



**Model By-law/Ordinance from Bulletin 2017-01B (January 2017)**

**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.**<sup>1</sup> 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<sup>2</sup>].
  - 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.**<sup>3</sup> Interest earned on monies credited to a revolving fund established by this by-law/ordinance shall be credited to the general fund.

<sup>1</sup> Expenditure limitations set by G.L. c. 44, § 53E½.

<sup>2</sup> Add exception set by G.L. c. 44, § 53E½ if authorizing a fund for non-mandated school bus service.

<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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 \_\_\_\_\_ **(Insert 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).**

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<sup>4</sup> G.L. c. 44, § 53E½ requires by-law/ordinance to specify fund revenues.

<sup>5</sup> 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,<sup>6</sup>
- 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,<sup>7</sup>
- D. The expenses of the program or activity for which each fund may be used,<sup>8</sup>
- 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.

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

<sup>6</sup> G.L. c. 44, § 53E½ requires by-law/ordinance to specify who is authorized to spend from fund.

<sup>7</sup> G.L. c. 44, § 53E½ requires by-law/ordinance to specify fund revenues.

<sup>8</sup> 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 House must provide the Director of the Public Facilities Department with a report of the revenues and expenditures of the Anycity Historic House 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:
  - H. Each revolving fund authorized for use by a town department, board, committee, agency or officer,
  - I. The department or agency head, board, committee or officer authorized to spend from each fund,
  - J. 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,
  - K. The expenses of the program or activity for which each fund may be used,
  - L. Any restrictions or conditions on expenditures from each fund;
  - M. Any reporting or other requirements that apply to each fund, and
  - N. The fiscal years each fund shall operate under this by-law.

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



**SAMPLE**

(Samples should not be used without the advice of municipal counsel)

**DEPARTMENTAL REVOLVING FUNDS ARTICLE AND VOTE  
ANNUAL SPENDING LIMIT**

**Legislative Body Vote**

**ARTICLE/ORDER:** To see if the city/town will vote to fix the maximum amount that may be spent during fiscal year \_\_\_\_ beginning on July 1, \_\_\_\_ for the revolving funds established in city ordinances/town by-laws for certain departments, boards, committees, agencies or officers in accordance with Massachusetts General Laws Chapter 44, Section 53E½, or take any other action relative thereto.

**MOTION:** Moved/ordered that the city/town fix the maximum amount that may be spent during fiscal year \_\_\_\_ beginning on July 1, \_\_\_\_ for the revolving funds established in city ordinances/town by-laws for certain departments, boards, committees, agencies or officers in accordance with Massachusetts General Laws Chapter 44, Section 53E½, as follows:

<b>Revolving Fund</b>	<b>Department, Board, Committee, Agency or Officer</b>	<b>FY2019 Spending Limit</b>
Hazardous Materials	Fire Chief	\$15,000
Inspectional Services	Building Inspector	\$50,000
Teen Center	Director of Teen Center within the Public Facilities Department	\$10,000