HOUSE DOCKET, NO. 4410 FILED ON: 6/6/2012

# HOUSE . . . . . No. 4209

**[LOCAL APPROVAL RECEIVED.]**

The Commonwealth of Massachusetts

PRESENTED BY:

***Kimberly N. Ferguson***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act Establishing a Charter for the Town of Hubbardston.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Kimberly N. Ferguson* | *1st Worcester* |
| *Anne M. Gobi* | *5th Worcester* |
| *Stephen M. Brewer* | *Worcester, Hampden, Hampshire, Franklin* |

HOUSE DOCKET, NO. 4410 FILED ON: 6/6/2012

# HOUSE . . . . . No. 4209

By Mrs. Ferguson of Holden, a petition (accompanied by bill, House, No. 4209) of Kimberly N. Ferguson, Anne M. Gobi and Stephen M. Brewer (by vote of the town) for legislation to establish a charter for the town of Hubbardston. Municipalities and Regional Government. [Local Approval Received.]

## The Commonwealth of Massachusetts

An Act Establishing a Charter for the Town of Hubbardston.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The following shall be the charter for the Town of Hubbardston:

PREAMBLE: We, the people of the town of Hubbardston, Massachusetts, in order to affirm the customary and traditional liberties of the people with respect to the conduct of our local government, and to take the fullest advantage inherent in the home rule amendment of the Constitution of the commonwealth, do hereby adopt the following charter for this town.

ARTICLE 1 – INCORPORATION, FORM OF GOVERNMENT, AND POWERS

Section 1. Incorporation

1-1-1 The inhabitants of the town of Hubbardston within the corporate limits as established by law shall continue to be a body corporate and politic with perpetual succession under the name “Town of Hubbardston”.

Section 2. Short Title

1-2-1 This instrument shall be known and may be cited as the Hubbardston Town Charter.

Section 3. Powers of the Town

1-3-1 Subject only to express limitations on the exercise of any power or function by a municipality in the Constitution or laws of the commonwealth, it is the intent and the purpose of the voters of Hubbardston to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the Constitution and laws of the commonwealth.

Section 4. Division of Powers

1-4-1 All legislative powers of the town shall be exercised by a town meeting open to all voters of the town.

1-4-2 The administration of all town fiscal, prudential, and municipal affairs shall be vested in the executive branch headed by the board of selectmen.

Section 5. Construction

1-5-1 The powers of the town of Hubbardston under this charter are to be construed liberally in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the town of Hubbardston as stated in section 1-3-1.

Section 6. Intergovernmental Relations

1-6-1 Consistent with any applicable constitutional or statutory provisions, the town may exercise any of its powers, or perform any of its functions and may participate in the financing thereof, with any one or more civil divisions, subdivisions or agencies of any state or the United States government.

1-6-2 The town, through the board of selectmen, in accordance with general or special laws, may enter into agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

ARTICLE 2 – LEGISLATIVE BRANCH

Section 1. Town Meeting and Town Election

2-1-1 The legislative powers of the town shall be vested in a town meeting open to all voters of the town.

2-1-2 The annual election of town officers and the determination of such matters as the laws that are required to be determined by ballot shall be held on a date to be determined by the town bylaws or as designated by the board of selectmen. Special town elections may be held from time to time in accordance with law. The annual town meeting shall be held in March, April, May or June on a date to be determined by the town bylaws or as designated by the board of selectmen.

2-1-3 The board of selectmen may call special town meetings at such times as the board may deem necessary or desirable in order to transact the legislative business of the town in an orderly manner, or as allowed by the General Laws.

2-1-4 The board of selectmen shall call a special town meeting upon request in writing of 200 registered voters or of 20 percent of the total number of registered voters of the town, whichever number is the lesser at the time the petition is submitted.

Section 2. Presiding Officer at Town Meeting

2-2-1 The town moderator, elected as provided in section 4-1-1 of this charter, shall preside at all sessions of the town meeting.

2-2-2 The moderator may appoint a voter to perform duties of the moderator in the event of a conflict of interest or if the moderator is called away from the meeting.

2-2-3 In the absence of the moderator, town meeting shall, as its first act, elect a temporary moderator in accordance with the General Laws.

2-2-4 In the event the position of moderator is vacant due to resignation, removal from town, or otherwise, the town meeting shall, as its first act, elect a temporary moderator by a majority vote, who shall serve until the next town election, at which time a moderator shall be elected for a new 3 year term.

2-2-5 The moderator shall perform such duties as may be assigned to the office of moderator by charter, General Laws, bylaws, or vote of town meeting.

Section 3. Warrants for Town Meeting

2-3-1 Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the date, time, and place at which the meeting is to be convened and, by separate articles, the subject matter to be acted upon.

2-3-2 Except as otherwise provided by this charter, the publication of the warrant shall be in accordance with town bylaws governing such matters.

2-3-3 The board of selectmen shall include in the warrant all articles submitted to it by: (1) any elected town officer; (2) any multiple-member body acting by a majority vote of its members; or (3) any 10 voters for an annual town meeting and any 100 voters for a special town meeting. If an article is petitioned as set forth herein shall be received after the warrant for the next town meeting has been closed, the article shall appear on the warrant for the next town meeting for which it qualifies for inclusion.

Section 4. Rules of Procedure for Town Meeting

2-4-1 Except as otherwise provided by this charter, the procedure and conduct of town meeting shall be governed by the town bylaws.

ARTICLE 3 – EXECUTIVE BRANCH

Section 1. Executive Powers Vested in Board of Selectmen

3-1-1 Except as otherwise provided by this charter, all executive powers of the town shall be vested in the board of selectmen, which shall have all the powers and duties given to boards of selectmen under the Commonwealth of Massachusetts Constitution and General Laws, and such additional powers and duties as may be authorized by this charter, by bylaw, or town meeting vote.

3-1-2 The board of selectmen shall serve as the goal-setting, long range-planning, and policy-making body of the town, recommending major courses of action to the town meeting, and adopting operating policy directives and guidelines which are to be implemented by officers, boards, committees, commissions, and employees of the Town.

3-1-3 The board shall have the power to enact rules and regulations to implement policies and to issue interpretations thereof.

3-1-4 The board shall exercise, through the town administrator, general supervision over all matters affecting the interests or welfare of the town.

3-1-5 The board may make investigations and may authorize the town administrator or other agent to investigate the affairs of the town and the conduct of any town department, office, or agency, including any doubtful claims against the town, and for this purpose the board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. A summary report of any such investigation shall be placed on file in the office of the town clerk.

3-1-6 The board of selectmen shall have control of all public places and real and personal property of the town, the custody of which is not by law vested in any other authority.

3-1-7 The board of selectmen shall be the licensing authority for the town and shall issue all permits and licenses except as otherwise provided by General Laws or the town bylaws.

3-1-8 The board of selectmen shall provide at the start of each regularly scheduled meeting a portion of time for public comment. The procedures for public comment shall be as provided by the town bylaws.

Section 2. Term, Composition, and Vacancies of Board of Selectmen

3-2-1 The board of selectmen shall consist of 5 members elected to serve 3-year terms, with terms so arranged that as equal a number of selectmen as is possible are elected each year.

3-2-2 No person may serve on the board of selectmen while at the same time serving as a town employee or as an elected or appointed officer or official, or member of a multiple-member town body, regardless of whether compensation is received for such service.

3-2-3 The board of selectmen may fill any vacancy in the office of selectmen by a special election in accordance with the provisions of General Laws.

Section 3. Appointment and Qualifications of Town Administrator

3-3-1 The board of selectmen shall, by a majority vote of its full membership, appoint and may remove a town administrator for a term of not more than 3 years. The town administrator shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the administration of all town affairs placed in his or her charge by the charter.

3-3-2 The town administrator shall be a person with executive and administrative qualifications, and especially fitted by education, training, and experience to perform the duties of the office. The town may, from time to time, by bylaw, establish such additional qualifications as it deems necessary and appropriate.

3-3-3 The board shall set the compensation for the town administrator, not to exceed an amount appropriated by the town meeting, and may enter into an agreement with the town administrator, in accordance with the General Laws, setting out the terms and conditions of employment.

3-3-4 The town administrator shall hold no other elected or appointed municipal office within the town, except when an appointment is made in an “ex officio” capacity. The town administrator shall engage in no other business or occupation without the advance written authorization of the board of selectmen; provided, however, that this section shall not prohibit the town administrator, with the prior approval of the board of selectmen, from providing similar services to another town in the event that such services do not compromise the level of service which the town may expect to receive from the town administrator.

Section 4. Powers of Town Administrator

3-4-1 The town administrator shall appoint and may remove all department heads, officers, subordinates, and employees of the town, except for appointments: of employees of the school department and library trustees; made by representatives of the commonwealth; governed by civil service law; and for which another method of appointment is provided in this charter (see chapter 4), including appointment by the fire chief of a deputy fire chief and firefighters in accordance with G.L. c.48, §§42, 43 and 44; provided, however, that where any officer or multiple-member body has appointment authority under the General Laws, the town administrator shall consult with such officer or multiple-member body prior to making an appointment hereunder. Appointments made by the town administrator shall become effective on the 15th day following the day notice of the proposed appointment is filed with the board of selectmen, unless the board of selectmen shall, within said period, reject said appointment or has sooner confirmed it.

3-4-2 The town administrator shall direct and supervise the administration of all functions under the town administrator's control.

3-4-3 The town administrator shall prepare and submit the annual operating and capital budgets as provided in article 5, sections 1 and 2.

3-4-4 The town administrator shall attend all regular and special meetings of the board of selectmen, unless excused at the town administrator's request, and shall participate, but have no vote, in all of its discussions.

3-4-5 The town administrator shall attend all sessions of town meetings, unless excused by the board of selectmen at the town administrator's request, and answer all questions directed to him or her by the voters of the town.

3-4-6 The town administrator shall administer all provisions of General Laws and special laws applicable to the town, to the charter, to the bylaws and votes of the town, and all rules and regulations made by the board of selectmen.

3-4-7 The town administrator, or the administrator's designee, shall negotiate all labor and employment contracts, other than those under the jurisdiction of the school committee and board of library trustees. Proposed contracts negotiated by the town administrator shall require approval of the board of selectmen.

3-4-8 The town administrator shall keep full and complete inventory of all property of the town, both real and personal. The town administrator shall be responsible for the maintenance and repair of all town property placed under the town administrator's control by the charter, by bylaw, or otherwise.

3-4-9 The town administrator shall be responsible for the keeping of full and complete records of the financial and administrative activities of the town and shall render a full report to the board of selectmen at the end of each fiscal year and otherwise as the board may require.

3-4-10 The town administrator shall be the chief procurement officer under chapter 30B of the General Laws, responsible for the procurement, award and execution of contracts for all

supplies, services, materials, and equipment of the town, excluding the school district. The town administrator may delegate responsibility for procurement in accordance with section 19 of chapter 30B of the General Laws.

3-4-11 The town administrator may at any time inquire into the conduct of any officer, employee, or department.

3-4-12 The town administrator shall perform such other duties consistent with the office as may be required by bylaw, vote of the town, or board of selectmen.

Section 5. Acting Town Administrator

3-5-1 Should the town administrator be unable to perform the duties of the office due to absence, illness, or suspension, the board of selectmen may appoint a temporary town administrator. Such temporary appointment shall be made for a period not to exceed 30 days, following which the provisions of section 3-5-2 shall take effect.

3-5-2 The board shall designate a qualified person to serve as acting town administrator and to perform the duties of the office during any period of any vacancy exceeding 30 days, caused by the town administrator's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed 180 days. The individual serving as the temporary town administrator as provided by section 3-5-1 may, but need not be, appointed as acting town administrator.

3-5-3 The powers of the temporary town administrator, under section 3-5-1 above, shall be limited to matters which should not be delayed and shall include authority to make temporary or emergency appointments to town offices, but not to make permanent appointments.

ARTICLE 4 – BOARDS, COMMITTEES, MULTIPLE-MEMBER BODIES, AND OFFICIALS

Section 1. Elected Boards, Committees, Multiple-Member Bodies, and Officials

4-1-1 The following boards, committees, and officials shall be elected for staggered terms and under the conditions below:

(a) board of selectmen –5 members for terms of 3 years;

(b) moderator – 1 person for a term of 3 years; and

(c) Quabbin regional school committee – as provided by the Quabbin regional school district agreement.

4-1-2 Unless modified in accordance with section 4-7-1 of this charter, the following boards, committees, and officials shall be elected for staggered terms and under the conditions below:

(a) board of health – 5 members for terms of 3 years;

(b) finance committee – 5 members for terms of 3 years;

(c) library trustees – 6 members for terms of 3 years;

(d) planning board – 5 members for terms of 5 years; and

(e) housing authority – 5 members - 4 members for terms of 5 years; 1 member, appointed as set forth in section 5 of chapter 121B of the General Laws for a term of 5 years.

(f) board of assessors – 3 members for terms of 3 years.

(g) parks commission – 5 members for terms of 3 years.

(h) cemetery commission – 3 members for terms of 3 years.

Section 2. Appointed Boards, Committees, and Other Multiple-Member Bodies

4-2-1 The following boards, committees, and other multiple-member bodies shall be appointed by the board of selectmen from among the residents of the town for staggered terms and under the conditions below:

(a) board of registrars of voters – 4 members, one of whom shall be the town clerk by virtue of the position, for terms of 3 years;

(b) conservation commission – 5 members for terms of 3 years;

(c) board of appeals – 5 members for terms of 5 years;

(d) historical commission – 5 members for terms of 3 years;

(e) council on aging – 9 members for terms of 3 years;

(f) agricultural commission – 5 members for terms of 3 years;

(g) human resources advisory board – 5 members for terms of 3 years; and

(h) cultural council – 5 members for terms of 3 years.

4-2-2 The community preservation commission shall be appointed as provided by the General Laws and the town bylaws.

4-2-3 The capital improvement planning committee shall consist of 5 members, 1 of whom shall be a member of the finance committee appointed by the finance committee for a term of 1 year, one of whom shall be a member of the planning board appointed by the planning board for a term of 1 year, and 3 of whom shall be town residents appointed by the board of selectmen for terms of 3 years.

4-2-4 The town administrator shall serve as the town's liaison to all boards, commissions, and officers. Notwithstanding their statutory duties, such boards, commissions, officers, working with the town administrator shall seek to ensure effective and ongoing collaboration and cooperation among all entities serving the town to assure regular communication and shared understanding of the town's needs and priorities as determined by the board of selectmen.

4-2-5 Advisory committees may be created from time to time by bylaw, town meeting, or majority vote of the board of selectmen for a specific purpose. Unless otherwise specifically so provided, these committees shall be appointed by the board of selectmen and shall terminate upon completion of their respective charges.

Section 3. Appointed Officials

4-3-1 The board of selectmen shall appoint the chiefs of the police department and fire department, who shall have such authority as is set forth in section 97A of chapter 41 of the General Laws and sections 42, 43 and through 44, inclusive, of chapter 48 of the General Laws, respectively; provided, however, that said chiefs shall engage in ongoing communication and coordination with the town administrator on matters affecting their respective departments, and shall meet with the town administrator, at the administrator's request, and provided further, that sufficient notice is given therefor.

4-3-2 The board of selectmen shall appoint 3 constables to staggered terms of 3 years.

4-3-3 The town administrator shall appoint other employees as described in article 3.

Section 4. Procedures Governing Boards, Committees, and Other Multiple-Member Bodies

4-4-1 Except as otherwise provided by this charter, the procedure and conduct of multiple-member bodies shall be governed by the town bylaws and applicable General Laws, including the open meeting law, sections 18 through 25, inclusive, of chapter 30A of the General Laws, the conflict of interest law, chapter 268A of the General Laws, and the public records law, section 10 of chapter 66 of the General Laws and clause 26 of section 7 of chapter 4 of the General Laws, as they may be amended from time to time.

4-4-2 If any person appointed to serve as a member of a multiple-member town body shall fail to attend 4 or more consecutive meetings, or one-half or more of all of the meetings of

such body held in 1 calendar year, the multiple-member body shall notify its appointing authority. Said appointing authority may, by majority vote, declare the office to be vacant; provided, however, that not less than 10 days prior to the date the vote is scheduled to be taken, the appointing authority has given in hand, or mailed by registered or certified mail, return receipt requested, notice of such proposed or pending vote to the address of such person as it appears on the street or voters list. Evidence of the person's receipt of such notice is not required, however, for the appointing authority to take the action authorized by this section.

4-4-3 Employees serving as staff to a board or commission shall not serve as a member of such board or commission.

Section 5. Recall of Elected Officials

4-5-1 Any holder of an elective office in the town of Hubbardston may be recalled there from by the registered voters of the town as herein provided.

4-5-2 Ten registered voters of the town may make and file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds. The town clerk shall make available to the voter filing such affidavit a sufficient number of copies of petition blanks for such recall not to exceed 5 times the number of certified signatures required to be collected. Said blanks shall be issued by the town clerk with the town clerk's signature and official seal attached thereto; and shall be dated and addressed to the selectmen. Said blanks shall contain the name of the first 10 persons signing the affidavit, as identified by the voter filing the affidavit, the name of the person sought to be recalled, the office from which removal is sought, the grounds of recall as stated in said affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within 14 days after the petitions are made available to the person filing the affidavit. Said petition before being returned and filed shall be signed by qualified voters of the town, equal in number to at least 15 percent of the qualified voters of the town as of the date such affidavit was filed with the town clerk.

4-5-3 If the petition shall be found and certified by the town clerk to be sufficient, the clerk shall submit the same with the town clerk's certificate to the board of selectmen without delay, and the board of selectmen shall forthwith give written notice to said officer of the receipt of said certificate and, shall, if the officer sought to be recalled does not resign within 5 days after the date the notice is provided, thereupon order a recall election to be held on a day fixed by them not less than 64 nor more than 90 days from the date the election is called; provided, however, that if any other town election is to occur within 100 days after the date of the board's vote to call for the election, the board of selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a removal election has been so ordered, the election shall nevertheless proceed as provided in this section.

4-5-4 Any officer who has been recalled by a vote at the recall election may be a candidate to succeed himself or herself in an election to fill such vacancy held concurrently with the recall election. The nomination of all candidates, the publication of the warrant for the election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this charter. A majority of those voting on the question of recall shall be sufficient to recall such elected officer. If a majority of the votes on the question of removal is in the negative, the ballots of candidates to fill the potential vacancy need not be counted.

4-5-5 The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not removed, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall as before. If said incumbent is removed in the removal election, the incumbent shall be deemed removed and, upon the qualification of the person elected to fill the vacancy, said person shall hold office during the unexpired term.

Section 6. Administrative Organization

4-6-1 A department of public works shall be established under the direction of a director of public works, and such department shall have the following powers, duties and responsibilities:

4-6-1.1 The director shall be appointed by the town administrator with the approval of the board of selectmen in accordance with section 3-4-1, and shall be qualified by education and experience for the duties of the office.

4-6-1.2 The department of public works shall be responsible for:

(a) construction, maintenance, repair, and cleaning of town-owned roads, sidewalks, street lights, storm drains, bridges, dikes, and other public way related structures;

(b) maintenance, repair, and cleaning of all buildings owned or leased by the town, except, in the absence of an agreement between the board of selectmen and the school committee, those of the school department;

(c) operation and maintenance of all cemeteries, parks, parking areas, recreational areas and beach facilities, except, in the absence of an agreement between the board of selectmen and the school committee, those of the school department;

(d) snow removal, including the salting and sanding of roads;

(e) supervision, care and replacement of trees, including those functions previously undertaken by the tree warden;

(f) providing for, or causing to be provided, minor and routine maintenance and repair of certain town-owned vehicles; and

(g) such other functions as may be added by vote of the board of selectmen or town meeting.

4-6-1.3 In addition to those powers and duties otherwise conferred or imposed by this charter, the director of public works, with the approval of the town administrator, may establish operating divisions within the department of public works, each to be operated under the director's jurisdiction. The director, with the approval of the town administrator, shall have authority to make rules and regulations for governance the department of public works and divisions thereof and shall attend to the proper enforcement of the same. Prior to making an appointment to the department of public works in accordance with the provisions of section 3-4-1, the town administrator shall seek a recommendation from the director of public works.

4-6-1.4 In carrying out its functions relating to cemeteries and parks, the department of public works shall implement the policies developed by the cemetery commission and parks commission, respectively.

4-6-2 The town administrator, after consultation with the board of selectmen, shall from time to time prepare and submit to the town meeting plans of organization or reorganization which establish operating divisions for the orderly, efficient, or convenient conduct of the business of the town. Whenever the town administrator prepares such a plan, the board of selectmen shall hold one or more public hearings on the proposal. The board of selectmen shall give notice of the hearing, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than 7 nor more than 14 days following said publication. Following such public hearing, the proposal shall be submitted to the town meeting by an appropriate warrant article. The board of selectmen may amend such proposal prior to submittal to the town meeting as a warrant article. An organization or reorganization plan shall become effective at the expiration of 60 days following the date of adjournment of the town meeting at which the proposal is submitted unless the town meeting disapproves of the plan by a majority vote. The town meeting may vote only to approve or to disapprove the plan and may not vote to amend it.

4-6-3 Except as otherwise provided in the charter, the town meeting may, by bylaw, reorganize, create, consolidate or abolish departments, boards, commissions and offices, in whole or in part may establish new departments, boards and commissions or offices as deemed necessary and may transfer powers, duties and responsibilities of one department, board, commission or office to another.

Section 7. Conversion of Positions from Elected to Appointed

4-7-1 Notwithstanding any law or bylaw to the contrary, in the event that 2 consecutive elections for a town-elected office or board that is included in section 1 of chapter 41 of the General Laws, shall be held for which the number of candidates is less than or equal to the number of positions on the ballot, the town clerk shall provide notice of such to the board of

selectmen. The board of selectmen shall then place an article on the warrant for the next town meeting asking town meeting to consider whether to amend the town charter to change the manner of selection for the position(s) in question from elected to appointed. If town meeting passes the article, the board of selectmen shall take such additional steps as may be appropriate to effectuate the change. This section shall not apply to the offices of board of Selectmen, school committee, and moderator.

Section 8. Ethical Standards

4-8-1 Elected and appointed officers, officials, and employees of the town are expected to demonstrate, in their general conduct and in the performance of their duties and responsibilities, the highest ethical standards. Elected and appointed officers, officials and employees of the town are expected to comply with chapter 268A of the General Laws and recognize that they hold their offices or positions for the benefit of the public and while acting in their official capacity, are expected to faithfully discharge the duties of their offices in the public interest regardless of personal considerations. Elected and appointed officers, officials and employees of the town shall not use their official positions to secure or to grant special consideration, treatment, advantage, privilege or exemption to themselves or to any other person beyond that which is available to every person.

4-8-2 All appointments and promotions of town officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance, or other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training, and previous work experience to perform the duties of the office or position for which the person is chosen.

ARTICLE 5 – FINANCIAL PROVISIONS AND PROCEDURES

Section 1. Annual Budget

5-1-1 The fiscal year of the town shall begin on the first day of July and end on the last day of June, unless another period is required by General Laws.

5-1-2 Annually, prior to October 1, the town administrator shall establish and issue a budget schedule setting forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year. Any deviation from the within requirements shall require approval of the board of selectmen and the finance committee.

5-1-3 Annually, prior to November 1, the town administrator shall estimate revenue for the ensuing fiscal year.

5-1-4 Annually, prior to December 1, the board of selectmen, after consultation with the town administrator, shall issue a policy statement that shall establish the general guidelines for the next town budget.

5-1-5 All department heads and all multiple-member bodies shall submit detailed budget requests to the town administrator at least 150 days before the date of the annual town meeting.

5-1-6 At least 90 days prior to the scheduled date of the annual town meeting, the town administrator shall submit to the board of selectmen a comprehensive proposed budget for all town functions for the ensuing fiscal year and an accompanying budget message.

5-1-7 The proposed budget message shall explain the proposed budget in fiscal terms and in terms of what specific projects are contemplated in the year ahead. The proposed budget shall provide a complete financial plan for all town funds and activities, including school budgets, and shall be in such form as the town administrator, in consultation with the finance committee, may establish. The draft budget shall indicate proposed expenditures for current operations and for capital projects during the ensuing year, detailed by each town agency and by specific purposes and projects.

5-1-8 The board of selectmen shall, within 30 days following the submission of the proposed budget prepared by the town administrator, approve the proposed budget, with or without amendments, and submit it to the finance committee. The board of selectmen shall also transmit the budget request of the school committee, with its recommendations on same, to the finance committee.

5-1-9 At least 30 days prior to the scheduled date of town meeting, the board of selectmen shall hold 1 or more public hearings on the proposed budget.

5-1-10 The finance committee shall review the proposed budget and, prior to the mailing of the warrant, issue a report with its recommendations and detailed explanations regarding the budget and any other budget-related articles.

5-1-11 The warrant for annual town meeting shall be mailed and posted in accordance with the town bylaws, providing that the mailing include the proposed budget and the finance committee report detailed in section 5-1-10.

5-1-12 The board of selectmen shall present the proposed budget to the town meeting.

Section 2. Capital Improvements Plan

5-2-1 The capital planning committee shall submit a capital plan annually to the town administrator, who shall review it and forward it to the board of selectmen and finance committee with recommendations. The finance committee shall review the plan and make its own recommendations. The board of selectmen may vote to accept the plan or return it to the capital planning committee for revision. The approved capital plan shall be completed in such time as will allow for consideration as part of the annual budget process.

5-2-2 The capital plan shall at minimum include: (a) a list of all capital improvements proposed to be undertaken during each of the ensuing 5 years, with supporting information as to the need for each capital improvement; (b) cost estimates, proposed methods of financing, and recommended time schedules for each improvement; and (c) the estimated annual cost of operating and maintaining each facility and piece of major equipment referenced in the plan. The committee may extend the timeline of the plan beyond 5 years.

5-2-3 Except as otherwise provided by this charter, the role of the capital planning committee and capital planning procedures shall be governed by the town bylaws.

Section 3. Approval of Warrants

5-3-1 Warrants for the expenditure of town funds, prepared and signed by the town accountant in accordance with the General Laws, and not exceeding a predetermined threshold fixed by the board of selectmen, shall be approved by the town administrator or the acting town administrator appointed under section 3-5-2. For purposes of the charter, the establishment of the threshold shall be considered the promulgation of a rule or regulation. The town administrator shall provide copies of all approved warrants to the board at its next meeting following such approval. Approval of the board of selectmen shall be required for expenditures exceeding the fixed threshold. The board of selectmen shall approve all warrants in the absence of the town administrator, when a temporary town administrator is serving pursuant to section 3-5-1, or when a vacancy exists in the office of town administrator.

Section 4. Annual Audit

5-4-1 The board of selectmen shall cause an independent audit of the town's finances to be performed annually by a certified public accountant with experience in municipal or other

public agency audits. A copy of the auditors' report shall be filed with the town clerk, shall be a public record, and a summary thereof shall be published in the next annual town report.

## ARTICLE 6 – GENERAL PROVISIONS

### Section 1. Charter Changes

6-1-1 This charter may be replaced, revised, or amended in accordance with any procedures made available under the Massachusetts Constitution and the General Laws.

### Section 2. Severability

6-2-1 The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

### Section 3. Specific Provisions to Prevail

6-3-1 To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### Section 4. Number and Gender

6-4-1 Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include a singular person or thing; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

### Section 5. References to General Laws

6-5-1 All references to the General Laws contained in the charter refer to the General Laws of the commonwealth of Massachusetts and include any amendments or revisions to such

chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted after the adoption of the charter.

Section 6. Rules and Regulations

6-6-1 A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk before any such rule or regulation shall become effective, and copies shall be made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall become effective until at least 10 days following the date it has been so filed in the office of the town clerk.

Section 7. Certificate of Election or Appointment

6-7-1 Upon election or appointment to an office of the town, each person shall be sworn to that office by the town clerk as provided by the town bylaws or as may be otherwise authorized by law.

Section 8. Periodic Reviews

6-8-1 Every 10 years, in each year ending in a 6, the board of selectmen shall appoint a special committee to consist of 9 members for the purpose of reviewing this charter and making a report, with recommendations, to town meeting concerning such proposed amendments as the committee deems necessary or desirable. The committee shall meet to organize forthwith following the final adjournment of the annual town meeting on a date determined by the board of selectmen. Nothing in this section shall preclude the town from revising the charter at any time through any appropriate means.

6-8-2 Every 5 years, in each year ending in a 2 or a 7, the board of selectmen shall appoint a special committee to consist of 5 members, 1 of whom shall be the town clerk, who shall serve as chair, for the purpose of reviewing all general bylaws of the town. The committee shall present a final report to the board of selectmen no later than 90 days prior to the scheduled date of the annual town meeting in the next fiscal year that shall include recommendations for such proposed amendments as the committee deems necessary or advisable. Nothing in this section shall preclude the town from revising the bylaws at any time through any appropriate means.

6-8-3 At least once every 5 years following the adoption of this charter, the board of selectmen shall direct the human resources advisory board to review and update the job descriptions of all current town employees, and review the personnel policies of the town. The committee shall present a final report to the board of selectmen that shall include the new job descriptions and recommendations for such changes to personnel policies as it deems necessary or advisable. Nothing in this section shall preclude the town from revising the job descriptions or personnel policies at any time through any appropriate means.

6-8-4 At least once every 5 years following the adoption of this charter, the board of selectmen shall initiate a review and assessment of the information technology, recordkeeping, and data security needs of the town.

## ARTICLE 7 - DEFINITIONS

### 7-1-1 Definitions

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this charter shall have the following meanings:

(a) “Charter”, this charter and any amendments to it that may hereafter be adopted.

(b) “Days”, business days, not including Saturdays, Sundays, and legal holidays when the time set is less than 7 days; when the time set is 7 days or more, every day shall be counted.

(c) “Majority vote”, a majority of those present and voting, provided there is a quorum of the body present when the vote is taken, unless a higher number is required by law.

(d) “Multiple-member body”, any town body consisting of 2 or more persons and whether called “board”, “commission”, “committee”, “sub-committee” or otherwise, and whether elected, appointed, or otherwise constituted.

(e) “Town”, the town of Hubbardston.

(f) “Town agency”, any board, commission, committee, department, division, or office of the town government.

(g) “Town officer”, when used without further qualification or description, shall mean a person having charge of an office or department of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

(h) “Voters”, registered voters of the town of Hubbardston.

## ARTICLE 8 – TRANSITIONAL PROVISIONS

### Section 1. Effect on Existing Laws

8-1-1 Except as otherwise provided by this charter, all special laws, town bylaws, town meeting votes, and rules and regulations of or pertaining to the town in force when this charter takes effect and not specifically or by clear implication repealed as a result of adoption of this charter, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation. Where provisions of this charter conflict with town bylaws, the charter shall govern.

8-1-2 Within 120 days of the adoption of this charter, the board of selectmen shall appoint a special committee, as provided in section 6-8-2, for the purpose of reviewing all general bylaws of the Town.

8-1-3 Upon adoption of this charter, the following special acts are hereby explicitly retained: chapter 444 of the acts of 1987 and chapter 138 of the acts of 1988.

Section 2. Continuation of Government

8-2-1 Except as otherwise provided by this charter, all town agencies shall continue to perform their duties until re-appointed or re-elected, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred.

8-2-2 Except as otherwise provided by this charter, all town boards, committees, or multiple-member bodies shall continue to perform their duties until re-appointed, or until successors to their respective positions are duly appointed, or until their duties have been transferred.

8-2-3 Upon the effective date of this charter, the following multi-member bodies shall be abolished, the terms of any incumbent members terminated, and any remaining duties transferred to other multi-member bodies as determined by the board of selectmen to be appropriate: 2020 committee, town common committee, recreation field committee, energy committee, and monument committee.

Section 3. Continuation of Personnel

8-3-1 Following the adoption of the charter, to the extent that any provision affects a particular appointed town office, position, or employment, any person holding such office or position, or employed on a part or full-time basis with the town, shall, subject to appropriation and the continued existence of such office, position or employment, retain the same and continue to perform the duties thereof until provision shall have been made for the performance of those duties by another person or agency, unless sooner removed in accordance with this charter, applicable collective bargaining agreement, employment contract, bylaw, or otherwise; provided, however, that no person in the permanent full-time service of the town shall forfeit the employee's pay grade, or time in service of the town. Subject to appropriation and in accord with the provisions of any applicable collective bargaining agreement, all such persons shall be retained in a capacity as similar to the capacity in which they were serving at the time this charter is adopted as is practicable, and any reduction in the personnel needs of the town shall be accomplished through a policy of attrition, unless specific provision is otherwise made.

8-3-2 As of the effective date of this charter, the position of town clerk shall be appointed, the position of elected town clerk shall be abolished, and the term of the incumbent

elected town clerk terminated; provided, however, that said incumbent elected town clerk shall be deemed to be the first appointed town clerk under this charter and shall hold said office until said clerk's retirement, resignation, or removal in accordance with the provisions of section 3-4-1; thereafter, the position of town clerk shall be appointed in accordance with the provisions of section 3-4-1.

8-3-3 As of the effective date of this charter, the position of tree warden shall be appointed , the position of elected tree warden shall be abolished, and the term of the incumbent elected tree warden terminated; provided, however, that said incumbent elected tree warden shall be deemed to be the first appointed tree warden under this charter and shall hold said office until said tree warden's retirement, resignation, or removal in accordance with the provisions of section 3-4-1; thereafter, the position of tree warden shall be appointed in accordance with the provisions of section 3-4-1.

Section 4. Transfer of Records and Property

8-4-1 All records, property and equipment whatsoever of any agency or part of such agency, the powers and duties of which are assigned in whole or in part to another agency as a result of adoption of this charter, shall be transferred by operation of law to such assigned agency upon the effective date of this charter.

Section 5. Effect on Obligations, Taxes, etc.

8-5-1 All official bonds, obligations, contracts, and other instruments entered into or executed by or to the town before adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions, and cause of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter. No legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter. No contracts or liabilities in force on the effective date of this charter shall be affected by the adoption hereof, the change of certain positions from elected to appointed, or the creation of the department of public works, and such new positions and department shall in all respects be the lawful successor of offices and department so abolished or consolidated.

Section 6. Time of Taking Effect

8-6-1 Except as otherwise provided below, this charter shall take effect on the first July 1 or January 1 following adoption by voters, whichever shall occur sooner.

8-6-2 Section 3-2-2 of this charter shall take effect on July 1, 2015.

8-6-3 A special election for the purpose of increasing the number of members of the board of selectmen and the board of health from 3 to 5 shall be held at a special election called for other purposes, or during the month of September in the year in which the charter is adopted;

648 provided, however, that at least 64 days exist between the date the election is called and the date
649 of the election, or the next annual election, whichever is sooner. The offices shall appear
650 separately on the ballot for the following offices:

651 (a) Selectman for a term, expiring at the town election to be held in the third year
652 following the year in which this charter takes effect,

653 (b) Selectman for a term, expiring at the town election to be held in the second year
654 following the year in which this charter takes effect,

655 (c) Board of health for a term, expiring at the town election to be held in the third
656 year following the year in which this charter takes effect, and

657 (d) Board of health for a term, expiring at the town election to be held in the second
658 year following the year in which this charter takes effect.

659 8-6-4 At the first annual town election following adoption of this charter where multiple
660 positions on the finance committee would otherwise be on the ballot, the number of positions to
661 be elected shall be reduced to bring the total elected membership of the committee to 5. If
662 reducing the number of positions on the ballot only reduces the number of members to 6, then
663 this step shall be repeated at the next annual town election where multiple positions on the
664 finance committee would otherwise be on the ballot. Should a vacancy on the finance committee
665 occur prior to the reduction in committee size being completed, that vacancy shall remain
666 unfilled and be counted toward the reduction in the committee's size; provided, however, that the
667 term or terms of any finance committee office appearing on the ballot at the following annual
668 town election shall be adjusted as necessary to ensure that as equal a number of finance
669 committee members as possible are elected each year.

670 8-6-5 The board of selectmen shall have authority to adopt measures, which clarify,
671 confirm, or extend any of the transitional provisions of this charter in order that such transition
672 may be made in the most expeditious and the least contentious manner possible.

673 SECTION 2. This act shall be submitted for acceptance to the qualified voters of the
674 town of Hubbardston at the November 6, 2012 biennial state election on the ballot prepared by
675 the secretary of the Commonwealth for use in said town in the form of the following question:

676 "Shall an act passed by the General Court in the year 2012, entitled 'An act establishing a
677 charter for the Town of Hubbardston' be accepted?"

678 Below the question shall appear a fair and concise summary of the proposed charter,
679 prepared by town counsel, which summary shall address, at a minimum, the composition and
680 mode of selection of the legislative and executive branches and school committee, as well as any
681 other proposed provisions said counsel deems appropriate.

682 If a majority of the votes cast in answer to the question is in the affirmative, the town
683 shall be taken to have accepted the charter of the town of Hubbardston, but not otherwise.

684 SECTION 3. This act shall take effect upon its passage.