



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 9, 2016

Carlene C. Hamlin, Town Clerk  
Town of South Hadley  
116 Main Street  
South Hadley, MA 01075

**RE: South Hadley Annual Town Meeting of May 11, 2016 - Case # 7962  
Warrant Articles # 9, 11 and 12 (General)**

Dear Ms. Hamlin:

**Articles 9 and 11** - We approve Articles 9 and 11 from the May 11, 2016 South Hadley Annual Town Meeting. Our comments regarding Article 9 are provided below.

**Article 12** - Pursuant to Chapter 299 of the Acts of 2000, and by agreement with Town Counsel, the deadline for the Attorney General's decision on Article 12 has been extended until October 20, 2016. A copy of the extension agreement with Town Counsel is filed with this decision.

**Article 9** - Article 9 makes a number of amendments to the Town's General By-laws, Section 1011, "Pets/Domesticated Animals," including changing the title of the Section, deleting all references to "dog(s)" and inserting "pets/domesticated animals" and adding a new definition for "pet/domesticated animal."<sup>1</sup> In addition, the amendments under Article 9 add a new Section 1011.4 as follows (emphasis added):

Failure to comply with the provisions of Section 1011 or any part thereof may result in a first offense fine of \$50 and a second or additional violation of this section within a two year period of up to a \$300 fine. The enforcement of this penalty is given to the Health Department, Police Department and or the Animal Control Officer. A hearing for appeal of this section can be made to the South Hadley Board of Health. Uncollected fines may be levied against future licenses or permits if unpaid.

---

<sup>1</sup> The by-law provides that a pet/domesticated animal "includes dogs, pigs, monkeys, but not limited to, or any animal which is kept for companionship, entertainment, but not limited to, or deemed by the Health Department through consultation with the Animal Control Officer and/or the Building Commissioner when appropriate to be defined as a pet/domestic animal." It is unclear whether monkeys may be kept as pets. The Town should consult with Town Counsel and the Department of Fisheries and Wildlife regarding the types of animals that may be kept as pets and what permits, if any, are required.

The by-law does not establish what “future licenses or permits” may be levied against or the process by which the Town intends to levy uncollected fines against future licenses or permits. Although G.L. c. 40, § 57, a local option statute, allows a Town to deny certain licenses or a permits if a local tax, fee, assessment, betterment or municipal charge has not been paid, G.L. c. 40, § 57 is not applicable to “dog licenses, [under] section one hundred and thirty-seven of chapter one hundred and forty.” Moreover, in order to utilize G.L. c. 40, § 57, the Town must first accept the provisions of G.L. c. 40, § 57 through a vote of Town Meeting, and adopt a by-law pursuant to its provisions. The Town should consult with Town Counsel to ensure that the Town has accepted G.L. c. 40, § 57, or is otherwise authorized to levy uncollected fines “against future licenses or permits.”

**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

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418  
[nicole.caprioli@state.ma.us](mailto:nicole.caprioli@state.ma.us)

cc: Town Counsel Edward Ryan