



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

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 drivers²].
 - 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 _____ **(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).**

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.

<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

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.

<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
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

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 44** MUNICIPAL FINANCE**Section** REVOLVING FUNDS
53E1/2

[Text of section effective until November 7, 2016. For text effective November 7, 2016, see below.]

Section 53E 1/2. Notwithstanding the provisions of section fifty-three, a city or town may annually authorize the use of one or more revolving funds by one or more municipal agency, board, department or office which shall be accounted for separately from all other monies in such city or town and to which shall be credited only the departmental receipts received in connection with the programs supported by such revolving fund. Expenditures may be made from such revolving fund without further appropriation, subject to the provisions of this section; provided, however, that expenditures shall not be made or liabilities incurred from any such revolving fund in excess of the balance of the fund nor in excess of the total authorized expenditures from such fund,

nor shall any expenditures be made unless approved in accordance with sections forty-one, forty-two, fifty-two and fifty-six of chapter forty-one.

Interest earned on any revolving fund balance shall be treated as general fund revenue of the city or town. No revolving fund may be established pursuant to this section for receipts of a municipal water or sewer department or of a municipal hospital. No such revolving fund may be established if the aggregate limit of all revolving funds authorized under this section exceeds ten percent of the amount raised by taxation by the city or town in the most recent fiscal year for which a tax rate has been certified under section twenty-three of chapter fifty-nine. No revolving fund expenditures shall be made for the purpose of paying any wages or salaries for full time employees unless such revolving fund is also charged for the costs of fringe benefits associated with the wages or salaries so paid; provided, however, that such prohibition shall not apply to wages or salaries paid to full or part-time employees who are employed as drivers providing transportation for public school students; provided further, that only that portion of a revolving fund which is attributable to transportation fees may be used to pay such wages or salaries and provided, further, that any such wages or salaries so paid shall be reported in the budget submitted for the next fiscal year.

A revolving fund established under the provisions of this section shall be by vote of the annual town meeting in a town, upon recommendation of the board of selectmen, and by vote of the city

council in a city, upon recommendation of the mayor or city manager, in Plan E cities, and in any other city or town by vote of the legislative body upon the recommendation of the chief administrative or executive officer. Such authorization shall be made annually prior to each respective fiscal year; provided, however, that each authorization for a revolving fund shall specify: (1) the programs and purposes for which the revolving fund may be expended; (2) the departmental receipts which shall be credited to the revolving fund; (3) the board, department or officer authorized to expend from such fund; (4) a limit on the total amount which may be expended from such fund in the ensuing fiscal year; and, provided, further, that no board, department or officer shall be authorized to expend in any one fiscal year from all revolving funds under its direct control more than one percent of the amount raised by taxation by the city or town in the most recent fiscal year for which a tax rate has been certified under section twenty-three of chapter fifty-nine.

Notwithstanding the provisions of this section, whenever, during the course of any fiscal year, any new revenue source becomes available for the establishment of a revolving fund under this section, such a fund may be established in accordance with this section upon certification by the city auditor, town accountant, or other officer having similar duties, that the revenue source was not used in computing the most recent tax levy.

In any fiscal year the limit on the amount that may be spent from a revolving fund may be increased with the approval of the city council and mayor in a city, or with the approval of the selectmen and finance committee, if any, in a town; provided, however, that the one percent limit established by clause (4) of the third paragraph is not exceeded.

The board, department or officer having charge of such revolving fund shall report to the annual town meeting or to the city council and the board of selectmen, the mayor of a city or city manager in a Plan E city or in any other city or town to the legislative body and the chief administrative or executive officer, the total amount of receipts and expenditures for each revolving fund under its control for the prior fiscal year and for the current fiscal year through December thirty-first, or such later date as the town meeting or city council may, by vote determine, and the amount of any increases in spending authority granted during the prior and current fiscal years, together with such other information as the town meeting or city council may by vote require.


At the close of a fiscal year in which a revolving fund is not reauthorized for the following year, or in which a city or town changes the purposes for which money in a revolving fund may be spent in the following year, the balance in the fund at the end of the fiscal year shall revert to surplus revenue unless the annual town meeting or the city council and mayor or city manager in a

Plan E city and in any other city or town the legislative body vote to transfer such balance to another revolving fund established under this section.

The director of accounts may issue guidelines further regulating revolving funds established under this section.

Chapter 44: Section 53E 1/2. Revolving funds

[Text of section as amended by 2016, 218, Sec. 86 effective November 7, 2016. For text effective until November 7, 2016, see above.]



Section 53E 1/2. Notwithstanding section 53, a city or town may authorize by by-law or ordinance the use of 1 or more revolving funds by 1 or more municipal agencies, boards, departments or offices, which shall be accounted for separately from all other monies in the city or town and to which shall be credited any fees, charges or other receipts from the departmental programs or activities supported by the revolving fund. Expenditures may be made from such revolving fund without further appropriation, subject to the provisions of this section; provided, however, that expenditures shall not be made or liabilities incurred from any such revolving fund in excess of the balance of the fund or in excess of the total authorized expenditures from such fund, and no expenditures shall be made unless approved in accordance with sections 41, 42, 52 and 56 of chapter 41.

Interest earned on any revolving fund balance shall be treated as general fund revenue of the city or town. No revolving fund may be established under this section for receipts of a municipal water or sewer department, a municipal hospital, a cable television access service or facility or for receipts reserved by law or as authorized by law for expenditure for a particular purpose.

Revolving fund expenditures shall not be made to pay wages or salaries for full-time employees unless the revolving fund is also charged for the costs of fringe benefits associated with the wages or salaries so paid; provided, however, that such prohibition shall not apply to wages or salaries paid to full-time or part-time employees who are employed as drivers providing transportation for public school students; provided further, that only that portion of a revolving fund which is attributable to transportation fees may be used to pay the wages or salaries of those employees who are employed as drivers providing transportation for public school students; and provided further, that any such wages or salaries so paid shall be reported in the budget submitted for the next fiscal year.

A revolving fund shall be established pursuant to this section by by-law or ordinance. The by-law or ordinance shall specify for each fund: (1) the programs or activities for which the revolving fund may be expended; (2) the departmental receipts in connection with those programs or activities that shall be credited to the revolving fund; (3) the board, department or officer authorized to expend from such fund; and (4) any reporting or other

requirements the city or town may impose. The establishment of any fund shall be made not later than the beginning of the fiscal year in which the fund shall begin. Notwithstanding this section, whenever, during the course of any fiscal year, any new revenue source becomes available for the establishment of a revolving fund under this section, such a fund may be established in accordance with this section upon certification by the city auditor, town accountant, or other officer having similar duties that the revenue source was not used in computing the most recent tax levy.

The city or town shall, on or before July 1 of each year, vote on the limit on the total amount that may be expended from each revolving fund established under this section. In any fiscal year, the limit on the amount that may be spent from a revolving fund may be increased with the approval of the city council and mayor in a city or with the approval of the board of selectmen and finance committee in a town.

Upon termination of a revolving fund, the balance in the fund at the end of that fiscal year shall revert to surplus revenue at the close of the fiscal year.

The director of accounts may issue guidelines further regulating revolving funds established pursuant to this section.