

[MASS COUNCIL ON AGING LOGO]

HANDBOOK FOR
FRIENDS OF COUNCILS ON AGING

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Massachusetts Councils on Aging and Friends Groups

What Is a Council on Aging?

A Council on Aging (COA) in Massachusetts is a local public-service board that serves the social and support needs of elders, their families and caregivers.

COAs endeavor to identify and find ways to address the needs of elders in the community, by designing, advocating for or implementing local programs, services and activities. COAs are created by statute, and are organized as departments of city or town governments. They operate in conjunction with programs of the Massachusetts Office of Elder Affairs.

The range of programs and assistance COAs provide can include information and referral services, outreach, transportation, home-delivered and communal meals, health screening, health insurance benefits counseling, fitness, recreation, computer access, and education/lifelong learning programs.

What Is a COA Friends Group?

As their name implies, Friends groups exist to help out their local COA. COA Friends are locally organized charitable organizations that provide financial and sometimes operational support to their associated COA. Friends groups are made up of volunteers interested in assisting elders in their community. They don't take the place of the COA, rather they lend a hand where the COA needs one. Friends directors should collaborate with their local COA to ensure their efforts are in line with the COA's goals. Friends aren't responsible for running the COA or its programs – that role is reserved for the COA's directors – but Friends do actively contribute to the COA's mission by supplying needed resources.

Joining a friends group that supports the local COA is a great way for people to make a positive difference in the lives of elders in the community.

The information you will find in this handbook may help you in forming and operating a COA Friends group, but it shouldn't be considered a substitute for legal advice.

Role of the Friends

As you'll see below, COA Friends are organized as charitable organizations. In Massachusetts, that means they must have a charitable purpose. Your organizational documents will spell out what your group's charitable purpose is.

Bear in mind that your activities as Friends are restricted by your charitable purpose. For example, as Friends of the COA, you cannot distribute funds raised in your group's name to organizations other than the COA, no matter how worthy the cause.

Massachusetts Laws Concerning Councils on Aging and Friends Groups

Public authority for the creation of COAs is found in the Massachusetts General Laws at [G.L. c. 40, § 8B](#). The statute enables cities and towns in our Commonwealth to create COAs to address the needs of elders in the community in coordination with the Department of Elder Affairs. Also under the statute, COAs must submit annual reports to the Department of Elder Affairs. The Department of Elder Affairs periodically reviews these reports and provides feedback to the COAs.

Separate statutes apply to Friends group. In particular, [Chapter 68](#) of the General Laws addresses charitable organizations, and [Chapter 180](#) applies to non-profit corporations, and. Friends groups are considered public charities under [G.L. c. 68, § 18 et seq.](#) and [G.L. c. 180, § 2](#). As such, they're required to register with the Attorney General Office's Public Charities Division and have certain annual reporting obligations, described at [G.L. c. 68, § 19](#). Friends groups that raise less than \$5,000 in a calendar year are exempt from this registration requirement. [G.L. c. 68, § 20](#). The Attorney General's Office is empowered to enforce these registration and reporting requirements by [G.L. c. 12, § 8E](#).

Chapter 180 of the General Laws provides substantial information about forming and operating your group as a non-profit in Massachusetts, including acceptable charitable purposes and what your by-laws must contain. The regulations implementing Chapter 180 can be found at [950 CMR § 106.00](#).

Federal tax exemption for charitable groups is authorized under Section 501(c)(3) of the Internal Revenue Code. For helpful information on obtaining 501(c)(3) status, visit the [IRS website](#). Massachusetts state tax exemption for non-profit groups can be found at [G.L. c. 64H, § 6\(e\)](#).

ORGANIZING A FRIENDS GROUP

Forming a Friends Group

In forming a COA Friends group, consider what the group's primary mission and purpose will be. Your local COA is probably your best source in determining how your group can most effectively assist the COA's mission. Friends take an active role in fundraising activities, but can also function as community liaisons and a source of volunteer manpower.

As fundraising entities, Friends groups must comply with Massachusetts and federal laws designed to protect the public interest by ensuring accountability and proper use of funds raised for charitable purposes. Friends groups are also eligible for federal tax-exemption and should apply for 501(c)(3) status.

A good first step in forming a Friends group is to identify and gather a core group of volunteers to make up an executive board. (Keep in mind that by statute the organizing members of a non-profit corporation must be at least eighteen years old.) Going forward, these volunteers should expect to handle most of the administrative work, planning and coordination for the group. Early on, these individuals should meet with the local COA director and/or executive committee to discuss what the Friends' role will be, and how the Friends can best assist the COA. Focus on understanding and prioritizing the COA's needs, and articulating your group's purpose with a view toward effectively coordinating your volunteer efforts.

One of the first things a Friends group's executive board should discuss is whether to operate the group as an unincorporated association, or incorporate as a non-profit. You may want to seek legal and/or tax advice in making this decision. Generally speaking, there are substantial benefits to incorporation, such as limited liability and an easier time obtaining 501(c)(3) status, as well as carrying out practical necessities such as establishing bank accounts.

If you decide to incorporate your Friends group, the Commonwealth's Secretary of State provides a number of forms to help you to with the process. The forms can be found online at <http://www.sec.state.ma.us/cor/corpweb/corpn/npfrm.htm>.

Organizational Documents

Regardless of whether your Friends group chooses to operate as an unincorporated association, a non-profit corporation or other type of entity, you will need to create organizational documents providing a framework for the governance and management of the group. Known as "articles of incorporation," "articles of organization" or "articles

of association,” these documents serve to outline and establish the basic structure of your group.

If you decide to incorporate your group as a Massachusetts non-profit, the group will need to file articles of organization with the Office of the Secretary of State. (There is a fee associated with the filing.) The articles of organization must include certain information, such as the names and addresses of the incorporators and a statement that they intend to form a corporation, as well as the name and purpose of your Friends group and the activities it will engage in. The Secretary of State’s office has blank articles of organization available on-line in the forms section of its website. Sample articles of organization for a COA Friends group can be found in this handbook at [Appendix A](#).

When drafting your organizational documents, keep in mind that your group’s purpose must be expressly charitable, as set forth in [G.L. c. 180, § 4](#).

You may wish to seek the advice of an attorney in drafting organizational documents.

Mission Statement

Defining your Friends group’s mission at the outset is a good way to ensure your efforts will be focused. Members of your group should get together and consider what the group will do and how it will go about doing it in order to craft an effective mission statement. Remember that your mission as Friends is to work within the COA’s mission, providing support to assist the COA in its statutory role.

Below are some examples of mission statements that have been adopted by COA Friends in our Commonwealth:

The Mission Statement of the Friends of the GCOA is to provide both financial support and technical expertise to the Gloucester Council on Aging in its mission of serving Gloucester’s senior citizens. The Friends of the COA will engage in fund-raising efforts to augment selected projects and activities undertaken by the Council on Aging. The Friends of the COA will also serve as a source of volunteers to support the efforts of the Council on Aging during labor intensive projects serving Gloucester-area senior citizens.

- Friends of the Gloucester Council on Aging

We are a 501(c)(3) all volunteer public charity, dedicated to helping Arlington's senior citizens. Our continuing mission is to support and expand the work of the Arlington Council on Aging in providing services to senior residents of the Town of Arlington by raising funds and helping to make our community and its leaders aware of the good work of the Council on Aging.

- Friends of the Arlington Council on Aging

The primary purpose of the Friends of the Hadley Council on Aging, a non-profit 503(c)(3) organization, is to enhance financial and operational support for programs for the Hadley Council on Aging. This support may include, but is not limited to, memberships, fund-raising events, sponsorships, grant applications, and individual and corporate donations to the Council. This support is dedicated to assisting the Council provide activities, programs and services to improve the emotional and physical well-being of Hadley seniors. A secondary purpose is to increase the awareness of Hadley residents, especially its seniors, to the existence of the Council and its offerings by providing community publicity.

- Friends of the Hadley Council on Aging

Tax-Exempt Status

Section 501(c)(3) of the Internal Revenue Code provides federal tax exemption for certain non-profit organizations, and makes these organizations eligible to receive certain tax-deductible charitable contributions. Because a COA Friends group's purpose is to provide support and assistance to its local COA, your group should easily qualify as charitable for tax-exempt status. It can be easier to obtain tax-exempt status if you have formally organized as a non-profit entity (as by incorporating), but regardless of the type of entity you choose to operate as, you should obtain tax-exempt status for your Friends group.

Qualifying for and maintaining tax-exempt status does impose some important restrictions on your Friends group's activities. For example, your purpose must serve a purely public interest, and the group cannot engage in advocacy that amounts to intervention in a political campaign.

Once your group receives 501(c)(3) status, you should also apply to the Massachusetts Department of Revenue for state tax-exempt certification. If you have any questions

regarding tax-exempt status, you should consult with an attorney or other qualified tax advisor.

OPERATING A FRIENDS GROUP

Board of Directors

No matter what type of entity you choose for your Friends group, its overall management should be in the hands of a Board of Directors. If you have chosen to operate as a more formal entity, such as a non-profit corporation, your articles of organization and by-laws will contain provisions regarding the number of members to be seated on your Board.

The Board should be made up of dedicated local volunteers with an interest in assisting the COA and elders in the community. Ideally, the Board should have a diverse membership that includes people of different races, ethnicities, gender and backgrounds. (Note that it is possible, though not desirable, to have only one director for your group.) Try to recruit members with business management, financial, fundraising or legal experience: these skills can significantly enhance the effectiveness of your group's mission. Advocacy skills and knowledge of the local community are also great assets to your Board.

The Board of Directors has responsibility for ensuring organizational oversight, accurate financial accounting, and that your mission is properly carried out. The directors have fiduciary duties to the group, which include both a "duty of care" and a "duty of loyalty." In practice, this means that your Friends group's directors must use such care as a reasonably prudent person would use under like circumstances, and that they must act in good faith and in a manner consistent with the best interests of your group.

This fiduciary standard can be helpful in guiding your group's decision-making with respect to fundraising and resource allocation. To provide transparency, make sure directors complete an annual written conflict-of-interest statement, updated as necessary, that the group keeps on file. You should put policies and procedures in place for handling possible conflicts of interest.

By-Laws

Once you have assembled your COA Friends group, you should draft a set of by-laws to guide the Board and group members in how to go about accomplishing the group's mission. By-laws function as the rules your group uses to operate. They can serve not

only as internal guidance for group members, but can also be useful in interacting with outside entities, such as the IRS. By-laws should be drafted early in your group's development, and must be approved by the Board. You do not need to file your by-laws with the Secretary of State, but you do need to keep them in your group's files. By-laws should be periodically reviewed to ensure that they are being followed and that they continue to meet the group's needs. It is also good practice to ensure that new Board members receive a current copy of the by-laws.

Drafting your by-laws will require some thought into what your group will be and how it will operate. Your main goal here is to describe the manner in which your group will carry out its purpose. Try to draft your by-laws with accuracy, but leave enough flexibility and breadth that they will not need repeated amendments as your group develops over time.

Start with the name of your group: for example, "Friends of the Mayberry Council on Aging, Inc." Think about how your membership will work: who can be a member, how does one become a member, what role members will have in the group's functioning. Consider whether you should ask members to pay modest dues to help cover meeting expenses, for example.

Next think about when, where and how often your Friends group will meet. The by-laws should provide for the manner in which meetings are called, including special meetings, and how meetings are conducted. Consider the number of members who must be present to constitute a quorum. Include a provision for taking and keeping minutes.

Your by-laws should describe the roles of the group's officers and agents. They should state the number of directors your Board will have, with a description of their powers and duties. You will want to address the tenure of office of directors and officers, and the manner of their selection and removal. Bear in mind that periodically rotating these positions can inject fresh viewpoints and energy, and help keep your Friends group robust. Establish the frequency of and manner in which Board meetings will be held.

Include a provision for handling any conflict of interest that may arise, by way of reference to your group's conflict-of-interest policy. (See the Conflict of Interest section below.)

Think about committees. Thorough by-laws will contain provisions describing the manner of creating committees and appointing members to sit on them. You may want to establish one or more specific standing committees, such as a finance committee or a budget committee.

Over time, you may need to revisit provisions in your by-laws. So be sure the by-laws address the manner in which they may be amended. Include the number of members who must vote to approve any amendment.

The above considerations are essential, but not exhaustive. You may want to include additional provisions in your by-laws. It can be helpful to seek the advice of an attorney in drafting your by-laws.

Conflict of Interest

A conflict of interest occurs when a Board member or officer has an actual or perceived personal interest in or personally profits (directly or indirectly) from any transaction affecting your group. To ensure that your group's decision-making is not tainted by a conflict of interest, you should establish a written policy requiring disclosure of potential conflicts, and steps to take in the event of a conflict.

Friends group Board members and officers should understand that they have an absolute duty of loyalty to the group. This means that they cannot put their own personal financial interest ahead of the group's interest. Your group's tax-exempt status makes it especially important for Board members and officers to avoid even the appearance of a conflict of interest, which can cast doubt on the group's charitable purpose, and for this reason the IRS itself encourages charitable groups to adopt formal conflict-of-interest policies. (The IRS offers a helpful sample conflict of interest policy as an [appendix to its Form 1023](#).)

Your policy should define the types of activities or transactions that would create a potential conflict of interest. Areas where conflicts may arise include business involvements affecting your group, as well as other board memberships and outside business interests. Your conflict of interest policy should include a requirement that Board members and officers complete annual written disclosures, updated as necessary during the year, identifying potential areas of conflict.

Be sure that your Friends group's conflict-of-interest policy sets out procedures for dealing with conflicts, including the duty to disclose potential conflicts. The procedures should include the manner in which, following disclosure, it will be determined whether a conflict actually exists. The policy should also contain a procedure for addressing identified conflicts. For example, there should be a mechanism for excluding an interested person from any decision-making where a conflict has arisen. The policy should contain a provision setting out the consequences of violating the conflict-of-interest policy, such as by failing to disclose an actual or potential conflict.

Code of Conduct

In addition to a conflict-of-interest policy for directors and officers, you might want to prepare a written code of conduct applicable to all members of your Friends group. This code should define the duties and behaviors expected of group members.

Having a written code of conduct helps to set standards that can enhance your mission and keep your Friends group out of problems. For example, your code can define general expectations for conducting fundraising programs, avoiding conflicts of interest, working collaboratively and interacting with the COA and the community. A code of conduct can also be an appropriate document for describing any political or other activity that might jeopardize your Friends group's non-profit status.

Fundraising

Fundraising is typically a significant component of a Friends group's activities. In order to engage in fundraising activities in Massachusetts, you must register with the Commonwealth's Division of Public Charities and obtain a Certificate of Solicitation. You will also be required to make annual filings with the Division, as well as to the IRS. You can find information regarding forms and filing requirements on the Non-Profit Organization/Public Charities Division's section of the Attorney General's website.

Under [G.L. c. 68, § 20](#), an organization is exempt from the registration and filing requirement if it does not raise or receive contributions from the public exceeding \$5,000 in a calendar year, or does not receive contributions from more than ten persons during a calendar year, if all of its functions, including fundraising activities, are performed by on a volunteer basis, and if no part of the organization's assets or income benefits any officer or members. However, should your group raise more than \$5,000 in a calendar year, you must register and report with the Division of Public Charities within thirty days.

Be aware that your fundraising must be in line with your group's purpose as stated in your organizational documents. This means the funds you raise as Friends of your local COA must be devoted to that COA. When you solicit funds from the public as a Friends group, there is an understanding that donations will go to help out your COA. The Friends are not at liberty to allocate those funds to another purpose.

Public Resources

Keep in mind that your Friends group operates as an adjunct to the COA, but is not a part of it. Importantly, Friends groups are not entitled to make use of the COA's resources, which are publicly funded. Although your group's mission is to assist the COA, Friends should not expect to use COA materials, photocopying, fax machines and the like in carrying out their own mission.

APPENDIX A

Sample COA Friends Articles of Organization


Examiner


Name
Approved

The Commonwealth of Massachusetts

William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512

ARTICLES OF ORGANIZATION (General Laws, Chapter 180)

ARTICLE I

The exact name of the corporation is:

Friends of the [REDACTED] Council on Aging, Inc.

ARTICLE II

The purpose of the corporation is to engage in the following activities:

To raise funds for the purpose of purchasing and donating to said [REDACTED] Council on Aging any and all items of equipment, furniture and other tangible property deemed desirable for the furtherance of their activities; to assist in the funding of programs and activities to be conducted/sponsored by the [REDACTED] Council on Aging in order to perpetuate the dignity and well-being of Senior Citizenry of [REDACTED] by our efforts, enterprise and endeavor.

This corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on: (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code; or (b) by a corporation, contributions to which are deductible under section 170(e)(2) of the Internal Revenue Code or the corresponding section of any future federal tax code.

No part of the assets of the corporation and no part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Two.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation except to the extent that the corporation makes expenditures for the purposes of influencing legislation in conformity with the requirements of Section 501(h) of the Internal Revenue Code; and the corporation shall not participate in, or interfere in opposition to any candidate for public office.

Except as may be otherwise required or permitted by law, the corporation may at any time authorize a petition for its dissolution to be filed with the Supreme Judicial Court of the Commonwealth of Massachusetts pursuant to Section 11A of Chapter 180 of the Massachusetts General Laws by the affirmative vote of a majority of the directors of the corporation then in office; provided, however, that in the event of any liquidation, dissolution, termination, or winding up in the corporation (whether voluntary, involuntary, or by operation of law), the property or assets of the corporation remaining after providing for the payment of its debts and obligations shall be conveyed, transferred, distributed, and set over outright to one or more educational, charitable, religious or literary institutions or organizations, created and organized for non-profit purposes similar to those of the corporation, (please see attached)

C
P
M
R.A.


P.C.

Note: If the space provided under any article or item on this form is insufficient, additions shall be set forth on one side only of separate 8 1/2 x 11 sheets of paper with a left margin of at least 1 inch. Additions to more than one article may be made on a single sheet so long as each article requiring each addition is clearly indicated.

Article II (continued)

Contributions to which non-profit institutions or organizations are deductible under Section 170© of the Code and which qualify as exempt from income tax under Section 501(c)(3) of such Code as such sections may, from time to time, be amended or added to or under any successor sections thereto, as a majority of the total number of the directors of the corporation may by vote designate and in such proportions and in such manner as may be determined in such vote; provided, further, that the corporation's property may be applied to charitable, religious, literary or educational purposes in accordance with the doctrine of *cy pres* in all respects in all respects as a court having jurisdiction in the premises may direct.

In any taxable year in which the corporation is a private foundation as described in IRC section 509(a), the organization shall distribute its income for said period as such time and manner as not subject it to tax under IRC section 4942, and the organization shall not; (a) engage in any act of self-dealing as defined in IRC section 4941(d); (b) retain any excess business holdings as defined in IRC section 4943(c); (c) make any investments in such a manner as to subject the organization to tax under IRC section 4944; or (d) make ant taxable expenditures as defined in IRC section 494S(d) or corresponding provisions of any subsequent federal tax laws.

ARTICLE III

A corporation may have one or more classes of members. If it does, the designation of such classes, the manner of election or appointments, the duration of membership and the qualification and rights, including voting rights, of the members of each class, may be set forth in the by-laws of the corporation or may be set forth below:

One class of members.

ARTICLE IV

**Other lawful provisions, if any, for the conduct and regulation of the business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the corporation, or of its directors or members, or of any class of members, are as follows:

1. The corporation shall have the following powers in furtherance of its corporate purposes:

- (a) The corporation shall have perpetual succession in its corporate name.
- (b) The corporation may sue and be sued.
- (c) The corporation may have a corporate seal which it may alter at its pleasure.
- (d) The corporation may elect or appoint directors, officers, employees and other agents, fix their compensation and define their duties and obligations.
- (e) The corporation may purchase, receive or take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or any other interest therein, wherever situated, in an unlimited amount.
- (f) The corporation may solicit and receive contributions from any and all sources and may receive and hold, in trust or otherwise, funds received by gift or bequest.
- (g) The corporation may sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage, pledge, encumber or create a security interest in all, or any of its property, or any interest therein, wherever situated.
- (h) The corporation may purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, use and otherwise deal in and with, bonds and other obligations, shares, or other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities.
- (i) The corporation may make contracts, give guarantees in furtherance of its corporate purposes and incur liabilities, borrow money at such rates of interest as (continued as attached)

ARTICLE V

The by-laws of the corporation have been duly adopted and the initial directors, president, treasurer and clerk or other presiding, financial or recording officers, whose names are set out on the following page, have been duly elected.

***If there are no provisions, state "None".*

Note: The preceding four (4) articles are considered to be permanent and may only be changed by filing appropriate Articles of Amendment.

Article IV (continued)

the corporation may determine, issue its notes, bonds and other obligations, and secure any of its obligations by mortgage, pledge or encumbrance of, or security interest in, all or any of its property or any interest therein, wherever situated.

(j) The corporation may lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(k) The corporation may do business, carry on its operations, and have offices and exercise the powers granted by Massachusetts General Laws, Chapter 180, in any jurisdiction within or without the United States, although the corporation shall not be operated for the primary purpose of carrying on for profit a trade or business unrelated to its tax exempt purposes.

(l) The corporation may pay pensions, establish and carry out pensions, savings, thrift and other retirement and benefit plans, trusts and provisions for any or all of its directors, officers and employees.

(m) The corporation may make donations in such amounts as the members or directors shall determine, irrespective of corporate benefit, for the public welfare or for community fund, hospital, charitable, religious, educational, scientific, civic, or similar purposes, and in time of war or other national emergency in aid thereof; provided that, as long as the corporation is entitled to exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code, it shall make no contribution for other than religious, charitable, scientific, testing for public safety, literary or educational purposes or for the prevention of cruelty to children or animals.

(n) The corporation may be an incorporator of other corporations of any type or kind.

(o) The corporation may be a partner in any enterprise which it would have power to conduct by itself.

(p) The directors may make, amend or repeal the by-laws in whole or in part, except with respect to any provision thereof which by law or by-laws requires action by the members.

(q) Meetings of the members may be held anywhere in the United States.

(r) The corporation shall, to the extent legally permissible and only to the extent that the status of the corporation as an organization exempt under Section 501(c)(3) of the Internal Revenue Code is not affected thereby, indemnify each of its directors, officers, employees and other agents (including persons who serve at its request as directors, officers, employees or other agents of another organization in which it has an interest) against all liabilities and expenses,

including amounts paid in satisfaction of judgments, in compromise or as fine and penalties, and counsel fees, reasonably incurred by him in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, in which he may be involved or with which he may be threatened, while in office or thereafter, by reason of his being or having been such a director, officer, employee or agent, except the respect to any matter as to which he shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his action was in the best interests of the corporation; provided, however, that as to any matter disposed of by a compromise payment by such director, officer, employee or agent, pursuant to a consent decree or otherwise, no indemnification either for said payment or for any other expenses shall be provided unless such compromise shall be approved as in the best interests of the corporation, after notice that it involves such indemnification: (1) by a disinterested majority of the directors then in office; (2) by a majority of the disinterested directors then in office, provided that there has been obtained an opinion in writing of independent legal counsel to the effect that such director, officer, employee or agent appears to have acted in good faith in the reasonable belief that his action was in the best interests of the corporation; or (3) by a majority of the disinterested members entitled to vote, voting as a single class. Expenses, including counsel fees, reasonably incurred by any such director, officer, employee or agent in connection with the defense or disposition of any such action, suit or other proceeding, may be paid from time to time by the corporation in advance of the final disposition thereof upon receipt of an undertaking by such individual to repay the amounts so paid to the corporation if he shall be adjudicated to be not entitled to indemnification under Massachusetts General Laws, Chapter 180, Section 6. The right of indemnification hereby provided shall not be exclusive of or affect any other rights to which any director, officer, employee or agent may be entitled. Nothing contained herein shall affect any rights to indemnification to which corporate personnel may be entitled by contract or otherwise under law. As used in this paragraph, the terms "directors," "officers," "employees", and "agents" include their respective heirs, executors and administrators, and an "interested director" is one against whom in such capacity the proceeding in question or another proceeding on the same or similar grounds is then pending.

(s) No person shall be disqualified from holding office by reason of any interest in the absence of fraud, any director, officer, or member of this corporation individually, or any individual having any interest in any concern in which any such directors, officers, members, or individuals have any interest, may be a party to, or may be pecuniarily or otherwise interested in, any contract, transaction, or other act of this corporation, and

- (i) such contract, transaction, or act shall not be in any way invalidated or otherwise affected by that fact;

- (ii) no such director, officer, member, or individual shall be liable to account to this corporation for any profit or benefit realized through any such contract, transaction, or act; and
- (iii) any such director of this corporation may be counted in determining the existence of a quorum at any meeting of the directors or of any committee thereof which shall authorize any such contract, transaction, or act, and may vote to authorize the same;

the term "interest" including personal interest and interest as a director, officer, stockholder, shareholder, trustee, member, or beneficiary of any concern; the term "concern" meaning any corporation, association, trust, partnership, firm, person, or other entity other than this corporation.

(t) The corporation shall have and may exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is formed; provided that no such power shall be exercised in a manner inconsistent with Massachusetts General Laws, Chapter 180 or any other chapter of the General Laws of the Commonwealth of Massachusetts; and provided, further, that the corporation shall not engage in any activity or exercise any power which would deprive it of any exemption from federal income tax which the corporation may receive under Section 501 (c)(3) of the Internal Revenue Code.

(u) All references herein: (1) to the Internal Revenue Code shall be deemed to refer to the Internal Revenue Code of 1986, as now in force or hereafter amended; (2) to the General Laws of the Commonwealth of Massachusetts, or any chapter thereof, shall be deemed to refer to said General Laws or chapter as now in force or hereafter amended; and (3) to particular sections of the Internal Revenue Code or the General Laws of the Commonwealth of Massachusetts shall be deemed to refer to similar or successor provisions hereafter adopted.

