

THE CHARTER

CHAPTER 18 OF THE ACTS OF 2006

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF HARWICH.

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

Section 1. The following shall be the charter of the town of Harwich:

TOWN OF HARWICH
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PREAMBLE

We, the people of the town of Harwich, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of local government and to take the fullest advantages inherent in the home rule amendments to the constitution of the commonwealth, do hereby adopt the following charter for this town.

CHAPTER 1. TOWN INCORPORATION, FORM OF GOVERNMENT, AND POWERS

Section 1. Incorporation

1-1-1 The present town of Harwich, within its territorial limits as now or as may hereafter be established by law, is hereby continued as a body corporate and politic with perpetual succession under the name: Town of Harwich.

Section 2. Form of Government

1-2-1 This charter provides for an open town meeting-board of selectmen-town administrator form of town government, and it shall be known by the title: Harwich Charter.

Section 3. Scope and Construction of Town Powers

1-3-1 The town shall possess, exercise, and enjoy all powers possible under the constitution and statutes of the commonwealth as completely and fully as though they were expressly enumerated in this act.

Section 4. Construction of Charter

1-4-1 The powers of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any measure the general powers of the town as stated in this chapter.

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Section 5. Severability

1-5-1 If any provision of this charter is held invalid, the other provisions of the charter shall not be affected by that holding. If the application of this charter to any person or circumstance is held invalid, the application of this charter to other persons and circumstances shall not be affected by that holding.

Section 6. Intergovernmental Relations

1-6-1 Consistent with the provisions of law, the town may exercise any of its powers, perform any of its functions, or participate in the financing thereof, by contract or otherwise, jointly or in cooperation with any 1 or more municipalities, civil divisions, subdivisions, or agencies of the commonwealth, other states, or the United States government.

CHAPTER 2. TOWN MEETING

Section 1. Organization and Powers

2-1-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

2-1-2 The town meeting shall consider and act upon all articles included in any town meeting warrant with or without amendments.

2-1-3 The town meeting shall possess and may exercise all powers granted under general law.

Section 2. Warrants

2-2-1 Warrants for all town meetings shall be issued by the board of selectmen and opened and closed in accordance with the by-laws, chapter 1, article 1, part 1-101.¹

2-2-2 The warrants for all town meetings shall be published in a newspaper of general circulation within the town at least 14 days before the meeting, and shall be posted in a public place in every precinct in the town at least 14 days before the meeting.

Section 3. Procedures

2-3-1 The annual election of town officers shall be called under clause 8-1-1 of chapter 8. The annual town meeting for transaction of other town business shall be held the first Monday in May.

¹Editor's Note: See now Ch. 271, Town Meeting, § 271-1.

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2-3-2 A special town meeting may be called by the board of selectmen and shall be called by that board upon the request, in writing, of at least 200 registered voters of the town.

2-3-3 The quorum for the conduct of business for any town meeting shall be as provided by by-law.

2-3-4 In all procedural matters, the town meeting shall be governed by general law, this charter, and by-law.

Section 4. Initiative

2-4-1 By written petition to the board of selectmen, any 10 voters of the town may secure the inclusion of a subject in a warrant for the annual town meeting, and at least 100 registered voters may secure the inclusion of an article for any duly scheduled special town meeting.

Section 5. Moderator

2-5-1 A moderator, elected under clause 6-3-1, shall preside at all sessions of the town meeting.

Section 6. Simplified Rules of Procedure

2-6-1 Rules of parliamentary procedure in simplified form shall be prepared by the moderator and shall be included in the town meeting warrants prepared for distribution to town voters.

Section 7. Ad Hoc Committees

2-7-1 All ad hoc committees established by the town meeting shall be appointed by the moderator, unless the motion establishing any ad hoc committee shall name the members, provide for their election, or provide for a different appointing authority.

Section 8. Articles Having Fiscal Implications

2-8-1 All proposed operating expenditures shall be included in a single article in the town meeting warrant.

2-8-2 All articles involving an expenditure of town funds shall be considered by the finance committee which shall issue a written recommendation on all such articles. The chairman of the committee, or a designated representative, shall be present at the town meeting to provide verbal explanations of the committee's recommendations.

2-8-3 Unless the article has been submitted by petition under clause 2-4-1, no article calling for the appropriation of funds shall be included in any special town meeting warrant unless the

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proposed expenditure has been recommended by the board of selectmen and the finance committee, acting separately at separate meetings.

Section 9. Compulsory Attendance

2-9-1 All town officers, the chairmen of town agencies, division directors, and department heads, or their duly designated representatives shall attend sessions of the town meeting when proposals affecting their particular office, agency, division, department, or function are included in the warrant. The absence of these persons shall not invalidate the actions of the town meeting.

CHAPTER 3. BOARD OF SELECTMEN

Section 1. The Board of Selectmen

3-1-1 A board of selectmen of 5 members shall be elected at-large for 3-year overlapping terms.

3-1-2 Vacancies in the office of selectmen shall be filled by special election in accordance with general law.

Section 2. Policy Leadership Responsibilities

3-2-1 Except as otherwise provided by this charter, all executive powers of the town shall be vested in the board of selectmen. The board of selectmen shall have all of the powers and duties given to boards of selectmen under the constitution and General Laws of the commonwealth, and any additional powers and duties that may be authorized by the charter, by by-law, or by any other town meeting vote.

3-2-2 The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

3-2-3 The board of selectmen shall serve as the chief policy-making agency of the town and, as such, shall not normally administer the day-to-day affairs of the town, but shall instead regularly direct the town administrator to help it in carrying out its administrative duties and make recommendations to the town meeting relating to actions required to be taken by that body.

Section 3. General Powers, Duties and Responsibilities

3-3-1 The board of selectmen shall have the power to enact rules and regulations establishing town policies not otherwise governed by general law, this charter, or by-law, but whenever an appropriation shall be necessary to implement an action, the vote of the board shall be effective only if the appropriation has been authorized by town meeting.

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Section 4. Powers of Investigation

3-4-1 The board of selectmen may conduct investigations and may authorize the town administrator or other agent to investigate the affairs of the town and the conduct of any town department, office, or agency, including any doubtful claims against the town, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of these investigations shall be placed on file in the office of the town clerk, and a report summarizing the investigation shall be printed in the next town report.

Section 5. Specific Powers, Duties, and Responsibilities

3-5-1 The board of selectmen shall be recognized as head of the government for all ceremonial purposes.

3-5-2 The board of selectmen shall act as the licensing authority of the town and shall have the power and responsibility to issue licenses, to make all necessary rules and regulations regarding the issuance of licenses, and to attach conditions and impose any restrictions that it considers to be in the public interest, and further, to enforce, or cause to be enforced, the laws, rules and regulations relating to all businesses for which it issues licenses.

3-5-3 The board of selectmen shall have the authority to designate from time to time 1 or more of its members to sign warrants for the payment of town funds in the absence of the town administrator as referenced in clause 4-6-1. This designation shall be by a majority of the board at a duly-called and held public meeting. The vote shall take effect as soon as a written copy of it signed by a majority of the board is filed in the offices of the town clerk, town accountant and town treasurer.

Section 6. Powers of Appointment

3-6-1 Except as may otherwise be provided by General Laws, this charter, or the personnel by-law, the board of selectmen shall have the power to appoint and remove: a) a town administrator as provided in chapter 4; b) a town counsel; c) a town accountant; d) a police chief; e) a fire chief; f) 3 assessors for overlapping 3-year terms; g) 3 members of a board of registrars of voters for overlapping 3-year terms; h) election officers; and i) 1 or more constables.

3-6-2 The board of selectmen shall also have the power to appoint members of policy-making town agencies enumerated in chapter 7 and other agencies that are in existence on the effective date of this charter and for whom no other method of appointment is provided in this charter. Unless otherwise provided, the board shall also appoint members of other agencies as may be hereafter established by general law, charter, by-law, vote of the town meeting or vote of the board of selectmen.

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Section 7. Prohibitions

3-7-1 Except for the purpose of investigation authorized by this charter, the board of selectmen or its members shall deal with town officers and employees who are subject to the direction and supervision of the town administrator solely through the town administrator, and neither the board nor its members shall give orders to these officers or employees, either publicly or privately.

3-7-2 Members of the board of selectmen shall be ineligible to serve as members of any appointive town agency.

3-7-3 Members of the board of selectmen shall be eligible to serve, to the extent permitted by law, as ex officio members of appointed and elected town agencies.

CHAPTER 4. THE TOWN ADMINISTRATOR

Section 1. Appointment

4-1-1 The board of selectmen, by an affirmative vote of at least 4 members, shall appoint a town administrator for an indefinite term to serve at its pleasure.

4-1-2 In selecting a town administrator, the board of selectmen shall search for candidates by placing an advertisement in the International City Management Association Newsletter or similar professional publication and in at least 2 newspapers having statewide or regional circulation.

Section 2. Qualifications

4-2-1 The town administrator shall be appointed on the basis of educational, executive and administrative qualifications and experience. The educational qualifications shall consist of at least a bachelor's degree, preferably in public administration, granted by an accredited degree-granting college or university. The professional experience shall include at least 5 years of prior full time, compensated executive service in public or business administration. Alternately, 2 years or more of professional experience and a master's degree in an appropriate discipline shall qualify any applicant.

Section 3. Duties

4-3-1 The town administrator shall be the chief administrative officer of the town and shall be responsible for administering and coordinating all employees, activities and departments placed by general law, this charter, or by-law under the control of the board of selectmen and of the town administrator.

4-3-2 The town administrator shall devote full working time to the duties of that office, shall not become a candidate for, or hold, any elective office during the term of appointment; and

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shall not engage in any business activity during the term, except with the written consent of the board of selectmen. The town administrator shall:

- (a) Attend all meetings of the board of selectmen, except when excused, and have the right to speak but not to vote.
- (b) Assemble, prepare, and present to the board of selectmen the annual operating budget of the town.
- (c) Develop and annually revise the capital outlay plan in consultation with the capital outlay committee.
- (d) Be responsible for seeing that the budget is administered and expended as adopted by the town meeting and in accordance with general law, this charter, and by-law.
- (e) Keep the board of selectmen informed regarding all departmental operations, fiscal affairs, general problems, and administrative actions, and to this end submit regular reports to the board.
- (f) Keep the board informed regarding the availability of state and federal funds and how such funds might relate to unmet short-range and long-range needs.
- (g) Have the authority to seek and apply for grants.
- (h) In the absence of a personnel director, be responsible for the day-to-day administration of the personnel system and by-law, and administer and enforce collective bargaining contracts, the personnel by-law, and rules and regulations adopted by the board of selectmen.
- (i) Be responsible for the purchasing of services, supplies, materials, and equipment for all town divisions, departments, and offices, excepting those for the school department, the water department and the Brooks Free Library.
- (j) Coordinate, with the approval of the board of selectmen, the administrative activities of all town agencies and officers concerned with the physical, economic, and environmental development of the town.
- (k) Develop, keep, and annually update a full and complete inventory of all property of the town, except school property, both real and personal.
- (l) Convene regular meetings of the management advisory team established by clause 5-3-3.
- (m) Negotiate collective bargaining contracts on behalf of the board of selectmen, unless the board shall have designated another negotiator.
- (n) Perform such other duties as may be required by this charter, by-law, or vote of the board of selectmen.

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Section 4. Responsibilities for Appointments

4-4-1 Except as may otherwise be provided by General Laws, this charter, or the personnel by-law, and subject to the approval of 3 or more affirmative votes of the board of selectmen, the town administrator shall have the power to appoint, on the basis of merit and fitness alone, and remove division directors, department heads, and an assistant town administrator.

4-4-2 Except as may otherwise be provided by General Laws, this charter, the personnel by-law, or collective bargaining, the town administrator shall have the authority to appoint, on the basis of merit and fitness alone, and remove: a) all full-time town employees; b) all part-time employees; c) all employees of appointed town agencies; d) 1 or more inspectors; and e) all other full-time, part-time or seasonal employees. Any such appointments or removals may be overturned only by the affirmative vote of at least 4 selectmen taken within 14 days of the town administrator's action in initiating such appointment or removal.

Section 5. Responsibilities for Administrative Reorganization

4-5-1 The town administrator may, with the approval of the affirmative vote of at least 3 members of the board of selectmen, establish, reorganize, consolidate or abolish any division, department or position placed by this charter under the town administrator's direction and supervision, except as otherwise provided by general law, this charter or vote of town meeting.

4-5-2 The creation of any new full-time, compensated position which requires the approval of the board of selectmen shall not become effective until the position has been funded by a vote of town meeting.

Section 6. Responsibilities for Disbursements

4-6-1 The town administrator shall have the authority to issue warrants for the payment of town funds, and the town administrator's signature on warrants will be sufficient authorization for payment of them by the town treasurer. In the absence of the town administrator or in the event of a vacancy in that office, warrants may be signed by the person or persons designated by the board of selectmen under clause 3-5-3.

Section 7. Evaluation

4-7-1 The board of selectmen shall annually evaluate the performance of the town administrator. The board shall adopt a written set of procedures and criteria which shall form the basis for the evaluation.

4-7-2 A copy of the evaluation shall be provided to the town administrator.

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Section 8. Removal

4-8-1 The board of selectmen, by the affirmative vote of at least 3 members, may initiate the removal of the town administrator by adopting a resolution to that effect, stating the reasons for the removal, but no such resolution shall be adopted within 90 days following any town election that has resulted in a change in the incumbents on the board. The vote initiating removal shall be taken at a regular scheduled public meeting of the board and in open session.

4-8-2 The adoption of this resolution shall serve to suspend the town administrator for a period of not more than 45 days during which the salary shall continue to be paid. A copy of this resolution shall be delivered immediately to the town administrator in person, or sent by registered mail to the town administrator's place of residence.

4-8-3 Within 5 days after the receipt of this resolution, the town administrator may file a written request for a public hearing. If a hearing is requested, the board shall schedule it within 2 weeks, and it shall be held in a public place. At least 7 days before the public hearing, the board shall advertise the hearing in a newspaper of local circulation and shall cause identical notices citing the purpose, location, time and date to be posted in the town hall and in 3 other places of public access within the town.

4-8-4 The moderator shall preside at this hearing.

4-8-5 At the hearing, the reasons for the removal shall first be read aloud. The town administrator shall then have the right to respond, either personally or through counsel. The board of selectmen and the town administrator shall have the right to call witnesses and to subpoena town records.

4-8-6 Final removal of any town administrator shall be effected by the affirmative vote of at least 3 members of the board of selectmen at a public meeting of the board held within 7 days of the public hearing, if requested. If no hearing has been requested, final removal may be effected by an affirmative vote of at least 3 members, at a public meeting of the board held not earlier than 14 days after the vote initiating the removal. The salary of the town administrator shall continue to be paid for a period of 60 days after the vote effecting removal from office.

4-8-7 The town administrator shall provide the board of selectmen with at least 30 days notice of an intended resignation, but the board may, at its discretion, shorten or waive this requirement.

Section 9. Filling Vacancy

4-9-1 When a vacancy arises in the office of the town administrator, the board of selectmen shall advertise the vacancy as soon as possible. The board shall fill the vacancy as soon as reasonably possible.

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Section 10. Assistant Town Administrator/Acting Town Administrator

4-10-1 The assistant town administrator shall perform the duties that are assigned by the town administrator and, from time to time as necessary, shall perform the duties of that office until the board of selectmen designate a temporary administrator under clause 4-10-2. The assistant town administrator shall be appointed under clause 4-4-1.

4-10-2 The board of selectmen shall designate, within 10 days after a vacancy occurs, a town employee, a member of the board of selectmen or other person to exercise the rights and perform the duties of the town administrator during any vacancy caused by temporary absence, suspension, removal, resignation or death of the town administrator. The appointment shall be for a period not to exceed 90 days, and it may be renewed, in the case of suspension, removal, resignation, or death only once for an additional period not to exceed 90 days. The appointee shall be eligible for appointment as town administrator.

CHAPTER 5. TOWN ADMINISTRATIVE ORGANIZATION

Section 1. General

5-1-1 The administrative functions of the town government shall be performed within the organizational framework of 2 or more divisions and several departments.

5-1-2 The divisions shall include: a division of finance, a division of highways and maintenance, and any other divisions established under clause 4-5-1.

5-1-3 The departments shall include: a police department, a fire department, a planning department, and any other departments established under clause 4-5-1.

5-1-4 Responsibility for the functions administered within the several divisions and departments shall be vested in the town administrator unless otherwise provided by the general laws, this charter, or the by-laws.

5-1-5 Except as otherwise provided in this chapter, the town administrator, with the approval of the board of selectmen, shall designate those divisions to be supervised by a division director and those, if any, to be supervised by the town administrator. If the town administrator is designated to act as director of 1 or more divisions, the town administrator shall serve in this additional capacity without additional compensation.

5-1-6 With the approval of the town administrator, a division director, other than the town administrator, may be designated as head of 1 or more departments within the division director's division, but if so designated the division director shall serve in this additional capacity without additional compensation.

5-1-7 Employees or officers of the town who are designated as directors of divisions shall be appointed under clause 4-4-1. These persons shall plan, organize, schedule, coordinate, and budget the activities of the several departments placed by this charter or by administrative reorganization within a particular division.

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Section 2. Division of Finance

5-2-1 The administrative functions of assessment, tax and fee collections, receipts and disbursements, purchasing, and others of a fiscal nature shall be carried out within a division of finance.

Section 3. Division of Highways and Maintenance

5-3-1 A division of highways and maintenance shall be established under the direction of an appointed officer, to be known as the director of highways and maintenance.

5-3-2 The division shall be responsible for: a) the construction, maintenance, repair, and cleaning of roads, highways, and streets; b) the collection, if any, and disposal of solid waste and the maintenance and operation of all facilities for the disposal of solid waste; c) the preservation, care, maintenance, and improvement of all town-owned cemeteries; d) the care and maintenance of public grounds, including parks; e) the planting, care and pruning of all shade trees growing on town-owned land; f) the servicing, maintenance and repair of all automotive vehicles and vehicular equipment owned by the town, except as otherwise determined by the board of selectmen or in cases of emergency; g) the repair and maintenance of town-owned buildings; h) the care, maintenance, and cleaning of parking lots, public beaches, and of the land-side and grounds of town harbors; and, i) other public works functions that may be assigned by this charter or by-law.

5-3-3 A management advisory team shall be established within the division. The team shall include the director of the division, department heads, the town engineer, the superintendent of the water department, and any other persons appointed to the team by the town administrator. The team shall provide advice to the director on all matters relating to the functions of the division. Regular meetings of the team shall be held under subsection (1) of clause 4-3-2 of this charter.

Section 4: Police Department

5-4-1 A police department shall be established under a chief of police. The board of selectmen shall appoint the chief of police and other officers that they consider necessary, as provided by section 97A of chapter 41 of the General Laws.

Section 5. Fire Department

5-5-1 A fire department shall be established under a fire chief, who shall be appointed by the board of selectmen.

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Section 6. Planning Department

5-6-1 A planning department shall be established under a town planner, who shall be appointed under clause 4-4-1.

5-6-2 The town planner shall be professionally qualified for the duties of that office by reason of education, training and experience, and shall provide services under the general policy direction of the planning board, subject to the day-to-day supervision of the town administrator.

CHAPTER 6. ELECTED TOWN OFFICERS AND TOWN AGENCIES

Section 1. General Provisions

6-1-1 The officers and town agencies to be elected by vote of the town shall be: a moderator, a town clerk, a board of selectmen as provided in chapter 3, a school committee, a water commission, a board of library trustees, and a housing authority.

6-1-2 Town agencies established or continued under this chapter shall perform their functions and duties in accordance with the constitution, general law, this charter, and by-laws.

6-1-3 No members of any elected town agency established or continued under this chapter shall be eligible to accept any appointed, paid position under that agency. This prohibition shall apply to the term for which an office holder has been elected, and for 1 year following the expiration of that term of office.

Section 2. Vacancies

6-2-1 Except as otherwise provided, vacancies in elected town agencies established or continued under this chapter shall be filled by the board of selectmen together with the remaining members of the respective board, under general law.

Section 3. Moderator

6-3-1 A moderator shall be elected for a 3-year term. The moderator shall: a) preside at all town meetings; b) appoint the members of the finance committee; c) appoint ad hoc committees of the town meeting under clause 2-7-1; d) preside at any hearing called to discuss the suspension or removal of the town administrator; and e) annually attend at least 3 meetings of the finance committee.

Section 4. Town Clerk

6-4-1 A town clerk shall be elected for a 3-year term.

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6-4-2 The town clerk shall carry out the duties that are, provided by general law, this charter, by-law or by vote of the town meeting.

Section 5. School Committee

6-5-1 A school committee of 5 members shall be elected at large for 3-year overlapping terms.

6-5-2 The school committee shall conduct a public hearing prior to submitting a budget to the town administrator. The committee shall have preliminary summaries of its recommendations available at this hearing which shall be distributed to those requesting them.

6-5-3 Except as otherwise voted by the town, the school committee shall be responsible for the maintenance and repair of all school buildings.

Section 6. Water Commission

6-6-1 A water commission of 3 members shall be elected for 3-year overlapping terms.

6-6-2 The water commission shall possess and exercise all powers given to this board under chapter 165 of the acts of 1935.

6-6-3 The commission shall appoint a water superintendent, and shall request this officer to cooperate with, and be responsive to, requests from the town administrator's office.

Section 7. Library Trustees

6-7-1 A board of library trustees of 7 members shall be elected for 3-year overlapping terms.

6-7-2 The board shall be responsible for the administration and operation of the Brooks Free Library, including appointment of professional library staff, acquisitions of books, journals, periodicals, and other materials relating to the library function, and the promulgation of library rules and regulations.

Section 8. Housing Authority

6-8-1 There shall be a housing authority of 5 members, 1 of whom shall be appointed under authority of the commonwealth and 4 of whom shall be elected. The elected members shall serve 5-year overlapping terms.

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CHAPTER 7. APPOINTED TOWN AGENCIES

Section 1. Advertising of Vacancies and Appointing Town Agencies

7-1-1 To ensure a diverse citizen representation on all appointed town agencies, the board of selectmen shall make a concerted effort to seek out qualified persons from the town when filling vacancies, and year-round Harwich residents shall be given preference for appointment to any town agency.

7-1-2 To further promote a maximum level of qualified, active, and interested citizen participation on appointed town agencies, the board of selectmen shall advertise all vacancies and impending appointments. This advertising shall enumerate the vacancies that are to be filled and shall solicit the submission of a citizen activity record form from persons willing and able to serve. The advertisements shall be published in a newspaper of general circulation in the town and shall be made once a week for a minimum of 2 weeks after the vacancy arises.

7-1-3 The board of selectmen shall give careful consideration to statutory, regulatory and by-law requirements for appointments to town agencies and shall consider any specific recommendations from the chairman of an agency when filling vacancies.

7-1-4 Before making appointments to the finance committee, the moderator shall also make an effort to seek out qualified persons to serve and shall cause a notice to be published enumerating the vacancies to be filled and setting forth the location, time and date when the moderator will be available to interview persons willing and able to serve. The advertising of vacancies on the finance committee shall also be published in a newspaper of general circulation in the town and shall be made once a week for a minimum of 2 weeks after a vacancy arises.

Section 2. General Provisions

7-2-1 Town agencies established by or continued under this chapter shall possess and exercise all powers given to them under the constitution and Laws of the commonwealth and shall have and exercise such additional powers and duties as may be authorized by this charter, by-law, or vote of the town meeting.

7-2-2 All town agencies of the town shall; a) organize annually; b) elect necessary officers; c) adopt rules of procedure and voting; d) maintain minutes and records of attendance, copies of which shall be a public record and regularly filed with the town clerk; and e) nominate prospective employees of their choice, who shall then be considered for appointment by the town administrator, as provided in clause 4-4-2.

7-2-3 All town agencies shall meet with the board of selectmen at least once in each year.

7-2-4 All town agencies shall conduct their meetings under the open meeting provisions of the Open Meeting Law.

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7-2-5 Members of town agencies established or continued under this chapter may receive such compensation for their services as may be authorized by the town meeting, unless prohibited by the General Laws of the commonwealth. During the term for which a member is appointed and for 1 year following expiration of that term, no member of any appointed town agencies shall be eligible to accept a paid position in that agency.

7-2-6 Any person duly appointed to a town agency shall take up the duties of that office immediately upon taking the oath of office.

7-2-7 The unexcused absence, without good cause, of a member from 4 or more consecutive meetings of a town agency shall serve to vacate the office. When a vacancy has been created, it shall be filled in accordance with general law and this charter. It is expected that committee members will attend at least 75 per cent of scheduled meetings.

7-2-8 Except as otherwise provided by the laws of the commonwealth of Massachusetts or elsewhere in this charter, a quorum of any town agency established or continued under this charter shall consist of a majority of the members required to be appointed to that town agency.

7-2-9 Actions of all appointed Boards, Committees and Commissions shall be governed by this charter and Massachusetts General Laws.

Section 3. Change in Composition of Appointed Town Agencies

7-3-1 The town meeting may, by by-law, enlarge or decrease the number of persons to serve as members of appointed town agencies established or continued under this charter but all town agencies shall consist of an odd number of voting members.

Section 4. Board of Health

7-4-1 A board of health of 5 members shall be appointed by the board of selectmen for 3-year overlapping terms. One member, at least, shall be a doctor of medicine, or a person with significant experience in public health.

7-4-2 A health director shall be appointed by the town administrator, as provided in clause 4-4-1. The health director shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the board of health.

Section 5. Planning Board

7-5-1 A planning board of 9 members and 2 alternate members shall be appointed by the board of selectmen for 3-year overlapping terms.

7-5-2 The planning board shall make recommendations to the town administrator and to the board of selectmen on all matters concerning the physical, economic, and environmental development of the town.

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7-5-3 The planning board shall be responsible for the development and periodic updating of a master plan or portions of it. A summary of the plan shall be submitted to the town meeting, which shall act on it, with or without amendments.

7-5-4 After the summary has been acted on by the town meeting, the planning board shall use the plan in making zoning and other recommendations to the town meeting. The board shall report annually on the status of the master plan.

7-5-5 Whenever the planning board recommends proposed amendments to the zoning by-law, it shall provide explanations of its recommendations to the town meeting.

Section 6. Board of Assessors

7-6-1 A board of assessors of 3 members shall be appointed by the board of selectmen for 3-year overlapping terms. One member, at least, shall be professionally qualified for the duties of the office.

7-6-2 The deputy assessor shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the board of assessors.

Section 7. Conservation Commission

7-7-1 A conservation commission of 7 members and 2 alternate members shall be appointed by the board of selectmen for 3-year overlapping terms.

7-7-2 The conservation administrator shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the conservation commission.

Section 8. Council on Aging

7-8-1 A council on aging of 9 members shall be appointed by the board of selectmen for 3-year overlapping terms.

7-8-2 The director of the council on aging shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the council on aging.

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Section 9. Historic District and Historical Commission [Amended 5-6-2008 STM by Art. 9, approved 5-19-2009]

7-9-1 A Historic District and Historical Commission shall be appointed by the Board of Selectmen in accordance with the provisions of this Charter and the General Laws as outlined in Article V of the By-laws.²

7-9-2 Historic District and Historical Commission established under this section shall exercise all powers and responsibilities given to Historic Commissions and Historic District Commissions under the Constitution and Laws of the Commonwealth, this Charter, town by-law, or vote of Town Meeting.

Section 10. Recreation and Youth Commission

7-10-1 A recreation and youth commission of 7 members shall be appointed by the board of selectmen for 3-year overlapping terms.

7-10-2 The commission shall develop and carry out programs designed to meet the opportunities, challenges and problems of youth in the town of Harwich. It shall be responsible for the development of comprehensive, year-round, indoor and outdoor recreation programs and policies including management of beach and pond activities and properties. These policies and programs shall be designed to meet the recreational needs of children, youth, adults and the elderly.

7-10-3 The policies adopted by the commission shall be administered by the director of youth and recreation who shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the commission.

Section 11. Cultural Council

7-11-1 A cultural council of 5 members shall be appointed by the board of selectmen for 3-year overlapping terms in accordance with the General Laws of the commonwealth. Members shall not be eligible to serve more than 2 consecutive terms.

Section 12. Zoning Board of Appeals

7-12-1 A zoning board of appeals of 5 members and 5 associate members shall be appointed by the board of selectmen for 3-year overlapping terms.

²Editor's Note: See now Ch. 131, Historic Preservation.

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Section 13. Golf Committee

7-13-1 A golf committee of 7 members shall be appointed by the board of selectmen for 3-year overlapping terms.

7-13-2 The committee shall have full power and responsibility for the maintenance and operation of the municipal golf course.

7-13-3 The director of golf operations, or employee having the general powers of supervision of the golf course shall be under the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the golf committee.

Section 14. Waterways Committee

7-14-1 A waterways committee of 7 members and 2 alternate members shall be appointed by the board of selectmen for 3-year overlapping terms and shall be advisory to that board.

7-14-2 The waterways committee shall be responsible for the development of regulations for all waterways including marine ramps, docks, piers, moorings, and aquaculture.

7-14-3 The harbormaster shall administer the policies adopted by the board of selectmen and shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the waterways committee.

Section 15. Cemetery Commission

7-15-1 A cemetery commission of 3 members shall be appointed by the board of selectmen for 3-year overlapping terms.

7-15-2 The commission shall be responsible for the administration of cemetery funds, and shall develop policies for the management of town-owned cemetery properties.

7-15-3 The policies adopted by the commission shall be administered by the cemetery administrator who shall be subject to the day-to-day supervision of the town administrator within the scope of the general policy and direction established by the commission.

Section 16. By-law/Charter Review Committee

7-16-1 A by-law/charter review committee of 5 members shall be appointed by the board of selectmen for 3-year overlapping terms. The committee shall regularly review the by-laws of the town and submit proposed revisions to the town meeting at least once every 5 years. In addition, the committee shall regularly review the charter and submit proposed amendments to it to the board of selectmen under section 2 of chapter 10 of this charter.

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7-16-2 The by-law/charter review committee shall also be responsible for reviewing all articles proposing to change the by-laws or charter, and all such articles shall be submitted by the board of selectmen to the by-law/charter review committee not later than 14 days after the deadline for submission of articles.³

CHAPTER 8. ELECTION AND RECALL

Section 1. Town Elections

8-1-1 The regular election for all town officers who are chosen by ballot shall be held the third Tuesday in May. The warrant calling this election may include other ballot questions as determined by the selectmen.

8-1-2 All general law provisions with regard to town elections shall apply, except as otherwise provided by this charter.

Section 2. Town Elections to be nonpartisan

8-2-1 All town elections shall be nonpartisan, and election ballots shall be printed without any party mark or designation whatsoever.

Section 3. Eligibility of Town Voters

8-3-1 Any registered voter of the town shall be eligible for election to any elective office or board of the town.

Section 4. Time of Taking Office

8-4-1 Any person duly elected to any office or board shall take up the duties of that office immediately following that person's certification.

Section 5. Recall of Elective Officers

8-5-1 Any elected officer of the town may be recalled and removed from office by the voters as provided in this section. Any voter may file with the town clerk an affidavit signed and sworn to under the penalty of perjury containing the name and title of the elected officer whose removal is sought and a statement of grounds for recall. The town clerk shall then deliver to the voter a sufficient number of copies of petition blanks demanding the recall. The blanks shall be issued by the town clerk and shall contain the town clerk's official seal and signature. The

³Editor's Note: Original Sec. 17, Historic District Commission, which immediately followed this section, was deleted 5-6-2008 STM by Art. 9, approved 5-19-2009. See now Ch. 7, Sec. 9 of this Charter.

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petitions shall be dated and addressed to the board of selectmen, and shall contain the name of the person to whom they are issued, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit, and a demand for the election of a successor to the office.

For all elected officers, the petition must be signed by at least 20 per cent of the qualified voters of the town registered at the last regular town election. The recall petition must be filed within 14 days after its initial date of issuance.

8-5-2 The town clerk and board of registrars shall, within 7 days after receipt of the petition, certify the names on the petition. If the petition shall be found and certified by the town clerk to be sufficient, the town clerk shall without delay submit it with a certificate to the board of selectmen. The board of selectmen shall immediately schedule a recall election to be held not earlier than 64 days after the date the election is called, and not later than 90 days after the date the election is called, but if the regular town election or another special election shall be held within 100 days after the date of the certificate that a sufficient petition has been filed and if that election is at least 64 days after the date the election is called, the board of selectmen shall postpone the holding of the recall election to the date of this other election and shall order the recall election to be held at the same time. All procedures for voting upon the recall question and filling any vacancy caused by the recall of an officer shall be in the manner provided by general law for the conduct of elections.

8-5-3 Any officer whose removal is sought may be a candidate to succeed to the same office and, unless the officer requests otherwise in writing, the town clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of that election, shall all be in accordance with the law relating to elections. The form of the question to be voted upon shall be substantially as follows:

"Shall (here insert the name and title of the elective officer whose recall is sought) be recalled?
Yes _____ No _____"

Under the ballot question shall appear the word "Candidates" and the directions for voters as required by law, and below that shall be the names of candidates nominated.

8-5-4 If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected if at least 25 per cent of those qualified to vote in the election shall have voted on the question of recall. If a majority of votes on the question of recall is in the negative, or if less than 25 per cent of those qualified to vote have voted on the question of recall, the ballots for the candidates shall not be counted.

CHAPTER 9. FINANCIAL PROVISIONS AND PROCEDURES

Section 1. Finance Committee

9-1-1 A finance committee of 9 members shall be appointed by the moderator for 3-year overlapping terms. No member shall serve more than 3 consecutive terms. Any member who has been appointed for a period of at least 2 years to complete an unexpired term shall be

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deemed to have served a full 3-year term, and any member who has been appointed for a period of less than 2 years to complete an unexpired term shall be eligible to serve 3 consecutive 3-year terms in addition to the period of the unexpired term.

9-1-2 Any person duly appointed to the finance committee shall take up the duties of the office on July 15 of each year.

9-1-3 Vacancies in the finance committee shall be filled by the moderator within 30 days after the moderator has been notified, in writing, of the vacancy on the committee. Any person appointed to fill out an unexpired term shall take up the duties immediately upon taking the oath of office.

9-1-4 No member of the finance committee shall hold any other elected or appointed town office, except for membership in the capital outlay committee.

Section 2. Submission of Budget and Budget Message

9-2-1 On or before the first day of October of each year, the town administrator shall present the board of selectmen with the current financial assessment of the town including the latest estimated revenues for the ensuing fiscal year and any specific related fiscal data.

9-2-2 On or before the first Tuesday of October of each year, the board of selectmen, after consulting with the town administrator, shall issue a general policy statement to guide the town administrator in developing the budget requests for the ensuing year.

9-2-3 All division directors, department heads and town agencies shall submit their budget requests to the town administrator on or before the first Friday in November of each year.

9-2-4 On or before the second Tuesday in January, the town administrator shall submit to the board of selectmen a comprehensive budget for all town functions for the ensuing fiscal year and shall submit to the selectmen a budget message.

9-2-5 The budget message shall explain the budget both in fiscal terms and in terms of what specific projects are contemplated in the year ahead. It shall: a) outline the proposed financial policies of the town for the ensuing fiscal year; b) describe the important features of the budget; c) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; d) summarize the town's debt position; and e) include other material that the town administrator may consider appropriate.

9-2-6 The budget shall provide a complete financial plan for all town funds and activities and shall be in the format that the finance committee may suggest, if the format suggested is compatible with commonly-accepted standards of municipal budgeting. The budget shall indicate proposed expenditures for both current operations and capital projects during the ensuing fiscal year, detailed by divisions, departments, offices, and town agencies.

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Section 3. Action on the Proposed Budget

9-3-1 The board of selectmen and the finance committee shall meet jointly or severally in budget hearings that are considered necessary to adequately review the proposed budget of the town administrator.

9-3-2 On or before the first Tuesday in March of each year, the board of selectmen shall submit to the finance committee a budget which has been approved with or without amendments to the town administrator's proposed budget.

9-3-3 The finance committee shall conduct 1 or more public hearings on the proposed budget after it has been submitted to it by the selectmen and by March 31 of each year shall submit its written recommendations on the budget and on all articles to appear in the warrant. These written recommendations shall be made available for distribution to the public at least 10 days before the scheduled date of town meeting. To assist in its preparation of recommendations, the committee may require the town administrator, the head of any division or department or any other town officer or member of a town agency to furnish it with appropriate data.

9-3-4 The board of selectmen shall present the budget to town meeting.

Section 4. Budget Adoption

9-4-1 The town meeting shall adopt the budget, with or without amendments, before the beginning of the fiscal year.

Section 5. Capital Outlay Committee

9-5-1 A capital outlay committee of 7 members shall be appointed for 3-year overlapping terms. Two members shall be appointed by the finance committee, 2 members shall be appointed by the board of selectmen, 1 member shall be appointed by the planning board, and 2 members shall be appointed by the town administrator.

9-5-2 The capital outlay committee shall assist the town administrator in the development of the capital outlay plan.

Section 6. Capital Outlay Plan

9-6-1. The purpose of the 7-year capital outlay plan is to provide the town with a long-range forecast of the town's capital improvement needs and to attempt to keep debt borrowing levels as even as possible from year to year.

9-6-2 A capital outlay shall be defined as the acquisition, construction, or renovation of buildings, equipment or land having a total cost of at least \$100,000 during any budget year or planning funds for any capital outlays, except that the acquisition of land for conservation, open space, or watershed purposes is excluded from this definition.

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9-6-3 The town administrator shall submit a 7-year capital outlay plan which shall consist of the 6 remaining years of the previously voted plan plus 1 additional year as the seventh year of the plan, to a joint meeting of the board of selectmen and the finance committee, during the month of December of each year.

9-6-4 The board of selectmen shall hold a joint public meeting on the submitted capital outlay plan with the finance committee and the capital outlay committee on or before the second Friday in January.

9-6-5 The board of selectmen shall prepare articles to be included in the May annual town meeting warrant, seeking adoption of the 7-year capital outlay plan, and funding of the current year of that plan.

9-6-6 A simple majority vote of the town meeting shall be required to adopt the 7-year capital outlay plan as submitted.

9-6-7 Additions, revisions or amendments to the first 6 years, as outlined in clause 9-6-3 above, of the submitted 7-year capital outlay plan shall be done as amendments to the main motion adopting the plan, and shall require a two-thirds majority vote.

9-6-8 If any part of the current year of the plan fails to receive funding at the annual town meeting, the unfunded portion shall be dropped from the plan and may only be reinstated under clause 9-6-3 or clause 9-6-7, above.

9-6-9 If any part of the current year of the plan receives funding support at the annual town meeting but fails at any necessary debt exclusion, capital exclusion or Proposition 2 1/2 override ballot votes, the unsupported portion shall be returned to the 7-year capital plan in year 1 of the next 7-year plan, and will be subject to clause 9-6-7, above.

9-6-10 Any article included in an annual or special town meeting warrant, which requests a capital outlay as defined in clause 9-6-2, above, shall be considered an amendment to the capital outlay plan and shall require a two-thirds majority vote.

Section 7. Notice of Public Hearing on Capital Outlay Plan

9-7-1 The finance committee shall publish, in 1 or more newspapers of general circulation in the town, the general summary of the capital outlay plan and a notice stating: a) the times and places where copies of the capital outlay plan are available for inspection; and b) the date, time, and place, not less than 7 days after the publication, when the committee shall conduct a public hearing on the plan.

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Section 8. Annual Audit

9-8-1 Before the end of each fiscal year, the board of selectmen shall retain a certified public accountant or a certified accounting firm to make an audit of all town accounts, books, records, and transactions of every division, department, office and town agency.

9-8-2 A copy of every auditor's report shall be filed with the town clerk, shall be a public record, and the entire report and a summary of it shall be available for inspection at the office of the town clerk.

CHAPTER 10. ADDITIONAL PROVISIONS

Section 1. Continuation of Existing Laws

10-1-1 Except as otherwise specifically provided in this charter, all special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not inconsistent with this charter shall continue in full force and effect until amended or rescinded by law or until they expire by their own limitation.

Section 2. Charter Amendment

10-2-1 This charter may be replaced, revised, or amended in accordance with the procedures made available by article 89 of the amendments to the constitution of the commonwealth, commonly known as the Home Rule Amendments, and chapter 43B of the General Laws, commonly known as the Home Rule Procedures Act.

Section 3. Definitions

10-3-1 Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this charter shall have the following meanings:

- (a) Ad Hoc Committee. The words "ad hoc committee" shall mean a committee appointed to carry out a specific task, at the completion of which it automatically ceases to exist.
- (b) By-laws. The word "by-laws" shall mean the general by-laws of the town and shall not include the zoning by-laws of the town.
- (c) Certification. The word "certification" shall mean that person has been declared elected.
- (d) Charter. The word "charter" shall mean this Harwich charter and any amendments to it made through any of the methods provided under article 89 of the amendments to the constitution of the commonwealth.

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- (e) Commission. The word "commission" shall mean any town agency which has been charged with performing a specified function on behalf of the town and which has such powers and performs such duties as are provided in the General Laws. The term shall include boards, councils and any other town agencies authorized to act under the General Laws.
- (f) Committee. The word "committee" shall mean any town agency which has been charged with performing a specified function on behalf of the town but without statutory authority, except for the school committee, finance committee and capital outlay committee, which function under statutory authority.
- (g) Ex Officio. The words "ex officio" shall mean a member of a town agency who may enter into discussions but who has no right to make motions or vote and is not counted in determining a quorum.
- (h) General Laws. The words "General Laws" shall mean the General Laws of the commonwealth of Massachusetts.
- (i) He/His. The words "he," or "his" or any other use of a masculine noun or pronoun in this charter shall include the feminine.
- (j) Majority Vote. The words "majority vote" shall mean a majority of those present and voting provided that a quorum of the body is present.
- (k) Officer. The word "officer" shall mean any individual elected or appointed to office.
- (l) Town. The word "town" shall mean the town of Harwich.
- (m) Town agency. The words "Town agency" shall mean any commission or committee of the town government consisting of 2 or more persons, whether appointed or elected.
- (n) Voters. The word "voters" shall mean the registered voters of the town of Harwich.

Section 2. Notwithstanding the provisions of chapter 43B of the General Laws or any other general or special law to the contrary, actions taken by the town under the town charter as it existed prior to this act are hereby validated, ratified and confirmed.

Section 3. Section 1 of this act shall be submitted for acceptance to the voters of the town of Harwich at an annual or special town election in the form of the following question which shall be placed on the official ballot:

"Shall an act passed by the general court in the year 2005, entitled 'An Act relative to the Charter of the Town of Harwich' be accepted?"

The town counsel shall prepare a fair, concise summary of said question as set forth in section 58A of chapter 54 of the General Laws.

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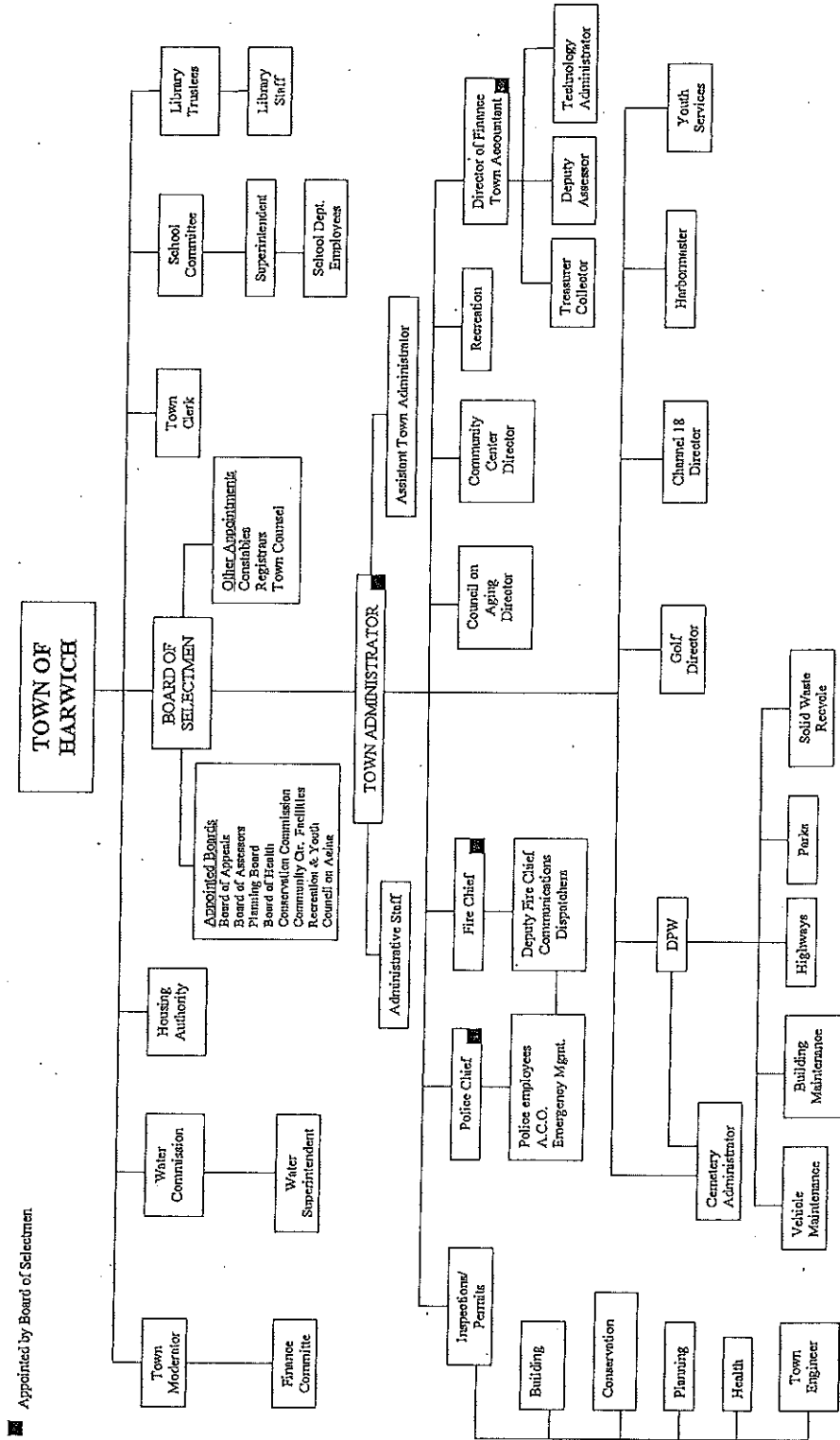
If a majority of the votes cast in answer to the question is in the affirmative, section 1 of this act shall take effect, but not otherwise.

Section 4. Sections 2 and 3 of this act shall take effect upon its passage.

Approved February 3, 2006.

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C Attachment 1



■ Appointed by Board of Selectmen

