DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

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Bulletin

2017-01B

DEPARTMENTAL REVOLVING FUNDS

TO: Local Officials

FROM: Sean R. Cronin, Senior Deputy Commissioner of Local Services

DATE: January 2017

SUBJECT: Authorization of Departmental Revolving Funds and Model By-law/Ordinance

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This *Bulletin* provides guidance to local officials regarding the authorization of departmental revolving funds for use in Fiscal Year 2018 and future years.

As you know, the departmental revolving fund statute, G.L. c. 44, § 53E½, was amended by the Municipal Modernization Act. St. 2016, c. 218, § 86. These amendments eliminated the caps on the amount that could be spent from the revolving funds authorized for a particular department and in total from all authorized revolving funds. In addition, the revolving funds are to be authorized by by-law or ordinance rather than an annual legislative body vote. The legislative body must still vote on or before July 1 on the amount that may be spent from each fund during the upcoming fiscal year.

These amendments took effect on November 7, 2016 and would apply to departmental revolving fund authorizations beginning in FY2018. We recognize, however, that a transition period is needed to enable cities and towns to draft and adopt the necessary by-laws or ordinances, and for towns, to obtain the Attorney General's review and approval of the by-laws. Therefore, the Division is recommending legislation to defer the requirement that the revolving funds be authorized by by-law or ordinance until FY2019, but would implement the elimination of the spending caps in FY2018 funds. We will keep you informed about developments in that regard.

FY2018 AUTHORIZATIONS

In the meantime, however, we advise local officials to prepare to be able to authorize departmental revolving funds for FY2018 under the prior and current statutory procedure. In towns, selectboards preparing annual town meeting warrants should include articles that would allow the meeting to authorize or reauthorize the funds by (1) vote upon recommendation of the selectboard, and (2) adoption of a by-law to establish the funds and vote to set FY2018 spending caps for them. Similarly, in cities, officials should plan to be able to have the city council authorize the funds by (1) vote upon recommendation of the mayor or (2) adoption of an ordinance and vote to set spending caps, on or before July 1, 2017.

MODEL BY-LAW/ORDINANCE

Attached to this Bulletin is a model or template for a by-law or ordinance authorizing departmental revolving funds under G.L. c. 44, § 53E½. We have also included examples of the use of the model in authorizing funds.

Local officials should not use the model without first consulting with municipal counsel to ensure consistency with the style, organization and format of the general by-laws or ordinances of the municipality, as well as consistency and compliance with applicable charter provisions and statutory requirements. The model must be tailored and edited accordingly.

MODEL
DEPARTMENTAL REVOLVING FUND BY-LAW/ORDINANCE
G.L. c. 44, § 53E½

Model should not be used without the advice of municipal counsel
Footnotes are not part of Model and are informational only

ARTICLE/ORDER. To see if the town/city will vote to amend the general by-laws/ordinances of the town/city by adding a new section to establish and authorize revolving funds for use by certain town/city departments, boards, committees, agencies or officers under Massachusetts General Laws Chapter 44, § 53E½, or take any other action relative thereto. **(Majority vote to adopt or amend general by-law/ordinance)**

VOTED: To amend the general by-laws/ordinances of the town/city by adding the following new section:

[ALL]

DEPARTMENTAL REVOLVING FUNDS

1. Purpose. This by-law/ordinance establishes and authorizes revolving funds for use by town/city departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

2. Expenditure Limitations.[1] A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law/ordinance without appropriation subject to the following limitations:
   A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund [, except for those employed as school bus drivers[2]].
   B. No liability shall be incurred in excess of the available balance of the fund.
   C. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting/town/city council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the selectboard and finance committee/mayor and city council.

3. Interest.[3] Interest earned on monies credited to a revolving fund established by this by-law/ordinance shall be credited to the general fund.

[1] Expenditure limitations set by G.L. c. 44, § 53E½.
[2] Add exception set by G.L. c. 44, § 53E½ if authorizing a fund for non-mandated school bus service.
[3] Interest treatment set by G.L. c. 44, § 53E½.

4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law/ordinance, the laws, charter provisions, by-laws/ordinances, rules, regulations, policies or procedures that govern the receipt and custody of town/city monies and the expenditure and payment of town/city funds shall apply to the use of a revolving fund established and authorized by this by-law/ordinance. The town accountant/city auditor shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant/city auditor provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds.

[FORMAT 1 – Separate subsections establishing each fund]

5.1 _____ Revolving Fund.

5.1.1 Fund Name. There shall be a separate fund called the _____ Revolving Fund authorized for use by the _____ Department/Board/Committee/Agency/Officer.

5.1.2 Revenues.[4] The town accountant/city auditor shall establish the _____ Revolving Fund as a separate account and credit to the fund all of the **(Insert list of specific fees, charges or other receipts to be credited to the fund)** charged and received by the Department/Board/Committee/Agency/Officer in connection with _____ **(Insert departmental program or activity generating the monies).**

5.1.3 Purposes and Expenditures.[5] During each fiscal year, the _____ Department Head/Board/Committee/Agency/Officer may incur liabilities against and spend monies from the _____ Revolving Fund for **(Insert list of types of program or activity expenses that may be charged to the fund)** in connection with _____ (I**nsert departmental program or activity generating the monies**).

(Insert any program or activity expenses that may not be charged to the fund, i.e., will be funded through a regular budget appropriation, require prior approval or are subject to some other limitation or condition).

5.1.4 Other Requirements/Reports. **(Insert any specific reporting or other requirements the town/city wants to apply to this fund).**

5.1.5 Fiscal Years. The _____ Revolving Fund shall operate for fiscal years that begin on or after July 1, _____. **(Insert any sunset or termination provision that the town/city wants to apply to this fund).**

[4] G.L. c. 44, § 53E½ requires by-law/ordinance to specify fund revenues.
[5] G.L. c. 44, § 53E½ requires by-law/ordinance to specify who is authorized to spend from fund and the expenses of the program or activity for which fund monies may be spent.

[FORMAT 2 – Table establishing each fund]

The Table establishes:

A. Each revolving fund authorized for use by a town/city department, board, committee, agency or officer,
B. The department or agency head, board, committee or officer authorized to spend from each fund,[6]
C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the town accountant/city auditor,[7]
D. The expenses of the program or activity for which each fund may be used,[8]
E. Any restrictions or conditions on expenditures from each fund;
F. Any reporting or other requirements that apply to each fund, and
G. The fiscal years each fund shall operate under this by-law/ordinance.

A **Revolving Fund**	B **Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	C **Fees, Charges or Other Receipts Credited to Fund**	D **Program or Activity Expenses Payable from Fund**	E **Restrictions or Conditions on Expenses Payable from Fund**	F **Other Requirements/ Reports**	G **Fiscal Years**

[6] G.L. c. 44, § 53E½ requires by-law/ordinance to specify who is authorized to spend from fund.
[7] G.L. c. 44, § 53E½ requires by-law/ordinance to specify fund revenues.
[8] G.L. c. 44, § 53E½ requires by-law/ordinance to specify the expenses of the program or activity for which fund monies may be spent.

EXAMPLE 1
[Ordinance using Separate Subsection Format]

DEPARTMENTAL REVOLVING FUNDS

1. Purpose. This ordinance establishes and authorizes revolving funds for use by city, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

2. Expenditure Limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this ordinance without appropriation subject to the following limitations:
   A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
   B. No liability shall be incurred in excess of the available balance of the fund.
   C. The total amount spent during a fiscal year shall not exceed the amount authorized by the City Council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the City Council and Mayor.

3. Interest. Interest earned on monies credited to a revolving fund established by this ordinance shall be credited to the general fund.

4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this ordinance, the laws, charter provisions, ordinances, rules, regulations, policies or procedures that govern the receipt and custody of city monies and the expenditure and payment of city funds shall apply to the use of a revolving fund established and authorized by this ordinance. The City Auditor shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the City Auditor provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds.

5.1 Anycity Historic House Revolving Fund.

5.1.1 Fund Name. There shall be a separate fund called the Anycity Historic House Revolving Fund for the use of the Public Facilities Department.

5.1.2 Revenues. The City Auditor shall establish the Anycity Historic House Revolving Fund as a separate account and credit to the fund all fees charged persons, organizations, or entities and received by the Public Facilities Department to rent or use the Anycity Historic House for conferences, programs, functions or other events.

5.1.3 Purposes and Expenditures. During each fiscal year, the Director of the Anycity Historic House within the Public Facilities Department may incur liabilities against and spend monies from the Anycity Historic House Revolving Fund for contractual services to operate and maintain the facility for use for conferences, programs, functions or other events.

Salaries or wages of employees shall be paid from the annual budget appropriation of the Public Facilities Department and shall not be paid from the fund.

5.1.4 Reports. Within 10 days of the end of each quarter of the fiscal year, the Director of the Anycity Historic must provide the Director of the Public Facilities Department with a report of the revenues and expenditures of the Health Services Revolving Fund during the month and fiscal year to date.

5.1.5 Fiscal Years. The Anycity Historic House Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

5.2 Senior Citizen Bus Revolving Fund.

5.2.1 Fund Name. There shall be a separate fund called the Senior Citizen Bus Revolving Fund for the use of the Council on Aging.

5.2.2 Revenues. The City Auditor shall establish the Senior Citizen Bus Revolving Fund as a separate account and credit to the fund all fares, fees and other monies charged or received by the Council of Aging from operating a bus service for senior citizen housing developments.

5.2.3 Purposes and Expenditures. During each fiscal year, the Council on Aging may incur liabilities against and spend monies from the Senior Citizen Bus Revolving Fund for salaries or wages, expenses, lease payments and contractual services to operate a bus service to senior citizen housing developments.

Salaries and wages of not more than one full-time employee and the purchase of any equipment or capital item of $1,000 or more shall not be paid from the fund.

5.2.4 Fiscal Years. The Senior Citizen Bus Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

5.3 Health Services Revolving Fund.

5.3.1 Fund Name. There shall be a separate fund called the Health Services Revolving Fund for the use of the Board of Health.

5.3.2 Revenues. The City Auditor shall establish the Health Services Revolving Fund as a separate account and credit to the fund all fees charged by the Board of Health to provide vaccinations, flu shots or other health services and received by the Board from individuals receiving the services or their health insurance providers.

5.3.3 Purposes and Expenditures. During each fiscal year, the Health Director may incur liabilities against and spend monies from the Health Services Revolving Fund for supplies and equipment used to provide the vaccinations, flu shots or other health services and for educational programs and materials regarding those services.

5.3.4 Fiscal Years. The Health Services Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

EXAMPLE 2
[By-law using Table Format]

DEPARTMENTAL REVOLVING FUNDS

1. Purpose. This by-law establishes and authorizes revolving funds for use by town, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

2. Expenditure Limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:
   A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
   B. No liability shall be incurred in excess of the available balance of the fund.
   C. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Selectboard and Finance Committee.

3. Interest. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Town Accountant shall include a statement on the collections credited to the fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds. The Table establishes:
   A. Each revolving fund authorized for use by a town department, board, committee, agency or officer,
   B. The department or agency head, board, committee or officer authorized to spend from each fund,
   C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant,
   D. The expenses of the program or activity for which each fund may be used,
   E. Any restrictions or conditions on expenditures from each fund;
   F. Any reporting or other requirements that apply to each fund, and
   G. The fiscal years each fund shall operate under this by-law.

A Revolving Fund	B Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	C Fees, Charges or Other Receipts Credited to Fund	D Program or Activity Expenses Payable from Fund	E Restrictions or Conditions on Expenses Payable from Fund	F Other Requirements/ Reports	G Fiscal Years
Inspectional Services	Building Inspector	Fees charged and received by the Building Inspector for gas, electric and plumbing inspections	Salaries or wages of inspectors performing gas, electric and plumbing inspections and contractual services related to those inspections	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the Building Inspector and not from the Fund		Fiscal Year 2019 and subsequent years
Hazardous Materials	Fire Chief	Charges assessed to respond to incidents involving the spill or release of hazardous materials	Training, supplies and special equipment needed for fire department personnel to respond to hazardous materials incidents			Fiscal Year 2019 and subsequent years
Teen Center	Director of Teen Center within the Public Facilities Department	Teen center snack bar receipts, dance admission charges, center activity fees, charges and receipts	Expenses, supplies and contractual services to operate the Teen Center	Salary or wages of no more than one part-time employee shall be paid from the Fund Salary or wages of full-time director shall be paid from the annual budget appropriation of the Public Facilities Department and not from the Fund	Within 10 days of the end of month, the Director must provide a report on Fund revenues and expenditures during the month and fiscal year to date to the Director of the Public Facilities Department	Fiscal Year 2019 and subsequent years