



THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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August 9, 2023

Joan M. Wordell, Town Clerk
Town of Hudson
78 Main Street
Hudson, MA 01749

Re: Hudson Annual Town Meeting of May 1, 2023 -- Case # 10975
Warrant Article # 35 (Zoning)
Warrant Articles # 1, 24, 25, 28 and 33 (General)

Dear Ms. Wordell:

Article 1 - The Attorney General's deadline for a decision on Article 1 is extended for an additional 45 days under the authority conferred by G.L. c. 40, § 32. The agreement with Town Counsel for a 45-day extension is attached. We will issue our decision on Article 1 on or before October 1, 2023.

Articles 24, 25, 28, 33 and 35 - We approve Articles 24, 25, 28, 33 and 35 from the May 1, 2023 Hudson Annual Town Meeting. Our comments regarding Article 33 are provided below.

Article 33 - Under Article 33 the Town voted to amend its general by-laws, Article VI, "Streets, Drains, Water and Sewer Extensions," to add a new Section 33A, "Excessive noise from compression brakes prohibited." The new Section 33A prohibits the use of engine braking systems in the Town "if such device or devices result in excessive, loud, or otherwise unusual noise," with the exception of those used by fire trucks and emergency vehicles and use in case of emergencies.¹ The by-law also imposes a fine of \$250 for its violation.

¹ General Laws Chapter 90 Section 7 requires engine or compression braking systems in certain heavy vehicles and provides in relevant part as follows:

Except in the case of a school bus or fire apparatus, every motor vehicle and every tractor which is designed and used for drawing another vehicle, having an unladen weight of more than ten thousand pounds, shall be equipped with full air brakes or hydraulic brakes with vacuum power assist or air power assist. All braking systems shall be constructed and designed to permit modulated control of brake application and release by the operator from the normal operating position. Every trailer or semi-trailer having an unladen weight of more than ten thousand pounds shall be equipped with air or electric brakes.

We approve the by-law because we cannot conclude, under the Attorney General's standard of review, that the new Section 33A is inconsistent with the laws of the Commonwealth. Under G.L. c. 40, § 32, the Attorney General has a limited power of disapproval with every "presumption made in favor of the validity of municipal by-laws." Amherst v. Attorney General, 398 Mass. 793, 796 (1986). To disapprove a by-law, the Attorney General must cite an inconsistency between the by-law adopted by the Town and the Constitution or laws of the Commonwealth. Id., 398 Mass. at 796. Because we cannot state that the new by-law is inconsistent with state law, we approve it.²

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,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Nicole B. Caprioli

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cc: Town Counsels Paul DeRensis and J. Richard Hucksam, Jr.

Because the by-law regulates only the use of engine braking systems that cause "excessive, loud or otherwise unusual noise" and does not regulate the installation or construction of engine braking systems, the by-law does not conflict with Section 7.

² The by-law is similar to by-laws adopted by the Towns of: Athol (Case # 10750); Berlin (Case # 10617); Sherborn (Case # 10127); Webster (Case # 9980); Longmeadow (Case # 9466); West Tisbury (Case # 8517); Lynnfield (Case # 5034); Ayer (Case # 3159); and Boxford (Case # 2966) that were approved with comments by this Office.