

# FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS CHARTER

Adopted by the following towns:

Ashfield	Leyden
Bernardston	Monroe
Buckland	Montague
Charlemont	New Salem
Colrain	Northfield
Conway	Orange
Deerfield	Rowe
Erving	Shelburne
Gill	Shutesbury
Greenfield	Sunderland
Hawley	Warwick
Heath	Wendell
Leverett	Whately

Effective July 1, 1997

**2025 Proposed Amendment to this Charter appear in RED with explanations of the changes noted in FOOTNOTES at the bottom of each page, as needed.**

## FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS CHARTER

*Preamble.* We, the people of Franklin County, in order to serve the interests of the citizens of our region, do hereby affirm that the 26 ~~towns~~ municipalities in Franklin County have vital common concerns that transcend our individual borders and that the ability of our towns 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 effectively serve our ~~towns~~ municipalities and to deal with regional issues ~~which-that~~ transcend the ~~existing boundaries~~ political borders of ~~town~~ local governments, and do hereby adopt this home rule Charter for the Franklin Regional Council of Governments pursuant to its enabling act 151 Acts 1996 sec 567 as amended.

### ARTICLE 1 DEFINITIONS

The following words as used in this Charter shall have the following meanings:

- (a) *Charter* - The word "Charter" shall mean this Charter and any amendments to it which may hereafter be adopted.
- (b) *County* - The word "County" shall mean the geographic boundary of the County of Franklin.
- (c) *Council* - The representative body of the Franklin Regional Council of Governments
- (d) *Council Agency* - The words "Council agency" shall mean any board, commission, executive or representative body, committee or any department, division, or office of the Franklin Regional Council of Governments.
- (e) *Days* - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven days; when the time set is seven days or more, every day shall be counted, unless the last day is a Sunday or a holiday.
- (f) *FRCOG* - The acronym "FRCOG" shall mean the Franklin Regional Council of Governments.
- (g) *Laws of the Commonwealth/ MGL* - The official Laws of the Commonwealth of Massachusetts and the Constitution of the Commonwealth of Massachusetts, including all amendments adopted with respect thereto.
- (h) *Majority Vote* - The words "majority vote" shall mean a majority of the members present and voting, provided a quorum is present when the vote is taken, unless a higher number is required by law or bylaw.
- (i) *Voters* - The word "voters" shall mean persons who are registered to vote in any ~~town~~ municipality.
- (j) *FRPAB* - The acronym "FRPAB" shall mean the Franklin Regional Planning Advisory Board.
- (k) *Enabling Act* - Section 567 of Chapter 151 of the 1996 Acts of the General Court of Massachusetts, as may be amended.
- (l) *Select Board* – Select Board shall refer to the body of municipal chief elected officials known interchangeably as Select Board, Board of Selectmen and other iterations.
- (m) *Chief Administrative Official* – Town Administrator, Assistant Town Administrator, Town Coordinator, Town Manager or any other title used to refer to the lead position in a municipality that directly serves a municipality's chief elected official(s).
- (n) *Municipal Finance Official* – municipal financial roles that include Collector, Treasurer, Accountant and/or Finance Committee member.

**ARTICLE 2**  
**POWERS OF THE FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS**

**SECTION 2.1 *Incorporation***

The Franklin Regional Council of Governments (FRCOG), within the corporate limits established by law, shall continue to be a body politic and corporate for the purposes of suits, of buying and holding, for FRCOG uses, personal property and real property, and of contracting and doing other necessary acts relative to its property and affairs.

**SECTION 2.2 *Powers of the FRCOG***

**2.2.1** The intent of this Charter is to obtain for the FRCOG all of the powers it is now possible or may be possible for a council of governments to have, and to hold and to exercise such powers and such policies under the Constitution and Laws of the Commonwealth as fully and as completely as if each such power were specifically and individually enumerated in this Charter.

**2.2.2** It also is the intent of this Charter to encourage a continuing review of the functions performed by the ~~Franklin Regional Council of Governments~~ FRCOG and 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.

**2.2.3** Nothing in this Charter shall be construed to impair, diminish, or infringe on the powers or duties of cities and towns under the Laws of the Commonwealth. The member ~~towns-municipalities~~ of ~~Franklin Regional Council of Governments~~ FRCOG are and shall remain the broad repository of local police power in terms of their right and power to legislate for the general health, safety, and welfare of their residents.

**2.2.4** The FRCOG shall exercise all prerogatives and responsibilities enumerated for it by 151 Acts 96 section 567 as amended including such other powers as enumerated below without limitation:

- (a) The power to adopt, amend and repeal bylaws related to operations of the FRCOG.
- (b) The power to organize and regulate the internal affairs of the ~~Council of Governments~~ FRCOG: to create, alter, and abolish departments, offices, positions, and employment and to define 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.
- (c) The power of eminent domain only with respect to ~~former~~ County roadways under MGL Chaps. 81-88.
- (d) 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.
- (e) The power to have a corporate seal; to sue and be sued; 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~~ FRCOG purposes, to retain trust funds of the former County of Franklin.
- (f) 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 such entity or governmental unit is authorized by law to perform. Notwithstanding any other provision of law, municipalities entering into joint service agreements with FRCOG may do so upon authorization of the chief elected official or executive officer of the municipality.
- (g) The power to establish membership assessments and service charges independent of the limitations of MGL chapter 59, commonly referred to as Proposition 2 1/2

~~(h) The power, notwithstanding any special or general law to the contrary, to assess the Franklin County Retirement System for the services of the director of finance in administering the retirement system.<sup>1</sup>~~

(hi) 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 such instruments by the Council shall require the same procedures of the executive and representative bodies of the FRCOG as may be required of the executive and legislative bodies of municipalities. The FRCOG shall be subject to any procurement regulations which apply to municipalities.

(ij) The powers of regional planning agencies and economic development areas as previously conferred upon the County of Franklin under Chapter 425 Acts 1963 as amended, MGL chapter 40B secs. 5, 5A, 5B ~~and 14~~ and as enumerated by 151 Acts 1996 sec. 567 as amended.

~~(jk) The power, notwithstanding any general or special law to the contrary, to retain all powers and authorities of the former County executive and legislative bodies necessary for the execution of any responsibility transferred to the Council of Governments FRCOG by 151 Acts 96 Sec. 567. Any responsibility of the former County of Franklin for which the Commonwealth has no explicit jurisdiction, shall be retained by the FRCOG and its successor offices, including but not limited to, appointment authority of the executive to other corporate bodies.~~

~~(kl) The powers of Massachusetts municipalities, special districts and authorities not specifically limited by this charter or its enabling act may be granted to the FRCOG by the bylaw approval process set forth by this charter.~~

~~(lm) The powers of Select Boards ~~men~~ under MGL chap. 41 sec. 52 and 56 approval of bills and warrants, the powers of the former County of Franklin under MGL chaps. 81-88 (county roads), and 32B (health insurance) ~~and 140 (dogs and other animals).~~<sup>2</sup>~~

~~(mn) The power to incur operating debt in anticipation of revenue up to one half of the most recent year's audited total revenues.~~

### ARTICLE 3 LEGISLATIVE BODY: THE COUNCIL

#### SECTION 3.1 Structure

**3.1.1 Composition and Eligibility:** The Council shall be comprised of one representative from each member town appointed by the Board of Selectmen or Chief Executive. ~~The representative shall be a Select Board member, the Chief Administrative Official or a Municipal Finance Official from each Member Town, and the Mayor or designee from each Member City. Alternates may be provided for by Bylaw.~~ The Franklin Regional Planning Advisory Board (FRPAB) shall elect or appoint one of its members to the Council. ~~Representatives shall not be an employee of the FRCOG.~~

**3.1.2 Term and Vacancies:** Appointments shall be for the duration of a fiscal year. Procedures for notice of appointments to the FRCOG shall be outlined by bylaw. ~~For the purpose of forming the initial council, appointments shall be made by the member towns and FRPB within 30 days of the adoption of this charter.~~<sup>3</sup> Vacancies shall be defined by bylaw and filled within 30 days by the appointing authority.

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<sup>1</sup> Reason: The Franklin County Retirement System transitioned to a regional retirement system, which eliminated the mandated role of the "county treasurer" as chair of the board.

<sup>2</sup> Reason: The FRCOG has never been asked to handle a dog complaint and Dog Owners have recourse in District Court if the issue cannot be resolved locally (MGL Chapter 140, section 157 allows dog owners to appeal a ruling of the Select Board to district court).

<sup>3</sup> Reason: Removing references to initial formation of the FRCOG that are no longer necessary.

~~3.1.3 Eligibility: Representatives shall be residents and registered voters of the towns from which they are appointed. The FRPB representative shall be a resident of Franklin County or other member town. Representatives shall not be an employee of the Council.<sup>4</sup>~~

~~3.1.3 4-Compensation and Benefits: Representatives shall not be eligible for salary or any personnel benefits.~~

~~3.1.45 Organization: In the month immediately following the approval of this Charter by 14 member towns, but not sooner than July 1, 1997, the first organizational meeting of the Council shall be held.<sup>5</sup> The Council shall meet at least quarterly, and shall elect a Chair, Vice-Chair and Secretary at its annual organizational meeting, which shall be its first meeting following July 1 of each year.~~

~~3.1.56 Voting: Each representative shall have one equal vote on all non-appropriations matters. On appropriations questions, each member municipality representative shall cast a weighted vote pursuant to their proportional share of the total member assessment outlined in Article 7 of this charter except that the FRPB representative shall hold a vote of 1% creating a total possible vote of 101%. Regionally Elected members shall have a weighted vote of 1% creating a total possible vote of 102%.<sup>6</sup>~~

~~3.1.67 Quorum: All Council meetings require a simple majority. Any meeting that requires a financial vote requires both a simple majority and a financial majority of the Council. Not less than 50 percent of the total weighted or equal vote of the Council as applicable to the actions to be taken.~~

## **SECTION 3.2 Powers and Duties**

**3.2.1 Powers and Duties in General:** Except as is otherwise provided by the Laws of the Commonwealth, all legislative powers of the FRCOG shall be vested in the Council which shall exercise its powers consistent with the Laws of the Commonwealth and this Charter.

### **3.2.2 Specific Powers of the Council:**

*By a simple majority of the weighted or equal vote present as applicable:*

- (a) The power to pass whatever measures are deemed necessary and proper for the operation of the Council in accordance with the Laws of the Commonwealth.
- (b) The power to approve the Council annual operating budget and appropriate funds as required by the budget.
- (c) The power to conduct inquiries and investigations.
- (d) The power to pass resolutions and organization bylaws.
- (e) The power to establish internal rules of operation.
- (f) The power to establish standing committees as deemed necessary to carry out its duties.

*By a two-thirds majority of the weighted or equal vote present as applicable:*

- (a) The power to authorize the Council to enter into indebtedness for capital and real property acquisitions.
- (b) The power to recall a vote of the Executive Committee, procedures to be outlined by bylaw.
- (c) The power to approve acquisition and disposal of real property or significant capital assets, including.
- (d) The power to override Executive Committee rejection of amendments to organizational bylaws.

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<sup>4</sup> Reason: Combined remaining relevant sections with 3.1.1 Composition.

<sup>5</sup> Reason: Removing references to initial formation of the FRCOG that are no longer necessary.

<sup>6</sup> Reason: Illogical that the Regionally Elected members have no weighted vote and FRPB has any vote in fiscal matter.

**ARTICLE 4**  
**EXECUTIVE BODY: THE EXECUTIVE COMMITTEE**

**SECTION 4-1 Structure**

**4.1.1 Composition:** The executive powers of the ~~Franklin Regional Council of Governments~~ FRCOG shall be exercised by an Executive Committee which shall consist of five members, ~~no two of which shall be from the same Member town.~~<sup>7</sup> Two nonpartisan members, ~~who may not reside in the same municipality,~~ shall be elected at the state biennial election, two shall be elected or appointed by the Council and one shall be elected or appointed by the Franklin Regional Planning ~~Advisory Board.~~ ~~No more than two members of the Executive Committee may reside in or represent the same town.~~

**4.1.2 Term and Vacancies:** The terms of Council and FRPAB members on the ~~E~~executive ~~C~~committee shall be for the duration of a fiscal year. Procedures for notice of appointment or election to the ~~E~~executive ~~C~~committee shall be outlined by bylaw. Vacancies shall be defined by bylaw and filled within 30 days by the appropriate board. ~~If a Council-appointed or FRPAB-appointed Executive Committee member has an unexcused absence for three consecutive meetings, the Executive Committee may request that the Council or FRPAB make a different appointment to the Executive Committee.~~ The two members chosen by the voters in the member towns at the biennial election shall serve four-year terms. ~~In the event of a vacancy of a regionally elected member to the Executive Committee, the Executive Committee shall identify and secure concurrence of the Council of an individual that resides in Franklin County to serve for the duration of the term of the vacated member or until the next bi-annual election, whichever comes first. If, at the bi-annual election the vacated position is not due for re-election, the position will be refilled by election only for the duration of the vacated term. (regional or districts by size or subregion). If a person from the same town as another candidate appears to be chosen, the person with the higher number of votes shall be declared elected. If a person residing in the same town as a still sitting member of the committee resides, he shall not be declared elected. In such a case the person with the next highest number of votes, who lives in another town, shall be declared elected. Definition and procedures for filling vacancies shall be outlined by the bylaws.~~

**4.1.3 Eligibility:** Executive Committee members shall be residents and registered voters of member ~~towns~~ municipalities. The FRPAB member shall be a resident ~~or employee~~ of a Franklin County municipality or other member ~~town~~ municipality. Executive Committee members shall not be employees of the Council.

**4.1.4 Compensation and benefits:** The Council may establish an annual ~~salary~~ stipend for the members of the Executive Committee. ~~Other personnel benefits shall be granted as required by law.~~ Executive Committee members are ineligible to receive FRCOG employee benefits.

**4.1.5 Organization:** ~~Within 30 days of the first meeting of the Council, the first meeting of the Executive Committee shall be held.~~ The Executive Committee shall meet ~~at least monthly~~ regularly and shall elect a Chair, Vice- Chair and Secretary at its annual organizational meeting, which shall be established by bylaw.

**4.1.6 Voting:** Each member shall have one equal vote on all matters.

**4.1.7 Quorum:** The Executive Committee shall conduct ~~all of~~ their official business with at least three members present, ~~provided proper notice has been given to all five members.~~ A majority vote of ~~the three~~ members of the Executive Committee ~~present and voting~~ shall be sufficient to exercise any power residing in the Executive Committee.

**SECTION 4.2 Powers and Duties**

**4.2.1 Powers and Duties in General:** The executive powers of the Council shall be vested solely in the Executive Committee and may be exercised either directly by the Executive Committee, or through the Executive Director as set forth in Article 5 of this Charter. The Executive Committee shall cause this Charter and the bylaws and orders for

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<sup>7</sup> Reason: Moved this statement from total composition of the Executive Committee to the composition of the Regionally Elected members. This change ensures the original intent – to ensure no one town has inordinate power – but also allows more flexibility with Council and FRPB appointments.

the administration of the FRCOG to be enforced. The Executive Committee shall exercise general supervision and direction over the FRCOG. Each FRCOG committee, employee, or agent shall furnish any documents or information, or shall appear before the Executive Committee as it may request.

#### **4.2.2 Specific Powers of the Executive Committee:**

- (a) The power to supervise the collection, disbursement, and deposit of all FRCOG funds.
- (b) The power to exercise all administrative and executive powers of the FRCOG by majority vote.
- (c) The power to prepare and submit an annual operating and a capital outlay budget to the Council for its consideration and adoption, and supervise and administer the budget adopted by the Council
- (d) The power to supervise the care and custody of all FRCOG property, institutions, and agencies.
- (e) The power to exercise the powers of eminent domain as permitted by law.
- (f) The power to identify emergency situations and call emergency meetings of the Council with 72 hours notice.
- (g) The power to call meetings of the Council with two weeks notice, subject to the bylaws of the Council.
- (h) The power to sign all deeds, contracts, bonds or other instruments ~~requiring the consent of the County Commissioners.~~<sup>8</sup>
- (i) The power to inquire at any time into the conduct of office or performance of duty of any ~~County officer~~ FRCOG employee, ~~or county town meeting member.~~
- (j) The power to establish internal rules of operation and review FRCOG bylaws submitted by the Council.
- (k) The power to make appointments to others public and private bodies as required by law or request.
- (l) The power to act as governing body and to represent the FRCOG or the region, as required by state and federal grants or programs, and the power to assign this responsibility to another FRCOG Board or Committee.**
- ~~(m)~~ Such other powers as may be granted by the Laws of the Commonwealth.

#### **4.2.3 Delegation and Appointments by the Executive Committee**

(a) *Delegation of Authority* - The Executive Committee may delegate to any subordinate officer or employee of the FRCOG the exercise of any power, function or duty assigned it by this Charter. All acts performed under such delegation shall be deemed to be the acts of the Executive Committee.

(b) *Appointments* - The Executive Committee ~~shall~~ **may** appoint and in appropriate circumstances may remove, subject to the provisions of any applicable collective bargaining agreements, contracts, adopted personnel codes and Laws of the Commonwealth, any FRCOG employee.

## **ARTICLE 5 ADMINISTRATIVE ORGANIZATION**

### **SECTION 5.1 Executive Director**

*Appointment, Qualification, Term of Office, Duties* - The chief administrative officer of the FRCOG shall be an Executive Director appointed by a majority vote of the Executive Committee to serve at their pleasure. The Executive Director shall be qualified by education, training and experience in public administration to perform the duties of the office, and shall exercise general day-to-day supervision and direction over all FRCOG activities. The Executive Director shall possess and exercise all the powers, rights and duties commonly associated with the office of chief administrative officer of a local governmental unit. Specific powers and duties of the Executive Director shall be further enumerated by bylaw.

### **~~SECTION 5.2 Director of Finance~~**

~~The Director of Finance shall be appointed by the Executive Committee and report to the Executive Director. The Director of Finance shall be qualified by education, training and experience in finance and accounting to perform the duties of the office, and shall be responsible for overseeing financial operations of the FRCOG. The Director of Finance shall have all of the powers and duties enumerated by section 151 Acts 96 sec 567, and such additional powers and duties as may be provided by general law or bylaw.~~

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<sup>8</sup> Reason: vestige of initial transition.

**~~SECTION 5.3 Director of Planning and Development~~**

~~The Director of Planning and Development shall be appointed by the Executive Committee and report to the Executive Director. The Director of Planning and Development shall be qualified by education, training and experience in planning to perform the duties of office and shall perform services in support of Article 8 of this Charter and such other duties as may be provided by general law or bylaw.<sup>9</sup>~~

**ARTICLE 6  
SEPARATION OF POWERS**

**SECTION 6.1 Separation of Powers**

It is the intent of this Charter to give the Council general policy-making and investigative powers and to give the Executive Committee control over the administration of regional services provided for in this Charter. Members of the Council shall communicate with ~~Council of Governments~~FRCOG employees through the Executive Director in all matters concerning the administration of the Council of Governments and the provision of services, except as may be otherwise provided in this Charter. However, the Council may inquire into any act or problem of the ~~Council of Government~~ FRCOG's administration or require a report on any aspect of the organization at any time by written request to the Executive Committee.

**ARTICLE 7  
FINANCING AND MEMBERSHIP**

**SECTION 7.1 Membership Eligibility and Responsibilities**

**7.1.1 Eligibility:** Membership in the ~~Franklin Regional Council of Governments~~ FRCOG is open to any Franklin County Massachusetts municipality which has secured an affirmative majority vote by its Legislative body accepting this Charter. ~~Municipalities outside of the geographic boundaries of Franklin County may request membership in the FRCOG provided that they have received a vote of concurrence from a financial majority of the FRCOG Council, withdraw from their designated Regional Planning Agency and join the FRCOG in accordance with the provisions of MGL chapter 40B, and have secured an affirmative majority vote of its Legislative Body accepting this Charter.~~

**7.1.2 Members:**

- (a) Any municipality that meets the criteria of section 7.1.1 ~~by July 1, 1998~~ will be deemed a Member.
- (b) Members will have representation on the Council in accordance with Article 3 of this Charter.
- (c) Members shall commit to membership in the FRCOG for no less than three years ~~effective July 1, 1998~~.

**7.1.3 Other Members:** Any other category of Members and related fee structures will be defined pursuant to the bylaws of the ~~Franklin Regional Council of Governments~~ FRCOG.

**7.1.4 Former Franklin County ~~Towns~~ Municipalities Responsibilities:**

(a) Franklin County ~~Towns~~ municipalities that decide ~~not~~ to opt ~~in~~ out as Members of the FRCOG ~~as of July 1, 1998~~ shall continue to be responsible for their allocable share of all related retirement system costs, retiree health insurance, and any other ongoing fixed costs of the former County as approved by the Council.

(b) Payment for items under (a) shall be made pursuant to a schedule approved by the Council and submitted to each town affected by this section.

**7.1.5 Member Assessments and Service Charges:**

(a) Members will be assessed pursuant to the formula outlined in (b) below to fund that portion of the FRCOG general operating budget which is not offset by other revenues, including costs of the former County as noted in

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<sup>9</sup> Reason: The current organizational structure of the FRCOG includes two additional Director positions that do not require Executive Committee appointment. These other two positions should be added or all but Executive Director should be deleted. The decision was to delete this requirement for Directors of Finance and Planning so that any future organizational structure is not hampered by this section. (The FRCOG, as a matter of routine, creates diverse hiring committees for hiring and the requirement of including Ex Com members for upper management positions can be included in FRCOG Bylaws.)



section 7.1.4(a). Service charges will be established pursuant to the Bylaws of the FRCOG. An annual FRCOG budget assessment shall be transmitted to each member by February 15 indicating the core assessment and service charges which comprise the total.

(b) Each member's core assessment shall reflect a 10% weight for its share of the total members' population and a 90% weight for its share of the total members' total equalized property valuation (EQV). Total equalized property valuation shall be the latest figure certified by the Massachusetts Department of Revenue and population shall be the latest completed decennial federal census.

$$\frac{\text{Member's EQV}}{\text{Total Members' EQV}} \times \text{Total Core Assessment} \times .9 \text{ PLUS}$$

$$\frac{\text{Member's Population}}{\text{Total Members' Population}} \times \text{Total Core Assessment} \times .1 = \text{Member Core Assessment}$$

(c) ~~Assessment invoices shall be issued by the FRCOG to Members. Assessments shall be paid by Members~~ on a quarterly basis according to the following schedule: July 1, October 1, January 1, and April 1.

(d) If any payment of service charges or assessments is not made when required, the Director of Finance shall cause notice to be sent to the delinquent member. Ninety days delinquency in any such payments to which notice shall have been given to the member shall entitle the Executive Committee to suspend membership until the delinquency is satisfied.

**7.1.6** ~~Subscription to Bylaws of the Franklin Regional Council of Governments FRCOG:~~ All members shall agree to be bound by the ~~Franklin Regional Council of Governments FRCOG~~ Charter and Bylaws, and all amendments thereto, as a condition of continued membership in the FRCOG.

**7.1.7** ~~Withdrawal from Membership in the Franklin Regional Council of Governments FRCOG:~~

(a) After three years of membership, any Member may seek to withdraw from the ~~Franklin Regional Council of Governments FRCOG~~ by an affirmative majority vote at the annual meeting of its Legislative Body ~~and have withdrawn from the Regional Planning Agency in accordance with the provisions of MGL chapter 40B.~~

(b) In all cases, the terms of withdrawal will include provisions for payment of the Member's allocable share of planning and development costs related to programs which that municipality had accepted if such costs have been incurred but not financed at the time of withdrawal; and shall provide for payment for all of the municipality's share of the FRCOG budget for the fiscal year following the vote to withdraw. The municipality shall also continue to be responsible for payments under 7.1.4.

(c) Procedures for withdrawal from Membership in the FRCOG shall be pursuant to the Bylaws of the FRCOG, but shall not supersede any provisions of this charter.

## SECTION 7.2 Fiscal Procedures

**7.2.1** ~~Submission and Adoption of the Proposed Budget:~~ The fiscal year of the FRCOG shall begin on July 1 and end on June 30. The Executive Director, operating within guidelines issued by the Executive Committee, shall by ~~or about January 15 December 1~~ of each year, submit to the Council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The Executive Director shall also make available a proposed budget summary for public review. The Council shall adopt a proposed budget for the ensuing fiscal year not later than February 15. ~~Should town meeting actions require revisions in the budget for the ensuing year, the Council shall take final action on a budget not later than June 1.~~<sup>10</sup>

<sup>10</sup> Reason: Budget amendment procedures are clearly addressed in Council Bylaws and allow more flexibility than this sentence permits.

**7.2.2 Actual and Estimated Income and Expenditures** - The proposed operating budget shall provide a comprehensive financial plan of all FRCOG funds and activities. The budget shall show actual and estimated income and expenditures for the previous, current, and ensuing fiscal year and shall include proposed expenditures for current operations and proposed revenue sources; proposed capital expenditures and the proposed methods of financing capital expenditures; and estimated surplus revenue and ~~free-cash~~ **undesignated fund balance** at the end of the current fiscal year, including estimated balances in any special accounts. The budget shall include a capital improvement program as appropriate. A cost allocation plan shall identify all costs and appropriations directly or proportionately attributable to each appropriated function. The budget shall in all events be a balanced budget.

## **ARTICLE 8 REGIONAL PLANNING AGENCY**

### **SECTION 8.1 Purpose, Responsibilities and Powers of the Regional Planning Agency**

As stated by the Franklin Council of Governments enabling act, 151 Acts 96 Section 567, as amended, any and all regional planning activities or functions established pursuant to the provisions of Chapter 425 of the Acts of 1963 (the Act which establishes the Franklin County Commissioners as the Regional Planning Agency for Franklin County), as amended, and Sections 1 through 8 of Chapter 40B of the Laws of the Commonwealth (the Act which defines the actions of the Regional Planning Agency), or any subsequent provisions of the Laws of the Commonwealth with respect to regional planning, shall be the responsibility of the Franklin Regional Council of Governments under this Charter and subject to its provisions. The FRCOG shall be the Regional Planning Agency for the municipalities within the boundaries of the Franklin County, known as the “regional planning district”, and may change such boundaries pursuant to general law or the provisions of this charter. The FRCOG may assume additional regional planning responsibilities granted by any subsequent provisions of state or federal legislation or regulations.

The purpose and objective of the Regional Planning Agency shall be to understand the resources problems and needs of Franklin County in the areas of climate resiliency, economic development, housing and land use, natural resources, transportation and infrastructure and other related planning disciplines, and to make recommendations for the betterment of the region, its people and its municipalities.

### **SECTION 8.2 Franklin Regional Planning Advisory Board - Purpose, Composition, and Responsibilities**

**8.2.1 Purpose:** The Franklin Regional Planning Advisory Board shall consult with and advise the Council of Governments Executive Committee and Council on issues related to planning, advise and review RPA projects and programming and shall make recommendations as appropriate.

**8.2.2 Composition:** The Franklin Regional Planning Advisory Board shall include regional and geographic representation of the county and subject matter experts of the Regional Planning Agency focus areas, as enumerated in the Franklin Regional Planning Advisory Board Operating Procedures. Appointments shall be approved by the Executive Committee, generally at the July annual meeting. Changes to the Operating Procedures regarding composition of the FRPAB require FRCOG Executive Committee approval. The Franklin Regional Planning Advisory Board shall have voting representation on the Council and Executive Committee of the Franklin Regional Council of Governments.

**8.2.3 Responsibilities:** The Franklin Regional Planning Advisory Board shall work with staff, the FRCOG Executive Committee and Council to monitor and advise on planning issues and policies that will impact Franklin County and its municipalities. The Franklin Regional Planning Advisory Board may establish technical advisory subcommittees as may be needed to assist the Executive Committee, Council and/or planning staff of the Franklin Regional Council of Governments in their duties and functions.

### **~~SECTION 8.1 Purpose, Responsibilities and Powers~~<sup>11</sup>**

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<sup>11</sup> Reason: Section needed a full rewrite and simplification. Changed composition and structure and moving detail to the Board’s Operating Procedure – unnecessary to be part of the Charter.

~~As stated by the Franklin Council of Governments enabling act, 151 Acts 96 Section 567, as amended, any and all regional planning activities or functions established pursuant to the provisions of Chapter 425 of the Acts of 1963 (the Act which establishes the Franklin County Commissioners as the Regional Planning Agency for Franklin County), as amended, and Sections 5, 5A, 5B, and 14 of Chapter 40B of the Laws of the Commonwealth (the Act which defines the actions of the Regional Planning Agency), or any subsequent provisions of the Laws of the Commonwealth with respect to regional planning, shall be the responsibility of the Franklin Regional Council of Governments under this Charter and subject to its provisions. The FRCOG shall be the Regional Planning Agency for the municipalities within the boundaries of the Franklin County, known as the "regional planning district", and may change such boundaries pursuant to general law or the provisions of this charter. The FRCOG may assume additional regional planning responsibilities granted by any subsequent provisions of state or federal legislation or regulations.~~

~~The Franklin Regional Council of Governments shall be comprised of three bodies: The Executive Committee, acting as the executive body, the Council, acting as the representative body, and the Franklin Regional Planning Board, acting as the advisory body on regional planning issues and policies. The Executive Committee, the Council, and the Franklin Regional Planning Board shall jointly have and may exercise any and all authority for regional planning as may be authorized by current and future federal and state laws. The Executive Committee, in consultation with and based upon the recommendations of the Franklin Regional Planning Board, shall be responsible for establishing policies to guide all regional planning and development activities of the region. The Franklin Regional Council of Governments as the Regional Planning Agency shall be staffed with a Director of Planning & Development, with appropriate planning qualifications, and other staff as grant or other funding permits. The purpose and objectives of the FRCOG as the Regional Planning Agency are to balance economic development with the protection of natural and cultural resources which are the foundation of the region's rural character and heritage and to advocate at the state and federal level to ensure that programs, policies and funding are responsive to issues impacting the region.~~

**~~SECTION 8.2 Franklin Regional Planning Board—Purpose, Composition, Responsibilities and Powers~~**

**~~8.2.1 Purpose:~~** The purpose and objective of the Franklin Regional Planning Board ("FRPB") shall be to promote, with the greatest efficiency, sustainable economic development in the Franklin Regional Council of Governments region and to protect public health, safety and welfare and the natural and cultural resources of the FRCOG (the "Regional Planning District").

**~~8.2.2 Composition:~~** The Franklin Regional Planning Board shall consist of the following members:

- ~~(a) the Executive Committee (the Executive Body of the Franklin Regional Council of Governments);~~
- ~~(b) the Chair of the Board of Selectmen of each town or the Board of Selectmen's designee, who may be someone other than a member of the Board of Selectmen;~~
- ~~(c) the Chair of the Planning Board of each town or a member of that town's Planning Board; and~~
- ~~(d) up to eighteen (18) persons residing within the Regional Planning District, as "Members At Large" for the purpose of providing additional advice and guidance to the FRPB, with said persons broadly representative of business, labor, professional and social organizations, or interested in natural, cultural, historic and economic resources and other significant interests within the Regional Planning District. Such Members At Large shall be elected by the Franklin Regional Planning Board in accordance with its by laws.~~

**~~8.2.3 Term of Office:~~** Each representative shall serve a term of three years. In the case of vacancies, new appointments shall be made in accordance with the provisions of the Franklin Regional Planning Board by laws.

**~~8.2.4 Voting Powers:~~** Each Franklin Regional Planning Board member shall have one equal vote.

**~~8.2.5 Quorum:~~** Not less than 15 percent of the full Franklin Regional Planning Board membership shall constitute a quorum.

~~8.2.6 Organization: The Franklin Regional Planning Board shall establish by laws for its proceedings and organization. The Franklin Regional Planning Board may establish such technical advisory subcommittees as may be needed to assist the planning staff of the Franklin Regional Council of Governments and the FRPB in their duties and functions. The Franklin Regional Planning Board shall have voting representation on the Council and Executive Committee of the Franklin Council of Governments.~~

### **SECTION 8.3 – Responsibilities and Functions**

~~8.3.1 General Powers: The Franklin Regional Planning Board shall consult with and make recommendations to the Franklin Regional Council of Governments executive and legislative bodies concerning the objectives, policies, programs, budget, administration or other items necessary for the preparation and implementation of studies, plans and proposals in furtherance of the purposes set forth above and as provided in the Franklin Council of Governments Legislation, 151 Acts 96 Section 567, as amended, in Chapter 425 of the Acts of 1963, as amended, which establishes the Franklin County Commissioners as the Regional Planning Agency for the County and as provided in Sections 5, 5A, 5B, and 14 of Chapter 40B of the Laws of the Commonwealth, which defines the actions of a Regional Planning Agency, and as may be further provided by amendment or by any other subsequent provisions of state or federal law or regulations.~~

#### **8.3.2 Specific Powers:**

~~(a) Economic Development: As authorized pursuant to Title IV, Part B of the Public Works and Economic Development Act of 1965, enacted by the United States Congress as Public Law 89-136, or current equivalent as amended, the Franklin Regional Planning Board shall oversee the development of and approve the Overall Economic Development Program (OEDP) for the Franklin Regional Council of Governments Regional Planning District and assist with other economic development activities in support of the OEDP.~~

~~(b) Transportation: As authorized by the Federal Highway Act of 1962 or current equivalent as amended, and the Massachusetts Executive Office of Transportation and Construction, the Franklin Council of Governments region is considered a metropolitan planning area. As such, its Metropolitan Planning Organization (MPO) is responsible for the planning and programming of financial resources for a multi-modal transportation system for the FRCOG region. The MPO is made up of the Secretary of Transportation, the Commissioner of the Massachusetts Highway Department, the Chairman of the Franklin Regional Transit Authority, the Chairman of the Greenfield-Montague Transportation Area, and the Chair of the Franklin Regional Council of Governments Executive Committee. As authorized by Section 134 of the Federal Highway Act of 1962 or current equivalent as amended, the Franklin County Planning Board and its successor, the Franklin Regional Planning Board is authorized to act as the Joint Transportation Planning Committee (hereinafter referred to as the JTTC). The Executive Committee Chair shall receive recommendations from the Franklin Regional Planning Board in its capacity as Joint Transportation Planning Committee (JTTC). As the JTTC, the Franklin Regional Planning Board shall ensure that the transportation planning process in the FRCOG region is comprehensive, continuing and cooperative (3C) and shall have responsibility for approving the Unified Work Program and Transportation Improvement Program for the region.~~

~~8.3.3 Future Changes in Structure, Responsibilities and Functions: Any recommended changes in the structure, responsibilities or functions of the Franklin Regional Planning Board shall be made pursuant to the amendment or bylaw process outlined by this charter.~~

**ARTICLE 9  
GENERAL PROVISIONS**

**SECTION 9.1 *Specific Provisions to Prevail***

To the extent that any specific provision of this Charter conflicts with any provision expressed in general terms, the specific provision shall prevail. The enumeration of specific powers, however, shall not limit the intent of any general powers or responsibilities of the FRCOG or any office or board formed under this charter.

**SECTION 9.2 *Charter Amendment Procedures***

The Council may, by a two-thirds majority of the weighted vote of its full membership, and a majority vote of the Executive Committee, submit proposed amendments to this Charter to the voters of member ~~towns-municipalities~~. Amendments shall be adopted by a ~~two-thirds simple~~ majority vote in a two-thirds majority of member ~~towns municipalities~~. The warrant articles used when voting on a Charter amendment shall contain a question in substantially the following form: "Shall the following Charter amendment which was proposed by a two-thirds majority of the weighted vote of the full membership of the FRCOG Council and a majority vote of the Executive Committee ~~be enacted?~~"

**SECTION 9.3 *Enabling Act Amendment Procedures***

The Executive Committee may, by a two-thirds majority vote of the full Council membership, and with the majority vote of the Executive Committee, file a petition with the state legislature to amend the enabling act 151 Acts 96, sec567.

**SECTION 9.4 *Bylaw Adoption Procedures***

Bylaws adopted by the Council by majority vote shall be presented to the Executive Committee for review. A majority vote of the Executive Committee shall be required for adoption. If the Executive Committee fails to take action on any bylaw within 21 days, the bylaw shall become effective. If the Executive Committee disapprove of any bylaw, they shall return the bylaw to the Secretary Council within 10 days with the specific reasons for the disapproval, in writing. If the Council does not override the disapproval of the Executive Committee by a two-thirds majority within ~~30~~ 60 days, the bylaw shall be rejected and may not be proposed again for one calendar year.

**ARTICLE 10  
TRANSITIONAL PROVISIONS**

**SECTION 10.1 *Effective Date***

This Charter shall become fully effective on the first business day following an affirmative vote by 14 towns of the former County of Franklin, but not sooner than July 1, 1997.

**~~SECTION 10.2 *Continuation of Personnel*<sup>12</sup>~~**

~~All former County personnel not transferred to the Commonwealth shall continue to perform their duties as employees of the Franklin Regional Council of Governments, subject to appropriation.~~

**~~SECTION 10.3 *Transition of Representative Body*~~**

~~The membership of the County Advisory Board of Franklin County shall remain the representative body through June 30, 1997 and continue as necessary under the enabling act as the Regional Advisory Board until such time as this Charter is adopted pursuant to the provisions above or June 30, 1998.~~

**~~SECTION 10.4 *Transition of Executive Body*~~**

~~The Franklin County Commissioners shall remain the executive body through June 30, 1997 and continue as necessary under the enabling act as the Franklin Council of Governments Committee until such time as this Charter is adopted or June 30, 1998. If the charter is adopted, the sitting Franklin County Commissioners shall constitute the regionally elected members of the executive committee until their term expires. Once the charter is adopted the three sitting County Commissioners of the former County of Franklin shall elect among themselves two members to fill the regionally elected positions until such positions are filled through the state biennial election or town election~~

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<sup>12</sup> Reason: Removing references to initial formation of the FRCOG that are no longer necessary.

~~process outlined in Article 4.1.2 of this charter. Should the Commissioners fail to elect two of their number, the Council shall, at their first meeting, elect two of the sitting Commissioners. In the event that less than two of the sitting Franklin County Commissioners are ready, willing and able to accept a position on the Executive Committee, or if a vacancy occurs prior to the first election, the Council shall elect a Franklin County resident to fill such position(s), except that such individual shall not already be a member of the Council.~~

***SECTION 10.5 Default in Event of Charter Vote Failure***

~~In the event this charter is not adopted by a majority of voters in a majority of Franklin County towns by May 31, 1998, the former County Commissioners and County Advisory Board shall by June 15, 1998 adopt a plan for implementation effective July 1, 1998, which shall enumerate 1) any retirement liabilities of the former County, exclusive of those liabilities transferred to the Commonwealth, to be allocated among the towns of the former County; 2) any other fixed costs of the former county to be allocated among the towns of the former Franklin County according to the former county assessment formula; 3) a budget for a Franklin Regional Planning Commission (FRPC) to be assessed upon the towns for fiscal 1999 only, pending acceptance of membership in the FRPC by each municipality of the former Franklin County pursuant to MGL Chapter 40B sec 2A prior to June 30, 1999; 4) the transfer of all powers of the former Franklin County, such as those enumerated in Article 2 of this charter, to specific agencies of the Commonwealth, except those powers of the regional planning commission. The FRPC established by default of this charter shall be overseen by the former Franklin County Planning Board. Votes of acceptance of the FRPC shall be required as under MGL 40B to establish the FRPC as a 40B planning commission, and shall operate pursuant to all 40B requirements after July 1, 1999.~~

***SECTION 10.26 Legislative Authorization of Certain Provisions***

The Council shall immediately seek legislative amendment of the enabling act for any power granted to the Franklin Regional Council of Governments by this Charter but requiring further legislative approval.