



Clean Energy Future Committee Meeting Minutes

Draft – for approval at the 02-24-2023 meeting

January 20, 2023

8:15 – 9:30 a.m.

Hybrid In-person / Remote Meeting

Members Present:

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

Also attending: Gene Benson, Patrick Hanlon, Doug Heim (Town Counsel), Brucie Moulton, Jake Glickel

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

1. Reminders re: Hybrid Virtual/In-Person Meeting Pilot

- 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: mentioned can complete a survey after every meeting; at a minimum, please complete after first & last hybrid meetings in the pilot program
- D. Heim: reminder that hybrid meetings require a roll call vote of attendance and a roll call vote for all subsequent votes; roll call vote of attendance was taken.

2. Review and Approve 12/15/2022 Meeting Minutes

The Committee reviewed the draft minutes from the December 15, 2022 meeting. C. Cooper asked for any corrections, additions, or changes. One minor edit made. J. DiTullio moved to approve and R. Katofsky seconded. The Committee unanimously approved the December 15th meeting minutes with a voice vote.

3. CEFC Chair Transition

C. Cooper: the CEFC does not have hard and fast rules for the chair; she agreed to serve for about a year when she took over from Ken Pruitt and it has now been 18 months. She and Talia Fox spoke to a number a CEFC members, and Ryan Katofsky

graciously stepped forward to take the position; delighted to bring this vote to the committee. T. Fox extended a deep thanks to C. Cooper for support and leadership and accomplishments. S. Dein made motion to approve; J. DiTullio seconded. Unanimous voice vote of approval.

4. Specialized Stretch Code Campaign Update

- P. Hanlon reported on education and adoption: 24 communities in total are considering the Specialized Stretch and that includes 20% of the Commonwealths residents; Town of Brookline and City of Watertown have already passed it. All of Arlington’s regional neighbors, including Boston, Cambridge, Somerville, Lexington, Belmont, and Winchester are considering the Specialized Stretch Code
 - The process of developing tools is proceeding fairly well. Advocates in Arlington are working with NEEP, Sierra Club, and MCAN, as well as other cities and towns, to produce model slides, handouts, FAQs, etc. The local advocate team is also developing a website, thinking about precinct meetings, and doing a public workshop in March.
 - P. Hanlon has already presented to Mothers Out Front; Sustainable Arlington has also had several presentations.
 - The building department, working with T. Fox, is planning to host a builder / contractor conversation on February 15 (won’t be a public meeting – that will be held separately in March). Will need to look at the updated Stretch Code first to get people in the right place; not simply a matter of presenting the Specialized Stretch Code, will also educate participants about the changes that have already occurred.
- S. Dein: mentioned that a training session for contractors is a very important piece, and asked how the outreach will be conducted
- T. Fox has been in touch with Mike Ciampa, Arlington’s Director of Inspectional Services about inviting contractors; he is trying to stick to the “regulars” who work within Arlington and is figuring out the best way to reach those folks; may not be traditional outreach, could come down to individual phone calls. It will be an info session and opportunity to ask questions and have a conversation rather than a traditional training.
- P. Hanlon: because updated (2023) Stretch Code now for the first time includes large additions / renovations, it is going to be very important to include and educate designers and architects who are typically involved in projects well before builders. Trying to get a presentation by Ellen Watts, a Wellesley architect and former president of the Boston Society of Architects who specializing in high performance buildings. Ellen has been successful in keeping presentations simple and avoiding talking about things not germane to the issue
- C. Cooper requests that CEFC be involved as we move forward, for example by reviewing the informational materials as they are developed. Suggested that we walk through a presentation of Stretch and Specialized Stretch at some point
- T. Fox recommends the NEEP summary documents of the [residential](#) and [commercial](#) codes, as well as their [FAQ](#) – straightforward and helpful.
- C. Cooper invited community members to ask questions / comments; none made

5. Next Steps for the Fossil Fuel Free Demonstration Pilot

- T. Fox provided a reminder of what CEFC has discussed to date:
 - Base Energy Code – all MA municipalities abide; updated 2023 Stretch Code, all Stretch Code communities, including Arlington, abide; Specialized Stretch Code is opt-in, requiring a Town Meeting vote; Fossil Fuel Free Demonstration Pilot would be in addition to and on top of the Specialized Stretch Code.
 - Pilot will include 10 communities; Arlington will apply
 - DOER has released draft regulation; for communities to be eligible they must have: 1) passed a home rule position banning fossil fuels, which Arlington has done (not yet effective as it's currently in front of the legislature); and 2) be at 10% affordable housing or have adopted a multi-family overlay district by-right, to meet affordable housing goals. Arlington will likely consider the overlay district at a fall Special Town Meeting, date TBD depending in part on state deadlines/requirements
 - Key state deadlines include:
 - 2/8/23 to submit verbal comment
 - 2/10/23 to submit written comments
 - 9/1/23 to submit a written letter of intent
 - 11/10/23 to submit a full application
 - 2/11/2024 to meet all eligibility requirements
 - Required materials include: copy of home rule petition, the multi-family bylaw, and a copy of our proposed fossil fuel free bylaw. DOER has provided a model fossil fuel bylaw; if we don't use it, we must explain and provide a rationale for all differences
 - State suggests adopting the Specialized Stretch, then eliminating the mixed fuel options allowed, with some exceptions
- D. Heim (and others) pointed out that the state requirements are not crystal clear. For example, it is not clear if we will need to submit a September letter of intent as we already did that in fall 2022, in order to ensure we would keep our priority place. D. Heim is waiting for clarification from the state
- C. Cooper asked if any particular reason we need to supply written comments; T. Fox yes, DOER has requested any interested community supply comments in a formal capacity. Town has some thoughts on deadlines, and things that are confusing in the model rule DOER has developed, and will include that type of feedback in the comments
- P. Hanlon: already signed up for hearing on 2/8/23; will be speaking as an individual, not on behalf of the Town; personally, feels there are a lot of issues in whether or not DOER language will accomplish what it wants to accomplish and also not clear on what exactly need to do to meet regulations: i.e., the previously mentioned letter of intent... need clarification on a bunch of stuff
- T. Fox: there are no requirements for the CEFC to do anything during Spring TM but might want to. We already have a Town Meeting-approved bylaw, but it's not on the books yet. Might want to consider adopting the model bylaw instead, for consistency's sake. Can wait until Fall Special Town Meeting, but we might want to consider sooner.
- D. Heim provided a general summary:

- Process: Arlington passed our own special fossil fuel free legislation in fall 2020, at which point Brookline's legislation had already been rejected by the AG. The broader community interested in the issue then got together to produce legislation to allow the pilot program. It's an amazing success story to have gotten home rule authority over an issue where there is entrenched opposition and strong interest of State to retain control.
- Now issue is how to get local approval – and it's not clear why Specialized Stretch Code would be subject to local approval when it is really something designed to eliminate fossil fuels, and Arlington already passed a bylaw eliminating fossil fuels.
- To be eligible to be part of the pilot program, must either be at 10% affordable housing, which Arlington is not, or need to have adopted a multi-family as-of-right district. Town had Safe Harbor status due to the proposed 40B on the Mirak site, but there were not enough units in the pipeline to preserve that status, which only lasted one year. The bottom line is most important thing we need do to get into the pilot program is meet the affordable housing requirements, likely via the addition of the multi-family zoning amendment, which is required to meet the MBTA Communities law and which the Planning Department will be working to pass to comply with the law anyway.
- For purposes of eligibility, Town would like clarification that we can use our existing bylaw and submit application by November 10th
- Competing definitions within model bylaw. Would prefer some things to have more uniform definitions. For example "Major Renovations" in Arlington, triggers other requirements.
- Another question is if we want to submit a draft bylaw or just wait until the fall Special Town Meeting. These are draft regulations, and the model bylaw could very well change... drafting a bylaw based on draft regulations is a bit unusual.
- P. Hanlon: our bylaw is close to what DOER wants. The exemptions are similar except for wood pellets, which we hadn't thought about until now. The biggest difference is that DOER model bylaw eliminates fossil fuels for cooking (by statute – to meet the fossil fuel free definition passed in the state law allowing for this pilot program), and our bylaw lists cooking as an exemption.
- Discussion about whether and how the CEFC should endorse the written comments due to DOER on 2/10/23:
 - D. Heim: either a comment on the pilot program procedure from the CEFC or a CEFC endorsement of a comment from another entity would be helpful
 - C. Cooper noted there is not much time to consider a vote to endorse comments by Feb 10th; D. Heim stated one possibility is for CEFC to participate by authorizing the chair, or town counsel, or certain member, to submit comments on behalf of the CEFC
 - T. Fox noted she will be drafting the comments no matter what; CEFC vote isn't likely to change the content, it's just an endorsement. If CEFC votes yes, it might be represented on the letter and if not, it won't. Letter is going in anyway.

- Ultimately decided T. Fox and D. Heim will draft comments and bring them back to committee chair, at which point CEFC can decide on next steps. If needed, the group will discuss endorsements at a potential short CEFC meeting on 2/3/23 (hold the date)
- R. Katofsky: noted that the focus of the CEFC will be the substance of the comments, and that the exemptions list will likely generate the most friction
- D. Heim suggested we could emphasize that the exemptions should be within the Town purview as they are a local concern. Could propose a laboratory type experiment for each of the pilot communities to figure out what works.

6. Electrify Arlington updates: out of time; C. Cooper will send an email on the topic

Talia pointed out 2/24 meeting is next unless we meet 2/3; five weeks away

Shelly Dein moved to end the meeting and R. Katofsky seconded. Unanimous voice vote. The meeting was adjourned at 9:36.

Submitted by Nellie Aikenhead

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.

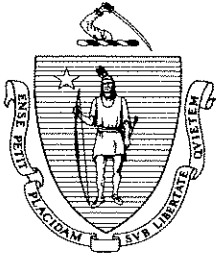
(a) Deviations from the model rule provided by the Department must include exemptions from fossil fuel free requirements for Research Laboratories for Scientific or Medical Research, or for Hospitals or Medical Offices.

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.



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

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.

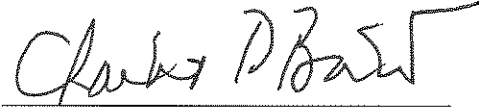
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby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