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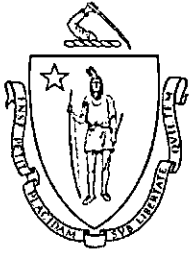
August 1<sup>st</sup>, 2017

The following amendments to the Winchendon Zoning Bylaws were approved at the Annual Town Meeting held on May 15, 2017 and were approved by the Attorney General on July 27, 2017.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made with 90 days of the posting of this notice. Copies of the Zoning Bylaws may be examined and obtained at the office of the Town Clerk.

Posted:           AUG 1 - 2017          

By:           RS McNeil           Constable



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

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July 27, 2017

Judy A. LaJoie, Town Clerk  
Town of Winchendon  
109 Front Street, Department 3  
Winchendon, Ma 01475

**RE: Winchendon Annual Town Meeting of May 15, 2017 - Case # 8407**  
**Warrant Articles # 20 and 21 (Zoning)**  
**Warrant Article # 4 (General)**

Dear Ms. LaJoie:

**Articles 4, 20 and 21** - We approve Articles 4, 20 and 21 from the May 15, 2017 Winchendon Annual Town Meeting. Our comments regarding Article 4 are provided below.

Article 4 amends the Town's general by-laws by adding a new by-law, Article 39, "Revolving Funds." General Laws Chapter 44, Section 53E ½, requires revolving funds to be established by by-law. Section 53E 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 53E 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.

However, according to DOR/DLS, not all receipts may lawfully be deposited in a revolving fund. For example, property taxes, motor vehicle taxes, or revenues from general municipal activities, rather than those of a particular department, are not properly categorized as "fees, charges or other receipts from the departmental programs or activities supported by the revolving fund." See G.L. c 44, §§ 53 and 53E ½. In addition, receipts reserved by law (for example, betterment payments under G.L. c. 44, § 53J), or receipts authorized by law for expenditure for a particular purpose (for example, local acceptance of G.L. c. 44B, Community Preservation Act), are expressly prohibited from being included in a revolving fund under the statute.

The DOR/DLS has published several informational guidelines to provide information regarding municipal revenues and special funds. In particular, DOR/DLS has published Bulletin 2017-01B, "Authorization of Departmental Revolving Funds and Model By-law/Ordinance:"

<http://www.mass.gov/dor/docs/dls/publ/bull/2017/2017-01b.pdf>

and an "Overview of Statutory Treatment of Municipal Revenues:"

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

We approve the by-law adopted under Article 4. However, the Town should consult closely with Town Counsel to ensure that receipts designated for each revolving fund are not already reserved under other funds or statutes, and are properly included in the designated revolving fund. In addition, the Town should consult closely with Town Counsel to ensure that any deposits into a revolving fund are properly from "fees, charges or other receipts" associated with a specific departmental program or activity and that the funds are expended in connection with that specific program or activity, not for the general use of the department.

Further, G.L. c. 44, § 53E ½, requires the establishment of any revolving fund to be "made not later than the beginning of the fiscal year in which the fund shall begin." The Town established these revolving funds by by-law at a vote of Town Meeting on May 15, 2017, apparently with the intention that these funds be used during Fiscal Year 2018 (beginning July 1, 2017). According to DOR/DLS, all receipts collected during Fiscal Year 2018 can be credited to the revolving funds created under Article 4. The Town should consult with Town Counsel and/or DOR/DLS with any questions on this issue.

**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 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 approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

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cc: Town Counsel Brian Riley

**REVOLVING FUNDS AUTHORIZATION ARTICLE**

(majority vote required)

**ARTICLE 4**

To see if the Town will vote pursuant to the provisions of G.L. c.44, §53E½, as most recently amended, to: (1) establish the following revolving funds for Fiscal Year 2018, and further, to establish fiscal year spending limits as set forth below; and (2) amend the General By-laws by inserting a new by-law establishing various revolving funds, specifying the departmental receipts to be credited to each fund, the departmental purposes or programs for which each fund may be expended, and the entity authorized to expend each fund, such bylaw to provide as follows:

**Article 39 Revolving Funds.**

- A. There are hereby established in the Town of Winchendon pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds, from which the specified department head, board, committee, or officer may incur liabilities against and spend monies from without appropriation in accordance with the limitations set forth in this by-law.
- B. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- C. No liability shall be incurred in excess of the available balance of the fund.
- D. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting or any increase therein as may later be authorized by the Board of Selectmen and Finance Committee in accordance with G.L. c.44, §53E½.
- E. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the General Fund.
- F. Authorized Revolving Funds

	<b>REVOLVING FUND</b>	<b>AUTHORITY TO SPEND FUND</b>	<b>REVENUE SOURCES</b>	<b>USE OF FUNDS</b>
1	Agricultural Commission Fees	Agricultural Commission	Agricultural programming fees	Costs in connection with its official responsibilities under local by-laws, including but not limited to part-time staff support, postage, posting and publishing, and consultants
2	Planning and Development Plotter Fees	Planning Director	Fees for large-format copier and plotter	Any lawful purpose related to large-format copier and plotter
3.	Library Copy Fees	Beal's Memorial Library Director or Library Trustees	Fees for use of Library copiers, printers and fax machines	Maintenance and supply costs for copiers, printers and fax machines
4.	Library Materials	Beal's Memorial Library Director or Library Trustees	Fees for overdue, lost and/or damaged Library materials	Repair or replacement of Library materials

G. Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this by-law, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this by-law.

And, further, to establish the following fiscal year spending limit for such funds:

1. Agricultural Commission Fees - \$20,000
2. Planning and Development Plotter Fees - \$20,000
3. Library Copy Fees - \$8,000
4. Library Materials - \$8,000

Or act in relation thereto.

(submitted by the Town Manager)

***VOTE: APPROVED (majority) to establish or reestablish the Town's Revolving Accounts and to adopt a General Bylaw regarding revolving accounts as required by amendments to the G.L. Chapter 44, § 53E½.***

BOARD OF SELECTMEN: 5-0 Recommend

FINANCE COMMITTEE: 6-0 Recommend

## USUAL AND CUSTOMARY FINANCIAL ARTICLES

(majority vote required)

### SENIOR TAX WORK-OFF ARTICLE

#### ARTICLE 5

To see if the Town will vote to raise and appropriate or transfer from other available funds the sum of seven thousand five hundred dollars (\$7,500) for the Senior Tax Work-off Program, or act in relation thereto.

(submitted by the Town Manager)

BOARD OF SELECTMEN: 5-0 Recommend

FINANCE COMMITTEE: 6-0 Recommend

***VOTE: APPROVED (majority) to raise and appropriate \$7,500 for the Senior Work Off Program.***

### NON-PROFIT ASSISTANCE ARTICLES

#### ARTICLE 6

To see if the Town will vote to raise and appropriate or transfer from other available funds the sum of \$18,000.00 as a grant to the non-profit, Community Action Committee, Inc., 273 Central Street, Winchendon, in consideration of the numerous services provided to the Town, or act in relation thereto.

(Submitted by the Board of Selectmen)

BOARD OF SELECTMEN: 5-0 Recommend

FINANCE COMMITTEE: 6-0 Recommend

**VOTE: APPROVED (majority) to authorize the Board of Selectmen to negotiate and enter into Tax Agreements for payments-in-lieu-of-taxes (PILOT) pursuant to MGL Chapter 59, Section 38H(b) and any other enabling authority with the owners of two solar renewable energy facilities to be installed on private property.**

**ZONING BYLAW ARTICLES**

(two-thirds vote required)

**ARTICLE 20**

To see if the Town will vote to amend Article 5, Schedule of Uses, of the Winchendon Zoning By-law to make the following changes, with new text indicated by italics and deletions indicated by strikethrough:

Item 1. Amend Article 5.1, Basic Requirements, by adding the following Section 5.1.2:

**5.1.2 ADDITIONAL REQUIREMENTS**

*Proposed uses may be subject to the Site Plan Review provision of this By-law.*

Item 2. Amend Schedule 5.2.1, Residential Uses, as follows:

<b>Residential Uses</b>	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1 Hwy Comm</b>	<b>C2 Nbhd Bus.</b>	<b>I</b>	<b>PD</b>
A. Single family detached dwelling	Y	Y	Y	N	Y	N	SP Y
B. Two-family detached dwelling	SP	SP	Y	N	Y	N	SP Y
H. Accessory dwelling unit (Note 11) (SEE 6.3 ACCESSORY USES)	SP	SP	SP	N	SP	N	SP Y

Item 3. Amend Schedule 5.2.2, Commercial Uses, as follows:

<b>Commercial Uses</b>	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
A. Retail store or larger scale retail services <i>larger than 15,001 sq. ft., including sales room or market for sale of merchandise to the public</i>	N	N	N	Y	Y	SP	SP Y

Item 4. Amend Schedule 5.2.2, Commercial Uses, as follows:

<b>Commercial Uses</b>	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
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B. Small scale retail store services  
*that do not exceed 15,000 sq. ft.,*  
 such as barbershop, dry cleaning,  
 tailoring, show repair, caterer, print  
 shop, photography, crafts

SP SP SP Y Y SP SP Y

Item 5. Amend Schedule 5.2.2, Commercial Uses, as follows:

<b>Commercial Uses</b>	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
C. Convenience store <i>without gas station</i>	SP	SP	SP	Y	Y	N	SP Y

Item 6. Amend Schedule 5.2.2, Commercial Uses, as follows:

<b>Commercial Uses</b>	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
P. Self-service storage facility	N	N	N	SP	<del>N</del> SP	SP	N

Or act in relation thereto.

BOARD OF SELECTMEN: 5-0 Recommend FINANCE COMMITTEE: 6-0 Recommend

***VOTE: APPROVED (2/3rds) to amend Article 5, Schedule of Uses, of the Town's Zoning Bylaws as detailed in the warrant with one modification as voted on by the Planning Board at their Public Hearing on April 18<sup>th</sup>. 2017.***  
***In item 4. Amended Schedules 5.2.2, Commercial Uses. Striking out the listed uses "such as barbershop, dry cleaning, tailoring, show repair, caterer, print shop, photography, crafts" that come after the words "15,000 sq. ft."***

**ARTICLE 21**

To see if the Town will vote to amend Article 12, Site Plan Review, of the Winchendon Zoning By-law to make the following changes to Section 12.2.1(E), with new text indicated by italics:

E. Any use requiring a special permit in accordance with section 5.2, Schedule of Use Regulations if required by the Board of Appeals *and which does not qualify for an exemption under Article 12.3 of this Zoning By-law,*  
 Or act in relation thereto.

BOARD OF SELECTMEN: 5-0 Recommend FINANCE COMMITTEE: 6-0 Recommend

***VOTE: APPROVED (2/3rds) to amend Article 12, Site Plan Review, of the Town's Zoning Bylaw as detailed in the warrant.***