

**Town of Harvard  
Charter Commission  
Final Charter Report  
October 12, 2017**

We present the Harvard Charter to our fellow citizens with a recommendation for its adoption at the Town Election in Spring 2018. The following is a summary of the Charter. The Charter can be found on the Town website.

**Overview**

A Charter Commission was formed in April 2016. The Commission first considered whether the Town would benefit from a Town Charter and concluded that it would. The Commission felt that our current government could benefit from further definition of roles and processes.

Considerations in structuring the Charter were:

- Strengthening our government to increase leadership, effectiveness, and accountability.
- Maintaining the current Open Town Meeting and five-member elected Select Board (the renamed Board of Selectmen).
- Addressing current and emerging economic challenges of the Town.
- Generating higher volunteer participation in Town government.

**Summary**

The proposed Charter clarifies and better defines the existing Executive function, tasking the Select Board with:

- Preparing an annual Strategic Plan defining its vision and annual goals. The plan will incorporate the 10-year Master Plan, Capital Investment Plan, and Finance Committee five-year plan.
- Proposing annual operating and capital budgets that further the Strategic Plan's proposed initiatives and policies.
- Reporting to Town Meetings on the progress on the prior year's Strategic Plan and the emerging challenges and opportunities in the coming years.
- Appointing the members of most boards and committees. The Select Board, the Moderator, the School Committee, the Library Trustees, and the Trustees of the Warner Free Lecture will continue to be elected. All terms will remain as they are currently, generally three years.

Other changes to Harvard's current government include clarifying the role of the Town Administrator in supporting the Select Board and establishing a quorum for Town Meeting as a minimum of 50 voters.

The Charter must be re-evaluated every 10 years but may be reviewed or revised sooner at the will of the Town's citizens. The Commission recommends that the Select Board form a Task Force to guide the implementation of the Charter and to recommend modifications to current bylaws to support the Charter.

# Town of Harvard

# Harvard Charter, 2018

Final Report

October 12, 2017

## Recommendation for Adoption

Consistent with the vote of the 2016 Town Election, a Charter Commission was formed and in due course gave consideration to the following:

- The current governance structure;
- The challenges currently faced by Harvard and those likely to emerge;
- The purview of a Charter (as distinguished from bylaws and procedures);
- An array of structural changes that would improve Town government.

Based on this inquiry, we present the enclosed Charter to our fellow citizens with a recommendation for adoption.

Respectfully submitted,

## Charter Commission Members

Paul Cohen, Chair  
Cynthia Russo, Vice-Chair  
Richard Maiore, Clerk  
Sharon McCarthy  
George McKenna

Stephanie Opalka  
C. Ronald Ostberg  
Charles Redinger  
Peter Warren

## Statement of Intent

### Current Conditions:

The current bylaws, procedures, and traditions that prescribe the operations of Harvard's government are dispersed among numerous documents and informal protocols; they are neither comprehensive nor reliably consistent.

The volunteer driven, direct democracy that served Harvard well for 275 years is challenged by recent and escalating changes in the demographics and culture of America in general and Harvard in particular. Other considerations and changes in our community include:

- Geography is no longer a primary determinant of “community.” K-12 education is Harvard's defining exception.
- Employment and goods and services are essentially unavailable within Harvard. Exceptions are virtual employment and commerce.
- Relatively high and uniform real estate values have narrowed the resident profile.
- Regulations governing land use and environmental protection have grown.
- The demand for enhanced government services has changed the number, expertise, and profile of staff.
- Staff benefits are greater and procurement procedures are more elaborate.

These changes have increased the complexity and cost of governing: Budgets have grown; volunteers can no longer be relied on to provide the required expertise; and the revenue generating capacity of a tax base that is overwhelmingly residential is being tested. This has resulted in diminished volunteer participation in civic affairs and diminished appreciation of the historic obligation to contribute to Town governance.

Strong executive leadership is needed to develop and implement a strategic plan that addresses the issues listed above while respecting the Town's values and preserving its distinguishing characteristics.

### Summary of remedies provided by this Charter:

The description of Harvard's government shall be consolidated and recorded in a single document, titled the Harvard Charter, 2018 and, subsequent to its adoption, complemented by a modified set of bylaws and Town agency procedures.

The historic and foundational principles of direct democracy shall be maintained: Town Meeting and Town Elections shall constitute the Legislative Branch; the elected Select Board, supported by the Town Administrator's office, shall constitute the Executive Branch.

This Charter shall reaffirm the authority of the Select Board. The following specifics within the Charter will allow the Select Board to better lead the Town into the future:

- At the outset of each fiscal year, the Select Board will prepare a Strategic Plan that provides:
  - Defining the Town's Vision - including emerging issues and opportunities;
  - Identifying and assigning the Planning initiatives required to understand the dynamics of that Vision and a way of addressing it;
  - Consideration of the current Master Plan, the Capital Investment Plan, and Finance Committee Five-Year Plan, and citizen inputs;
  - Developing an outline of Policy options;
  - Projecting revenue necessary for implementing planning activities and policies, and include this projection in its proposed Town Budget.
  
- Over the course of the fiscal year the Select Board will:
  - Direct, coordinate, and provide resources to the Town Administrator, staff, and Town agencies in their performance of various planning, policy, and budgeting activities.
  - Support member of all Town agencies.
  - Recruit and appoint members of unelected Town agencies.
  - As necessary, form agencies to address issues not otherwise covered.
  
- At Annual Town Meeting the Select Board will present the State of the Town:
  - Propose an operating budget and a capital budget that support its planning initiatives and proposed policies;
  - Report on the status of the Strategic Plan, and describe current and anticipated actions, issues, and opportunities.

Other changes to Harvard's current government include clarifying the role of the Town Administrator in supporting the Select Board and establishing a quorum for Town Meetings as a minimum of 50 voters.

The Charter must be evaluated every 10 years but may be reviewed or revised sooner at the will of the voters. The Commission recommends that the Select Board form a task force to guide the implementation of the Charter and to propose modifications to current bylaws.

# PROPOSED TOWN OF HARVARD CHARTER

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## **PREAMBLE**

People of the Town of Harvard in the Commonwealth of Massachusetts, in order to assure the effectiveness of Town government, facilitate the delivery of services, maintain a high quality of life, be responsive to future needs and opportunities, and encourage public participation in municipal affairs – all in accordance with the Home Rule Amendment to the Constitution of the Commonwealth – do ordain and establish this Home Rule Charter for the Town of Harvard.

Our community is committed to the principle of equal opportunity for all. We believe that civil conduct in public affairs promotes participation in democracy and that by sharing our ideas and opinions with others in thoughtful and considerate ways, we build a stronger and more diverse community. Inclusionary procedures ensure all voices are heard and all citizens are emboldened to contribute to Harvard's governance and community spirit. Our talents, the depth of our goodwill, and our diverse perspectives are fundamental to Harvard's well being.

## **ARTICLE 1: INCORPORATION, EXISTENCE, AND AUTHORITY**

### Section 1-1: Incorporation

The inhabitants of the Town of Harvard, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name “Town of Harvard.”

### Section 1-2: Short Title

This instrument shall be known and cited as the Harvard Charter.

### Section 1-3: Powers of the Town

It is the intent and purpose of the voters of the Town, through the adoption of this Charter, to secure for the Town all the powers possible under the constitution and laws of the Commonwealth, as fully and as completely as though each power were specifically and individually enumerated herein.

### Section 1-4: Division of Powers

The administration of all the fiscal, prudential, and municipal affairs of the Town shall be vested in an executive branch headed by a Select Board and a Town Administrator. The legislative powers shall be exercised by an open Town Meeting.

### Section 1-5: Interpretation of Powers

The powers reserved or granted to the Town under this Charter shall be construed liberally and interpreted broadly in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the Town as stated in section 1-3.

### Section 1-6: Intergovernmental Relations

The Town may enter into agreements with any other units of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

#### Section 1-7: Continuation of Existing Laws

All general laws, special laws, Town bylaws, votes, rules, and regulations of or pertaining to the Town which are in force when this Charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

#### Section 1-8: Ethical Standards

Elected and appointed officers, employees, and volunteers of the Town are expected to demonstrate with their general conduct and in the performance of their duties and responsibilities, the highest ethical standards to the end that the public may justifiably have trust and confidence in the integrity of its government. Elected and appointed officers, employees, and volunteers of the Town shall recognize that they act always as agents for the public, that they hold their offices or positions for the benefit of the public, that the public interest is their primary concern, and that they are required to faithfully discharge the duties of their offices regardless of personal considerations. Elected and appointed officials, employees, and volunteers of the Town shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege, or exemption to themselves or to any other person beyond that which is available to every other person.

#### Section 1-9: Definitions

As used in this Charter, the following words shall have the following meanings unless the context clearly requires otherwise:

- (a) "Agency," any board, commission, committee, department, division, or office of the Town government.
- (b) "Annual Town Report," a report given to citizens at Annual Town Meeting that includes the financial state of the Town and identifies upcoming issues that will affect the Town.
- (c) "Charter," this Charter and any amendments to it, which may hereafter be adopted.
- (d) "Days," business days, not including Saturdays, Sundays, and legal holidays; provided, however, that when the time set is at least seven days, every day shall be included.
- (e) "Emergency," a sudden, unexpected, unforeseen happening, occurrence, event, or condition that necessitates immediate action.
- (f) "Massachusetts General Laws," the statutes of the Commonwealth of Massachusetts, cited as M.G.L.
- (g) "Majority vote," a majority of those present and voting, provided that a quorum is present when the vote is taken.
- (h) "Master Plan," a plan revised or developed every 10 years by the Planning Board per Massachusetts General Laws.
- (i) "Quorum," except for a Town Meeting and unless otherwise required by law or this Charter, a majority of the members of an agency then in office, not including any vacancies that might then exist.
- (j) "Strategic Planning Process," the Select Board's annual development of a set of priorities and yearly goals for the purpose of assessing and adjusting the Town's direction.
- (k) "Town," the Town of Harvard.
- (l) "Town Caucus," shall apply to any public meeting of the voters held under the provisions of the Massachusetts General Laws relating to caucuses for the purpose of nominating persons for election.



- (m) "Town Meeting," the open Town Meeting established in Article 2, whether annual or special.
- (n) "Town Officer," a person having charge of an office or department of the Town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the Town.
- (o) "Treasury Warrant," a document required to be signed by an authorized person to approve payment for services or supplies rendered to the Town.
- (p) "Voters," registered voters of the Town.
- (q) "Warrant," a document required to warn and notify residents and inhabitants of the Town, who are qualified to vote in Town affairs, to meet at a specific place to act on published articles relating to the governance of the Town.

## **ARTICLE 2: LEGISLATIVE BRANCH**

Whereas open Town Meeting is the purest form of democratic government that provides every registered voter of the community with the opportunity to debate and vote on the budget, bylaws, and other legislative actions of the Town; and whereas open Town Meeting has been in effect in the Town of Harvard since its incorporation in 1732; this Town Charter maintains an open Town Meeting legislative branch, provides for the direct election of a Town Moderator to preside over the Town Meeting, the right for registered voters to petition for a Special Town Meeting, and the right for registered voters to petition for articles to be considered on the warrant for a Town Meeting.

### Section 2-1: Town Meeting

The legislative powers of the Town shall be exercised by a Town Meeting open to all registered voters of the Town. In order to conduct business, a quorum of 50 registered voters must be in attendance at any time. A voter may request that the Moderator count the registered voters in attendance at any time during the meeting in order to establish the existence of a quorum. If a quorum is not present and the business of the meeting has not been concluded, the Moderator shall announce the time and place at which the meeting will be continued.

The Annual Town Meeting shall be held during February through June on a date determined by the Select Board. The Annual Town Meeting shall be concerned with, but not limited to, the determination of matters involving the expenditure of Town funds and the adoption of an annual operating budget for all Town agencies.

### Section 2-2: Special Town Meetings

Special Town Meetings shall be held at the call of a majority of the full Select Board in order to transact the legislative business of the Town in an orderly manner. Special Town Meetings shall also be held on the petition of the lesser of at least 200 voters or 20 percent of the total number of voters.

### Section 2-3: Presiding Officer (Moderator)

The Moderator, elected as provided in Section 3-4, shall preside at all sessions of Annual and Special Town Meetings. At the first session of the Town Meeting, the Moderator may appoint a voter to serve as Deputy Moderator. In the absence of the Moderator and the duly ratified Deputy Moderator at any session of a Town Meeting, the Town Clerk shall open the meeting and preside over the election of an acting Moderator. In the absence of the Moderator, the Deputy Moderator, and the Town Clerk, the presiding officer of the first session of a Town Meeting shall be determined as provided for by law. The Deputy Moderator may also temporarily serve when the Moderator has a conflict or the appearance of conflict arises, as determined by the Moderator, with regard to a particular article or matter under consideration.

The Moderator, at all Town Meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes, and may exercise such additional powers and duties as may be authorized by law, this Charter, bylaw, or other vote of the Town Meeting.

#### Section 2-4: The Town Report

The Select Board shall publish an Annual Town Report and make it available before Annual Town Meeting; however, failure to comply with this section shall not prevent Town Meeting from proceeding.

#### Section 2-5: Warrant

Every Town Meeting shall be called by a warrant issued by the Select Board, which shall state the time and place at which the meeting is to convene and, by separate articles, identify the subject matters to be acted upon. The publication of the warrant for every Town Meeting shall be in accordance with Massachusetts General Laws and bylaws governing such matters.

#### Section 2-6: Initiation of Warrant Articles

- (a) Initiation - Subject to paragraph (c), the Select Board shall receive petitions addressed to it that request the submission of any matter to the Town Meeting and are filed by (1) any Town officer, or (2) any volunteer Town agency acting by a majority of its members then in office, or (3) any 10 or more registered voters for an Annual Town Meeting, or (4) any 100 registered voters for a Special Town Meeting.
- (b) Referral - Following receipt of any petition containing a proposed warrant article, the Select Board shall deliver a copy of the proposal to the chair of the Finance Committee and shall distribute copies of the proposal as may be required by law or bylaw.
- (c) Notice - Whenever a Town Meeting is to be called, notice shall be given by posting attested copies of the warrant in at least one public place in the Town and on the Town's website at least seven days before Annual Town Meeting and at least 14 days before a Special Town Meeting. The content, scheduling, and notice requirements for a Town Meeting shall be as provided for in Massachusetts General Laws.

#### Section 2-7: Conflicting Meetings

No meeting of any Town agency shall be convened or be in session during a session of Town Meeting, unless that meeting is concurrent with and in the same location as the Town Meeting to allow the agency to act on matters that arise during the Town Meeting.

#### Section 2-8: Clerk of the Meeting

The Town Clerk shall serve as clerk of the Town Meeting, give public notice of all adjourned sessions of the Town Meeting, record its proceedings, and perform such additional duties in connection therewith as may be provided by the law, this Charter, bylaw, or other Town Meeting vote.

#### Section 2-9: Rules of Procedure

The Town Meeting may, by bylaw, establish, amend, revise, or repeal rules governing the conduct of all Town Meetings as long as they are consistent with Massachusetts General Laws.

#### Section 2-10: General Powers and Duties

The Town Meeting shall provide for the exercise of all of the powers of the Town and for the performance of all duties and obligations imposed upon the Town for which no other provision is made by law, this Charter, or bylaw.

## **ARTICLE 3: ELECTED AND APPOINTED TOWN AGENCIES**

### Section 3-1: General

- (a) Elective Town Offices - The Town offices to be filled by the voters shall be the Select Board, School Committee, Moderator, Trustees of the Harvard Public Library, Trustees of the Warner Free Lecture, and other officers or representatives to regional authorities or districts as may be established by law or by inter-local agreement, who shall also be filled by ballot at Town elections.
- (b) Town Election - The annual election by ballot of elective Town offices, and voting on any questions required by law to be placed upon the official ballot shall take place on a date to be determined by the Select Board during the months of February through June after the Annual Town Meeting held for the transaction of other business.
- (c) Eligibility - Any voter shall be eligible to hold any elective Town office unless specifically prohibited by law. To be placed on the ballot, eligible candidates shall be chosen by Town Caucus or shall submit nomination papers to the Town Clerk that contain at least 25 signatures of Harvard registered voters, in accordance with Massachusetts General Laws.
- (d) Compensation - Elected Town officers shall receive such compensation for their services as may be appropriated at the Annual Town Meeting for such purpose.
- (e) Filling of Vacancies
  - 1. Moderator - If a vacancy in the said office occurs during any term, it may be filled by the voters of the Town.
  - 2. Elected Boards - If there is a failure to elect a member of a Town agency, or if a vacancy occurs in the membership of an elected agency, the vacancy shall be filled as follows:
    - i) Select Board - If there is a failure to elect a member of the Select Board, or if a vacancy occurs in the membership of the Select Board, the remaining members of the Select Board may call a special election to fill the vacancy or shall call the special election upon the written request of at least 20 percent of the total number of registered voters of the Town, provided that such request is filed with the Select Board not less than 100 days prior to the date of the next annual election.
    - ii) School Committee, Trustees of the Harvard Public Library, and Trustees of the Warner Free Lecture Society - The remaining members of the agency shall give notice of the vacancy to the Select Board and to the public. The Select Board and the remaining members of the elected board shall, by joint vote, not less than one week after notice of the date on which the vote is to be taken, fill the vacancy until the next Town election. The affirmative votes of the majority of the persons entitled to vote on the vacancy shall be necessary for the election.
  - 3. Appointed Agency Positions - Vacancies in any volunteer positions will be filled by the Select Board. The agency with the vacancy may make a recommendation to the Select Board to fill the vacancy. Positions appointed by the Moderator will be filled by the Moderator.

### Section 3-2: Select Board

- (a) Composition, Term of Office - There shall be a Select Board consisting of five members elected for terms of three years each, arranged so that the terms of office of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The executive powers of the Town shall be vested in the Select Board, which shall be deemed to be the chief executive office of the Town. The Select Board shall possess all of the executive powers that a Select Board may possess and exercise, except those powers and duties assigned by this Charter, bylaw, or other Town Meeting vote to the Town Administrator or other body acting on behalf of the Select Board. The Select Board shall:

1. Lead the Executive Branch in matters of policy and budget:
  - i) Serve as the chief policy making agency of the Town.
  - ii) Be responsible for the formulation and promulgation of policy goals, including long-term policy goals and immediate and specific initiatives to be followed by all Town agencies serving under it.
  - iii) Coordinate elected and appointed Town officers and agencies.
  - iv) Conduct a fully integrated, collaborative Strategic Planning Process incorporating the Master Plan, Capital Investment Plan, and Finance Committee Five-Year Plan. Develop a statement of the goals of the Select Board and a charge to the other Town agencies within 60 days after Annual Town Meeting.
  - v) Participate in the Master Planning process as defined by Massachusetts General Laws and oversee the implementation of the recommendations of the Master Plan.
  - vi) Prepare and submit the budget of the Town as set forth in Article 6. The budget shall support the articulated policy goals and initiatives. Budget preparation shall begin in September/October annually with a joint meeting of the Select Board, School Committee, Finance Committee, Capital Planning and Investment Committee, Planning Board, Board of Library Trustees, Board of Health, Conservation Commission, Community Preservation Committee, Park and Recreation Commission, and others as deemed necessary by the Select Board. A review of the proposed budget shall occur in January with final presentation to the Town for approval at the Annual Town Meeting.
2. Manage the Executive Branch:
  - i) Employ best practices for project management, planning, design, and tasks necessitating the collaboration of multiple Town agencies.
  - ii) Communicate through regular citizen forums and provide an annual report on the state of the Town. This report shall be presented to the Annual Town Meeting and shall evaluate the progress made on the goals established by the Strategic Planning Process. The report shall also include a summary of the Town's financial position, economic development and capital projects, as well as any other items that will impact the Town within the next several years.
  - iii) Recruit, appoint, and support volunteers. Appointments to the following boards shall be by an affirmative vote of no less than four members of the Select Board: Planning Board, Board of Health, Cemetery Commission, Community Preservation Committee, Constable, Historical Commission, Park and Recreation Commission, and Tree Warden. Agencies should represent a cross-section of the Town as a whole.
  - iv) Guide and assist Town agencies in fulfilling their charge. Periodically communicate with volunteers requesting feedback on policy initiatives.

- v) Award and execute all contracts for services and supplies for all departments and agencies of the Town, other than the School Committee; provided, however, that the Select Board, at its sole discretion, may delegate this authority to any Town officer or agency.
  - vi) Plan for the maintenance of governmental buildings and infrastructure, including school buildings and infrastructure if so requested by the School Committee.
3. Act to further the goals and values of the Town as set forth in the preamble to this Charter.
  4. Implement the Charter.
- (c) Day-to-Day Administration - Other than in the case of an emergency, nothing in this section shall be construed to authorize any member of the Select Board, nor a majority of its members, to become involved in the day-to-day administration of any Town agency.
  - (d) Licensing Authority - The Select Board shall be the Licensing Board of the Town and may issue licenses, make reasonable rules and regulations regarding the issuance of licenses, and attach such conditions and restrictions thereto as it deems to be in the public interest provided, however, that such rules, regulations, conditions, and restrictions are not incompatible with applicable law. The Select Board shall seek opinion and input from citizens and Town agencies as to the impact of any license. The Select Board shall enforce the laws relating to all businesses for which it issues licenses. The Select Board may delegate its licensing authority unless specifically prohibited by law.
  - (e) Appointing Authority - The Select Board shall appoint the Town Administrator, Town Counsel, Finance Director/Town Accountant, Town Constable, all members of non-elected voluntary Town agencies and other non-elected agencies as required by Massachusetts General Laws, with the exception of those positions appointed by the Moderator. The Select Board shall also appoint a police chief and a fire chief. The police chief shall serve under M.G.L. ch.41 §97A. The fire chief shall serve under M.G.L. ch.48 §42.
  - (f) Investigations - The Select Board may investigate the affairs of the Town and the conduct of any Town agency, including any doubtful claims against the Town.

#### Section 3-3: School Committee

- (a) The Harvard School Committee provides public education, pre-K through high school, and related services to the Town of Harvard. The School Committee shall consist of five members elected for terms of three years each, the terms being arranged so that the terms of office of as nearly an equal number of members as possible expire each year.
- (b) The Harvard School Committee shall have all of the powers and duties that are given to School Committees under the constitution, laws, and regulations of the Commonwealth and additional powers and duties as may be authorized by bylaw or other vote of the Town Meeting.

#### Section 3-4: Town Moderator

- (a) Term of Office - There shall be a Town Moderator elected for a term of one year.
- (b) Powers and Duties - The Town Moderator shall be the presiding officer of the Town Meeting and shall regulate its proceedings and perform other duties as may be provided by law, this Charter, bylaw, or other Town Meeting vote.

- (c) Appointment of the Finance Committee - The Town Moderator shall appoint a Finance Committee that shall consist of seven residents, none of whom shall be a Town officer elected by ballot or an appointed officer or employee receiving a salary, who shall perform their duties without salary or compensation. The terms shall be for a period of three years and shall be arranged in order that the terms of as nearly an equal number of members as possible shall expire each year. The Moderator shall exercise due care in the process of selecting members to ensure that the committee represents a cross section of the Town as a whole.
- (d) Appointment of the Capital Planning and Investment Committee - The Town Moderator shall appoint two members of a Capital Planning and Investment Committee.
- (e) Other Appointments - The Town Moderator shall make other appointments provided for by law, this Charter, or bylaw.

#### Section 3-5: Trustees of the Harvard Public Library

- (a) Composition, Term of Office - There shall be a Board of Trustees of the Harvard Public Library, which shall consist of six members, each serving for a term of three years. The terms shall be arranged in order that the terms of two members shall expire each year.
- (b) Powers and Duties - The Trustees of the Harvard Public Library shall have all of the powers and duties that are given to Boards of Trustees under the constitution, laws, and regulations of the Commonwealth. Trustees shall have the authority to hire a director and other library employees. Employees shall be governed by the personnel policies of the Town.

#### Section 3-6: Trustees of the Warner Free Lecture Society

- (a) Composition, Term of Office - There shall be a Board of Trustees of the Warner Free Lecture Society that shall consist of six members, each serving for a term of three years. The terms shall be arranged in order that the terms of two members shall expire each year.
- (b) Powers and Duties - The Trustees of the Warner Free Lecture Society shall have powers and duties in accordance with its declaration of Trust.

#### Section 3-7: Terms of Service

The term of service for appointed members of volunteer Town agencies is three years, unless defined otherwise for a specific agency. Terms shall be arranged so that the terms of service of one-third of the members, as nearly as possible, expire each year. Terms expire at the time of the Annual Town Election held after their appointment, unless an officer or member is terminated sooner by vote of the Select Board.

## **ARTICLE 4: TOWN ADMINISTRATOR**

### Section 4-1: Appointment and Qualifications

- (a) The Select Board shall appoint, by a four-fifths vote, a Town Administrator for an indefinite term. The Town Administrator shall be appointed on the basis of the person's proven administrative ability, especially qualified by education, training, and management experience.

The Town Administrator shall devote full time to the duties of the Office and shall not hold any other elective or appointed office, nor shall the Town Administrator engage in any other business unless the Select Board approves such action in advance in writing.

- (b) The Select Board shall establish an employment agreement for a period of time.

### Section 4-2: Duties and Responsibilities - General

- (a) Manage the Office of the Select Board.
- (b) Work with the Select Board to develop long-range goals and objectives for the Town, including keeping the board informed on the long range needs of the Town and suggesting alternative courses of action.
- (c) Manage Town agencies under the jurisdiction of the Select Board and supervise all Town employees, with the exception of school and library employees. Coordinate volunteer members of Town boards with Town departments.
- (d) Attend all regular and special meetings of the Select Board and all sessions of the Town Meeting to answer questions that are related to the warrant articles and matters under the general supervision of the Town Administrator.
- (e) Administer personnel policies, practices, rules, and regulations, any compensation plans, and any related matters for all municipal employees. Administer all collective bargaining agreements, except for school department agreements, entered into by the Town.
- (f) Responsible for purchasing all supplies, materials, and equipment for all departments under the jurisdiction of the Select Board, subject to the approval of the Select Board.
- (g) Responsible for the proper maintenance of all Town real property except property under the jurisdiction of the School Committee, provided that the Town Administrator will be responsible for maintenance of property under the jurisdiction of the School Committee if so requested by the School Committee or if provided by statute or bylaw.
- (h) Delegate, authorize, or direct any subordinate or employee of the Town to exercise any power, duty, or responsibility that the Town Administrator is authorized to exercise, provided that all acts that are performed under such delegation shall be deemed to be acts of the Town Administrator.
- (i) Perform such other duties as necessary or as may be assigned by this Charter, bylaw, Town Meeting vote, or the Select Board.

### Section 4-3: Duties and Responsibilities - Hiring

Together with the Personnel Board, advise the Select Board regarding hiring decisions. Hire other Town employees, except school and library employees, unless otherwise provided by statute or this Charter. Solicit input from the agencies that will be supported by a new employee.



#### Section 4-4: Duties and Responsibilities - Financial

- (a) Ensure that complete and full records of the financial and administrative activity of the Town are maintained and provide reports to the Select Board as may be required. Monitor and report actual expenditures during the year to the Select Board.
- (b) Work with the Select Board and Finance Director to develop the annual Town budget and coordinate the compilation of the capital program with the Select Board, Capital Planning and Investment Committee, Finance Committee, and Finance Director to develop a capital spending plan for approval at Annual Town Meeting. Serve as Select Board's liaison with the Finance and Capital Planning and Investment Committees.
- (c) Review and make recommendations to the Select Board on all budget requests of departments reporting to the Select Board.
- (d) Approve payroll and Treasury Warrants on behalf of the Select Board.

#### Section 4-5: Duties and Responsibilities - Community and Economic Development

- (a) Together with a Director of Community and Economic Development, if the Select Board appoints one, work to accomplish the community and economic goals as envisioned by the Select Board.
- (b) Develop and further a process that facilitates the development of projects that address the Select Board's development goals.

#### Section 4-6: Removal or Suspension

The Select Board may remove or suspend the Town Administrator at a duly noticed public meeting by an affirmative vote of at least four-fifths of its members.

## **ARTICLE 5: ADMINISTRATIVE ORGANIZATION**

### Section 5-1: Organization of Town Agencies

The organization of the Town into operating agencies for the provision of services and administration of government may be accomplished by any method consistent with law and this Charter, including adoption of bylaws, appropriation of funds, or adoption of rules and regulations by appropriate entities. Further, the Town Administrator may, with the approval of the Select Board and consistent with law and this Charter, establish, reorganize, consolidate, or abolish any department or position under the Select Board's direction and supervision.

### Section 5-2: Merit Principle

All appointments and promotions of Town officers and employees shall be made on the basis of merit and fitness demonstrated by examination or other evidence of competency and suitability.

### Section 5-3: Finance Department

- (a) There shall be a Finance Department managed by the Finance Director/Town Accountant reporting to the Town Administrator and the Select Board. This department will include a Treasurer/Collector and a Principal Assessor. The department shall be responsible for the performance of all the fiscal and financial activities of the Town. The Finance Director/Town Accountant, upon certification as a school business administrator and at the will of the School Committee, shall serve as the School Business Manager and report to the Superintendent of Schools and the School Committee for all school-related financial activities.
- (b) The Finance Department has powers, duties, and responsibilities related to municipal finance under supervision of the Finance Director.
- (c) The Finance Department shall ensure that complete and full records of the financial activities of the Town are maintained and shall render written reports to the Town Administrator comprising a full accounting of Town financial operations.
- (d) Treasurer/Collector - the Town Administrator shall appoint the Treasurer/Collector. The Treasurer/Collector shall have all the powers and duties vested in this office by law, this Charter, bylaw, or other Town Meeting vote.
- (e) Principal Assessor - the Town Administrator shall appoint the Principal Assessor. The Principal Assessor shall have all the powers and duties vested in this office by law, this Charter, bylaw, or other Town Meeting vote.

### Section 5-4: Director of Community and Economic Development

- (a) The Town Administrator shall appoint the Director of Community and Economic Development as authorized by the Select Board. This appointment shall be done in consultation with the Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, and other appropriate agencies.
- (b) The Director of Community and Economic Development shall
  1. Work to accomplish community and economic goals as envisioned by the Select Board.
  2. Serve as Town planner.
  3. Coordinate the activities of agencies with jurisdiction over development and conservation.

4. Coordinate all economic, land use, and community development planning in the Town, including the study of Harvard's community and economic needs, resources, and identify potential development opportunities.

#### Section 5-5: Public Works Department

- (a) The Town Administrator shall appoint the Director of Public Works, subject to confirmation by the Select Board.
- (b) The principal functions of the Public Works Department shall include:
  1. Planning, directing, and supervising the operation, maintenance, and construction work of the Highway Department to provide adequate maintenance of roads and drainage systems, proper maintenance of equipment and facilities, and snow removal. The Director develops and maintains records on the public road systems and projects related to his duties.
  2. Planning, directing, and supervising the operation and maintenance of the Town's Water System and Transfer Station. The Director will file required reports with state regulatory agencies.
  3. As directed by the Town Administrator, directing and supervising the operation and system maintenance of the Water and Sewer Department, Cemetery Department, Pond Committee, Conservation Commission, Elm Commission, Tree Warden, playgrounds and recreation fields, Town Common, library grounds, and school grounds. Meets with the respective agencies periodically. Assists the above agencies, as requested, in planning the operations of the respective agencies.
  4. Assisting the Select Board, Conservation Commission, Board of Health, Planning Board, and Board of Appeals. Administering the driveway connection regulations of the Town. Reviews site plans, subdivision plans, and other plans having an effect on the infrastructure of the Town.
- (c) Powers and Duties - The department shall work in close coordination with Town agencies to enable the effective and efficient performance of its duties pursuant to Massachusetts General Laws, this Charter, bylaw, or vote of Town Meeting.

#### Section 5-6: Facilities Manager

- (a) There shall be a Facilities Manager appointed by the Town Administrator. The duties and responsibilities for this position may be assigned to the Building Commissioner.
- (b) The Facilities Manager shall have the necessary professional training and work experience to do the following:
  1. Prepare and implement annual repair and maintenance programs to ensure that Town buildings, which may include the schools, if so requested by the School Committee, are properly maintained in good working condition and any needed repairs are implemented timely and cost effectively.
  2. Conduct annual inspections of all Town-owned non-school buildings and prepare a report to the Select Board as to the condition of the buildings along with recommended repairs or servicing.
  3. Any needed repairs or servicing identified in (1) or (2) that meet the definition of a capital improvement will be recommended by the Select Board and/or the School Committee to the Capital Planning and Investment Committee for evaluation and funding.

## **ARTICLE 6: FINANCE AND FISCAL PROCEDURES**

### Section 6-1: Fiscal Year

The fiscal year of the Town shall begin on July 1 and shall end on June 30, unless another period is required by Massachusetts General Laws.

### Section 6-2: Submission of Budget and Budget Message

Within the time fixed by bylaw, but not later than December 31, the Select Board shall submit to the Finance Committee for its analysis, comments, and recommended funding, a proposed balanced operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

### Section 6-3: The Budget

The proposed operating budget shall provide a complete financial plan for all Town funds and activities for the ensuing fiscal year except as may otherwise be required by Massachusetts General Laws, this Charter, or bylaw it shall be in the form that the Select Board deems desirable. In the presentation of the budget, the Select Board shall use modern concepts of fiscal presentation to furnish information in a complete, clear, and concise manner and in accordance with best practices of financial reporting and control. The budget shall show in detail all estimated income from the proposed property tax levy and all other sources and all proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current, and ensuing fiscal years and shall indicate in separate sections the following:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by Town agency and the method of financing such expenditures; and
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by Town agency as developed by the Capital Planning and Investment Committee and the proposed method of financing each such capital expenditure.

### Section 6-4: Action on the Budget

- (a) Upon receipt of the Select Board's budget, the Finance Committee shall consider detailed expenditures for each Town agency in public meetings and may confer with representatives of each agency in connection with its review and consideration. The Finance Committee may require any Town official or Town agency to furnish it with additional information it deems necessary to assist it in its review and consideration of the proposed budget.
- (b) Upon completion of its initial review of the budget, at least 30 days prior to the first session of the Annual Town Meeting, the Finance Committee shall meet with the Select Board and the Capital Planning and Investment Committee to discuss any changes it recommends to the budget as initially prepared by the Select Board. After consideration of the recommendations of the Finance Committee, the Select Board shall make such changes to the budget as it deems appropriate and shall present a revised budget to the Finance Committee.
- (c) The Finance Committee shall file with the Town Clerk, at least 14 days before the first session of the Annual Town Meeting, its report on the proposed budget, including comments on any recommendations not incorporated into the budget by the Select Board. The report shall also be made available to voters of the Town by publication on the Town's

website and by leaving copies of the report in at least three public places in the Town at least 14 days before the first session of the Annual Town Meeting. Additionally, copies of the report shall be made available to voters at the first session of the Annual Town Meeting. The failure to timely file the budget report with the Town Clerk or to publicize the report by posting on the Town's website or in three public places in the Town shall not prohibit the Town Meeting from voting on the budget nor shall it affect the validity of any vote taken thereon at Town Meeting.

- (d) The Select Board's proposed annual Town budget shall be presented to Town Meeting by motions made by the Select Board, which shall also present its comments and recommendations with respect to the budget. The Finance Committee shall also present its comments and recommendations with respect to the budget to the Town Meeting.

#### Section 6-5: Capital Planning and Investment

- (a) Membership - There shall be a Capital Planning and Investment Committee comprising eight members: three non-voting members who shall be the Town Administrator, Superintendent of Schools, and Finance Director; and five voting members. Voting members shall be chosen by their respective boards as follows: one member each from the Finance Committee, School Committee, and Select Board. The Moderator shall appoint two residents who do not serve as members of any other Town agency. Those two residents shall serve staggered three-year terms.
- (b) Duties - The committee shall consider matters relating to appropriations from the Capital Stabilization and Investment Fund, and shall make recommendations to the Select Board relative to the funding of capital projects of the Town and recommend priorities and schedules for such capital projects. The committee shall study proposed capital outlays involving the acquisition of land or a capital expenditure as defined in the bylaw. All Town agencies, including the Select Board and the School Committee, shall, by October 15 each year, give to the Capital Planning and Investment Committee information concerning all anticipated capital projects needing Town Meeting action during the ensuing five years on forms prepared by the committee. The committee shall consider the relative need, timing, and cost of these expenditures and the effect each will have on the financial position of the Town.

The committee shall transmit its recommendations to the Select Board not later than December 31 of the year immediately preceding the year in which the next Annual Town Meeting is to convene. The Select Board shall consider such recommendations when it prepares a Capital Improvement Program. The text and tables of the Capital Improvement Program for the following five years shall be published in the Town's Annual Report.

#### Section 6-6: Audits

The Select Board shall provide for an independent audit of all financial books and records of the Town annually and whenever it deems an audit of the whole Town or of any particular Town agency to be necessary. Audits of the Town's financial books and records shall be conducted by a certified public accountant, or a firm of such accountants, having no direct or indirect interest in the affairs of the Town.

## **ARTICLE 7: GENERAL PROVISIONS**

### **Section 7-1: Charter Changes**

This Charter may be replaced, revised, or amended in accordance with any procedures made available under the constitution and laws of the Commonwealth.

### **Section 7-2: Severability**

The provisions of this Charter are severable. If any provision of this Charter is held to be invalid, the other provisions of this Charter shall remain in full force and effect and shall not be affected thereby. If the application of this Charter or any of its provisions to any person or circumstances is held to be invalid, the application of this Charter and its provisions to other people and circumstances shall not be affected thereby.

### **Section 7-3: Specific Provisions to Prevail**

To the extent that any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provisions of this Charter shall prevail.

### **Section 7-4: Number and Gender**

Words importing the singular number may extend and be applied to several people or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

### **Section 7-5: Rules and Regulations**

A copy of all rules and regulations adopted by any Town agency shall be filed in the office of the Town Clerk and any such rule or regulation shall become effective on the date of such filing, unless otherwise provided for by law or bylaw. Copies of all such rules and regulations shall be made available for review by any person who requests such information pursuant to the public records law.

### **Section 7-6: Removal From Office**

- (a) Notwithstanding the provisions of any general or special law to the contrary, any appointed officer, appointed member of an agency, or employee of the Town not covered by the terms of a collective bargaining agreement or other agreement addressing removal, and whether appointed for a fixed or indefinite term, may be removed from office by the appointing authority. The appointing authority, when removing any such officer, appointed member of an agency, or employee of the Town, shall act in accordance with the Town's personnel bylaws or rules and regulations.
- (b) A person appointed to serve as a volunteer for the Town may be removed from office by the appointing authority if the person has missed 50 percent or more of the agency's duly posted meetings over a six-month period.

### **Section 7-8: Periodic Charter Review**

At any time, an article may be placed on a Town Meeting warrant by the Select Board or by citizen petition to amend this Charter. Any Charter amendments that are approved by Town Meeting shall either be presented for adoption by the voters at the next Annual Town Election or shall be submitted to the State Legislature for enactment.

At least once in every 10-year period after the effective date of this Charter, the Select Board shall establish a special committee for the purpose of reviewing this Charter. After review, the special committee shall present its report and any related warrant articles at Town Meeting.

The special committee shall consist of nine members who shall be appointed as follows: each member of the Select Board shall designate one person, the Finance Committee shall designate two people, the School Committee shall designate one person, and the Moderator shall designate one person. People appointed may, but need not, be members of the agency that designates them, except in the case of the Select Board where no more than two members of the Select Board shall serve on the committee. The committee shall hold a public hearing within 30 days after the date on which it meets to organize and hold at least one additional public hearing before filing its final report.

## **ARTICLE 8: TRANSITIONAL PROVISIONS**

### **Section 8-1: Continuation of Existing Laws**

Except as specifically provided in this Charter, Massachusetts General Laws, special laws, Town bylaws, votes, rules, and regulations of or pertaining to the Town that are consistent with the provisions of this Charter shall continue in full force and effect until amended or rescinded by the course of law or expire by their own limitation.

### **Section 8-2: Continuation of Government**

Except as specifically provided in this Charter, all Town agencies shall remain in existence and their incumbents shall continue to perform their duties until not reappointed or reelected or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

### **Section 8-3: Continuation of Personnel**

Any person serving in the employment of the Town shall retain such position and shall continue to perform the duties unless provisions shall have been made in accordance with this Charter for the performance of the said duties by another person or agency.

### **Section 8-4: Transfer of Records and Property**

All records, property, and equipment of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another agency, shall be transferred forthwith to the agency to which such powers and duties are assigned. Any necessary transfers shall be carried out under the direction of the Town Administrator.

### **Section 8-5: Time of Taking Effect**

This Charter shall become fully effective upon its approval by the voters, except as otherwise provided in this section.

- (a) Select Board - Upon adoption of this Charter, the Board of Selectmen's name shall change to the Select Board. Within 90 days of adoption, the Select Board shall develop a plan to fulfill new accountabilities contained in this Charter, including budgeting, volunteer appointments, and Town Meeting reporting.
- (b) The terms of office of incumbent members of elected agencies that become appointed shall continue to their normal expiration. As the term of an incumbent expires, the position shall be filled by appointment for a term, as defined for the agency, and in accordance with Section 3-1. Any vacancies occurring on an elected board or committee prior to end the normal term shall be filled by appointment
- (c) Review of Bylaws - Within 45 days after the election at which this Charter is adopted, the Moderator shall appoint a special committee of seven members to review the existing bylaws of the Town. The committee shall report to the next Annual Town Meeting its recommendations to bring the Town bylaws into conformity with this Charter. Where bylaws conflict with this Charter, the Charter provisions shall prevail.