



TOWN OF AQUINNAH

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www.aquinnah-ma.gov

August 1, 2023

Massachusetts Department of Energy Resources
Green Communities Division
100 Cambridge St., 9th Floor
Boston, MA 02114

Dear Green Communities Division:

The Town of Aquinnah hereby applies to participate in the Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project authorized by St. 2022, c. 179, § 84. Aquinnah is a Prioritized Community listed in 225 CMR 24.03.

In accordance with 225 CMR 24.04, we submit the following materials:

(1) Application Materials:

- a. We attach a copy of Aquinnah's home rule petition submitted to the General Court by Senator Cyr as S.2940 on June 14, 2022. The home rule petition was approved at Aquinnah's May 10, 2022 Town meeting, as evidenced by the certified minutes of that meeting (attached). A by-law to implement a fossil fuel free building construction requirement also was adopted at the same Town meeting, subject to action by the legislature on the home rule petition.
- b. A new by-law for participation in the Demonstration Project was adopted at Aquinnah's May 9, 2023 Town meeting and amended at a special Town meeting on June 14, 2023. That by-law as amended is Part XXX of the Town's general bylaws. It adopts the Department's model rule, with the addition of waiver and appeal provisions. The Town believes it is important to specify in advance how any applications for waiver will be handled and how any appeals will be handled. The by-law as submitted to the Office of the Attorney General is attached. Also at the May 9, 2023 Town meeting, the Town adopted the Specialized Municipal Opt-In Energy Code.
- c. Implementation plan:

1. As noted above, the participation by-law has received Local Approval at a Town meeting.
2. As adopted, the participation by-law has an effective date of January 1, 2024, subject to prior approval by the Department.
3. The Select Board adopted on June 21, 2023 a resolution affirming its commitment to collaborate with the Department on data collection, reporting, and outreach/training. The resolution is attached.
4. Records of building permits are stored in white building permit books, kept in an office at the Town office building at 955 State Road, Aquinnah, MA 02535. Older permit data are in a drawer in a file cabinet in the same office. Each building permit also is assigned a file kept in the filing cabinet. Certificates of occupancy are kept in a yellow certificate of occupancy book in the same office.
5. Aquinnah is a rural, residential community that does not house any industrial facilities. Its commercial activities consist of a number of small seasonal retail shops and two or three seasonal restaurants. The retail shops do not use fossil fuels; the restaurants use propane for cooking. If any of the existing commercial establishments undergoes a Major Renovation, or if a new commercial operation applies for a building permit, the Town will be prepared to consider a waiver, if one is requested, under the standards set forth in the waiver section of the by-law, described below.
6. The by-law contains a waiver provision (§ XXX-7) providing for consideration by a Review Board or the Select Board of a waiver request in the event that compliance with the by-law "makes a project financially infeasible or impractical to implement." Compliance "may be considered infeasible or impractical to implement if, without limitation,

"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 economically unviable; or

"technological or other factors would make the project unsuitable for its intended purpose."

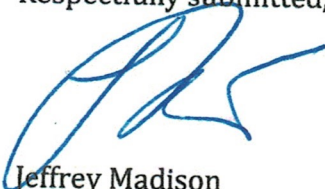
A further provision (§ XXX-8) provides for appeals from decisions by the building inspector, a Review Board, or the Select Board under the by-law, with judicial review in the Dukes County Superior Court under the provisions of G.L. c. 249, § 4.

- d. Aquinnah has met the 10 percent housing affordability threshold under chapter 40B of the General Laws as of December 21, 2020. This is recorded in the Martha's Vineyard Commission's Martha's Vineyard Housing Needs Assessment (December 2020) at pp. 35, 49 (attached). The assessment lists Aquinnah's percentage of SHI units as 20.9 percent.

For these reasons, the Town of Aquinnah respectfully requests that the Department approve its participation in the Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project authorized by St. 2022, c. 179, § 84.

If you have any questions or need further information, please contact the undersigned or William Lake, Chair, Aquinnah Climate and Energy Committee, at 202 271 3892 or lake.williamt@gmail.com.

Respectfully submitted,



Jeffrey Madison
Town Administrator
Town of Aquinnah
955 State Road
Aquinnah, Massachusetts 02535
508 955 9181
townadministrator@aquinnah-ma.gov

Enclosures:

1. S.2940, Aquinnah Home Rule Petition
2. Certified Minutes of May 10, 2022 Aquinnah Town Meeting
3. Participation By-law as submitted to the Office of Attorney General
4. Resolution of Commitment to Collaborate
5. Martha's Vineyard Housing Needs Assessment (December 2020) pp. i, ii, 35, 49

Att. 1

SENATE No. 2940

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the town of Aquinnah to adopt and enforce local regulations restricting new fossil fuel infrastructure and requiring wiring in certain construction.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Julian Cyr</i>	<i>Cape and Islands</i>

SENATE No. 2940

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 2940) of Julian Cyr (by vote of the town) for legislation to authorize the town of Aquinnah to adopt and enforce local regulations restricting new fossil fuel infrastructure and requiring wiring in certain construction. Telecommunications, Utilities and Energy. [Local approval received]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act authorizing the town of Aquinnah to adopt and enforce local regulations restricting new fossil fuel infrastructure and requiring wiring in certain construction.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Sections XXIX and XXX of the town of Aquinnah’s general by-laws,
2 entitled “Electrification of New and Substantially Remodeled or Renovated Buildings” and
3 “Wiring of New and Substantially Remodeled or Renovated Buildings,” are hereby ratified as
4 adopted pursuant to Warrant Articles 14 and 15 of the Town’s 2022 Annual Town Meeting, and
5 shall be in full force and effect as of the effective date of this act.

6 SECTION 2. Notwithstanding chapter 164 of the General Laws, section 13 of chapter
7 142 of the General Laws, the State Building Code, or any other general or special law or
8 regulation to the contrary, the town of Aquinnah is hereby authorized to adopt and further amend
9 its general by-laws that restrict new construction or major renovation projects that do not qualify
10 as fossil-fuel-free, as defined in section 4 of this act, and that require wiring to charge electric
11 vehicles in new construction or major renovation projects.

12 SECTION 3. Notwithstanding section 7 of chapter 40A of the General laws, or any other
13 general or special law or regulation to the contrary, the Building Inspector of the Town of
14 Aquinnah, or any designee thereof, shall be authorized to enforce general by-laws adopted under
15 this act imposing restrictions on new construction and major renovation projects that do not
16 qualify as fossil-fuel-free, as defined in section 4 of this act, or requiring new construction and
17 major renovation projects to include wiring to charge electric vehicles, including through the
18 withholding of building permits.

19 SECTION 4. As used in this act, the term “fossil-fuel-free” shall refer to construction or
20 renovation that results in an entire building or an entire condominium unit that does not utilize
21 coal, oil, natural gas or other fossil fuels in support of its operation.

22 SECTION 5. This act shall take effect upon its passage.

AQUINNAH ANNUAL TOWN MEETING

MINUTES

MAY 10, 2022

QUORUM BEING PRESENT, THE MEETING WAS CALLED TO ORDER AT 7:00 PM.

83 PRESENT

Moderator Michael Hebert asked all who were able to join him in standing up for a moment of silence for those Aquinnah residents who were not with us anymore.

All articles and amendments motioned to the floor and 2nd by the Board of Selectmen.

**TOWN OF AQUINNAH
THE COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss.

To either of the Constables of the Town of Aquinnah

GREETINGS: In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Aquinnah who are qualified to vote in the election and town affairs to meet in the Town Hall on the Tenth day of May, 2022 at 6:30 P.M. then and there to act upon the articles of this Warrant, with the exception of Article One. And to meet again at the Aquinnah Town Hall on the Twelfth day of May, 2022 at twelve noon, then and there to act on Article One of the Warrant by the election of offices, ballot questions and any required override found on the Official Ballot.

The polls for voting on the Official Ballot will open at 12:00 P.M. and close at 8:00 P.M. on Thursday, May 12, 2022.

ARTICLE ONE: To elect the following officers on the Official Ballot
To elect the following officers on the Official Ballot

One member of the Board of Selectmen for three years

Two members of the Planning Board for three years

One member of the Planning Board for one year

One Planning Board Associate for three years

One Moderator for three years

One Library Trustee for three years

One member of the Board of Health for three years

Certified: True Copy
Gabriella Camilleri
Aquinnah Town Clerk

Gabriella Camilleri

Question One:

Shall the Town of Aquinnah be allowed to assess an additional Two Hundred Thousand Dollars (\$200,000.00) in real estate and personal property taxes for the purpose of funding engineering and the schematic phase of planning for a new comfort station at Aquinnah Circle and renovation to the Town Hall/Town Offices for the fiscal year beginning July 1, 2022? Yes ____ No ____

Question Two:

Shall the Town of Aquinnah be allowed to assess an additional Twenty-Six Thousand Dollars (\$26,000.00) in real and personal property taxes for the purpose of purchasing parking voucher dispensers for the municipal parking lot for the fiscal year beginning July 1, 2022? Yes ____ No ____
(Recommended by FinCom)

Question Three:

WHEREAS, Cape Cod Bay is a federal and state protected area and habitat for the endangered Right whale; and

WHEREAS, Cape Cod Bay provides a vital livelihood for fishermen and the tourist industry; and

WHEREAS, the National Academies of Sciences has determined there is no safe dose of ionizing radiation,

WHEREAS, One radioactive element in Holtec Pilgrim water is Tritium, which concentrates up the food chain from sediment to sea grasses to the fish we eat; and

WHEREAS, Holtec Pilgrim can discharge radioactive water anytime without approval of the Nuclear Regulatory Commission (NRC); and

WHEREAS, the Attorney General of New Mexico has filed a lawsuit against the NRC for unlawful proceedings and illegal activities involving Holtec; and

WHEREAS, the Commonwealth of Massachusetts has the authority to stop the dumping;

THEREFORE, shall the people of the Town of Aquinnah direct the local government to communicate with Governor Charlie Baker, Attorney General Maura Healey, and the State Legislature to employ all means available to ensure that Holtec commits to immediately withdraw any plans to dump any radioactive water into Cape Cod Bay?

Yes ____ No ____

Question Four:

Shall the Select Board, on behalf of the Town, be authorized to file a home rule petition asking the Legislature to create a Housing Bank which would impose a 2% transfer fee on real estate sales of \$1,000,000.00 and above to provide year-round and housing affordable to those earning up to 240% of the Dukes County median income? Yes ____ No ____

ARTICLE TWO: To hear the reports of the Town Officers and Committees and act thereon.
Allen Rugg spoke on behalf of the Finance Committee.

ARTICLE THREE: To see if the Town will vote to raise and appropriate the sums of money required to defray the general expenses of the Town as itemized in the FY 2023 operating budget and to fix the salaries and compensation of all elected officers and employees of the Town as itemized therein, and to fund said appropriation through the tax levy. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 73 - NO 5 - PASSED

ARTICLE FOUR: To see if the Town will vote to authorize the Select Board, on behalf of the Town, to petition the General Court for passage of a special law establishing a Martha's Vineyard Housing Bank (the "Housing Bank") as set forth in the document entitled "An Act Establishing the Martha's Vineyard Housing Bank" (the "Housing Bank Act") on file with the Town Clerk, subject to approval by a majority of the voters voting on such question at an annual or special Town election held in the same year as the Town Meeting vote approving submission of this petition to the General Court; provided, however, that submission of such petition to the General Court shall be contingent upon approval of this petition by not less than four towns located on Martha's Vineyard. The Housing Bank Act may be amended prior to submission to the General Court by a body composed of one designee appointed by the Select Board of each town on Martha's Vineyard that approves this article (the "Housing Bank Review Committee"), provided that the Housing Bank Act shall be subject, to the maximum extent possible, to the following parameters:

Initial Members and Local Acceptance: The initial members of the Housing Bank shall be those towns that vote to accept the Housing Bank Act, as passed by the General Court, as provided for in this article.

Housing Bank Commission: The Housing Bank shall be administered by a Housing Bank Commission (the "Commission") consisting of one resident of each member town elected by town-wide vote for staggered three-year terms, and one person elected at-large by an island-wide vote for a two-year term. The Commission shall be subject to G.L. c. 30A, §§18-25 (the "Open Meeting Law") and shall be deemed to be a municipal agency for purposes of G.L. c. 268A (the "State Conflict of Interest Law").

Town Advisory Boards: A Town Advisory Board shall be established within each member town to assist the Commission with the administration of the Housing Bank Act. Town Advisory Boards shall be composed of: one representative appointed by each of the select board, conservation commission, planning board, board of health, zoning board, and, if one exists, wastewater committee, and two members appointed by the town housing committee. Town Advisory Boards shall be consulted by the Commission in developing regulations to implement the Housing Bank Act. Approval by a two-thirds majority vote of the Town Advisory Board(s) in the town or towns in which a project will be located, or in which a real property interest will be acquired, shall be required for any expenditure or use of Housing Bank funds, including the making of any loans or the disbursement of any down payment assistance as provided in this article. The Town Advisory Boards shall each be subject to the Open Meeting Law and be deemed to be a municipal agency for purposes of the State Conflict of Interest Law.

Activities: The purpose of the Housing Bank shall be to promote both year-round housing, and housing affordable to households which earn up to 240% of the applicable household area median income for Dukes County as determined by the federal Department of Housing and Urban Development ("AMI"), in the manner determined by the Housing Bank. In furtherance of said purpose, the Housing Bank shall be authorized to make grants for the acquisition, renovation, or construction of housing and housing-related infrastructure; provide loans, loan and bond guarantees, lines of credit, interest subsidies, rental assistance, and other means of financial assistance; purchase, receive, lease, grant and sell property and real property interests; and provide shared appreciation equity loans through which the Housing Bank receives a portion of the appreciation of the applicable property upon resale. The Housing Bank shall not be authorized to develop, renovate, manage, or operate properties, but shall fulfill its purposes primarily through funding projects proposed by non-profit and for-profit corporations and organizations, individuals and public entities. In considering projects for funding, the Housing Bank shall use as guidelines town or regional master plans, wastewater plans, watershed management plans, open space plans, and climate and energy goals.

The Housing Bank may: (i) provide loans or down payment assistance to individuals who are members of households which earn up to 240% of AMI, subject to imposition of perpetual year-round occupancy restrictions (as defined by the Commission); and (ii) purchase year-round occupancy restrictions from any property owner with respect to properties located within member towns. Except as provided in the foregoing sentence, all housing units created, renovated, rehabilitated or acquired with Housing Bank funds shall be restricted in perpetuity to require occupancy by households earning up to a specified AMI not to exceed 240% of AMI, and shall be subject to perpetual maximum sale price and year-round occupancy restrictions. If a project includes income-restricted and market-rate units, any Housing Bank funding shall be applied only to income-restricted units in such project.

The Housing Bank will pay its own expenses from Housing Bank revenue. In order to expand public participation, in alignment with local diversity, equity and inclusion goals, Commissioners may be paid a stipend not to exceed \$2,000 annually, subject to approval by a two-thirds majority vote of every Town Advisory Board, unless a higher amount is both authorized by a majority vote of town meeting in every member town and approved by a two-thirds vote of every Town Advisory Board.

Limitation on Annual Debt Service: The Housing Bank may incur debt only to the extent that its projected annual debt service obligations prior to maturity with respect to any existing and any new debt will not, in the aggregate, exceed 10% of the average annual revenues received by the Housing Bank during its prior three fiscal years, commencing with the initial partial fiscal year following passage of the Act. Any issuance of bonds by the Housing Bank shall be subject to approval by two-thirds of the Town Advisory Boards and by the Commission. Each such vote of the Town Advisory Boards shall also require a two-thirds vote.

Requirements for Use of Funds: The Housing Bank shall address the greatest community need as determined from time to time by the Commission according to prevailing data. No less than 75% of island-wide annual funding commitments approved in each fiscal year shall be allocated to projects on properties previously developed with existing buildings, or to fund infrastructure associated with such projects. All new construction shall use no fossil fuels on site (except as needed during construction, renovation, repair, temporary use for maintenance, or vehicle use), achieve a HERS (Home Energy Rating Service) rating of zero and, to the maximum extent possible, produce no new

net nitrogen pollution. All new construction on undeveloped properties of more than five acres shall preserve a minimum of 40% of the property as open space and minimize tree removal, in order to promote clustering and preserve undeveloped property. All projects shall minimize disturbances to the local ecology.

If a project that receives Housing Bank funds includes income-restricted and market-rate units, the provisions of this section shall apply to the entire project. Satisfaction of each of the provisions of this section shall be as determined by the Commission.

Priorities: The Housing Bank shall prioritize projects that: are close to existing services (honor "Smart Growth" principles); are not in priority habitat areas as defined by the Massachusetts Natural Heritage and Endangered Species Act; and mitigate the effects of climate change, such as projects which (i) do not involve acquisition of fossil fuel equipment and (ii) have a master plan to delineate a path to fossil-fuel-free operation and net-zero annual site energy consumption.

Transfer Fee: The Housing Bank's activities will be funded by a two percent fee imposed on transfers of real property interests paid by the purchaser, such fee to be established either by general law or by the Housing Bank Act. An amount to be determined by the Commission annually, but not less than the first \$1,000,000.00 of the purchase price or other consideration paid with respect to any transfer of a real property interest, shall be exempt from the transfer fee. Additional exemptions shall be as set forth in any general law establishing the transfer fee or in the Housing Bank Act as amended prior to submission to the General Court.

Non-member Towns: No Housing Bank funds may be expended in any town which is not a member of the Housing Bank; provided, however, that the Housing Bank may expend funds in a town that withdraws to the extent such expenditures were approved before the date that such town provides notice to the Housing Bank that the member town has voted at a regular or special election to withdraw from the Housing Bank, and provided that transfer fees continue to be collected in that town.

Withdrawal and Sunset: Any member town may withdraw from the Housing Bank by the affirmative vote of a majority of the voters at any regular or special town election. The transfer fee shall continue to be collected in any town that votes to withdraw from the Housing Bank until satisfaction of the withdrawing town's pro rata share of all Housing Bank debt incurred prior to the date that such town provides notice to the Housing Bank that the town has voted at a regular or special election to withdraw from the Housing Bank, determined as the ratio of all transfer fees collected by such town during its membership in the Housing Bank to all transfer fees collected by all member towns during the same period.

The Housing Bank Act shall expire 30 years after its passage unless extended by vote of the Commission and a majority vote of town meeting by at least four member towns; provided that, if extended, the Housing Bank Act shall remain in effect only for the towns that vote to extend. The transfer fee shall continue to be collected in any town that does not vote to extend the Housing Bank Act until satisfaction of all Housing Bank debt incurred prior to (1) the effective date of the extension of the Housing Bank Act if the Housing Bank Act is extended notwithstanding the town's vote, and (2) the expiration of the Housing Bank Act, if the Housing Bank Act is allowed to expire.

Taxes: All property and housing units created, renovated, rehabilitated or acquired with Housing Bank funds shall be taxed in accordance with assessed values.

The Housing Bank Act is subject to approval by the General Court, which may only make clerical or editorial changes of form to the bill unless the Select Boards of at least two thirds of the towns that approve this article vote to approve amendments to the bill before enactment by the General Court. Approval of this article authorizes the Select Board to approve amendments which shall be within the scope of the general public objectives of the Housing Bank Act. Adoption of the Housing Bank Act by any town, in the final form approved by the General Court, must be approved by the affirmative vote of a majority of the voters at any regular or special town election at which the question of acceptance has been placed on the ballot. The Housing Bank Act shall become effective on the date on which no less than four towns located on Martha's Vineyard accept its provisions as provided for in this article, or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 74 - NO 5 - PASSED

ARTICLE FIVE: To see if the town will vote to raise and appropriate the sum of Two Hundred Thousand Dollars (\$200,000.00) for the purpose of funding engineering and schematic design costs related to renovating the Town Hall/Town Offices and Comfort Station at Aquinnah Circle. No amounts shall be raised and appropriated or expended pursuant to this vote unless the Town shall have voted to override the limitation on the property tax levy set forth in M.G.L. Chapter 59, § 21C (also known as Proposition 2 ½) by a majority of voters casting ballots on Question 1 at the Annual Town Election held on May 12, 2022; or to take any other action relative thereto. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 59 - NO 18 - PASSED

ARTICLE SIX: To see if the Town will vote to transfer the sum of Five Thousand Dollars (\$5,000.00) from available funds to pay toward Transportation Engineering services for design work and/or technical analyses on Town projects, with funds administered by the Martha's Vineyard Commission, for Fiscal Year 2023. The Transportation Engineering Services program is a renewal of services authorized in FY22 under this same contractual arrangement. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 64 - NO 2 - PASSED

ARTICLE SEVEN: To see if the Town will vote to transfer the sum of Five Thousand Eight Hundred Eighty-Five Dollars (\$5,885.00) from available funds to pay for the prior year's Local Aid Shortfall Payments to the Massachusetts State Treasury. Nine-Tenths Majority Required (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 63 - NO 5 - PASSED

ARTICLE EIGHT: To see if the Town will vote to transfer the sum of Five Thousand Dollars (\$5,000.00) from available funds to pay the Town share of salary and expenses to hire an Island-wide Emergency Management Coordinator, or take any other action relative thereto. This appropriation is contingent upon approval of all other towns in Dukes County. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 60 - NO 6 - PASSED

ARTICLE NINE: To see if the Town will vote to authorize the Select Board to appropriate the sum of Thirty-Five Thousand Eight Hundred Fifty-Two Dollars (\$35,852.00) for highway construction or improvements from the Town of Aquinnah's Chapter 90 local transportation aid apportionment from the Commonwealth of Massachusetts for FY 2023, or take any other action relative thereto. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 67 - NO 4 - PASSED

ARTICLE TEN: To see if the Town will vote to transfer the sum of Twenty-Six Thousand Six Hundred Forty-Nine Dollars (\$26,649.00) from available funds to support the maintenance costs of the Martha's Vineyard Public Safety Communication System in accordance with the Cooperative Agreement for Emergency Communications and Dispatch Services. The funding is contingent on all Island Towns paying for such costs in Fiscal Year 2023 according to the agreed upon dispatch and fixed cost formula. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 61 - NO 4 - PASSED

ARTICLE ELEVEN: To see if the Town will vote to transfer the sum of Seven Thousand Nine Hundred Seventy Dollars (\$7,970.00) from available funds to be paid to the Up Island Regional School District as the Town's share of the costs of the District's capital project for the purchase and installation of services, supplies, equipment and materials related to an Emergency Generator for the Chilmark School building, including any other costs incidental and relative thereto; provided, however, that this appropriation shall not be effective unless each of the other member Towns of the District approve a corresponding appropriation for their respective share of the total project costs; or to take any other action relative thereto. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 62 - NO 6 - PASSED

ARTICLE TWELVE: To see if the Town will accept the provisions of Chapter 40, Section 13E of the Massachusetts General Laws permitting the Up-Island Regional School District to establish a Special Education Stabilization Fund; or take any other action relative thereto. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 57 - NO 8 - PASSED

ARTICLE THIRTEEN: To see if the Town will vote to transfer the sum of Twenty-Three Thousand Two Hundred Twenty-Eight Dollars (\$23,228.00) from available funds to be paid to the Up Island Regional School District as the Town's share of the additional costs of the District's capital project for the purchase and installation of services, supplies, equipment and materials related to replacing a portion of the Roof in or on the West Tisbury School building, including any other costs incidental and relative thereto; provided, however, that this appropriation shall not be effective unless each of the other member Towns of the District approve a corresponding appropriation for their respective share of the total project costs; or to take any other action relative thereto. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 65 - NO 2 - PASSED

ARTICLE FOURTEEN: To see if the Town will vote to amend the General By-Laws by adopting Chapter XXIX entitled "Electrification of New and Substantially Remodeled or Renovated Buildings," as

set forth below. This proposed By-law, if approved by the Town, will become effective only if the Town authorizes the Select Board to petition the General Court to enact special legislation to ratify and authorize the Town's approval of the By-law, as proposed in Article 16, and the General Court passes the requested special legislation.

CHAPTER XXIX: Electrification of New and Substantially Remodeled or Renovated Buildings

1. Purpose

The Town of Aquinnah adopts this By-Law under the authority granted by Article 89, § 6, of the Amendments to the Massachusetts Constitution, and by General Laws c. 40, § 21(1) and (18), § 21D, and c. 43B, § 13, to require New and Substantially Remodeled or Renovated Buildings to use electricity instead of fossil fuels for heating, cooling, and hot water. The By-Law will protect the health and welfare of the Town's inhabitants and the environment by reducing greenhouse gas emissions, which cause climate change, and by reducing other air pollutants.

2. Definitions

"Effective Date" means the date six months following the date on which special legislation ratifying and authorizing the Town's adoption of an amendment to its General By-laws, approved at the 2022 Annual Town Meeting, and entitled "Chapter XXIX Electrification of New and Substantially Remodeled or Renovated Buildings," becomes effective and on which the Town Clerk posts this By-law, in its approved form, and the special legislation enacted by the General Court, at Town Hall and on the Town's website.

"New Building" means a structure with a roof, not in existence at the time of the filing of an associated building permit application on or after the Effective Date, designed or intended for the shelter of persons or animals or the storage of property.

"Substantially Remodeled or Renovated Building" means a renovation project that requires a building permit, for which a building permit application has been filed after the Effective Date and that includes the reconfiguration of space or building systems, in which the Work Area is greater than 50% of the gross floor area, as defined by the Massachusetts Building Code, prior to the project.

"Work Area" means the aggregate area of those portions of a building affected by renovations for the reconfiguration of space or building systems, including new floor area added as a result of renovation, as indicated in the drawings associated with a building permit application. Portions of a building where only repairs, refinishing, or incidental work occur are excluded from the calculation of Work Area.

"Review Board" (RB) means a Town Board, established and appointed by the Select Board, whose members shall have the experience and expertise necessary to perform the functions and requirements of reviewing waivers and appeals as set out in Sections XXIX.6 and .7A of this By-law. The RB shall have at least three (3) members serving three-year staggered terms. RB members shall be considered special municipal employees for purposes of G. L. c. 268A. The Select Board, in its discretion, can serve as the RB, if the Select Board decides not to appoint RB members.

3. Applicability

This By-Law shall apply to all building permit applications for New or Substantially Remodeled or Renovated Buildings proposed to be located in whole or in part within the Town of Aquinnah, except for:

- A. Indoor and outdoor cooking appliances; and
- B. Emergency generators.

4. Building Permits. On and after the Effective Date,

- A. Any application for a building permit for a New Building or a Substantially Remodeled or Renovated Building must identify the means of heating, cooling, and hot water that will be used in the building.
- B. The Town will grant a building permit for a New Building or a Substantially Remodeled or Renovated Building only if the building will use electricity instead of fossil fuels for heating, cooling, and hot water.

5. Enforcement

On and after the Effective Date, the Town shall not issue any building permit for the construction of a New or Substantially Remodeled or Renovated Building except as provided by this By-Law.

6. Waivers

- A. The RB may grant a waiver from the provisions of this By-Law in the event that compliance makes a project financially infeasible or impractical to implement. Compliance with this By-Law may be considered infeasible or impractical to implement if, without limitation:
 - 1. 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 economically unviable; or
 - 2. technological or other factors would make the project unsuitable for its intended purpose.
- B. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits.
- C. Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are infeasible or impractical to implement, rather than for entire projects.
- D. The RB, or the Select Board if in its sole discretion it chooses, may issue guidance on the granting of waivers and the imposition of conditions, to be periodically amended in light of experience under this By-law. The RB shall submit its proposed guidance to the Select Board for review before becoming effective, which may offer amendments or additions. If the Select Board elects not to propose amendments or additions within sixty (60) days of the submission of proposed guidance to the Town Administrator, then the proposed guidance shall become effective. The RB's decisions on waiver requests shall be final, with the exception of an appeal seeking for judicial review as provided for in Section XXIX.7(B).

7. Appeals

- A. An appeal from a decision by the Building Inspector under this By-law may be taken to the RB and must be filed with the Town Clerk within fourteen (14) days of the decision appealed. The RB shall hold a public hearing within a reasonable time after the appeal is filed, but is not required to provide notice other than what is required by the Open Meeting Law. The RB shall reverse the decision of the Building Inspector only if the decision was arbitrary, capricious, or not supported by substantial evidence. The RB shall consider only the record or documents provided to the Building Inspector, shall not conduct a de novo review or proceeding, and shall issue its decision in writing, which decision shall be final.
- B. An applicant aggrieved by a decision of the RB under Sections XXIX.6 or XXIX.7(A) may seek judicial review only in the Dukes County Superior Court under the provisions of G. L. c. 249, § 4.
- ELECTRONIC VOTING SYSTEM: YES 39 - NO 24 - PASSED**

ARTICLE FIFTEEN: To see if the Town will vote to amend the General By-Laws by adopting Chapter XXX entitled "Wiring of New and Substantially Remodeled or Renovated Buildings" as set forth below. This proposed By-law, if approved by the Town, will become effective only if the Town authorizes the Select Board to petition the General Court to enact special legislation to ratify and authorize the Town's approval of the By-law, as proposed in Article 16, and the General Court passes the requested special legislation.

CHAPTER XXX: Wiring of New and Substantially Remodeled or Renovated Buildings

1. Purpose

The Town of Aquinnah adopts this By-Law under the authority granted by Article 89, § 6, of the Amendments to the Massachusetts Constitution, and by General Laws c. 40, § 21(1) and (18), § 21D, and c. 43B, § 13, to require New and Substantially Remodeled or Renovated Buildings to be wired to accommodate installation of an Electric Vehicle Charger. The By-Law will protect the health and welfare of the Town's inhabitants and the environment by ensuring that newly constructed or substantially modified buildings will be capable of accommodating anticipated future action to reduce the use of fossil fuels and emission of greenhouse gases.

2. Definitions

"Effective Date" means the date six months following the date on which special legislation ratifying and authorizing the Town's adoption of an amendment to its General By-laws, approved at the 2022 Annual Town Meeting, and entitled "Chapter XXX Wiring of New and Substantially Remodeled or Renovated Buildings," becomes effective and on which the Town Clerk posts this By-law, in its approved form, and the special legislation enacted by the General Court, at Town Hall and on the Town's website.

"Electric Vehicle Charger" means a Level 2 device for charging of electric vehicles.

"New Building" means a structure with a roof, not in existence at the time of the filing of an associated building permit application on or after the Effective Date, designed or intended for the shelter of persons or vehicles.

“Substantially Remodeled or Renovated Building” means a renovation project that requires a building permit, for which a building permit application has been filed after the Effective Date and that includes the reconfiguration of space or building systems, in which the Work Area is greater than 50% of the gross floor area, as defined by the Massachusetts Building Code, prior to the project.

“Work Area” means the aggregate area of those portions of a building affected by renovations for the reconfiguration of space or building systems, including new floor area added as a result of renovation, as indicated in the drawings associated with a building permit application. Portions of a building where only repairs, refinishing, or incidental work occur are excluded from the calculation of Work Area.

“Review Board” (RB) means a Town Board, established and appointed by the Select Board, whose members shall have the experience and expertise necessary to perform the functions and requirements of reviewing waivers and appeals as set out in Sections XXX.6 and .7A of this By-law. The RB shall have at least three (3) members serving three-year staggered terms. RB members shall be considered special municipal employees for purposes of G. L. c. 268A. The Select Board, in its discretion, can serve as the RB, if the Select Board decides not to appoint RB members.

3. Applicability

This By-Law shall apply to all building permit applications for New or Substantially Remodeled or Renovated Buildings proposed to be located in whole or in part within the Town of Aquinnah.

4. Building Permits

On and after the Effective Date, any application for a building permit for a New Building or a Substantially Remodeled or Renovated Building must:

- A. Indicate a pathway for routing of conduit from the service panel to a location appropriate and convenient for Level 2 charging of an electric vehicle; and
- B. Indicate that the main electrical service panel will have a reserved space to allow installation of a dual pole circuit breaker for present or future installation of an Electric Vehicle Charger. The reserved space shall be positioned at the opposite (load) end from the input feeder location or main circuit location and shall be appropriately labeled.

5. Enforcement

On and after the Effective Date, the Town shall not issue any building permit for the construction of a New or Substantially Remodeled or Renovated Building unless the building permit application contains the indications required by this By-Law.

6. Waivers

- A. The RB may grant a waiver from the provisions of this By-Law in the event that compliance makes a project financially infeasible or impractical to implement. Compliance with this By-Law may be considered infeasible or impractical to implement if, without limitation:

1. 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 economically unviable; or
 2. technological or other factors would make the project unsuitable for its intended purpose.
- B. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits.
- C. Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are infeasible or impractical to implement, rather than for entire projects.
- D. The RB, or the Select Board if in its sole discretion it chooses, may issue guidance on the granting of waivers and the imposition of conditions, to be periodically amended in light of experience under this By-law. The RB shall submit its proposed guidance to the Select Board for review before becoming effective, which may offer amendments or additions. If the Select Board elects not to propose amendments or additions within sixty (60) days of the submission of proposed guidance to the Town Administrator, then the proposed guidance shall become effective. The RB's decisions on waiver requests shall be final, with the exception of an appeal seeking judicial review as provided for in Section XXX.7(B).

7. Appeals

- A. An appeal from a decision by the Building Inspector under this By-law may be taken to the RB and must be filed with the Town Clerk within fourteen (14) days of the decision appealed. The RB shall hold a public hearing within a reasonable time after the appeal is filed, but is not required to provide notice other than what is required by the Open Meeting Law. The RB shall reverse the decision of the Building Inspector only if the decision was arbitrary, capricious, or not supported by substantial evidence. The RB shall consider only the record or documents provided to the Building Inspector, shall not conduct a de novo review or proceeding, and shall issue its decision in writing, which decision shall be final.
- B. An applicant aggrieved by a decision of the RB under Sections XXX.6 or XXX.7(A) may seek judicial review only in the Dukes County Superior Court under the provisions of G. L. c. 249, § 4.

MOTION MADE TO AMEND CHAPTER XXX, #4. A. To change the sentence from:
Indicate a pathway for routing of conduit from the service panel to a location appropriate and convenient for Level 2 charging of an electric vehicle; and

TO:

Indicate a pathway for routing of conduit **to be installed** from the service panel to a location appropriate and convenient for Level 2 charging of an electric vehicle; and

MOTION SECONDED – VOICE VOTE – AMENDMENT TO ARTICLE FIFTEEN PASSED
ARTICLE FIFTEEN AS AMENDED:

ELECTRONIC VOTING SYSTEM: YES 48 - NO 15 - PASSED

ARTICLE SIXTEEN: To see if the Town will vote to authorize the Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to: (1) ratify the adoption, at the Spring Annual Town Meeting under Warrant Articles 14 and 15, of amendments to the Town's General By-laws by inserting Chapters XXIX and XXX, entitled "Electrification of New and Substantially Remodeled or Renovated Buildings" and "Wiring of New and Substantially Remodeled or Renovated Buildings," into the General By-laws; and (2) authorize the Building Inspector to administer these By-laws, including through the withholding of building permits; provided, however, that the General Court may make clerical or editorial changes of form only to the special legislation, unless the Select Board approves amendments to the bill before enactment by the General Court; and, provided further, that the Select Board is hereby authorized to approve such amendments that are within the scope of the objectives of this petition:

An Act authorizing the town of Aquinnah to adopt and enforce local regulations restricting new fossil fuel infrastructure and requiring wiring in certain construction.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Sections XXIX and XXX of the town of Aquinnah's general by-laws, entitled "Electrification of New and Substantially Remodeled or Renovated Buildings" and "Wiring of New and Substantially Remodeled or Renovated Buildings," are hereby ratified as adopted pursuant to Warrant Articles 14 and 15 of the Town's 2022 Annual Town Meeting, and shall be in full force and effect as of the effective date of this act.

SECTION 2. Notwithstanding chapter 164 of the General Laws, section 13 of chapter 142 of the General Laws, the State Building Code, or any other general or special law or regulation to the contrary, the town of Aquinnah is hereby authorized to adopt and further amend its general by-laws that restrict new construction or major renovation projects that do not qualify as fossil-fuel-free, as defined in section 4 of this act, and that require wiring to charge electric vehicles in new construction or major renovation projects.

SECTION 3. Notwithstanding section 7 of chapter 40A of the General laws, or any other general or special law or regulation to the contrary, the Building Inspector of the Town of Aquinnah, or any designee thereof, shall be authorized to enforce general by-laws adopted under this act imposing restrictions on new construction and major renovation projects that do not qualify as fossil-fuel-free, as defined in section 4 of this act, or requiring new construction and major renovation projects to include wiring to charge electric vehicles, including through the withholding of building permits.

SECTION 4. As used in this act, the term "fossil fuel-free" shall refer to construction or renovation that results in an entire building or an entire condominium unit that does not utilize coal, oil, natural gas or other fossil fuels in support of its operation.

SECTION 5. This act shall take effect upon its passage.

or take any other action in relation thereto.

ELECTRONIC VOTING SYSTEM: YES 47 - NO 16 - PASSED

ARTICLE SEVENTEEN: To see if the Town will vote to transfer the amount of Three Thousand Dollars (\$3,000.00) from available funds in the Waterways Fund to pay for the of removal of Codium from Menemsha Pond, or take any other action relative thereto. (Recommended by FinCom)
ELECTRONIC VOTING SYSTEM: YES 55 - NO 2 - PASSED

ARTICLE EIGHTEEN: To see if the Town will vote to raise and appropriate the sum of Twenty-Six Thousand Dollars (\$26,000.00) to purchase parking voucher dispensers for the municipal parking lot. No amounts shall be raised and appropriated or expended pursuant to this vote unless the Town shall have voted to override the limitation on the property tax levy set forth in M.G.L. Chapter 59, § 21C (also known as Proposition 2 ½) by a majority of voters casting ballots on Question 2 at the Annual Town Election held on May 12, 2022; or take any other action relative thereto. (Recommended by FinCom)
ELECTRONIC VOTING SYSTEM: YES 25 - NO 36 - FAILED

ARTICLE NINETEEN: To see if the Town will vote to accept the provisions of M.G.L. c. 59, § 5, Clause 54 which exempts the first Ten Thousand Dollars (\$10,000.00) of value of personal property from collection of a personal property tax, or take any other action relative thereto. (Recommended by FinCom)
ELECTRONIC VOTING SYSTEM: YES 55 - NO 2 - PASSED

ARTICLE TWENTY: To see if the Town will vote to transfer the sum of Thirteen Thousand and Three Dollars (\$13,003.00) from available funds to pay for the first year of a 4 (four) year lease for a hybrid vehicle to be used by the Police Department, or take any other action relative thereto. (Recommended by FinCom)
ELECTRONIC VOTING SYSTEM: YES 44 - NO 12 - PASSED

ARTICLE TWENTY-ONE: To see whether or not the Town will vote to accept the provisions of Massachusetts General Laws Chapter 90, section 20A ½ to allow for the non-criminal disposition of parking violations, authorizing the Select Board to designate or appoint a parking clerk who shall supervise and coordinate the processing of parking notices in the town and who may, subject to appropriation, contract, by competitive bidding, for such services subject to appropriation to carry out the provisions of this section, and to authorize the Select Board to appoint Parking Enforcement Agents who need not be police officers to carry out the provisions of this law by issuing non-criminal citations to violators , or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 46 - NO 8 - PASSED

ARTICLE TWENTY-TWO: To see if the Town will vote to accept the provisions of M. G. L. c. 39, § 23D, commonly known as the Mullin Rule, so as to allow participation in a session of an adjudicatory hearing where a member has missed a single hearing; or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 55 - NO 2 - PASSED

ARTICLE TWENTY-THREE: To see if the Town will vote to appropriate, or reserve, monies for the administrative expenses of the Community Preservation Committee, the payment of debt service, the undertaking of Community Preservation projects and all other necessary and proper expenses for the year, from projected Fiscal Year 2023 Community Preservation revenues of **Two Hundred and Eighty Thousand Dollars (\$280,000)**. Thirty percent of those funds shall be allotted in the following amounts as required by Community Preservation legislation:

\$28,000 to the Community Preservation Open Space Reserve; and,

\$28,000 to the Community Preservation Historic Reserve; and,

\$28,000 to the Community Preservation Housing Reserve.

In addition, the remaining seventy percent of funds raised during the Fiscal Year 2023 shall be reserved for appropriation in the following manner as recommended by the Aquinnah Community Preservation Committee:

\$67,400 to the Community Preservation Community Housing Reserve; and,

\$1,453 to the Community Preservation Community Historic Preservation Reserve; and,

\$123,147 to the Community Preservation Open Space and Recreation Reserve; and,

\$4,000 for general administration needs, or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 48 - NO 6 - PASSED

ARTICLE TWENTY-FOUR: To see if the Town will vote to appropriate monies, from currently reserved Community Preservation and Undesignated revenues, for the undertaking of the following **Historic Preservation** efforts, as recommended by the Community Preservation Committee:

\$21,300 (twenty-one thousand three hundred dollars) from the Community Preservation Historic Preservation Reserve for the re-roofing of the MV Campgrounds Tabernacle; and,

\$8,000 (eight thousand dollars) from the Community Preservation Historic Preservation Reserve for the re-furbishing of the Town Hall stage curtain; and,

\$10,000 (ten thousand dollars) from the Community Preservation Undesignated Reserve for the restoration and digitization of historic Gay Head Town documents, or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 49 - NO 2 - PASSED

ARTICLE TWENTY-FIVE: To see if the Town will vote to authorize the Town Treasurer, under the authority of Chapter 44B, § 11, and with the approval of the Town Select Board, to borrow the sum of \$400,000, over a 10 year term, on behalf of the Community Preservation Committee, for payment of the Town's share of the cost of design and construction of four units of affordable rental housing on parcel M5/L170.2 behind Aquinnah town hall. Annual debt service is estimated at a maximum annual cost of \$46,000; to be paid with CPA funds, or take any other action relative thereto.

Two-Thirds Majority Required (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 48 - NO 7 - PASSED

ARTICLE TWENTY-SIX: To see if the Town will vote to appropriate monies, from currently reserved Community Preservation revenues, for the undertaking of the following **Community Housing** efforts, as recommended by the Community Preservation Committee:

\$22,000 (twenty-two thousand dollars) from the Community Preservation Community Housing Reserve toward the first payment on mortgage costs related to borrowing for pre-development and development costs of 4 apartments behind the Town Center; and,

\$100,000 (one hundred thousand dollars) from the Community Preservation Community Housing Reserve toward the Town's share of the design and construction costs of 4 affordable apartments behind the Town Center; and,

\$15,000 (fifteen thousand dollars) from the Community Preservation Community Housing Reserve for costs related to the development of affordable housing as proposed by Harbor Homes; and,

\$28,400 (twenty-eight thousand four hundred dollars) from the Community Preservation Community Housing Reserve for costs related to the development of affordable housing as proposed by the Island Autism Group; and,

\$52,000 (fifty-two thousand dollars) from the Community Preservation Housing Reserve for the subsidy of affordable rents in Aquinnah through the DCRHA's Rental Assistance program, or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 46 - NO 4 - PASSED

ARTICLE TWENTY-SEVEN: To see if the Town will vote to appropriate monies, from currently reserved Community Preservation revenues, for the undertaking of the following **Open Space and Recreation and Administrative** efforts, as recommended by the Community Preservation Committee:

\$50,000 (fifty thousand dollars) from the Community Preservation Open Space and Recreation Reserve for the construction of a new playground behind Town Hall; and,

\$40,000 (forty thousand dollars) from the Community Preservation Open Space and Recreation Reserve for the construction of a rain shelter / pavilion at the Aquinnah Circle picnic area; and,

\$61,147 (sixty-one thousand one hundred and forty seven dollars) for ongoing mortgage costs related to capital improvements at the Aquinnah Circle and the Acquisition of #13 Aquinnah Circle; and,

\$4,000 (four thousand dollars) from general Community Preservation funds for FY '23 CPA administrative expenses, or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 45 - NO 9 - PASSED

ARTICLE TWENTY-EIGHT: To see if the Town will vote to authorize the Select Board to transfer, convey or lease a portion of the Town-owned land, identified on Aquinnah Assessors Map 5, as Parcel 170.2, but more particularly shown as "Lease Lot 1" on a "Plan of Land in Aquinnah, Mass. Prepared for the Town of Aquinnah Scale: 1" = 40' March 7, 2022," prepared by Schofield, Barbini & Hoehn, Inc., which plan the Planning Board approved on March 15, 2022, to the Island Housing Trust, Inc. ("IHT"), for the creation and development of four units of affordable housing. The Town selected IHT as the developer of the four units under an RFP process conducted in 2021. Further, to authorize the Select Board to lease or convey Lease Lot 1 to IHT under the terms and conditions that the Select Board determine are in the best interest of the Town, or to take any other action relative thereto. (Recommended by FinCom)

ELECTRONIC VOTING SYSTEM: YES 49 - NO 7 - PASSED

ARTICLE TWENTY-NINE: To see if the Town will vote to transfer the sum of Six Thousand Dollars (\$6,000) from available funds to pay for the purchase of an electronic voting system for use at Town Meetings, or take any other action relative thereto.

ELECTRONIC VOTING SYSTEM: YES 40 - NO 15 - PASSED

Motion to dissolve the meeting. 2nd. Voice Vote: Passed-Unanimous. Meeting dissolved 9:30 PM

Respectfully Submitted,

Certified: True Copy
Gabriella Camilleri
Aquinnah Town Clerk

Gabriella Camilleri, Aquinnah Town Clerk

Gabriella Camilleri

Form 1

6.) Town Counsel contact information:

Attorney Ronald Rappaport
 Firm Reynolds, Rappaport, Kaplan & Hackney, LLC
 Mailing Address Po Box 2540
 City Edgartown State MA Zip 02539
 Phone 508-627-3711 Fax 508-627-3088
 Email info@rrklaw.net

7.) Town Clerk contact information:

Name (print) Gabriella Camilleri
 Signature Gabriella Camilleri
 Mailing Address 955 State Rd.
 City Aquinnah State MA Zip 02535
 Phone 508-645-2304 Fax 508-645-7884
 Email townclerk@aquinnah-ma.gov
 Work Schedule Mon, Tues, Thurs. 8:30-3:30 Fri 9-12

8.) Planning Board member contact information:

Name (print) Sophia Welch
 Mailing Address 955 State Rd.
 City Aquinnah State MA Zip 02535
 Phone 508-645-2300 Fax 508-645-7884
 Email adminassistant@aquinnah-ma.gov
 Work Schedule Mon, Tues, Wed, Thurs, Fri 9-1pm

PLEASE ELECTRONICALLY FILE YOUR BY-LAW SUBMISSION PACKAGE AT:

BYLAWS@STATE.MA.US

Form 1



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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

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

Town: Aquinnah

Form 1

"Pursuant to G.L. c. 40, § 32, I hereby request approval of the enclosed amendments to our town by-laws. G.L. c. 40, § 32, specifies that this request must be made within thirty (30) days after final adjournment of Town Meeting. The mandatory forms are included."

- 1.) Town Meeting (*check one*): NOTE: If "Other" is selected, please specify (i), (ii), or (iii)
- ☒ Annual ☐ Special ☐ Other (*specify*)
- i.) Authorized by Charter _____
- ii.) Authorized by Special Act _____
- iii.) Authorized by By-Law _____

2.) Date Town Meeting First Convened: 5/9/23

3.) Date(s) of Adjourned Sessions: _____

4.) Identify Warrant Article(s) Submitted:

Does any by-law submitted in this packet derive from a local option statute or a special act?

☐ No ☐ Yes (*if yes, please submit Form 6*)

a.) Zoning _____

Does any by-law submitted in this packet, create or amend a by-law adopted under G.L. c. 40R (smart growth zoning by-law)?

☐ No ☐ Yes (*if yes, please submit Form 6*)

b.) Historical District _____

c.) General Article Twelve, Article Thirteen

d.) Charter Amendment (proposed amendments to an existing charter pursuant to G.L.c. 43B, § 10) _____

5.) Identify Zoning/Historic Maps Relating to Warrant Article(s): _____

Certified:

True Copy

Gabriella Camilleri

Aquinnah Town Clerk

Gabriella Camilleri

**WARRANT FOR THE
ANNUAL TOWN MEETING
MAY 9, 2023
COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss.

To either of the Constables of the Town of Aquinnah

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Aquinnah who are qualified to vote in the election and town affairs to meet at the Aquinnah Town Hall in said Town on the Ninth day of May, 2023 at 7:00 P.M. then and there to act upon the articles of this Warrant, with the exception of Article One; and to meet again at the Aquinnah Town Office Building on the Eleventh day of May, 2023 at twelve noon, then and there to act on Article One of the Warrant by the election of offices, ballot questions and override found on the Official Ballot.

The polls for voting on the Official Ballot will open at 12:00 P.M. and close at 8:00 P.M. on Thursday, May 11, 2023.

ARTICLE ONE

To elect the following officers on the Official Ballot
One member of the Board of Selectmen for three years
Two members of the Planning Board for three years
One member of the Planning Board for one year
One member of the Board of Health for three years
One Town Clerk for three years
One Library Trustee for three years

Question One:

Shall the Town of Aquinnah be allowed to assess an additional One Hundred Ten Thousand Dollars (\$110,000.00) in real estate and personal property taxes for the purposes of operating the Up-Island Regional Schools for the Fiscal Year beginning July 1, 2023? Yes No
(Recommended by Finance Committee)

ARTICLE TWO

To hear the reports of the Town Officers and Committees and act thereon.

ARTICLE THREE

To see if the town will vote to raise and appropriate the sums of money required to defray the general expenses of the Town as itemized in the FY 2024 operating budget and fix the salaries and compensation of all elected officers and employees of the Town as itemized therein, and to fund said appropriations through the tax levy; provided however, that the amount of One Hundred

feasibility of repairs and additions to Town buildings, or take any other action relative thereto. (Recommended by Finance Committee)

ARTICLE TEN

To see if the Town will vote to take from available funds the sum of Twenty Three Thousand Four Hundred Seventy-Six Thousand Dollars and Ninety-Seven Cents (\$23,476.97) as the Town's share of Fiscal Year 2024 costs of the Martha's Vineyard Public Safety Communications System in accordance with the Cooperative Agreement for Emergency Communications and Dispatch Services. Funding is contingent on all Island Towns paying for such cost in Fiscal Year 2024 according to the agreed upon dispatch and fixed cost formula, or take any other action relative thereto. (Recommended by Finance Committee)

ARTICLE ELEVEN

To see if the Town will vote to take from available funds the sum of Five Thousand dollars (\$5,000.00) to renew its option for transportation engineering services for design work and/or technical analysis of Town projects, with funds administered by the Martha's Vineyard Commission for Fiscal Year 2024, or take any other action relative thereto. (Recommended by Finance Committee)



ARTICLE TWELVE

To see if the Town will vote to enact Chapter XXIX of the Town of Aquinnah General Bylaws, entitled "Fossil Fuel Free Demonstration," for the purpose of restricting and prohibiting new building construction and substantial renovation projects that are not fossil fuel free, pursuant to the entirety of 225 CMR XX, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR XX.

FOSSIL FUEL FREE DEMONSTRATION

- § 1 Definitions
- § 2 Purpose
- § 3 Applicability
- § 4 Fossil Fuel Free Demonstration
- § 5 Amendments to the Specialized Energy Code
- § 6 Building Permits
- § 7 Waivers
- § 8 Appeals

§ 1 Definitions

Effective Date -- The provisions of this bylaw shall take effect on January 1, 2024, provided that the Town's participation in the Fossil Fuel Free Demonstration has been approved by the Commonwealth's Department of Energy Resources.

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

Review Board -- A Town board, established and appointed by the Select Board, whose members shall have the experience and expertise necessary to perform the functions and requirements of reviewing waivers and appeals as set out in Chapter XXIX, Sec. 7 and 8 of this Bylaw. The Review Board shall have at least three (3) members serving three-year staggered terms. Review Board members shall be considered special municipal employees for purposes of G. L. c. 268A. The Select Board, in its discretion, may serve as the Review Board in lieu of appointing Review Board members.

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.

Major Renovation -- Alteration of an existing building in which the work area exceeds 50 percent of the building area. [See 2015 IEBC section 505.1]

Work Area -- The portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work areas exclude other portions of the building where incidental work entailed by the intended work must be performed and portions of the building where work not initially intended by the owner is specifically required by the IEBC code. [See 2015 IEBC section 202]

§ 2 Purpose

The purpose of this bylaw is to protect the health and welfare of Town inhabitants and to protect the environment by reducing greenhouse gas emissions, which cause climate change, and by reducing other air pollutants. The Town seeks to do this by participating in XX CMR XX, also referred to as the Fossil Fuel Free Demonstration, to prohibit new building construction and Major Renovations that are not fossil fuel free.

§ 3 Applicability

The restrictions in this bylaw apply to residential and commercial buildings that qualify as new construction or Major Renovation. These restrictions 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 Aquinnah General Bylaws, Chapter XXIX.

§ 5 Amendments to the Specialized Energy Code

With adoption of the Fossil Fuel-Free Demonstration, and upon approval by the Department of Energy Resources, the following amendments to the Specialized Energy Code are adopted. These changes are enforceable by the inspector of buildings 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)** 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)** 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.

§ 6. Building Permits

On and after the Effective Date,

- a. Any application for a building permit for a new building or a Major Renovation must identify the means of heating, cooling, and hot water that will be used in the building.

- b. The Town will grant a building permit for a new building or a Major Renovation only if the building will comply with the restrictions in this bylaw.

§ 7. Waivers

- a. The Review Board may grant a waiver of the provisions of this bylaw in the event that compliance makes a project financially infeasible or impractical to implement. Compliance with this bylaw may be considered infeasible or impractical to implement if, without limitation:
 - b.
 - 1. 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 economically unviable; or
 - 2. Technological or other factors would make the project unsuitable for its intended purpose.
 - c. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits.
 - d. Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are infeasible or impractical to implement, rather than for entire projects.
- 3. The Review Board, or the Select Board if in its discretion it chooses, may issue guidance on the granting of waivers and the imposition of conditions, to be periodically amended in light of experience under this bylaw. The Review Board shall submit its proposed guidance to the Select Board for review before the guidance becomes effective, which may offer amendments or additions. The Review Board's decisions on waiver requests shall be final, with the exception of judicial review as provided for in Section 8b. below.

§ 8 Appeals

- a. An appeal from a decision by the building inspector under this bylaw may be taken to the Review Board and must be filed with the Town Clerk within fourteen (14) days after the decision appealed. The Review Board shall hold a public hearing within a reasonable time after the appeal is filed, but is not required to provide notice other than as required by the Open Meeting Law. The Review Board shall reverse the decision of the building inspector only if the decision was arbitrary, capricious, or not supported by substantial evidence. The Review Board shall consider only the record or documents provided to the building inspector, shall not conduct a de novo review or proceeding, and shall issue its decision in writing, which decision shall be final.

- b. An applicant aggrieved by a decision of the Review Board under this bylaw may seek judicial review only in the Dukes County Superior Court under the provisions of G. L. c. 249, § 4.



ARTICLE THIRTEEN

To see if the Town will vote to enact Chapter XXX of the Town of Aquinnah General Bylaws, entitled "Specialized Energy Code" for the purpose of restricting and prohibiting new building construction and substantial renovation projects that are not fossil fuel free, pursuant to the entirety of 225 CMR XX, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR XX.

SPECIALIZED ENERGY CODE

- § 1 Definitions
- § 2 Purpose
- § 3 Applicability
- § 4 Specialized Code

§ 1 Definitions

International Energy Conservation Code (IECC) – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards and published in state regulations as part of 780 CMR.

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.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 23, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

§ 2 Purpose

The purpose of 225 CMR 22 and 23 including Appendices RC and CC, also referred to as the Specialized Energy Code, is to provide a more energy efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 3 Applicability

This energy code applies to residential and commercial buildings.

§ 4 Specialized Code

The Specialized Code, as codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including any future editions, amendments, or modifications, is herein incorporated by reference into the Town of Aquinnah General Bylaws, Chapter XXX.

The Specialized Code is enforceable by the inspector of buildings.

ARTICLE FOURTEEN (4/5 vote required)

To see if the Town will vote to take from available funds the sum of Six Thousand Eight Hundred Twenty-Five Dollars (\$6,825.00) to pay Crosswater Landscape for services related to landscape maintenance at Aquinnah Circle in FY 2022, or take any other action relative thereto. (Recommended by Finance Committee)

ARTICLE FIFTEEN (4/5 vote required)

To see if the Town will vote to take from available funds the sum of Four Thousand Three Hundred Seventeen Dollars and Twenty-Two Cents (\$4,317.22) to pay Vineyard Land Surveying & Engineering for an outstanding invoice from FY 2022 for services related to surveying work related to clearing view channels on Moshup Trail at the request of Carlos Montoya and Peter Temple, or take any other action relative thereto. (Recommended by Finance Committee)

ARTICLE SIXTEEN

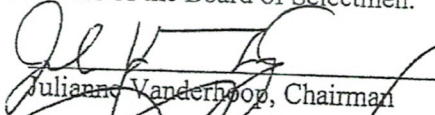
To see if the Town will vote to take from available funds the sum of Thirty Thousand Dollars (\$30,000.00) for the purpose of replacing the auxiliary generator at the Town Hall, or take any other action relative thereto. (Recommended by Finance Committee)

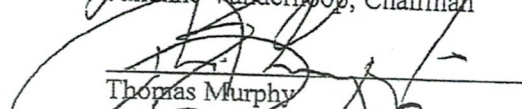
ARTICLE SEVENTEEN

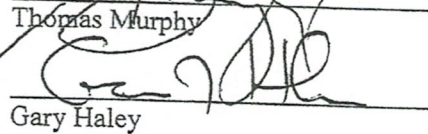
To see if the Town will vote to take from available funds the amount of Sixteen Thousand Dollars (\$16,000.00) for the purpose of funding sailing programs offered during the summer, or take any other action relative thereto. (Recommended by Finance Committee)

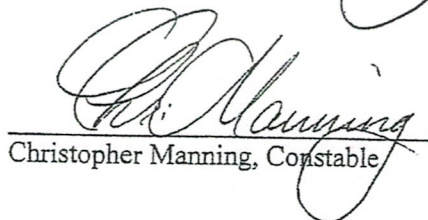
And you are hereby directed to serve this warrant by posting up attested copies at the Schoolhouse/Library and Town Hall in said Town at least seven days prior to time of said meeting. Hereof, fail not, and make due return of this warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this Eleventh day of April, in the year of our Lord Two Thousand and Twenty-Three we the undersigned members of the Board of Selectmen.


Julianne Vanderhoop, Chairman


Thomas Murphy


Gary Haley


Christopher Manning, Constable

Posted: April 2, 2023

Certified:


True Copy
Gabriella Camilleri
Aquinnah Town Clerk

Gabriella Camilleri

Form 2

Town: Aquinnah

Date Town Meeting Convened: May 9, 2023

Form 2 – Town Meeting Action

Please provide the following:

Submission #1, EXISTING BY-LAW.

One (1) certified copy of the **entire main section** of the existing by-law within which each proposed amendment occurs. This requirement is very important because without the **full text** of the entire main section of the existing by-law being amended we will be unable to ascertain the full meaning of the proposed changes in context. By-law amendments include even minor technical changes in current by-laws, amendments to tables showing uses permitted in different zoning districts, and amendments which re-codify, reorganize or renumber existing by-laws previously approved by the Attorney General.

Note: if the Town's by-laws are available on the Internet, you may direct us to the website location rather than including a copy of the existing by-law being amended.

Existing by-law(s) may be found online at: _____

☒ Submission #2, TOWN MEETING ACTION.

One (1) certified copy of the main motion, or amended main motion voted by town meeting, **with the date, article number, name of Town and votes thereon**. Because not all seals will show up when scanned and emailed, we request that you certify with "A true copy attest" language and your signature. Also, please include a copy of each floor amendment **favorably** acted upon by Town Meeting. We do not need copies of floor amendments that were **unfavorably** acted upon by Town Meeting.

☒ Submission #3, FINAL VERSION OF BY-LAW AS AMENDED.

One (1) certified copy of the by-law (Submission #1) **as amended** by town meeting (Submission #2).

For any vote requiring a **simple majority** it will be sufficient to certify that the moderator declared that the motion carried. Where the vote was unanimous, it will be sufficient to certify that the moderator declared that the motion carried unanimously.

For any vote requiring **more than a simple majority** and where the vote was **not unanimous** an **actual vote count** must be taken. Zoning by-laws and historic district by-laws require a two-thirds vote.

However, if the town has either (a) **by vote of this town meeting**, or (b) in a previously adopted **general by-law**, voted that a counted vote need not be taken and that the Moderator may **declare** that a 2/3ds vote has been achieved, then such declaration of the Moderator will be sufficient [see G.L. c. 39, § 15] (*select below*):

_____ If by (a), then please **attach** a certified copy of the Town Meeting action from this Town Meeting showing the vote to dispense with a counted vote.

_____ If by (b), then please provide the following:

The date on which it was adopted by town meeting:

Date: _____

The date it was approved by the Attorney General's Office:

Date: _____

Form 4

Town: Aquinnah

Date Town Meeting Convened: May 9, 2023

Form 4 – Town Meeting Certification

Complete and sign the following.

1. Quorum

Indicate number. Please write "0" if the town has no quorum requirement.

A quorum was present at the town meeting, including any adjourned sessions thereof. According to our town charter or by-law, our quorum requirement for town meeting is 40 registered voters.

2. Service of the Warrant

Please check one.

The service of the town meeting warrant was in accordance with:

☒ a town by-law

☐ a previous vote of the town

☐ a procedure accepted by the Attorney General

and any adjournments of the Town Meeting were made in accordance with the town by-law or vote of Town Meeting.

3. Signing of the Warrant *[certified copy of relevant Warrant pages must be attached]*

Date the Board of Selectmen signed the Town Meeting Warrant: April 11, 2023

4. Posting of the Warrant

Date on which the Town Meeting Warrant was posted: April 12, 2023

(The warrant must be posted at least 7 days prior to an annual town meeting and at least 14 days prior to a special town meeting)

5. Attachments

Before submission, ensure that you have attached both of the following:

- A **certified** copy of the **relevant pages of the Town Meeting warrant**, as it was posted. (Attachments must include: opening of the warrant, all pages of the warrant article(s) submitted for review, the closing, the Board of Selectmen's signature page and the officer's return of service page.
- We require a certified copy of the **text referred to**, but not set forth in the text of the warrant articles (example: if the warrant refers to an Attachment, text in an Appendix, or text located elsewhere, such as in the town clerk's office or the office of the planning board). In this instance, it will be necessary for you to send us a **copy of the text referred to, or a copy of what is on file and available for inspection**. Otherwise, we will not know the actual text of the by-law that the warrant article proposes.

Note: It is not necessary to submit any documents other than those requested in the required Forms. For example, you do not need to submit Finance Committee reports, minutes, annotated warrant articles, Planning Board Hearing minutes, or Planning Board Hearing sign-in sheet.

Certification

I certify the above declaration to be true and correct to the best of my knowledge.

<u>Gabriella Camilleri</u>	<u>Gabriella Camilleri</u>	<u>7/10/23</u>
Signature of Town Clerk	PRINT name	Date signed

**AQUINNAH ANNUAL TOWN MEETING
MAY 9, 2023
MINUTES**

**Quorum met, meeting began at: 7:16
98 voters present**

County of Dukes County, ss.

To either of the Constables of the Town of Aquinnah

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Aquinnah who are qualified to vote in the election and town affairs to meet at the Aquinnah Town Hall in said Town on the Ninth day of May, 2023 at 7:00 P.M. then and there to act upon the articles of this Warrant, with the exception of Article One; and to meet again at the Aquinnah Town Office Building on the Eleventh day of May, 2023 at twelve noon, then and there to act on Article One of the Warrant by the election of offices, ballot questions and override found on the Official Ballot.

The polls for voting on the Official Ballot will open at 12:00 P.M. and close at 8:00 P.M. on Thursday, May 11, 2023.

ARTICLE ONE

To elect the following officers on the Official Ballot
One member of the Board of Selectmen for three years
Two members of the Planning Board for three years
One member of the Planning Board for one year
One member of the Board of Health for three years
One Town Clerk for three years
One Library Trustee for three years

Question One:

Shall the Town of Aquinnah be allowed to assess an additional One Hundred Ten Thousand Dollars (\$110,000.00) in real estate and personal property taxes for the purposes of operating the Up-Island Regional Schools for the Fiscal Year beginning July 1, 2023? Yes No
(Recommended by Finance Committee)

Certified:

True Copy
**Gabriella Camilleri
Aquinnah Town Clerk**

Gabriella Camilleri

ARTICLE TWELVE

To see if the Town will vote to enact Chapter XXIX of the Town of Aquinnah General Bylaws, entitled "Fossil Fuel Free Demonstration," for the purpose of restricting and prohibiting new building construction and substantial renovation projects that are not fossil fuel free, pursuant to the entirety of 225 CMR XX, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR XX.

FOSSIL FUEL FREE DEMONSTRATION

§ 1 Definitions

§ 2 Purpose

§ 3 Applicability

§ 4 Fossil Fuel Free Demonstration

§ 5 Amendments to the Specialized Energy Code

§ 6 Building Permits

§ 7 Waivers

§ 8 Appeals

§ 1 Definitions

Effective Date -- The provisions of this bylaw shall take effect on January 1, 2024, provided that the Town's participation in the Fossil Fuel Free Demonstration has been approved by the Commonwealth's Department of Energy Resources.

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

Review Board -- A Town board, established and appointed by the Select Board, whose members shall have the experience and expertise necessary to perform the functions and requirements of reviewing waivers and appeals as set out in Chapter XXIX, Sec. 7 and 8 of this Bylaw. The Review Board shall have at least three (3) members serving three-year staggered terms. Review Board members shall be considered special municipal employees for purposes of G. L. c. 268A. The Select Board, in its discretion, may serve as the Review Board in lieu of appointing Review Board members.

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.

Major Renovation -- Alteration of an existing building in which the work area exceeds 50 percent of the building area. [See 2015 IEBC section 505.1]

Work Area – The portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work areas exclude other portions of the building where incidental work entailed by the intended work must be performed and portions of the building where work not initially intended by the owner is specifically required by the IEBC code. [See 2015 IEBC section 202]

§ 2 Purpose

The purpose of this bylaw is to protect the health and welfare of Town inhabitants and to protect the environment by reducing greenhouse gas emissions, which cause climate change, and by reducing other air pollutants. The Town seeks to do this by participating in XX CMR XX, also referred to as the Fossil Fuel Free Demonstration, to prohibit new building construction and Major Renovations that are not fossil fuel free.

§ 3 Applicability

The restrictions in this bylaw apply to residential and commercial buildings that qualify as new construction or Major Renovation. These restrictions 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 Aquinnah General Bylaws, Chapter XXIX.

§ 5 Amendments to the Specialized Energy Code

With adoption of the Fossil Fuel-Free Demonstration, and upon approval by the Department of Energy Resources, the following amendments to the Specialized Energy Code are adopted. These changes are enforceable by the inspector of buildings 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)** 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)** 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.

§ 6. Building Permits

On and after the Effective Date,

- a. Any application for a building permit for a new building or a Major Renovation must identify the means of heating, cooling, and hot water that will be used in the building.
- b. The Town will grant a building permit for a new building or a Major Renovation only if the building will comply with the restrictions in this bylaw.

§ 7. Waivers

- a. The Review Board may grant a waiver of the provisions of this bylaw in the event that compliance makes a project financially infeasible or impractical to implement. Compliance with this bylaw may be considered infeasible or impractical to implement if, without limitation:
 - b.
 - 1. 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 economically unviable; or
 - 2. Technological or other factors would make the project unsuitable for its intended purpose.
- c. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits.
- d. Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are infeasible or impractical to implement, rather than for entire projects.
- e. The Review Board, or the Select Board if in its discretion it chooses, may issue guidance on the granting of waivers and the imposition of conditions, to be periodically amended in light of experience under this bylaw. The Review Board shall submit its proposed

guidance to the Select Board for review before the guidance becomes effective, which may offer amendments or additions. The Review Board's decisions on waiver requests shall be final, with the exception of judicial review as provided for in Section 8b. below.

§ 8 Appeals

- a. An appeal from a decision by the building inspector under this bylaw may be taken to the Review Board and must be filed with the Town Clerk within fourteen (14) days after the decision appealed. The Review Board shall hold a public hearing within a reasonable time after the appeal is filed, but is not required to provide notice other than as required by the Open Meeting Law. The Review Board shall reverse the decision of the building inspector only if the decision was arbitrary, capricious, or not supported by substantial evidence. The Review Board shall consider only the record or documents provided to the building inspector, shall not conduct a de novo review or proceeding, and shall issue its decision in writing, which decision shall be final.
- b. An applicant aggrieved by a decision of the Review Board under this bylaw may seek judicial review only in the Dukes County Superior Court under the provisions of G. L. c. 249, § 4.

Motion made by Bill Lake to amend

Article Twelve

Barbara Bassett seconded

Amended Article Twelve

To see if the Town will vote to enact Chapter XXIX of the Town of Aquinnah General Bylaws, entitled "Fossil Fuel Free Demonstration," for the purpose of restricting and prohibiting new building construction and substantial renovation projects that are not fossil fuel free, pursuant to the entirety of 225 CMR 24, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR 24.

FOSSIL FUEL FREE DEMONSTRATION

§ 2 Purpose

§ 3 Applicability

§ 4 Fossil Fuel Free Demonstration

§ 5 Amendments to the Specialized Energy Code

§ 6 Building Permits

§ 7 Waivers

§ 8 Appeals

§ 1 Definitions

Effective Date -- The provisions of this bylaw shall take effect on January 1, 2024, provided that the Town's participation in the Fossil Fuel Free Demonstration has been approved by the Commonwealth's Department of Energy Resources.

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

Review Board -- A Town board, established and appointed by the Select Board, whose members shall have the experience and expertise necessary to perform the functions and requirements of reviewing waivers and appeals as set out in Chapter XXIX, Sec. 7 and 8 of this Bylaw. The Review Board shall have at least three (3) members serving three-year staggered terms. Review Board members shall be considered special municipal employees for purposes of G. L. c. 268A. The Select Board, in its discretion, may serve as the Review Board in lieu of appointing Review Board members.

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.

Major Renovation -- Alteration of an existing building in which the work area exceeds 50 percent of the building area. [See 2015 IEBC section 505.1]

Work Area -- The portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work areas exclude other portions of the building where incidental work entailed by the intended work must be performed and portions of the building where work not initially intended by the owner is specifically required by the IEBC code. [See 2015 IEBC section 202]

§ 2 Purpose

The purpose of this bylaw is to protect the health and welfare of Town inhabitants and to protect the environment by reducing greenhouse gas emissions, which cause climate change, and by reducing other air pollutants. The Town seeks to do this by participating in 225 CMR 24, also referred to as the Fossil Fuel Free Demonstration, to prohibit new building construction and Major Renovations that are not fossil fuel free.

§ 3 Applicability

The restrictions in this bylaw apply to residential and commercial buildings that qualify as new construction or Major Renovation. These restrictions 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 225 CMR 24

§ 4 Fossil Fuel Free Demonstration

The Fossil Fuel Free Demonstration, as codified by the entirety of 225 CMR 24, is herein incorporated by reference into the Town of Aquinnah General Bylaws, Chapter XXIX.

§ 5 Amendments to the Specialized Energy Code

With adoption of the Fossil Fuel-Free Demonstration, and upon approval by the Department of Energy Resources, the following amendments to the Specialized Energy Code are adopted. These changes are enforceable by the inspector of buildings 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)** 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)** 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.

§ 6. Building Permits

On and after the Effective Date,

- a. Any application for a building permit for a new building or a Major Renovation must identify the means of heating, cooling, and hot water that will be used in the building.
- b. The Town will grant a building permit for a new building or a Major Renovation only if the building will comply with the restrictions in this bylaw.

§ 7. Waivers

- a. The Review Board may grant a waiver of the provisions of this bylaw in the event that compliance makes a project financially infeasible or impractical to implement. Compliance with this bylaw may be considered infeasible or impractical to implement if, without limitation:
 - b.
 - 1. 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 economically unviable; or
 - 2. Technological or other factors would make the project unsuitable for its intended purpose.
- c. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits.
- d. Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are infeasible or impractical to implement, rather than for entire projects.
- e. The Review Board, or the Select Board if in its discretion it chooses, may issue guidance on the granting of waivers and the imposition of conditions, to be periodically amended in light of experience under this bylaw. The Review Board shall submit its proposed guidance to the Select Board for review before the guidance becomes effective, which may offer amendments or additions. The Review Board's decisions on waiver requests shall be final, with the exception of judicial review as provided for in Section 8b. below.

§ 8 Appeals

- a. An appeal from a decision by the building inspector under this bylaw may be taken to the Review Board and must be filed with the Town Clerk within fourteen (14) days after the decision appealed. The Review Board shall hold a public hearing within a reasonable time after the appeal is filed, but is not required to provide notice other than as required by the Open Meeting Law. The Review Board shall reverse the decision of the building

- b. inspector only if the decision was arbitrary, capricious, or not supported by substantial evidence. The Review Board shall consider only the record or documents provided to the building inspector, shall not conduct a de novo review or proceeding, and shall issue its decision in writing, which decision shall be final.
- c. An applicant aggrieved by a decision of the Review Board under this bylaw may seek judicial review only in the Dukes County Superior Court under the provisions of G. L. c. 249, § 4.

Amendment made:

Motion made: 225 CMR 24

Yes 65

No 1

ELECTRONIC VOTING SYSTEM

AMENDMENT TO THE ARTICLE PASSED

AMENDED ARTICLE TWEELEVE

Yes 56

No 33

ELECTRONIC VOTING SYSTEM

AMENDED ARTICLE TWELVE PASSED

ARTICLE THIRTEEN

To see if the Town will vote to enact Chapter XXX of the Town of Aquinnah General Bylaws, entitled "Specialized Energy Code" for the purpose of restricting and prohibiting new building construction and substantial renovation projects that are not fossil fuel free, pursuant to the entirety of 225 CMR XX, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR XX.

SPECIALIZED ENERGY CODE

§ 1 Definitions

§ 2 Purpose

§ 3 Applicability

§ 4 Specialized Code

§ 1 Definitions

International Energy Conservation Code (IECC) – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards and published in state regulations as part of 780 CMR.

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.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 23, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

§ 2 Purpose

The purpose of 225 CMR 22 and 23 including Appendices RC and CC, also referred to as the Specialized Energy Code, is to provide a more energy efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 3 Applicability

This energy code applies to residential and commercial buildings.

§ 4 Specialized Code

The Specialized Code, as codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including any future editions, amendments, or modifications, is herein incorporated by reference into the Town of Aquinnah General Bylaws, Chapter XXX.

The Specialized Code is enforceable by the inspector of buildings.

Motion made to change first paragraph – Bill Lake

Second – Leigh Vanderhoop

Amended Article Thirteen

To see if the Town will vote to enact Chapter XXX of the Town of Aquinnah General Bylaws, entitled “Specialized 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, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto.

SPECIALIZED ENERGY CODE

§ 1 Definitions

§ 2 Purpose

§ 3 Applicability

§ 4 Specialized Code

§ 1 Definitions

International Energy Conservation Code (IECC) – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards and published in state regulations as part of 780 CMR.

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.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 23, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

§ 2 Purpose

The purpose of 225 CMR 22 and 23 including Appendices RC and CC, also referred to as the Specialized Energy Code, is to provide a more energy efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 3 Applicability

This energy code applies to residential and commercial buildings.

§ 4 Specialized Code

The Specialized Code, as codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including any future editions, amendments, or modifications, is herein incorporated by reference into the Town of Aquinnah General Bylaws, Chapter XXX.

The Specialized Code is enforceable by the inspector of buildings.

Amendment made:

Yes 55

No - 30

ELECTRONIC VOTING SYSTEM

AMENDMENT TO THE ARTICLE PASSED

AMENDED ARTICLE THIRTEEN

Yes - 69

No - 2

ELECTRONIC VOTING SYSTEM

AMENDED ARTICLE THIRTEEN PASSED

ARTICLE THIRTY-ONE

To see if the Town will vote to appropriate Community Housing funds, from proceeds to be received from the Island Housing Trust from the conservation of a portion of the Smalley's Knoll property, for the undertaking of the following **Community Housing** efforts, as recommended by the Community Preservation Committee:

\$90,400 (ninety thousand four hundred dollars) to be dedicated to the reduction or pay down of principal on the Town of Aquinnah's Town Center Apartments borrowing amount (as approved in FY '23), thereby reducing the previously approved \$400,000 borrowing total to \$309,600, or take any action relative thereto.

Yes 49

No 3

ELECTRONIC VOTING SYSTEM

ARTICLE THIRTY-ONE PASSED

ARTICLE THIRTY-TWO

To see if the town will raise and appropriate the sum of Thirteen Thousand Three Dollars (\$13,003.00) to pay charges for FY 2024 lease on the Town Police Cruiser, or take any other action relative thereto. (Recommended by Finance Committee)

Yes 57

No 4

ELECTRONIC VOTING SYSTEM

ARTICLE THIRTY-TWO PASSED

MOTION MADE TO ADJOURN

MEETING ADJOURNED AT 10:45

Respectfully submitted
Gabriella Camilleri
Aquinnah Town Clerk

Certified:

True Copy
Gabriella Camilleri
Aquinnah Town Clerk

Form 1

6.) Town Counsel contact information:

Attorney Ronald Rappaport
Firm Reynolds, Rappaport, Kaplan & Hackney, LLC
Mailing Address Po Box 2540
City Edgartown State MA Zip 02539
Phone 508-627-3711 Fax 508-627-3088
Email info@rrklaw.net

7.) Town Clerk contact information:

Name (print) Gabriella Camilleri
Signature Gabriella Camilleri
Mailing Address 955 State Rd.
City Aquinnah State MA Zip 02535
Phone 508-645-2304 Fax 508-645-7884
Email townclerk@aquinnah-ma.gov
Work Schedule Mon, Tues, Thurs. 8:30-3:30 Fri 9-12

8.) Planning Board member contact information:

Name (print) Sophia Welch
Mailing Address 955 State Rd.
City Aquinnah State MA Zip 02535
Phone 508-645-2300 Fax 508-645-7884
Email adminassistant@aquinnah-ma.gov
Work Schedule Mon, Tues, Wed, Thurs, Fri 9-1pm

PLEASE ELECTRONICALLY FILE YOUR BY-LAW SUBMISSION PACKAGE AT:

BYLAWS@STATE.MA.US

Form 1



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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

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

Town: Aquinnah

Form 1

"Pursuant to G.L. c. 40, § 32, I hereby request approval of the enclosed amendments to our town by-laws. G.L. c. 40, § 32, specifies that this request must be made within thirty (30) days after final adjournment of Town Meeting. The mandatory forms are included."

- 1.) Town Meeting (*check one*): NOTE: If "Other" is selected, please specify (i), (ii), or (iii)
_____ Annual ☒ Special _____ Other (*specify*)

i.) Authorized by Charter _____

ii.) Authorized by Special Act _____

iii.) Authorized by By-Law _____

- 2.) Date Town Meeting First Convened: June 14, 2023

- 3.) Date(s) of Adjourned Sessions: _____

- 4.) Identify Warrant Article(s) Submitted:

Does any by-law submitted in this packet derive from a local option statute or a special act?

☒ No _____ Yes (*if yes, please submit Form 6*)

- a.) Zoning _____

Does any by-law submitted in this packet, create or amend a by-law adopted under G.L. c. 40R (smart growth zoning by-law)?

_____ No _____ Yes (*if yes, please submit Form 6*)

- b.) Historical District _____

- c.) General Article Seven

- d.) Charter Amendment (proposed amendments to an existing charter pursuant to G.L.c. 43B, § 10) _____

- 5.) Identify Zoning/Historic Maps Relating to Warrant Article(s): _____

**WARRANT FOR THE
SPECIAL TOWN MEETING
JUNE 14, 2023
COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss.
To either of the Constables of the Town of Aquinnah

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Aquinnah who are qualified to vote in the election and town affairs to meet at the Aquinnah Town Hall in said Town on the Fourteenth day of June, 2023 at 7:00 P.M. then and there to act upon the articles of this Warrant.

And you are hereby directed to serve this warrant by posting attested copies at the Schoolhouse/Library and Town Hall in said Town at least fourteen days prior to time of said meeting. Hereof, fail not, and make due return of this warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

ARTICLE ONE:

To see if the Town will vote to raise and appropriate the sum of Four Hundred Fifty-Eight Thousand Five Hundred Thirty-Two Dollars (\$458,532.00) as the Aquinnah share of the Martha's Vineyard High School District budget for FY 2024.

ARTICLE TWO:

To see if the Town will vote to raise and appropriate the sum of Six Thousand and Sixty Dollars (\$6,060.00) as the Aquinnah share of the construction budget for repairs and improvements to the Dukes County Health Care Access Building.

ARTICLE THREE:

To see if the Town will vote to transfer from Available Funds the sum of Eighteen Thousand Dollars (\$18,000.00) to fund grant consultant services for FY 2024, or take any other action relative thereto.

ARTICLE FOUR:

To see if the Town will vote to take from Available Funds the sum of Thirteen Thousand Dollars (\$13,000.00) to fund an increase (to Twenty Five Thousand Dollars [\$25,000.00]) in the Building Inspector salary budget and expense line item for FY 2024, or take any other action relative thereto.

ARTICLE FIVE:

The Town of Aquinnah asks that the Martha's Vineyard Regional High School commits to an all grass campus with no plastic fields. (Non-binding request by petition).

Certified:

True Copy
**Gabriella Camilleri
Aquinnah Town Clerk**

Gabriella Camilleri

ARTICLE SIX:

The Town of Aquinnah asks that the Martha's Vineyard Regional High School commits to NO anonymous donations above \$5000.00 for legal action, experts, project design and permitting related to any and all plastic fields on the Martha's Vineyard Regional High School campus. (Non-binding request by petition).

★

ARTICLE SEVEN:

To see if the Town will vote to amend Chapter XXIX of the Town of Aquinnah General Bylaws, entitled "Fossil Fuel Free Demonstration," for the purpose of conforming its text to a recent modification of the model rule promulgated by the Massachusetts Department of Energy Resources pursuant to 225 CMR 24, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR 24.

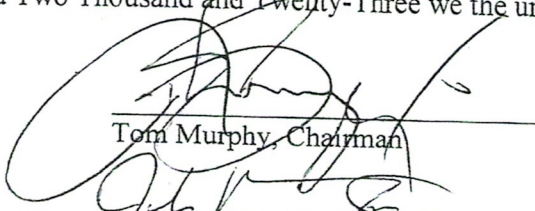
Section 1, Definitions, is amended as follows:

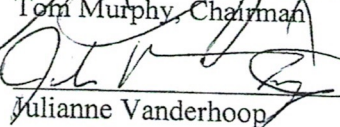
The definitions of **Major Renovation** and **Work Area** are deleted.

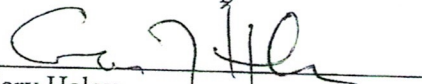
The following new definition is inserted:

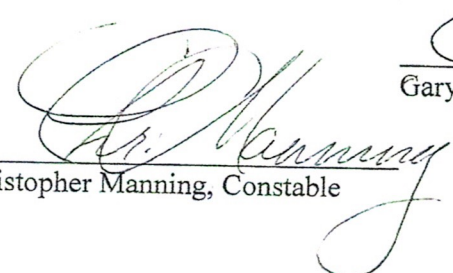
Major Renovation – As defined in 225 C.M.R. 24.00.

HEREOF FAIL NOT and make due return of this warrant with your doings thereon to the Town Clerk at the time and place of said meeting. Given under our hands this Twenty-third day of May, in the year of our Lord Two Thousand and Twenty-Three we the undersigned members of the Board of Selectmen.


Tom Murphy, Chairman

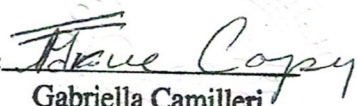

Julianne Vanderhoop

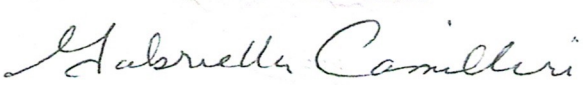

Gary Haley


Christopher Manning, Constable

Posted: May 24, 2023

Certified:


Gabriella Camilleri
Aquinnah Town Clerk



Form 2

Town: Aquinnah

Date Town Meeting Convened: June 14, 2023

Form 2 – Town Meeting Action

Please provide the following:

Submission #1, EXISTING BY-LAW.

One (1) certified copy of the **entire main section** of the existing by-law within which each proposed amendment occurs. This requirement is very important because without the **full text** of the entire main section of the existing by-law being amended we will be unable to ascertain the full meaning of the proposed changes in context. By-law amendments include even minor technical changes in current by-laws, amendments to tables showing uses permitted in different zoning districts, and amendments which re-codify, reorganize or renumber existing by-laws previously approved by the Attorney General.

Note: if the Town's by-laws are available on the Internet, you may direct us to the website location rather than including a copy of the existing by-law being amended.

Existing by-law(s) may be found online at: _____

Submission #2, TOWN MEETING ACTION.

One (1) certified copy of the main motion, or amended main motion voted by town meeting, **with the date, article number, name of Town and votes thereon**. Because not all seals will show up when scanned and emailed, we request that you certify with "A true copy attest" language and your signature. Also, please include a copy of each floor amendment **favorably** acted upon by Town Meeting. We do not need copies of floor amendments that were unfavorably acted upon by Town Meeting.

X Submission #3, FINAL VERSION OF BY-LAW AS AMENDED.

One (1) certified copy of the by-law (Submission #1) **as amended** by town meeting (Submission #2).

For any vote requiring a **simple majority** it will be sufficient to certify that the moderator declared that the motion carried. Where the vote was unanimous, it will be sufficient to certify that the moderator declared that the motion carried unanimously.

For any vote requiring **more than a simple majority** and where the vote was **not unanimous** an **actual vote count** must be taken. Zoning by-laws and historic district by-laws require a two-thirds vote.

However, if the town has either **(a) by vote of this town meeting**, or **(b) in a previously adopted general by-law**, voted that a counted vote need not be taken and that the Moderator may **declare** that a 2/3ds vote has been achieved, then such declaration of the Moderator will be sufficient [see G.L. c. 39, § 15] (*select below*):

X If by (a), then please **attach** a certified copy of the Town Meeting action from this Town Meeting showing the vote to dispense with a counted vote.

_____ If by (b), then please provide the following:

The date on which it was adopted by town meeting:

Date: _____

The date it was approved by the Attorney General's Office:

Date: _____

①

**SPECIAL TOWN MEETING
JUNE 14, 2023
MINUTES**

Quorum being met, meeting was called to order at 7:00pm

46 Present

ARTICLE ONE:

To see if the Town will vote to raise and appropriate the sum of Four Hundred Fifty-Eight Thousand Five Hundred Thirty-Two Dollars (\$458,532.00) as the Aquinnah share of the Martha's Vineyard High School District budget for FY 2024.

Motion made to amend the amount from \$458,532. to \$432,432.01

Seconded

Yes – 40

No – 1

Electronic Voting System

Amendment Passed

ARTICLE ONE AS AMENDED:

Yes – 39

No – 2

Electronic Voting System

ARTICLE ONE AS AMENDED PASSED

ARTICLE TWO:

To see if the Town will vote to raise and appropriate the sum of Six Thousand and Sixty Dollars (\$6,060.00) as the Aquinnah share of the construction budget for repairs and improvements to the Dukes County Health Care Access Building.

Electronic Voting System

Yes – 41

No – 1

ARTICLE TWO PASSED

ARTICLE THREE:

To see if the Town will vote to transfer from Available Funds the sum of Eighteen Thousand Dollars (\$18,000.00) to fund grant consultant services for FY 2024, or take any other action relative thereto.

Electronic Voting System

Yes – 35

No – 0

ARTICLE THREE PASSED

★

ARTICLE SEVEN:

To see if the Town will vote to amend Chapter XXIX of the Town of Aquinnah General Bylaws, entitled "Fossil Fuel Free Demonstration," for the purpose of conforming its text to a recent modification of the model rule promulgated by the Massachusetts Department of Energy Resources pursuant to 225 CMR 24, with an effective date of January 1, 2024, a copy of which is on file with the Town Clerk, or take any other action relative thereto. This shall take effect only if Aquinnah is approved by the Massachusetts Department of Energy Resources as a Participating Community pursuant to 225 CMR 24.

Section 1, Definitions, is amended as follows:

The definitions of **Major Renovation** and **Work Area** are deleted.

The following new definition is inserted:

Major Renovation – As defined in 225 C.M.R. 24.00.

Electronic Voting System

Yes – 33

No – 5

ARTICLE SEVEN PASSED

Meeting adjourned at 7:33pm

Gabriella Camilleri

Respectfully submitted,

Gabriella Camilleri

Aquinnah Town Clerk

Certified: True Copy
Gabriella Camilleri
Aquinnah Town Clerk

Gabriella Camilleri

Amended Chapter XXIX

FOSSIL FUEL FREE DEMONSTRATION

§ 1 Definitions

§ 2 Purpose

§ 3 Applicability

§ 4 Fossil Fuel Free Demonstration

§ 5 Amendments to the Specialized Energy Code

§ 6 Building Permits

§ 7 Waivers

§ 8 Appeals

§ 1 Definitions

Effective Date -- The provisions of this bylaw shall take effect on January 1, 2024, provided that the Town's participation in the Fossil Fuel Free Demonstration has been approved by the Commonwealth's Department of Energy Resources.

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

Review Board -- A Town board, established and appointed by the Select Board, whose members shall have the experience and expertise necessary to perform the functions and requirements of reviewing waivers and appeals as set out in Chapter XXIX, Sec. 7 and 8 of this Bylaw. The Review Board shall have at least three (3) members serving three-year staggered terms. Review Board members shall be considered special municipal employees for purposes of G. L. c. 268A. The Select Board, in its discretion, may serve as the Review Board in lieu of appointing Review Board members.

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.

Major Renovation – As defined in 225 C.M.R. 224.00

§ 2 Purpose

The purpose of this bylaw is to protect the health and welfare of Town inhabitants and to protect the environment by reducing greenhouse gas emissions, which cause climate change, and by reducing other air pollutants. The Town seeks to do this by participating in 225 CMR 24, also referred to as the Fossil Fuel Free Demonstration, to prohibit new building construction and Major Renovations that are not fossil fuel free.

§ 3 Applicability

The restrictions in this bylaw apply to residential and commercial buildings that qualify as new construction or Major Renovation. These restrictions 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 225 CMR 24

§ 4 Fossil Fuel Free Demonstration

The Fossil Fuel Free Demonstration, as codified by the entirety of 225 CMR 24, is herein incorporated by reference into the Town of Aquinnah General Bylaws, Chapter XXIX.

§ 5 Amendments to the Specialized Energy Code

With adoption of the Fossil Fuel-Free Demonstration, and upon approval by the Department of Energy Resources, the following amendments to the Specialized Energy Code are adopted. These changes are enforceable by the inspector of buildings 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)** 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)** 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.

§ 6. Building Permits

On and after the Effective Date,

- 4
- a. Any application for a building permit for a new building or a Major Renovation must identify the means of heating, cooling, and hot water that will be used in the building.
 - b. The Town will grant a building permit for a new building or a Major Renovation only if the building will comply with the restrictions in this bylaw.

§ 7. Waivers

- a. The Review Board may grant a waiver of the provisions of this bylaw in the event that compliance makes a project financially infeasible or impractical to implement. Compliance with this bylaw may be considered infeasible or impractical to implement if, without limitation:
 - b.
 - 1. 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 economically unviable; or
 - 2. Technological or other factors would make the project unsuitable for its intended purpose.
- c. Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits.
- d. Waivers may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are infeasible or impractical to implement, rather than for entire projects.
- e. The Review Board, or the Select Board if in its discretion it chooses, may issue guidance on the granting of waivers and the imposition of conditions, to be periodically amended in light of experience under this bylaw. The Review Board shall submit its proposed guidance to the Select Board for review before the guidance becomes effective, which may offer amendments or additions. The Review Board's decisions on waiver requests shall be final, with the exception of judicial review as provided for in Section 8b. below.

§ 8 Appeals

- a. An appeal from a decision by the building inspector under this bylaw may be taken to the Review Board and must be filed with the Town Clerk within fourteen (14) days after the decision appealed. The Review Board shall hold a public hearing within a reasonable time after the appeal is filed, but is not required to provide notice other than as required by the Open Meeting Law. The Review Board shall reverse the decision of the building inspector only if the decision was arbitrary, capricious, or not supported by substantial evidence. The Review Board shall consider only the record or documents provided to the building inspector, shall not conduct a de novo review or proceeding, and shall issue its decision in writing, which decision shall be final.

- b. An applicant aggrieved by a decision of the Review Board under this bylaw may seek judicial review only in the Dukes County Superior Court under the provisions of G. L. c. 249, § 4.

ARTICLE SEVEN

Yes 33

No 5

ELECTRONIC VOTING SYSTEM

ARTICLE SEVEN PASSED

Certified: True Copy
Gabriella Camilleri
Aquinnah Town Clerk

Gabriella Camilleri

Form 4

Town: Aquinnah

Date Town Meeting Convened: June 14, 2023

Form 4 – Town Meeting Certification

Complete and sign the following.

1. Quorum

Indicate number. Please write "0" if the town has no quorum requirement.

A quorum was present at the town meeting, including any adjourned sessions thereof. According to our town charter or by-law, our quorum requirement for town meeting is 40 registered voters.

2. Service of the Warrant

Please check one.

The service of the town meeting warrant was in accordance with:

☒ a town by-law

☐ a previous vote of the town

☐ a procedure accepted by the Attorney General

and any adjournments of the Town Meeting were made in accordance with the town by-law or vote of Town Meeting.

3. Signing of the Warrant *[certified copy of relevant Warrant pages must be attached]*

Date the Board of Selectmen signed the Town Meeting Warrant: May 23, 2023

4. Posting of the Warrant

Date on which the Town Meeting Warrant was posted: May 24, 2023

(The warrant must be posted at least 7 days prior to an annual town meeting and at least 14 days prior to a special town meeting)

5. Attachments

Before submission, ensure that you have attached both of the following:

- A **certified copy of the relevant pages of the Town Meeting warrant**, as it was posted. (Attachments must include: opening of the warrant, all pages of the warrant article(s) submitted for review, the closing, the Board of Selectmen's signature page and the officer's return of service page.
- We require a certified copy of the **text referred to**, but not set forth in the text of the warrant articles (example: if the warrant refers to an Attachment, text in an Appendix, or text located elsewhere, such as in the town clerk's office or the office of the planning board). In this instance, it will be necessary for you to send us a **copy of the text referred to, or a copy of what is on file and available for inspection**. Otherwise, we will not know the actual text of the by-law that the warrant article proposes.

Note: It is not necessary to submit any documents other than those requested in the required Forms. For example, you do not need to submit Finance Committee reports, minutes, annotated warrant articles, Planning Board Hearing minutes, or Planning Board Hearing sign-in sheet.

Certification

I certify the above declaration to be true and correct to the best of my knowledge.

<u>Gabriella Camilleri</u>	Gabriella Camilleri	7/10/23
Signature of Town Clerk	PRINT name	Date signed



TOWN OF AQUINNAH

955 State Road, Aquinnah, Massachusetts 02535
Tel. (508) 645-2300 - Fax (508) 645-7884
www.aquinnah-ma.gov

RESOLUTION

The Town of Aquinnah has adopted a goal of eliminating fossil fuel use in the Town by 2040. As one measure to help to achieve that goal, the Town has taken the opportunity to participate in the Commonwealth's Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project authorized by St. 2022, c. 179, § 84. Aquinnah has adopted at its Town meeting a by-law for participation in the project.

To contribute to the success of the project, the Select Board is committed to collaborating with the Massachusetts Department of Energy Resources on data collection, reporting, and outreach/training relating to the project.

Voted June 21, 2023, Aquinnah Select Board


Thomas Murphy


Julianne Vanderhoop


Gary Haley

MARTHA'S VINEYARD HOUSING NEEDS ASSESSMENT

December 2020



Prepared by the Martha's Vineyard Commission

Karen Sunnarborg Consulting

Christine Flynn, Economic Development and Affordable Housing Planner

With funding from the Massachusetts Office of Travel and Tourism

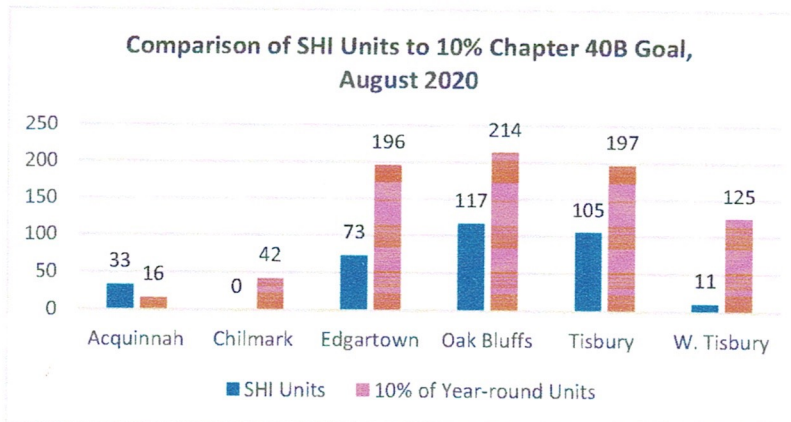
Photo: Congregate House in Vineyard Haven, Harbor Homes of MV

Martha's Vineyard Housing Needs Assessment

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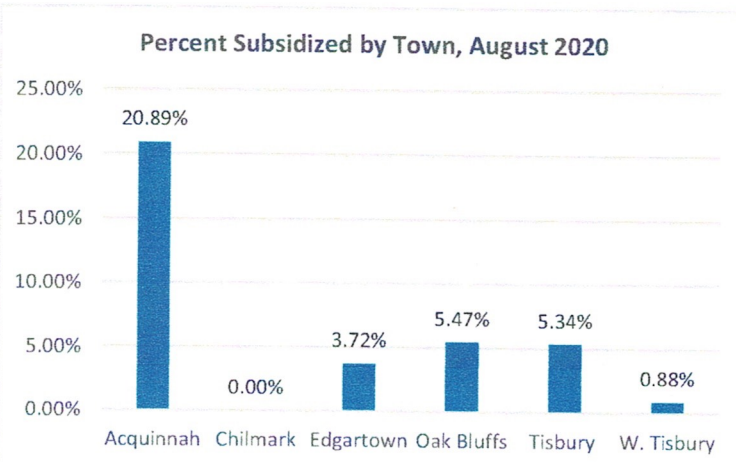
- The current figures are down from 411 SHI units and 5.2% in 2013, the loss of units due largely to the expiration of shorter-term deed restrictions from the various Housing Rehab Programs.
- Only 8 new units were added to the SHI since 2013, 6 rentals as part of Water Street and 2 ownership units at Greenwood Avenue, both in Tisbury.
- 93% of all SHI units were rentals, comprising 21% of all rental units on the Island where tenants were paying rent.



- Because Aquinnah's year-round housing stock is so small, its 33 Tribal Housing SHI units have put it over the 10% state affordability threshold.
- Oak Bluffs has the next highest SHI percentage at 5.47% with Tisbury close behind at 5.34% with 117 and 105 SHI units, respectively.
- Chilmark has no state-defined affordable units at this

point with West Tisbury at only 11 units.

- When the 2020 census figures are released, the new year-round housing count will incorporate housing growth and the percentages will decrease accordingly. Even when and if more communities pass the 10% goal, there will still be huge unmet affordable housing needs as documented in this Housing Needs Assessment.
- A total of 204 units, or 60% of the affordable SHI units, were produced through Chapter 40B comprehensive permits and therefore involved overrides of local zoning. Despite zoning overrides, 40B can be a good permitting tool when the proposed project addresses local housing needs. The Martha's Vineyard Commission has review responsibilities of these 40B projects that are part of Developments of Regional Impact (DRI).
- There are a few projects where the affordability restrictions are due to expire and may lead to some further loss of SHI units interventions to extend the dates are unavailable or unsuccessful. For example, the affordability of the 3 units at the Rectory are still listed as due to expire in 2017, although given HOME Program funding they are unlikely to expire. The 40 units at Hillside Village in Tisbury are listed as due to expire in 2025 with the second phase expiring in 2030. All of the other units, where affordability is not in perpetuity, involve expiring dates beyond the next decade. Nevertheless, restrictions for some of these projects included different terms and



Appendix 2

Subsidized Housing Inventory by Town

As of August 14, 2020

Aquinnah's Subsidized Housing Inventory (SHI)

Project Name	# Year-Round Units	# SHI Units	Project Type/ Subsidizing Agency	Use of a Comp Permit	Affordability Expiration Date
Tribal Housing		18	Rental/HUD	Yes	2048
Tribal Housing		6	Rental/HUD	Yes	2049
Mutual Housing		7	Rental/HUD	Yes	2051
Tribal Housing		2	Rental/HUD	Yes	2054
Total	158	33/20.9%	All SHI were rentals		

Source: Massachusetts Department of Housing and Community Development, August 14, 2020
Lost 8 units from 2012 as part of the Housing Rehab Program

Chilmark's Subsidized Housing Inventory (SHI) by Town

Project Name	# Year-Round Units	# SHI Units	Project Type/ Subsidizing Agency	Use of a Comp Permit	Affordability Expiration Date
Total	418	0/0.0%			

Source: Massachusetts Department of Housing and Community Development, August 14, 2020

* Dukes County Regional Housing Authority units

Down from 3 in 2012 from the Housing Rehab Program.

Edgartown's Subsidized Housing Inventory (SHI)

Project Name	# Year-Round Units	# SHI Units	Project Type/ Subsidizing Agency	Use of a Comp Permit	Affordability Expiration Date
Fisher Road Apartments*		8	Rental/DHCD & MHP	No	2027
Pennywise Path/ Morgan Woods		60	Rental/DHCD & MassHousing	Yes	2057
High and Pease Point		2	Ownership/MassHousing	Yes	Perpetuity
Fair Way Village		3	Ownership/MassHousing	Yes	Perpetuity
Jenney Way (not on SHI)		(3)			
N. Summer St. (not on SHI)		(2)			
Total	1,972	73/3.72%	68 or 93% were rentals		

Source: Massachusetts Department of Housing and Community Development, August 14, 2020

* Dukes County Regional Housing Authority units Down 16 units from 2012 due to Housing Rehab Programs.