

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](http://www.mass.gov/ago)

August 17, 2018

Tracy K. Kenney, Town Clerk  
Town of Canton  
801 Washington Street  
Canton, MA 02021

**Re: Canton Annual Town Meeting of May 14, 2018 -- Case # 9053**  
**Warrant Articles # 21, 39, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, and 58**  
**(Zoning)**  
**Warrant Articles # 11, and 40 (General)**

Dear Ms. Kenney:

Articles 11 and 43 - We approve Articles 11 and 43 from the May 14, 2018, Canton Annual Town Meeting.<sup>1</sup> Our comments on Article 11 are provided.

Article 11 - Article 11 adds a new revolving fund, "Traffic Management Fund," to the Town's Departmental Revolving Funds bylaw. The revenue source for this revolving fund includes grants and donations. It is unclear whether the "donations" referred to are actually "fees" for programs and services, or if 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

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<sup>1</sup> In a decision issued on July 13, 2018, we approved Articles 21, 39, 40, 42, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, and 58

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 Town’s Traffic Management Fund revolving fund comply with the requirements of G.L. c. 44, § 53A and § 53E ½.

**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 Paul DeRensis



Town of Canton, Massachusetts  
11211

ANNUAL TOWN MEETING

MAY 14, 2018

FIRST SESSION

ARTICLE 11

**AUTHORIZE CERTAIN REVOLVING FUNDS**

**Article 11** To see what revolving funds pursuant to c. 44, section 53E ½ of the General Laws of the Commonwealth the town will establish by by-law and to determine the limit on total amount that may be expended from said revolving accounts, for various boards, commissions or departments of the town, for the fiscal year beginning July 1, 2018 and ending June 30, 2019, or to take any other action related thereto.

**Board of Selectmen**

**Article 11 - MOTION 1**

**MOVED:** That the General By Laws Article VIII Section 16 be amended by adding a new revolving fund for traffic management as follows:

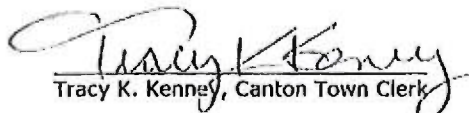
Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Fiscal Years
#145 - Traffic Management Fund	Board of Selectmen	Fees related to development (e.g. in lieu of construction) or development mitigation payments, grants, contributions, donations, reimbursements, other allocations from reserve fund, mitigation fund.	Providing additional funding for transportation studies, design, or construction projects not currently funded under Chapter 90, capital plans, or department budgets; includes all modes of transportation.	Fiscal Year 2019 and subsequent years

FINANCE COMMITTEE VOTE: 6-0-0

Robert Barker, Chairperson of the Finance Committee, moved Article 11, Motion 1 as printed in the warrant.

**ADOPTED VOICE VOTE, MODERATOR DECLARED MOTION ADOPTED**

Attest:

  
Tracy K. Kenney, Canton Town Clerk



**Town of Canton, Massachusetts**  
**02021**

**ANNUAL TOWN MEETING**

**MAY 16, 2018**

**SECOND SESSION**

**ARTICLE 43**

**AMEND ZONING BY-LAWS SECTION 11.0 DEFINITIONS OF HOTEL OVERLAY DISTRICT, EXTENDED STAY LODGING, MOTEL OR HOTEL**

**Article 43** To see if the Town will vote to amend Zoning By-Laws Section 11.0 as follows:  
By deleting the definitions of "Hotel Overlay District, Extended Stay Lodging, and Motel or hotel" and replacing them with the following:

**Hotel or motel:** The following definitions shall apply for hotels and motels.

**Standard hotel or motel:** A building or buildings intended and designed for transient or overnight lodging (excluding extended stay, see below), divided into separate units within the same building without kitchenette facilities and with or without a public dining facility. No occupant of such hotel or motel may claim residency at such location.

**Extended stay lodging:** Hotel, motel, or guest quarters that offer rooms by the day, week, or longer to transient guests, which rooms contain kitchenette or cooking facilities, and may or may not contain a restaurant within the facility. Such cooking facilities may include a refrigerator, two (2) burner stoves, without oven, a microwave oven, dishwasher and sink and other permissible accessory uses authorized by special permit from the Special Permit Granting Authority as set forth herein. Such units shall not offer extended stay lodging for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four (4) month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**Planning Board**

**PLANNING BOARD MOTION:**

**MOVED:** That Section 11.0 of the Zoning By-laws be amended by deleting the definitions of "Hotel Overlay District, Extended Stay Lodging, and Motel or hotel" and replacing them with the following:

**Hotel or motel:** The following definitions shall apply for hotels and motels.

**Standard hotel or motel:** A building or buildings intended and designed for transient or overnight lodging (excluding extended stay, see below), divided into separate units within the same building without kitchenette facilities and with or without a public dining facility. No occupant of such hotel or motel may claim residency at such location.

**Extended stay lodging:** Hotel, motel, or guest quarters that offer rooms by the day, week, or longer to transient guests, which rooms contain kitchenette or cooking facilities, and may or may not contain a restaurant within the facility. Such cooking facilities may include a refrigerator, two (2) burner stoves, without oven, a microwave oven, dishwasher and sink and other permissible accessory uses authorized by special permit from the Special Permit Granting Authority as set forth herein. Such units shall not offer extended stay lodging for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a



**Town of Canton, Massachusetts**  
**02021**

continuous four (4) month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**PLANNING BOARD VOTE: 5-0**

**FINANCE COMMITTEE RECOMMENDATION:**

**MOVED:** The Finance Committee recommends that the motion presented by the Planning Board to Town Meeting for Article 43 as written in the warrant be adopted.

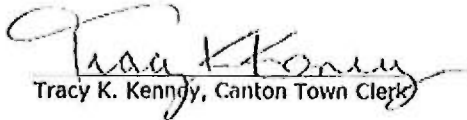
**FINANCE COMMITTEE VOTE: 6-0-0**

Robert Barker, Chairperson of the Finance Committee, deferred to the Planning Board.

Thomas Scully, Chairperson of the Planning Board, moved Article 43 as printed in the warrant.

**ADOPTED UNANIMOUS VOICE VOTE**

Attest:

  
Tracy K. Kenney, Canton Town Clerk