



Clean Energy Future Committee Meeting Minutes

Draft – for approval at the 01-20-2023 meeting

December 16, 2022

8:15 – 9:30 a.m.

Hybrid In-person / Remote Meeting

Members Present:

- In Person: Nellie Aikenhead, Talia Fox, David Morgan
- Remote: Amos Meeks, Dan Amstutz, Coralie Cooper (as Chair), Marc Breslow, James DiTullio, Eric Helmuth, Ryan Katofsky, Pasi Miettinen, Shelly Dein

Also attending: Patrick Hanlon, Jacob Glickel

Coralie Cooper convened the meeting at 8:15 am. C. Cooper read a brief statement noting the legislation that permits virtual meetings.

1. Welcome New Member

C. Cooper welcomed new member Amos Meeks, who is the Town Meeting Member appointee taking Dave Levy's place. A. Meeks has been involved in many aspects of the town initiatives, including Sustainable Arlington, and the CEFC is delighted to have him as a member!

2. Orientation to Hybrid Virtual/In-Person Meeting Pilot

Talia Fox laid out the basic mechanisms for the Hybrid meetings, including:

- if there is a technical failure, we will try to relaunch the meeting three times
- if we are unable to relaunch and there are more than 20 minutes left in the meeting, the CEFC will reconvene the following Friday
- if there are fewer than 20 minutes left, the CEFC will carry the remaining agenda items forward to next meeting

T. Fox and Eric Helmuth noted that this is a pilot program and candid feedback will be requested via a survey that will be emailed to CEFC members after this meeting. Please complete! Feedback will go to the Remote Participation Study committee (E. Helmuth is a member). The goal of Hybrid is an equal experience for everyone, both in person and remote.

T. Fox explained that meeting procedures are the same as if everyone was on zoom: Ryan Katofsky will monitor chat; an in-person quorum not required, just a total quorum;

the meeting is being recorded as usual to ensure accuracy. Technology being used is the Neat Bar, which seems to be working well.

E. Helmuth requested more visibility – T. Fox divided screen into three, so each person in the room could be seen; the neat bar follows each person who is in the room as they move/speak.

3. Review and Approve 11/18/2022 Meeting Minutes

The Committee reviewed the minutes from the November 18, 2022 meeting. C. Cooper asked for any corrections, additions, or changes to the draft minutes. There were none of substance, just a couple of typos that were corrected. Shelly Dein moved to approve and R. Katofsky seconded the motion. The Committee unanimously approved the November 18th meeting minutes.

4. Discussion and Vote on Warrant Article for Opt-In Specialized Stretch Code

T. Fox gave a quick presentation, starting by sharing a DOER summary power point (copy attached to minutes), and making the following main points

- Reminder that there are three sets of energy efficiency codes
 - the Base Code (IECC 2021), which applies to the 52 MA municipalities that are not “green communities”; this code is not changing
 - The Stretch Code, which the 299 “green” municipalities, including Arlington, are required to follow, will be updated on January 1, 2023
 - The Specialized “Net Zero” Stretch Code, which is the most efficient, will come online in 2023, and municipalities must affirmatively vote to opt in
- Changes to the Stretch Code that apply to residential low-rise buildings (single and two families and townhouses) will be effective January 1, 2023; changes to 3+ unit buildings and commercial properties will be effective July 1, 2023; in July 2024 additional changes will be phased in
- Residential low-rise changes in requirements as of 1/1/23 (for new construction and additions of more than 1,000 sq ft) include
 - Slightly lower HERS ratings (see chart below)
 - Energy Star 3.1 rating will no longer be an option
 - Units must be EV ready
 - HRV or ERV (heat and energy recovery ventilation) required
- Mass Save incentives are available for 1-4 unit properties that go beyond Stretch Code requirements, including \$15K for all electric low rise buildings and with HERS 45 and \$25k for low rise with HERS 35 (see chart below)
- NOTE: for details on upcoming commercial requirements, and Thermal Energy Demand Intensity (TEDI) limits, and other key modifications, please look at PowerPoint
- T. Fox noted: all of the new Stretch Code requirements will happen no matter what, as Arlington already abides by that code
- Discussion is only about the Specialized (Opt-in) Stretch Code, which would require the following increases in efficiency:
 - Low rise residential have three paths to choose from (builders can choose, all three options would be available)
 - All electric or Passive House: requires HERS 45

- Mixed fuel: requires HERS 42 + solar + wired for electric OR Passive House wired for electric
- Zero energy HERS 0 (= HERS 42 + Solar) OR Passive House (Phius Zero)
- Exception: All new homes over 4,000 sq ft would have to be all electric or zero energy – there would be no mixed fuel option
- Additions and alterations would retain the same requirements as Stretch Code

Q&A

Question on # of teardowns: Pat Hanlon states roughly 40% of new construction is over 4,000 sq ft, and the number of teardowns varies tremendously year to year. Metric for calculating is conditioned square footage, which is different than metrics used for other purposes. In the past year, there were approximately 14 total tear downs, but there have been more in many other years. Houses are steadily getting bigger – over 4,000 sq ft homes are becoming more common. However, as a portion of overall housing stock, the percent of houses over 4,000 sq ft is relatively low.

- T. Fox noted she/CEFC will be clear about numbers when doing presentations in the new year; will lock in numbers before doing any public presentations
- Pasi Miettinen noted that obtaining a HERS score of 42 or 45 not difficult, many are building there anyway; it's essentially 20% less energy use than previous energy; builders can easily meet.
- P. Hanlon – Clarified that 42 and 45 HERS scores are the Stretch Code, and we are discussing the Specialized Stretch Code requiring all electric or zero energy (for new 4000 sq ft construction)
- T. Fox – Specialized Stretch requires Passive House standards for multi families with 5 stories or less, if there is more than 12,000 sq ft of living space; Phase in – after Jan 2024, Passive House will be required for *all* residential over 12,000 sq ft
- T. Fox - Commercial buildings other than residential, builders can choose: all electric, passive house, gas or other fossil fuels – requirements will vary depending on selection. Look at slide for details
- A. Meeks asked if solar is required to be on building as opposed to whole plot of land? What are requirements to “maximize”? T. Fox will research.
- Jacob Glickel – asked if two families are included in “low rise residential” and how square footage would be calculated; P. Hanlon clarified the 4,000 sq ft would be per unit not a total for the building

Discussion on warrant article language

- T. Fox presented draft article and explained we would be modifying the building code by adding the Specialized Stretch Code. DOER recommends doing it as a bylaw change, not just a vote of approval
- P. Hanlon made a boilerplate correction to “relative thereto”... and confirmed that if Arlington opts in, any future changes made by DOER to the Specialized will automatically apply to the Town, just the same way as changes to the Stretch Code automatically apply; the only way around future state level changes would be to opt out.
- C. Cooper checked in with CEFC members to gauge readiness to vote on supporting the proposed Warrant Article

- P. Miettinen, R. Katofsky, and S. Dein expressed readiness to vote; S. Dein noted it would be helpful to understand the rest of process/timeframe at some point... when go to Select Board, Town Meeting, public outreach, etc.
- C. Cooper agreed and suggested we dedicate time during the next meeting to discuss thoroughly
- E. Hanlon noted this is just a start and vote of support; details may change over time
- T. Fox added there is a separate working group that meets regularly to plan public outreach and the rollout of education around this article. Noted: warrant closes 1/27/23.
- R. Katofsky made motion to approve the Specialized Stretch Code article (attached to minutes); S. Dein seconded. Unanimous CEFC vote of approval.

5. Discussion on Net Zero Municipal Building Warrant Article

- C. Cooper: have been working over past year on a net zero municipal buildings warrant article. We had decided to put it on hold last year. Working group has worked out a lot of issues, but want to discuss with CEFC and possibly to put it on hold for another year, as some additional discussion and questions have come up regarding standards, along with some technical issues. Working group does not think there are new municipal buildings coming online in the next year that would be affected by the potential bylaw. There is some interaction with the Specialized Code, and it might be complicated to understand and explain these two articles and their interaction at the same time.
- T. Fox added: other thing at play is the fossil fuel ban pilot program, which Arlington plans to participate in. Although the Town must first establish a multi-family zone to be eligible to participate. If we enroll in that, new municipal buildings will be required to be all electric, regardless of the Municipal Building warrant article.
- R. Katofsky thoughts: personal bandwidth, it's a lot to be working on two articles at the same time. Could look ahead a few years, and if there are new municipal buildings coming online, we could also proactively work with Town in advance of a bylaw to achieve what we want to achieve anyway.
- C. Cooper... definitely need to update, the existing bylaw is at least a decade old; there is general agreement on all electric municipal building requirement, it's just a matter of timing.
- T. Fox: Also there is an Electrification Master Plan being completed right now for 6 school buildings, which will provide pathways for electrification for those buildings. Results will be presented in February. This will help inform which buildings will be renovated in the coming years, and this might help inform the bylaw.
- S. Dein – doesn't have her finger on the pulse of town sentiment... not sure if adopting Specialized Stretch will be problematic or not. A lot of work will need to be done with the development community, which is likely to be concerned. Need to be able to say Town is doing same for own buildings, should the question come up.
- James DiTullio – doesn't consider the municipal article terribly controversial but there is a question of bandwidth. Have been organized and informative, doing a deep dive on past articles. Although everything has passed by wide margins, we

can't take wide margins of approval for granted – they are likely due to the extensive education and outreach.

- P. Hanlon – all of things we have outstanding, Stretch Code, Specialized Stretch, and Fossil Fuel Bylaw, will automatically apply to the Town when they are passed, with or without this municipal building bylaw. Also, people going to be concerned about a large override possibility – might not be the right time, raising a discussion of municipal buildings might change the discussion from climate change to municipal finance. Next year may be better.
- J. DiTullio agreed – we will have a major debate next year on an override.
- C. Coralie said these are all important considerations.
- T. Fox: there is a new addition to the Green Communities program possibly coming out in the next year. That addition may allow a municipality to comply with the program by implementing a Municipal Building bylaw. This could help to get the bylaw passed – however it is not in place at this point in time.
- Group agreed to put off a vote / hold future discussion on the municipal building bylaw.
- T. Fox: Presentation for the Electrification Master Plan scheduled for 2/13/23. Not a public meeting, need to be careful about a quorum, will ask some members to be present.

6. Moving next meeting to Jan 20, 2023.

- Warrant closes 1/27/23, which is the same date as CEFC next scheduled meeting
- T. Fox thinking we might want to meet in advance of that in case we might want to make changes to the Warrant Article
- A. Meeks – citizen side experience is that articles aren't always ready in December, might be scrambling in January, so may want to change meeting date in case something unexpected comes up
- Agreed next meeting January 20, 2023

7. Other Items

T. Fox asked that all members attending the hybrid meeting please complete virtual survey on their experience.

D. Morgan moved to end the meeting and Ms. Dein seconded. The meeting was adjourned at 9:10.

Submitted by Nellie Aikenhead

Attachments

DOER presentation on Stretch Code

Draft warrant article on Specialized Stretch Code approved by CEFC

**BYLAW AMENDMENT TO ADOPT THE MUNICIPAL OPT-IN
SPECIALIZED STRETCH ENERGY CODE**

To see if the Town will vote to amend Title VI, Article 3 of the Bylaws of the Town of Arlington, entitled “Building Code,” to adopt the Municipal Opt-In Specialized Stretch Energy Code for the purpose of regulating the design and construction of buildings for the effective use of energy and reduction of greenhouse gas emissions, pursuant to the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including future editions, amendments or modifications thereto; or take any other action relative thereto.

(Inserted at the request of the Clean Energy Future Committee)

DRAFT

225 CMR 24.00 – Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project

Sections:

- 24.01: Purpose and Application
- 24.02: Definitions
- 24.03: Prioritized Communities
- 24.04: Application Materials and Review Process
- 24.05: Eligibility Criteria
- 24.06: Substitute Communities
- 24.07: Reporting and Assessment of Results
- 24.08: Specialized Municipal Opt-in Energy Code and Model Rule
- 24.09: Severability

24.01 Purpose and Application

The purpose of 225 CMR 24.00 is to establish the framework, requirements, and timeline for cities and towns to participate in the Department's Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project as authorized by St. 2022, c. 179, § 84.

24.02 Definitions

Comparable Municipalities. Municipalities designated by the Department for data collection and reporting purposes that share similar relevant characteristics to Participating Communities.

Demonstration Project. Not more than 10 cities or towns as approved by the Department pursuant to 225 CMR 24.00 that may, notwithstanding chapter 40A of the General Laws, section 13 of chapter 142 of the General Laws and chapter 164 of the General Laws or any other general or special law to the contrary, adopt and amend general or zoning ordinances or by-laws that require new building construction or Major Renovation projects to be fossil fuel-free, and enforce restrictions and prohibitions on new building construction and Major Renovation projects that are not fossil fuel-free, including through the withholding or conditioning of building permits

DHCD. The Massachusetts Department of Housing and Community Development, as established by M.G.L. c. 23B.

Department. The Massachusetts Department of Energy Resources, as established by M.G.L. c. 25A.

Fossil Fuel-free. As defined by a city or town to include, but not be limited to, an entire building or entire condominium unit that does not, in support of its operation after construction, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels.

Hospitals or Medical Offices. A facility licensed or approved by the Department of Public Health to provide health care, including clinics licensed as health care facilities and facilities that provide substance use disorder treatment services, including outpatient withdrawal management, opioid treatment programs, office-based opioid treatment programs, acute treatment services (inpatient detoxification), and clinical stabilization services.

Local Approval. By a majority vote of the: (i) city council with the approval of the mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city; (ii) city council in every other city; (iii) annual town meeting or a special town meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) town council in the case of a municipality with a town council form of government.

Major Renovation. A level 3 alteration as defined in 225 CMR 22.00 and 23.00.

Participating Community. A city or town approved by the Department for participation in the Demonstration Project.

Prioritized Community. A city or town with a home rule petition filed with the general court prior to August 11, 2022 and listed in 225 CMR 24.03(1); provided, however, that a city or town that submits a letter of withdrawal pursuant to 225 CMR 24.03(3) or is deemed withdrawn pursuant to 225 CMR 24.03(4) shall not be a Prioritized Community.

Process load. Energy demand in commercial or industrial buildings that is not covered by the Massachusetts building energy code.

Research laboratories for scientific or medical research. A building where a laboratory procedure or research activity occurs, where the building has an average ventilation at full occupancy greater than 0.5 cfm/sf. Such buildings shall provide the ventilation design documentation described Section C103.2 of 225 CMR 23.00 at the time of building permitting.

Substitute Community. A city or town that applies to the Department for participation in the Demonstration Project that did not file a home rule petition prior to August 11, 2022.

24.03 Prioritized Communities

- (1) Prioritized Communities. As established by St. 2022, c. 179, § 84, the Department will prioritize the following 10 Prioritized Communities, being the first 10 communities to have filed home rule petitions with the general court in the following order:

Order Filed	Town	Filing Date
1	Arlington	4/22/2021
2	Lexington	5/05/2021
3	Brookline	6/01/2021
4	Acton	8/27/2021
5	Concord	9/01/2021
6	Cambridge	4/06/2022
7	Lincoln	4/19/2022
8	Newton	4/20/2022
9	West Tisbury	6/14/2022
10	Aquinnah	6/14/2022

(2) Letter of Intent. In order to inform the Department and potential Substitute Communities about participation in the Demonstration Program, Prioritized Communities must confirm their participation by submitting a letter of intent to the Department not later than September 1, 2023.

(a) This letter must be:

1. signed by an authorized representative of the city or town, and
2. affirm the city or town's intention to participate in the Demonstration Project.

(b) Prioritized Communities that submit a letter of intent will maintain their Prioritized Community status until February 11, 2024. The Department will publicly post letters of intent to its website.

(3) Letter of Withdrawal. Any Prioritized Community that will not apply to participate in the Demonstration Project must submit a letter of withdrawal to the Department not later than September 1, 2023.

(a) This letter must be:

1. signed by an authorized representative of the city or town, and
2. affirm the city or town's intention not to participate in the Demonstration Project.

(4) Default. Any Prioritized Community that does not submit either a letter of intent or letter of withdrawal by September 1, 2023 will be deemed withdrawn and shall no longer be a Prioritized Community.

24.04 Application Materials and Review Process

(1) Application Materials. Applications must be submitted in a manner and form to be determined by the Department, and shall include all of the following information:

(a) Copy of home rule petition and date submitted.

1. Home rule petitions filed by Prioritized Communities do not need to be updated or resubmitted to the general court to be eligible for participation.

- (b) Copy of proposed bylaw or other ordinance for participation in the Demonstration Project. If the city or town proposes a bylaw or ordinance that is not the model bylaw or the Department's Fossil-Free Code, the application must include an explanation of differences and provide the applicant's rationale for any differences.
 - (c) An implementation plan, including:
 - 1. Timeline and effective dates of bylaw or other ordinance provisions or requirements;
 - 2. A demonstrated commitment to collaborate with the Department on data collection, reporting, and outreach/training;
 - 3. Description of the current process within each city and town for storing building permit data and certificates of occupancy;
 - 4. Description of how the local bylaw will affect the use of fossil fuels for commercial and industrial Process Load in buildings subject to the bylaw or ordinance, including but not limited to, restaurants, dry cleaners, and manufacturing uses;
 - 5. Description of exemption or waiver process from any requirements, if any, to be included in the bylaw or ordinance.
 - (d) Documentation sufficient to demonstrate that the applicant has achieved at least one of the three housing production eligibility thresholds set forth in 24.05(1)(c).
 - (e) Proof of Local Approval.
- (2) Additional Materials for Substitute Communities. In addition to the above components, an application from a Substitute Community must include a description of the actions it has taken or will take after the adoption of the proposed bylaw, to encourage the production of multi-family housing. This description should include, but is not limited to:
- (a) The community's progress toward creation of a multi-family zoning district compliant with Sec. 3A of G.L. Ch. 40A, if applicable.
 - (b) Initiatives taken by the community to support the preservation and production of housing units, including multi-family housing.
 - (c) Substitute Communities may submit letters of support from community leaders and/or community members.
- (3) Review Process. The Department will review applications from Prioritized Communities on a rolling basis and will issue approvals in the order in which cities and towns have submitted home rule petitions to the general court.
- (a) The Department will provide feedback on completeness of application materials and notify applicant if any requirements are not met, or if any clarifications are needed for approval.
 - (b) Prioritized Communities may update and re-submit applications through November 10, 2023 based on Department feedback.
 - (c) November 10, 2023 is the final deadline to submit a complete application.

- (d) February 11, 2024 is the final deadline to meet all eligibility requirements listed in 225 CMR 24.05. After such date the application of any Prioritized Community shall expire and be deemed void.

24.05 Eligibility Requirements

- (1) Requirements. All Prioritized and Substitute Communities must meet each of the following three requirements prior to submissions of application to the Department:
- (a) Home Rule Petition filed with the general court on the subject matter of these regulations;
 - (b) Local Approval received on the subject matter of these regulations; and
 - (c) The municipality has achieved one of the following housing eligibility thresholds:
 - 1. The municipality has met the 10 per cent housing affordability threshold set under chapter 40B of the General Laws as of December 21, 2020 or in a subsequent update from DHCD; or
 - 2. The municipality has been granted safe harbor status through a valid Housing Production Plan that DHCD has certified in accordance with 760 CMR 56.03(4); or
 - 3. The municipality has an approved a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, that such multi-family housing shall be without age restrictions and shall be suitable for families with children, as evidenced by a determination of district compliance issued by the department of housing and community development pursuant to its guidelines implementing section 3A of chapter 40A of the General Laws.

24.06 Substitute Communities

- (1) Application Submission. Substitute Communities may submit applications starting on the effective date of these regulations.
- (a) The Department will not review applications from Substitute Communities until:
 - 1. Receipt of a Letter of Withdrawal from one or more Prioritized Communities forfeiting their prioritized status, or
 - 2. Default by a Prioritized Community as established in 225 CMR 24.03(4).
 - (b) The Department will notify and work with applicants to update applications if missing information or for which clarifications are required.
 - (c) Substitute Communities must meet all requirements set forth in 225 CMR 24.04 and 225 CMR 24.05 prior to submitting applications to the Department.
- (2) Timeline of Review. Substitute Communities applications will be considered if less than 10 of the Prioritized Communities participate in the Demonstration Project. The

Department will not issue approvals for any Substitute Communities before March 1, 2024.

- (3) Selection Criteria. In addition to ensuring that Substitute Communities meet the requirements set forth in 225 CMR 24.04 and 225 CMR 24.05, the Department will consider the following factors when evaluating applications and selecting Substitute Communities for participation up to a total of 10 Participating Communities and may consider such additional factors as the Department deems appropriate.
- (a) Contribution to the overall Demonstration Project, including diversity of Participating Communities, such as gateway cities, environmental justice communities, diversity of demographics, diversity of size, scale of building development, and type of housing development;
 - (b) Ability to meet Department reporting requirements and effectively monitor and ensure code compliance and implementation;
 - (c) Consistency of proposed bylaw or ordinance to the model bylaw provided by the Department;
 - (d) A preference for cities and towns that meet the compliance guidelines implementing section 3A of chapter 40A of the General Laws through an approved zoning ordinance or bylaw that provides for at least 1 district of reasonable size in which multi-family housing is permitted as right, or, if not applicable, a similar commitment to multi-family housing production as determined by the Department, in consultation with the Executive Office of Housing and Economic Development;
 - (e) Localized electric grid investments needed to support the Demonstration Project as determined through consultation between the Department and electric distribution companies;
 - (f) Demonstrated support from community members and municipal leaders.
- (4) Selection. The Department will issue a determination letter upon approval of any application of a Substitute Community documenting its selection and the basis therefor. The Department will publish determination letters on its website.

24.07 Reporting and Assessment of Results

- (1) Department Reporting. Not later than September 30, 2025, and every 2 years thereafter, the Department shall compile a report to be filed with the Senate and House Committees on Ways and Means, the Joint Committee on Housing, and the Joint Committee on Telecommunications, Utilities and Energy. The report shall include, but not be limited to, the following components:
- (a) Description of Demonstration Project and list of participating communities;

- (b) Description of the Department's process for selecting Comparable Municipalities as a comparison group for the Demonstration Project;
- (c) An analysis of the net reduction in emissions:
 - 1. for each newly constructed building or Major Renovation project subject to the Demonstration Project in each municipality participating in the Demonstration Project; and
 - 2. for each comparable newly constructed building or Major Renovation project in a number of Comparable Municipalities, as selected by the Department, not participating in the Demonstration Project;
- (d) An analysis of impacts on: housing production, if any; housing affordability, if any, including electric bills, heating bills and other operating costs; housing affordability for persons of low and moderate income, if any, including electric bills, heating bills and other operating costs;
- (e) Recommendations for the continuation or termination of the Demonstration Project.

(2) Reporting Requirements for Participating Communities. Annually, not later than June 30th, Participating Communities shall submit the following data, in an accessible format as established by the Department, to the appropriate electric and gas distribution companies, or other designees as determined by the Department:

- (a) For each applicant for a building permit, the applicant's name, street address, building usage type, square footage, and estimated construction cost.
- (b) Electronic copies of any third-party energy reporting on new construction and Major Renovation projects that illustrate the expected energy use for each major end use. These include but are not limited to relevant sections of: final Home Energy Reporting System rating reports; Passive house certification reports; building energy modeling reports used to demonstrate commercial energy code compliance through ASHRAE 90.1 or Thermal Energy Demand Intensity (TEDI) building code compliance pathway.
- (c) Timely and accurate data reporting is required to perform analysis and assessment of impacts of the Demonstration Project.

(2) Reporting Requirements for Electric and Gas Utilities. Each year beginning in 2024, not later than September 30th, all electric and gas distribution companies serving customers in Participating Communities or the Comparable Municipalities shall, in an accessible and standardized format approved by the Department, report the following data:

- (a) Monthly kWh and therm usage, monthly electric costs, broken down by cost category, and monthly gas costs, broken down by cost category.

(b) The information above shall be submitted by account, with an associated anonymized account identifier to track information over time. Each account shall be submitted with an associated rate class, and street address, and be linked to a permit number provided through 225 CMR 24.07(2).

(5) Comparable Municipalities. The Department will identify and designate Comparable Municipalities in a manner to be determined by the Department. Comparable Municipalities shall report data as set forth in 225 CMR 24.07(2). The Department will coordinate with Comparable Municipalities on the method and process of data collection and reporting.

24.08 Specialized Municipal Opt-in Energy Code and Model Rule

(1) Recommended Process. The Department has published a model rule and other guidance in order to assist Participating Communities in achieving the objectives of the Demonstration Project. The Department recommends that cities or towns seeking to participate in the Demonstration Project:

(a) Adopt the Specialized Municipal Opt-in Energy Code, as established in 225 CMR 22.00 and 225 CMR 23.00, and

(b) Adopt through Local Approval the model rule published by the Department.

(2) Model Rule. The model rule published by the Department ensures appropriate integration with the Massachusetts Specialized Municipal Opt-in Energy Code. If a Participating Community determines that adoption of a local by-law or ordinance that differs from the model rule published by the Department is necessary, the Participating Community shall provide information as described in 225 CMR 24.04(1)(b) in its application.

(a) Deviations from the model rule provided by the Department must include exemptions from fossil fuel free requirements for Research Laboratories for Scientific or Medical Research, or for Hospitals or Medical Offices.

24.09 Severability

If any provision of 225 CMR 24.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

St. 2022, c. 179, § 84.

Attachment A: DOER Model Rule

PROCESS for ADOPTION

In a city having a Plan D or Plan E charter the governing body shall be the city manager and the city council, and in any other city the mayor and city council. In towns the governing body shall be the town meeting. In order to be adopted, the regulations must be considered at an appropriate municipal public hearing, subject to the municipality's existing public notice provisions. Cities are advised to adopt the Fossil Fuel-Free Demonstration by general ordinance and towns are advised to adopt as a general bylaw.

The following sample article, sample motion, and sample bylaw are provided as recommendations:

SAMPLE TOWN WARRANT ARTICLE:

To see if the Town will vote to enact Chapter ____ of the Town of _____ General Bylaws, entitled "Fossil Fuel-Free Demonstration" for the purpose of restricting and prohibiting new building construction and major renovation projects that are not fossil fuel-free, pursuant to the entirety of 225 CMR XX, with an effective date of ---_____, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall only take effect if approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR XX.

SAMPLE TOWN MEETING MOTION:

I move that the Town will enact Chapter ____ of the Town of _____ General Bylaws, entitled "Fossil Fuel-Free Demonstration" for the purpose of restricting and prohibiting new building construction and major renovation projects that are not fossil fuel-free, pursuant to the entirety of 225 CMR XX, , with an effective date of _____. This shall only take effect if approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR XX.

SAMPLE BYLAW:

Chapter ____
FOSSIL FUEL-FREE DEMONSTRATION
[Adopted 0-0-2023 ATM / STM by Art.]

§ ____ -1 Definitions

§ ____ -2 Purpose

§ ____ -3 Applicability

§ ____ -4 Fossil Fuel-Free Demonstration

§ ____ -1 Definitions

Fossil Fuel-Free Demonstration – Codified by the entirety of 225 CMR 24.00, the Fossil Fuel-Free Demonstration

Specialized Energy Code – Codified by the entirety of 225 CMR 22 and 23 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.

§ ____ -2 Purpose

The purpose of XX CMR XX, also referred to as the Fossil Fuel-Free Demonstration is to restrict and prohibit new building construction and major renovation projects that are not fossil fuel-free.

§ ____ -3 Applicability

This restriction applies to residential and commercial buildings that qualify as new construction or major renovation, as defined in XX CMR XX. This restriction shall not apply to research laboratories for scientific or medical research, hospitals and medical offices regulated by the department of public health as a health care facility as defined in XX CMR XX.

§ ____ -4 Fossil Fuel-Free Demonstration

The Fossil Fuel-Free Demonstration, as codified by the entirety of XX CMR XX, is herein incorporated by reference into the Town of _____ General Bylaws, Chapter ____ with an effective date of _____.

NOTE TO REVIEWERS: The Department has considered a range of dates for the below provision (5.) and solicits comments regarding the most appropriate date to incorporate.

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 or major renovations.
- 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 or major renovations, with the following exceptions:
 1. Research laboratories for scientific or medical research,
 2. Hospitals regulated by the department of public health as a health care facility,
 3. Medical offices regulated by the department of public health as a health care facility,
 4. Buildings heated with Clean Biomass Heating Systems as defined in 225 CMR 23 as the only combustion equipment,
 5. Multi-family buildings over 12,000 square feet with permit application filed prior to January 1, 2027 may utilize gas or propane for domestic water heating as the only combustion equipment.



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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”); and

WHEREAS, many important functions of State and Local Government are executed by “public bodies,” as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”) have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in cursive script, reading "Charles D. Baker". The signature is written in dark ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts