

Report of the Bylaw Review Committee

The Harvard Bylaw Review Committee was authorized by the Harvard Charter approved by Harvard voters on May 8, 2018. The Committee was charged with reviewing the bylaws of the Town and recommending changes to the bylaws to conform to the Charter.

The Committee began its process by discussing and agreeing upon an appropriate approach to complete its mission. The Committee choose to keep a relatively narrow focus as it undertook its work, as it felt constrained by the authority granted by the Charter. The Committee then conducted a section-by-section review of the Town's bylaws to identify proposed language changes, corrective changes and other changes pertaining to conformity with the Charter. This work was then reviewed, revised and approved by the Committee. The recommended changes were forwarded to Town Counsel for review.

In addition to reviewing the general bylaws of the Town, the Committee saw its charge to include reviewing the Historic Districts and Protective (zoning) bylaws. After a review, the Committee believed that most of the necessary changes to these bylaws would be in nomenclature only, and not substantive changes. The Committee submitted its recommended changes to the Historic Districts bylaw to the Historical Commission for its review and recommendation and submitted its recommended changes to the Protective (zoning) bylaw to the Planning Board so that it may hold a public hearing and provide a report with recommendations. The Historical Commission and the Planning Board both recommend approval of the proposed changes. Again, there are no changes to the meaning or impact of the Historic Districts or Protective (zoning) bylaws.

The Committee's proposed changes to the Town's general bylaws (including the Historic Districts bylaw) and the Protective (zoning) bylaw are summarized as follows:

- Conforming all references in the bylaws to the "Board of Selectmen" to its new name, the "Select Board";
- Conforming a few sections of the bylaws that did not already use the gender-neutral term "Chair" instead of "Chairman" and correcting references to "Building Inspector" to the term "Building Commissioner" and "Highway Superintendent" to the term "Director of Public Works" in the sections of the bylaws that had not yet been corrected;
- Codifying the Town's current practice of having associate/alternate members of boards and committees serve for one-year terms, which became necessary since the Charter provides that all terms for appointed members is three years unless otherwise provided;
- Conforming the appointed board member meeting attendance policy to the requirements of the Charter, and clarifying that incumbent appointed members will continue in office after the annual town election for a specified period to provide continuity of office while new appointments and reappointments are pending;
- Conforming the bylaws to reflect that most Town boards and committees are now appointed, rather than elected;
- Making significant changes to the bylaws relating to the Capital Planning and Investment Committee and the Finance Committee that conform to the provisions of the Charter relating to the new budget process for the Town; and

- Clarifying the terms of the members of the Historical Commission and codifying in the bylaws Massachusetts law allowing the Select Board to proceed with appointments if no nominees are submitted by the organizations from which they are requested.

The Committee did not review the rules and regulations adopted by the Town's boards and committees that are included in Part III of the Harvard Code because such a review would have fallen outside of the scope of the authority granted by the Charter. The Committee did, however, provide the Town Administrator with general suggestions to communicate to the Town's boards and committees regarding updates to their rules and regulations. The Committee encourages the Town's board and committees to review their rules and regulations and to revise them to conform with the Charter.

Due to the voluminous page count to the combined set of bylaws, the Committee has elected to house its work online. You can find the redlined version of the recommended changes by visiting https://www.harvard.ma.us/sites/harvardma/files/uploads/harvard_bylaws_mock-up_version_approved_by_brc_9-4-2018.pdf.

The Committee did come across additional items about which further consideration; study and eventually decisions will have to be made. Although the Committee did not feel it was our role to make recommendations on these matters, we note the following areas for future consideration:

1. Whether the town should adopt rules of procedure for Town Meetings as contemplated by Section 2-9 of the Charter. In addition to general rules of procedure (such as Robert's Rules or Town Meeting Time), these rules could address such matters as requirements for addressing warrant articles in order, and whether or when motions to reconsider or dissolve are in order.
2. Whether the Town should adopt a recall procedure that would allow voters to consider the removal of an elected official from office prior to the completion of his or her term. The adoption of a recall procedure is a decision that requires serious, sober deliberation. If adopted, a recall provision would require very careful consideration of numerous factors to assure that it would not be used frivolously but could be used if the need arises.
3. Whether the Town would benefit from a permanent bylaw review committee or other mechanism for the periodic review and amendment of the Town's bylaws and/or the review of proposed amendments to the Town's bylaws as to their form and consistency with existing provisions.
4. Review the various committees that exist within the Town government structure to evaluate their purpose and utility, with additions and subtractions as deemed appropriate.

Respectfully submitted,

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