

MANUAL OF GOVERNANCE AND PROCEDURES

Adopted January 18, 1989 Amended March 20,1991, August 20, 1997, October 6, 1999, February 2, 2000, April 4, 2001, and June 17, 2009 **page 1**

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(Adopted January 18, 1989 - Amended March 20, 1991, August 20, 1997, October 6, 1999, February 2, 2000, April 4, 2001, June 17, 2009)

Section 1. Organization of Assembly of Delegates.¹

The Assembly of Delegates shall meet on the first business day in January of each odd-numbered year for the purpose of organization. The Delegates shall then be sworn to the faithful performance of their duties. They shall be called to order by the member present who is senior in years of service as a member of the Assembly of Delegates, who shall preside. If two or more members have equal lengths of service, the member present who is senior in both age and years of service shall preside. The Barnstable County Clerk shall act as Assembly Clerk Pro Tempore for this meeting.² The Assembly of Delegates shall then elect, from their own number, a Speaker and a Deputy-Speaker and a person not a member of the Assembly of Delegates to serve as Clerk of the Assembly of Delegates. The vote to elect such officers shall require the affirmative votes of Delegates representing a majority of the towns of Barnstable County.^{3 4} Upon election the speaker shall preside.⁵

Section 2. Speaker.⁶

The speaker shall preside at all meetings of the Assembly of Delegates, regulate the proceedings and decide all questions of order and shall have the same right to vote on any matter coming before the Assembly of Delegates as any other member. The speaker shall have such other powers, duties and responsibilities as may be provided by the Charter, by ordinance, or by other vote of the Assembly of Delegates.⁷

Section 3. Deputy-Speaker.⁸

The Deputy-Speaker shall serve as the Speaker during the absence or disability of the Speaker and shall have such other powers, duties and responsibilities as may be provided by the Charter, by ordinance, or by other vote of the Assembly of Delegates.

Section 4. Clerk of the Assembly of Delegates.⁹

The Clerk of the Assembly of Delegates shall be sworn by the Speaker to the faithful performance of his duties. The Clerk of the Assembly of Delegates shall give notice of all meetings of the Assembly to the Delegates and to the public, keep a journal and other records of all of its proceedings and perform such other duties as may from time to time be assigned to the office by the Charter, by ordinance, by rule or by other vote of the Assembly of Delegates. The Clerk shall keep a full, accurate and up-to-date record of the proceedings of the Assembly of Delegates and shall make it available for inspection by the public at any reasonable time. The Clerk shall see to the observance of all requirements established by law, the Charter, or rules of

¹ See Charter Section 2-2 (a)

² Sentence added by Resolution 91-7, March 20, 1991

³ See Section 7 for determination of the population of Barnstable County

⁴ Amended by Resolution 01-02, April 4, 2001

⁵ Sentence added by Resolution 91-7, March 20, 1991

⁶ See Charter Section 2-2 (b)

⁷ See Section 4, 8, 9 (a), 10 (a) & (b), 11 (a), 14 (b) & (f), and 20 (b) for other duties of the Speaker

⁸ See Charter Section 2-2 (c)

⁹ See Charter Sections 2-2 (d) and 2-5 (d) (v)

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the Assembly of Delegates relative to providing notice, publishing, making records, making public disclosure of records and other procedures pertaining to the business of the Assembly and its committees. The Clerk shall have the care and custody of the records of the Assembly and of all documents, maps, plans and papers pertaining to the business of the Assembly and its committees. The Clerk of the Assembly shall be deemed an employee and shall not be considered an elected official.¹⁰

Whenever requested by the Speaker or other presiding officer for the information of the Assembly of Delegates, the Clerk shall read such ordinances, orders, resolutions, petitions or other papers as may be presented. In the absence or disability of the Clerk, the Assembly of Delegates shall choose a Clerk, Pro Tempore, to act instead of the Clerk of the Assembly of Delegates. The Clerk, Pro Tempore, shall be sworn by the Speaker to the faithful performance of his duties.¹¹

Section 5. Powers and Duties of the Assembly of Delegates.¹²

(a) In General. The Assembly of Delegates shall provide for the exercise of all powers and the performance of all duties imposed upon the County in a manner consistent with the Charter.

(b) Legislative Powers. Except as is otherwise provided by law or by the Charter, all legislative powers of Barnstable County are vested in the Assembly of Delegates.

(c) Organization of New Session.¹³ At the beginning of each new session of the Assembly of Delegates, the assembly shall hold a special meeting to review the Charter, the Administrative Code, the Manual of Governance, and to discuss the budget process.

(d) General Guidelines of Duties.¹⁴ Each Delegate shall serve on at least one Standing Committee. Delegates shall periodically update their community of Assembly and County issues. This may be accomplished by reporting to the Board of Selectmen or providing a written report in the town's annual report. For quorum purposes, Delegates shall notify the Clerk, when possible, of their expected absence at a meeting.

Section 6. Exercise of Legislative Powers.¹⁵

(a) In General. Except as is otherwise provided by law or the Charter, the legislative powers of the Assembly of Delegates may be exercised in a manner determined by it.

(b) Presentation to Board of County Commissioners. Every order, ordinance, resolution or other vote of the Assembly of Delegates pertaining to the business and affairs of the County (but not including matters relating to the internal affairs of the Assembly of Delegates or resolutions merely stating an opinion of the Assembly of Delegates) shall forthwith following its adoption be presented to the Board of County Commissioners.

¹⁰ Added by Resolution 01-03, April 4, 2001

¹¹ See also Sections 9 (d), 14 (a) & (c), 15 (a), 18, 22 (b) & (c) and 31 for other duties of the Clerk of the Assembly of Delegates

¹² See Charter Sections 2-4 and 2-5 (a), (b), & (c)

¹³ Added by Resolution 01-03, April 4, 2001

¹⁴ Added by Resolution 01-02, April 4, 2001

¹⁵ See Charter Sections 2-5 (a), 2-8 (a) & (b), and 3-8

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(c) Ordinances, In General. The legislative powers of the County vested in the Assembly of Delegates shall be exercised by the adoption of ordinances, except as provided in subsection (e), below.

(d) Acts Specifically Required to be by Ordinance.¹⁶ Each of the following acts of the Assembly of Delegates is specifically required by the Charter to be by ordinance:

- (i) Establish an annual salary for members of the Assembly of Delegates.
- (ii) Establish an annual salary for members of the Board of County Commissioners.
- (iii) Establish time and place for regular meetings of the Assembly of Delegates.
- (iv) Fix the date for submission of proposed annual operating budget for the ensuing fiscal year to the Assembly of Delegates and the Advisory Board on County Expenditures.
- (v) Establish, alter or abolish any County department, office or agency.
- (vi) Reorganize, consolidate or abolish, create, merge or divide, alter the term of office, the manner of selection or, if a multiple-member body, the number of members of any county agency, in whole or in part.
- (vii) Establish new county agencies.
- (viii) Prescribe the functions, powers duties and responsibilities of any county agency.
- (ix) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- (x) Make appropriations, or transfer appropriations from the account of one County agency to another.
- (xi) Grant, renew or extend a franchise;
- (xii) Regulate the rate charged for any service provided to any other governmental unit.
- (xiii) Authorize the borrowing of money.
- (xiv) Authorize the conveyance or lease of any real estate belonging to the County.
- (xv) Authorize bilateral or multilateral contracts with other governmental units within the County or contiguous to the boundaries of the County for the joint performance, or for performance by one governmental unit on behalf of another or others, of any governmental function or activity.
- (xvi) Establish a consolidated office or agency for any two (2) or more units of local government, in accordance with section 6-3 of the Charter.
- (xvii) Establish a subordinate service area in any portion of the County, in accordance with section 6-4 of the Charter.
- (xviii) Adopt, with or without amendment, ordinances proposed by voters.
- (xix) Amend or repeal any ordinance previously adopted.
- (xx) Establish term of office for County Clerk.
- (xxi) Determine a county officer other than the County Administrator to administer the merit personnel system.

¹⁶ See Charter Sections 2-3, 2-5 (d) (i), 2-8 (d), 3-1 (b), 4-2 (b), 3. & 5., 4-2 (c) 1. (i), 5-3, 5-7, 6-3, and 6-4 (a) & (b)

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(e) Exceptions, Resolutions.¹⁷ The following matters may be provided for by resolution and do not require an ordinance:

- (i) the establishment of an advisory council on any subject;
- (ii) the conduct of an inquiry or an investigation;
- (iii) the adoption of rules governing the conduct of the Assembly;
- (iv) the establishment of times and places for special meetings;
- (v) the establishment of the Assembly as a committee of the whole;
- (vi) the delegation of Assembly authority to an ad hoc committee of Delegates;
- (vii) the election, appointment and removal of officers and employees of the Assembly;
- (viii) the approval of contracts presented by the Board of County Commissioners;
- (ix) the expression of such policies or opinions as requires no formal action.

Section 7. Weighted Vote, Quorum and Voting.¹⁸

(a) Weighted Vote. The vote of each Delegate shall be weighted in the same proportion as the population of the municipality such Delegate represents bears to the whole population of Barnstable County, as determined by the most recent Federal census or decennial census. Weighted votes of the Delegates will be canvassed according to the most recent such census that is available, and the calculation of the value of each Delegate's vote will be carried to the nearest one-hundredth (1/100) of a percent.¹⁹

(b) Quorum. A number of Delegates representing in the aggregate a majority of the population of Barnstable County shall constitute a quorum at any meeting of the Assembly of Delegates, provided that at least eight (8) Delegates are present, but a smaller number may meet and adjourn from time to time.

(c) Voting. Every matter which comes before the Assembly of Delegates shall be put to a vote, the results of which shall be recorded. When requested by any Delegate, the vote shall be taken by roll call, and the vote of each Delegate shall be recorded in the journal. When the question is put, every Delegate present shall vote "yes", "no" or "present". Prior to the announcement of the result of a roll-call vote, any Delegate may ask to have his name called again in order to record himself differently. No Delegate shall vote on any question where his private interest is immediately concerned distinct from that of the public. The affirmative vote of Delegates representing a majority of the population of Barnstable County shall be necessary for the Assembly of Delegates to adopt any ordinance, resolution, appropriation order, or to take any other official action as the County's legislative body.

(d) Order of Voting. At meetings of the Assembly of Delegates, the order of calling the roll of Delegates for voting shall be alphabetical.

Section 8. Debate.

Every Delegate, when about to speak, shall respectfully address the chair and wait until he/she is

¹⁷ See Charter Section 2-8 (b)

¹⁸ See Charter Sections 2-5 (b), (c) & (d) (iv)

¹⁹ See Exhibit D in Appendix I for a Sample Roll-Call Tally showing the Delegates' weighted votes based on the U. S. decennial census for 1990.

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recognized. The Delegate shall confine himself/herself to the question under debate and shall avoid personalities. No Delegate shall speak more than twice to the same question without leave of the chair, nor more than once until all other Delegates desiring to speak have spoken. No Delegate shall have, or hold the floor, for more than ten (10) consecutive minutes of debate, unless extended by a vote of two-thirds (2/3) of the weighted vote of the Delegates present. After a motion is stated or read by the chair, it shall be in possession of the Assembly and shall be disposed of by vote, but the mover may withdraw it at any time before a decision or amendment. The speaker shall preserve order and decorum, may speak to points of order in preference to other Delegates and shall decide all questions of order, subject to an appeal to the Assembly of Delegates by motion properly seconded. No other business shall be in order until the question on the appeal shall have been decided. No Delegate speaking shall be interrupted by another, but by a call for a point of information or a point of order. When called to order by the speaker or other presiding officer, a Delegate shall surrender the floor, and the Assembly of Delegates, if appealed to, shall decide on the point of order without debate. If the decision is against the Delegate, he/she shall not be permitted to speak.

Section 9. Motions.

(a) In General. All motions not expressly provided for in the rules of the Assembly of Delegates shall be submitted to the speaker or other presiding officer in writing.

(b) Order of Motions. When a question is under debate, the presiding officer shall receive no motion except the following, which several motions shall have precedence in the order listed:

- (i) to adjourn;
- (ii) to take a recess;
- (iii) to lay on the table or to take from the table;
- (iv) for the previous question;
- (v) to limit or extend limits of debate;
- (vi) to postpone to a certain time or date;
- (vii) to refer;
- (viii) to amend;
- (ix) to postpone indefinitely.

(c) Previous Question. The previous question shall be put in the following form: " shall the main question be now put?", and all further amendment or debate of the main question shall be suspended until the previous question is decided. On the previous question, not exceeding fifteen (15) minutes shall be allowed for debate, which shall be confined to giving reasons why the main question should or should not be put, and no Delegate shall speak for more than two (2) minutes.

(d) Reconsideration. Except as noted below, after a vote has been taken, it shall be in order for any Delegate to move reconsideration thereof at the same meeting at which the vote was taken, or to file with the Clerk of the Assembly of Delegates, not later than twelve (12) o'clock noon of the next business day following such meeting, written notice of a motion to reconsider such vote. After receiving such written notice of reconsideration, the Clerk shall place it on the calendar for the next regular meeting of the Assembly or for any intervening special meeting, provided the same is included in the notice thereof. Whenever a written notice of a motion to reconsider has

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been filed as aforesaid, the Clerk shall notify all Delegates. In the case of a question decided by a tie vote, the prevailing side shall be considered to be the one in whose favor the question was decided. Not more than one motion for reconsideration of any vote shall be entertained. No vote upon any of the following motions shall be reconsidered: to adjourn; to lay on the table; to take from the table; and for the previous question.

Section 10. Regular Meetings.²⁰

(a) Time and Place. Regular meetings of the Assembly of Delegates shall be held on the first (1st) and third (3rd) Wednesday of each month at four o'clock (4:00) P.M. in the Town Barnstable. The precise location of each regular meeting of the Assembly will be determined by the speaker and stated in the notice thereof. If the date for any such regular meeting is a legal holiday, as established by state or federal law, the regular meeting of the Assembly for such date shall be held on the business day following such holiday.²¹

(b) Order of Business. At every regular meeting of the Assembly of Delegates, the order of business shall be as follows:

- (1) Committee of the Whole
- (2) A Moment of Silence to honor our troops who have died in service to our country, and all those serving our country in the Armed Forces²²
- (2) Pledge of Allegiance²³
- (3) Call to order, roll call and declaration of the presence or lack of quorum
- (4) Approval of calendar order of business
- (5) Examination of journal of previous meetings
- (6) Communications from the Board of County Commissioners
- (7) Communications from Public Officials
- (8) Communications from the Members of the Public²⁴
- (9) Convene Assembly
- (10) Consideration of proposed ordinances, resolutions, etc.
- (11) Reports of Committees
- (12) Report from the Clerk²⁵
- (13) Other business
- (14) Adjournment

The published Assembly calendar shall state the foregoing order of business which shall be departed from only by majority vote of the Delegates present.

(c) Disposition of Business. All items of business appearing on the Assembly calendar shall be taken up, fully and openly debated and disposed of by vote of the Assembly before consideration of any other item of business.

(d) Referral to Committee. An item of business may be referred to committee for the

²⁰ See Charter Section 2-5 (d) (i)

²¹ Subsection (a) was added by Ordinance 89-1, February 8, 1989

²² Added by Resolution 09-08, June 17, 2009

²³ Added by Resolution 03-02, February 5, 2003

²⁴ Added by Resolution 97-6, August 20, 1997 and Resolution 91-10, March 20, 1991

²⁵ Added by Resolution 00-01, February 2, 2000

following reasons:

- (i) for study and report at a subsequent meeting;
- (ii) for the purpose of drafting an ordinance or resolution;
- (iii) for the purposes of dealing with any matter which the speaker determines may prove damaging to the reputation of a person or persons.

Section 11. Special Meetings.²⁶

(a) Call. Special meetings of the Assembly of Delegates shall be held:

- (i) at the call of the Board of County Commissioners, as provided in section 3-7(b) of the Charter;
- (ii) at the call of the speaker; or
- (iii) at the call of any three (3) or more Delegates.

(b) Notice. Except in case of emergency, written notice of special meetings shall be delivered in hand, or to the place of residence or business of each Delegate at least seventy-two (72) hours before the time set for such special meeting. Such notice shall include the subjects to be acted upon at such special meeting.

(c) Notice in Case of Emergency. In case of emergency, a special meeting of the Assembly may be held as soon as a quorum of Delegates is convened following notice to each Delegate actually given in person or by telephone or constructively given by leaving a message physically or by telephone at the Delegate's place of residence or business.

Section 12. Open Meetings.

Except as may otherwise be authorized by law, all meetings of the Assembly of Delegates and any committee or subcommittee thereof shall at all times be open to the public and to representatives of the communications media.

Section 13. Inquiries and Investigations.²⁷

(a) Reports. The Assembly of Delegates may at any time upon a request filed by any Delegate request a report on any aspect of the County by making such a request, in writing, to the Board of County Commissioners.

(b) Appearances. The Assembly may also require the Board of County Commissioners and the County Administrator to appear before it sitting as a committee of the whole and to bring before it such records and reports, and such officials and employees of the County as the Assembly shall deem necessary to insure clarification of any matter under study.

(c) Witnesses. The Assembly may also summon witnesses to attend and to testify and to produce books and papers at a hearing before it, or a special committee of the Assembly, in the same manner and with the same penalties as provided for other multi-member bodies by sections 8 to 11, inclusive, of Chapter 233 of the General Laws.

(d) Ad Hoc Committees. The Assembly may also delegate any number of its members as an ad

²⁶ See Charter Section 2-5 (ii)

²⁷ See Charter Section 2-7

hoc committee to consult with the Board of County Commissioners or the County Administrator on any matter and to report back to the full Assembly of Delegates with the results of such meeting.

Section 14. Procedure for Consideration of Proposed Ordinances.²⁸

(a) Introduction and Distribution. A proposed ordinance may be introduced by any Delegate or by the Board of County Commissioners at any regular or special meeting of the Assembly of Delegates. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be: "Barnstable County hereby ordains:"

Any proposed ordinance shall be received only if it is submitted in the appropriate form adopted by the Assembly of Delegates and signed by its submitter.²⁹ The Clerk of the Assembly of Delegates shall forthwith distribute copies of the proposal to each Delegate present, to any of the County Commissioners present and to the County Administrator, if present.

(b) Time and Place of Public Hearing. Before the meeting is adjourned at which any proposed ordinance is introduced, the Assembly of Delegates will determine the time and place at which a public hearing is to be held on consideration of the proposal, and whether by the Assembly or by a committee thereof. If the Assembly fails to make such determinations, the speaker may do so.

(c) Publication. After an ordinance has been introduced and unless it is rejected at the same meeting by the affirmative votes of Delegates representing not less than three fourths (3/4) of the population of Barnstable County, the Clerk of the Assembly of Delegates shall promptly cause the proposed ordinance to be published together with a notice stating the time and place at which a public hearing will be held on consideration of the proposal.

(d) Public Hearing. The public hearing on any proposed ordinance shall follow the required publication by at least one week. At the public hearing, copies of the proposed ordinance shall be available for distribution to interested persons, and all persons present shall be given the opportunity to be heard.

(e) Published, Defined. As used in this section, the term "published" means that: (i) at least a brief summary of the proposed ordinance has been published, together along with public notice that a public hearing is to be held, in local newspapers; (ii) copies of the proposed ordinance and such notice of public hearing have been made available to representatives of the communications media; (iii) copies of the proposed ordinance and such notice of public hearing have been distributed to the Town Clerk of each municipality in the County for posting on municipal bulletin boards; and (iv) a reasonable number of copies of the proposed ordinance have been printed for free distribution to any interested person requesting the same.

(f) Public Hearing Procedures. The speaker or other Delegate acting as presiding officer will call the hearing to order state its purpose, preside over and regulate the proceedings and decide all questions of order and shall have the same right to vote on any matter arising as any other Delegate.

²⁸ See Charter Sections 2-8

²⁹ See forms exhibited in Appendix I

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Any person desiring to be heard shall seek recognition from the presiding officer and when recognized state his or her name and address for the record. The order of speakers will be determined by the presiding officer, who shall also determine any limits of time or subject matter to be observed by any speaker. Any Delegate desiring to make inquiry of any speaker shall seek recognition from, and address such inquiry through, the presiding officer. Written or graphic materials to be presented at a hearing shall be delivered to the Clerk of the Assembly of Delegates, who shall mark them for inclusion in the record of the hearing. The presiding officer may order a recess or adjournment of the hearing, taking care that such recess or adjournment will not unfairly deprive persons of the opportunity to be heard. No person whose proposed oral testimony would consist of reiterating information or opinion already presented at the hearing shall be deemed to be unfairly deprived by such recess or adjournment, provided that, he or she is given an opportunity to submit such reiterative information or opinion in writing to be included in the record of the hearing.

(g) Procedures to Review Proposed Budget Appropriations & supplements.³⁰ Proposed ordinances containing the proposed appropriations for the County's annual operating budget, or any supplement thereto, shall be referred to the standing Committee on Finance which shall hold one or more public hearings thereon in accordance with this section. said committee shall keep other committees of the Assembly apprised of its hearings and meetings scheduled to consider such ordinances and make every effort to pursue lines of inquiry and analysis regarding such proposed appropriations as may be suggested in writing by any such committee. said committee shall also give due consideration to any recommendations regarding such appropriations as may be submitted to it in writing by any such committee and include in its report to the Assembly regarding any such ordinance a statement of the committee's disposition of such recommendations and the reasons therefore.

Section 15. Adoption, Approval, Disapproval & Reconsideration of Ordinances.³¹

(a) Adoption and Approval. The Assembly of Delegates may adopt, with or without amendment, or reject any proposed ordinance following the public hearing. Forthwith following the adoption of an ordinance, the Clerk of the Assembly of Delegates shall present it to the Board of County Commissioners. If the Board of County Commissioners approves of such measure, the signatures of a majority of the members of the Board of County Commissioners shall be affixed to the said measure.

(b) Disapproval. If the Board of County Commissioners disapproves of such measure, the Board of County Commissioners shall, within ten (10) days following the date the approved copy of the measure is filed in its office, return the measure to the Assembly of Delegates with specific reasons for such disapproval, in writing, attached thereto.

(c) Reconsideration. The Assembly of Delegates shall upon receipt of notice of disapproval from the Board of County Commissioners forthwith reconsider the measure.

The Assembly of Delegates may, notwithstanding the objections of the Board of County Commissioners, by a vote of its members representing two-thirds (2/3) of the population of

³⁰ Subsection (g) was added by Resolution 90-1, February 21, 1990

³¹ See Charter Sections 2-8 (e), (g), (h), (i) & (j) and 3-8

Barnstable County, taken by roll call vote, again pass the measure.

If the Assembly of Delegates has not acted upon a message of disapproval filed with it by the Board of County Commissioners within fourteen (14) days of such filing, the measure shall be deemed to have been rejected by the Assembly of Delegates at the expiration of such period.

Section 16. Taking Effect of Ordinances.³²

(a) In General. Except as otherwise provided by the Charter, every adopted ordinance shall take effect on the thirty-first day following its adoption, unless a later date is specified in the ordinance.

(b) Other Charter Provisions for Taking Effect of Ordinances.³³

(i) An ordinance adopted by the Assembly of Delegates and approved by the Board of County Commissioners shall be deemed to be in effect when signed by a majority of the members of the Board of County Commissioners. (Emergency ordinances are governed by this provision.)

(ii) No ordinance increasing the annual salary for the members of the Assembly of Delegates shall be effective unless it has been adopted during the first fifteen (15) months of the term for which Delegates are elected and it provides that the salary is to become effective at the commencement of the term of the next Assembly of Delegates to be elected.

(iii) No ordinance changing the annual salary for members of the Board of County Commissioners shall be effective unless it has been adopted during the first fifteen (15) months of the term for which Delegates are elected and it provides that the new rate of compensation upon the reorganization of the Board of County Commissioners following an election for that office.

(iv) An ordinance adopted by the Assembly of Delegates, disapproved by the Board of County Commissioners, reconsidered and passed by the Assembly of Delegates over objections of the Board of County Commissioners shall be deemed to be in effect when so passed.

(v) If the Board of County Commissioners has not signed nor returned a measure adopted by the Assembly of Delegates to the Assembly of Delegates within ten (10) days following its receipt, said measure shall be deemed to be in effect at the expiration of such time notwithstanding such failure by the Board of County Commissioners.

(vi) An ordinance establishing a consolidated office or agency for any two (2) or more units of local government, in conformity with section 6-3 of the Charter, shall become effective upon acceptance by legislative bodies of the affected units of local government.

(vii) An ordinance providing for a subordinate service area, in accordance with section 6-4 of the Charter shall become effective when approved by the legislative bodies in the communities concerned.

³² See Charter Sections 2-8 (i), 3-1 (b), 3-8, 6-3, 6-4, 7-2, 7-3, and 7-4

³³ *Idem*

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(viii) An ordinance adopted pursuant to the citizen-initiative-petition procedures of Section 7-2 of the Charter shall be deemed to be effective immediately upon its approval by the voters, unless a later date is specified in the ordinance.

(ix) Except for (1) any ordinance dealing with proceedings relating to the internal organization or operation of the Assembly of Delegates, (2) an emergency ordinance, (3) an ordinance appropriating the County budget as a whole, (4) an ordinance establishing a revenue loan order or (5) an ordinance making any appropriation for the payment of any County debt or other obligation, no ordinance shall take effect earlier than the twenty-one (21) days allowed by section 7-3(a) of the Charter for the filing of a referendum petition to protest the taking effect of an ordinance or part thereof.

Section 17. Emergency Ordinances.³⁴

(a) **In General; Limitations.** To meet public emergencies affecting life, health or property, the Assembly of Delegates may adopt emergency ordinances, provided that, no emergency ordinance shall be used to grant, renew or extend a franchise, to regulate the rate charged for any service or to authorize the borrowing of money.

(b) **Procedure, Preamble.** Emergency ordinances shall be submitted in the same manner as other proposed ordinances, but a proposed emergency measure shall be plainly designated as such and shall contain a preamble, which shall be separately voted upon, which declares that an emergency exists and which describes the emergency in clear and specific terms.

(c) **Two-Thirds (2/3) Vote Required.** The affirmative vote of Delegates representing two-thirds (2/3) of the population of Barnstable County shall be necessary to adopt any emergency ordinance.

(d) **Repeal.** Every emergency ordinance shall stand repealed on the sixty-first day following its adoption.

Section 18. Printing and Publication of Adopted Ordinance.³⁵

As soon as practicable following the adoption of any ordinance, it is to be printed and published, as "published" is defined in section 14(e). The Clerk of the Assembly of Delegates shall arrange for the printing and publishing of any ordinance promptly following its final approval.

Section 19. Resolutions.

(a) **Form.** Every proposed resolution shall be introduced in writing. The form of resolution shall include a brief title, and the text of the resolution shall be introduced by the phrase, "Be it hereby resolved by the Barnstable County Assembly of Delegates:". Any proposed resolution shall be received only if it is submitted in the appropriate form adopted by the Assembly of Delegates and signed by its submitter.³⁶

³⁴ See Charter Section 2-9

³⁵ See Charter Sections 2-8 (h) & (j)

³⁶ See forms exhibited in Appendix I

(b) Procedure for Consideration.

Any proposed resolution shall be read in full unless after reading its title further reading is waived by unanimous consent of the Delegates present.

Section 20. Committees.³⁷

(a) Establishment, Duration. The Assembly of Delegates may from time to time, by resolution or other vote, establish, disestablish or discharge standing, special or ad hoc committees. The resolution or other vote establishing any such committee shall specify the number of its members, its charge including any reporting requirement, and its term of operation, any of which may be changed by an amendatory resolution or other vote.

All committees other than standing committees shall automatically expire at the end of the elective term of their members. At the beginning of a session, the speaker shall appoint the membership and chairs³⁸ of the standing Committees.³⁹

(b) Appointments by Speaker. Promptly after the establishment of any committee by the Assembly of Delegates, the speaker shall appoint its members and chair. The speaker shall promptly fill any vacancy therein that may occur.

(c) Form to Establish Committee. Any resolution or other vote to establish a committee shall include the name of the committee, the number of members, a statement of the committee's charge or terms of reference and a specification of the committee's instruction to report, in terms of content and time.⁴⁰

(d) Operations of Committees. No committee of the Assembly shall meet during meetings of the Assembly unless directed to do so by vote of the Assembly, and the Assembly shall stand in recess during any such committee meeting. All committees of the Assembly of Delegates shall make records of their meetings and work and report to the Assembly as directed by the Assembly. The chair of any committee shall call and preside at its meetings and direct its work.

Section 21. Municipal Petitions.⁴¹

The Assembly of Delegates shall hold a public hearing and act finally on every petition to it which has been approved or otherwise endorsed by the legislative body of any governmental unit in the County. The public hearing shall be held within six (6) weeks following the date the petition is submitted to the County Clerk, and the final vote on the petition shall be taken within six (6) weeks following the adjournment of the public hearing thereon. Hearings on two (2) or more petitions filed under this section may be held at the same time and place. In addition to notice by publication as otherwise required, the County Clerk shall give at least fourteen (14) days notice of the public hearing on any petition to the clerk of the governmental unit having filed the same.

³⁷ See Appendix I for record of committees established

³⁸ "Chairperson" changed to "Chair" throughout the Manual, Resolution 91-11, March 20, 1991

³⁹ Sentence added by Resolution 91-8, March 20, 1991

⁴⁰ See forms exhibited in Appendix I

⁴¹ See Charter Section 7-1

Section 22. Citizen-Initiative Measures.⁴²

(a) Petition for Ordinance. Any initiative petition requesting the passage of a particular ordinance shall be addressed to the Assembly of Delegates. The ordinance whose passage is sought shall be set out in such petition or by attachment thereto. Any such petition shall be signed by not less than three per cent (3%) of the total number of voters of the county determined as of the date of the most recent state election, provided, however, that not more than twenty-five per cent (25%) of the signatures shall be from any one municipality in the County.

(b) Action on Petition. When the Assembly of Delegates shall have received an initiative petition together with certifications by the County Clerk and advice from the County legal officer as provided in sections 7-2 (a) & (b) of the Charter, the Assembly shall within thirty (30) days of such receipt act with respect to that petition by adopting the ordinance sought thereby or by rejecting it. The passage by the Assembly of an ordinance which is stated to be in lieu of such ordinance shall be deemed a rejection of such ordinance.

If the Assembly of Delegates has failed to act on such ordinance within the said thirty (30) days, such ordinance shall be deemed to have been rejected on said thirtieth day. The Clerk of the Assembly of Delegates shall forthwith give notice to the County Clerk of any rejection by the Assembly of a petitioned ordinance.

(c) Supplementary Petition. Any supplementary petition, pursuant to section 7-2(d) of the Charter, seeking reconsideration by the Assembly of Delegates of its rejection of a petitioned ordinance shall be addressed to the Assembly and submitted to the Clerk of the Assembly of Delegates.

(d) Action on Supplementary Petition. When the Assembly of Delegates shall have received a supplementary petition together with certifications by the County Clerk as provided in section 7-2 (d) of the Charter, the Assembly shall make provision for the submission of a question whether such ordinance shall be adopted by the voters of Barnstable County at the next biennial state election occurring ninety (90) or more days following the date of such certifications.

(e) Procedures Relative to Balloting. The ballots used when voting on an ordinance proposed by voters shall contain a question in substantially the following form:

“shall the following ordinance which was proposed by an initiative petition of voters take effect?” (Insert the text of the proposed ordinance, or a fair, concise summary of the proposed ordinance prepared by the County Legal Officer.)

The Assembly shall cause the full text of the proposed ordinance to be printed and distributed to each residence in the County known to contain one or more registered voters. such distribution shall be made not less than two (2) weeks prior to the date of the election at which the question will be voted on.

Section 23. Citizen-Referendum Procedures.⁴³

(a) Petition for Referendum. Any referendum petition protesting against an ordinance, or any

⁴² See Charter Section 7-2

⁴³ See Charter Section 7-3

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part thereof, as adopted by the Assembly of Delegates, shall be addressed to the Assembly of Delegates.

(b) Action on Petition. When the Assembly of Delegates shall have received a referendum petition together with a certification by the County Clerk that such petition conforms to the signature requirement of section 7-3(a) of the Charter, the Assembly shall forthwith following such receipt reconsider such ordinance or part thereof. If the Assembly does not rescind such ordinance or part thereof, the Assembly shall make provision for the submission of a question whether such ordinance or part thereof shall be rescinded by the voters of Barnstable County at the next biennial state election.

(c) Procedures Relative to Balloting. The ballots used when voting on a referendum petition shall contain a question in substantially the following form:

“shall the following ordinance, or part thereof, which was adopted by the Assembly of Delegates, be rescinded?” (Insert the text of the adopted ordinance, or part thereof, or a fair, concise summary thereof prepared by the County Legal Officer.)

The Assembly shall cause the full text of the adopted ordinance, or part thereof, to be printed and distributed to each residence in the County known to contain one or more registered voters. such distribution shall be made not less than two (2) weeks prior to the date of the election at which the question will be voted on.

Section 24. Submission of Other Ordinances to Voters.⁴⁴

(a) In General. The Assembly of Delegates may, on its own motion, submit to the voters of the County for adoption or rejection at any election any proposed ordinance, or a proposition for the repeal or amendment of any ordinance.

(b) Procedures Relative to Balloting. The ballots used when voting on an ordinance submitted by the Assembly shall contain a question in substantially the following form:

“shall the following ordinance submitted by the Assembly of Delegates be adopted/repealed/amended (as the case may be)?” (Insert the text of the proposed ordinance, or a fair, concise summary of the proposed ordinance prepared by the County Legal Officer.)

The Assembly shall cause the full text of the proposed ordinance to be printed and distributed to each residence in the County known to contain one or more registered voters. such distribution shall be made not less than two (2) weeks prior to the date of the election at which the question will be voted on.

Section 25. Amendments to Charter.⁴⁵

The Assembly of Delegates may, by a two-thirds (2/3) vote of its full membership, provide for the submission to the voters of Barnstable County of any proposed amendment to the Barnstable County Home Rule Charter except any amendment which relates in any way to the composition, mode of election, or term of office of the Assembly of Delegates, or to the mode of election, or appointment, or term of office of the Board of County Commissioners or the County

⁴⁴ See Charter Section 7-5

⁴⁵ See Charter Section 9-1

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Administrator. Any amendment proposed by the Assembly of Delegates shall become effective if approved by a majority of the voters of the County voting thereon at the next regular biennial state election held more than one hundred and fifty (150) days following the date of the vote of the Assembly of Delegates. Any proposed amendment of the Charter which relates in any way to the composition, mode of election, or term of office of the Assembly of Delegates, or to the mode of election, or appointment, or term of office of the Board of County Commissioners or the County Administrator shall be submitted to the voters only after the enactment by the state legislature of a special law approving of a petition filed by the Assembly of Delegates with the approval of the Board of County Commissioners.

Section 26. Notice of Ballot Questions to Secretary of the Commonwealth.⁴⁶

Whenever the Assembly of Delegates intends that a question is to appear on the state election ballot, it shall notify the County Clerk, who shall at the earliest possible date following such notification, but not later than the first Wednesday in August in an even-numbered year, notify the office of the secretary of the Commonwealth of the pendency of such question or questions, and of the form in which such question or questions is to appear on such ballot.

Section 27. Petition for Special Law relating to County Government.⁴⁷

The Assembly of Delegates may, by a vote of its members representing a majority of the population of Barnstable County, file a petition for a special law relating to the organization or operation of the County government with the clerk of either branch of the state legislature at any time.

Section 28. Review of Charter & Ordinances.⁴⁸

At least once in every five (5) years the Assembly of Delegates shall provide for a special committee to be established which shall be charged with the responsibility of reviewing the then-existing Charter and ordinances of the County for the purpose of determining if any amendments or revisions may be necessary or desirable, and to make a report, with recommendations, to the Assembly of Delegates concerning any proposed amendments or revisions which said committee may deem to be necessary or desirable. Such review may be conducted in conjunction with the County legal officer, or if the Assembly of Delegates so directs, by special counsel retained for that purpose. The committee shall include representation of municipal officials of the municipalities which comprise the County. Reports, with recommendations, should be submitted to the Assembly of Delegates not more than ten (10) months following the date such committee is appointed.

Section 29. Amendment or Suspension of Assembly Rules.

The speaker may suspend the rules to recognize a county official or employee for a brief question or answer.⁴⁹ No other⁵⁰ rule of the Assembly of Delegates shall be suspended unless by a roll-call, majority vote of the Delegates, nor shall any such rule be repealed or amended without giving notice thereof at the preceding meeting, nor unless concurred in by a roll-call, majority vote of Delegates.

⁴⁶ See Charter Sections 7-6 and 9-1

⁴⁷ See Charter Section 9-1, fourth paragraph

⁴⁸ See Charter Section 9-4

⁴⁹ Sentence added by Resolution 91-9, March 20, 1991

⁵⁰ Word "other" added by Resolution 91-9, March 20, 1991

Section 30. Parliamentary Procedure.

In all matters of parliamentary procedure not otherwise provided for, the Assembly of Delegates shall be governed by ROBERT' s RULE s OF ORDER, NEWLY REVISED.

Section 31. Filling of Vacancies as Assembly Delegates.⁵¹

If a vacancy shall occur in the office of Assembly Delegate, with more than six (6) months remaining of the term for which Delegates are elected, a successor shall be chosen in accordance with the following procedure. The Clerk of the Assembly of Delegates shall cause a notice of the vacancy to be sent to the clerk of the municipality in which the vacancy exists. The clerk of the said municipality shall, forthwith, cause such notice to be posted on the municipal bulletin boards. Any voter, a resident of Barnstable County for at least one (1) year, desiring to be considered to fill such vacancy shall, in writing , so advise the board of selectmen (or the agency performing similar duties in such municipality).

The board of selectmen shall make provision for the interview, in public sessions, of all persons who have indicated such interest. Not more than twenty-one (21) days following the date of the notice sent by the Clerk of the Assembly of Delegates, the board of selectmen shall, by majority vote, choose one (1) person from the municipality to fill such vacancy and shall issue a certificate of such selection to the Clerk of the Assembly of Delegates. Upon receipt of the said certificate, the Clerk of the Assembly of Delegates shall administer the oath of office to such person and shall enter such person's name on the official list of Assembly Delegates. If, at the expiration of thirty (30) following the issuance of notice by the Clerk of the Assembly of Delegates that a vacancy exists, no certificate has been received, the Assembly of Delegates may vote to fill such vacancy by electing any registered voter resident of the affected municipality for one (1) year or more to fill such vacancy. The Clerk of the Assembly of Delegates shall administer the oath of office to the person thus chosen who shall serve for the balance of the unexpired term.

Section 32. Definitions.⁵²

Unless the context compels otherwise, the following terms as used in this Manual of Governance and Procedures shall have the following meanings:

Assembly -- the Assembly of Delegates of Barnstable County.

Charter -- the Home Rule Charter of Barnstable County as enacted by Chapter 163 of the Acts of 1988 with any amendments or changes thereto.

Clerk -- the Clerk of the Assembly of Delegates of Barnstable County.

County -- the county of Barnstable.

County agency -- any board, commission, committee or other multiple member body, and

⁵¹ See Charter Section 2-10

⁵² See Charter Section 9-9

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any department, division, or office of the county of Barnstable.

County bulletin boards -- the bulletin board in the Barnstable County superior courthouse building on which official notices are posted, and those at other locations within the County which may, from time to time, be established by vote of the Assembly of Delegates.

Days -- business days, not including Saturdays, Sundays, and legal holidays; when the time set is less than seven (7) days or more, every day shall be counted.

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

Local newspapers -- at least one daily newspaper of general circulation in one or more parts of the County.

Majority vote -- When used in connection with the Assembly of Delegates, a vote of the Delegates representing a majority of the population of Barnstable County.

Municipal bulletin boards -- the bulletin board, or boards, in each of the municipalities of the County on which official municipal notices are posted.

Voters -- Persons who are registered to vote in any municipality comprising the county of Barnstable.

Section 33. Indemnification.⁵³

In accordance with Ordinance 99-13, Barnstable County accepts Massachusetts General Laws, Chapter 258, the Massachusetts Tort Claims Act for the purposed of indemnifying employees of the County. In order to implement the provisions of Ordinance 99-12, the following procedures shall apply to any indemnification by Barnstable County of its public officials or public employees:

1) The County Commissioners may vote to recommend indemnification of any public employee from any personal financial loss and expenses, including legal fees and costs, in an amount not to exceed one-million dollars. Indemnification shall be limited to the terms and provisions set forth in Ordinance 99-12.

2) The County Commissioners may direct the General Counsel of the County to undertake all acts necessary to implement its recommendation.

3) The Assembly of Delegates may vote to appropriate the sum of money necessary to fund the indemnification of any public employee, as recommended by the County Commissioners, by Ordinance.

4) Said indemnification shall not become effective until and unless it is authorized by

⁵³ Added by Resolution 99-10, October 6, 1999

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vote of the County Commissioners and Assembly of Delegates through the Ordinance procedure.

APPENDIX I and APPENDIX II follow.

APPENDIX I
Exhibit A - Form of Proposed Ordinance

BARNSTABLE COUNTY ASSEMBLY of DELEGATES

20--Session

Proposed Ordinance No. __

[Insert brief title of ordinance]

Barnstable County hereby ordains:

Section 1.

[Insert text* using additional page(s) if needed.

***Style Notes: Present text in typewritten or computer-printed form, with no substantial erasures or interlineations, double spaced, with left and right margins of at least 1 inch, with sections designated by Arabic numerals and subsections by lower-case alphabet in parentheses. Lines of the text should be consecutively numbered starting at 1 on each page.]**

[Insert the following at the end of text.]

Submitted by: /s/ Signature of Submitter

Name of Submitter

Date: _____

Exhibit B - Form of Proposed Emergency Ordinance
BARNSTABLE COUNTY ASSEMBLY of DELEGATES

20--Session

Proposed Ordinance No. __

[Insert brief title of ordinance]

Declaration of Emergency -

[Insert Preamble, which shall be separately voted upon, which declares that an emergency exists and which describes the emergency in clear and specific terms.]

Barnstable County hereby ordains:

Section 1.

[Insert text* using additional page(s) if needed.

***Style Notes: Present text in typewritten or computer-printed form, with no substantial erasures or interlineations, double spaced, with left and right margins of at least 1 inch, with sections designated by Arabic numerals and subsections by lower-case alphabet in parentheses. Lines of the text should be consecutively numbered starting at 1 on each page.]**

[Insert the following at the end of text.]

Submitted by: /s/ Signature of Submitter

Name of Submitter

Date: _____

Exhibit C – Form of Proposed Resolution

BARNSTABLE COUNTY ASSEMBLY of DELEGATES

20--Session

Proposed Resolution

[Insert brief title of resolution]

Be it Hereby Resolved by the Barnstable County Assembly of Delegates:

Section 1.

[Insert text* using additional page(s) if needed.

***Style Notes: Present text in typewritten or computer-printed form, with no substantial erasures or interlineations, double spaced, with left and right margins of at least 1 inch, with sections designated by Arabic numerals and subsections by lower-case alphabet in parentheses. Lines of the text should be consecutively numbered starting at 1 on each page.]**

[Insert the following at the end of text.]

Submitted by: /s/ Signature of Submitter

Name of Submitter

Date: _____

Assembly Committees Established

STANDING COMMITTEES

Standing Committee on Finance - to consist a minimum of three members and a maximum of five members, as appointed by the Speaker, to address all matters relating to the Assembly Budget, County fiscal policies and procedures, including appropriations, budgeting, borrowing, finances, funds, revenues from fees, taxes and other sources, and inter-governmental fiscal policies and procedures, to conduct public hearings and report to the Assembly from time to time on all proposed appropriation ordinances and other matters assigned to it.

Resolution 89 - 12 August 16, 1989

Resolution 91 - 2 January 2, 1991

Standing Committee on Health and Human Services - to consist of a minimum of three members and a maximum of five members, as appointed by the Speaker, to address County activities relating to public health, social services and housing, to conduct public hearings and to report to the Assembly from time to time on matters assigned to it.

Resolution 89 - 2 January 18, 1989

Resolution 91 - 2 January 2, 1991

Standing Committee on Public Services - to consist of a minimum of three members and a maximum of five members, as appointed by the Speaker, to address all matters relating to public services, and report to the Assembly from time to time thereon.

Resolution 89 - 2 January 18, 1989

Resolution 91 - 2 January 2, 1991

Standing Committee on Natural Resources - to consist of a minimum of three members and a maximum of five members, as appointed by the Speaker, to address County activities relating to environmental matters, to conduct public hearings and to report to the Assembly from time to time on matters assigned to it.

Resolution 89 - 2 January 18, 1989

Resolution 91 - 2 January 2, 1991

Standing Committee on Economic Affairs - to consist of a minimum of three members and a maximum of five members, as appointed by the Speaker, to address economic development in Barnstable County and to report from time to time on matters assigned to it.

Resolution 91 - 2 January 2, 1991

Standing Committee on Governmental Regulations - to consist of the Chairs of the Standing Committees on Finance, Natural Resources, Health and Human Services, Public Services, Economic Affairs, and the Speaker, to address all matters relating to the Regional Policy Plan and report to the Assembly.

Resolution 95 - 3 February 15, 1995

All AD HOC COMMITTEES

To be established by Resolution.

Rulings of the Speaker on Procedural Matters

Rules governing debate and discussion in the Assembly of Delegates shall apply to the conduct of the Committee of the Whole unless the Committee votes otherwise.

APPENDIX II

Home Rule Amendment to the Massachusetts Constitution

Article II of the Articles of Amendment to the Constitution of the Commonwealth as amended by Article LXXXIX (89) of such Articles of Amendment

[This article of the Constitution is captioned as the right of Self-government for cities and towns; the Home-Rule Amendment, So-called. Selected provisions of Article 89 appear below. Those reserving the power of the General Court to provide for county government are underlined in SECTION 8.]

SECTION 1. Right of Local Self-Government

It is the intention of this article to reaffirm the customary and traditional liberties of the people with respect to the conduct of their local government, and to grant and confirm to the people of every city and town the right of Self-government in local matters, subject to the provisions of this article and to such standards and requirements as the general court may establish by law in accordance with the provisions of this article.

SECTION 6. Governmental Powers of Cities and Towns

Any city or town may, by the adoption, amendment or repeal of local ordinances or bylaws, exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court by Section eight, and which is not denied, either expressly or by clear implication, to the city or town by its charter. This section shall apply to every city and town, whether or not it has adopted a charter pursuant to section three.

SECTION 7. Limitations on Local Powers

Nothing in this article shall be deemed to grant to any city or town the power to (1) regulate elections other than those prescribed by sections three and four; (2) to levy, assess and collect taxes; (3) to borrow money or pledge the credit of the city or town; (4) to dispose of park land; (5) to enact private or civil law governing civil relationships except as an incident to any exercise of an independent municipal power; or (6) to define and provide for the punishment of a felony or to impose imprisonment as a punishment for any violation of law; provided, however, that the foregoing enumerated powers may be granted by the general court in conformity with the constitution and with the powers reserved to the general court by section eight; nor shall the provisions of this article be deemed to diminish the powers of the judicial department of the commonwealth.

SECTION 8. Powers of the General Court

The general court shall have the power to act in relation to cities and towns, but only by general laws which apply alike to all cities, or to all towns, or to all cities and towns, or to a class of not fewer than two, and by special laws enacted (1) on petition filed or approved by the voters of a city or town, or the mayor and city council, or other legislative body, of a city, or the town meeting of a town, with respect to a law relating to that city or town; (2) by a two-thirds vote of each branch of the general court following a recommendation by the governor; (3) to erect and constitute metropolitan or regional entities, embracing any two or more cities or towns, or established with other than existing city or town boundaries, for any general or special public purpose or purposes, and to grant to these entities such powers, privileges and immunities as the general court shall deem necessary or expedient for the regulation and government thereof; or (4) Solely for the incorporation

or dissolution of cities or towns as corporate entities, alteration of city or town boundaries, and merger or consolidation of cities and towns, or any of these matters. . . . (Emphasis added.)

SECTION 9. Existing special Laws

All special laws relating to individual cities or towns shall remain in effect and have the force of an existing city or town charter, but shall be subject to amendment or repeal through the adoption, revision or amendment of a charter by a city or town in accordance with the provisions of sections three and four and shall be subject to amendment or repeal by laws enacted by the general court in conformity with the powers reserved to the general court by section eight.

Barnstable County Charter Commission Act (Acts, 1985 -- Chapter 801)

[This Act authorized the election of the Barnstable County Charter Study Commission and the preparation by it, and acceptance by the voters of Barnstable County, of a charter of county government. The Act's provisions relating to the powers of Barnstable County are set forth below.]

SECTION 15. Applicability of Other Laws.

(B) For the purposes of this act, a "general law" shall be deemed to be such a law or part thereof, heretofore or hereafter enacted, that:

(i) is not consistent with this act; and (ii) is by its terms applicable or available to all counties; or

(iii) is applicable to all counties or to any category or class of counties and deals with one or more of the following subjects: the administration of the judicial system, education, elections, health, county public authorities, taxation and finance, and welfare.

(C) Except as it relates to judicial or penal administration, nothing in this act shall be construed to prevent Barnstable county from abolishing or consolidating agencies the existence of which has heretofore been mandated by general law provided that if such abolition or consolidation shall alter the obligation of the county to continue services theretofore rendered by such abolished or consolidated agency, said alteration must be approved by the general court prior to taking effect.

(D) The intent of this act is to enable Barnstable county to cause any duty that has been mandated to it by the legislature to be performed in the most efficient and expeditious manner, and, absent a clear legislative declaration to the contrary, without regard to organizational structural or personnel provisions contained in prior general law, and further, the intent of this act is to encourage a review of the functions which Barnstable (sic) provides.

SECTION 16. County Powers:

(A) Barnstable county after adoption of a charter pursuant to this act may, in accordance with the provisions of such charter, and subject to the provisions of general law and the Constitution of Massachusetts:

(i) Organize and regulate its internal affairs; create, alter, abolish offices, positions and employments and define functions, powers and duties thereof; establish qualifications for persons holding offices, positions and employments; and provide for the manner of appointment and removal and for their term, tenure and compensation; (ii) Adopt, amend, enforce, and repeal ordinances and resolutions notwithstanding the effect of any referendum conducted prior to the county's adoption of its charter pursuant to this act; (iii) Construct, acquire, operate and maintain public improvements, projects or other enterprises for any public purposes, subject to such referendum as may otherwise be imposed by law; (iv) Exercise powers of eminent domain, borrowing and taxation only as provided by general law.

(B) Nothing in this act shall be construed to impair, diminish or infringe on the powers and duties of the towns of the commonwealth under the General Laws. It is the intent of this act to permit said towns to employ services and facilities of the county for more effective, efficient and adequate provision of services if and when said towns may deem it desirable to do so. Said towns are and shall remain the broad repository of local police power in terms of the right and power to legislate for the general health, safety and welfare of their residents.

(C) The grant of powers under this act is intended to be as broad as consistent with the construction of the Constitution of the Commonwealth and the General Laws relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structures and to alter and abolish its agencies, subject to the general mandate of performing services whether they be performed by the agency previously established or by a new agency or other department of county government. Based on the need to develop effective services to meet problems which cross town boundaries and which cannot be met effectively on an individual basis by the municipalities, or the state, this act shall be construed as intending to give the county power to establish innovative programs and to perform such regional services as the Constitution of the Commonwealth and the General Laws permit and to establish such other programs and services as may from time to time be permitted.

**Selected Provisions of the Barnstable County Home Rule Charter
Acts, 1988 -- Chapter 163**

[SECTION 1 of this Act consists of the Barnstable County Home Rule Charter, selected provisions of which are set forth below. SECTION 2 of this Act, which is not part of the County Charter, gave Barnstable County the authority to impose an excise tax on deeds equal to that imposed by the State. Barnstable County Ordinance 1989-3, adopted by the Assembly of Delegates and approved by the Board of County Commissioners on March 1, 1989, imposed such an excise tax effective April 1, 1989.]

ARTICLE 1 -- INCORPORATION AND POWERS

SECTION 1-3 Powers of the County.

Subject only to express limitations on the powers which may be exercised by a county government in the constitution or laws of the commonwealth, it is the intention and the purpose of the voters of Barnstable county in approving this charter to obtain for the county government all of the powers it is possible for a county government to have, to hold and to exercise under the constitution and laws of the commonwealth as fully and and as completely as if each such power were specifically and individually enumerated in this charter.

It is the intent of this charter to encourage a continuing review to be made of the functions being performed by the county government and to enable the county government to cause any duty that has been mandated to it, by law or otherwise, to be performed in the most efficient and expeditious manner possible, and without regard to the organizational structural or personnel provisions contained in any prior law or laws.

SECTION 1-4 Construction.

The grant of powers under this charter is to be construed as broadly as is consistent with the constitution and the laws of the commonwealth relating to local government. Based upon the need to develop effective services to meet problems which cross municipal boundaries, to provide sophisticated services which might be beyond the ability of a single community to support and a desire to obtain the efficiencies and economies of scale, this charter shall be construed as intended to give to the county government the power and the authority to establish programs and to perform any service, activity or undertaking for, or on behalf of, any governmental unit which said governmental unit has the legal authority to perform for itself, as such governmental unit may itself determine is in its own best interest to cause the county to perform for it, with it, or in its behalf, on a contractual basis, or otherwise.

Nothing in this charter shall be construed to impair, diminish or infringe upon the powers or duties of cities and towns under the General Laws. It is the intent of this charter to permit, enable or otherwise authorize cities and towns to employ services and facilities of or under the county when said cities and towns deem it desirable so to do for more effective, efficient or adequate provision of services. Cities and towns are and shall remain the broad repository of local police power in terms of the right and power to legislate for the general health, safety and welfare of their inhabitants.

SECTION 1-5 Intergovernmental Relations.

The county government may enter into agreements with any other governmental unit, or group of such units, within or without the county, without regard to whether a

governmental unit is a city, a town, a regional authority or a special district, to perform for it, with it, or in behalf of such governmental unit any service, activity or undertaking which such governmental unit is authorized to perform for itself. The county may become an agent for any other unit or units of government, including the United States and the commonwealth, in the performance of any and all functions, services, activities and undertakings for which the contracting unit determines to employ the county as its agent.

The county government shall not perform any services for a governmental unit outside of its political boundaries unless authorized to do so by the governing body of the county within which such governmental unit is located. Nothing in this section shall be construed to prohibit the county government from performing services jointly with, or for, or in cooperation with another county, by contract or otherwise.

SECTION 1-6 County Powers, Generally.

Without intending to limit the generality of county powers as stated in Section 1-3 of this charter the following specific powers shall be available to the county government:

- (a) Through the adoption, amendment or repeal of ordinances, or the provisions of an administrative code, to organize and regulate its internal affairs; create, alter and abolish agencies, offices, positions and employments and define the powers, duties, responsibilities and functions thereof; establish qualifications for the manner of appointment and removal and the salary or other compensation to be paid.
- (b) Adopt, amend enforce and repeal ordinances and resolutions as provided in article 2 and subject to the provisions for initiative and referendum as contained in article 7.
- (c) Construct, acquire, operate and maintain public improvements, projects or enterprises for any public purpose subject to such restrictions and limitations as are otherwise provided by law.
- (d) Exercise powers of eminent domain, borrowing and taxation to the extent authorized by this charter and by law.
- (e) Exercise all powers of county government in such manner as the county governing body shall determine, subject to rights of initiative and referendum contained in article 7.
- (f) Sue and be Sued; have a corporate seal; contract and be contracted with; buy, sell, lease, hold and dispose of real and personal property; appropriate and expend funds for county purposes.
- (g) Contract with or sign agreements with other governmental units for the provision of a joint, coordinated or cooperative service or function.

ARTICLE 2 -- LEGISLATIVE BRANCH

SECTION 2-1 Composition, Mode of Election, Term and Office.

(a) **Composition.** The legislative powers of Barnstable county shall be exercised by an assembly of delegates consisting of fifteen members. . . .

SECTION 2-4 Powers and Duties, In General.

Except as is otherwise provided by law, or this charter, all legislative powers of the county shall be vested in the assembly of delegates which shall provide for the exercise of all powers and the performance of all duties imposed upon the county in a manner consistent with the provisions of this charter.

ARTICLE 4 -- ADMINISTRATIVE ORGANIZATION

Section 4-1 Elected County Officers.

(c) County Sheriff.

There shall be a county Sheriff elected as provided by law.

The county Sheriff shall have the general care and Superintendence of all jails and houses of correction maintained or kept by the county. The county Sheriff shall have all or the other powers and duties which are given to county Sheriffs by general laws and such additional powers and duties as may be provided by county ordinance or administrative code.

Section 4-2 Appointed County Officers.

(b) Charter Departments and Agencies.

1. Department of Finance.

There shall be a department of finance which shall be headed by a director of finance

The department of finance shall be responsible for overseeing all of the financial affairs of the county and shall include the office of the county treasurer. . . .

The department of finance shall have all the powers and duties which are given to county treasurers by general laws, and such additional powers and duties as may be provided by county ordinance or administrative code which relate to financial matters and affairs;

2. Register of Deeds.

There shall be a register of deeds

The register of deeds shall have a general charge and Superintendence of the Barnstable County registry of deeds and all of the books, records, deeds and other papers belonging thereto. The register of deeds shall have all of the powers and duties which are given to registers of deeds by the General Laws and such other powers and duties as may be provided by county ordinance or administrative code;

3. Office of the County Clerk.

There shall be a county clerk

The office of the county clerk . . . shall serve as the chief records keeper for the county, shall coordinate the sending of all notices and other correspondence from the county to the several cities and towns within the county and shall receive all notices and other official correspondence from the cities and towns directed to the county, shall coordinate and supervise all election and election related matters affecting the county with the city and town clerks, boards of registrars of voters, election commissions and other local officers performing similar duties. . . .

The office of county clerk shall perform and may exercise such other powers and duties as may be assigned by this charter, by ordinance or by other vote of the assembly or delegates.

4. Regional Planning Agency.

Any regional planning activity or function, including the Cape Cod planning and economic development commission, established pursuant to the provisions of chapter four hundred and fifty-three of the acts of nineteen hundred and sixty-five (Acts, 1965 - Chapter 453) shall for all purposes be considered to be an agency under the new county charter and subject to all of the provisions of this charter.

The Cape Cod commission shall be deemed to be an agency within the structure of Barnstable County subject to all of the administrative, budgetary and other provisions of this charter. The assembly of delegates and the board of county commissioners shall have

and may exercise all authority for regional planning and environmental controls and management as may be authorized by state law and shall be responsible for the establishment of policies to guide all regional planning and development activities.

ARTICLE 6 -- JOINT PERFORMANCE OF FUNCTIONS

Section 6-1 Purpose.

Units of local government shall be encouraged to make the most effective and efficient use of their powers and their resources and may cooperate with one another, through the county, to provide services and facilities in a manner that will best serve geographic, economic, population, and other factors and without regard for any existing political boundaries.

The term local service function as used in this article is intended to mean any government service, or group of closely allied governmental services performed by a unit of local government for its inhabitants and for which, under constitutional and statutory provisions and judicial interpretation, units of local government, as distinguished from the state government, have the primary responsibility to provide and to finance. For the purpose of illustration only, and without in any way intending to limit the foregoing, the following are current examples of some local service functions:

- 1) public works, including street and road layout, construction and maintenance; dredging of channels and harbors;
- 2) refuse and garbage removal, collection and disposal;
- 3) public health services;
- 4) building inspection, including, wire, gas and plumbing inspections;
- 5) water supply, treatment and distribution;
- 6) sewage collection, treatment and disposal;
- 7) police, fire and other public safety services;
- 8) parks, playgrounds and other recreation related facilities and programs;
- 9) assessment of real and personal property;
- 10) planning and zoning;
- 11) transportation.

This section shall include all possible local government units whether listed or not and is intended to be interpreted in a manner to allow the assembly of delegates the widest latitude possible in entering into agreements for joint performance of functions.

Section 6-2 Interlocal Contracts.

(a) Scope - Any unit of local government may contract with the county to provide for it any local service function which the unit of local government is authorized to perform, provided that such contract shall first be ratified or approved by the legislative body of such unit of local government.

(b) Contents of Agreements. Every contract entered into by the county for the provision of services to units of local government shall contain at least the following provisions:

- 1) its duration or other term;
- 2) the precise organization, composition, and nature of any administrative entity established for the purpose of overseeing the delivery of any such service function;
- 3) the exact nature of the service, activity, undertaking or function which is to be

provided;

- 4) the manner of financing, establishing and maintaining a budget and of accounting and other record keeping requirements;
- 5) the method by which amendments to the agreement are to be proposed and adopted, including provision for complete or partial rescission or termination of the agreement;
- 6) the manner by which any materials, supplies or other property acquired during the period of the agreement are to be distributed in the event of a termination; and may contain any other necessary or proper matters to such an agreement.

(c) Appropriations, etc. Any unit of local government entering into an agreement pursuant to this section may appropriate funds and may sell, lease, give, or otherwise supply or make available to the administrative entity charged with oversight of the service function, personnel, services, materials, supplies including real or personal property, as may be mutually agreeable to the parties.

Section 6-3 Transfer of Functions.

Whenever two or more units of local government in Barnstable County shall determine, by the adoption of substantially similar resolutions of their legislative bodies that the operations, procedures or functions of such units can more effectively and efficiently be exercised or provided as a consolidated activity performed by a single office or agency, such units of local government are hereby authorized to petition the county government to provide for the establishment of a single office or agency in which to consolidate any or all of the operations, procedures, functions performed or carried out by such individual offices or agencies.

The board of county commissioners shall review all such petitions as are received by it requesting the establishment of a single office or agency to provide a local service function and shall, in conjunction with designated representatives of the units of local government concerned, act to develop such single office or agency as in each particular circumstance best meets the needs of the units concerned.

Except when otherwise specifically provided in the resolutions adopted by the respective legislative bodies in the transfer of a power or function from a unit of local government to a consolidated agency or office, such consolidated office or agency shall be the successor in every way to the powers, duties, functions and obligations now or hereafter granted to or imposed by law upon the offices and agencies thus consolidated.

The ordinance establishing a consolidated office or agency for any two or more units of local government shall be substantially in conformity with the provisions of Section 6-2(b).

Before any such consolidation shall become effective, the ordinance as finally adopted by the assembly of delegates shall be presented to the legislative bodies of the affected units of local government for acceptance.

Section 6-4 Subordinate Service Areas

(a) Creation by the Assembly of Delegates. The assembly of delegates may establish a subordinate service area in any portion of the county by adoption of an appropriate ordinance on its own initiative or as a response to a request made for the provision of services to any two or more units of local government either by contract or by consolidation.

The ordinance shall specify the service or services to be provided, the territorial

boundaries and the manner in which such service area is to be governed or administered.

(b) Creation by Petition. A petition signed by one per cent of the voters as of the date of the most recent state election in each of two or more units of local government in the county may be presented to the assembly of delegates requesting the establishment of a subordinate service area comprised of the said units of local government for the provision of a particular service or services.

Upon receipt of a petition on which the signatures of voters have been verified by the board of registrars of voters in the units concerned, the assembly of delegates shall hold a public hearing on the question of whether or not such subordinate service area shall be established.

Within thirty days following the adjournment of the public hearing, the assembly of delegates shall approve or disapprove the establishment of the requested subordinate service area. An ordinance providing for such subordinate service area may differ from the petition as originally presented, but no ordinance establishing such a subordinate service area shall become effective until it shall have been approved by the legislative bodies in the communities concerned.

ARTICLE 10 -- TRANSITIONAL PROVISIONS

Section 10-1 Effect on Laws.

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

Section 10-2 Continuation of Government.

All county agencies shall continue to perform their duties until reappointed, or reelected, or until successors to their respective positions are fully appointed or elected, or until their duties have been transferred and assumed by another county agency.

County Charter Procedures (M.G.L. Chapter 34A)
[Enacted by Acts, 1985 - Chapter 807 and applies to all counties other than Barnstable
County]

Section 16. Powers and duties of counties.

(A) Any county that has adopted a charter pursuant to this chapter may, in accordance with the provisions of such charter, and subject to the provisions of general law and the Constitution of the Commonwealth of Massachusetts:

- (i) Organize and regulate its internal affairs; create, alter, abolish offices, positions and employments and define functions, powers and duties thereof; establish qualifications for persons holding offices, positions and employments; and provide for the manner of their appointment and removal and for their term, tenure and compensation.**
- (ii) Adopt, amend, enforce and repeal ordinances and resolutions notwithstanding the effect of any referendum conducted prior to the county's adoption of its charter pursuant to this chapter.**
- (iii) Construct acquire, operate and maintain public improvements, projects or other enterprises for any public purposes, subject to such referendum as may otherwise be imposed by law.**
- (iv) Exercise powers of eminent domain, borrowing and taxation only as provided by general law.**
- (v) Exercise all powers of county government in such manner as its board of commissioners and advisory board on county expenditures may determine.**
- (vi) Sue and be sued, have a corporate seal; contract and be contracted with, buy, sell, lease hold and dispose of real and personal property; appropriate and expend monies for county purposes;**
- (vii) Contract with or sign agreements with other governmental units for the provision of joint, coordinated, or cooperative service provision. (sic)**

(B) Nothing in this act shall be construed to impair, diminish or infringe on the powers and duties of cities and towns under the General Laws. It is the intent of this chapter only to permit cities and towns to employ services and facilities of the county for more effective, efficient and adequate provision of services if and when cities and towns may deem it desirable to do so. Cities and towns are and shall remain the broad repository of local police power in terms of the right and power to legislate for the general health, safety and welfare of their residents.

(C) The grant of powers under this act is intended to be as broad as consistent with the construction of the Constitution of the Commonwealth and the General Laws relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structures and to alter and abolish its agencies, subject to the general mandate of performing services whether they be performed by the agency previously established or by a new agency or other department of county government. Based on the need to develop effective services to meet problems which cross city or town boundaries and which cannot be met effectively on an individual basis by the cities and towns, or the state, this chapter shall be construed as intending to give the county power to establish innovative programs and to perform such

regional services as the Constitution of the Commonwealth and the General Laws permit and to establish such other programs and services as may from time to time be permitted.

See Charter Section 2-2 (a).

Sentence added by Resolution 91-7, March 20, 1991.

See Section 7 for determination of the population of Barnstable County.

Amended by Resolution 01-02, April 4, 2001

Sentence added by Resolution 91-7, March 20, 1991.

See Charter Section 2-2(b).

⁷ See Section 4,8,9(a),10(a)&(d),11(a),14(b)&(f) and 20(b) for other duties of the Speaker.

See Charter Section 2-2(c).

See Charter Sections 2-2(d) and 2-5(d)(v).

Added by Resolution 01-03, April 4, 2001

See also Sections 9(d),14(a)&(c),15(a).18, 22(b)&(c) and 31 for other duties of the Clerk of the Assembly of Delegates.

See Charter Sections 2-4 and 2-5(a),(b) & (c).

Added by Resolution 01-03, April 4, 2001

Added by Resolution 01-02, April 4, 2001

See Charter Sections 2-5(a), 2-8(a) & (b) and 3-8.

See Charter Sections 2-3, 2-5(d)(i), 2-8(d), 3-1(b), 4-2 (b)3. & 5.,4-2 (c)1.(i), 5-3, 5-7, 6-3 and 6-4(a) & (b).

See Charter Section 2-8(b).

See Charter Sections 2-5(b), (c) & (d)(iv).

See Exhibit D in Appendix I for a Sample Roll-Call Tally Showing the Delegates' weighted votes based on the United States decennial census for 1990.

See Charter Section 2-5(d)(i).

Subsection (a) was added by Barnstable County Ordinance 89-1, February 8, 1989

Added by Resolution 09-08, June 17, 2009

Added by Resolution 03-02, February 5, 2003

Added by Resolution 97-6, August 20, 1997

Added by Resolution 00-01, February 2, 2000

²⁵ See Charter Sections 2-8 (c) & (e).

See forms exhibited in Appendix I.

Subsection (g) was added by Assembly Resolution 90-1 (February 21, 1990).

See Charter Sections 2-8(e),(g),(h), (i) & (j) and 3-8.

See Charter Sections 2-8(i), 3-1(b), 3-8, 6-3, 6-4, 7-2, 7-3 and 7-4.

Idem.

See Charter Section 2-9.

See Charter Sections 2-8(h) & (j).

See forms exhibited in Appendix I.

See Appendix I for record of committees established.

"Chairperson" changed to "Chair" throughout the Manual, Resolution 91-11, March 20, 1991

Sentence added by Resolution 91-8, March 20, 1991

See forms exhibited in Appendix I.

See Charter Section 7-1.

See Charter Section 7-2.

See Charter Section 7-3.

See Charter section 7-5.

See Charter Section 9-1.

See Charter Sections 7-6 and 9-1.

See Charter Section 9-1, fourth paragraph.

See Charter Section 9-4.

Sentence added by Resolution 91-9, March 20, 1991

Word "other" added by Resolution 91-9, March 20, 1991

See Charter Section 2-10.

See Charter Section 9-9.

Resolution 99-10: To amend the Manual of Governance and Procedures to add Section 33.
Indemnification. October 6, 1999.

Assembly Clerk assigns number.

Assembly Clerk assigns number.

The act also refers to the commission as the "charter commission."

Caveat. The provisions selected for publication herein collectively indicate the powers delegated to the new government of Barnstable County in its Home Rule Charter. For a complete understanding of the powers of the County, reference must also be made to provisions of various Massachusetts General and Special Laws.

So in original; probably should read "as may be provided".

So in original; probably should read "expire by their own limitation."