

HOUSE No. 4209

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 adoption of the accompanying bill:

An Act Establishing a Charter for the Town of Hubbardston.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire, Franklin</i>

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

In the Year Two Thousand Twelve

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:

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

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

6 ARTICLE 1 – INCORPORATION, FORM OF GOVERNMENT, AND POWERS

7 Section 1. Incorporation

8 1-1-1 The inhabitants of the town of Hubbardston within the corporate limits as
9 established by law shall continue to be a body corporate and politic with perpetual succession
10 under the name “Town of Hubbardston”.

11 Section 2. Short Title

12 1-2-1 This instrument shall be known and may be cited as the Hubbardston Town
13 Charter.

14 Section 3. Powers of the Town

15 1-3-1 Subject only to express limitations on the exercise of any power or function by a
16 municipality in the Constitution or laws of the commonwealth, it is the intent and the purpose of
17 the voters of Hubbardston to secure through the adoption of this charter all of the powers it is
18 possible to secure for a municipal government under the Constitution and laws of the
19 commonwealth.

20 Section 4. Division of Powers

21 1-4-1 All legislative powers of the town shall be exercised by a town meeting open to
22 all voters of the town.

23 1-4-2 The administration of all town fiscal, prudential, and municipal affairs shall be
24 vested in the executive branch headed by the board of selectmen.

25 Section 5. Construction

26 1-5-1 The powers of the town of Hubbardston under this charter are to be construed
27 liberally in its favor and the specific mention of any particular power is not intended to limit in
28 any way the general powers of the town of Hubbardston as stated in section 1-3-1.

29 Section 6. Intergovernmental Relations

30 1-6-1 Consistent with any applicable constitutional or statutory provisions, the town
31 may exercise any of its powers, or perform any of its functions and may participate in the

32 financing thereof, with any one or more civil divisions, subdivisions or agencies of any state or
33 the United States government.

34 1-6-2 The town, through the board of selectmen, in accordance with general or special
35 laws, may enter into agreements with any other unit of government to perform jointly or in
36 cooperation, by contract or otherwise, any of its powers or functions.

37 ARTICLE 2 – LEGISLATIVE BRANCH

38 Section 1. Town Meeting and Town Election

39 2-1-1 The legislative powers of the town shall be vested in a town meeting open to all
40 voters of the town.

41 2-1-2 The annual election of town officers and the determination of such matters as the
42 laws that are required to be determined by ballot shall be held on a date to be determined by the
43 town bylaws or as designated by the board of selectmen. Special town elections may be held
44 from time to time in accordance with law. The annual town meeting shall be held in March,
45 April, May or June on a date to be determined by the town bylaws or as designated by the board
46 of selectmen.

47 2-1-3 The board of selectmen may call special town meetings at such times as the board
48 may deem necessary or desirable in order to transact the legislative business of the town in an
49 orderly manner, or as allowed by the General Laws.

50 2-1-4 The board of selectmen shall call a special town meeting upon request in writing
51 of 200 registered voters or of 20 percent of the total number of registered voters of the town,
52 whichever number is the lesser at the time the petition is submitted.

53 Section 2. Presiding Officer at Town Meeting

54 2-2-1 The town moderator, elected as provided in section 4-1-1 of this charter, shall
55 preside at all sessions of the town meeting.

56 2-2-2 The moderator may appoint a voter to perform duties of the moderator in the
57 event of a conflict of interest or if the moderator is called away from the meeting.

58 2-2-3 In the absence of the moderator, town meeting shall, as its first act, elect a
59 temporary moderator in accordance with the General Laws.

60 2-2-4 In the event the position of moderator is vacant due to resignation, removal from
61 town, or otherwise, the town meeting shall, as its first act, elect a temporary moderator by a
62 majority vote, who shall serve until the next town election, at which time a moderator shall be
63 elected for a new 3 year term.

64 2-2-5 The moderator shall perform such duties as may be assigned to the office of
65 moderator by charter, General Laws, bylaws, or vote of town meeting.

66 Section 3. Warrants for Town Meeting

67 2-3-1 Every town meeting shall be called by a warrant issued by the board of selectmen
68 which shall state the date, time, and place at which the meeting is to be convened and, by
69 separate articles, the subject matter to be acted upon.

70 2-3-2 Except as otherwise provided by this charter, the publication of the warrant shall
71 be in accordance with town bylaws governing such matters.

72 2-3-3 The board of selectmen shall include in the warrant all articles submitted to it by:
73 (1) any elected town officer; (2) any multiple-member body acting by a majority vote of its
74 members; or (3) any 10 voters for an annual town meeting and any 100 voters for a special town
75 meeting. If an article is petitioned as set forth herein shall be received after the warrant for the
76 next town meeting has been closed, the article shall appear on the warrant for the next town
77 meeting for which it qualifies for inclusion.

78 Section 4. Rules of Procedure for Town Meeting

79 2-4-1 Except as otherwise provided by this charter, the procedure and conduct of town
80 meeting shall be governed by the town bylaws.

81 ARTICLE 3 – EXECUTIVE BRANCH

82 Section 1. Executive Powers Vested in Board of Selectmen

83 3-1-1 Except as otherwise provided by this charter, all executive powers of the town
84 shall be vested in the board of selectmen, which shall have all the powers and duties given to
85 boards of selectmen under the Commonwealth of Massachusetts Constitution and General Laws,
86 and such additional powers and duties as may be authorized by this charter, by bylaw, or town
87 meeting vote.

88 3-1-2 The board of selectmen shall serve as the goal-setting, long range-planning, and
89 policy-making body of the town, recommending major courses of action to the town meeting,
90 and adopting operating policy directives and guidelines which are to be implemented by officers,
91 boards, committees, commissions, and employees of the Town.

92 3-1-3 The board shall have the power to enact rules and regulations to implement
93 policies and to issue interpretations thereof.

94 3-1-4 The board shall exercise, through the town administrator, general supervision over
95 all matters affecting the interests or welfare of the town.

96 3-1-5 The board may make investigations and may authorize the town administrator or
97 other agent to investigate the affairs of the town and the conduct of any town department, office,
98 or agency, including any doubtful claims against the town, and for this purpose the board may
99 subpoena witnesses, administer oaths, take testimony, and require the production of evidence. A
100 summary report of any such investigation shall be placed on file in the office of the town clerk.

101 3-1-6 The board of selectmen shall have control of all public places and real and
102 personal property of the town, the custody of which is not by law vested in any other authority.

103 3-1-7 The board of selectmen shall be the licensing authority for the town and shall
104 issue all permits and licenses except as otherwise provided by General Laws or the town bylaws.

105 3-1-8 The board of selectmen shall provide at the start of each regularly scheduled
106 meeting a portion of time for public comment. The procedures for public comment shall be as
107 provided by the town bylaws.

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

109 3-2-1 The board of selectmen shall consist of 5 members elected to serve 3-year terms,
110 with terms so arranged that as equal a number of selectmen as is possible are elected each year.

111 3-2-2 No person may serve on the board of selectmen while at the same time serving as
112 a town employee or as an elected or appointed officer or official, or member of a multiple-
113 member town body, regardless of whether compensation is received for such service.

114 3-2-3 The board of selectmen may fill any vacancy in the office of selectmen by a
115 special election in accordance with the provisions of General Laws.

116 Section 3. Appointment and Qualifications of Town Administrator

117 3-3-1 The board of selectmen shall, by a majority vote of its full membership, appoint
118 and may remove a town administrator for a term of not more than 3 years. The town
119 administrator shall be the chief administrative officer of the town and shall be responsible to the
120 board of selectmen for the administration of all town affairs placed in his or her charge by the
121 charter.

122 3-3-2 The town administrator shall be a person with executive and administrative
123 qualifications, and especially fitted by education, training, and experience to perform the duties
124 of the office. The town may, from time to time, by bylaw, establish such additional qualifications
125 as it deems necessary and appropriate.

126 3-3-3 The board shall set the compensation for the town administrator, not to exceed an
127 amount appropriated by the town meeting, and may enter into an agreement with the town
128 administrator, in accordance with the General Laws, setting out the terms and conditions of
129 employment.

130 3-3-4 The town administrator shall hold no other elected or appointed municipal office
131 within the town, except when an appointment is made in an “ex officio” capacity. The town

132 administrator shall engage in no other business or occupation without the advance written
133 authorization of the board of selectmen; provided, however, that this section shall not prohibit
134 the town administrator, with the prior approval of the board of selectmen, from providing similar
135 services to another town in the event that such services do not compromise the level of service
136 which the town may expect to receive from the town administrator.

137 Section 4. Powers of Town Administrator

138 3-4-1 The town administrator shall appoint and may remove all department heads,
139 officers, subordinates, and employees of the town, except for appointments: of employees of the
140 school department and library trustees; made by representatives of the commonwealth; governed
141 by civil service law; and for which another method of appointment is provided in this charter
142 (see chapter 4), including appointment by the fire chief of a deputy fire chief and firefighters in
143 accordance with G.L. c.48, §§42, 43 and 44; provided, however, that where any officer or
144 multiple-member body has appointment authority under the General Laws, the town
145 administrator shall consult with such officer or multiple-member body prior to making an
146 appointment hereunder. Appointments made by the town administrator shall become effective on
147 the 15th day following the day notice of the proposed appointment is filed with the board of
148 selectmen, unless the board of selectmen shall, within said period, reject said appointment or has
149 sooner confirmed it.

150

151 3-4-2 The town administrator shall direct and supervise the administration of all
152 functions under the town administrator's control.

153

154 3-4-3 The town administrator shall prepare and submit the annual operating and capital
155 budgets as provided in article 5, sections 1 and 2.

156

157 3-4-4 The town administrator shall attend all regular and special meetings of the board
158 of selectmen, unless excused at the town administrator's request, and shall participate, but have
159 no vote, in all of its discussions.

160

161 3-4-5 The town administrator shall attend all sessions of town meetings, unless excused
162 by the board of selectmen at the town administrator's request, and answer all questions directed
163 to him or her by the voters of the town.

164

165 3-4-6 The town administrator shall administer all provisions of General Laws and
166 special laws applicable to the town, to the charter, to the bylaws and votes of the town, and all
167 rules and regulations made by the board of selectmen.

168 3-4-7 The town administrator, or the administrator's designee, shall negotiate all labor
169 and employment contracts, other than those under the jurisdiction of the school committee and
170 board of library trustees. Proposed contracts negotiated by the town administrator shall require
171 approval of the board of selectmen.

172 3-4-8 The town administrator shall keep full and complete inventory of all property of
173 the town, both real and personal. The town administrator shall be responsible for the

174 maintenance and repair of all town property placed under the town administrator's control by the
175 charter, by bylaw, or otherwise.

176 3-4-9 The town administrator shall be responsible for the keeping of full and complete
177 records of the financial and administrative activities of the town and shall render a full report to
178 the board of selectmen at the end of each fiscal year and otherwise as the board may require.

179

180 3-4-10 The town administrator shall be the chief procurement officer under chapter 30B
181 of the General Laws, responsible for the procurement, award and execution of contracts for all
182 supplies, services, materials, and equipment of the town, excluding the school district. The town
183 administrator may delegate responsibility for procurement in accordance with section 19 of
184 chapter 30B of the General Laws.

185 3-4-11 The town administrator may at any time inquire into the conduct of any officer,
186 employee, or department.

187

188 3-4-12 The town administrator shall perform such other duties consistent with the office
189 as may be required by bylaw, vote of the town, or board of selectmen.

190 Section 5. Acting Town Administrator

191

192 3-5-1 Should the town administrator be unable to perform the duties of the office due to
193 absence, illness, or suspension, the board of selectmen may appoint a temporary town

194 administrator. Such temporary appointment shall be made for a period not to exceed 30 days,
195 following which the provisions of section 3-5-2 shall take effect.

196 3-5-2 The board shall designate a qualified person to serve as acting town administrator
197 and to perform the duties of the office during any period of any vacancy exceeding 30 days,
198 caused by the town administrator's absence, illness, suspension, removal or resignation. The
199 appointment shall be for a period not to exceed 180 days. The individual serving as the
200 temporary town administrator as provided by section 3-5-1 may, but need not be, appointed as
201 acting town administrator.

202 3-5-3 The powers of the temporary town administrator, under section 3-5-1 above, shall
203 be limited to matters which should not be delayed and shall include authority to make temporary
204 or emergency appointments to town offices, but not to make permanent appointments.

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

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

208 4-1-1 The following boards, committees, and officials shall be elected for staggered
209 terms and under the conditions below:

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

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

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

214 4-1-2 Unless modified in accordance with section 4-7-1 of this charter, the following
215 boards, committees, and officials shall be elected for staggered terms and under the conditions
216 below:

- 217 (a) board of health – 5 members for terms of 3 years;
- 218 (b) finance committee – 5 members for terms of 3 years;
- 219 (c) library trustees – 6 members for terms of 3 years;
- 220 (d) planning board – 5 members for terms of 5 years; and
- 221 (e) housing authority – 5 members - 4 members for terms of 5 years; 1 member,
222 appointed as set forth in section 5 of chapter 121B of the General Laws for a term of 5 years.
- 223 (f) board of assessors – 3 members for terms of 3 years.
- 224 (g) parks commission – 5 members for terms of 3 years.
- 225 (h) cemetery commission – 3 members for terms of 3 years.

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

227 4-2-1 The following boards, committees, and other multiple-member bodies shall be
228 appointed by the board of selectmen from among the residents of the town for staggered terms
229 and under the conditions below:

- 230 (a) board of registrars of voters – 4 members, one of whom shall be the town clerk by
231 virtue of the position, for terms of 3 years;
- 232 (b) conservation commission – 5 members for terms of 3 years;

- 233 (c) board of appeals – 5 members for terms of 5 years;
- 234 (d) historical commission – 5 members for terms of 3 years;
- 235 (e) council on aging – 9 members for terms of 3 years;
- 236 (f) agricultural commission – 5 members for terms of 3 years;
- 237 (g) human resources advisory board – 5 members for terms of 3 years; and
- 238 (h) cultural council – 5 members for terms of 3 years.

239 4-2-2 The community preservation commission shall be appointed as provided by the
240 General Laws and the town bylaws.

241 4-2-3 The capital improvement planning committee shall consist of 5 members, 1 of
242 whom shall be a member of the finance committee appointed by the finance committee for a
243 term of 1 year, one of whom shall be a member of the planning board appointed by the planning
244 board for a term of 1 year, and 3 of whom shall be town residents appointed by the board of
245 selectmen for terms of 3 years.

246 4-2-4 The town administrator shall serve as the town’s liaison to all boards,
247 commissions, and officers. Notwithstanding their statutory duties, such boards, commissions,
248 officers, working with the town administrator shall seek to ensure effective and ongoing
249 collaboration and cooperation among all entities serving the town to assure regular
250 communication and shared understanding of the town’s needs and priorities as determined by the
251 board of selectmen.

252 4-2-5 Advisory committees may be created from time to time by bylaw, town meeting,
253 or majority vote of the board of selectmen for a specific purpose. Unless otherwise specifically
254 so provided, these committees shall be appointed by the board of selectmen and shall terminate
255 upon completion of their respective charges.

256 Section 3. Appointed Officials

257 4-3-1 The board of selectmen shall appoint the chiefs of the police department and fire
258 department, who shall have such authority as is set forth in section 97A of chapter 41 of the
259 General Laws and sections 42, 43 and through 44, inclusive, of chapter 48 of the General Laws,
260 respectively; provided, however, that said chiefs shall engage in ongoing communication and
261 coordination with the town administrator on matters affecting their respective departments, and
262 shall meet with the town administrator, at the administrator’s request, and provided further, that
263 sufficient notice is given therefor.

264 4-3-2 The board of selectmen shall appoint 3 constables to staggered terms of 3 years.

265 4-3-3 The town administrator shall appoint other employees as described in article 3.

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

268 4-4-1 Except as otherwise provided by this charter, the procedure and conduct of
269 multiple-member bodies shall be governed by the town bylaws and applicable General Laws,
270 including the open meeting law, sections 18 through 25, inclusive, of chapter 30A of the General
271 Laws, the conflict of interest law, chapter 268A of the General Laws, and the public records law,

272 section 10 of chapter 66 of the General Laws and clause 26 of section 7 of chapter 4 of the
273 General Laws, as they may be amended from time to time.

274 4-4-2 If any person appointed to serve as a member of a multiple-member town body
275 shall fail to attend 4 or more consecutive meetings, or one-half or more of all of the meetings of
276 such body held in 1 calendar year, the multiple-member body shall notify its appointing
277 authority. Said appointing authority may, by majority vote, declare the office to be vacant;
278 provided, however, that not less than 10 days prior to the date the vote is scheduled to be taken,
279 the appointing authority has given in hand, or mailed by registered or certified mail, return
280 receipt requested, notice of such proposed or pending vote to the address of such person as it
281 appears on the street or voters list. Evidence of the person's receipt of such notice is not
282 required, however, for the appointing authority to take the action authorized by this section.

283 4-4-3 Employees serving as staff to a board or commission shall not serve as a member
284 of such board or commission.

285 Section 5. Recall of Elected Officials

286 4-5-1 Any holder of an elective office in the town of Hubbardston may be recalled there
287 from by the registered voters of the town as herein provided.

288 4-5-2 Ten registered voters of the town may make and file with the town clerk an
289 affidavit containing the name of the officer sought to be recalled and a statement of the grounds.
290 The town clerk shall make available to the voter filing such affidavit a sufficient number of
291 copies of petition blanks for such recall not to exceed 5 times the number of certified signatures
292 required to be collected. Said blanks shall be issued by the town clerk with the town clerk's
293 signature and official seal attached thereto; and shall be dated and addressed to the selectmen.

294 Said blanks shall contain the name of the first 10 persons signing the affidavit, as identified by
295 the voter filing the affidavit, the name of the person sought to be recalled, the office from which
296 removal is sought, the grounds of recall as stated in said affidavit, and shall demand the election
297 of a successor to such office. A copy of the petition shall be entered in a record book to be kept
298 in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk
299 within 14 days after the petitions are made available to the person filing the affidavit. Said
300 petition before being returned and filed shall be signed by qualified voters of the town, equal in
301 number to at least 15 percent of the qualified voters of the town as of the date such affidavit was
302 filed with the town clerk.

303 4-5-3 If the petition shall be found and certified by the town clerk to be sufficient, the
304 clerk shall submit the same with the town clerk's certificate to the board of selectmen without
305 delay, and the board of selectmen shall forthwith give written notice to said officer of the receipt
306 of said certificate and, shall, if the officer sought to be recalled does not resign within 5 days
307 after the date the notice is provided, thereupon order a recall election to be held on a day fixed by
308 them not less than 64 nor more than 90 days from the date the election is called; provided,
309 however, that if any other town election is to occur within 100 days after the date of the board's
310 vote to call for the election, the board of selectmen shall postpone the holding of the recall
311 election to the date of such other election. If a vacancy occurs in said office after a removal
312 election has been so ordered, the election shall nevertheless proceed as provided in this section.

313 4-5-4 Any officer who has been recalled by a vote at the recall election may be a
314 candidate to succeed himself or herself in an election to fill such vacancy held concurrently with
315 the recall election. The nomination of all candidates, the publication of the warrant for the
316 election, and the conduct of the same, shall all be in accordance with the provisions of law

317 relating to elections, unless otherwise provided in this charter. A majority of those voting on the
318 question of recall shall be sufficient to recall such elected officer. If a majority of the votes on
319 the question of removal is in the negative, the ballots of candidates to fill the potential vacancy
320 need not be counted.

321 4-5-5 The incumbent shall continue to perform the duties of the office until the recall
322 election. If said incumbent is not removed, the incumbent shall continue in office for the
323 remainder of the unexpired term, subject to recall as before. If said incumbent is removed in the
324 removal election, the incumbent shall be deemed removed and, upon the qualification of the
325 person elected to fill the vacancy, said person shall hold office during the unexpired term.

326 Section 6. Administrative Organization

327 4-6-1 A department of public works shall be established under the direction of a director
328 of public works, and such department shall have the following powers, duties and
329 responsibilities:

330 4-6-1.1 The director shall be appointed by the town administrator with the approval of the
331 board of selectmen in accordance with section 3-4-1, and shall be qualified by education and
332 experience for the duties of the office.

333 4-6-1.2 The department of public works shall be responsible for:

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

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

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

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

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

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

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

349 4-6-1.3 In addition to those powers and duties otherwise conferred or imposed by this
350 charter, the director of public works, with the approval of the town administrator, may establish
351 operating divisions within the department of public works, each to be operated under the
352 director's jurisdiction. The director, with the approval of the town administrator, shall have
353 authority to make rules and regulations for governance the department of public works and
354 divisions thereof and shall attend to the proper enforcement of the same. Prior to making an
355 appointment to the department of public works in accordance with the provisions of section 3-4-
356 1, the town administrator shall seek a recommendation from the director of public works.

357 4-6-1.4 In carrying out its functions relating to cemeteries and parks, the department of
358 public works shall implement the policies developed by the cemetery commission and parks
359 commission, respectively.

360 4-6-2 The town administrator, after consultation with the board of selectmen, shall from
361 time to time prepare and submit to the town meeting plans of organization or reorganization
362 which establish operating divisions for the orderly, efficient, or convenient conduct of the
363 business of the town. Whenever the town administrator prepares such a plan, the board of
364 selectmen shall hold one or more public hearings on the proposal. The board of selectmen shall
365 give notice of the hearing, which notice shall describe the scope of the proposal and the time and
366 place at which the hearing will be held, not less than 7 nor more than 14 days following said
367 publication. Following such public hearing, the proposal shall be submitted to the town meeting
368 by an appropriate warrant article. The board of selectmen may amend such proposal prior to
369 submittal to the town meeting as a warrant article. An organization or reorganization plan shall
370 become effective at the expiration of 60 days following the date of adjournment of the town
371 meeting at which the proposal is submitted unless the town meeting disapproves of the plan by a
372 majority vote. The town meeting may vote only to approve or to disapprove the plan and may not
373 vote to amend it.

374 4-6-3 Except as otherwise provided in the charter, the town meeting may, by bylaw,
375 reorganize, create, consolidate or abolish departments, boards, commissions and offices, in
376 whole or in part may establish new departments, boards and commissions or offices as deemed
377 necessary and may transfer powers, duties and responsibilities of one department, board,
378 commission or office to another.

379 Section 7. Conversion of Positions from Elected to Appointed

380 4-7-1 Notwithstanding any law or bylaw to the contrary, in the event that 2 consecutive
381 elections for a town-elected office or board that is included in section 1 of chapter 41 of the
382 General Laws, shall be held for which the number of candidates is less than or equal to the
383 number of positions on the ballot, the town clerk shall provide notice of such to the board of
384 selectmen. The board of selectmen shall then place an article on the warrant for the next town
385 meeting asking town meeting to consider whether to amend the town charter to change the
386 manner of selection for the position(s) in question from elected to appointed. If town meeting
387 passes the article, the board of selectmen shall take such additional steps as may be appropriate
388 to effectuate the change. This section shall not apply to the offices of board of Selectmen, school
389 committee, and moderator.

390 Section 8. Ethical Standards

391 4-8-1 Elected and appointed officers, officials, and employees of the town are expected
392 to demonstrate, in their general conduct and in the performance of their duties and
393 responsibilities, the highest ethical standards. Elected and appointed officers, officials and
394 employees of the town are expected to comply with chapter 268A of the General Laws and
395 recognize that they hold their offices or positions for the benefit of the public and while acting in
396 their official capacity, are expected to faithfully discharge the duties of their offices in the public
397 interest regardless of personal considerations. Elected and appointed officers, officials and
398 employees of the town shall not use their official positions to secure or to grant special
399 consideration, treatment, advantage, privilege or exemption to themselves or to any other person
400 beyond that which is available to every person.

401 4-8-2 All appointments and promotions of town officers and employees shall be made
402 on the basis of merit and fitness demonstrated by examination, past performance, or other
403 evidence of competence and suitability. Each person appointed to fill an office or position shall
404 be a person especially fitted by education, training, and previous work experience to perform the
405 duties of the office or position for which the person is chosen.

406 ARTICLE 5 – FINANCIAL PROVISIONS AND PROCEDURES

407 Section 1. Annual Budget

408 5-1-1 The fiscal year of the town shall begin on the first day of July and end on the last
409 day of June, unless another period is required by General Laws.

410

411 5-1-2 Annually, prior to October 1, the town administrator shall establish and issue a
412 budget schedule setting forth the calendar dates relating to the development of the annual
413 operating budget for the ensuing fiscal year. Any deviation from the within requirements shall
414 require approval of the board of selectmen and the finance committee.

415

416 5-1-3 Annually, prior to November 1, the town administrator shall estimate revenue for
417 the ensuing fiscal year.

418

419 5-1-4 Annually, prior to December 1, the board of selectmen, after consultation with the
420 town administrator, shall issue a policy statement that shall establish the general guidelines for
421 the next town budget.

422

423 5-1-5 All department heads and all multiple-member bodies shall submit detailed
424 budget requests to the town administrator at least 150 days before the date of the annual town
425 meeting.

426

427 5-1-6 At least 90 days prior to the scheduled date of the annual town meeting, the town
428 administrator shall submit to the board of selectmen a comprehensive proposed budget for all
429 town functions for the ensuing fiscal year and an accompanying budget message.

430

431 5-1-7 The proposed budget message shall explain the proposed budget in fiscal terms
432 and in terms of what specific projects are contemplated in the year ahead. The proposed budget
433 shall provide a complete financial plan for all town funds and activities, including school
434 budgets, and shall be in such form as the town administrator, in consultation with the finance
435 committee, may establish. The draft budget shall indicate proposed expenditures for current
436 operations and for capital projects during the ensuing year, detailed by each town agency and by
437 specific purposes and projects.

438

439 5-1-8 The board of selectmen shall, within 30 days following the submission of the
440 proposed budget prepared by the town administrator, approve the proposed budget, with or
441 without amendments, and submit it to the finance committee. The board of selectmen shall also
442 transmit the budget request of the school committee, with its recommendations on same, to the
443 finance committee.

444

445 5-1-9 At least 30 days prior to the scheduled date of town meeting, the board of
446 selectmen shall hold 1 or more public hearings on the proposed budget.

447 5-1-10 The finance committee shall review the proposed budget and, prior to the mailing
448 of the warrant, issue a report with its recommendations and detailed explanations regarding the
449 budget and any other budget-related articles.

450 5-1-11 The warrant for annual town meeting shall be mailed and posted in accordance
451 with the town bylaws, providing that the mailing include the proposed budget and the finance
452 committee report detailed in section 5-1-10.

453

454 5-1-12 The board of selectmen shall present the proposed budget to the town meeting.

455 Section 2. Capital Improvements Plan

456 5-2-1 The capital planning committee shall submit a capital plan annually to the town
457 administrator, who shall review it and forward it to the board of selectmen and finance
458 committee with recommendations. The finance committee shall review the plan and make its
459 own recommendations. The board of selectmen may vote to accept the plan or return it to the

460 capital planning committee for revision. The approved capital plan shall be completed in such
461 time as will allow for consideration as part of the annual budget process.

462 5-2-2 The capital plan shall at minimum include: (a) a list of all capital improvements
463 proposed to be undertaken during each of the ensuing 5 years, with supporting information as to
464 the need for each capital improvement; (b) cost estimates, proposed methods of financing, and
465 recommended time schedules for each improvement; and (c) the estimated annual cost of
466 operating and maintaining each facility and piece of major equipment referenced in the plan. The
467 committee may extend the timeline of the plan beyond 5 years.

468 5-2-3 Except as otherwise provided by this charter, the role of the capital planning
469 committee and capital planning procedures shall be governed by the town bylaws.

470 Section 3. Approval of Warrants

471 5-3-1 Warrants for the expenditure of town funds, prepared and signed by the town
472 accountant in accordance with the General Laws, and not exceeding a predetermined threshold
473 fixed by the board of selectmen, shall be approved by the town administrator or the acting town
474 administrator appointed under section 3-5-2. For purposes of the charter, the establishment of
475 the threshold shall be considered the promulgation of a rule or regulation. The town
476 administrator shall provide copies of all approved warrants to the board at its next meeting
477 following such approval. Approval of the board of selectmen shall be required for expenditures
478 exceeding the fixed threshold. The board of selectmen shall approve all warrants in the absence
479 of the town administrator, when a temporary town administrator is serving pursuant to section 3-
480 5-1, or when a vacancy exists in the office of town administrator.

481 Section 4. Annual Audit

482 5-4-1 The board of selectmen shall cause an independent audit of the town's finances to
483 be performed annually by a certified public accountant with experience in municipal or other
484 public agency audits. A copy of the auditors' report shall be filed with the town clerk, shall be a
485 public record, and a summary thereof shall be published in the next annual town report.

486 ARTICLE 6 – GENERAL PROVISIONS

487 Section 1. Charter Changes

488

489 6-1-1 This charter may be replaced, revised, or amended in accordance with any
490 procedures made available under the Massachusetts Constitution and the General Laws.

491

492 Section 2. Severability

493

494 6-2-1 The provisions of this charter are severable. If any provision of this charter is held
495 invalid, the other provisions of this charter shall not be affected thereby. If the application of this
496 charter or any of its provisions to any person or circumstance is held invalid, the application of
497 this charter and its provisions to other persons and circumstances shall not be affected thereby.

498

499 Section 3. Specific Provisions to Prevail

500

501 6-3-1 To the extent that any specific provision of this charter shall conflict with any
502 provision expressed in general terms, the specific provision shall prevail.

503

504 Section 4. Number and Gender

505

506 6-4-1 Words importing the singular number may extend and be applied to several
507 persons or things; words importing the plural number may include a singular person or thing;
508 words importing the feminine gender shall include the masculine gender; words importing the
509 masculine gender shall include the feminine gender.

510 Section 5. References to General Laws

511 6-5-1 All references to the General Laws contained in the charter refer to the General
512 Laws of the commonwealth of Massachusetts and include any amendments or revisions to such
513 chapters and sections or to the corresponding chapters and sections of any rearrangement of the
514 General Laws enacted after the adoption of the charter.

515 Section 6. Rules and Regulations

516 6-6-1 A copy of all rules and regulations adopted by any town agency shall be filed in
517 the office of the town clerk before any such rule or regulation shall become effective, and copies
518 shall be made available for review by any person who requests such information. No rule or
519 regulation adopted by any town agency shall become effective until at least 10 days following
520 the date it has been so filed in the office of the town clerk.

521 Section 7. Certificate of Election or Appointment

522 6-7-1 Upon election or appointment to an office of the town, each person shall be sworn
523 to that office by the town clerk as provided by the town bylaws or as may be otherwise
524 authorized by law.

525 Section 8. Periodic Reviews

526 6-8-1 Every 10 years, in each year ending in a 6, the board of selectmen shall appoint a
527 special committee to consist of 9 members for the purpose of reviewing this charter and making
528 a report, with recommendations, to town meeting concerning such proposed amendments as the
529 committee deems necessary or desirable. The committee shall meet to organize forthwith
530 following the final adjournment of the annual town meeting on a date determined by the board of
531 selectmen. Nothing in this section shall preclude the town from revising the charter at any time
532 through any appropriate means.

533 6-8-2 Every 5 years, in each year ending in a 2 or a 7, the board of selectmen shall
534 appoint a special committee to consist of 5 members, 1 of whom shall be the town clerk, who
535 shall serve as chair, for the purpose of reviewing all general bylaws of the town. The committee
536 shall present a final report to the board of selectmen no later than 90 days prior to the scheduled
537 date of the annual town meeting in the next fiscal year that shall include recommendations for
538 such proposed amendments as the committee deems necessary or advisable. Nothing in this
539 section shall preclude the town from revising the bylaws at any time through any appropriate
540 means.

541 6-8-3 At least once every 5 years following the adoption of this charter, the board of
542 selectmen shall direct the human resources advisory board to review and update the job

543 descriptions of all current town employees, and review the personnel policies of the town. The
544 committee shall present a final report to the board of selectmen that shall include the new job
545 descriptions and recommendations for such changes to personnel policies as it deems necessary
546 or advisable. Nothing in this section shall preclude the town from revising the job descriptions or
547 personnel policies at any time through any appropriate means.

548 6-8-4 At least once every 5 years following the adoption of this charter, the board of
549 selectmen shall initiate a review and assessment of the information technology, recordkeeping,
550 and data security needs of the town.

551 ARTICLE 7 - DEFINITIONS

552 7-1-1 Definitions

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

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

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

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

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

563 (e) “Town”, the town of Hubbardston.

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

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

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

570 ARTICLE 8 – TRANSITIONAL PROVISIONS

571 Section 1. Effect on Existing Laws

572 8-1-1 Except as otherwise provided by this charter, all special laws, town bylaws, town
573 meeting votes, and rules and regulations of or pertaining to the town in force when this charter
574 takes effect and not specifically or by clear implication repealed as a result of adoption of this
575 charter, shall continue in full force and effect until amended or rescinded by due course of law or
576 until they expire by their own limitation. Where provisions of this charter conflict with town
577 bylaws, the charter shall govern.

578 8-1-2 Within 120 days of the adoption of this charter, the board of selectmen shall
579 appoint a special committee, as provided in section 6-8-2, for the purpose of reviewing all
580 general bylaws of the Town.

581 8-1-3 Upon adoption of this charter, the following special acts are hereby explicitly
582 retained: chapter 444 of the acts of 1987 and chapter 138 of the acts of 1988.

583 Section 2. Continuation of Government

584 8-2-1 Except as otherwise provided by this charter, all town agencies shall continue to
585 perform their duties until re-appointed or re-elected, or until successors to their respective
586 positions are duly appointed or elected, or until their duties have been transferred.

587 8-2-2 Except as otherwise provided by this charter, all town boards, committees, or
588 multiple-member bodies shall continue to perform their duties until re-appointed, or until
589 successors to their respective positions are duly appointed, or until their duties have been
590 transferred.

591 8-2-3 Upon the effective date of this charter, the following multi-member bodies shall
592 be abolished, the terms of any incumbent members terminated, and any remaining duties
593 transferred to other multi-member bodies as determined by the board of selectmen to be
594 appropriate: 2020 committee, town common committee, recreation field committee, energy
595 committee, and monument committee.

596 Section 3. Continuation of Personnel

597 8-3-1 Following the adoption of the charter, to the extent that any provision affects a
598 particular appointed town office, position, or employment, any person holding such office or
599 position, or employed on a part or full-time basis with the town, shall, subject to appropriation
600 and the continued existence of such office, position or employment, retain the same and continue
601 to perform the duties thereof until provision shall have been made for the performance of those
602 duties by another person or agency, unless sooner removed in accordance with this charter,
603 applicable collective bargaining agreement, employment contract, bylaw, or otherwise; provided,
604 however, that no person in the permanent full-time service of the town shall forfeit the

605 employee's pay grade, or time in service of the town. Subject to appropriation and in accord
606 with the provisions of any applicable collective bargaining agreement, all such persons shall be
607 retained in a capacity as similar to the capacity in which they were serving at the time this charter
608 is adopted as is practicable, and any reduction in the personnel needs of the town shall be
609 accomplished through a policy of attrition, unless specific provision is otherwise made.

610

611 8-3-2 As of the effective date of this charter, the position of town clerk shall be
612 appointed, the position of elected town clerk shall be abolished, and the term of the incumbent
613 elected town clerk terminated; provided, however, that said incumbent elected town clerk shall
614 be deemed to be the first appointed town clerk under this charter and shall hold said office until
615 said clerk's retirement, resignation, or removal in accordance with the provisions of section 3-4-
616 1; thereafter, the position of town clerk shall be appointed in accordance with the provisions of
617 section 3-4-1.

618 8-3-3 As of the effective date of this charter, the position of tree warden shall be
619 appointed, the position of elected tree warden shall be abolished, and the term of the incumbent
620 elected tree warden terminated; provided, however, that said incumbent elected tree warden shall
621 be deemed to be the first appointed tree warden under this charter and shall hold said office until
622 said tree warden's retirement, resignation, or removal in accordance with the provisions of
623 section 3-4-1; thereafter, the position of tree warden shall be appointed in accordance with the
624 provisions of section 3-4-1.

625 Section 4. Transfer of Records and Property

626 8-4-1 All records, property and equipment whatsoever of any agency or part of such
627 agency, the powers and duties of which are assigned in whole or in part to another agency as a
628 result of adoption of this charter, shall be transferred by operation of law to such assigned agency
629 upon the effective date of this charter.

630 Section 5. Effect on Obligations, Taxes, etc.

631 8-5-1 All official bonds, obligations, contracts, and other instruments entered into or
632 executed by or to the town before adoption of this charter, and all taxes, assessments, fines,
633 penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and
634 collected, and all writs, prosecutions, actions, and cause of action, except as herein otherwise
635 provided, shall continue without abatement and remain unaffected by the charter. No legal act
636 done by or in favor of the town shall be rendered invalid by reason of the adoption of this
637 charter. No contracts or liabilities in force on the effective date of this charter shall be affected
638 by the adoption hereof, the change of certain positions from elected to appointed, or the creation
639 of the department of public works, and such new positions and department shall in all respects be
640 the lawful successor of offices and department so abolished or consolidated.

641 Section 6. Time of Taking Effect

642 8-6-1 Except as otherwise provided below, this charter shall take effect on the first July
643 1 or January 1 following adoption by voters, whichever shall occur sooner.

644 8-6-2 Section 3-2-2 of this charter shall take effect on July 1, 2015.

645 8-6-3 A special election for the purpose of increasing the number of members of the
646 board of selectmen and the board of health from 3 to 5 shall be held at a special election called

647 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.