

Title 24 Appendix: Municipal Charters

Chapter 117: Town Of Essex

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 except by annexation procedures as set forth in the statutes of the State of Vermont.

§ 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; it may enact ordinances, bylaws, and regulations not inconsistent with the Constitution and laws of the State of Vermont or with this charter, and impose penalties for the violation thereof.
- (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.
- (d) The Town may establish and maintain an electric power system and regulate power line installations; provided, however, that the Town shall have no authority under this charter that conflicts with that authority granted to the Public Service Department or any other State regulatory agency.

§ 117-104. [Repealed.]

§ 117-105. Reservation of powers to the Town

Nothing in this charter shall be so construed as 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 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

(a) The Selectboard may provide penalties for the breach of any ordinance authorized by general law or this charter, may prosecute any person violating the same through the Town Grand Juror or police officers who for such purposes shall be informing officers, and may maintain actions to restrain actual or threatened violations of the same; the establishment of any fine or penalty shall be by ordinance.

(b) Ordinance-making authority granted to the Town by this charter and general law shall be exercised pursuant to the provisions of Subchapter 3 of this charter.

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. The terms of the officers shall commence on the first day of the month following the month of election.

§ 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.

(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

(a) Compensation paid to the Selectboard members shall be set by the voters at the annual meeting, with a minimum of \$500.00 a year each. Selectboard members' salaries must be set forth as a separate item in the annual budget presented to the meeting.

§ 117-204. Organization

(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 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 death, resignation, or incapacity of any Selectboard member, 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 serving the remaining balance of the term. Incapacity shall include the failure by any member of the Board to attend at least 50 per cent of the meetings of the Board in any calendar year. 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 position.

§ 117-205. Meetings

(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.

§ 117-206. Record of proceedings

(a) An official record of the proceedings 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 of all special and annual Town meetings.

§ 117-207. Powers and duties

(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;

(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;

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

(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.

§ 117-208. Appointments by Selectboard

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

(1) Zoning Board of Adjustment;

(2) Planning Commission;

(3) Town Attorney;

(4) Town Manager.

(b) The Selectboard may appoint such additional commissions 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.

§ 117-209. Jurisdiction over other officers or employees

Subchapter 3: Ordinances

§ 117-301. Introduction; first and second readings; public hearing

(a) Every ordinance shall be introduced in writing. The enacting clause of all ordinances shall be "The Selectboard of the Town of Essex hereby ordains...". If the Selectboard passes the proposed ordinance upon first reading they shall cause it to be published in a newspaper of general circulation in the Town in the form passed, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, together with a reference to a place within the Town where copies of the full text of the proposed ordinance may be examined, at least once, together with a notice of the time and place when and where there will be a public hearing to consider the same for final passage. The first such publication shall be at least one week prior to the date of said public hearing. Any published notice shall explain citizens' rights to petition for a vote on the ordinance at an annual or special meeting pursuant to 24 V.S.A. § 1973 and shall also contain the name, address, and telephone number of a person with knowledge of the ordinance who is available to answer questions about it.

(b) At the time and place so advertised, or at any time and place to which the hearing may from time to time be adjourned, the ordinance shall be introduced, and thereafter, all persons interested shall be given an opportunity to be heard.

§ 117-302. Effective date

Every ordinance shall become effective upon passage unless otherwise specified.

§ 117-303. Filing

The Town Clerk shall prepare and keep in the Town Clerk's office a book of ordinances that shall contain each ordinance finally passed by the Selectboard, together that a complete index of the ordinances according to subject matter.

§ 117-304. Rescission of ordinances

All ordinances shall be subject to rescission by a special or annual Town meeting, as follows: If, within 44 days after final passage by the Selectboard of any such ordinance, a petition signed by voters of the Town not less in number than five percent of the qualified voters of the municipality is filed with the Town Clerk requesting its reference to a special or annual Town meeting, the Selectboard shall fix the time and place of the meeting, which shall be within 60 days after the filing of the petition, and notice thereof shall be given in the manner provided by law in the calling of a special or annual Town meeting. Voting shall be by Australian ballot. An ordinance so referred shall remain in effect upon the conclusion of the meeting unless a majority of those present and voting against the ordinance at the special or annual Town meeting exceeds five percent in number of the qualified voters of the municipality.

§ 117-305. Petition for enactment of ordinance; special meeting

(a) Subject to the provisions of section 304 of this charter, voters of the Town may at any time petition in the same manner as in section 304 for the enactment of any proposed lawful ordinance by filing the petition, including the text of the ordinance, with the Town Clerk. The Selectboard shall call a special Town meeting (or include the ordinance as annual meeting business) to be held within 60 days of the date of the filing, unless prior to the meeting the ordinance shall be enacted by the Selectboard. The warning for the meeting shall state the proposed ordinance in full or in concise

summary and shall provide for an Australian ballot vote as to its enactment. The ordinance shall take effect on the 10th day after the conclusion of the meeting provided that voters as qualified in section 304, constituting a majority of those voting thereon, shall have voted in the affirmative.

(b) The proposed ordinance shall be examined by the Town Attorney before being submitted to the special Town 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, but the Town Attorney shall not materially change its meaning and effect.

Subchapter 4: Town Manager

§ 117-401. Appointment of Manager

The Selectboard shall appoint a Town Manager under and in accordance with Vermont Statutes Annotated, as amended from time to time hereafter. The Manager shall have all of the powers and duties as set forth in that chapter and in this charter.

§ 117-402. Officials appointed by Manager

The Town Manager shall appoint with the approval of the Selectboard Town Clerk, Town Treasurer, Assistant Town Clerk, constables, Grand Juror, Director of Public Works, Police Chief, a Town Agent if the Town Attorney is not a resident of the Town of Essex, cemetery commissioners, Health Officer, fire wardens, Zoning Administrator, and, if needed, the Town Manager may appoint fence viewers, Inspector of Lumber and Shingles, and any other officer that the Selectboard of a Town is authorized to appoint if the Selectboard has not filled the office. 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. (Amended 1999, No. M-1, eff. Jan. 1, 1999.)

Subchapter 5: Personnel

§ 117-501. Appointment and removal

All Town employees not elected by the voters shall be appointed, supervised, and removed by the Town Manager unless otherwise specified by this charter. There shall be no discrimination in employment on account of race, religion, sex, or political opinions. Appointments, lay-offs, suspensions, promotions, demotions, and removals shall be made primarily on the basis of training, experience, fitness, and performance of duties, in such manner as to insure that the responsible administrative officer may secure efficient service.

§ 117-502. Personnel rules and regulations

(a) 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 he or she is hired.

(b) 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.

§ 117-503. Prohibitions

Subchapter 6: Town Meeting – Amendment of Charter

§ 117-601. Application of general law

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.

§ 117-602. Annual Town report

The annual Town report shall be distributed to the legal voters of the Town not later than 10 days prior to the annual meeting.

§ 117-603. Town meeting warning and budget

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.

§ 117-604. Time of holding

(a) The annual meeting of legal voters shall be held at 7:30 o'clock in the afternoon 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.

Subchapter 7: Budget

§ 117-701. Fiscal year

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.

§ 117-702. Preparation and submission

(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.

§ 117-703. Budget

An annual budget shall be adopted at Town meeting by the vote of a majority of those eligible to vote present at the meeting. 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.

§ 117-704. Appropriation

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.

§ 117-705. Amount to be raised by taxation

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.

§ 117-706. [Reserved.]

§ 117-707. Transfers of appropriations

(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.

Subchapter 8: Taxation

§ 117-801. Taxes on real and personal property

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.

§ 117-802. Penalty

An additional charge of eight percent shall be added to any tax not paid on or before the dates specified in section 801 of this charter, and interest as authorized by Vermont statutes.

§ 117-803. Board of Abatement

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.

§ 117-804. Assessment and taxation agreement

Subchapter 9: Planning

§ 117-901. Board established

A Planning Commission 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.

Subchapter 10: Department of Real Estate Appraisal

§ 117-1001. Creation of Department

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

§ 117-1002. Purpose

The purpose of the Department of Real Estate Appraisal is to provide for appointment of a qualified real estate assessor 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.

§ 117-1003. Appraisal of property

The Department of Real Estate Appraisal shall appraise all real and business personal property for the purpose of establishing the grand list. Appraisals shall be reviewed periodically and kept up to date. Technically qualified individuals or firms may be employed as needed.

§ 117-1004. Appraisal of business personal property for tax purposes

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.

§ 117-1005. Duties of Department

Subchapter 11: Amendment Of Charter

§ 117-1101. Laws governing

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

Subchapter 12: Severability

§ 117-1201. Severability

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 that can be given effect without the invalid provision.