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ATTORNEY GENERAL

# THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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August 9, 2016

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

**RE: Hudson Annual Town Meeting of May 2, 2016 - Case # 7939  
Warrant Articles # 24 and 25 (Zoning)**

Dear Ms. Wordell:

**Articles 24 and 25** - We approve Articles 24 and 25, and the map pertaining to Article 24, from the Hudson May 2, 2016, Annual Town Meeting. We will return the approved map to you by regular mail. Our comments on Article 25 are provided below.

**Article 25** - Article 25 adds a new Section 9.0 "C-1 Zoning District" to the Town's zoning by-laws. The new Section 9.0 lists uses that are allowed, allowed by special permit, and prohibited in the Town's C-1 District. One change adopted under Article 25 adds a new Table 2, "Use Schedule for the C-1 Zoning District," ("Table") that lists "Aviation" as a prohibited use in the C-1 District.<sup>1</sup> It is strongly advised that the Town discuss with Town Counsel whether this portion of the Table must be reviewed and approved by the Aeronautics Division within the Massachusetts Department of Transportation (MassDOT). *See* G.L. c. 90, § 39B, ¶ 5; *see also Hanlon v. Town of Sheffield* (AC 15-P-799)(May 13, 2016)(town's zoning by-law that purports to regulate "the use and operation of aircraft on [an] airport or restricted landing area" cannot take effect until submitted to and approved by the Aeronautics Division).

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<sup>1</sup> In addition Section 9.2, which lists the uses that are allowed as of right and by special permit expressly provides that "[a]ll other uses are prohibited."

<sup>2</sup> The Town may contact MassDOT's Aeronautics Division for this purpose at: Tracy W. Klay, Deputy General Counsel/Aeronautics Counsel, MassDOT and MBTA, 10 Park Plaza, Room 7760, Boston, MA 02116, Phone: 857-368-8768, email: [Tracy.Klay@state.ma.us](mailto:Tracy.Klay@state.ma.us)

**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 that 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 voted by Town Meeting, unless a later effective date is prescribed in the by-law.**

Very truly yours,  
MAURA HEALEY  
ATTORNEY GENERAL

*Kelli E. Gunagan*

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cc: Town Counsel Aldo A. Cipriano