

H.15

An act relating to approval of amendments to the charter of the Town of Colchester

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendments to the charter of the Town of Colchester as set forth in this act. Proposals of amendments were approved by the voters on November 4, 2014.

Sec. 2. 24 V.S.A. App. chapter 113 is amended to read:

CHAPTER 113. TOWN OF COLCHESTER

Subchapter 1. Powers of the Town

§ 101. CORPORATE EXISTENCE RETAINED

~~The inhabitants of the Town of Colchester, within the corporate limits now established,~~ The area and inhabitants within the current boundaries of the Town of Colchester shall continue to be a municipal corporation by the name of the Town of Colchester.

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§ 104. ADDITIONAL POWERS

In addition to powers otherwise conferred upon it by law, the Town is authorized:

(1) To adopt and enforce ordinances relating to making and installing local improvements including curbs, sidewalks, storm drains, and water and sanitary waste systems; apportioning part of the expense of such improvements against property owners who benefit thereby; providing for the collection of such assessments and penalties for nonpayment; provided however:

(A) That in absence of an ordinance no assessment shall be made by the ~~selectmen~~ Selectboard until ~~they have~~ it has received a petition in writing from 50 percent of the owners of property fronting on such local improvements as proposed. Upon receiving such petition, the ~~selectmen~~ Selectboard may order the proposed improvements to be made.

(B) That no assessment shall be made in excess of the actual benefit to the land so assessed as determined by the ~~selectmen~~ Selectboard after notice to and hearing of the owners of the property assessed.

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(7) To establish a policy whereby the ~~Board of Selectmen~~ Selectboard may determine it to be in the public interest to plow those private roads serving two or more year-round residences, which had previous to January 1, 1997, have the Town providing winter road maintenance.

§ 105. ORDINANCES; ENFORCEMENT; ADOPTION

(a) The ~~selectmen~~ Selectboard may provide monetary penalties or injunctive relief for the breach of any ordinance authorized by general law or

this ~~charter~~ chapter; may prosecute any person violating the same through the ~~Town Grand Juror, Town Attorney, Town legal counsel~~ 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.

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§ 106. INTRODUCTION; FIRST AND SECOND READINGS; PUBLIC
HEARING

(a) Every ordinance, repeal of an ordinance, or amendment to an ordinance shall be introduced in writing. The enacting clause of all ordinances shall be “The ~~selectmen~~ Selectboard of the Town of Colchester hereby ~~ordain~~ ordains . . .”. If the ~~selectmen pass~~ Selectboard passes the proposed ordinance upon first reading ~~they it~~ shall cause ~~it~~ the proposed ordinance to be published in its entirety ~~in a~~ or a concise summary of it in the Selectboard’s designated newspaper of general circulation in the Town 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 publication shall be at least 15 days prior to the date of said public hearing.

(b) At the time and place so designated or at any time and place to which the hearing may from time to time be adjourned, such ordinance shall be ~~read~~

~~in full, and after such reading, all persons interested shall be given an opportunity to be heard~~ available in written form for the public.

§ 107. FURTHER CONSIDERATION; FINAL PASSAGE

After the hearing, the ~~selectmen~~ Selectboard may finally pass such ordinance with or without amendment, except that if the ~~selectmen make~~ Selectboard makes an amendment ~~they~~ it shall cause a summary of the amended ordinance to be published at least once together with a notice of the time and place of a public hearing at which such amended ordinance will be further considered, which publication shall be at least three days prior to the public hearing. At the time so designated or at any time and place to which such meeting may be adjourned, the amended ordinance shall be read in full, and after such hearing the ~~selectmen~~ Selectboard may finally pass such amended ordinance, or again amend it subject to the same procedure as outlined herein.

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§ 109. FILING

The Town Clerk shall prepare and keep in the Town Clerk's office the original signed copy of all ordinances and/or any changes, adopted by the ~~selectmen~~ Selectboard. This original file shall be indexed by subject matter and shall note in the record procedural information relating to the enactment of each original or changed ordinance. The Town Manager shall arrange for

publishing, and updating of codified sets of all ordinances, for distribution and use by Town officials.

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§ 111. RESERVATION OF POWERS TO THE TOWN

Nothing in this subchapter shall be so construed as in any way to limit the powers and functions conferred upon the Town of Colchester and the ~~selectmen~~ Selectboard of said Town by general or special enactments in force or effect or hereafter enacted; and the powers and functions conferred by this ~~charter~~ chapter shall be cumulative and in addition to the provisions of such general or special enactments.

Subchapter 2. Officers

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§ 202. ELECTIVE OFFICERS; GENERALLY

(a) At the annual meeting, the Town shall elect by Australian ballot from among the legally qualified voters thereof the following Town officers, who shall serve until the next annual meeting or until others are chosen.

(1) ~~Selectmen~~ Selectboard, number, terms of office, election:

(A) there shall be a ~~Board of selectmen~~ Selectboard consisting of five members, and all ~~selectmen~~ Selectboard members shall be elected at large.

(B) three members of the ~~Board~~ Selectboard shall have terms of office of three years; two members shall have terms of office of two years. At

each election, one ~~selectmen~~ Selectboard member shall be elected for a three-year term and one for a two-year term.

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~~(6) A cemetery commissioner if the Town has so voted for a term of five years.~~ [Repealed.]

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§ 203. RECALL

(a) Any officer elected under section 202 of this ~~charter~~ chapter may be removed from office as follows: A petition signed by not less than 15 percent of the registered voters shall be filed with the ~~selectmen~~ Selectboard, requesting a vote on whether the elected officer shall be removed from office. The ~~selectmen~~ Selectboard shall call a special Town meeting, to be held within 45 days of receiving the petition, to vote on whether the elected officer shall be removed. The official 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.

(b) If the Town votes for removal of an elected officer, the office shall thereupon become vacant, and the ~~selectmen~~ Selectboard shall call a special meeting, to be held within 45 days of the vote for removal, to fill the vacancy until the term of the officer so removed expires.

§ 204. VACANCIES

In case of a vacancy of any elected Town official, such vacancy shall be filled by the ~~Board of Selectmen~~ Selectboard until the next annual election. The person then elected shall serve for the remainder of the unexpired term. If more than one vacancy occurs on an elected board at the same time the vacancy shall be filled by a special Town meeting called for that purpose. Separate filing shall be made for such unexpired term.

§ 205. ~~SELECTMEN~~ SELECTBOARD; ORGANIZATION

(a) Forthwith after their election and qualification, the ~~selectmen~~ Selectboard shall organize and elect a Chairman, Vice Chairman, and a Clerk by a majority vote of the entire ~~Board~~ Selectboard and file a certificate of such election for record in the office of the Town Clerk.

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§ 206. MEETINGS OF THE ~~BOARD OF SELECTMEN~~ SELECTBOARD

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

(b) The ~~Board of Selectmen~~ Selectboard shall determine its order of business.

(c) The presence of three members of the ~~Board of Selectmen~~ Selectboard shall constitute a quorum.

§ 207. RECORD OF PROCEEDINGS

(a) It shall be the duty of the ~~Board of Selectmen~~ Selectboard to keep an official record of its proceedings which shall be open for public inspection.

(b) The minutes of each meeting shall be approved by the ~~Board of Selectmen~~ Selectboard at a subsequent meeting.

§ 208. APPOINTMENTS

(a) The ~~selectmen~~ Selectboard shall appoint the members of the following permanent Commissions of the Town of Colchester.

(1) ~~Zoning Board of Adjustment~~ Development Review Board.

(2) Planning Commission.

(3) Cemetery Advisory Committee.

(b) The ~~selectmen~~ Selectboard may appoint such additional commissions or committees as ~~they feel~~ it feels to be in best interest of the Town.

(c) The ~~selectmen~~ Selectboard shall appoint: ~~fence viewers, fire wardens, Town Attorney, Tax Collector, Tree Warden, and Constable~~ legal counsel and a Tree Warden if needed.

§ 209. JURISDICTION OVER OTHER OFFICERS OR EMPLOYEES

Neither the ~~Board of Selectmen~~ Selectboard, nor any of its members shall direct or request the appointment, by another officer or employee of the Town, of any person to office or employment, or any person's 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~~ chapter. The ~~Board of Selectmen~~ Selectboard and its members shall deal with that portion of the service of the Town for which the Town Manager is responsible solely through the Town Manager, and neither the ~~Board of Selectmen~~ Selectboard nor any of its members shall give any orders to or request any action by any subordinate in office. This shall not prohibit the ~~selectmen~~ Selectboard from recommending to the Town Manager a prospective employee for the Town Manager's consideration.

§ 210. COMPENSATION OF ~~SELECTMEN~~ SELECTBOARD;

APPOINTEES

(a) Compensation paid to the ~~selectmen~~ Selectboard shall be set by the voters at the annual meeting.

(b) The ~~selectmen~~ Selectboard shall fix the compensation of all officers and employees, except as otherwise provided in this ~~charter~~ chapter. All fees payable to the Town Clerk shall be paid to the Town Treasury and the compensation fixed by the ~~selectmen~~ Selectboard shall be in lieu of any such fees otherwise payable to the Town Clerk.

§ 211. POWERS AND DUTIES

(a) The members of the ~~Board of Selectmen~~ Selectboard shall constitute the legislative body of the Town of Colchester 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 ~~board of selectmen~~ selectboards under the laws of the State of Vermont.

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

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Subchapter 3. Town Meetings

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§ 302. TIME OF HOLDING

(a) An annual Town meeting for the consideration of the budget and other Town business shall be held on the first Tuesday in March unless otherwise legally warned by the ~~selectmen~~ Selectboard. However, all business which may be decided without Australian ballot shall take place on the evening before the first Tuesday in March, ~~which shall be called at 7:30 p.m.~~ and shall be adjourned when all matters have been decided. The time shall be established by policy of the Selectboard at its annual organizational meeting in consultation with the Colchester School District.

(b) The election of officers and the voting on all other questions to be decided by the Australian ballot system shall take place on the first Tuesday in March. The ballot boxes shall be open between 7:00 a.m. and 7:00 p.m. or as shall be determined and warned by the ~~Board of Selectmen~~ Selectboard.

(c) The ~~selectmen~~ Selectboard shall determine which articles are to be voted upon by Australian ballot and which articles are to be voted upon by other methods, and ~~they~~ it shall indicate in the warning the questions to be voted by Australian ballot.

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§ 304. BUDGET

An annual Town budget exclusive of school district budget shall become effective after adoption at Town meeting by the vote of the majority of those eligible to vote present at such meeting. After such budget has been adopted, the ~~selectmen~~ Selectboard may make emergency appropriations totaling not in excess of two percent of the aggregate budget appropriations. Such emergency appropriations shall be reported to the next Town meeting. Any appropriation in excess of such two percent shall require prior approval of a special Town meeting. Any article in the warning providing for appropriation of funds in addition to the ~~selectmen's~~ Selectboard's budget shall be voted on by Australian ballot.

§ 305. OVERRULE OF ORDINANCES

All ordinances shall be subject to overrule by a special Town meeting, as follows; if, within 20 days after final passage by the ~~selectmen~~ Selectboard of any such ordinance, a petition signed by voters of the Town not less in number than 10 percent of the largest number of votes cast by Australian ballot at the

last annual Town meeting is filed with the Town Clerk requesting its reference to a special Town meeting, the ~~selectmen~~ Selectboard shall fix the time and place of such meeting, which shall be not less than 30 nor more than 40 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 Town meeting. An ordinance so referred shall become effective upon the conclusion of such meeting unless voters not less in number than 10 percent of the largest number of votes cast by Australian ballot at the last annual Town meeting and constituting a majority of those voting thereon, shall have voted against the ordinance.

§ 306. PETITION FOR ENACTMENT OF ORDINANCE; SPECIAL
MEETING

(a) Subject to the provisions of section 305 of this ~~charter~~ chapter, voters of the Town may at any time petition in the same manner as in section 305 for the enactment of any proposed lawful ordinance by filing such petition, including the text of such ordinance, with the Town Clerk. The ~~selectmen~~ Selectboard shall call a special Town meeting to be held not less than 30 nor more than 40 days after the date of such filing, unless prior to such meeting such ordinance is enacted by the ~~selectmen~~ Selectboard. The warning for such meeting shall state the proposed ordinance in full and shall provide for an aye and nay vote as to its enactment. Such ordinance shall take effect on the 10th day after the conclusion of such meeting provided that the voters as qualified

in section 305 of this ~~charter~~ chapter, constituting a majority of those voting thereon, shall have voted in the affirmative.

(b) Any 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~~ Selectboard to correct such 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 Attorney shall not materially change its meaning and effect.

(c) This section shall not apply to appointments of officers, members of commissions, or boards made by the ~~selectmen~~ Selectboard or to the appointment or designation of ~~selectmen~~ Selectboard members, or to rules governing the procedure of the ~~selectmen~~ Selectboard.

Subchapter 4. Town Manager

§ 401. APPOINTMENT

The ~~selectmen~~ Selectboard shall appoint a Town Manager for an indefinite term.

§ 402. QUALIFICATIONS

The Town Manager shall be chosen solely on the basis of executive and administrative and professional qualifications.

§ 403. OATH; ~~BOND~~

Before entering upon official duties, the Town Manager shall be sworn to the faithful performance of those duties by the Town Clerk ~~and shall give a bond to the Town in such amount and with such sureties as the selectmen may require.~~

§ 404. POWERS AND DUTIES

(a) The Town Manager shall carry out the policies laid down by the ~~Board of Selectmen~~ Selectboard and to that end the Town Manager shall be the Chief Executive Officer and the head of the administrative branch of the Town government and shall be responsible to the ~~Board of Selectmen~~ Selectboard for the efficient administration thereof.

(b) Unless otherwise excused by the Selectboard, The Manager the Town Manager or his or her designee shall attend all meetings of the Board of Selectmen, except when the Manager's removal is being considered, Selectboard and the Town Manager or his or her designee keep them the Selectboard informed of the financial condition and future needs of the Town and shall make such reports as may be required by law, this article, or ordinance, or which may be requested by the selectmen Selectboard. The Town Manager shall make such other reports and recommendations as the Town Manager may deem advisable, but shall not vote. The Town Manager shall perform such other duties as may be prescribed by this charter chapter, or

required of the Town Manager by law, ordinance, or resolution of the ~~selectmen~~ Selectboard not inconsistent with this ~~charter~~ chapter.

(c) The Town Manager shall be an ex-officio member of all standing committees but shall not vote.

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

(e) The Town Manager shall compile for general distribution at the end of each fiscal year a complete report on the finances and administrative activities of the Town for the year.

(f) The Town Manager shall provide to the ~~selectmen~~ Selectboard a monthly financial statement, with a copy to the Town Treasurer.

(g) The Town Manager shall be the general purchasing agent of the Town and purchase all supplies for every department thereof.

(h) The Town Manager shall be responsible for the system of accounts except where otherwise delegated under this ~~charter~~ chapter.

(i) The Town Manager shall perform any other duties assigned by State law not in conflict with this ~~charter~~ chapter.

(j) The Town Manager shall be responsible for the operation of all departments of the Town, not otherwise provided for in this ~~charter~~ chapter.

(k) The Town Manager shall have authority to appoint, fix the salary of, suspend and remove all employees of the Town, subject to the provisions of

this ~~charter~~ chapter. The Town Manager shall obtain the advice and consent of a majority of the ~~selectmen~~ Selectboard before appointing or fixing the salary of the head of any department.

(l) The Town Manager may, when advisable or proper, delegate to subordinate officers and employees of the Town any duties conferred upon the Town Manager by this ~~charter~~ chapter or by action of the ~~selectmen~~ Selectboard and hold them responsible for the faithful discharge of such duties.

(m) The Town Manager shall be responsible for the enforcement of all Town laws and ordinances.

(n) The Town Manager or his or her designee shall be responsible for the Town cemeteries and will manage, maintain, and operate them with the advice and assistance of a Cemetery Advisory Committee, appointed by the Selectboard. The duties and responsibilities of this Committee are established by the Town Manager and approved by the Selectboard.

§ 405. COMPENSATION

The Town Manager shall receive such pay as may be fixed by the ~~selectmen~~ Selectboard, subject to the provisions of this ~~charter~~ chapter.

§ 406. REMOVAL

(a) On 90 days' notice, the Town Manager shall be removed by a majority of the ~~selectmen~~ Selectboard so voting. The Town Manager may be suspended during this period, but the Town Manager's pay shall continue until removal.

(b) The ~~selectmen~~ Selectboard shall adopt a resolution stating ~~their~~ its intention to remove the Town Manager and the reasons therefor, a copy of which shall be served forthwith on the Town Manager who may, within 10 days, demand a public hearing. Upon or after passage of such resolution the ~~selectmen~~ Selectboard may suspend the Town Manager from duty, but the Town Manager's pay shall continue until removal. If no appeal is filed, the dismissal by the ~~selectmen~~ Selectboard of the Town Manager shall be effective on the 19th day after notice. In the event of an appeal, the ~~selectmen~~ Selectboard shall hold a public hearing not less than 10 days or more than 20 days from the date of appeal, after which ~~they~~ it may dismiss the Town Manager.

Subchapter 5. Department of Assessment

§ 501. DEPARTMENT OF ASSESSMENT

There shall be established a Department of Assessment headed by a professionally qualified real estate appraiser who shall be appointed by the ~~manager~~ Town Manager with the approval of the ~~selectmen~~ Selectboard. The three elected listers shall comprise a Board of Assessment which shall hear assessment grievance appeals.

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Subchapter 6. Budget

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§ 602. PREPARATION AND SUBMISSION

(a) The Town Manager, at least 75 days before the annual Town meeting or at such previous time as the Town Manager may be directed by the ~~selectmen~~ Selectboard, shall submit to the ~~selectmen~~ Selectboard a budget containing:

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(b) The annual budget should be presented as follows:

(1) The Town Manager shall formally present the Town Manager's budget to ~~selectmen~~ the Selectboard at a public meeting, and provide such other information as may be requested by the ~~Board~~ Selectboard.

(2) The ~~selectmen~~ Selectboard shall have 35 days to review, and approve the recommended budget with or without change.

(3) Not later than 45 days prior to the annual Town meeting the ~~selectmen~~ Selectboard shall hold at least one public hearing to present and explain ~~their~~ its proposed budget.

(4) Not less than 15 days prior to the annual Town meeting the Town Manager shall print and distribute the ~~selectmen's~~ Selectboard's recommended budget and the final warning of the pending Town meeting.

§ 603. TOWN MEETING AND BUDGET

The budget shall be approved or rejected by the legal voters at the annual Town meeting. In the event of rejection of the budget by the legal voters, the time and place of the next special Town meeting on the budget shall be set by the ~~selectmen~~, Selectboard within 30 days.

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§ 606. DEPARTMENTAL BUDGET

The budget for a department shall include all proposed expenditures as provided in the overall budget adopted at Town meeting. The gross appropriation for each department shall not be exceeded except by consent of the ~~Board of Selectmen~~ Selectboard, subject to the provisions of section 304 of this ~~charter~~ chapter.

§ 607. TRANSFERS OF APPROPRIATION

The Town Manager may at any time transfer an unencumbered appropriation balance or portion thereof between general classification of expenditures with an office, agency, or department. The ~~selectmen~~ Selectboard shall be notified in writing of all such interdepartment transfers. The ~~selectmen~~ Selectboard may transfer an unencumbered appropriation balance or a portion thereof between departments. All transfers shall be documented and signed, and distributed to the Town Clerk and Treasurer. Account transfers as noted above must be managed within the total budget,

with its two percent constraint as required by section 304 of this ~~chapter~~
chapter.

Subchapter 7. Taxation

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§ 702. PENALTY; INTEREST; TREASURER'S POWERS

(a) ~~As soon as practicable after the close of the due date for each installment, the Treasurer shall forward all accounts then remaining unpaid to the Tax Collector together with a warrant for the collection of such accounts in the form prescribed by law. All such delinquent accounts shall be payable only to the Tax Collector. Accounts forwarded to the Tax Collector shall bear interest at the maximum amount allowed by State statute. In addition, a fee of eight percent of the original tax due shall be charged as the Tax Collector's fee together with any reasonable attorney fees and court costs incurred in the collection of any delinquent accounts. Penalty. Any installment not paid by the due dates established in section 701 of this chapter shall be delinquent and there shall immediately be added to the amount due a penalty charge for late payment equivalent to five percent of the delinquent installment. If, after the expiration of 30 days from the due date of each installment the installment remains unpaid, an additional three percent penalty shall be added to the amount due. All such charges, fees, interest and other additional amounts shall be cumulative and accrue at the times and in the manner herein specified.~~

(b) Interest. An additional interest charge in the amount of one percent of the unpaid tax per month or fraction thereof shall be added to any tax not paid on or before the dates specified in section 701 of this chapter for the first three months and thereafter one and one-half percent per month or fraction thereof, from the due date of such tax. Until such time as said tax is paid in full, such interest shall be imposed on a fraction of a month as if it were an entire month.

(c) Treasurer's powers. The ~~Tax Collector~~ Treasurer shall have all the powers which ~~Tax Collectors~~ Treasurers of towns have under the general law of the State, including the power to ~~levy on personal property~~, bring actions of law, conduct tax sales, and bring petitions for foreclosure of tax liens. Such acts shall be done in the name of the Town of Colchester and in the manner provided ~~such in~~ in general law, except as modified by any provision of this ~~Charter~~ chapter.

Subchapter 8. Personnel

§ 801. APPOINTMENT AND REMOVAL

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(b) Each employee shall have a three to 12 month period of probation, as specified in the personnel rules and regulations as established under section 802 of this ~~charter~~ chapter, during which time he or she may be freely discharged. After this period(s), he or she must be notified in writing of his or her suspension, demotion, layoff, or removal and of the reason for such action.

Within 10 days of such notice(s), he or she may request a public or executive hearing before the ~~Board of Selectmen~~ Selectboard ~~who that~~ must hold such hearing not less than 10 days or more than 20 days after such request. The ~~Board of Selectmen~~ Selectboard may support the action of the Town Manager or may modify it.

§ 802. PERSONNEL RULES AND REGULATIONS

(a) The Town Manager or the Town Manager's appointee shall be the Personnel Director. The Town Manager shall prepare personnel rules and regulations protecting the interest of the Town and of the employees. These rules and regulations must be approved by the ~~Board of Selectmen~~ Selectboard and shall include the procedure for amending them and for placing them into practice. Each employee shall receive a copy of these rules and regulations upon being hired.

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Sec. 3. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 2. 24 App. V.S.A. chapter 113, § 702(a) and (b) (taxation penalty and interest) shall take effect on July 1, 2015.