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# Informational Guideline Release

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## **DEPARTMENTAL REVOLVING FUNDS**

**(G.L. c. 44, § 53E½)**

This Informational Guideline Release (IGR) informs local officials about the procedures and requirements of departmental revolving funds.

### Topical Index Key:

Special Funds

### Distribution:

Assessors  
Collectors  
Treasurers  
Clerks  
Accountants/Auditors  
Mayors/Selectboards  
Managers/Administrators/Exec. Secys.  
Finance Directors  
City/Town Councils  
City Solicitors/Town Counsels

## **DEPARTMENTAL REVOLVING FUNDS**

([G.L. c. 44, § 53E½](#))

### **SUMMARY:**

A departmental revolving fund is a special fund that permits a community to reserve certain fees, charges or other receipts to pay, without appropriation, for the cost of departmental programs or activities from which the fees, charges or other receipts were derived.

The departmental revolving fund is intended for use in connection with ongoing (or seasonal) departmental programs or activities offered to the public on a discretionary basis. In essence, the community would like to offer a program or activity as an amenity but will only do so if it is self-supporting or the cost can be significantly defrayed, i.e., can be paid for by the users. The fee that is charged to users is received specifically to fund the program or activity. These programs or activities have expenses that typically fluctuate with demand, but they can usually be easily segregated from other departmental expenses and paid for with supporting revenues received and on hand during the fiscal year. In other words, there is a match between specific program expenses and revenues attributable to a fiscal year and a direct connection or nexus between the fee and the program or activity. Further, a revolving fund is typically used because the program or activity is often difficult to budget for in the ordinary manner because the extent of the expenditures depends on the demand of the program or activity. Therefore, while the statute is intended to give communities flexibility and allow them to reserve what would otherwise be general revenues to particular purposes and spend them without appropriation, it is not necessarily a vehicle to dedicate every estimated receipt that comes into the community.

For general information about the varying types of revolving funds please see DLS publications “[Revolving Funds Chart - Non-School Department Program](#)” and “[Revolving Funds for School Departments](#).”

### **GUIDELINES:**

#### **I. AVAILABILITY OF A DEPARTMENT REVOLVING FUND**

##### **A. Municipal Departments**

A departmental revolving fund may be established under [G.L. c. 44, § 53E½](#) for the specific receipts, fees or charges of a particular program or activity of any municipal department. The revolving fund allows fees, charges or other receipts received in connection with a departmental program or activity to be applied directly, without further appropriation, to support that program or activity. Before the enactment of this law, only a limited number of revolving funds were available for particular programs or activities (e.g., school athletics and self-supporting park and recreation programs).

A key feature of the departmental revolving fund provision is that **each fund must be authorized by ordinance or by-law**. The ordinance or by-law establishing a departmental revolving fund must specifically identify the program or activity receipt to be credited to the revolving fund and clearly specify the purposes for which monies in the revolving fund may be spent.

There is no limit on the number of departmental revolving funds that may be authorized and a single department may have more than one revolving fund. There is no longer an aggregate limitation on amounts that may be expended from each fund.

A departmental revolving fund should prove especially suitable in budgeting and providing for special programs or activities where the necessary level of expenditures fluctuates directly in relation to demand (whether by participation, applications or enrollment) and the demand may prove difficult to predict. For this type of program or activity, a departmental revolving fund should offer the flexibility to operate on an “as-needed” basis by allowing the department head to apply all receipts directly to program expenses. However, certain limitations do exist with respect to the use of a departmental revolving fund as discussed below.

Further, a departmental revolving fund is not available to supplement a department's ordinary operating expenses by earmarking any receipt that comes into that department during the year. It is intended for user, participation or activity fees charged to users for the purpose of providing specific, largely self-supporting fee-based programs or activities. It is not for ordinary revenue generated in the regular course of departmental operations. In limited circumstances, regulatory fees charged to members of the public in return for a particular or special privilege, such as a license or permit, may be the subject of a departmental revolving fund if the fees can be matched with specific expenses.

**B. Statutory Exceptions**

No revolving fund may be established for:

1. receipts of a municipal water or sewer department;
2. receipts of a municipal hospital;
3. receipts of a cable television access service or facility;
4. receipts of districts; or
5. receipts reserved by law, or as authorized by law, for expenditure for a particular purpose.

**C. Fees, Charges or Other Receipts**

Generally, “user fees” are an allowable receipt to be dedicated to a departmental revolving fund. These fees are commonly generated by on-going (or seasonal) departmental programs or activities offered to the public with regular expenditures and corresponding revenues that can be matched within the fiscal year and are likely to be ones that are discretionary and self-supporting.

Fines or penalties, in limited circumstances, may be permissible receipts but the applicable by-law or ordinance provisions should be very tailored and demonstrate a direct connection or nexus to proposed expenditures. This is because fines and penalties

are generally not charged for the specific purpose of recovering expenses. By definition, they are imposed to penalize or deter certain conduct. In the case of libraries, for example, to the extent that fines for lost books are charged for the specific purpose of being able to replace them, i.e., more as restitution, they can be the subject of a departmental revolving fund and can be used for new or replacement books but not to supplement the general operating budget of the library. On the other hand, citation revenues that derive from regulatory activities are not in the nature of "user fees" and do not qualify as receipts of a departmental program or activity within the scope of the statute.

The same caution should be exercised when considering regulatory fees. A departmental revolving fund is typically for the benefit of the public at large, not an individual. Further, enforcement activities are usually part of ongoing operations and difficult to segregate expenses. Fees for regular governmental activities are also paid regardless of demand. As such, they are not typically charged directly to support departmental programs. However, exceptions have seemed in conformity with the statute when, for example, a health department revolving fund is used to fund payments to their health agent who is paid the same amount on a per inspection basis.

#### **D. Programs or Activities**

Generally, there is no departmental program or activity from revenues derived from:

1. the sale or lease of property or assets;
2. governmental transactions (access to public records, tax collection);
3. fundraisers (sale of goods, tickets, concessions, promotional items);
4. taxes (excise/betterments);
5. intergovernmental reimbursements;
6. regulatory exactions (mitigation or buy-out payments, infrastructure or impact fees or other exactions from property owners); or
7. with rare exception, fines or penalties.

A departmental revolving fund is meant to aggregate fees charged to all participants or customers of a program or activity so the municipality can pay on-going operating expenses of that program or activity. As such, the fund is generally not intended for individualized fees or deposits, where the amount paid is related to a particular applicant and can only be spent in connection with that individual's application or project as is permitted pursuant to [G.L. c. 44, § 53G](#) for consultant fees.

#### **E. Interaction with other Revolving Funds**

A departmental revolving fund may be implemented in addition to or in conjunction with other existing statutory revolving funds, provided that the funds function in a harmonious manner. A departmental revolving fund may not be used to supersede or limit provisions of other statutory revolving funds. For example, [G.L. c. 71, § 47](#) authorizes a school committee to expend without appropriation all participation fees received in connection with certain athletic programs. A municipality may not establish a departmental revolving fund under [G.L. c. 44, § 53E½](#) for those receipts and thereby restrict or impair the school

committee's pre-existing statutory authority. Care should be taken, therefore, when implementing a departmental revolving fund for receipts that may already be governed by special provisions of other municipal finance laws.

## **II. IMPLEMENTATION OF A DEPARTMENTAL REVOLVING FUND**

### **A. Establishment by By-law or Ordinance**

A departmental revolving fund must be authorized by by-law or ordinance. [G.L. c. 44, § 53E½](#).

### **B. Requisite Elements of a Revolving Fund By-Law or Ordinance**

The establishment of any departmental revolving fund must be made not later than the beginning of the fiscal year in which the fund shall begin. The by-law or ordinance establishing a departmental revolving fund must specify:

1. the fees, charges or other revenues generated by the program or activity to be credited to the revolving fund;
2. the board, department or officer authorized to spend from the revolving fund;
3. the departmental program or activity expenses for which monies from the revolving fund may be expended without appropriation; and
4. any reporting requirements the city or town may impose.

**It is the language of the by-law or ordinance that determines the scope of, and restrictions upon, each proposed departmental revolving fund. Care should be exercised to ensure that the language is sufficiently specific to implement the revolving fund without confusion.**

If, during the course of the fiscal year, a new revenue source becomes available for the establishment of a revolving fund, such a fund may be established by by-law or ordinance 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.

### **C. Model By-Law or Ordinance Establishing a Departmental Revolving Fund**

For various models concerning the establishment of a departmental revolving fund by-law or ordinance, please see DLS [Bulletin 2017-01B](#).

### **D. Annual Vote on Spending Authority**

A city or town must, on or before July 1 of each year, vote the limit on the total amount that may be expended from each revolving fund established under [G.L. c. 44, § 53E½](#). 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 selectboard and finance committee in a town. During the course of a fiscal year, only the dollar limit may be adjusted and not the general scope or spending purposes of the by-law or ordinance, which must be amended in accordance with city or town authority.

**Legislative Body Vote Sample**  
**(Samples should not be used without the advice of municipal counsel)**

**ARTICLE/ORDER:** To see if the city/town shall authorize a spending limit of \$\_\_\_\_\_ to be expended from the \_\_\_\_\_ revolving fund for the fiscal year \_\_\_\_\_ beginning on July 1, \_\_\_\_\_ or take any other action relative thereto.

**MOTION:** Moved/ordered that the city/town shall authorize a spending limit of \$\_\_\_\_\_ to be expended from the \_\_\_\_\_ revolving fund for the fiscal year \_\_\_\_\_ beginning on July 1, \_\_\_\_\_.

**Legislative Body Vote Sample**  
**(Samples should not be used without the advice of municipal counsel)**

**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:

Revolving Fund	Department, Board, Committee, Agency or Officer	FY2022 Spending Limit
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

**III. LIMITATIONS AND RESTRICTIONS UPON DEPARTMENTAL REVOLVING FUNDS**

**A. Per Department Spending Limitation**

The total spending that may be authorized in a fiscal year for a particular department's revolving funds established under [G.L. c. 44, § 53E½](#) is no longer limited to one percent

(1%) of the amount of the most recent established tax levy of the municipality. Instead a municipality must, as noted above, by July 1, vote on the limit of the total amount that may be expended from each revolving fund.

**B. Cumulative Spending Limitation**

The legislature repealed the limit on total fiscal year spending that may be authorized by a municipality for all its departmental revolving funds established under [G.L. c. 44, § 53E½](#). The overall ceiling is no longer at 10% of the most recently established tax levy of the municipality.

**C. Payment of Full-Time Salaries Limitation**

Expenditures may not be made from a departmental revolving fund established under [G.L. c. 44, § 53E½](#) to pay the wages or salaries of full-time municipal employees, unless the revolving fund is also charged for the costs of fringe benefits associated with the wages or salaries paid. There is an exception to this prohibition, with other stipulations, for wages or salaries paid to full-time or part-time employees who are employed as drivers providing transportation for public school students.

As the employment of full-time employees usually entails other expenses in addition to direct payments (e.g., health insurance, retirement contributions), which costs may be borne within the general town budget, the compensation of full-time employees should be provided for by regular budgetary appropriation. For purposes of a departmental revolving fund under [G.L. c. 44, § 53E½](#), a “full-time employee” should be considered to be a person who, by virtue of the weekly hours required of their position, qualifies for the regular package of employee benefits. Payments from a departmental revolving fund to temporary or part-time employees and independent contractors are generally permissible.

**IV. OPERATION OF DEPARTMENTAL REVOLVING FUND**

**A. Receipts**

For each particular program or activity for which a departmental revolving fund is authorized, an account will be established and the charges, fees and receipts described in the authorization vote will be credited directly to the account, rather than local estimated receipts. The municipal treasurer will have custody of all monies in the fund, and interest earned on the monies will accrue to the general fund.

**B. Expenditures**

After receipt, monies credited to a departmental revolving fund may be spent by the board, department or officer having control of the fund. The actual cash balances in the fund at a given time are a ceiling on expenditures and contractual obligations. Only cash on hand may be spent. In no event may expenditures be made or obligations incurred in excess of the actual cash balances available in the revolving fund. Expenditures may be made without further appropriation in support of the program or activity that generated the receipts, but only for those purposes authorized in the annual vote establishing the revolving fund. The regular warrant process must be adhered to in making payments from

departmental revolving funds. Accordingly, in cities, absent a charter provision to the contrary, all payments must be approved by the city auditor, and in towns, absent a charter provision to the contrary, all payments must be approved by the town accountant and selectboard.

**C. Year-End Balances**

A departmental revolving fund is subject to the terms of the by-law or ordinance that created it. Previously, the balance of a revolving fund, if reauthorized on an annual basis, was carried over to the revolving fund for use in the following year. Now, the balance of a revolving fund carries over from year to year, unless the by-law or ordinance that created the revolving fund is repealed. If a by-law or ordinance creating a revolving fund is repealed, the balance in the fund reverts to surplus revenue at the close of the fiscal year.

**V. REPORTING REQUIREMENTS**

**A. Annual Report**

A board, department or officer having control of a departmental revolving fund is required to submit an annual report on the operation of the fund. In a town, this report must be submitted to annual town meeting and the selectboard, and in a city to the city council and the mayor or city manager. For each revolving fund, the report must show (1) the total receipts and (2) the total expenditures of the fund for the full prior fiscal year and for the first six months of the current fiscal year. Additional reporting requirements may be established by vote of town meeting or the city council.

**B. Town Clerk - Reporting Appropriations**

A city or town clerk should include the amounts specified in the annual vote establishing the limit that may be expended from each revolving fund to appear on the tax rate recapitulation. A report of departmental revolving fund authorizations may be separately requested by the Division of Local Services Bureau of Accounts.