



THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

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

January 20, 2026

Lisa Stratford, Town Clerk
Town of Shutesbury
P.O. Box 264
Shutesbury, MA 01072

Re: Shutesbury Special Town Meeting of September 30, 2025 – Case # 12047
Warrant Article # 10 (Zoning)
Warrant Article # 13 (General)¹

Dear Ms. Stratford:

Article 10 - We approve Article 10 from the Shutesbury September 30, 2025 Special Town Meeting. Our comments on Article 10 are provided below.

Under Article 10, the Town voted to adopt a temporary moratorium on the building of new data centers in the Town until June 20, 2026. Because Article 10's temporary moratorium has a legitimate zoning purpose, it does not present a clear conflict with state law or the constitution, and we approve it. See *Amherst v. Attorney General*, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the constitution for the Attorney General to disapprove a by-law).

This decision briefly describes the by-law; discusses the Attorney General's standard of review of zoning by-laws under G.L. c. 40, § 32; and then explains why, governed as we are by that standard, we approve Article 10.

I. Summary of Article 10

Under Article 10, the Town adopted a new Section 8.13, "Moratorium on Data Centers," that imposes a temporary moratorium on the construction of data centers in the Town until June 20, 2026 as follows:

The Town of Shutesbury shall enact a moratorium on the application for or building of new data centers, as defined in Section 13.2 of the Shutesbury Bylaw. The purpose of the moratorium is to provide the Shutesbury Planning Board with sufficient time to research and understand this complex use so that reasonable regulation can be developed for consideration at spring 2026 Shutesbury Town Meeting. The moratorium will be in effect

¹ In a decision issued to the Town on November 10, 2025, we approved Article 13.

starting on September 30, 2025 upon adoption at Special Town Meeting. The moratorium will be in place until June 20, 2026.

Under Article 10, the Town also amended Section 13.2, “Definitions,” to add a definition for “Data Center” as follows:

A facility composed of networked computers, storage systems, and computing resources that is used to process, store, and disseminate large amounts of data, and that such a facility is either a principle use or is used in a standalone capacity.

Finally, under Article 10, the Town amended Section 3.1-1, the Town’s Use Table to list data centers as a prohibited use in all zoning districts.

II. Attorney General’s Standard of Review of Zoning By-laws

Our review of Article 10 is governed by G.L. c. 40, § 32. In the review of by-laws pursuant to G.L. c. 40, § 32, the Attorney General has a “limited power of disapproval,” and “[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws.” Amherst, 398 Mass. at 795-96 (1986). The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”) “As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid.” Bloom v. Worcester, 363 Mass. 136, 154 (1973). “

Article 10, as an amendment to the Town’s zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) (“With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders.”). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court. “[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare.” Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). However, a municipality has no power to adopt a zoning by-law that is “inconsistent with the constitution or laws enacted by the [Legislature].” Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Municipal Authority to Adopt a Temporary Moratorium

A temporary moratorium is within a town’s power when there is a stated need for “study, reflection and decision on a subject matter of [some] complexity...” W.R. Grace, 56 Mass. App. Ct. at 569 (City’s temporary moratorium on building permits in two districts was within City’s authority to zone for public purposes). However, the Supreme Judicial Court’s holding in Zuckerman v. Hadley, 442 Mass. 511, 520-521 (2004) is a useful guardrail for towns considering the adoption of moratoria: “Except when used to give communities breathing room for periods reasonably necessary for the purposes of growth planning generally, or resource problem solving specifically, as determined by the specific circumstances of each case, such [moratorium] zoning

ordinances do not serve a permissible public purpose, and are therefore unconstitutional.” Id., 442 Mass. at 520-521 (citing Sturges v. Chilmark, 380 Mass. 246, 257 (1980)). Towns must show that a by-law creating a moratorium “has some reasonable prospect of a tangible benefit to the community” and that there was a “reasonable basis” for the by-law. Sturges, 380 Mass. at 257. However, a town is not required to conduct studies before adopting a temporary moratorium or to memorialize all the factors that may lead to a town’s decision on a zoning by-law. W.R. Grace, 56 Mass. at 569.

IV. Analysis of Article 10’s Temporary Moratorium

The text of the temporary moratorium by-law states that its purpose is to provide the Town time to “research and understand this complex use so that reasonable regulations can be developed for consideration at spring 2026 Shutesbury Town Meeting.” As part of the materials presented at Town Meeting, the Planning Board provided comments on Article 10 stating that data centers raise concerns regarding zoning and water usage, energy demands, and other public health issues. See “Summary of comments from the [Planning] Board.” The Planning Board also noted that data centers could present possible revenue for the Town. Id.

Here, the moratorium is limited in time (until June 20, 2026) and scope (prohibition on applications to build data centers as defined in the Town’s by-laws), and does not present the problem of a rate-of-development by-law of unlimited duration which the Zuckerman court determined was unconstitutional. Zuckerman, 442 Mass. at 520-521. Therefore, based on the materials submitted by the Town as part of its adoption of Article 10, the temporary moratorium appears to be adopted for a legitimate planning purpose and the Town is utilizing the moratorium for the proper purpose of “growth planning.” Id.

Because the moratorium appears to be a reasonable mechanism to achieve a legitimate planning purpose, we approve Article 10. However, we suggest that the Town consult with Town Counsel to ensure that the planning efforts are carried out in a timely way so that the moratorium time period is used for its intended purpose: “to give communities breathing room for periods reasonably necessary for the purposes of growth planning generally, or resource problem solving specifically, as determined by the specific circumstances of each case” and is not of unlimited duration. Id. at 520-521.

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.

Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Director, Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(774) 214-4406

cc: Town Counsel Donna L. MacNicol