

Article 13 **Amend General Bylaws – Regulation of Fossil Fuel Infrastructure**
(Majority vote)

To see if the Town will vote to amend the General Bylaws of the Town by adding Chapter AC, “Regulating Fossil Fuel Infrastructure in Buildings,” to read as follows, or take any other action relative thereto.

Chapter AC. REGULATING FOSSIL FUEL INFRASTRUCTURE IN BUILDINGS

AC1. Purpose

This Bylaw is adopted by the Town of Acton to protect health and safety, and the natural environment, and to reduce air pollution and greenhouse gas emissions, which cause climate change, thereby threatening the Town and its inhabitants.

AC2. Definitions

2.1 “Effective Date” shall mean December 1, 2022, or six months following the date by which the Town is authorized by the Massachusetts General Court to regulate fossil fuel infrastructure, whichever is later.

2.2 “New Building” shall mean a new building as defined in the Acton Zoning Bylaw, Chapter M of the General Bylaws of the Town of Acton, associated with a building permit application filed on or after the Effective Date.

2.3 “On-Site Fossil Fuel Infrastructure” shall mean piping, for fuel gas, fuel oil, or other fuel hydrocarbons, that is in a building, in connection with a building, or otherwise within the property lines of premises, extending from a supply tank or from the point of delivery behind a gas meter or the customer-side gas meter.

2.4 “Major Renovation” shall mean a renovation project associated with a valid building permit application filed on or after the Effective Date of this chapter that:

1. for existing structures regulated by the current edition of the International Residential Code as amended by 780 CMR 51: Massachusetts Residential Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 75% of the Gross Floor Area of the principal dwelling, as defined in Section 1.3.7 of the Acton Zoning Bylaw, prior to the project; and
2. for existing structures regulated by the current edition of the International Building Code as amended by 780 CMR 34: Massachusetts Commercial Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 50% of the building floor area prior to the project, as defined by the Massachusetts Building Code.

2.5 “Work Area” shall mean the portions of a building affected by renovations for the reconfiguration of space and/or building systems, as indicated in the drawings associated with a building permit application. Areas consisting of only repairs, refinishing, and/or incidental work are excluded from the Work Area.

AC3. Applicability

3.1 This chapter shall apply to all building permit applications for New Buildings and Major Renovations proposed to be located in whole or in part within the Town, except that this Chapter shall not apply to:

- A. Utility service piping connecting the grid to a meter, or to a gas meter itself;
- B. Piping required to:
 - i. fuel backup electrical generators, outdoor cooking appliances, or appliances for outdoor heating; or
 - ii. produce potable or domestic hot water from centralized hot water systems in buildings with a floor area 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;
- C. The extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping, provided new fossil fuel piping is not installed; or
- D. Repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

AC4. Enforcement

4.1 As of 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 that is subject to this Chapter, except as provided for in Section AC3 “Applicability” and Section AC5 “Waivers.”

4.2 The Town Manager, or their designee, shall publish and present an annual report to the Select Board quantifying the number and locations of residential building permit applications for new and major renovation projects exceeding 75% of the original gross floor area, and the number and locations of commercial building permit applications for new and major renovation projects exceeding 50% of the building floor area prior to the project; the number of new and major renovation projects requesting a waiver from this

Chapter, the disposition of those waivers, the reasons for granting or denying those waivers, and the square footage of each project for which a waiver is granted.

4.3 The Select Board may adopt reasonable regulations to implement this Chapter.

AC5. Waivers

5.1 The Building Commissioner may grant a waiver subject to 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 applicant, the additional cost of the project over the long term, including any available subsidies, would make the project economically 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 Select Board shall, prior to the Effective Date, issue and may thereafter amend, guidance regarding the granting of waivers and describing reasonable conditions that may be placed on a waiver.

AC6. Appeals

An applicant may appeal a decision of the Building Commissioner concerning the grant or denial of a waiver pursuant to Section 5 to the Select Board, or its designee, within 30 days of the decision.

Article 14 Authorize Special Legislation for Building with Clean Energy to Regulate Fossil Fuel Infrastructure

(Majority vote)

To see if the Town will vote to authorize the Select Board to petition the Massachusetts General Court to enact legislation in substantially the form below, and further to authorize the Select Board to approve amendments to said legislation before its enactment by the General Court that are within the scope of the general objectives of this motion; or take any other action relative thereto.

AN ACT AUTHORIZING THE TOWN OF ACTON TO ADOPT AND ENFORCE LOCAL REGULATIONS RESTRICTING NEW FOSSIL FUEL INFRASTRUCTURE IN CERTAIN CONSTRUCTION

Be it enacted as follows

SECTION 1. Notwithstanding chapter 40A, section 13 of chapter 142, and chapter 164 of the General Laws, the State Building Code, the Fuel and Gas Code, or any other general or special law or regulation to the contrary, the Town of Acton is hereby authorized to adopt and further amend general or zoning bylaws that restrict new construction or major renovation projects that do not qualify as fossil-fuel-free.

SECTION 2. Notwithstanding section 7 of chapter 40A of the General Laws, or any other general or special law or regulation to the contrary, the Building Commissioner of the Town of Acton, or any designee thereof, shall be authorized to enforce restrictions on new building construction and major renovation projects that do not qualify as fossil-fuel-free, including through the withholding or conditioning of building permits.

SECTION 3. As used in this Act, the term “fossil-fuel-free” shall mean new building construction or major renovation that results in an entire building or an entire condominium unit that does not utilize coal, oil, natural gas, other fuel hydrocarbons, or other fossil fuels in support of its operation after construction.

SECTION 4. This Act shall take effect upon its passage. Any bylaws previously approved by the Acton Town Meeting that accomplish the goals set forth in Sections 1 through 3 herein, including without limitation Chapter AC of the General Bylaws of the Town of Acton as approved by the 2021 Acton Town Meeting, are hereby ratified.

SECTION 5. If any provision or section of this act is invalidated, the remainder shall survive in full force and effect.