



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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December 23, 2015

Joyce A. Bradshaw, Town Clerk
Town of North Andover
120 Main Street
North Andover, MA 01845

**RE: North Andover Annual Town Meeting of May 14, 2007 - Case # 7786
Warrant Article # 41 (General)**

Dear Ms. Bradshaw:

Article 41 - We approve Article 41 from the May 14, 2007 North Andover Annual Town Meeting.

Article 41 authorizes the Board of Selectmen to petition the General Court for a Home Rule Petition exempting the positions of Police Chief and Fire Chief from M.G.L. c. 31, "Civil Service," and, following the approval of the Home Rule Petition, add to the Town's general by-laws a new Chapter 45, "Public Safety, Chiefs of Police and Fire Departments." The new Chapter 45 is comprised of three sections, as follows: Section 45-1 exempts the positions of Police Chief and Fire Chief from the provisions of G.L. c. 31; Section 45-2 provides that Section 45-1 shall not impair the civil service status of any person holding the position of Police Chief or Fire Chief on the effective date of the by-law; and Section 45-3 sets forth the appointment process to fill vacancies in the positions of Police Chief and Fire Chief.

Although the General Court approved the Special Act on November 13, 2007, the Town did not submit the new Chapter 45, adopted under Article 41, to this Office until November 5, 2015. The failure to submit proposed by-law amendments to the Attorney General in accordance with G.L. c. 40, § 32, affects the effective date of the by-laws. Therefore, the by-law adopted under Article 41 has not taken effect and will not take effect until the posting and publication requirements set out in Section 32 have been satisfied. We also note that the Town amended Chapter 45 under Article 39 at its Annual Town Meeting of May 1, 2010. This office approved Article 39 in a decision issued on September 9, 2010. *See Case # 5625.* We urge the Town to consult with Town Counsel regarding these issues.

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,

MAURA HEALEY
ATTORNEY GENERAL

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cc: Town Counsel Thomas J. Urbelis