



**Town of Arlington  
Office of the Town Manager**

**James R. Feeney  
Town Manager**

**730 Massachusetts Avenue  
Arlington MA 02476-4908  
Phone (781) 316-3010**

August 30, 2023

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

Dear Green Communities Division:

The Town of Arlington is pleased to submit its formal application to participate in the Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Program authorized by St. 2022, c. 179, § 84 (the "Demonstration Program"). Arlington is a Prioritized Community listed in 225 CMR 24.03.

Please find attached to this letter:

- A. Town of Arlington's Application to the Demonstration Program
- B. H3750 Arlington Home Rule Petition, Delegation Letters, & Certification of Vote for Local Approval
- C. Fossil Fuel Free Building Demonstration Bylaw Draft:
  - i. Version with redlined changes comparing proposed bylaw to Model Rule
  - ii. Clean version of bylaw, with redlined changes accepted

The Town is grateful for the opportunity to participate in this important Demonstration Program, which will bring us closer to our local and regional climate change mitigation goals. For questions or requests for further information, please contact Talia Fox, Sustainability Manager, at [tfox@town.arlington.ma.us](mailto:tfox@town.arlington.ma.us) or 781-316-3428.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "James Feeney".

James Feeney, Town Manager

Cc: Senator Cindy F. Friedman, 4th Middlesex District  
Representative Sean Garballey, 23rd Middlesex District  
Representative David Rogers, 24th Middlesex District  
Eric Helmuth, Chair, Arlington Select Board  
Douglas Heim, Arlington Town Counsel  
Ryan Katofsky, Chair, Arlington Clean Energy Future Committee  
Talia Fox, Arlington Sustainability Manager

ATTACHMENT “A”



**Town of Arlington  
Office of the Town Manager**

**James R. Feeney  
Town Manager**

**730 Massachusetts Avenue  
Arlington MA 02476-4908  
Phone (781) 316-3010**

**TOWN OF ARLINGTON  
APPLICATION TO MUNICIPAL FOSSIL FUEL FREE BUILDING  
DEMONSTRATION PROGRAM**

In accordance with 225 CMR 24.04, the Town of Arlington submits the following application for the Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Program authorized by St. 2022, c. 179, § 84 (the “Demonstration Program”):

**a) Copy of home rule petition and date submitted and proof of Local Approval.**

On November 18, 2020, Arlington Town Meeting passed Article 5, which included a Home Rule Petition to the Massachusetts General Court for the authority to adopt and enforce local regulations restricting new fossil fuel infrastructure in certain construction. The Home Rule petition was officially filed on April 22, 2021. Copies of the Home Rule Petition and Delegation Letters, as well as certification of its local approval, are attached.

**b) Copy of proposed by-law or ordinance for participation in the Demonstration Project and explanation of and rationale for differences from the Model Rule.**

Article 5, passed by Town Meeting on November 18, 2020, also included a bylaw to regulate fossil fuel infrastructure in buildings. Amendments will be adopted by Special Town Meeting, which will begin on October 17, 2023, to better align with the language outlining the Demonstration Program in Section 83 of “An Act Driving Clean Energy and Offshore Wind” and regulations for the Demonstration Program detailed in 225 CMR 24.00, as well as the Model Rule issued by the Department. All amendments will be efforts to align with the intent of the legislation and accompanying regulations and accordingly streamline acceptance into the Demonstration Program. Two drafts of the bylaw to be brought before Special Town Meeting are attached: one that is redlined to indicate deviations from the Model Rule, and one that is clean with those redlines accepted.

Amendments to the Model Rule include the following:

- Additional definitions for the term “Effective Date,” to enable easier reference to the Town’s chosen effective date (90 days following the date on which the Town is authorized by the Department of Energy Resources (“DOER” or “the Department”) to regulate fossil fuel infrastructure) within the text of the bylaw; and the term “Work Area,” which is retained from the previously adopted version of the bylaw and is used within the Town’s amended definition of major renovation.
- A definition of major renovation that is more consistent with the definition of major renovation in the Town’s previously adopted bylaw in that it excludes additions and changes of use. The threshold of 75% for residential buildings from the Town’s previously adopted bylaw has been lowered to 50% (a Level 3 Alteration as defined in the International Existing Building Code) to match the threshold for alterations presented in the Model Rule and Stretch Code. The exclusion of additions and changes of use was previously vetted by the community and is appropriate for Arlington’s local context.
- Addition of exemptions, as well as provision for waivers and appeals included in the Town’s previously adopted bylaw, with the rationale that these have been previously vetted with the community and speak to the needs of Arlington’s context and procedures.
- Other non-substantive changes to phrasing, language, and formatting in order to incorporate references to the Town’s bylaws and policies (e.g., the Town’s Net Zero goal).

**c) Implementation plan, including:**

**1. Community’s plan, including any associated timelines, for acquiring Local Approval of proposed bylaw that has not yet acquired approval.**

Arlington has not yet received local approval for the updated bylaw that aligns more closely with the regulations and model rule. To approve this updated bylaw prior to the statutory deadline, Arlington Special Town Meeting will convene on October 17, 2023. It is expected that Special Town Meeting will hear the article addressing the proposed updated bylaw on either October 17 or October 19, depending on the order and number of articles on the Special Town Meeting warrant.

**2. Timeline and effective dates of the bylaw or ordinance’s provisions or requirements, if Local Approval has been acquired.**

Local Approval has not yet been acquired. As noted above, the Town is proposing amendments to the Model Rule that would establish an Effective Date that would be 90 days following the date on which the

Town is authorized by the Department of Energy Resources to regulate fossil fuel infrastructure.

**3. A demonstrated commitment to collaborate with the Department on data collection, reporting, and outreach/training.**

The Town of Arlington is committed to the success of the Demonstration Program. The Town will collaborate with DOER on data collection, reporting, and outreach/training in whatever way(s) DOER deems necessary for participation in the program. All Town departments that will be involved in data collection, reporting, and outreach have been consulted and are prepared to meet the requirements. These departments include the Department of Inspectional Services, the Department of Planning & Community Development, the Town Manager's Office, and the Legal Department.

Over the past many years, the Town has demonstrated collaboration and cooperation with DOER as part of several Department programs and initiatives, including, but not limited to, the Green Communities program (in which Arlington has participated for over a decade) and Stretch Codes. This past spring, for example, in the leadup to Town Meeting's adoption of the Specialized Stretch Code, members of the Department of Inspectional Services and Department of Planning and Community Development planned informational sessions for builders and the public, as well as presentations for the Select Board and Town Meeting, all in active consultation with staff from DOER, to ensure that information was factual and thorough. The Town is committed to this same level of engagement and collaboration as part of the Demonstration Program.

**4. Description of the current process for storing building permit data and certificates of occupancy.**

The Town of Arlington uses the OpenGov Viewpoint software to collect, review, and approve permit applications. This platform stores all building permit data and certificates of occupancy. The system has user-friendly ways to query data and export reports, which will be utilized for Arlington's compliance with reporting requirements for the Demonstration Program.

The Town has reviewed the reporting requirements in 225 CMR 24.00. See below for more details about the information Arlington can provide.

- Applicant name: Already a required field for all permits.
- Street address: Already a required field for all permits, called Location for Building Permit.

- Building usage type: Arlington's permitting system draws automatically from the Assessors database, which includes a field called Building Type.
- Square footage: Town permits ask for Total Floor Area and Gross Living Area. The Town can use either classification to report square footage based on guidance from DOER.
- Estimated construction cost: Estimated Labor and Materials Cost is already a required field for all relevant permits.
- Electronic copies of third-party energy reporting on new construction and major renovation projects that illustrate expected energy use for each major end use: Arlington can provide electronic copies of any third-party energy reporting on new construction and major renovation projects, such as HERS reports and Passive House certification reports, that are attached to building permit applications. These reports are typically attached as PDF documents, so the data cannot be easily exported.

**5. Description of how the by-law or ordinance will affect the use of fossil fuels for commercial and industrial Process Load in buildings subject to the by-law or ordinance, including but not limited to, restaurants, dry cleaners, and manufacturing uses.**

Arlington's commercial and industrial space is predominantly occupied by commercial uses, with limited industrial and manufacturing loads. Because the community is mostly built out, the Town does not expect significant new construction of commercial and industrial facilities. The Town anticipates that the main impacts of the Demonstration Program would be on the renovation of existing space subject to the fossil fuel free bylaw. Much of the existing commercial space in Arlington is retail, restaurants, and services, with a fair amount of vacant space. The Town anticipates that most occupants of these spaces, to the extent that the spaces are renovated and subject to the bylaw, would be able to find suitable non-fossil fuel solutions. Where fossil fuel solutions are needed or preferred for commercial and industrial activities, Arlington's proposed bylaw includes a clearly defined waiver and appeals process, which can be employed for any building permit, and which could provide relief to applicants.

**6. Description of exemption or waiver process from any requirements, if any, to be included in the by-law or ordinance.**

As noted above, Arlington's bylaw contains both waiver and appeal processes. These are included below.

## **Section 5. Waivers**

- a. In the event that compliance with the provisions of this bylaw makes a project financially infeasible or impractical to implement, the Building Inspector may grant a waiver subject to reasonable conditions. Where appropriate, such waivers shall be issued narrowly for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Article. Waiver requests shall be supported by a detailed cost comparison, inclusive of available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans. Particular consideration for waivers will be given to projects sponsored by non-profit or government-sponsored affordable housing entities.
- b. Guidance regarding the granting of waivers and prescription of conditions shall be provided by the Select Board prior to the Effective Date and periodically extended or amended in the light of experience and changing circumstances.

Notwithstanding the foregoing, Compliance with this bylaw may be considered financially infeasible if:

- i. As a result of factors beyond the control of the proponent the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; and/or
  - ii. If technological or other factors would make the project unsuitable for its intended purpose.
- c. The Building Inspector's decision with respect to the granting of a waiver, the scope thereof, and any conditions prescribed, shall be appealable to the Town Manager in accordance with procedures established by the Town Manager.

## **Section 6. Appeals**

The Town Manager shall hear appeals from decisions by the Building Inspector on the applicability of this bylaw under section 3 in accordance with such procedural rules as may be adopted from time to time by the Town Manager.

In addition to the waiver and appeals process, there are exemptions for a number of building types that may be more likely to have significant process loads. For example, the bylaw shall not apply to:

- A. Research laboratories for scientific or medical research,

- B. Hospitals regulated by the department of public health as a health care facility,
- C. Medical offices regulated by the department of public health as a health care facility.

**d) Documentation sufficient to demonstrate that the applicant has achieved at least one of the three housing production eligibility thresholds set forth in 24.05(2).**

**1. Explanation of current status and plan to meet such criteria on or before February 11, 2024.**

Arlington does not yet comply with one of the three housing production and eligibility thresholds set forth in 24.05(2). Arlington Special Town meeting, to begin on October 17, 2023, will consider amendments to the Town's Zoning Bylaws and Zoning Map to create an overlay district that complies with the MBTA Communities multi-family zoning requirements. Should Special Town Meeting approve this overlay district, the Town will submit the Zoning Bylaw and Zoning Map amendments, along with an application for district compliance, to the Executive Office of Housing and Livable Communities ("EOHLC"). The Town will simultaneously submit the Zoning Bylaw and Zoning Map to the Attorney General's Office ("AGO"). The Town has been in close communication with representatives of both EOHLC and the AGO to ensure that approvals can be issued prior to the February 11, 2024, statutory deadline for compliance with the thresholds set forth in 24.05(2). Furthermore, the Town has submitted the proposed Zoning Bylaw and Zoning Map to EOHLC for pre-approval to ensure that the amendments to be considered by Special Town Meeting are in compliance with the requirements of the MBTA Communities law.

**2. Provide updates at regular intervals, to be established by the Department, on its status and progress in meeting such criteria on or before February 11, 2024.**

The Town is committed to providing regular updates to the Department according to the timeframes established by the Department.



ATTACHMENT “B”

# HOUSE . . . . . No. 3750

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Sean Garballey and Cindy F. Friedman*

*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 Arlington to adopt and enforce local regulations restricting the use of fossil fuels in certain construction.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>4/22/2021</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>4/22/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>9/17/2021</i>

# HOUSE . . . . . No. 3750

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By Representative Garballey of Arlington and Senator Friedman, a joint petition (accompanied by bill, House, No. 3750) of Sean Garballey and Cindy F. Friedman (by vote of the town) that the town of Arlington be authorized to regulate new construction or major renovation projects that do not qualify as fossil fuel-free buildings. Municipalities and Regional Government.  
[Local Approval Received.]

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## The Commonwealth of Massachusetts

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

An Act authorizing the town of Arlington to adopt and enforce local regulations restricting the use of fossil fuels 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. As used in this act, the term “fossil fuel-free building” shall mean an entire  
2 building or condominium unit that supports its operation without the use of coal, oil, natural gas,  
3 fuel hydrocarbons, including synthetic equivalents, or other fossil fuels.

4           SECTION 2. Notwithstanding section 13 of chapter 142 and chapter 164 of the General  
5 Laws, the state building code, as codified in 780 CMR, or any other general or special law to the  
6 contrary, the town of Arlington may adopt and further amend general or zoning by-laws that  
7 restrict new construction or major renovation projects that do not qualify as fossil fuel-free  
8 buildings.

9           SECTION 3. Notwithstanding section 7 of chapter 40A of the General Laws or any other  
10 general or special law to the contrary, the building inspector of the town of Arlington, or any

11 designee thereof, may enforce restrictions on new construction and major renovation projects  
12 that do not qualify as fossil fuel-free buildings, including by withholding of building permits.

13 SECTION 4. Any by-law approved by the town meeting of the town of Arlington on or  
14 before the effective date of this act that is consistent with sections 1 to 3, inclusive, is hereby  
15 ratified, validated and confirmed.

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

OFFICE OF THE SELECT BOARD

JOHN V. HURD, CHAIR  
JOSEPH A. CURRO, JR., VICE CHAIR  
DIANE M. MAHON  
STEPHEN W. DECOURCEY  
LENARD T. DIGGINS



730 MASSACHUSETTS AVENUE  
TELEPHONE  
781-316-3020  
781-316-3029 FAX

TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

January 7, 2021

Representative Sean Garballey  
State House  
24 Beacon Street, Room 540  
Boston, MA 02133-1054

Dear Representative Garballey:

At the Special Town Meeting held on November 18, 2020, Town Meeting Authorized the Select Board to file Home Rule Legislation with the General Court to provide essentially as follows:

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

Enclosed please find two copies of the Certified Vote of Town Meeting. Would you kindly coordinate the filing of this legislation with Representative David M. Rogers and Senator Cindy F. Friedman? Should there be any hearing dates scheduled, kindly contact our office so that we may contact the appropriate representatives to testify on behalf of the proposed legislation.

Thank you for your consideration.

Very truly yours,  
SELECT BOARD

A handwritten signature in cursive script, reading "Marie A. Krepelka".

Marie A. Krepelka  
Board Administrator

MAK:am  
Enclosure

Cc: Town Manager  
Town Counsel

OFFICE OF THE SELECT BOARD

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JOSEPH A. CURRO, JR., VICE CHAIR  
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TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

January 7, 2021

Representative David M. Rogers  
State House  
24 Beacon Street, Room 544  
Boston, MA 02133-1054

Dear Representative Rogers:

At the Special Town Meeting held on November 18, 2020, Town Meeting Authorized the Select Board to file Home Rule Legislation with the General Court to provide essentially as follows:

**"AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO ADOPT AND  
ENFORCE LOCAL REGULATIONS RESTRICTING NEW FOSSIL FUEL  
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Enclosed please find two copies of the Certified Vote of Town Meeting. Would you kindly coordinate the filing of this legislation with Representative Sean Garballey and Senator Cindy F. Friedman? Should there be any hearing dates scheduled, kindly contact our office so that we may contact the appropriate representatives to testify on behalf of the proposed legislation.

Thank you for your consideration.

Very truly yours,  
SELECT BOARD

A handwritten signature in cursive script, reading "Marie A. Krepelka".

Marie A. Krepelka  
Board Administrator

MAK:am  
Enclosure

Cc: Town Manager  
Town Counsel

OFFICE OF THE SELECT BOARD

JOHN V. HURD, CHAIR  
JOSEPH A. CURRO, JR., VICE CHAIR  
DIANE M. MAHON  
STEPHEN W. DECOURCEY  
LENARD T. DIGGINS



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TELEPHONE  
781-316-3020  
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TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

January 7, 2021

Senator Cindy F. Friedman  
State House  
24 Beacon Street, Room 208  
Boston, MA 02133-1054

Dear Senator Friedman:

At the Special Town Meeting held on November 18, 2020, Town Meeting Authorized the Select Board to file Home Rule Legislation with the General Court to provide essentially as follows:

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

Enclosed please find two copies of the Certified Vote of Town Meeting. Would you kindly coordinate the filing of this legislation with Representative David M. Rogers and Representative Sean Garballey? Should there be any hearing dates scheduled, kindly contact our office so that we may contact the appropriate representatives to testify on behalf of the proposed legislation.

Thank you for your consideration.

Very truly yours,  
SELECT BOARD

A handwritten signature in cursive script, reading "Marie A. Krepelka".

Marie A. Krepelka  
Board Administrator

MAK:am  
Enclosure

Cc: Town Manager  
Town Counsel



JULIANA H. BRAZILE  
TOWN CLERK

OFFICE OF THE TOWN CLERK  
TOWN OF ARLINGTON  
730 MASSACHUSETTS AVENUE  
ARLINGTON, MA 02476

TELEPHONE  
(781) 316-3070

**ARTICLE 5 HOMERULE LEGISLATION/BYLAW AMENDMENT  
FOSSIL FUEL INFRASTRUCTURE**

**VOTED: YES – 225, NO – 18**

That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

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

Be it enacted as follows:

SECTION 1. 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 Arlington is hereby authorized to adopt and further amend general or zoning 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.

SECTION 2. Notwithstanding section 7 of chapter 40A of the General Laws, or any other general or special law or regulation to the contrary, the Building Inspector of the town of Arlington, or any designee thereof, shall be authorized to enforce restrictions on new construction and major renovation projects that do not qualify as fossil-fuel-free, as defined in section 3 of this act, including through the withholding of building permits.

SECTION 3. 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 fuel hydrocarbons (including synthetic equivalents), or other fossil fuels in support of its operation.

SECTION 4. This act shall take effect upon its passage and shall authorize any pending bylaw already approved by Arlington’s Town Meeting consistent with Sections 1 through 3 above.

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

AND FURTHER VOTED, that at Title VI of the Town Bylaws be and hereby is amended to add a new Article 10 entitled “Prohibition on New Fossil Fuel Infrastructure in Major Construction” as follows:



## ARTICLE 10. PROHIBITION ON NEW FOSSIL FUEL INFRASTRUCTURE IN MAJOR CONSTRUCTION

### Section 1 Purpose

This Bylaw is adopted by the Town of Arlington, under its home rule powers and its police powers under Massachusetts General Laws, Chapter 40, Sections 21 (clauses 1, 18) and 21D, and Chapter 43B, Section 13, to protect the health and welfare of the inhabitants of the town from air pollution, including that which is causing climate change and thereby threatens the Town and its inhabitants.

### Section 2 Definitions

“New Building” shall mean a new building or new accessory building (a building devoted exclusively to a use accessory to the principal use of the lot) that is associated with a valid building permit application on or after the Effective Date.

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

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

(1) For existing structures regulated by the current edition of the International Residential Code as amended by 780 CMR 51: Massachusetts Residential Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 75% of the Gross Floor Area, as defined in Section 2 of the Arlington Zoning Bylaw, prior to the project;

(2) For existing structures regulated by the current edition of the International Building Code as amended by 780 CMR 34: Massachusetts Commercial Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 50% of the building floor area prior to the project, as defined by the Massachusetts Building Code.

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

“Effective Date” shall mean July 1, 2022, or six months following the date by which the Town is authorized by Special Act to regulate fossil fuel infrastructure by the Commonwealth of Massachusetts, whichever is later in time.

### Section 3 Applicability

The requirements of this article shall apply to all permit applications for New Buildings and Major Renovations proposed to be located in whole or in part within the Town, except that:

A. The requirements of this article shall not apply to utility service piping connecting the grid to a meter, or to a gas meter itself.

B. The requirements of this article shall not apply to piping required to fuel backup electrical generators.

C. The requirements of this article shall not apply to piping required for cooking appliances and related appliances.

D. The requirements of this article shall not apply to the use of portable propane appliances for outdoor cooking and heating.

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

F. So long as new fossil fuel piping is not installed, the requirements of this article shall not apply to the extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping.

G. The requirements of this article shall not apply to research laboratories for scientific or medical research or to medical offices regulated by the Massachusetts Department of Public Health as a healthcare facility.

H. The requirements of this Article shall not apply to repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

### Section 4 Enforcement

Upon the Effective Date, no permits shall be issued by the Town for the construction of New Buildings or Major Renovations that include the installation of new On-Site Fossil Fuel Infrastructure, except as otherwise provided in Sections 3, 5, and 6 of this bylaw

### Section 5 Waivers

A. In the event that compliance with the provisions of this bylaw makes a project financially infeasible or impractical to implement, the Building Inspector may grant a waiver subject to reasonable conditions. Where appropriate, such waivers shall be issued narrowly for specific portions of a project that are financially infeasible or impractical to implement under the

requirements of this Article. Waiver requests shall be supported by a detailed cost comparison, inclusive of available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans. Particular consideration for waivers will be given to projects sponsored by non-profit or government-sponsored affordable housing entities.

B. Guidance regarding the granting of waivers and prescription of conditions shall be provided by the Select Board prior to the Effective Date and periodically extended or amended in the light of experience and changing circumstances.

Notwithstanding the foregoing, Compliance with this bylaw may be considered financially infeasible if:

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 commercially unviable; and/or

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

C. The Building Inspector's decision with respect to the granting of a waiver, the scope thereof, and any conditions prescribed, shall be appealable to the Town Manager in accordance with procedures established by the Town Manager.

#### Section 6 Appeals

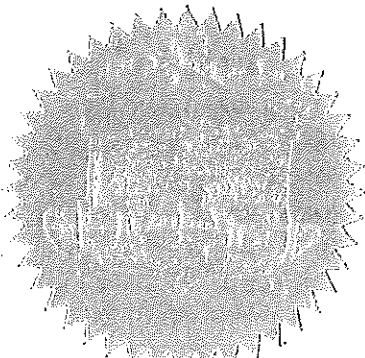
The Town Manager shall hear appeals from decisions by the Building Inspector on the applicability of this bylaw under section 3 in accordance with such procedural rules as may be adopted from time to time by the Town Manager.

**A true copy of the vote under  
Article 5 of the Warrant for the  
Special Town Meeting of the  
Town of Arlington at the session  
held November 18, 2020.**

**ATTEST:**

*Juliana H. Breyde*

**Town Clerk**



ATTACHMENT "C"

## Redlined DOER Model Warrant Article & Rule, Arlington

### SAMPLE TOWN WARRANT ARTICLE:

To see if the Town will vote to amend Title VI of the Town Bylaws to add a new section~~enact~~  
Chapter \_\_\_\_\_ of the Town of \_\_\_\_\_ General [or  
Zoning] By laws, entitled “Fossil Fuel-Free Demonstration” for the purpose of restricting and  
prohibiting new building construction and major renovation projects that are not fossil fuel-free,  
pursuant to the entirety of 225 CMR 24.00, with an effective date of \*\*\* \_\_\_\_\_ (a copy  
of which is on file with the Town Clerk); to set forth the terms and scope of such prohibition,  
and to provide for waivers or exemptions, and appeals of same; or take any ~~other~~ action  
relatedive thereto. ~~This shall only take effect if approved by the Massachusetts Department of~~  
~~Energy Resources as a Participating Community pursuant to 225 CMR 24.00.~~

**Commented [TF1]:** Added references to Arlington's bylaws, and made warrant language more specific to the scope of the proposed bylaw (including the waivers and appeals processes). Also removed the reference to a specific effective date to anticipate that this may be a point of discussion at Town Meeting.

### SAMPLE BY LAW:

#### ARTICLE 3, SECTION 3. PROHIBITION ON NEW FOSSIL FUEL INFRASTRUCTURE IN NEW CONSTRUCTION AND MAJOR RENOVATION

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

- § \_\_\_\_\_ 1 Definitions
- § \_\_\_\_\_ 2 Purpose
- § \_\_\_\_\_ 3 Applicability
- § \_\_\_\_\_ 4 Fossil Fuel-Free Demonstration

##### § \_\_\_\_\_ Section 1. Definitions

“Effective Date” shall mean 90 days following the date on which the Town is authorized by the  
Department of Energy Resources to regulate fossil fuel infrastructure.

**Commented [TF2]:** Added an effective date in consultation with Director of Inspectional Services

“Fossil Fuel-Free Demonstration” —shall mean the project c~~odified~~ by the entirety of 225 CMR  
24.00, the Fossil Fuel- Free Demonstration.

“Major Renovation” shall mean a renovation project associated with a valid building permit  
application filed on or after the Effective Date of this article that is, for low-rise residential buildings,  
a Level 3 Alteration as defined in the International Existing Building Code (IEBC 2021) in which  
the Work Area exceeds 50% of the existing conditioned floor area and exceeds 1,000 square feet; or  
that is, for all other building uses, a Level 3 Alteration as defined in the International Existing  
Building Code (IEBC 2021) in which the Work Area exceeds 50% of the existing conditioned floor  
area or an alteration that exceeds 20,000 square feet—As defined in 225 C.M.R. 24.00.

**Commented [TF3]:** This definition is more consistent with the definition of major renovation in the Town's previously adopted bylaw, as it excludes additions and changes of use, although the threshold of 75% for residential buildings has been lowered to 50% (a Level 3 Alteration as defined in the IEBC) to match the threshold for alterations presented in the Model Rule and Stretch Code.

**“New Construction”** shall mean a new building or new accessory building (a building devoted exclusively to a use accessory to the principal use of the lot) that is associated with a valid building permit application on or after the Effective Date.

**Commented [TF4]:** Added definition of New Construction so this term used throughout is defined. This term was also present in the Town's previously adopted bylaw.

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

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

**Commented [TF5]:** Added definition so that the term Work Area used in definition of Major Renovation is defined

## **Section 2. Purpose**

This Bylaw is adopted by the Town of Arlington, pursuant to “Act Driving Clean Energy and Offshore Wind” (St. 2022, c. 179, § 84) and The purpose of 225 CMR 24.00, also referred to as the Fossil Fuel-Free Demonstration, the purpose of which is to restrict and prohibit new building construction and major renovation projects that are not fossil fuel-free in the interests of protecting health, safety, and the natural environment and reducing air pollution and greenhouse gas emissions, which cause climate change, thereby threatening the Town and its inhabitants. This bylaw is intended to work in conjunction with the Specialized Stretch Code, adopted by the 2023 Arlington Town Meeting and incorporated into Title VI Art. 3 of the Town Bylaws as well as the Town’s “Net Zero” goals.

**Commented [TF6]:** Added reference to local and state laws and climate goals

## **Section -3. Applicability**

- a. This restriction applies~~The requirements of this bylaw apply~~ to residential and non-residential buildings that qualify as ~~a~~New Construction or ~~M~~major Renovation, ~~as defined in 225 CMR 24.00.~~
- b. This restriction~~The requirements of this bylaw~~ shall not apply to:
- i. ~~R~~esearch 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 24.00.
  - ii. Multi-family buildings over 12,000 square feet with permit applications filed prior to January 1, 2027 that utilize gas or propane for domestic water heating as the only combustion equipment.
  - iii. Utility service piping connecting the grid to a meter, or to a gas meter itself.

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- iv. Piping required to fuel backup electrical generators.
- v. Portable propane appliances for outdoor cooking and heating.
- vi. The extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping, so long as new fossil fuel piping is not installed.
- ~~i-vii.~~ Repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

**Commented [TF7]:** All exemptions come directly from the previously adopted bylaw, except for the exemption for domestic hot water service in multifamily buildings, which has been updated to match the language in the Model Rule. Furthermore, the exemption for cooking from the previously adopted bylaw has been removed, per vote of the Clean Energy Future Committee.

#### **Section 4 Fossil Fuel-Free Demonstration**

The Fossil Fuel-Free Demonstration, as codified by the entirety of 225 CMR 24.00, is herein incorporated by reference into the Town of into Title VI, Article 3 of the Town of Arlington  
General Bylaws ~~General [or Zoning] By laws, Chapter~~  
with an effective date of.

With adoption of the Fossil Fuel-Free Demonstration, and upon approval by DOER, the following amendments to the Specialized Energy Code (codified in Title VI Article 3 of the Town Bylaws) are adopted. These changes are enforceable by the ~~inspector of buildings or building commissioner~~ Building Inspector and will go into effect for any project seeking a permit after the ~~effective~~ Effective date ~~Date~~.

**Commented [TF8]:** Added references to Town bylaws and Effective Date defined above

- a. Low-rise Residential Code (225 CMR 22 Appendix RC)
  - i. Sections RC102 and RC101 “Zero Energy Pathway” and “Mixed Fuel Pathway” shall not be permitted for use for new construction.
- b. Commercial and All Other (225 CMR 23 Appendix CC)
  - i. Sections CC103 and CC105 “Zero Energy Pathway” and “Mixed-Fuel Pathway” shall not be permitted for new construction, 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. 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.
- c. Equipment or appliances used for space heating, service water heating, cooking, clothes drying, and/or lighting that can utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels may not be installed as part of any residential or non-residential Major Renovation, with the exception of 3.b.i-vii and 4.b.i.1-4 above. All Major Renovations associated with 3.b.i-vii and 4.b.i.1-4 must follow applicable stretch code requirements.

#### **Section 5. Waivers**

- a. In the event that compliance with the provisions of this bylaw makes a project financially infeasible or impractical to implement, the Building Inspector may grant a waiver subject

**Commented [TF9]:** Waiver and appeals process added from previously adopted bylaw

to reasonable conditions. Where appropriate, such waivers shall be issued narrowly for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Article. Waiver requests shall be supported by a detailed cost comparison, inclusive of available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans. Particular consideration for waivers will be given to projects sponsored by non-profit or government-sponsored affordable housing entities.

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- b. Guidance regarding the granting of waivers and prescription of conditions shall be provided by the Select Board prior to the Effective Date and periodically extended or amended in the light of experience and changing circumstances.

Notwithstanding the foregoing, Compliance with this bylaw may be considered financially infeasible if:

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- ii. As a result of factors beyond the control of the proponent the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; and/or  
iii. If technological or other factors would make the project unsuitable for its intended purpose.

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- c. The Building Inspector's decision with respect to the granting of a waiver, the scope thereof, and any conditions prescribed, shall be appealable to the Town Manager in accordance with procedures established by the Town Manager.

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## **Section 6, Appeals**

The Town Manager shall hear appeals from decisions by the Building Inspector on the applicability of this bylaw under section 3 in accordance with such procedural rules as may be adopted from time to time by the Town Manager.

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*Note: The above bylaw is a hybrid between the Town's previously adopted bylaw and the "Model Rule" promulgated by DOER. Departures and additions from the Model Rule are redlined.*

*The most significant amendments to the Model Rule are in the form of additional exemptions explicitly set forth in the Town's previously adopted bylaw, as well as provision for waivers and appeals. Additional definitions were also included based on terms retained from the Town's previously adopted bylaw. Furthermore, the definition of Major Renovation narrows the definition presented in the Model Rule. This definition is more consistent with the definition of major renovation in the Town's previously adopted bylaw, as it excludes additions and changes of use, although the threshold of 75% for residential buildings has been lowered to 50% (a Level 3 Alteration as defined in the IEBC) to match the threshold for alterations presented in the Model Rule and Stretch Code.*

*The primary modification to the Town's previously adopted bylaw is the introduction of the general enforcement framework language of the Model Rule in Section 4 to maximize reference to the Specialized Stretch Code, also now incorporated into our bylaws after the 2023 Annual Town Meeting. The exemption for cooking from the Town's previously adopted bylaw has been removed to align with the Model Rule and growing evidence of the negative impacts to indoor air quality and human health of gas stoves.*

*An exemption from the original bylaw for domestic hot water service in multifamily buildings where alternatives are not commercially available has been retained but updated to match the Model Rule. Other non-substantive changes have been made to phrasing and language in the Town's previously adopted bylaw in order to incorporate up-to-date references to applicable legislation and regulations and ensure consistency with the Model Rule.*

# **Town of Arlington**

## **Fossil Fuel Free Demonstration Warrant Article & Draft Rule**

### **TOWN WARRANT ARTICLE:**

To see if the Town will vote to amend Title VI of the Town Bylaws to add a new section entitled “Fossil Fuel-Free Demonstration” for the purpose of restricting and prohibiting new building construction and major renovation projects that are not fossil fuel-free, pursuant to the entirety of 225 CMR 24.00 (a copy of which is on file with the Town Clerk); to set forth the terms and scope of such prohibition, and to provide for waivers or exemptions, and appeals of same; or take any action related thereto.

### **ARTICLE 3, SECTION 3. PROHIBITION ON NEW FOSSIL FUEL INFRASTRUCTURE IN NEW CONSTRUCTION AND MAJOR RENOVATION**

#### **Section 1. Definitions**

“**Effective Date**” shall mean 90 days following the date on which the Town is authorized by the Department of Energy Resources to regulate fossil fuel infrastructure.

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

“**Major Renovation**” shall mean a renovation project associated with a valid building permit application filed on or after the Effective Date of this article that is, for low-rise residential buildings, a Level 3 Alteration as defined in the International Existing Building Code (IEBC 2021) in which the Work Area exceeds 50% of the existing conditioned floor area and exceeds 1,000 square feet; or that is, for all other building uses, a Level 3 Alteration as defined in the International Existing Building Code (IEBC 2021) in which the Work Area exceeds 50% of the existing conditioned floor area or an alteration that exceeds 20,000 square feet.

“**New Construction**” shall mean a new building or new accessory building (a building devoted exclusively to a use accessory to the principal use of the lot) that is associated with a valid building permit application on or after the Effective Date.

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

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

## **Section 2. Purpose**

This Bylaw is adopted by the Town of Arlington, pursuant to “Act Driving Clean Energy and Offshore Wind” (St. 2022, c. 179, § 84) and 225 CMR 24.00, also referred to as the Fossil Fuel-Free Demonstration, the purpose of which is to restrict and prohibit new building construction and major renovation projects that are not fossil fuel-free in the interests of protecting health, safety, and the natural environment and reducing air pollution and greenhouse gas emissions, which cause climate change, thereby threatening the Town and its inhabitants. This bylaw is intended to work in conjunction with the Specialized Stretch Code, adopted by the 2023 Arlington Town Meeting and incorporated into Title VI Art. 3 of the Town Bylaws as well as the Town’s “Net Zero” goals.

## **Section 3. Applicability**

- a. The requirements of this bylaw apply to residential and non-residential buildings that qualify as New Construction or Major Renovation.
- b. The requirements of this bylaw shall not apply to:
  - i. 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 24.00.
  - ii. Multi-family buildings over 12,000 square feet with permit applications filed prior to January 1, 2027, that utilize gas or propane for domestic water heating as the only combustion equipment.
  - iii. Utility service piping connecting the grid to a meter, or to a gas meter itself.
  - iv. Piping required to fuel backup electrical generators.
  - v. Portable propane appliances for outdoor cooking and heating.
  - vi. The extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping, so long as new fossil fuel piping is not installed.
  - vii. Repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

## **Section 4 Fossil Fuel-Free Demonstration**

The Fossil Fuel-Free Demonstration, as codified by the entirety of 225 CMR 24.00, is herein

incorporated by reference into the Town of into Title VI, Article 3 of the Town of Arlington General Bylaws.

With adoption of the Fossil Fuel-Free Demonstration, and upon approval by DOER, the following amendments to the Specialized Energy Code (codified in Title VI Article 3 of the Town Bylaws) are adopted. These changes are enforceable by the Building Inspector 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)
  - i. Sections RC102 and RC101 “Zero Energy Pathway” and “Mixed Fuel Pathway” shall not be permitted for use for new construction.
- b. Commercial and All Other (225 CMR 23 Appendix CC)
  - i. Sections CC103 and CC105 “Zero Energy Pathway” and “Mixed-Fuel Pathway” shall not be permitted for new construction, 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. 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.
- c. Equipment or appliances used for space heating, service water heating, cooking, clothes drying, and/or lighting that can utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels may not be installed as part of any residential or non-residential Major Renovation, with the exception of 3.b.i-vii and 4.b.i.1-4 above. All Major Renovations associated with 3.b.i-vii and 4.b.i.1-4 must follow applicable stretch code requirements.

## **Section 5. Waivers**

- a. In the event that compliance with the provisions of this bylaw makes a project financially infeasible or impractical to implement, the Building Inspector may grant a waiver subject to reasonable conditions. Where appropriate, such waivers shall be issued narrowly for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Article. Waiver requests shall be supported by a detailed cost comparison, inclusive of available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans. Particular consideration for waivers will be given to projects sponsored by non-profit or government-sponsored affordable housing entities.
- b. Guidance regarding the granting of waivers and prescription of conditions shall be

provided by the Select Board prior to the Effective Date and periodically extended or amended in the light of experience and changing circumstances.

Notwithstanding the foregoing, Compliance with this bylaw may be considered financially infeasible if:

- ii. As a result of factors beyond the control of the proponent the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; and/or
  - iii. If technological or other factors would make the project unsuitable for its intended purpose.
- c. The Building Inspector's decision with respect to the granting of a waiver, the scope thereof, and any conditions prescribed, shall be appealable to the Town Manager in accordance with procedures established by the Town Manager.

#### **Section 6. Appeals**

The Town Manager shall hear appeals from decisions by the Building Inspector on the applicability of this bylaw under section 3 in accordance with such procedural rules as may be adopted from time to time by the Town Manager.

# HOUSE . . . . . No. 3165

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Sean Garballey and Cindy F. Friedman***

*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 Arlington to adopt and enforce local regulations restricting the use of fossil fuels in certain construction.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/10/2023</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>1/11/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/17/2023</i>

# HOUSE . . . . . No. 3165

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By Representative Garballey of Arlington and Senator Friedman, a joint petition (accompanied by bill, House, No. 3165) of Sean Garballey, Cindy F. Friedman and David M. Rogers (by vote of the town) that the town of Arlington be authorized to regulate new construction or major renovation projects that do not qualify as fossil fuel-free buildings. Telecommunications, Utilities and Energy. [Local Approval Received.]

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3750 OF 2021-2022.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-Third General Court  
(2023-2024)  
\_\_\_\_\_

An Act authorizing the town of Arlington to adopt and enforce local regulations restricting the use of fossil fuels 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. As used in this act, the term “fossil fuel-free building” shall mean an entire  
2 building or condominium unit that supports its operation without the use of coal, oil, natural gas,  
3 fuel hydrocarbons, including synthetic equivalents, or other fossil fuels.

4           SECTION 2. Notwithstanding section 13 of chapter 142 and chapter 164 of the General  
5 Laws, the state building code, as codified in 780 CMR, or any other general or special law to the  
6 contrary, the town of Arlington may adopt and further amend general or zoning by-laws that  
7 restrict new construction or major renovation projects that do not qualify as fossil fuel-free  
8 buildings.

9           SECTION 3. Notwithstanding section 7 of chapter 40A of the General Laws or any other  
10 general or special law to the contrary, the building inspector of the town of Arlington, or any  
11 designee thereof, may enforce restrictions on new construction and major renovation projects  
12 that do not qualify as fossil fuel-free buildings, including by withholding of building permits.

13           SECTION 4. Any by-law approved by the town meeting of the town of Arlington on or  
14 before the effective date of this act that is consistent with sections 1 to 3, inclusive, is hereby  
15 ratified, validated and confirmed.

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