



THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 CENTRAL MASSACHUSETTS DIVISION  
 10 MECHANIC STREET, SUITE 301  
 WORCESTER, MA 01608

MAURA HEALEY  
 ATTORNEY GENERAL

(508) 792-7600  
 (508) 795-1991 fax  
 www.mass.gov/ago

December 8, 2020

Susan G. Hazen, Town Clerk  
 Town of Rowley  
 139 Main Street  
 P.O. Box 351  
 Rowley, MA 01969

Re: Rowley Special Town Meeting of June 22, 2020 -- Case # 9907  
 Warrant Articles # 24, 25 and 26 (Zoning)  
 Warrant Article # 17 (General)

2020 DEC -9 AM 8:30  
 TOWN OF ROWLEY  
 TOWN CLERK

Dear Ms. Hazen:

Articles 17, 24, 25 and 26 - We approve Articles 17, 24, 25 and 26 from the June 22, 2020 Rowley Special Town Meeting. Our comments regarding Article 17 are provided below.

Article 17 – Article 17 amends the Town’s Cemetery by-law, Section 12, to add new text (shown below in bold and underline):

Section 12. Cemetery lots shall be used for the burial of the human dead. **To prevent grave settlement, concrete vaults are required for all burials except for cremations.**

We approve Article 17. However, we note that the Town must ensure that Section 12 is applied consistent with G.L. c. 114, § 43M, pertaining to the disposition of remains through burial or cremations, that provides in relevant part as follows:

Except as otherwise provided by law...the remains of any body...shall be decently buried, entombed in a mausoleum, vault or tomb or cremated within a reasonable time after death. The permanent disposition of such bodies or remains shall be by interment in the earth or deposit in a chamber, vault or tomb of a cemetery owned, maintained and operated in accordance with the laws of this commonwealth, by deposit in a crypt of a mausoleum, or by cremation. The remains of a human body after cremation may be deposited in a niche of a columbarium or a crypt of a mausoleum, buried or disposed of in any manner not contrary to law....No deposit of the bodies or remains of the human dead shall be made in a single chamber, vault or tomb wholly or partly above the natural surface of the ground unless the part thereof below such surface is of a permanent character, constructed of materials capable of withstanding extreme

climatic conditions, waterproof and air tight, and capable of being sealed permanently to prevent all escape of effluvia, and unless the part thereof above the natural surface of the ground is constructed of natural stone of a standard not less than that required by the United States government for monuments erected in national cemeteries, of durability sufficient to withstand all conditions of weather.

Specifically, G.L. c. 114, § 43M, provides that buried remains shall be “decently buried, entombed in a mausoleum, vault or tomb or cremated” and that the permanent disposition of such bodies or remains shall be by “interment in the earth or deposit in a chamber, vault or tomb.” Section 12 of the by-law requires burial, except for cremations, to be in a “concrete vault.” The explanation for Article 17 provided in the Warrant to Town Meeting explains: “[t]his bylaw change will keep the graves from collapsing.”

The by-law does not define the term “concrete vaults.” General Laws Chapter 114, Section 1, defines several terms for purposes of G.L. c. 114, including “vault” and “grave liner.” Section 1 defines “Vault” as: “a 2-piece sealed durable outer container in which the casket is placed at the time of burial in the earth for additional protection; provided, however, that such container may have an inner liner to enhance appearance and sealing ability.” And Section 1 defines “Grave Liner” as: “an unsealed durable outer container of 2 or more pieces in which the casket is placed at time of burial in the earth.” The Town may wish to amend the by-law at a future Town Meeting to define the term “concrete vault” including whether such term includes a “grave liner.” In addition, the Town should ensure that Section 12 is applied consistent with G.L. c. 114, § 43M, and consult with Town Counsel with any questions on this issue.

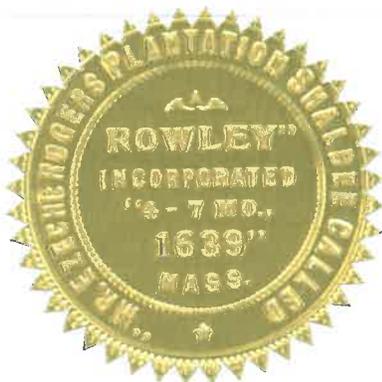
**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing 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

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418



**I, Richard C. MacDonald, duly elected and qualified Constable for the Town of Rowley do hereby certify that this document has been posted in the three (3) Public places as proscribed by law: The Rowley Town Hall, Rowley Annex and The Rowley Public library. Additionally, as directed by town bylaw, these documents can be found of the town website, [www.townofrowley.net](http://www.townofrowley.net).**

*Richard C. MacDonald*  
Richard C. MacDonald, Constable

*12/11/20*  
Date