so as to avoid repetitions, illegalities, and unconstitutional provisions and to ensure accuracy in its text and references and clearness and preciseness in its phraseology. However, the Town Attorney shall not materially change the meaning and effect of the proposed ordinance.

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(c) The provisions of this section shall not apply to the appointments of officers, members of commissions, or boards made by the Selectboard or to rules governing the procedures of the Selectboard. ~~Except as provided in § 117-210 Recall of Selectboard Members,~~ the provisions of this section shall not apply to the appointment or designation of Selectboard members.

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### **Subchapter 4: Town Manager Powers and Duties (previously Subchapter 6)**

#### **§ 117-401. Appointment of Manager (previously § 117-601, in part)**

The Selectboard shall appoint by a majority vote of its total membership, a Town Manager under and in accordance with Vermont Statutes Annotated, as amended from time-to-time, hereafter. The Selectboard shall allow an opportunity for public input prior to the selection of Town Manager. The Town Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The manager need not be a resident of the city or state at the time of appointment and may reside outside the Town.

#### **§ 117-402. Responsibilities, Powers, and Duties (previously § 117-601, in part)**

(a) In general, the Town Manager shall be accountable to the Selectboard. The Manager shall be the chief executive officer of the Town and have all the powers and duties as set forth in this charter.

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(b) The Town Manager shall attend all Selectboard meetings. The Town ~~Manager~~ shall have the right to take part in discussion but may not vote.

(c) The Town Manager shall make recommendations to the Selectboard concerning the affairs of the Town and facilitate the work of the Selectboard in developing policy.

(d) The Town Manager shall see that all provisions of this charter and acts of the Selectboard are faithfully executed. They shall also keep the Selectboard informed of the financial condition and future needs of the Town.

(e) The Town Manager shall prepare the annual budget and submit it to the Selectboard and be responsible for its administration after adoption.

(f) The Town Manager shall perform such other duties as are specified in this charter or as may be required by the Selectboard.

#### **§ 117-403. Appointments by Town Manager (previously § 117-602, 901, 902)**

(a) ~~After consultation and approval from with the Selectboard,~~ the Town Manager shall appoint the Town Clerk, Town Treasurer, Assistant Town Clerk, Director of Public Works, Police Chief, Fire Chief, a Town Agent if the Town Attorney is not a resident of the Town of Essex, ~~Cemetery Commissioners,~~ a Health Officer, ~~Fire Wardens,~~ a Zoning Administrator. ~~If needed,~~ the Town Manager may appoint any other officer that the Selectboard is authorized to appoint if the Selectboard has not filled the office within 45 days from the day the position becomes vacant. The terms of the appointed officials shall commence on the first day of April following appointment. Appointments to fill a vacancy in an office shall be effective at the time of appointment and shall run for the unexpired period of the term.

(b) All Town employees not elected by the voters shall be appointed, supervised, and removed by the Town Manager or the Town Manager's representatives, unless otherwise specified by this charter. Appointments, lay-offs, suspensions, promotions, demotions, and removals shall be made primarily on the basis of training, experience, fitness, and performance of duties, in accordance with State law and in such a manner as to ensure that the responsible administrative officer Town may secure efficient service. The Town Manager shall adhere to all relevant employment statutes including 21 V.S.A. § 495.

(c) The Town Manager or the Town Manager's appointee shall be the Personnel Director. The Town Manager shall maintain personnel rules and regulations protecting the interests of the Town and of the employees. These rules and regulations must be approved by the Selectboard and shall include the procedure for amending them and for placing them into practice. Each employee shall receive a copy of the rules and regulations when that employee is hired.

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(de)- The rules and regulations may deal with the following subjects or with other similar matters of personnel administration: job classification, jobs to be filled, tenure, retirement, pensions, leaves of absence, vacations, holidays, hours and days of work, group insurance, salary plans, rules governing hiring, temporary appointments, lay-off, reinstatement, promotion, transfer, demotion, settlement of disputes, dismissal, probationary periods, permanent or continuing status, in-service training, injury, employee records, and further regulations concerning the hearing of appeals.

### **§ 117-~~903~~404. Prohibitions**

No person in the service of the Town shall:

- (1) Either directly or indirectly give, render, pay, or receive any service or other valuable thing for or on account of or in connection with any appointment, proposed appointment, promotion, or proposed promotion.
- (2) Be appointed to or removed from, or in any way favored or discriminated against with respect to any Town position because of race, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.
- (3) Willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (4) Knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any Town election.
- (5) Knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a ~~city-Town~~ election or to campaign funds to be used in support of or opposition to any candidate for election to Town office or Town ballot issue. Further, person in service of the Town shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for Town office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

### **Subchapter 5: Annual Meeting (previously §§ 117-109, 201-302, 703)**

#### **§ 117-501. Application of general law (previously § 117-301)**

Provisions of the laws of the State of Vermont relating to the qualifications of voters, the manner of voting, the duties of election officers, and all other particulars respective to preparation for, conducting, and management of elections, so far as they may be applicable, shall govern all municipal elections, and all general and special meetings, except as otherwise provided in this charter.

#### **§ 117-502. Annual Town report (previously § 117-109 and 703)**

The annual Town report ~~and the proposed budget~~ shall be ~~made available distributed~~ to the ~~legal-registered~~ voters of the Town not later than ~~104~~ days prior to the annual meeting. ~~Notification of the availability of the Annual Town Report and the warning for the annual meeting shall be distributed by postcard or digitally to all registered voters at least 14 days prior to the Annual Meeting.~~

~~Notification of the annual Town report availability shall be distributed (by postcard or digitally) to the legal voters of the Town not later than 15 days prior to the annual meeting. This notification will contain statutory information and where a printed or digital copy of the full report can be obtained.~~

#### **§ 117-503. Town meeting warning and budget (previously § 117-703)**

~~The proposed budget and the warning for the annual meeting shall be distributed to the legal voters of the Town at least 10 days before the annual meeting. In addition, the Selectboard shall comply with the statutory requirements applicable to town meetings in the warning of any annual or special meeting.~~

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### **§ 117-504. Time of holding (previously § 117-302)**

(a) The annual meeting of legal voters shall be held at 7:30 p.m. of the day specified in 17 V.S.A. § 2640(b), as the same may from time to time be amended, and may transact at that time any business not involving voting by Australian ballot or voting required by law to be by ballot. A meeting so started shall be adjourned until the following day in order for Australian balloting to take place.

(b) The election of officers and the voting on all questions to be decided by Australian ballot or voting required by law to be by ballot shall take place on the day specified in 17 V.S.A. § 2640(a), which may from time to time be amended. The ballot boxes or voting machines shall be open for a minimum of nine consecutive hours between 6:00 a.m. and 10:00 p.m. as shall be determined and warned by the Selectboard.

### **Subchapter 6: Budget (previously 303, 701-705, 707)**

#### **§ 117-601. Fiscal year (previously § 117-701)**

The fiscal year of the Town shall begin on the first day of July and end on the last day of June of each calendar year. The fiscal year shall constitute the budget and accounting year as used in this charter. In the event of a consolidation between the Essex Town School District and the Village of Essex Junction Graded School District, the consolidated entity shall adopt the same fiscal year as the Town.

#### **§ 117-602. Preparation and submission (previously § 117-702)**

(a) The Town Manager, at least 50 days before annual Town meeting, or at such previous time as the Town Manager may be directed by the Selectboard, shall submit to the Selectboard a budget containing:

- (1) An estimate of the financial condition of the Town as of the end of the fiscal year.
- (2) An itemized statement of appropriations recommended for current expenses, and for capital improvements, during the next fiscal year; with comparative statements in parallel columns of appropriations and estimated expenditures for the current fiscal year and actual appropriations and expenditures for the immediate preceding fiscal year.
- (3) An itemized statement of estimated revenues from all sources, other than taxation, for the next fiscal year; and comparative figures of tax and other sources of revenue for the current and immediate preceding fiscal years.
- (4) A capital budget for the next five fiscal years, showing anticipated capital expenditures, financing, and tax requirements.
- (5) Such other information as may be required by the Selectboard.

(b) The budget shall be published not later than two weeks after its preliminary adoption by the Selectboard. The board shall fix the time and place for holding a public hearing for the budget, and shall give a public notice of such hearing. The board shall then review the budget and recommend it, with or without change, to the annual Town meeting.

#### **§ 117-603. Budget at Annual Meeting (previously § 117-303)**

(a) An annual budget shall be presented at the annual meeting. The annual meeting shall be adjourned until the following day when ~~in person~~-voting by Australian ballot shall take place. ~~The voting will also take place by Australian ballot.~~

(b) If, after the total budget has been appropriated, the Selectboard finds additional appropriations necessary, the appropriations shall be made and reported at the next Town meeting as a specific item. The appropriations shall only be made in special circumstances or situations of an emergency nature. No specific explanation need be given for any normal annual operating expense in any office, department, or agency that may be increased over the budget amount by an amount not more than 10 percent of the office's, department's, or agency's budget.

#### **§ 117-604. Appropriation (previously § 117-704)**

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From the effective date of the budget, the several amounts stated therein, as approved by the annual town meeting, become appropriated to the several agencies and purposes therein named.

### **§ 117-605. Amount to be raised by taxation (previously § 117-705)**

Upon passage of the budget by the annual Town meeting, the amounts stated therein as the amount to be raised by taxes shall constitute a determination of the amount of the levy for the purposes of the Town in the corresponding tax year and the Selectboard shall levy such taxes on the grand list by the Assessor for the corresponding tax year.

### **§ 117-606. Transfers of appropriations (previously § 117-707)**

(a) The Manager may at any time transfer an unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department, or agency.

(b) At the request of the Manager, the Selectboard may, by resolution, transfer any unencumbered appropriation balance or portion thereof within the Selectboard's budget from one department, office, or agency to another. Notwithstanding the above, no unexpended balance in any appropriation not included in the Selectboard's budget shall be transferred or used for any other purpose.

### ***Subchapter 7: Taxation (previously subchapter 8)***

### **§ 117-701. Taxes on real and personal property (previously § 117-801)**

Taxes on real and personal property shall be paid in two equal payments, with one-half of the annual tax bill for each taxpayer due and payable on September 15 and March 15 of each fiscal year.

### **§ 117-702. Local Option Tax**

(a) If the Selectboard, after following the procedures set forth in Section [ADOPTION OF ORDINANCE, 4(A) HEREIN], by a majority vote, so recommends, the voters of the Town may, cast by Australian ballot at an annual or special meeting warned for the purpose, by a majority vote of those ~~present and~~ voting, assess any or all of the following:

- (i) a one-percent sales tax;
- (ii) a one-percent meals and alcoholic beverages tax;
- (iii) a one-percent rooms tax;
- (iv) a one-percent cannabis sales tax;

(b) Any local option tax assessed under subsection (a) of this section shall be collected and administered and may be rescinded as provided by the general laws of this State.

### **§ 117-~~703~~03. Penalty (previously § 117-802)**

(a) An additional charge of eight percent shall be added to any tax not paid on or before five days after the dates specified in section 801 of this charter.

(b) An additional interest charge in an amount authorized by Vermont statutes shall be added to any tax, exclusive of assessed penalties, not paid on or before five days after the dates specified in section [CURRENT SECTION 801] of this charter.

### **§ 117-~~703~~4. Board of Abatement (previously § 117-803)**

The Board of Civil Authority shall constitute a Board of Abatement as provided by law. The Board of Abatement shall meet and discharge its duties as required by the applicable statutory provisions.

### **§ 117-~~704~~705. Assessment and taxation agreement (previously § 117-804)**

Notwithstanding any other provisions of this charter and the requirements of the general law of the State of Vermont, the Selectboard or Town assessor is authorized to negotiate assessment and taxation agreements, and the Selectboard is authorized to execute assessment and taxation agreements between the Town and a taxpayer or taxpayers within the Town consistent with applicable requirements of the Vermont Constitution.

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### ***Subchapter 8: Planning, ~~and~~ Development, and Public Safety (previously Subchapter 4)***

#### **§ 117-801. Planning Commission (previously § 117-401)**

There shall be a Planning Commission and its powers, obligations, and operation shall be under and in accordance with Vermont Statutes Annotated, as they may be amended from time to time hereafter. The Planning Commission shall consist of five members and alternate members as necessary, appointed by the Town Selectboard in accordance with 24 V.S.A. §§ 4322-4323, as may be amended from time to time. Members of the Commission shall hold no other Town office.

#### **§ 117-802. Development Review Board**

A Development Review Board shall be established and its powers, obligations, and operation shall be under and in accordance with Vermont Statutes Annotated, as they may be amended from time to time hereafter. The Development Review Board shall consist of five regular members and alternate members as necessary, appointed by the Town Selectboard in accordance with 24 V.S.A. § 4460, as may be amended from time to time.

#### **§ 117-803. Energy-~~R~~related ~~i~~ssues**

The Selectboard ~~may~~ shall appoint an individual to serve as an energy coordinator to advise it, the Planning Commission and the Development Review Board on energy-related considerations in accordance with and given such responsibilities as described in 24 V.S.A. § 1131, as may be amended from time to time.

#### **§ 117-804 – Transition ~~P~~rovisions**

The Planning Commission and the Development Review Board as described in § 117-401 and § 117-402 shall take effect within one year after enactment of this Charter ~~or July 1, 2024, whichever date is earlier~~. All terms for members of the existing Planning Commission and Zoning Board of Appeals shall end upon the creation of the new Planning Commission and Development Review Board as described above.

#### **§ 117-405 – Commission of Public Safety**

The Commission of Public Safety shall provide advice and counsel to the Police Chief and the Fire Chief in carrying out ~~their~~ ~~the~~ ~~Police Chief's and Fire Chief's~~ respective responsibilities for the management, supervision, and control of the Essex Town Police and Fire Departments. The Commission may also convene hearings to provide public input regarding police and fire department operations. The Public Safety Commission shall be composed of five members and alternate members as necessary, appointed by the Town Selectboard after consultation with Essex's Best. No member so appointed shall have a direct connection with the Essex Town Police or Fire Department, although one member can be retired police officer or firefighter.

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### ***Subchapter 9: Department of Assessment (previously subchapter 5)***

#### **§ 117-901. Creation of Department (previously § 117-501)**

There shall be established a Department of Assessment headed by a professionally qualified real estate appraiser, who shall be appointed by the Manager with the approval of the Selectboard.

#### **§ 117-902. Purpose (previously § 117-505)**

The purpose of the Department Assessment is to provide for appointment of a qualified real estate appraiser rather than the election of listers. The Town shall be governed by, and each taxpayer shall have rights granted by the applicable statutes concerning real and personal property taxation, appeal therefrom, and other statutes concerning taxation.

#### **§ 117-903. Appraisal of property (previously § 117-502)**

The Department of Assessment shall appraise all real property for the purpose of establishing the grand list. The department shall review, or cause to be reviewed, the appraisals of all real property in the town that is subject to taxation in accordance with the standards for appraising established by the laws of the State of Vermont.

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### **§ 117-904. Appraisal of business personal property for tax purposes (previously § 117-503)**

Appraisal of business personal property shall be in accordance with the provisions of 32 V.S.A. § 3618, as the same may from time to time be amended provided that all business personal property acquired by a taxpayer after September 30, 1995, shall be exempt from tax.

### **§ 117-905. Powers and duties (previously § 117-504)**

The Department of Assessment shall have the same power, discharge the same duties, proceed in the discharge of in the same manner, and be subject to the same liabilities as are prescribed for listers or the board of listers under the law of this state, except as herein otherwise noted.

### ***Subchapter 10: Amendment of Charter and Initiatives***

#### **§ 117-1001. Laws governing**

This charter may be amended in accordance with the procedure provided for by state statutes for amendment of municipal charters.

### ***Subchapter 11: General***

#### **§ 1101 Savings Clause**

Repeal or modification of this charter shall not affect the validity of previously enacted ordinance, resolution, or bylaw.

#### **§ 1102 ~~Separability~~ Severability of Provisions**

The provisions of this charter are declared to be severable. If any provisions of this charter are for any reason invalid, such invalidity shall not affect the remaining provisions, which can be given effect without the invalid provision.