

HAMPSHIRE COUNCIL OF GOVERNMENTS CHARTER

PREAMBLE

We, the people of Hampshire County, in order to serve the interests of the citizens of our region, do hereby affirm that the twenty municipalities which presently comprise Hampshire County have vital common concerns that transcend the borders of individual municipalities and that the ability of our municipalities to address important public issues often depends on our local governments acting together. We therefore establish for ourselves and for our communities the means to serve our municipalities effectively, and to place the Council of Governments on a firm financial footing in order to deal with regional issues which transcend the existing boundaries of municipal governments, do hereby adopt this home rule Charter for the Hampshire Council of Governments.

Article One INCORPORATION AND POWERS

Section 1. Incorporation The Hampshire Council of Governments, within the corporate limits established by law, shall be a body politic and corporate for the purposes of regional cooperation in matters of common interest among the members of the Council. The Hampshire Council of Governments may include, but not be limited to, those municipalities now or formerly encompassed by Hampshire County.

Section 2. Powers The intent of this Charter is to obtain for the Hampshire Council of Governments all of the powers that it is now possible or that it may hereafter be possible for a council of governments to have, and to hold and to exercise those powers and those policies under the Constitution and Laws of the Commonwealth, as they may be amended, as fully and as completely as if each power were specifically and individually enumerated in this Charter.

(a) It also is the intent of this Charter to encourage a continuing review of the functions performed by the Hampshire Council of Governments and to enable it to perform any duty mandated to it in the most efficient manner possible, and without regard to the organizational, structural, or personnel provisions contained in any prior laws.

(b) Nothing in this Charter shall be construed to impair, diminish, or infringe upon the powers or duties of cities and towns under the Laws of the Commonwealth. The member municipalities of the Hampshire Council of Governments are and shall remain the broad repository of local police power in terms of their ability to legislate for the general health, safety, and welfare of their residents.

(c) Notwithstanding any other special or general law to the contrary, the Hampshire Council of Governments shall exercise all prerogatives and responsibilities granted to it by the Enabling Act, including but not limited to, those powers which are enumerated below:

- i: The power to adopt, amend and repeal an administrative code related to operations of the Hampshire Council of Governments.
- ii: The power to organize and regulate the internal affairs of the Council of Governments: to create, alter, and abolish departments, offices, positions, and employment and to define the functions, powers and duties thereof; to establish qualifications for persons holding offices, positions and employment, subject to the requirements of state law and this Charter; and provide for the manner of their appointment and removal and for their term and compensation.
- iii: The power of eminent domain with respect to any powers of the former County under MGL Chaps. 79-88, 97, 114, 159, 160 and 252.
- iv: The power to construct, acquire, operate and maintain public improvements, capital projects, personal property and real property or other enterprises for any public purpose, subject to Laws of the Commonwealth.
- v: The power to have a corporate seal; to sue and be sued subject to the provisions of this paragraph; to contract and be contracted with; to buy, sell, lease, hold and dispose of real and personal property; to appropriate and expend funds for Council of Governments purposes, to retain, administer and release trust funds of the former County of Hampshire, and to have all possible protections from tort liability afforded to municipalities under the Massachusetts General Laws.
- vi: The power to contract with or enter into agreements with any other entity or governmental unit and to provide jointly or for the other, or in cooperation with other entities, any service, activity, or undertaking which that entity or governmental unit is authorized by law to perform. Notwithstanding any other provision of law, municipalities entering into joint service agreements with Hampshire Council of Governments may do so upon authorization of the city administrator in a city having a Plan D or E form of charter, or the mayor with the approval of the city council or board of aldermen in any other city or town, or the town council or board of selectmen of a town or, if further authorized by general law, the chief elected official or executive officer of the municipality.
- vii: The power to establish membership assessments and service charges.
- viii: The powers of municipalities with respect to creating special fund accounts for the purpose of providing any service authorized by this Charter. Such funds may include, but are not limited to, those authorized by MGL chapter 44, sections 53A (grant and gifts for municipal purposes), 53C (off-duty work details), 53D (recreation and park self-supporting service revolving funds), 53E (offset receipts), 53E ½ (departmental revolving), 53F (compensating balance agreements), 53F ½ (enterprise funds), 53G (special consultants), or any other special funds powers now or later enacted for municipalities. Adoption of these instruments by the Council shall require the same procedures of the executive and representative bodies of the

Hampshire Council of Governments as may be required of the executive and legislative bodies of municipalities. The Hampshire Council of Governments shall be subject to any procurement regulations which apply to municipalities.

ix: The power, notwithstanding any general or special law to the contrary, to retain all powers and authorities of the former County of Hampshire executive and legislative bodies necessary for the execution of any responsibility transferred to the Council of Governments by act of the legislature. Any responsibility of the former County of Hampshire for which the Commonwealth has no explicit jurisdiction, shall be retained by the Hampshire Council of Governments and its successor offices, including but not limited to, appointment authority of the executive to other corporate bodies.

x: The powers of Massachusetts municipalities, special districts and authorities not specifically limited by this Charter or by statute may be granted to the Hampshire Council of Governments by the Administrative Code approval process set forth by this Charter.

xi: The powers of town Selectmen under MGL chap. 41 sec. 52 and 56 approval of bills and warrants, the powers of the former County of Hampshire under MGL chaps. 79-88, 97 & 114 (highways and burial grounds, generally), 32B (health insurance), 140 (dogs and other animals), 42 (boundaries), 159 & 160 (railways), 252 (swamps and quarries), and 90 (parking tickets).

xii: The power to incur operating debt in anticipation of revenue.

xiii: The power to exercise any powers, authorities or duties now or formerly exercised by counties, which may be assigned by general law or administrative rule.

xiv: The power to accept, state, federal, or private grants for any purpose.

Section 3. Division of Powers The legislative powers of the Hampshire Council of Governments shall be exercised by an elected board of councilors. Certain executive powers shall be exercised by the Executive Director while others shall either be exercised by the Executive Director with the consent of the councilors, or by the Executive Director with the executive committee of the council by the consent of the councilors.

Section 4. Intergovernmental Relations The Hampshire Council of Governments may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States government or agency thereof, subject to the applicable requirements of any provision of the Constitution, or laws of the Commonwealth not in conflict with the principle of self-government through home rule embodied by this Charter.

Article Two MEMBERSHIP

Section 1. Membership Procedures

(a) Upon an affirmative vote in accordance with procedures of the Hampshire County Charter adopted on November 8, 1988, and amended on November 3, 1998, accepting this comprehensive amendment, all municipalities which were member municipalities of Hampshire County shall be member municipalities of the Hampshire Council of Governments.

(b) Any other municipality may join the Hampshire Council of Governments upon satisfaction of all of the following conditions:

i: An affirmative vote by a majority of the citizens, or an affirmative vote of the legislative body of the municipality, at the choice of the municipal executive body.

ii: A two-thirds affirmative vote of the councilors of the Hampshire Council of Governments.

iii: A commitment to belong for a minimum of four years.

(c) New membership shall be effective immediately following fulfillment of the criteria listed in Article Two, Section 1(b)(i), (ii) and (iii).

(d) Member municipalities will have representation on the Council in accordance with Article 3 of this Charter.

(e) All members shall agree to be bound by the Hampshire Council of Governments Charter and Administrative Code, and all amendments thereto, as a condition of continued membership in the Hampshire Council of Governments.

Section 2. Withdrawal Procedures

(a) After four years of membership, any member municipality may withdraw from the Hampshire Council of Governments by an affirmative majority vote of its legislative body declaring its intent to withdraw effective the beginning of the fiscal year no sooner than one calendar year after the vote.

(b) In all cases, the terms of withdrawal shall include provisions for payment of the member municipality's allocable share of all fiscal obligations of the Hampshire Council of Governments. There shall be no payment or compensation for any allocable share of assets of the Hampshire Council of Governments to any member municipality which chooses to withdraw.

(c) Payment for items under paragraph (b) shall be made pursuant to a schedule approved by the Council.

(d) Procedures for withdrawal from membership in the Hampshire Council of

Governments shall be pursuant to the Administrative Code of the Council, which shall not supersede any provisions of this Charter.

Section 3. Procedures to Rejoin Membership

(a) In order to rejoin the Hampshire Council of Governments, a town or city shall satisfy the requirements of Article Two, Section 1(b)(i), (ii), and (iii);

(b) The effective date of membership shall be the first day of the month following an affirmative vote held in accordance with Article Two, Section 1(b)(i);

(c) Any town or city that rejoins the Council shall pay dues according to the formula used for member communities and, additionally, shall pay a one time assessment of one year's dues at the rate prevailing as of the effective date of membership. Said assessment will be paid over a four year period in four equal annual installments;

(d) If a town or city votes to rejoin after July 1st and before June 30th, the assessment shall be prorated the first year according to the effective date of membership;

(e) All members shall agree to be bound by the Hampshire Council of Governments Charter and Administrative Code, and all amendments thereto, as a condition of continued membership in the Hampshire Council of Governments.

Article Three LEGISLATIVE BODY

Section 1. Composition, Election, and Terms of Office The legislative power of the Council of Governments shall be vested in a board of Council of Governments councilors. The board of councilors shall be composed of members chosen at municipal general elections for terms of three years. Councilors shall be residents and registered voters of the municipalities from which they are elected, and shall qualify for the ballot in towns in the same manner as candidates for the board of selectmen and in cities in the same manner as at-large candidates for the city council. No person shall be a councilor and at the same time an employee of the Council of Governments. There shall be at least one councilor elected from each municipality. However, any municipality whose population comprises more than ten per cent of the population of the Council of Governments, as determined by the most recent federal census, shall elect two councilors. In no instance will there be more than two councilors from any one municipality. At their first meeting after receiving the final population count of member municipalities for each federal decennial census, the Council shall determine the number of councilors each municipality shall elect, adopt a weighted vote schedule by population to be cast by councilors from each municipality, and promptly inform each municipality of the same.

Section 2. Organization, Rules and Procedures

(a) The Council of Governments councilors shall annually elect from their membership a

chairman, vice-chairman, and three other members, no more than one of whom shall be from any single municipality, to serve as an executive committee of the board. The councilors shall choose a moderator who shall not be a member of the executive committee to preside over their meetings, and councilors may, from time to time, constitute other committees as they deem appropriate.

(b) The Council of Governments councilors shall meet at least once monthly, shall on all questions cast votes weighted by the populations of the municipalities they represent with the weighted vote of a municipality with more than one councilor being divided equally among its councilors and, upon the request of councilors representing one fifth of the weighted votes present, shall require that the yeas and nays of councilors be recorded on any question. The number of councilors sufficient to cast a majority of weighted votes shall constitute a quorum to do business.

(c) The Council of Governments councilors shall determine the rules of their proceedings and shall publish and make available those rules. Said councilors shall keep a record of their proceedings and those of their executive committee and any other committee, and shall make those records available to the public during normal business hours.

(d) The executive committee shall meet at least twice monthly and shall report to the board of Council of Governments councilors at least once monthly. They shall oversee the carrying out of policies voted by the Council of Governments councilors and shall supervise the Executive Director, and shall perform other duties as the Council of Governments councilors shall by a majority of weighted vote assign to them. The executive committee shall vote by person, not by weighted vote, and a majority of its members shall constitute a quorum to do business.

Section 3. Compensation Councilors shall receive compensation at the rate of six hundred dollars per year; members of the executive committee shall receive compensation at the rate four times that of the rate awarded to councilors; the moderator shall receive compensation at the rate of two times that of the rate awarded to councilors, and, as specified in the Administrative Code, chairmen of standing committees shall receive compensation at the rate of up to two times that of the rate awarded to councilors. A change in the amount of salary of the councilors not to exceed two and one-half per cent per annum may be provided for by a roll call vote of the Council of Governments councilors; provided, however, that no increase so voted shall take effect until the beginning of the next fiscal year.

Section 4. Powers and Duties

(a) The Council of Governments councilors shall appoint an Executive Director, fix annually the Executive Director's salary and benefits, and annually evaluate in public session the Executive Director's job performance. They shall conduct hearings on, and approve by a majority of the weighted votes prior to the first day of May every year, an annual budget for the Council of Governments. Their consent shall be required to confirm any appointments by the Executive Director to the offices specified in the Administrative

Code.

(b) The Council of Governments councilors shall approve the acquisition, disposition, leasing and management of real property; the declaration of emergencies; the entering into, conduct and termination of litigation; the establishment of Council of Governments personnel policies and administrative procedures; collective bargaining agreements; the designation of newspapers for required notices and advertisements; and other matters as the Council of Governments councilors may deem appropriate.

Section 5. Vacancies Vacancies in or failure to elect to the office of Council of Governments councilor shall be filled within thirty days by appointment in the towns by the board of selectmen and in cities by the mayor with the approval of the city council. Such appointees shall serve only until their replacement, who shall be elected at the next municipal general election, takes office.

Article Four COUNCIL EXECUTIVE DIRECTOR

Section 1. Qualifications and Appointment, Term of Office

(a) The Council of Governments councilors shall appoint an Executive Director from a list prepared by a screening committee pursuant to the Administrative Code. The Executive Director shall be appointed solely on the basis of executive and administrative qualifications. Appointment shall be by a two-thirds weighted vote of the Council of Governments councilors. The Executive Director shall not be subject to the consolidated personnel policy of the Council of Governments, but shall enter into a written contract with the Council of Governments. Approval of a contract and any amendments or revisions thereof are subject to a majority weighted vote of the councilors.

(b) The Executive Director shall be a person qualified by education, training and experience in public administration to perform the duties of the office. The Executive Director need not be a resident of Hampshire County at the time of appointment; however, unless there is a vote of the Council to the contrary, he/she must establish residence within the geographic boundaries of Hampshire County within twelve months following the appointment.

(c) The Executive Director shall not have served in an elective office in the Council of Governments government for at least six months prior to appointment. Upon appointment the Executive Director shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during the term, unless the action is approved in writing by the executive committee.

Section 2. Compensation The Executive Director shall receive a salary within the amount appropriated by the Council of Governments. Yearly salary adjustments shall be automatically incorporated into the contract after an annual review by the councilors.

Section 3. Powers and Duties The Executive Director shall be the chief administrative officer for the Council of Governments. The Executive Director shall be directly responsible to the Executive Committee for the administration of all Council of Governments affairs placed in the Executive Director's charge by or under this Charter and the Council's Administrative Code:

(a) to supervise and direct the administration of all departments, agencies and offices for whose function the Executive Director is responsible;

(b) to appoint subject to provisions of collective bargaining agreements and except as otherwise authorized by Charter, all department heads, officers, members of boards and commissions and employees; appointments when made shall become effective on the thirtieth day following the day on which notice of the appointment is filed with the councilors, unless the Councilors shall within that period by a majority weighted vote of all members vote to reject an appointment, except that those of employees not department heads shall become effective upon appointment;

(c) to fix the compensation of all Council of Governments employees appointed within the limits established by the current fiscal year's budget and personnel policy as set forth in the Administrative Code;

(d) to attend all regular meetings of the Council of Governments councilors and their executive committee unless excused and shall have a voice, but no vote in all their deliberations;

(e) to supervise the keeping of a full and complete record of the office, and render as often as may be required by the Council of Governments councilors, but not less than once each year, a full report of all operations during the period reported on, which report shall be made available to the public.

(f) to produce a proposed annual operating budget and a proposed capital improvements budget for the Council of Governments;

(g) to keep the Council of Governments councilors fully advised as to the needs of the Council of Governments, and recommend for adoption by the Council of Governments measures requiring action by them or by the other governmental bodies as may be deemed necessary or expedient;

(h) to supervise the rental and use of all Council of Governments property, except as otherwise determined by state law, and be responsible for the maintenance and repair of all Council of Governments buildings and facilities placed under the Executive Director's control by this Charter or vote of the Council of Governments councilors;

(i) to supervise the keeping of a full and complete inventory of all property of the Council of Governments both real and personal;

(j) to negotiate contracts involving any subject within the Executive Director's supervision; the contracts may be subject to final approval and execution by the Council of Governments councilors;

(k) to supervise the purchase all supplies, material and equipment for all departments and activities of the Council of Governments;

(l) to enforce, as they pertain to Hampshire Council of Governments, votes of the councilors and their committees, the Charter, and the provisions of the General Laws;

(m) to administer the personnel policy for Hampshire Council of Governments employees which shall include, but not be limited to personnel policies and practices, rules and regulations including provisions for an annual employee performance review, and all collective bargaining agreements for the Council of Governments as set forth in this Charter or the Administrative Code or by vote of the Council of Governments councilors; and, in conjunction with the Executive Committee, prepare, maintain, and keep current a plan establishing the personnel staffing requirements of each Council of Governments department;

(n) to inquire into the conduct of office of any officer or employee or department under the Executive Director's control;

(o) to perform any other associated duties required by the Administrative Code or the votes of the Council of Governments councilors; and,

(p) to authorize any subordinate officer or employee to exercise any power or duty which the Executive Director is authorized to perform; provided, however, that all acts which are performed under delegation shall be deemed to be the Executive Director's acts.

Section 4. Acting Executive Director

(a) The Executive Director, shall, by letter filed with the councilors, designate a qualified Council of Governments employee to exercise the powers of the office during a temporary absence. During this time the councilors may not revoke the designation until at least ten working days have elapsed, whereupon they may designate another qualified Council of Governments employee to serve as acting Executive Director until the Executive Director shall return and resume work.

(b) Any vacancy in the office of the Executive Director shall be filled as soon as possible by the councilors. During the interim they shall appoint a suitable person as acting Executive Director to perform the duties of the office. Such appointment may not exceed three months, but one additional renewal may be granted by the councilors not to exceed a second three months.

(c) The powers of an acting Executive Director shall include authority to make temporary, emergency appointments or designations to Council of Governments office or

employment, but no appointments or designations of a permanent nature.

Section 5. Annual Review of Performance; Removal and Suspension

(a) The Executive Director shall be subject to an annual review of job performance for the purposes of fostering communication and goal setting by the councilors and Executive Director, assessing strengths and weaknesses of the Executive Director and departments under the Executive Director's jurisdiction and as a basis for awarding salary adjustments.

(b) The review shall take place sometime within the period of January first to February fifteenth of each year. The councilors shall have a list of performance criteria as pertains to the duties of the office and job qualifications. A written report shall be filed by the councilors after the review, to be kept in the Executive Director's personnel file for future reference. The review process shall be subject to all applicable laws and the Council of Governments Administrative Code.

(c) The Council of Governments councilors shall make a salary determination for the next fiscal year based on the results of the review.

(d) The Council of Governments councilors, by two-thirds of the total weighted vote may terminate the Executive Director from office in accordance with the following procedure:

i: during probationary period: notice in writing of termination;

ii: after probationary period: the Executive Director shall not be dismissed except for good cause, nor unless at least thirty days prior to the meeting at which the vote is to be taken, the Executive Director shall have been notified of the intended vote; nor unless, if the Executive Director so requests in writing, shall have been furnished by the Council of Governments councilors with a written statement of the charge or charges or the cause or causes for which the dismissal is proposed; nor unless, if the Executive Director so requests in writing, the Executive Director has been given a hearing before the councilors which may be either public or private at the option of the Executive Director, and at which the Executive Director may be represented by counsel, present evidence, and call witnesses to testify in the Executive Director's behalf.

iii: anything contained in this provision to the contrary notwithstanding, the non-renewal of the contract of the Executive Director shall not be considered to be a dismissal and the provisions of clauses (a) and (b) shall not apply;

iv: the Executive Director may be suspended from office by the procedure following the same steps outlined above for removal; and

v: the Executive Director shall continue to receive that position's approved full

salary until thirty days following the date a final vote on suspension or dismissal has become effective.

Article Five FISCAL PROCEDURES

Section 1. Fiscal Year The fiscal year of the Council of Governments shall begin on the first day of July and shall end on the thirtieth day of June, unless another provision is made by general law.

Section 2. Submission of Proposed Budget Within the time fixed by the Administrative Code the Executive Director shall submit to the Council of Governments councilors a proposed budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. Within five days after receipt of the proposed budget, the chairman of the Council of Governments councilors shall transmit a copy of the budget to the chairmen of the boards of selectmen in towns and the mayor and the president of the city council in cities.

Section 3. Budget Message and Proposed Budget The budget message and the accompanying proposed budget submitted by the Executive Director shall explain the proposed budget for all Council of Governments agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the Council of Governments for the ensuing fiscal year; describe important features of the proposed budget; indicate any major variations from the current budget in financial policies, expenditures, and revenues, together with the reasons for the changes; and summarize the Council of Governments debt position; and it shall include any additional information the Executive Director deems desirable or the Council of Governments councilors may reasonably require.

Section 4. Action on the Proposed Budget

(a) The Council of Governments councilors shall forthwith, upon receipt of the proposed budget, provide for the publication in a local newspaper or newspapers of a notice stating the date, time and place, not fewer than ten nor more than twenty days following publication, when a public hearing will be held by the Council of Governments councilors on the proposed budget.

(b) The Council of Governments councilors, or a committee thereof, shall consider, in open public meetings, the detailed expenditures proposed by each Council of Governments department or agency. The councilors may require the Executive Director, or any other Council of Governments department or agency, to furnish additional information as the councilors may deem necessary to assist in their review of the proposed budget.

(c) The executive committee shall file a report containing its recommendations for actions on the proposed budget which shall be available at least seven days prior to the

date on which the Council of Governments councilors act on the proposed budget. The budget shall be adopted by a majority of weighted votes prior to May first of each year, and, consistent with the principle of self-government embodied by this Charter, shall not be subject to disallowance by any other legislative body.

Section 5. Capital Improvement Program The Executive Director shall submit a capital improvement program to the Council of Governments councilors at least thirty days prior to the submission of the proposed operating budget. The capital improvement program shall include, but need not be limited to, the following:

- (a) a clear, concise general summary of its contents;
- (b) a listing of all capital expenditures proposed to be made, by years, during the five fiscal years next ensuing, with supporting information as to the need for each expenditure;
- (c) cost estimates, methods of financing and recommended time schedules;
- (d) the estimated annual cost of operating and maintaining any new facility or piece of major equipment involved.
- (e) the information in the capital improvement program shall be revised annually with regard to all items still pending, or in the process of being acquired, improved or constructed.

Section 6. Sources of Revenue

(a) For the fiscal year beginning July first, nineteen hundred ninety-nine, the Hampshire Council of Governments may impose a regional assessment up to the rate of .0001 of the equalized valuation of each member municipality as reported to the general court by the commissioner of revenue in accordance with section 10C of chapter 58 of the General Laws. The regional assessment shall be based upon the budget adopted by the Council of Governments, net of estimated revenues.

(b) After July first of the year two thousand, the Hampshire Council of Governments may increase or reduce the regional assessment on each member municipality from the base year of fiscal nineteen hundred ninety-nine, subject to the same limits section 21C of chapter fifty-nine of the General Laws imposes on the member municipalities.

Section 7. The Hampshire Council of Governments may accept or participate in any grant, donation or program available to any political subdivision of the Commonwealth, and may also accept or participate in any grant, donation, or program made available to counties or councils of governments by any other governmental or private entity.

Section 8. Additional sources of revenue shall be determined by the Council and may include any user fees or fees for service and any other methods allowable by general or

special laws or approved by the voters of the member municipalities.

Section 9. If any payment of service charges or assessments is not made when required, the Chief Financial Officer shall cause notice to be sent to the delinquent municipality. Ninety days delinquency in any payments to which notice shall have been given to the municipality shall entitle the Executive Committee to suspend services until the delinquency is satisfied and the deficiency shall bear interest, after notice, at a rate determined in the Administrative Code.

Article Six ADMINISTRATION ORGANIZATION

Section 1. Administrative Code

(a) There shall be an Administrative Code. This code shall include a table of organization of Council of Governments departments and agencies, a list of duties and responsibilities for each department or agency, a list of standard administrative and budgetary procedures for all Council of Governments departments or agencies, qualifications for Council of Governments employees, personnel policies and any other sections deemed appropriate.

(b) The code shall be developed by the Executive Director, who shall receive assistance in the development of the code in the manner provided by the Council of Governments councilors.

(c) The code shall initially take effect six months from the date the Council of Governments councilors approve it. The code shall be amended, except as otherwise provided within this Charter, in a manner specified within the code. The code shall be updated as necessary. A copy of the code and any changes to it shall be provided to every Council of Governments department or agency and to every municipality within the Council of Governments.

(d) All Council of Governments departments or agencies except those specifically excluded shall be subject to the Council of Governments Administrative Code.

Section 2. Organization of Council of Governments Agencies

(a) The Executive Director may from time to time prepare and submit to the Council of Governments councilors plans of organization or reorganization establishing operating departments or agencies for the orderly, efficient or convenient conduct of the business of the Council of Governments.

(b) Whenever the Executive Director submits an organization plan to the Council of Governments councilors, the executive committee shall review such plan and submit the proposal to the Council of Governments councilors with a recommendation as to whether or not it should be approved by the Council of Governments councilors.

(c) The Council of Governments councilors shall approve any plans to reorganize, consolidate or abolish any Council of Governments department or agency in whole or in part or to establish a new Council of Governments department or agency by a two-thirds weighted vote. Such changes shall become part of the Administrative Code.

Article Seven AMENDMENTS

Section 1. Proposed amendments to this Charter shall be submitted to the voters upon approval by two-thirds of the weighted votes cast at a meeting of the Council of Governments councilors called for that purpose, or upon petition signed by a number of registered voters equal to at least five per cent of the number of residents of the member municipalities of the Council of Governments registered to vote in the preceding state election and submitted in conformity with the provisions of sections 3 and 14 of chapter 34 -A of the General Laws and other laws as may be applicable.

Section 2. Proposed amendments shall become effective if approved by a majority of the votes cast by voters in the member municipalities at a biennial state election held at least ninety days following a vote by the Council of Governments councilors to submit the amendments.

Section 3. The ballots used when voting on Charter amendments shall contain a question in substantially the following form: "Shall the following amendments to the Hampshire Council of Governments Charter proposed by [the Council of Governments' registered voters or a two-thirds majority of the weighted vote of the Council of Governments councilors] be enacted?" (Insert here a fair and concise summary of each question prepared by the Council of Governments counsel and approved by the councilors.)

Article Eight GENERAL PROVISIONS

Section 1. Definitions Unless the context clearly requires otherwise, the following words as used in this Charter shall have the following meanings:

Charter - this Charter and any amendments to it which may hereafter be adopted.

Constitution - the word "Constitution" (used with initial capital letter) shall refer to the Constitution of Massachusetts adopted on June 16, 1780, and including all amendments subsequently enacted.

council department or agency - any board, commission, committee, division or office of the Hampshire Council of Governments.

county - (1) the geographic boundary of the county of Hampshire: (2) the governmental entity now or formerly known as Hampshire County or the Hampshire County Commission.

emergency - a sudden, unexpected, unforeseen happening, occurrence, or condition which necessitates immediate action.

general laws - the General Laws of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently

enacted.

local newspaper - a newspaper or newspapers of general circulation in the county.

majority - more than 50.00% of the vote actually cast in a meeting possessing a quorum.

Failure to vote or abstention votes are not counted as cast, but do count toward a quorum.

quorum - for meetings of the full Council, 50.01% of the total weighted vote; for committee meetings, as established in the Administrative Code.

total weighted vote - one hundred per cent of the weighted vote possible, based upon the population of the member municipalities (See Article Three, Section 1.).

vote of councilors/members - all votes in sessions of the full Council are by weighted vote; all votes in committees are one equal vote for each councilor voting.

voters - persons who are registered to vote in the member municipalities of the Hampshire Council of Governments.

votes - all votes, including two-thirds votes, are of those present and voting, not of the whole.

weighted vote - the vote of the councilors determined by the population of the municipality each represents, as established by Article Three, Section 1.

Section 2. Specific Provisions Prevail To the extent that any specific provision of the Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 3. Computation of Time In computing time under the Charter, if seven days or less, only business days, not including Saturdays, Sundays, or legal holidays shall be counted; if more than seven days, every day shall be counted.

Article Nine TRANSITIONAL PROVISIONS

Section 1. Continuation of Contracts All leases, contracts, franchises and obligations entered into by the county or for its benefit prior to the effective date of this Charter, with the exception of those leases, contracts, franchises and obligations entered into by or for the Hampshire County Jail and House of Correction, Registry of Deeds, and Maintenance and Security Departments, shall continue in full force and effect.

Section 2. Transfer of Records and Property All records, property and equipment whatsoever of any agency or part thereof which are assigned in whole or in part to Hampshire County, and not transferred to the Commonwealth by the enabling act, are hereby transferred to the Hampshire Council of Governments with all right, title and interest. The transfers under this section shall be effective and shall bind all persons, with or without notice, without any further action or documentation. The Council of Governments, or its successor, may, from time to time, execute and record and file for registration with the Registry of Deeds or Land Court, a certificate confirming the

Council's ownership of any real property or interest therein, formerly held by Hampshire County.

Section 3. Special Law Specifically Retained: Chapter four hundred nineteen of the acts of nineteen hundred and seventy-six (Hampshire County Housing Authority) is hereby recognized, confirmed and retained.

Section 4. Time of Taking Effect After approval by the voters, this Charter, as amended, shall take effect on January 1, 2013.

(a) The Council of Governments councilors holding office as of December 31, 2012, shall continue to represent their respective municipalities for all the purposes of this Charter until the occurrence of the next municipal general election in each municipality when their seats shall be filled in accordance with the provisions of this Charter.

(b) The Council of Governments councilors serving, as of December 31, 2012, as members of the Executive Committee, as chairs of standing committees, and as moderator, shall remain in those offices until the positions have been filled in accordance with the provisions of the Administrative Code.