

HOUSE No. 04209

[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 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. 04209

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 affirm the
3 customary and traditional liberties of the people with respect to the conduct of our local
4 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 established by
9 law shall continue to be a body corporate and politic with perpetual succession under the name
10 “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 Charter.

13 Section 3. Powers of the Town

14 1-3-1 Subject only to express limitations on the exercise of any power or function by a
15 municipality in the Constitution or laws of the commonwealth, it is the intent and the purpose of
16 the voters of Hubbardston to secure through the adoption of this charter all of the powers it is
17 possible to secure for a municipal government under the Constitution and laws of the
18 commonwealth.

19 Section 4. Division of Powers

20 1-4-1 All legislative powers of the town shall be exercised by a town meeting open to all voters
21 of the town.

22 1-4-2 The administration of all town fiscal, prudential, and municipal affairs shall be vested in
23 the executive branch headed by the board of selectmen.

24 Section 5. Construction

25 1-5-1 The powers of the town of Hubbardston under this charter are to be construed liberally in
26 its favor and the specific mention of any particular power is not intended to limit in any way the
27 general powers of the town of Hubbardston as stated in section 1-3-1.

28 Section 6. Intergovernmental Relations

29 1-6-1 Consistent with any applicable constitutional or statutory provisions, the town may
30 exercise any of its powers, or perform any of its functions and may participate in the financing

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

33 1-6-2 The town, through the board of selectmen, in accordance with general or special laws,
34 may enter into agreements with any other unit of government to perform jointly or in
35 cooperation, by contract or otherwise, any of its powers or functions.

36 ARTICLE 2 – LEGISLATIVE BRANCH

37 Section 1. Town Meeting and Town Election

38 2-1-1 The legislative powers of the town shall be vested in a town meeting open to all voters of
39 the town.

40 2-1-2 The annual election of town officers and the determination of such matters as the laws
41 that are required to be determined by ballot shall be held on a date to be determined by the town
42 bylaws or as designated by the board of selectmen. Special town elections may be held from
43 time to time in accordance with law. The annual town meeting shall be held in March, April,
44 May or June on a date to be determined by the town bylaws or as designated by the board of
45 selectmen.

46 2-1-3 The board of selectmen may call special town meetings at such times as the board may
47 deem necessary or desirable in order to transact the legislative business of the town in an orderly
48 manner, or as allowed by the General Laws.

49 2-1-4 The board of selectmen shall call a special town meeting upon request in writing of 200
50 registered voters or of 20 percent of the total number of registered voters of the town, whichever
51 number is the lesser at the time the petition is submitted.

52 Section 2. Presiding Officer at Town Meeting

53 2-2-1 The town moderator, elected as provided in section 4-1-1 of this charter, shall preside at
54 all sessions of the town meeting.

55 2-2-2 The moderator may appoint a voter to perform duties of the moderator in the event of a
56 conflict of interest or if the moderator is called away from the meeting.

57 2-2-3 In the absence of the moderator, town meeting shall, as its first act, elect a temporary
58 moderator in accordance with the General Laws.

59 2-2-4 In the event the position of moderator is vacant due to resignation, removal from town, or
60 otherwise, the town meeting shall, as its first act, elect a temporary moderator by a majority vote,
61 who shall serve until the next town election, at which time a moderator shall be elected for a new
62 3 year term.

63 2-2-5 The moderator shall perform such duties as may be assigned to the office of moderator by
64 charter, General Laws, bylaws, or vote of town meeting.

65 Section 3. Warrants for Town Meeting

66 2-3-1 Every town meeting shall be called by a warrant issued by the board of selectmen which
67 shall state the date, time, and place at which the meeting is to be convened and, by separate
68 articles, the subject matter to be acted upon.

69 2-3-2 Except as otherwise provided by this charter, the publication of the warrant shall be in
70 accordance with town bylaws governing such matters.

71 2-3-3 The board of selectmen shall include in the warrant all articles submitted to it by: (1) any
72 elected town officer; (2) any multiple-member body acting by a majority vote of its members; or
73 (3) any 10 voters for an annual town meeting and any 100 voters for a special town meeting. If
74 an article is petitioned as set forth herein shall be received after the warrant for the next town
75 meeting has been closed, the article shall appear on the warrant for the next town meeting for
76 which it qualifies for inclusion.

77 Section 4. Rules of Procedure for Town Meeting

78 2-4-1 Except as otherwise provided by this charter, the procedure and conduct of town meeting
79 shall be governed by the town bylaws.

80 ARTICLE 3 – EXECUTIVE BRANCH

81 Section 1. Executive Powers Vested in Board of Selectmen

82 3-1-1 Except as otherwise provided by this charter, all executive powers of the town shall be
83 vested in the board of selectmen, which shall have all the powers and duties given to boards of
84 selectmen under the Commonwealth of Massachusetts Constitution and General Laws, and such
85 additional powers and duties as may be authorized by this charter, by bylaw, or town meeting
86 vote.

87 3-1-2 The board of selectmen shall serve as the goal-setting, long range-planning, and policy-
88 making body of the town, recommending major courses of action to the town meeting, and
89 adopting operating policy directives and guidelines which are to be implemented by officers,
90 boards, committees, commissions, and employees of the Town.

91 3-1-3 The board shall have the power to enact rules and regulations to implement policies and
92 to issue interpretations thereof.

93 3-1-4 The board shall exercise, through the town administrator, general supervision over all
94 matters affecting the interests or welfare of the town.

95 3-1-5 The board may make investigations and may authorize the town administrator or other
96 agent to investigate the affairs of the town and the conduct of any town department, office, or
97 agency, including any doubtful claims against the town, and for this purpose the board may
98 subpoena witnesses, administer oaths, take testimony, and require the production of evidence. A
99 summary report of any such investigation shall be placed on file in the office of the town clerk.

100 3-1-6 The board of selectmen shall have control of all public places and real and personal
101 property of the town, the custody of which is not by law vested in any other authority.

102 3-1-7 The board of selectmen shall be the licensing authority for the town and shall issue all
103 permits and licenses except as otherwise provided by General Laws or the town bylaws.

104 3-1-8 The board of selectmen shall provide at the start of each regularly scheduled meeting a
105 portion of time for public comment. The procedures for public comment shall be as provided by
106 the town bylaws.

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

108 3-2-1 The board of selectmen shall consist of 5 members elected to serve 3-year terms, with
109 terms so arranged that as equal a number of selectmen as is possible are elected each year.

110 3-2-2 No person may serve on the board of selectmen while at the same time serving as a town
111 employee or as an elected or appointed officer or official, or member of a multiple-member town
112 body, regardless of whether compensation is received for such service.

113 3-2-3 The board of selectmen may fill any vacancy in the office of selectmen by a special
114 election in accordance with the provisions of General Laws.

115 Section 3. Appointment and Qualifications of Town Administrator

116 3-3-1 The board of selectmen shall, by a majority vote of its full membership, appoint and may
117 remove a town administrator for a term of not more than 3 years. The town administrator shall be
118 the chief administrative officer of the town and shall be responsible to the board of selectmen for
119 the administration of all town affairs placed in his or her charge by the charter.

120 3-3-2 The town administrator shall be a person with executive and administrative
121 qualifications, and especially fitted by education, training, and experience to perform the duties
122 of the office. The town may, from time to time, by bylaw, establish such additional qualifications
123 as it deems necessary and appropriate.

124 3-3-3 The board shall set the compensation for the town administrator, not to exceed an amount
125 appropriated by the town meeting, and may enter into an agreement with the town administrator,
126 in accordance with the General Laws, setting out the terms and conditions of employment.

127 3-3-4 The town administrator shall hold no other elected or appointed municipal office within
128 the town, except when an appointment is made in an "ex officio" capacity. The town
129 administrator shall engage in no other business or occupation without the advance written
130 authorization of the board of selectmen; provided, however, that this section shall not prohibit

131 the town administrator, with the prior approval of the board of selectmen, from providing similar
132 services to another town in the event that such services do not compromise the level of service
133 which the town may expect to receive from the town administrator.

134 Section 4. Powers of Town Administrator

135 3-4-1 The town administrator shall appoint and may remove all department heads, officers,
136 subordinates, and employees of the town, except for appointments: of employees of the school
137 department and library trustees; made by representatives of the commonwealth; governed by
138 civil service law; and for which another method of appointment is provided in this charter (see
139 chapter 4), including appointment by the fire chief of a deputy fire chief and firefighters in
140 accordance with G.L. c.48, §§42, 43 and 44; provided, however, that where any officer or
141 multiple-member body has appointment authority under the General Laws, the town
142 administrator shall consult with such officer or multiple-member body prior to making an
143 appointment hereunder. Appointments made by the town administrator shall become effective on
144 the 15th day following the day notice of the proposed appointment is filed with the board of
145 selectmen, unless the board of selectmen shall, within said period, reject said appointment or has
146 sooner confirmed it.

147

148 3-4-2 The town administrator shall direct and supervise the administration of all functions
149 under the town administrator's control.

150

151 3-4-3 The town administrator shall prepare and submit the annual operating and capital budgets
152 as provided in article 5, sections 1 and 2.

153

154 3-4-4 The town administrator shall attend all regular and special meetings of the board of
155 selectmen, unless excused at the town administrator's request, and shall participate, but have no
156 vote, in all of its discussions.

157

158 3-4-5 The town administrator shall attend all sessions of town meetings, unless excused by the
159 board of selectmen at the town administrator's request, and answer all questions directed to him
160 or her by the voters of the town.

161

162 3-4-6 The town administrator shall administer all provisions of General Laws and special laws
163 applicable to the town, to the charter, to the bylaws and votes of the town, and all rules and
164 regulations made by the board of selectmen.

165 3-4-7 The town administrator, or the administrator's designee, shall negotiate all labor and
166 employment contracts, other than those under the jurisdiction of the school committee and board
167 of library trustees. Proposed contracts negotiated by the town administrator shall require
168 approval of the board of selectmen.

169 3-4-8 The town administrator shall keep full and complete inventory of all property of the
170 town, both real and personal. The town administrator shall be responsible for the maintenance

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

173 3-4-9 The town administrator shall be responsible for the keeping of full and complete records
174 of the financial and administrative activities of the town and shall render a full report to the
175 board of selectmen at the end of each fiscal year and otherwise as the board may require.

176

177 3-4-10 The town administrator shall be the chief procurement officer under chapter 30B of the
178 General Laws, responsible for the procurement, award and execution of contracts for all supplies,
179 services, materials, and equipment of the town, excluding the school district. The town
180 administrator may delegate responsibility for procurement in accordance with section 19 of
181 chapter 30B of the General Laws.

182 3-4-11 The town administrator may at any time inquire into the conduct of any officer,
183 employee, or department.

184

185 3-4-12 The town administrator shall perform such other duties consistent with the office as may
186 be required by bylaw, vote of the town, or board of selectmen.

187 Section 5. Acting Town Administrator

188

189 3-5-1 Should the town administrator be unable to perform the duties of the office due to
190 absence, illness, or suspension, the board of selectmen may appoint a temporary town

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

193 3-5-2 The board shall designate a qualified person to serve as acting town administrator and to
194 perform the duties of the office during any period of any vacancy exceeding 30 days, caused by
195 the town administrator's absence, illness, suspension, removal or resignation. The appointment
196 shall be for a period not to exceed 180 days. The individual serving as the temporary town
197 administrator as provided by section 3-5-1 may, but need not be, appointed as acting town
198 administrator.

199 3-5-3 The powers of the temporary town administrator, under section 3-5-1 above, shall be
200 limited to matters which should not be delayed and shall include authority to make temporary or
201 emergency appointments to town offices, but not to make permanent appointments.

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

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

204 4-1-1 The following boards, committees, and officials shall be elected for staggered terms and
205 under the conditions below:

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

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

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

210 4-1-2 Unless modified in accordance with section 4-7-1 of this charter, the following boards,
211 committees, and officials shall be elected for staggered terms and under the conditions below:

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

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

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

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

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

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

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

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

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

222 4-2-1 The following boards, committees, and other multiple-member bodies shall be appointed
223 by the board of selectmen from among the residents of the town for staggered terms and under
224 the conditions below:

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

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

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

- 229 (d) historical commission – 5 members for terms of 3 years;
- 230 (e) council on aging – 9 members for terms of 3 years;
- 231 (f) agricultural commission – 5 members for terms of 3 years;
- 232 (g) human resources advisory board – 5 members for terms of 3 years; and
- 233 (h) cultural council – 5 members for terms of 3 years.

234 4-2-2 The community preservation commission shall be appointed as provided by the General
235 Laws and the town bylaws.

236 4-2-3 The capital improvement planning committee shall consist of 5 members, 1 of whom
237 shall be a member of the finance committee appointed by the finance committee for a term of 1
238 year, one of whom shall be a member of the planning board appointed by the planning board for
239 a term of 1 year, and 3 of whom shall be town residents appointed by the board of selectmen for
240 terms of 3 years.

241 4-2-4 The town administrator shall serve as the town’s liaison to all boards, commissions, and
242 officers. Notwithstanding their statutory duties, such boards, commissions, officers, working
243 with the town administrator shall seek to ensure effective and ongoing collaboration and
244 cooperation among all entities serving the town to assure regular communication and shared
245 understanding of the town’s needs and priorities as determined by the board of selectmen.

246 4-2-5 Advisory committees may be created from time to time by bylaw, town meeting, or
247 majority vote of the board of selectmen for a specific purpose. Unless otherwise specifically so
248 provided, these committees shall be appointed by the board of selectmen and shall terminate
249 upon completion of their respective charges.

250 Section 3. Appointed Officials

251 4-3-1 The board of selectmen shall appoint the chiefs of the police department and fire
252 department, who shall have such authority as is set forth in section 97A of chapter 41 of the
253 General Laws and sections 42, 43 and through 44, inclusive, of chapter 48 of the General Laws,
254 respectively; provided, however, that said chiefs shall engage in ongoing communication and
255 coordination with the town administrator on matters affecting their respective departments, and
256 shall meet with the town administrator, at the administrator's request, and provided further, that
257 sufficient notice is given therefor.

258 4-3-2 The board of selectmen shall appoint 3 constables to staggered terms of 3 years.

259 4-3-3 The town administrator shall appoint other employees as described in article 3.

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

261 4-4-1 Except as otherwise provided by this charter, the procedure and conduct of multiple-
262 member bodies shall be governed by the town bylaws and applicable General Laws, including
263 the open meeting law, sections 18 through 25, inclusive, of chapter 30A of the General Laws, the
264 conflict of interest law, chapter 268A of the General Laws, and the public records law, section 10
265 of chapter 66 of the General Laws and clause 26 of section 7 of chapter 4 of the General Laws,
266 as they may be amended from time to time.

267 4-4-2 If any person appointed to serve as a member of a multiple-member town body shall fail
268 to attend 4 or more consecutive meetings, or one-half or more of all of the meetings of such body
269 held in 1 calendar year, the multiple-member body shall notify its appointing authority. Said
270 appointing authority may, by majority vote, declare the office to be vacant; provided, however,

271 that not less than 10 days prior to the date the vote is scheduled to be taken, the appointing
272 authority has given in hand, or mailed by registered or certified mail, return receipt requested,
273 notice of such proposed or pending vote to the address of such person as it appears on the street
274 or voters list. Evidence of the person's receipt of such notice is not required, however, for the
275 appointing authority to take the action authorized by this section.

276 4-4-3 Employees serving as staff to a board or commission shall not serve as a member of such
277 board or commission.

278 Section 5. Recall of Elected Officials

279 4-5-1 Any holder of an elective office in the town of Hubbardston may be recalled there from
280 by the registered voters of the town as herein provided.

281 4-5-2 Ten registered voters of the town may make and file with the town clerk an affidavit
282 containing the name of the officer sought to be recalled and a statement of the grounds. The town
283 clerk shall make available to the voter filing such affidavit a sufficient number of copies of
284 petition blanks for such recall not to exceed 5 times the number of certified signatures required to
285 be collected. Said blanks shall be issued by the town clerk with the town clerk's signature and
286 official seal attached thereto; and shall be dated and addressed to the selectmen. Said blanks shall
287 contain the name of the first 10 persons signing the affidavit, as identified by the voter filing the
288 affidavit, the name of the person sought to be recalled, the office from which removal is sought,
289 the grounds of recall as stated in said affidavit, and shall demand the election of a successor to
290 such office. A copy of the petition shall be entered in a record book to be kept in the office of the
291 town clerk. Said recall petition shall be returned and filed with the town clerk within 14 days
292 after the petitions are made available to the person filing the affidavit. Said petition before being

293 returned and filed shall be signed by qualified voters of the town, equal in number to at least 15
294 percent of the qualified voters of the town as of the date such affidavit was filed with the town
295 clerk.

296 4-5-3 If the petition shall be found and certified by the town clerk to be sufficient, the clerk
297 shall submit the same with the town clerk's certificate to the board of selectmen without delay,
298 and the board of selectmen shall forthwith give written notice to said officer of the receipt of said
299 certificate and, shall, if the officer sought to be recalled does not resign within 5 days after the
300 date the notice is provided, thereupon order a recall election to be held on a day fixed by them
301 not less than 64 nor more than 90 days from the date the election is called; provided, however,
302 that if any other town election is to occur within 100 days after the date of the board's vote to
303 call for the election, the board of selectmen shall postpone the holding of the recall election to
304 the date of such other election. If a vacancy occurs in said office after a removal election has
305 been so ordered, the election shall nevertheless proceed as provided in this section.

306 4-5-4 Any officer who has been recalled by a vote at the recall election may be a candidate to
307 succeed himself or herself in an election to fill such vacancy held concurrently with the recall
308 election. The nomination of all candidates, the publication of the warrant for the election, and the
309 conduct of the same, shall all be in accordance with the provisions of law relating to elections,
310 unless otherwise provided in this charter. A majority of those voting on the question of recall
311 shall be sufficient to recall such elected officer. If a majority of the votes on the question of
312 removal is in the negative, the ballots of candidates to fill the potential vacancy need not be
313 counted.

314 4-5-5 The incumbent shall continue to perform the duties of the office until the recall election.
315 If said incumbent is not removed, the incumbent shall continue in office for the remainder of the
316 unexpired term, subject to recall as before. If said incumbent is removed in the removal election,
317 the incumbent shall be deemed removed and, upon the qualification of the person elected to fill
318 the vacancy, said person shall hold office during the unexpired term.

319 Section 6. Administrative Organization

320 4-6-1 A department of public works shall be established under the direction of a director of
321 public works, and such department shall have the following powers, duties and responsibilities:

322 4-6-1.1 The director shall be appointed by the town administrator with the approval of the board
323 of selectmen in accordance with section 3-4-1, and shall be qualified by education and
324 experience for the duties of the office.

325 4-6-1.2 The department of public works shall be responsible for:

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

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

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

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

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

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

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

340 4-6-1.3 In addition to those powers and duties otherwise conferred or imposed by this charter,
341 the director of public works, with the approval of the town administrator, may establish operating
342 divisions within the department of public works, each to be operated under the director's
343 jurisdiction. The director, with the approval of the town administrator, shall have authority to
344 make rules and regulations for governance the department of public works and divisions thereof
345 and shall attend to the proper enforcement of the same. Prior to making an appointment to the
346 department of public works in accordance with the provisions of section 3-4-1, the town
347 administrator shall seek a recommendation from the director of public works.

348 4-6-1.4 In carrying out its functions relating to cemeteries and parks, the department of public
349 works shall implement the policies developed by the cemetery commission and parks
350 commission, respectively.

351 4-6-2 The town administrator, after consultation with the board of selectmen, shall from time to
352 time prepare and submit to the town meeting plans of organization or reorganization which
353 establish operating divisions for the orderly, efficient, or convenient conduct of the business of
354 the town. Whenever the town administrator prepares such a plan, the board of selectmen shall
355 hold one or more public hearings on the proposal. The board of selectmen shall give notice of the
356 hearing, which notice shall describe the scope of the proposal and the time and place at which the

357 hearing will be held, not less than 7 nor more than 14 days following said publication. Following
358 such public hearing, the proposal shall be submitted to the town meeting by an appropriate
359 warrant article. The board of selectmen may amend such proposal prior to submittal to the town
360 meeting as a warrant article. An organization or reorganization plan shall become effective at the
361 expiration of 60 days following the date of adjournment of the town meeting at which the
362 proposal is submitted unless the town meeting disapproves of the plan by a majority vote. The
363 town meeting may vote only to approve or to disapprove the plan and may not vote to amend it.

364 4-6-3 Except as otherwise provided in the charter, the town meeting may, by bylaw, reorganize,
365 create, consolidate or abolish departments, boards, commissions and offices, in whole or in part
366 may establish new departments, boards and commissions or offices as deemed necessary and
367 may transfer powers, duties and responsibilities of one department, board, commission or office
368 to another.

369 Section 7. Conversion of Positions from Elected to Appointed

370 4-7-1 Notwithstanding any law or bylaw to the contrary, in the event that 2 consecutive
371 elections for a town-elected office or board that is included in section 1 of chapter 41 of the
372 General Laws, shall be held for which the number of candidates is less than or equal to the
373 number of positions on the ballot, the town clerk shall provide notice of such to the board of
374 selectmen. The board of selectmen shall then place an article on the warrant for the next town
375 meeting asking town meeting to consider whether to amend the town charter to change the
376 manner of selection for the position(s) in question from elected to appointed. If town meeting
377 passes the article, the board of selectmen shall take such additional steps as may be appropriate

378 to effectuate the change. This section shall not apply to the offices of board of Selectmen, school
379 committee, and moderator.

380 Section 8. Ethical Standards

381 4-8-1 Elected and appointed officers, officials, and employees of the town are expected to
382 demonstrate, in their general conduct and in the performance of their duties and responsibilities,
383 the highest ethical standards. Elected and appointed officers, officials and employees of the town
384 are expected to comply with chapter 268A of the General Laws and recognize that they hold
385 their offices or positions for the benefit of the public and while acting in their official capacity,
386 are expected to faithfully discharge the duties of their offices in the public interest regardless of
387 personal considerations. Elected and appointed officers, officials and employees of the town
388 shall not use their official positions to secure or to grant special consideration, treatment,
389 advantage, privilege or exemption to themselves or to any other person beyond that which is
390 available to every person.

391 4-8-2 All appointments and promotions of town officers and employees shall be made on the
392 basis of merit and fitness demonstrated by examination, past performance, or other evidence of
393 competence and suitability. Each person appointed to fill an office or position shall be a person
394 especially fitted by education, training, and previous work experience to perform the duties of
395 the office or position for which the person is chosen.

396 ARTICLE 5 – FINANCIAL PROVISIONS AND PROCEDURES

397 Section 1. Annual Budget

398 5-1-1 The fiscal year of the town shall begin on the first day of July and end on the last day of
399 June, unless another period is required by General Laws.

400

401 5-1-2 Annually, prior to October 1, the town administrator shall establish and issue a budget
402 schedule setting forth the calendar dates relating to the development of the annual operating
403 budget for the ensuing fiscal year. Any deviation from the within requirements shall require
404 approval of the board of selectmen and the finance committee.

405

406 5-1-3 Annually, prior to November 1, the town administrator shall estimate revenue for the
407 ensuing fiscal year.

408

409 5-1-4 Annually, prior to December 1, the board of selectmen, after consultation with the town
410 administrator, shall issue a policy statement that shall establish the general guidelines for the
411 next town budget.

412

413 5-1-5 All department heads and all multiple-member bodies shall submit detailed budget
414 requests to the town administrator at least 150 days before the date of the annual town meeting.

415

416 5-1-6 At least 90 days prior to the scheduled date of the annual town meeting, the town
417 administrator shall submit to the board of selectmen a comprehensive proposed budget for all
418 town functions for the ensuing fiscal year and an accompanying budget message.

419

420 5-1-7 The proposed budget message shall explain the proposed budget in fiscal terms and in
421 terms of what specific projects are contemplated in the year ahead. The proposed budget shall
422 provide a complete financial plan for all town funds and activities, including school budgets, and
423 shall be in such form as the town administrator, in consultation with the finance committee, may
424 establish. The draft budget shall indicate proposed expenditures for current operations and for
425 capital projects during the ensuing year, detailed by each town agency and by specific purposes
426 and projects.

427

428 5-1-8 The board of selectmen shall, within 30 days following the submission of the proposed
429 budget prepared by the town administrator, approve the proposed budget, with or without
430 amendments, and submit it to the finance committee. The board of selectmen shall also transmit
431 the budget request of the school committee, with its recommendations on same, to the finance
432 committee.

433

434 5-1-9 At least 30 days prior to the scheduled date of town meeting, the board of selectmen shall
435 hold 1 or more public hearings on the proposed budget.

436 5-1-10 The finance committee shall review the proposed budget and, prior to the mailing of the
437 warrant, issue a report with its recommendations and detailed explanations regarding the budget
438 and any other budget-related articles.

439 5-1-11 The warrant for annual town meeting shall be mailed and posted in accordance with the
440 town bylaws, providing that the mailing include the proposed budget and the finance committee
441 report detailed in section 5-1-10.

442

443 5-1-12 The board of selectmen shall present the proposed budget to the town meeting.

444 Section 2. Capital Improvements Plan

445 5-2-1 The capital planning committee shall submit a capital plan annually to the town
446 administrator, who shall review it and forward it to the board of selectmen and finance
447 committee with recommendations. The finance committee shall review the plan and make its
448 own recommendations. The board of selectmen may vote to accept the plan or return it to the
449 capital planning committee for revision. The approved capital plan shall be completed in such
450 time as will allow for consideration as part of the annual budget process.

451 5-2-2 The capital plan shall at minimum include: (a) a list of all capital improvements proposed
452 to be undertaken during each of the ensuing 5 years, with supporting information as to the need
453 for each capital improvement; (b) cost estimates, proposed methods of financing, and
454 recommended time schedules for each improvement; and (c) the estimated annual cost of
455 operating and maintaining each facility and piece of major equipment referenced in the plan. The
456 committee may extend the timeline of the plan beyond 5 years.

457 5-2-3 Except as otherwise provided by this charter, the role of the capital planning committee
458 and capital planning procedures shall be governed by the town bylaws.

459 Section 3. Approval of Warrants

460 5-3-1 Warrants for the expenditure of town funds, prepared and signed by the town accountant
461 in accordance with the General Laws, and not exceeding a predetermined threshold fixed by the
462 board of selectmen, shall be approved by the town administrator or the acting town administrator
463 appointed under section 3-5-2. For purposes of the charter, the establishment of the threshold
464 shall be considered the promulgation of a rule or regulation. The town administrator shall
465 provide copies of all approved warrants to the board at its next meeting following such approval.
466 Approval of the board of selectmen shall be required for expenditures exceeding the fixed
467 threshold. The board of selectmen shall approve all warrants in the absence of the town
468 administrator, when a temporary town administrator is serving pursuant to section 3-5-1, or when
469 a vacancy exists in the office of town administrator.

470 Section 4. Annual Audit

471 5-4-1 The board of selectmen shall cause an independent audit of the town's finances to be
472 performed annually by a certified public accountant with experience in municipal or other public
473 agency audits. A copy of the auditors' report shall be filed with the town clerk, shall be a public
474 record, and a summary thereof shall be published in the next annual town report.

475 ARTICLE 6 – GENERAL PROVISIONS

476 Section 1. Charter Changes

477

478 6-1-1 This charter may be replaced, revised, or amended in accordance with any procedures
479 made available under the Massachusetts Constitution and the General Laws.

480

481 Section 2. Severability

482

483 6-2-1 The provisions of this charter are severable. If any provision of this charter is held
484 invalid, the other provisions of this charter shall not be affected thereby. If the application of this
485 charter or any of its provisions to any person or circumstance is held invalid, the application of
486 this charter and its provisions to other persons and circumstances shall not be affected thereby.

487

488 Section 3. Specific Provisions to Prevail

489

490 6-3-1 To the extent that any specific provision of this charter shall conflict with any provision
491 expressed in general terms, the specific provision shall prevail.

492

493 Section 4. Number and Gender

494

495 6-4-1 Words importing the singular number may extend and be applied to several persons or
496 things; words importing the plural number may include a singular person or thing; words

497 importing the feminine gender shall include the masculine gender; words importing the
498 masculine gender shall include the feminine gender.

499 Section 5. References to General Laws

500 6-5-1 All references to the General Laws contained in the charter refer to the General Laws of
501 the commonwealth of Massachusetts and include any amendments or revisions to such chapters
502 and sections or to the corresponding chapters and sections of any rearrangement of the General
503 Laws enacted after the adoption of the charter.

504 Section 6. Rules and Regulations

505 6-6-1 A copy of all rules and regulations adopted by any town agency shall be filed in the
506 office of the town clerk before any such rule or regulation shall become effective, and copies
507 shall be made available for review by any person who requests such information. No rule or
508 regulation adopted by any town agency shall become effective until at least 10 days following
509 the date it has been so filed in the office of the town clerk.

510 Section 7. Certificate of Election or Appointment

511 6-7-1 Upon election or appointment to an office of the town, each person shall be sworn to that
512 office by the town clerk as provided by the town bylaws or as may be otherwise authorized by
513 law.

514 Section 8. Periodic Reviews

515 6-8-1 Every 10 years, in each year ending in a 6, the board of selectmen shall appoint a special
516 committee to consist of 9 members for the purpose of reviewing this charter and making a report,
517 with recommendations, to town meeting concerning such proposed amendments as the

518 committee deems necessary or desirable. The committee shall meet to organize forthwith
519 following the final adjournment of the annual town meeting on a date determined by the board of
520 selectmen. Nothing in this section shall preclude the town from revising the charter at any time
521 through any appropriate means.

522 6-8-2 Every 5 years, in each year ending in a 2 or a 7, the board of selectmen shall appoint a
523 special committee to consist of 5 members, 1 of whom shall be the town clerk, who shall serve as
524 chair, for the purpose of reviewing all general bylaws of the town. The committee shall present a
525 final report to the board of selectmen no later than 90 days prior to the scheduled date of the
526 annual town meeting in the next fiscal year that shall include recommendations for such
527 proposed amendments as the committee deems necessary or advisable. Nothing in this section
528 shall preclude the town from revising the bylaws at any time through any appropriate means.

529 6-8-3 At least once every 5 years following the adoption of this charter, the board of selectmen
530 shall direct the human resources advisory board to review and update the job descriptions of all
531 current town employees, and review the personnel policies of the town. The committee shall
532 present a final report to the board of selectmen that shall include the new job descriptions and
533 recommendations for such changes to personnel policies as it deems necessary or advisable.
534 Nothing in this section shall preclude the town from revising the job descriptions or personnel
535 policies at any time through any appropriate means.

536 6-8-4 At least once every 5 years following the adoption of this charter, the board of selectmen
537 shall initiate a review and assessment of the information technology, recordkeeping, and data
538 security needs of the town.

539 ARTICLE 7 - DEFINITIONS

540 7-1-1 Definitions

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

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

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

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

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

551 (e) "Town", the town of Hubbardston.

552 (f) "Town agency", any board, commission, committee, department, division, or office of the
553 town government.

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

557 (h) "Voters", registered voters of the town of Hubbardston.

558 ARTICLE 8 – TRANSITIONAL PROVISIONS

559 Section 1. Effect on Existing Laws

560 8-1-1 Except as otherwise provided by this charter, all special laws, town bylaws, town meeting
561 votes, and rules and regulations of or pertaining to the town in force when this charter takes
562 effect and not specifically or by clear implication repealed as a result of adoption of this charter,
563 shall continue in full force and effect until amended or rescinded by due course of law or until
564 they expire by their own limitation. Where provisions of this charter conflict with town bylaws,
565 the charter shall govern.

566 8-1-2 Within 120 days of the adoption of this charter, the board of selectmen shall appoint a
567 special committee, as provided in section 6-8-2, for the purpose of reviewing all general bylaws
568 of the Town.

569 8-1-3 Upon adoption of this charter, the following special acts are hereby explicitly retained:
570 chapter 444 of the acts of 1987 and chapter 138 of the acts of 1988.

571 Section 2. Continuation of Government

572 8-2-1 Except as otherwise provided by this charter, all town agencies shall continue to perform
573 their duties until re-appointed or re-elected, or until successors to their respective positions are
574 duly appointed or elected, or until their duties have been transferred.

575 8-2-2 Except as otherwise provided by this charter, all town boards, committees, or multiple-
576 member bodies shall continue to perform their duties until re-appointed, or until successors to
577 their respective positions are duly appointed, or until their duties have been transferred.

578 8-2-3 Upon the effective date of this charter, the following multi-member bodies shall be
579 abolished, the terms of any incumbent members terminated, and any remaining duties transferred

580 to other multi-member bodies as determined by the board of selectmen to be appropriate: 2020
581 committee, town common committee, recreation field committee, energy committee, and
582 monument committee.

583 Section 3. Continuation of Personnel

584 8-3-1 Following the adoption of the charter, to the extent that any provision affects a particular
585 appointed town office, position, or employment, any person holding such office or position, or
586 employed on a part or full-time basis with the town, shall, subject to appropriation and the
587 continued existence of such office, position or employment, retain the same and continue to
588 perform the duties thereof until provision shall have been made for the performance of those
589 duties by another person or agency, unless sooner removed in accordance with this charter,
590 applicable collective bargaining agreement, employment contract, bylaw, or otherwise; provided,
591 however, that no person in the permanent full-time service of the town shall forfeit the
592 employee's pay grade, or time in service of the town. Subject to appropriation and in accord
593 with the provisions of any applicable collective bargaining agreement, all such persons shall be
594 retained in a capacity as similar to the capacity in which they were serving at the time this charter
595 is adopted as is practicable, and any reduction in the personnel needs of the town shall be
596 accomplished through a policy of attrition, unless specific provision is otherwise made.

597

598 8-3-2 As of the effective date of this charter, the position of town clerk shall be appointed, the
599 position of elected town clerk shall be abolished, and the term of the incumbent elected town
600 clerk terminated; provided, however, that said incumbent elected town clerk shall be deemed to
601 be the first appointed town clerk under this charter and shall hold said office until said clerk's

602 retirement, resignation, or removal in accordance with the provisions of section 3-4-1; thereafter,
603 the position of town clerk shall be appointed in accordance with the provisions of section 3-4-1.

604 8-3-3 As of the effective date of this charter, the position of tree warden shall be appointed , the
605 position of elected tree warden shall be abolished, and the term of the incumbent elected tree
606 warden terminated; provided, however, that said incumbent elected tree warden shall be deemed
607 to be the first appointed tree warden under this charter and shall hold said office until said tree
608 warden's retirement, resignation, or removal in accordance with the provisions of section 3-4-1;
609 thereafter, the position of tree warden shall be appointed in accordance with the provisions of
610 section 3-4-1.

611 Section 4. Transfer of Records and Property

612 8-4-1 All records, property and equipment whatsoever of any agency or part of such agency,
613 the powers and duties of which are assigned in whole or in part to another agency as a result of
614 adoption of this charter, shall be transferred by operation of law to such assigned agency upon
615 the effective date of this charter.

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

617 8-5-1 All official bonds, obligations, contracts, and other instruments entered into or executed
618 by or to the town before adoption of this charter, and all taxes, assessments, fines, penalties,
619 forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and
620 all writs, prosecutions, actions, and cause of action, except as herein otherwise provided, shall
621 continue without abatement and remain unaffected by the charter. No legal act done by or in
622 favor of the town shall be rendered invalid by reason of the adoption of this charter. No
623 contracts or liabilities in force on the effective date of this charter shall be affected by the

624 adoption hereof, the change of certain positions from elected to appointed, or the creation of the
625 department of public works, and such new positions and department shall in all respects be the
626 lawful successor of offices and department so abolished or consolidated.

627 Section 6. Time of Taking Effect

628 8-6-1 Except as otherwise provided below, this charter shall take effect on the first July 1 or
629 January 1 following adoption by voters, whichever shall occur sooner.

630 8-6-2 Section 3-2-2 of this charter shall take effect on July 1, 2015.

631 8-6-3 A special election for the purpose of increasing the number of members of the board of
632 selectmen and the board of health from 3 to 5 shall be held at a special election called for other
633 purposes, or during the month of September in the year in which the charter is adopted; provided,
634 however, that at least 64 days exist between the date the election is called and the date of the
635 election, or the next annual election, whichever is sooner. The offices shall appear separately on
636 the ballot for the following offices:

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

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

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

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

645 8-6-4 At the first annual town election following adoption of this charter where multiple
646 positions on the finance committee would otherwise be on the ballot, the number of positions to
647 be elected shall be reduced to bring the total elected membership of the committee to 5. If
648 reducing the number of positions on the ballot only reduces the number of members to 6, then
649 this step shall be repeated at the next annual town election where multiple positions on the
650 finance committee would otherwise be on the ballot. Should a vacancy on the finance committee
651 occur prior to the reduction in committee size being completed, that vacancy shall remain
652 unfilled and be counted toward the reduction in the committee's size; provided, however, that the
653 term or terms of any finance committee office appearing on the ballot at the following annual
654 town election shall be adjusted as necessary to ensure that as equal a number of finance
655 committee members as possible are elected each year.

656 8-6-5 The board of selectmen shall have authority to adopt measures, which clarify, confirm, or
657 extend any of the transitional provisions of this charter in order that such transition may be made
658 in the most expeditious and the least contentious manner possible.

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

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

664 Below the question shall appear a fair and concise summary of the proposed charter, prepared by
665 town counsel, which summary shall address, at a minimum, the composition and mode of

666 selection of the legislative and executive branches and school committee, as well as any other
667 proposed provisions said counsel deems appropriate.

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

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