

Essex Merger Charter/Revised 8.17.20/EJ BOT

TOWN OF ESSEX

PREAMBLE

The inhabitants of the Town of Essex, including the historical, **unincorporated** Village of Essex Junction, are a corporate and political body under the name of "Town of Essex." As such, inhabitants enjoy all rights, immunities, powers, and privileges and are subject to all the duties and liabilities now appertaining to or incumbent upon them as a municipal corporation.

**Commented [gt1]:** Language taken directly from Town of Hartford Charter to explain relationship between town and unincorporated villages.

Subchapter 1: Transitional Provisions

§ 101 Adoption of town and village assets and liabilities

- (a) All assets and obligations formerly owned or held by the Town and Village shall become the assets and obligations of the new Town of Essex upon the effective date of the charter. This shall include all real property, easements, rights and interests in land, buildings and other improvements; vehicles, equipment, and other personal property; assessed but uncollected taxes, rents and charges, together with lien rights and enforcement powers; moneys, rights of action in legal or administrative proceedings; insurance policies; documents and records; debts, claims, bonded indebtedness; without any further act, deed, or instrument being necessary.
- (b) All contracts, agreements, trusts, and other binding written documents affecting the Town or Village shall remain in effect on the effective date of the charter, and the new Town of Essex shall assume all the responsibilities formerly belonging to the Town and Village unless otherwise specified. Pursuant to § 104, the unincorporated Village shall become a debt assessment district until the Village's residual bond debt is retired.

§ 102 Transition Period

The transition period shall begin not later than **July 1**, following the approval of the charter by the Legislature, and end on June 30 the year after approval of the charter. At the end of the transition period, the charter will become effective and the new Town of Essex shall be fully established and organized. Nothing in this section shall affect or limit other provisions in this subchapter or in other subchapters, which serve a transitional purpose and which by their own provisions continue beyond the transitional period. In such cases, transitional provisions intended to extend beyond the transitional period shall be governed by specific sunset terms. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt2]:** Inserted actual dates for clarity

§ 103 Organizational Municipal Meeting

The first annual Town meeting shall occur on Town Meeting Day following approval of the Charter. This shall be a unified meeting of the new municipality and shall be noticed

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and warned to all residents of the Town of Essex and unincorporated Village of Essex Junction. This meeting shall be for the purpose of presenting and discussing the budget only. Other (new Town) business may also be presented and discussed but not voted on. After presentation and discussion of the budget and any other business the meeting shall adjourn. Voting on the budget shall be by Australian ballot and shall occur on the same day as the budget vote for the Essex-Westford School District. Voting for new Essex Town elected officers shall also occur at this time. Time and holding of the meeting shall be pursuant to Subchapter 5 of the Town charter. The first annual Town meeting shall be jointly warned by the Village Trustees and Town Selectboard. The election of a moderator shall be the first order of business.

### § 104 Transitional Districts

Transitional district rates shall be set by the new Town Selectboard.

- (a) For a transitional period commencing from the July 1 effective date of the charter, the unincorporated Village of Essex Junction (formerly the incorporated Village of Essex Junction) shall be designated as a Debt Assessment District for the purpose of retiring the Village's residual bonded debt in existence before the transitional period. This residual debt is scheduled to retire in FY 2035.
- (b) For a transitional period of 12 years commencing from the July 1 effective date of the charter, the unincorporated Village of Essex Junction (formerly the incorporated Village of Essex Junction) shall be designated as a Tax Reconciliation District for the purpose of transferring the cost of the Village's municipal operations into the Town's operational budget.
- (c) For a transitional period of 12 years commencing from the July 1 effective date of the charter, the unincorporated Village of Essex Junction (formerly the incorporated Village of Essex Junction) shall be designated as a Sidewalk District for the purpose of levying a special tax on properties within the Village for the purpose of maintaining the Village's sidewalks, including snow removal and routine maintenance, but not capital repairs, in accordance with its previous sidewalk maintenance procedures prior to the merger.
- (d) For a transitional period of 12 years commencing from the July 1 effective date of the charter, the unincorporated Village of Essex Junction (formerly the incorporated Village of Essex Junction) shall be designated as a Capital Improvement District for the purpose of levying a special tax on properties within the Village for the purpose of paying for Village capital infrastructure projects on the Village's Capital Reserve Plan prior to the merger. The Capital Improvement District is not required to complete all projects in the plan prior to the end of the transitional period and the

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Selectboard shall designate in their proposed budgets which projects are to be completed in each new fiscal year of the transitional period.

- (e) For a transitional period of 12 years commencing from the July 1 effective date of the Charter, the Village Center Zone, as designated in the Essex Junction zoning plan, shall be designated as a Downtown Improvement District for the purpose of continuing the Village’s downtown revitalization efforts as outlined in the Village’s municipal plan, and shall retain any and all state designations for the purposes of redevelopment in force at the time of adoption of the Charter or until such designations are withdrawn or amended as per routine statutory process.

**[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt3]:** Revised former downtown district to remove specific tax mechanism. This creates the district but new board will need to determine if a special tax is to be raised.

**§ 105 Interim Governing Body**

- (a) For the transition period described in paragraph § 102 following the approval of the charter by the Legislature, all members of the former Town Selectboard and Village Trustees shall comprise an Interim Governing Body. In no event shall the Interim Governing Body consist of less than three trustees and three selectpersons. In the event of a resignation, the remaining members of the board on which the resignation occurred shall appoint a replacement chosen from the registered voters in the communities over which they have jurisdiction. The Interim Governing Body shall, schedule, warn, and hold meetings as appropriate. The former selectpersons shall address details and issues relating to expenditures in the Essex Town budget approved by voters for the fiscal year of the transitional period. The former trustees shall address details and issues relating to expenditures in the Essex Junction budget approved by voters for the fiscal year of the transitional period. The selectpersons and trustees shall address all details and issues relating to the transition from a town and village to the new Town of Essex jointly. The Interim Governing Body with the assistance of the Unified Manager shall develop recommendations for whatever proposals or policies are needed to ensure a smooth transition. The new Town of Essex Selectboard may implement such proposals once the charter becomes effective.

- (b) During the transition period the Interim Governing Body will also, with the assistance of the Unified Manager and staff, integrate the ordinances of the former Town of Essex with the ordinances of the former Village of Essex Junction, pursuant to § 110 below, by identifying conflicting ordinances and determining in each case whether the more or less restrictive ordinance will apply or a combination thereof.

**[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt4]:** Inserted this entire section (b) to clarify that ordinance reconciliation will be a priority of the interim board, but this doesn’t need to be done prior to approval of the charter.

- (c) In the event of a vacancy that results in less than three members of the former Town Selectboard or less than three members of the former Village Trustees, all remaining members shall vote to appoint a member from the district with a vacancy in a manner pursuant to § 304. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt5]:** Amended former language for clarity and brevity

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- (d) The Interim Governing Body will also, with the assistance of the Unified Manager and staff, propose and warn in the manner pursuant to this charter, the first annual budget of the new Town of Essex for consideration by the voters at the first annual meeting held pursuant to § 103. This meeting shall be informational only. Voting for the budget shall occur on the same day as voting for the Essex-Westford School District budget pursuant to § 103.

§ 106 Town Selectboard

- (a) There shall be a Town Selectboard consisting of seven members.
- (b) Three members shall reside within the boundaries of the former incorporated Village of Essex Junction to be elected by the qualified voters within the boundaries of the former incorporated Village of Essex Junction. This area will become known as Ward 1. Boundary adjustments will be made over time as necessary pursuant to § 301. Three members shall reside within the boundaries of the Town of Essex exclusive of the former Village of Essex Junction to be elected by the qualified voters of the Town of Essex exclusive of the former Village of Essex Junction. This area will become known as Ward 2. Boundary adjustments will be made over time as necessary pursuant to § 301. One member shall reside in either Ward 1 or Ward 2 to be elected by the combined votes of the qualified voters in Ward 1 and Ward 2.

**[ADDED/AMENDED BY BOT 8.17.20]**

- (c) The term of office of a Town Selectperson shall be three years and terms shall be staggered. For the first election cycle seven people will be elected. One seat for each ward will be for three years; one seat for each ward will be for two years; one seat for each ward will be for one year. After that, every seat shall be a three-year term. The remaining seat will be at-large from either ward and the term shall be three years.

**[ADDED/AMENDED BY BOT 8.17.20]**

- (d) Within three years after the first election of the seven-member Selectboard, the Selectboard shall appoint a special commission to study the composition of voting wards within the Town of Essex, including the former incorporated Village of Essex Junction, and, having regard to an equal division of population and other considerations deemed proper, recommend within one year, changes, if any, to the boundaries by which members of the Selectboard are elected.

**[ADDED/AMENDED BY BOT 8.17.20]**

§ 107 Budget and Municipality Administration

Following the approval of the charter by the Legislature pursuant to § 103 and § 105, the Manager will propose a unified budget for the community for the next fiscal year that

**Commented [gt6]:** Amended to conform to a 3-3-1 board structure

**Commented [gt7]:** Amended to conform to a 3-3-1 board structure

**Commented [gt8]:** Amended to conform to a 3-3-1 board structure

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addresses proper service levels, contractual obligations, capital projects, debt, and that reflects any changes related to the merger.

### § 108 Village and Town Department Transitional Provisions

- (a) For a transitional period of 5 years commencing from the July 1 effective date of the charter, the manager, with the advice and consent of the new Town of Essex selectboard shall integrate the fire departments, community development and planning offices, parks and recreation offices, and any other town and village municipal services and operations, with special provisions and considerations outlined below.
- (b) The Town of Essex shall operate the former Essex Junction Fire Department and Essex Town Fire Department, and each department shall have a chief appointed by the manager. At the manager's discretion, one person may be appointed chief for both departments. During the transitional period, pursuant to § 105, the Interim Governing Body may review options for integrating the operations of the two departments for the purpose of improving efficiency and service levels and with a preference for retaining the historic identities of the two departments and for the predominant level of service remain "paid on call." **[ADDED/AMENDED BY BOT 8.17.20]**
- (c) During the five-year transitional period the manager shall integrate and reorganize the town and village recreation and parks departments and the manager shall appoint a department head.
- (d) During the five-year transitional period the manager shall integrate and reorganize the town and village community development and planning departments, and the manager shall appoint a department head.

**Commented [gt9]:** Amended for clarity: town does not presently EJFD

### § 109 Planning and Development

- (a) On the effective date of this charter, the former Town plan and Village plan, and the former Town zoning bylaws and subdivision regulations, and the Village's zoning bylaws and Land Development Code shall remain in effect in their respective former geographic areas until amended or revised by the new Town Selectboard upon recommendation by the merged Planning Commission and in conjunction with the Chittenden County Regional Planning Commission and pursuant to 24 VSA 4350(a).
- (b) Prior to the effective date of the charter, the Town Selectboard shall appoint three members of the then current town planning commission and the Village Trustees shall appoint three members of the then current village planning commission to serve on the new Town planning commission. The duration of the first terms shall

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be staggered so as to establish ongoing, staggered three-year appointment schedules. The new Town Selectboard shall choose a seventh member for a four-year term, once it has organized.

- (c) Prior to the effective date of the charter, the Town Selectboard shall appoint three members and the Village Trustees shall appoint three members to serve on the Development Review Board. The duration of the first terms shall be staggered so as to establish ongoing, staggered three-year appointment schedules. The new Town Selectboard shall choose a seventh member for a three-year term, once it has organized.

§ 110 Unification and Adoption of Ordinances, bylaws, and rules

On the effective date of this charter, all ordinances, and bylaws of the Town of Essex and the Village of Essex Junction shall become ordinances and bylaws of the new Town of Essex. The new Town of Essex Selectboard shall be fully authorized to amend or repeal any ordinance according to the provisions of subchapter 6 of the charter. Whenever a power is granted by any such ordinance, or bylaw to an officer or officers of the Town of Essex or the Village of Essex Junction, such power is conferred upon the appropriate officer or officers of the new Town of Essex.

§ 111 Personnel

- (a) Pursuant to § 105, the Interim Governing Body established in § 105 shall develop a pay and classification plan and make recommendations to meet the Town's needs. The new-Town of Essex selectboard may implement such proposals once the charter becomes effective.
- (b) The Town of Essex personnel regulations in effect at the time of approval of the charter shall carry over and control until amended by the new Town of Essex selectboard. **[ADDED/AMENDED BY BOT §.17.20]**
- (c) Employees of the Town of Essex and the Village of Essex Junction shall become employees of the new Town of Essex. The dates of hire with the Town of Essex and the Village of Essex Junction will be used as the dates of hire for purposes related to benefits with the new Town of Essex and all accrued benefits shall carry over. **[ADDED/AMENDED BY BOT §.17.20]**

**Commented [gt10]:** Amended for brevity as per recommendation of DR

**Commented [gt11]:** Amended for brevity as per recommendation of DR

§ 112 Water and Sewer Districts

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Upon the effective date of the charter, there shall be a transitional phase to incorporate the municipal water systems and municipal sewer systems into one service area district. The one district shall be made up of multiple systems which follow the boundaries of the legacy systems including those operated separately by the Village of Essex Junction and the Town of Essex. Each system will have its own user base consistent with the legacy systems. Costs specific to each system will be charged solely to the user base within the boundaries of that system including capital and debt service costs. Any new costs incurred after the effective date of the charter of the merged municipality attributable to the entire district will be borne by all users. Costs attributable to specific users through a special assessment, surcharge or other contractual arrangement shall continue to be assessed to the specific users until they are paid in full.

### § 113 Finances

- (a) The existing real property tax system of the town shall become the system of the new Town of Essex. Upon the effective date of the charter, all grand lists will remain in effect and any remaining taxes due to the Village and Town will be payable to the new Town of Essex keeping all existing due dates. The new Town of Essex will manage the existing budget of the Village and Town with oversight by the Interim Governing Body.
- (b) All Tax and indebtedness incurred by the Village tax payers at the time of merger are to remain with these properties until final payment of said obligations are made in full.
- (c) All existing legal obligations, including but not limited to tax stabilization agreements and any agreements to purchase real property, are to be considered obligations of the new governmental entity.

### § 114 Terms Extended

The Selectboard and Trustee terms set to expire in the year of approval of the Charter shall be extended without further action necessary, until June 30, 2022. All other elected officials holding office at the time of Legislative approval of the charter shall remain in their seats until new elections occur or until they step down from office.

### § 115 Transitional Tax Districts and Transitional Tax Provisions.

Transitional tax districts shall be established pursuant to § 104.

### § 116 Repeals

- (a) 24 App. V.S.A. chapters 117 (Town of Essex Charter) and 221 (Village of Essex

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Junction Charter) are repealed.

### Subchapter 2: Incorporation and Powers of The Town

#### § 201 Corporate Existence

The inhabitants of the Town of Essex, within the corporate limits as now established, shall be a municipal corporation by the name of the Town of Essex. This municipal corporation is a merger of and a successor to the Town of Essex (24 App. V.S.A. chapter 117 repealed) and the Village of Essex Junction (24 App. V.S.A. chapters 221 repealed).

#### §202 General powers, law

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 municipal corporations shall apply to the Town of Essex.

#### § 203 Specific Powers

- (a) The Town of Essex shall have all 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; and it may enact ordinances not inconsistent with the Constitution and laws of the State of Vermont or with this charter.
- (b) The Town of Essex may acquire real and personal property within or without its corporate limits for any municipal purpose, including storm water collection and disposal, waste water collection and disposal, solid waste collection and disposal, provision of public water supply, provision of public parks and recreation facilities, provision of municipal facilities for office, fire protection, and police protection, provision of public libraries, provision of public parking areas, provision of sidewalks, bicycle paths, and green strips, provision of public roadways, provision of public view zones and open spaces, and such other purposes as are addressed under the general laws of the State of Vermont. The Town of Essex may acquire such property in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation and may sell, lease, mortgage, hold, manage, and control such property as its interest may require.
- (c) The Town of Essex may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with other Vermont municipalities, the State of Vermont, any one or more subdivisions or agencies of the State, or the United States or any agency thereof.



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- (d) 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.
- (e) The Town of Essex 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 which conflicts with that authority granted to the Public Utilities Commission or any other state regulatory agency.
- (f) In this charter, mention of a particular power shall not be construed to be exclusive or to restrict the scope of the powers which the Town of Essex would have if the particular power were not mentioned.

### § 204 Reservation of powers

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 Town Selectboard 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.

### §205 Form of Government

- (a) The municipal government provided by this chapter shall be known as selectboard-manager form of government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this chapter, all powers of the Town of Essex shall be vested in an elective Town Selectboard, which shall enact ordinances, codes, and regulations; adopt budgets; determine policies; and appoint the Town Manager, who shall enforce the laws and ordinances and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed by this chapter or prescribed by ordinance.
- (b) Voting Districts shall be established pursuant to § 301.

## Subchapter 3: Voting District and Governance Structure

### § 301 Voting Wards

- (a) The former incorporated Village of Essex Junction shall be known as Ward 1. Boundary adjustments will be made over time as necessary pursuant to § 301.b. The Town of Essex

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exclusive of the former Village of Essex Junction shall be known as Ward 2. Boundary adjustments will be made over time as necessary pursuant to § 301.b.

- (b) The Selectboard is empowered to make such changes from time to time, by resolution or ordinance, in the number and boundaries of the wards of the Town as it may deem proper, having regard so far as practicable and convenient, to an equal division of population among them; provided that after the first change so made, such changes shall not be made more than once in five years. **[ADDED/AMENDED] BY BOT 8.17.20**

Commented [gt12]:

Commented [gt13R12]: Made this five years and omitted seven as a choice.

### § 302 Powers and Duties of Governing body

- (a) The members of the Town of Essex Selectboard shall constitute the legislative body of the Town of Essex for all purposes required by statute, and except as otherwise herein specifically provided shall have all the 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 Town of Essex Selectboard shall have the power to:
- (1) Appoint and remove a 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 certified public accountant.
  - (4) Inquire into the conduct of any officer, commission, or department and investigate any and all municipal affairs.
  - (5) Exercise every other power which is not specifically set forth herein, but which is granted to selectboards or legislative bodies by the statutes of the state of Vermont.
  - (6) Make, establish, impose, alter, amend or repeal ordinances and regulations to enforce the same by fine, penalty, forfeiture, injunction, restraining order or any other proper remedy, with respect to the inspection, regulation, licensing or suppression of the following affairs, establishments, employments, enterprises, uses, undertakings, and businesses, viz: The growing, processing, manufacture or sale of cannabis products. Cannabis is described as a Schedule I Controlled Substance under federal law, defined as the parts, products, and non-Hemp derivatives of the plant Cannabis sativa, indica, ruderalis and hybrid strains, including Medical Marijuana, irrespective of state law to the contrary.

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The growing, processing, manufacture or sale of tobacco and tobacco products. Tobacco, a state controlled and regulated drug, as defined by 7 V.S.A. § 101 to include: include cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco, and other tobacco products; Tobacco Substitutes include nicotine pods and juices, electronic cigarettes or other electronic or battery powered devices, that contain and are designed to deliver nicotine or other substances into the body through the inhalation of vapor and that have not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes. Tobacco and Cannabis Paraphernalia: includes any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing Tobacco, Cannabis or other substances into the human body, or for preparing the same for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding Tobacco or Cannabis, rolling paper, wraps, cigarette rolling machines, grinders, pipes, water pipes, carburetion devices, bongs, hookahs, vaping devices, and empty pods or cartridges. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt14]:** This entire section was added as per request of Trustee Chawla to give SB authority under state statutes to regulate tobacco/cannabis products.

### § 303 Governing body composition and term of office

(c) There shall be a Town Selectboard consisting of seven members.

**[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt15]:** Amended for brevity and to conform to 3-3-1 board

(d) The term of office of a Town Selectperson shall be three years and terms shall be staggered.

(e) Selectpersons shall represent the Town. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt16]:** Amended for clarity. Previously it said "town and ward." All selectpersons represent the entire town.

### § 304 Vacancy in office

In case of a vacancy of a Selectboard seat, such vacancy shall be filled by the Town Selectboard until the next annual election. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt17]:** Amended for clarity and brevity.

### §305 Election of governing body officers

(a) At the first meeting following the annual Town meeting, the Selectboard shall organize and elect a chairperson, vice chairperson, and clerk by a majority vote of the entire Selectboard, and shall file a certificate of the election for record in the office of the Town clerk. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt18]:** Amended to include election of clerk.

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- (b) The chairperson of the Selectboard or in the chairperson's absence, the vice chairperson, shall preside at all meetings of the Selectboard and shall be recognized as the head of the Town government for all ceremonial purposes.
- (c) In the event of death, resignation, or incapacitation of any Selectboard member, the remaining members of the Selectboard may appoint a person to fill that position until the next annual election. At the next annual election, the vacancy shall be filled and the person so elected shall serve for the remainder of the term of office. In the event the Selectboard is unable to agree upon an interim replacement until the next annual Town election, a special election shall be held forthwith to fill the position.  
**[ADDED/AMENDED BY BOT §.17.20]**
- (d) Elected Selectpersons who move from their ward prior to the expiration of their terms shall surrender their seats. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt19]:** Amended for clarity.

**Commented [gt20]:** Added for clarity in the event a SB member moves to the other ward.

§ 306 Compensation

- (a) Compensation paid to the Selectboard members as reimbursement for expenses shall be set by the voters at the annual meeting, with a minimum of \$1500.00 a year each. Selectboard members compensation must be set forth as a separate item in the annual budget presented to the meeting.
- (b) The Selectboard shall fix the compensation of all officers and employees, except as otherwise provided in this charter.

§ 307 Prohibitions and conflicts of interest

- (a) **Holding Other Office.** No Selectboard member shall hold any other Town office or employment during the term for which he/she/they was elected to the Selectboard. No former Selectboard member shall hold any compensated appointive municipal office or employment until one year after the expiration of the term for which they were elected to the legislative body.
- (b) **Appointments and Removals.** Neither the legislative body nor any of its members shall in any manner dictate the appointment or removal of any municipal administrative officers or employees whom the manager or any of the manager's subordinates are empowered to appoint, but the legislative body may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (c) **Interference with Administration.** Except for the purpose of inquiries and investigations under Section 302 (b)(4), the legislative body or its members shall deal

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with the municipal officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the legislative body nor its members shall give orders to any such officer or employee, either publicly or privately.

### **§ 308 Governing body meetings**

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.

### **§ 309 Special Town Meetings**

Special Town meetings shall be called in the manner provided by the laws of the State, and the voting on all questions shall be by the Australian ballot system.

### **§ 310 Procedure**

- (a) The Selectboard shall determine its own rules and order of business.
- (b) The presence of four members shall constitute a quorum. Four affirmative votes shall be necessary to take binding Selectboard action.
- (c) The Selectboard shall in accordance with Vermont law keep minutes of its proceedings. This journal shall be a public record.
- (d) All meetings of the Selectboard shall be open to the public unless, by an affirmative vote of the majority of the members present, the Selectboard shall vote that any particular session shall be an executive session or deliberative session in accordance with Vermont law.

### **§ 311 Appointments**

The Selectboard shall have the power to appoint the members of all boards, commissions, committees, or similar bodies unless specifically provided otherwise by this charter. 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.

### **§ 312 Additional governing body provisions**

- (a) No claim for personal services shall be allowed to the officers elected at the annual meeting, except when compensation for such services is provided for under the

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provisions of this chapter or by the general law. The compensation of all officers and employees of the Town shall be fixed by the Selectboard, except as herein otherwise provided.

- (b) The Selectboard may authorize the sale or lease of any real or personal estate belonging to the Town.

### Subchapter 4 Other Elected Offices

#### § 401 Brownell Library trustees

There shall be a five-member Board of Library Trustees who shall be elected to five-year terms using the Australian ballot system pursuant to § 501. Only qualified voters of the Town of Essex shall be eligible to hold the office of elected library trustee. The five permanent, self-perpetuating library trustees shall function in accordance with the terms of the Brownell Trust agreement dated May 25, 1925. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt21]:** Minor wording change.

#### § 402 Moderator

The voters at the Town Annual Meeting shall elect a Moderator who shall preside at the next Town Annual Meeting. The term of Moderator shall be one year. Only qualified voters of the Town of Essex shall be eligible to hold the Office of Moderator.

**[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt22]:** Added as per request of SB in past meeting notes. Election of moderator is already mentioned but it doesn't hurt to also add it here.

### Subchapter 5 Town Meetings

#### § 501 Town of Essex Meetings/Elections

- (a) Annual meetings for the election of officers, the voting on the budgets, and any other business included in the warnings for the meetings, shall be on a date established and legally warned by the Selectboard.
- (b) Provisions of the laws of the State of Vermont relating to the qualifications of electors, the manner of voting, the duties of elections 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.
- (c) The election of officers and the voting on all questions shall be by Australian ballot system. The ballot boxes shall be set by the Town Clerk and Board of Civil Authority in conformance with the general laws of the state. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt23]:** Amended for clarity and brevity

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### Subchapter 6 Ordinances

#### § 601 Adoption of Ordinances.

[NOTE ADDED BY TRUSTEES: Dan Richardson and staff have recommended that the Charter simply reference state statutes for the process of adopting ordinances, as the most efficient and least restrictive method. However, the current Town Charter contains a highly detailed process for ordinance adoption, which is copied below. The Trustees have no preference for either method and defer to the Selectboard on this decision.]

**Commented [gt24]:** Selectboard should decide which of the two methods to adopt. By default the trustees would chose the DR version.

**Staff and DR recommendation:** Ordinances shall be adopted in accordance with state law.

#### **Current Town Charter language:**

##### *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 attorney 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 sections § 602 through § 605 of this charter, except for zoning by-laws and/or subdivision regulations which shall be adopted pursuant to 24 V.S.A. Chapter 117, as amended from time to time hereafter.*

#### § 602 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, then the Selectboard 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 the 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 Vermont Statutes Annotated, Title 24 § 1973, and shall also contain the name, address and telephone number of a*

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*person with knowledge of the ordinance who is available to answer questions about it.*

*(c) 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.*

*(d) After the hearing, the Selectboard may finally pass the ordinance with or without amendment, except that if the Selectboard makes an amendment, it shall cause the amended ordinance to be published, pursuant to subsection (a) of this section 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. At the time so advertised or at any time and place to which the meeting may be adjourned, the amended ordinance shall be introduced, and after the hearing, the Selectboard may finally pass the amended ordinance, or again amend it subject to the same procedures as outlined herein.*

**§ 603 Effective date**

*Every ordinance shall become effective upon passage unless otherwise specified.*

**§ 604 Filing and recording of ordinances**

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

**§ 604 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 selectmen 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 selectmen 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. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt25]:** Added as per recommendation of SB review notes.

**§ 604 Petition for enactment of ordinance; special meeting**



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(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 selectmen 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 selectmen. 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. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt26]:** Added as per recommendation of SB review notes.

(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 selectmen, 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. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt27]:** Added as per recommendation of SB review notes.

(c) The provisions of this section shall not apply to any appointments of officers, members of commissions, or boards made by the selectmen or to the appointment or designation of selectmen, or to rules governing the procedure of the selectmen. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt28]:** Added as per recommendation of SB review notes.

### Subchapter 7: Town Manager

#### §701 Appointment/Hiring 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 be appointed solely on the basis of his or her executive and administrative qualifications in accordance with the Vermont statutes.

#### § 702 Powers of Manager

The Manager shall be the chief administrative officer of the Town of Essex. He or she shall be responsible to the Selectboard for the administration of all Town of Essex affairs placed in his or her charge by or under this charter. He or she shall have the following powers and duties in addition to those powers and duties delegated to municipal managers under the Vermont statutes.

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- (1) The Manager shall appoint and, when he or she deems it necessary for the good of the service, suspend or remove all Town of Essex employees, and other employees provided for by or under this charter for cause, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. He or she may authorize any employee who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that employee's department, office, or agency. 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.
- (2) The Manager shall direct and supervise the administration of all departments, offices, and agencies of the Town of Essex, except as otherwise provided by this charter or by law.
- (3) The Manager shall hire attorneys as needed.
- (4) The Manager or a staff member designated by the manager shall attend all Selectboard meetings and shall have the right to take part in discussion and make recommendations but may not vote. **[ADDED/AMENDED BY BOT 8.17.20]**
- (5) The Manager shall see that all laws, provisions of this charter, and acts of the Selectboard, subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.
- (6) The Manager shall prepare and submit the annual budget and capital program to the Selectboard.
- (7) The Manager shall submit to the Selectboard and make available to the public a complete report on the finances and administrative activities of the Town of Essex as of the end of each fiscal year.
- (8) The Manager shall make such other reports as the Selectboard may require concerning the operations of Town of Essex departments, offices, and agencies subject to his or her direction and supervision.
- (9) The Manager shall keep the Selectboard fully advised as to the financial condition and future needs of the Town of Essex and make such recommendations to the Selectboard concerning the affairs of the Town of Essex as he or she deems desirable.
- (10) The Manager shall be responsible for the enforcement of all Town of Essex ordinances and laws.

**Commented [gt29]:** Amended for clarity and brevity

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- (11) The Manager may when advisable or proper delegate to subordinate officers and employees of the Town of Essex any duties conferred upon him or her by this charter, the Vermont statutes, or the Selectboard members.
- (12) The Manager shall perform such other duties as are specified in this charter or in State law, or as may be required by the Selectboard.

§ 703 Hearing/Removal Process

- (a) The Selectboard may remove the Manager from office for cause in accordance with the following procedures:
  - 1. The Selectboard shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered within three days to the Manager.
  - 2. Within five days after a copy of the resolution is delivered to the Manager, he or she may file with the Selectboard a written request for a hearing. Said hearing to be in a public or executive session by choice of the Manager. This hearing shall be held at a special Selectboard meeting not earlier than 15 days nor later than 30 days after the request is filed. The Manager may file with the Selectboard a written reply not later than five days before the hearing.
  - 3. The Selectboard may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he or she has not requested a public hearing, or at any time after the public hearing if he or she has requested one.
- (b) The Manager shall continue to receive his or her salary until the effective date of a final resolution of removal.

§ 704 Vacancy in office of manger

The Manager, by letter filed with the Town Clerk, may appoint a staff member to perform the Manager's duties in the event of the Manager's absence due to disability, incapacitation, or vacation unless the Manager has previously appointed a staff member as assistant manager or deputy manager, who would automatically assume the Manager's responsibilities in the Manager's absence. If the Manager fails to make such designations, the Selectboard, may by resolution, appoint an officer or employee of the Town to

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perform the duties of the Manager until the Manager is able to return to duty.

**[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt30]:** Amended for clarity and to make gender neutral

### Subchapter 8: Boards and Commissions

#### § 801 Board of Civil Authority

The Board of Civil Authority is comprised of the Town of Essex Selectboard members and Justices of the Peace.

#### § 802 Board of Abatement of Taxes

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.

#### § 803 Planning Commission

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, and members will be appointed by the Town Selectboard for terms of three years from among the qualified voters of the Town. Members of the Commission shall hold no other Town office.

#### § 804 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, and members will be appointed by the Town Selectboard for terms of three years from among the qualified voters of the Town.

#### § 805 Brownell Library trustees

There shall be a five-member Board of Library Trustees who shall be elected to five-year terms using the Australian ballot system pursuant to § 501. Only qualified voters of the Town of Essex shall be eligible to hold the office of elected library trustee. The Trustees holding office at the time of enactment of the Charter shall serve until their terms are completed. The library trustees shall establish policy for the operation of the Library and shall otherwise act in conformance with the Vermont statutes. The five permanent, self-perpetuating library trustees shall function in accordance with the terms of the Brownell Trust agreement dated May 25, 1925. The Library shall be required to follow all financial and personnel policies adopted by the Town Selectboard. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt31]:** Amended for clarity

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**Subchapter 9: Administrative Departments**

*Part I*

§ 901 Personnel administration and benefits

- (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.
- (c) No person in the service of the Town shall 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.

*Part II*

§ 902 Department of Real Estate Appraisal

There shall be established a department of real estate appraisal headed by a professionally qualified real estate assessor, who shall be appointed by the manager.

§ 903 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.

§ 904 Appraisal of business personal property for tax purposes

Appraisal of business personal property shall be in accordance with the provisions of Vermont Statutes Annotated, Title 32 § 3618, as the same may from time to time be

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amended, provided that all business personal property acquired by a taxpayer after September 30, 1995 shall be exempt from tax.

### **§ 905 Duties of Department**

The duties and powers of the department of real estate appraisal shall be the same as those established for listers under the general statutes.

### **§ 906 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.

## **Subchapter 10 Budget Process**

### **§ 1001 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.

### **§ 1002 Annual municipal budget**

With support from the finance department, the Town Manager shall submit to the Selectboard a budget for review before annual town meeting or at such previous time as may be directed by the Selectboard. The budget shall contain:

- (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 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.

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(5) Such other information as may be required by the Selectboard.

### § 1003 Governing Body's action on the budget

The Selectboard shall review, and approve the recommended budget with or without change. The budget shall be published not later than two weeks after its preliminary adoption by the Selectboard. The Selectboard shall fix the time and place for holding a public hearing for the budget, and shall give a public notice of such hearing.

### § 1004 Meeting warning and budget

- (a) The Selectboard shall hold at least one public hearing at least 30 days prior to the annual meeting to present and explain its proposed budget and shall give a public notice of such hearing.
- (b) The Town Manager shall not less than 15 days prior to the annual meeting ensure the publication and distribution of the Selectboard's recommended budget and the final warning of the pending annual meeting. **[ADDED/AMENDED BY BOT 8.17.20]**
- (c) The annual Town report shall be distributed to the legal voters of the Town not later than 10 days prior to the annual meeting. **[ADDED/AMENDED BY BOT 8.17.20]**

**Commented [gt32]:** Amended for clarity

**Commented [gt33]:** Added as per recommendation of SB review notes.

### § 1005 Appropriation & Transfers

- (a) An annual budget shall be adopted at Town meeting by the vote of a majority of eligible voters by Australian Ballot. If, after the total budget has been appropriated, the selectmen find 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 which 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. **[ADDED/AMENDED BY BOT 8.17.20]**
- (b) From the effective date of the budget, the amounts stated therein, as approved by the voters, become appropriated to the several agencies and purposes therein named.
- (c) 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. At the request of the manager, the Selectboard may, by resolution, transfer any unencumbered appropriation balance or portion thereof within the Selectboard budget from one department, office or agency to another.

**Commented [gt34]:** Added as per recommendation of SB review notes.

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Notwithstanding the above, no unexpended balance in any appropriation not included in the Selectboard budget shall be transferred or used for any other purpose.

### **§ 1006 Amount to be raised by taxation**

Upon passage of the budget by the voters, 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 as prepared by the assessor for the corresponding tax year.

### **Subchapter 11: Taxation**

#### **§ 1101 Taxes on real property**

Taxes on real property shall be paid in equal installments on dates set by the Selectboard by ordinance. The Selectboard shall send notice to taxpayers no less than 30 days prior to when taxes are due.

#### **§ 1102 Penalty**

- (a) An additional charge of eight percent shall be added to any tax not paid on or before the dates specified in section § 1101 of this charter, and interest as authorized by Vermont statutes.
- (b) The Selectboard shall have the authority to waive penalty on late payments in the case of natural disaster, pandemic, or economic downturns at their discretion.

#### **§ 1103 Assessment and taxation agreement**

Notwithstanding section § 904 of this charter and the requirements of the general laws of the State of Vermont, the Selectboard are hereby authorized and empowered to negotiate and execute assessment and taxation agreements between the Town and a taxpayer or taxpayers within the Town of Essex consistent with applicable requirements of the Vermont Constitution.

### **Subchapter 12: Capital improvements**

#### **§ 1201 Capital programs**

- (a) The Manager shall prepare and submit to the Selectboard a five-year capital program at least three months prior to the final date for submission of the budget.



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(b) Contents. The capital program shall include:

1. A clear general summary of its contents;
2. A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. Cost estimates, method of financing, and recommended time schedules for each such improvement; and
4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

### **Subchapter 13: Amendment of Charter and Initiatives**

#### § 1301 Laws governing

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

### **Subchapter 14: General**

#### § 1401 Savings clause

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

#### § 1402 Separability 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.

From: Andrew Brown/George Tyler EJ BOT

To: Elaine Haney/ET SB

8.18.20

**Notes on Charter revision from Trustee meeting on 8.17.20**

Major points of revision by Trustees on 8.17.20 to previous version of merger charter:

- Language was added to describe a seven-member board of 3-3-1 (ward 1, ward 2, at-large)
- Revisions recommended by Dan Richardson were made.
- Selectboard should choose language for adoption of ordinances.
- Previous Selectboard review noted some key sections in current Town Charter were missing. We copied those sections into the new charter as follows: 103(b) was copied to section 203; 109 was copied to 1004 (c); 201 was copied to 402; 303 was copied to 1005; 304 and 305 were copied to 604.
- Trustee Chawla requested we insert into the powers of the Selectboard section 302 (6) the authority under state statute to regulate the sale of tobacco/vaping/cannabis related products with language taken directly from the St. Johnsbury charter.

**All other amendments/additions are marked and explained as noted in the side comments.**