

Town of



Amherst Massachusetts

TOWN CLERK

Susan Audette, Acting Town Clerk
Town Hall
4 Boltwood Avenue
Amherst, MA 0100

Phone: (413) 259-3035
Fax: (413) 259-2499
townclerk@amherstma.gov
www.amherstma.gov

BYLAW APPROVAL BY STATE ATTORNEY GENERAL

I, Margaret Z. Nartowicz, Town Clerk of Amherst, Massachusetts certify that the attached is a true copy of the amendments to the Zoning Bylaws adopted under Article 35, and to the General Bylaws adopted under Article 11 of the warrant for the Annual Town Meeting that convened April 30, 2018, with the approval of the Attorney General of Massachusetts, herewith.

Attest:

Margaret Z. Nartowicz
Town Clerk
September 11, 2018

Any claims of invalidity in the case of Zoning Bylaws by reason of any defect in the foregoing procedure of adoption may only be made within 90 days of the posting of this notice.

Date posted Sept. 12, 2018

On the above date written I have posted copies of the bylaw amendments passed at the April 30, 2018 Annual Town Meeting and approved by the Attorney General of Massachusetts on July 2, 2018, at the following places in town:

- | | | | |
|------------|---------------------------|-------------|-------------------------|
| Precinct 1 | North Amherst Post Office | Precinct 6 | Fort River School |
| Precinct 2 | North Fire Station | Precinct 7 | Crocker Farm School |
| Precinct 3 | Immanuel Lutheran Church | Precinct 8 | Munson Memorial Library |
| Precinct 4 | Amherst Post Office | Precinct 9 | Wildwood School |
| Precinct 5 | Town Hall | Precinct 10 | Campus Center, UMass |

Constable, Town of Amherst

Town of



Amherst Massachusetts

TOWN CLERK

Susan Audette, Acting Town Clerk
Town Hall
4 Boltwood Avenue
Amherst, MA 01002-2351

Phone: (413) 259-3035
Fax: (413) 259-2499
townclerk@amherstma.gov
www.amherstma.gov

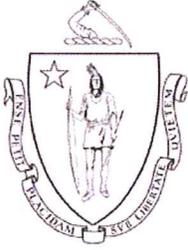
Date posted Sept. 12, 2018

On the above date written I have posted copies of the bylaw amendments passed at the April 30, 2018 Annual Town Meeting and approved by the Attorney General of Massachusetts at the following places in town:

Precinct 1 North Amherst Post Office
Precinct 2 North Fire Station
Precinct 3 Immanuel Lutheran Church
Precinct 4 Amherst Post Office
Precinct 5 Town Hall

Precinct 6 Fort River School
Precinct 7 Crocker Farm School
Precinct 8 Munson Memorial Library
Precinct 9 Wildwood School
Precinct 10 Campus Center, UMass

Constable, Town of Amherst



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

August 22, 2018

Margaret Nartowicz, Town Clerk
Town of Amherst
4 Boltwood Avenue
Amherst, MA 01002

Re: Amherst Annual Town Meeting of April 30, 2018 -- Case # 9058
Warrant Articles # 30, 31, and 35 (Zoning)
Warrant Articles # 11 and 29 (General)

Dear Ms. Nartowicz:

Articles 11 and 35 - We approve Articles 11 and 35 from the April 30, 2018, Amherst Annual Town Meeting.¹ Our comments on Article 11 are provided below.

Article 11 - Article 11 amends the Town's general by-laws to create an After School Program Revolving Fund. The funding sources for this revolving fund are program and tuition fees, gifts, grants and administration fees. Such funds are used to pay for the costs of operating the After School Program.

General Laws Chapter 44, Section 53E ½, requires revolving funds to be established by by-law. Section 53 E ½ authorizes municipalities to establish revolving funds for "any fees, charges or other receipts from the departmental programs or activities supported by the revolving fund," to be accounted for separately from other monies in the town, and authorizes expenditures from such fund without further appropriation, subject to the provisions of Section 53 E ½. According to the Department of Revenue/Division of Local Services (DOR/DLS), the purpose of a departmental revolving fund is to enable the department to separately account for money received from a specific program or activity and to make expenditures from that separate account for that specific program or activity.

The by-law states that receipts from donations will be deposited into this revolving fund. However, it is unclear whether the "donations" referred to are actually "fees" for programs or if

¹ In a decision issued on July 2, 2018, we approved Articles 29, 30, and 31.

the donations are true “gifts.” General Laws Chapter 44, Section 53A, pertains to the acceptance and expenditure of grants and gifts, and requires:

An officer or department of any...town, or of any regional school or other district, may accept grants or gifts of funds from the federal government and from a charitable foundation, a private corporation, or an individual, or from the commonwealth, a county or municipality or an agency thereof, and in the case of any grant or gift given for educational purposes may expend said funds for the purposes of such grant or gift with the approval of the school committee, and in the case of any other grant or gift may expend such funds for the purposes of such grant or gift...in towns with the approval of the board of selectmen...

Further, Section 53A provides that “[n]otwithstanding the provisions of section fifty-three, any amounts so received by an officer or department of a city, town or district shall be deposited with the treasurer of such city, town or district and held as a separate account and may be expended as aforesaid by such officer or department receiving the grant or gift without further appropriation.” The Town should consult with Town Counsel to ensure that any donations deposited in the After School Revolving Fund comply with the requirements of G.L. c. 44, § 53A and § 53E ½.

In addition, according to DOR/DLS, many fees, charges or other receipts pertaining to schools are not properly deposited into a departmental revolving fund because these school related fees have previously been designated by the Legislature for other specific funds. DOR/DLS has published a chart pertaining to specific school revolving funds to assist municipalities in determining where certain school related fees must, or may by local option, be deposited:

<http://www.mass.gov/dor/docs/dls/training/revolvingfundchartschool.pdf>

The Town should work closely with Town Counsel and DOR/DLS to review the After School Program Revolving Fund to determine whether such funds are properly accounted for in a departmental revolving fund under G.L. c. 44, § 53E ½, or whether these school funds need to be accounted for in a separate school specific revolving fund, as detailed in the DOR/DLS link provided above.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
Municipal Law Unit
Office of the Attorney General
Ten Mechanic Street, Suite 301
Worcester, MA 01608
508-792-7600

cc: Town Counsel Joel Bard

ARTICLE 11
Form 2 – Submission 2
TOWN MEETING ACTION

ARTICLE 11. General Bylaw - Revolving Fund Reauthorization (Finance Committee)

VOTED unanimously pursuant to G.L. c.44, §53E½, to amend the General Bylaws by inserting a new bylaw establishing the After School Program Revolving Fund, specifying the departmental receipts to be credited to the fund, the departmental program or purpose for which the fund may be expended, and the entity authorized to expend the fund, such bylaw to provide as follows:

Revolving Fund

There is hereby established in the Town of Amherst, pursuant to G.L. c.44, §53E½, the following Revolving Fund:

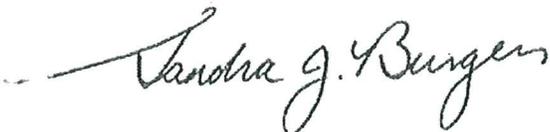
Revolving Fund	Authorized to Spend Fund	Revenue Source	Use of Fund
After School Program	Department Head of the LSSE or his/her designee	Program and Tuition fees, Gifts, Grants and Admin Fee	Supplies and services, including salaries and benefits of staffing, and related administrative costs for the operation of the After School Program.

Expenditures from such revolving fund set shall be subject to the limitation established annually by Town Meeting or any increase as may be authorized in accordance with G.L. c.44, §53E½.

It was further voted to establish a funding limit of \$400,000 for said fund, or, take any other action relative thereto.

Action taken 5/9/18.

A true copy, Attest:



Sandra J. Burgess
Town Clerk