



Town of Concord
Office of the Town Clerk
22 Monument Square
Concord, Massachusetts 01742-0535

PUBLIC NOTICE

The attached General Bylaw Amendments under Article 32 approved at the 2024 Annual Town Meeting held on April 29th, 30th, and May 1st have been approved by the Office of the Attorney General and will be in effect in the Town of Concord on Monday, July 29, 2024.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment of zoning bylaws may only be made within ninety days of the posting date indicated below. Copies of the attached bylaw(s) may be obtained from the Town Clerk's Office, located at 22 Monument Square.

Kaari Mai Tari
Town Clerk

2024 Annual Town Meeting:

General Bylaws:

- **Article 32** – Fossil Fuel Free Demonstration: Bylaw Amendments for Program Participation

Constable Signature: _____

Date of Posting: _____



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
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ANDREA JOY CAMPBELL
ATTORNEY GENERAL

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July 26, 2024

Kaari Mai Tari, Town Clerk
Town of Concord
22 Monument Square
Concord, MA 01742

**Re: Concord Annual Town Meeting of April 29, 2024 -- Case # 11369
Warrant Article # 32 (General)**

Dear Ms. Tari:

Article 32 – We approve Article 32 voted at the Concord April 29, 2024 Annual Town Meeting.

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
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Mina S. Makarious



Town of Concord

Office of the Town Clerk
22 Monument Square
Concord, Massachusetts 01742-0535

ANNUAL TOWN MEETING
April 29, April 30, and May 1, 2024

Fossil Fuel-Free Demonstration: Bylaw Amendments for Program Participation

ARTICLE 32.

Upon a **MOTION** made by Mr. Parashar and duly seconded, it was **VOTED**:

That the Town take affirmative action on Article 32 as printed in the Warrant.

WARRANT

FOSSIL FUEL-FREE DEMONSTRATION: BYLAW AMENDMENTS FOR PROGRAM PARTICIPATION

ARTICLE 32. To determine whether the Town will authorize amendments to the bylaw initially adopted by 2021 Annual Town Meeting Article 31, and later amended and reauthorized by January 2023 Special Town Meeting Article 1 to reflect suggestions from the Massachusetts Department of Energy Resources (DOER), as follows (deleted text is shown in ~~strikeout~~ and added text is shown in **bold italics** for illustration only):

PROHIBITION ON THE EXPANSION OF FOSSIL FUEL INFRASTRUCTURE FOR NEW CONSTRUCTION *AND MAJOR RENOVATIONS*

1. Purpose

This Bylaw is adopted by the Town of Concord to protect the health, safety and welfare of the inhabitants of the town from the effects of air pollution, including greenhouse gas emissions that are contributing to climate change, and from fuel leaks and explosions that threaten the Town and its inhabitants.

2. Definitions

For the purposes of this bylaw, the following definitions shall apply:

“Building” shall have the same meaning as set forth in Section 1.3.4 of the Concord Zoning Bylaw, provided that the pertinent structure is or will be furnished with a heating or hot water system.

“Effective Date” shall mean ~~December 1, 2022, or six months~~ ***ninety (90) days*** following the date by which the Town is authorized by the Massachusetts ~~General Court~~ Department of Energy Resources to regulate fossil fuel infrastructure, ~~whichever is later.~~

“Fossil Fuel-Free Demonstration” shall mean codified by the entirety of 225 CMR 24.00, the Fossil Fuel-Free Demonstration

“New Building” shall mean any new construction that will require heating or cooling and that is associated with a valid building permit application on or after the effective date of this bylaw, including but not limited to, construction (a) on a vacant lot, (b) to replace a demolished building, or (c) of a new accessory building constructed on an existing residential or commercial property.

“On-Site Fossil Fuel Infrastructure” shall mean piping for coal, ~~fuel gas, fuel~~ oil, natural gas or other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels that ~~is~~ are in a building, in connection with a building, or otherwise within the property lines of a premises, extending from a supply tank or from the point of delivery behind a gas meter or the ~~(customer-side of a gas meter).~~

“Major Renovation” shall be defined as in 225 CMR 24:

- (a) low-rise residential additions over 1,000 square feet and additions exceeding 100% of the conditioned floor area of the existing dwelling unit;***
- (b) additions over 20,000 square feet and additions that exceed 100% of the conditioned floor areas of the existing building for all building use types except low-rise residential;***
- (c) Level 3 Alterations as defined in the International Existing Building Code (IEBC 2021) (which exceed 50% of the existing conditioned floor area) exceeding 1,000 square feet for low rise residential, or exceeding 20,000 square feet for all other building uses;***
- (d) Change of use of over 1,000 square feet per International Energy Conservation Code (IECC 2021) § R505; or***
- (e) change of use of over 20,000 square feet or change of use of 100% of the conditioned floor areas of the existing building for all building use types except low-rise residential, International Energy Conservation Code (IECC 2021) § C505.***

“Specialized Energy Code” shall mean codified by the entirety of 225 CMR 22.00 and 23.00 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to incorporate the energy efficiency of the Stretch energy code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.

3. Applicability and Exemptions

3.1. On and after the Effective Date, no building permit shall be issued by the Town for the construction of New Buildings ***or Major Renovations*** that include the installation of new On-Site Fossil Fuel Infrastructure subject to this Chapter. ***With adoption of the Fossil Fuel-Free Demonstration, and upon approval by DOER, the following amendments to the Specialized Energy Code are adopted. These changes are enforceable by the inspector of buildings or building commissioner and will go into effect for any project seeking a permit after the effective date.***

- a. Low-rise Residential Code (225 CMR 22 Appendix RC) 1. Sections RC102 and RC101 “Zero Energy Pathway” and “Mixed Fuel Pathway” shall not be permitted for use for new construction.***
- b. Commercial and All Other (225 CMR 23 Appendix CC) i. Sections CC103 and CC105 “Zero Energy Pathway” and “Mixed-Fuel Pathway” shall not be permitted for new construction, excluding the exceptions identified in 3.2.***

3.2. The provisions of this bylaw shall not apply to ~~(i) the development of new affordable housing, as defined in Mass. Gen. Laws c. 184, § 26;~~ ~~(ii) to~~ ***(i)*** cooking stoves and ovens used in restaurants or commercial kitchens; ~~(iii)~~ ***(ii)*** any fossil fuel infrastructure the exclusive purpose of which is to fuel backup electrical generators; ~~(iv)~~ ***(iii)*** public utilities, their operations, or installations other than in the Buildings constructed by others; or ~~(v)~~ ***(iv)*** research laboratories for scientific or medical research, or to hospitals or medical offices regulated by the department of public health as a health care facility.

3.3. The requirements of this article shall not apply to the piping required to produce potable or domestic hot water from centralized hot water systems in buildings with building floor areas of at least 10,000 square feet, provided that the Engineer of Record certifies that no commercially available electric hot water heater exists that could meet the required hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil-fuel hot water system.

4. Administration

4.1 Enforcement

The Building and Inspections Department is hereby authorized to enforce the provisions of this bylaw.

5. Waivers

5.1 The Building Commissioner may grant a waiver from the requirements of this Chapter in the event that compliance with the provisions of this Chapter makes a project financially infeasible or impractical to implement. Compliance with this Chapter may be considered infeasible if, without limitation:

- a. as a result of factors beyond the control of the proponent, the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; or***
- b. technological or other factors would make the project unsuitable for its intended purpose.***

5.2 Waivers from compliance with this Chapter may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Chapter, rather than entire projects.

5.3 Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans.

5.4 In considering a request for a waiver, the Building Commissioner may consider as a factor the requesting party's status as a non-profit or government-sponsored affordable housing entity.

5.5 The Building Commissioner's decision with respect to the granting of a waiver, the scope thereof, and any conditions imposed by a waiver, shall be appealable to the Select Board, or its designee, within twenty (20) days in accordance with policies established by the Select Board.

5.6 The Select Board shall, prior to the Effective Date issue, and may thereafter amend, guidance regarding the process for requesting and granting waivers, and describing reasonable conditions that may be placed on a waiver.

~~5.2~~ **6. Appeal**

Any applicant who is aggrieved by a denial of a building permit, in whole or part, in connection with this bylaw, may appeal to the board or committee designated by the Town Manager to hear and resolve such appeals within 20 days from the date of denial.

~~6.~~ **7. Severability**

Each provision of this bylaw shall be construed as separate to the extent that if any section, sentence, clause, or phrase is held to be invalid for any reason, the remainder of the by-law shall continue in full force and effect.

~~7.~~ **8. Reporting**

The Town Manager, or the Town Manager's designee, shall provide data and other information on the impacts of this Bylaw on emissions, building costs, operating costs, the number of building permits issued, and other information as required or requested by the Department of Energy Resources and the Secretary of Housing and Economic Development.

Passed Unanimously under the Consent Calendar
April 29, 2024

A True Copy Attest:

Kaari Mai Tari
Town Clerk