



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF  
ENERGY AND ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENERGY RESOURCES**  
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**Maura T. Healey**  
Governor

**Rebecca L. Tepper**  
Secretary

**Kimberley Driscoll**  
Lt. Governor

**Elizabeth Mahony**  
Commissioner

December 22, 2023

**Via Electronic Mail**

James J. Malloy  
Town Manager  
Town of Lexington  
1625 Massachusetts Avenue  
Lexington, Massachusetts 02420  
[jmalloy@lexingtonma.gov](mailto:jmalloy@lexingtonma.gov)

Dear James J. Malloy,

The Department of Energy Resources (Department) is contacting you in regard to Lexington's application to become a Participating Community in the Department's Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project (Demonstration Project) as authorized by St. 2022, c. 179, § 84 (Act).

The Department has reviewed Lexington's application and determined that it contains the required application materials listed in 225 CMR 24.04(1) and that Lexington meets the Housing Eligibility Thresholds detailed in 225 CMR 24.05(2). The Department hereby approves Lexington's application to become a Participating Community in the Department's Demonstration Project.

The Department notes that Lexington's final by-law contains certain exemptions not contained in the Department's Model Rule. Notably, it exempts indoor cooking appliances and indoor fireplaces from the application of the by-law. While the Department views such exemptions as within the discretion the Act affords communities to define "fossil fuel-free," the Department notes that Lexington is the only Prioritized Community to have made such an exemption. The Department views these exemptions as contrary to the intent of the Act and the Demonstration

Project and is concerned that allowing these exemptions will provide an incomplete picture of the impact of banning the use of fossil fuels in new construction and major renovations. The Department recommends that Lexington consider removing or revising these exemptions in the future.

The Department additionally notes that while the Act grants municipalities the discretion to adopt exemptions and define the exemption and waiver process within their fossil fuel-free by-law or ordinance, such exemptions and waivers must not conflict with 225 CMR 24.00 or the applicable provision of the building energy code in the adopting municipality, including (if applicable) the stretch energy code and specialized energy code contained in 225 CMR 22.00 and 23.00. The Department would be happy to clarify any questions regarding this.

The Department further notes that Lexington's final by-law's definition of major renovation reflects the definition contained in the published draft regulations of 225 CMR 24.00. The Department made a technical revision to the definition in the final version of the regulations published in the State Register on August 4, 2023. In order to avoid confusion, the Department recommends that Lexington update its by-law to either reflect the definition of major renovation contained in the final version of 225 CMR 24.00 or reference 225 CMR 24.00's definition directly.

The Department will be in contact in the coming weeks regarding the collecting and reporting of data to the Department detailed in 225 CMR 24.07(2).

In accordance with the effective date contained in Lexington's fossil fuel-free by-law, Lexington may now proceed with the implementation of their fossil fuel-free by-law.

If you have any questions regarding this determination, please contact Joanne Bissetta at [joanne.bissetta@mass.gov](mailto:joanne.bissetta@mass.gov).

Sincerely,

A handwritten signature in black ink that reads "Joanne Bissetta". The signature is written in a cursive, flowing style.

Joanne Bissetta  
Director, Green Communities Division