



**Town of Sudbury**

Office of the Town Clerk

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Sudbury, MA 01776

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August 15, 2019

The following from the 2019 Annual Town Meeting were approved by the Attorney General on August 14, 2019:

**GENERAL BYLAWS**

Article 14 – Amend Bylaws, Article XXXIII	Surplus Vehicle & Equipment Revolving Fund
Article 15 – Amend Bylaws, Article XXXIII-	Board of Health Revolving Fund
Article 16 – Amend Bylaws Article XXXIII –	Zoning Board of Appeals Revolving Fund
Article 26 – Amend Bylaws, Article XXV -	Section 2- Capital Planning

**ZONING ARTICLES**

Article 28 – Amend Bylaws, Article IX-Melone Smart Growth Overlay District

*Received by the Town Clerk's Office: August 14, 2019*

*Posted by the Town Clerk's Office: August 15, 2019*

Claims of invalidity by reason of any defect in the procedure of adoption or amendment for a zoning bylaw may only be made within ninety days of August 15, 2019. Copies of this bylaw may be examined and obtained at the Town Clerk's Office.

*Posted at: Town Hall, Concord Road; Fairbank Community Center, Fairbank Road; Sudbury Post Office, Rt. 20/ Boston Post Road; Goodnow Library, Concord Road; Curtis Middle School, Pratt's Mill Road; North Fire Station, Rt. 117/North Road*

Beth R. Klein  
Town Clerk

cc: Board of Health  
Town Manager  
Town Counsel  
Finance Director  
Board of Public Works  
Zoning Board of Appeals



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

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

MAURA HEALEY  
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August 14, 2019

Beth R. Klein, Town Clerk  
Town of Sudbury  
322 Concord Road  
Sudbury, MA 01776

**Re: Sudbury Annual Town Meeting of May 6, 2019 -- Case # 9395  
Warrant Article # 28 (Zoning)  
Warrant Articles # 14, 15, 16, and 26 (General)**

Dear Ms. Klein:

**Articles 14, 15, 16, 26, and 28** - We approve Articles 14, 15, 16, 26, and 28, and the map amendments related to Article 28 from the May 6, 2019, Sudbury Annual Town Meeting. We will send the approved maps to you by regular mail. Our comments regarding Articles 14 and 28 are provided below.

**Article 14** - Article 14 amends Article XXXIII, Section 1 of the Town's general by-laws to establish a "Surplus Vehicle & Equipment Revolving Fund" for the purpose of funding the purchase of vehicles and equipment for the Police Chief, Fire Chief, and Public Works Department. The revenue source for the revolving fund is the proceeds from the sale of surplus vehicles and equipment.

According to the DOR/DLS, the sale of municipal property may not be a departmental "fee, charge or other receipt." *See* G.L. c. 44, § 53E ½. In addition, the sale of municipal property, in this case used vehicles and equipment, may not be considered a departmental program or activity. *See* G.L. c. 44, § 53E ½. Thus, the revenue received from the sale of municipal property may need to be deposited in the general fund, as required by G.L. c. 44, § 53. ("All moneys received by any...town...or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the...town...treasury."). Further, when selling municipal property, the Town must comply with the procedures of G.L. c. 30B (the Uniform Procurement Act) as well as any local by-laws of the Town pertaining to the sale or disposal of property. The Town should discuss these issues further with Town Counsel and DOR/DLS.

**Article 28** - Article 28 amends Article IX, of the Town's zoning by-laws by adding a new Section 4700B, "The Melone Smart Growth Overlay District."

Articles 28 was adopted pursuant to G.L. c, 40R, which encourages “smart growth” zoning. Chapter 40R establishes the procedure by which a municipality may establish and amend a Smart Growth Zoning District. By-laws adopted pursuant to Chapter 40R must be approved by this Office and by the Department of Housing and Community Development (DHCD).

We approve Article 28. However, the Town must still comply with the provisions of G.L. c. 40R, § 4<sup>1</sup> by obtaining approval from DHCD. The Town may not be eligible for financial and other incentives until it receives final approval from DHCD. The Town should send the by-law amendments to the: Office of Sustainable Communities, MA Dept. of Housing & Community Development, 100 Cambridge Street, Suite 300, Boston, MA 02114. We suggest that the Town discuss any questions regarding this issue with Town Counsel.

**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  
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508-792-7600

cc: Town Counsel Jonathan M. Silverstein

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<sup>1</sup> General Laws Chapter 40R, Section 4 (b), provides that “[a]fter issuance of a letter of eligibility and upon application of the town with proof of adoption of the smart growth zoning district ordinance or by-law included in the application for a letter of eligibility, along with any amendment required by the department in the letter of eligibility, the department shall confirm its approval within 30 days of receipt of the application.