



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF  
ENERGY AND ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENERGY RESOURCES**  
100 CAMBRIDGE ST., 9<sup>th</sup> FLOOR  
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**Rebecca L. Tepper**  
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**Kimberley Driscoll**  
Lt. Governor

**Elizabeth Mahony**  
Commissioner

July 12, 2024

**Via Electronic Mail**

Ann G. Berwick  
Co-Director of Sustainability City of Newton  
1000 Commonwealth Avenue Newton Centre,  
Massachusetts 02459  
[aberwick@newtonma.gov](mailto:aberwick@newtonma.gov)

Dear Ms. Berwick,

The Department of Energy Resources (Department) is contacting you regarding Newton'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).

On July 25, 2023, Newton submitted its application to participate in the Department's Demonstration Project. On December 22, 2023, the Department issued a letter to Newton conditionally approving its application for participation in the Demonstration Project. The letter stated that pursuant to the Act and 225 CMR 24.05(2), Newton had until February 11, 2024 to meet one of the Housing Eligibility Thresholds detailed in 225 CMR 24.05(2).<sup>1</sup> The letter also noted that Newton's application materials included a proposed fossil fuel-free ordinance and that Newton had until July 1, 2024 to submit a final version of the ordinance that had received Local Approval, as defined in 225 CMR 24.02.

On February 9, 2024, Newton submitted a letter to the Department indicating that Newton met two of the Housing Eligibility Thresholds under 225 CMR 24.05(2). The letter stated

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<sup>1</sup> As the statutory deadline of February 11, 2024 fell on a Sunday, the Department interprets this deadline as the next business day: Monday, February 12, 2024.

that Newton's Subsidized Housing Inventory (SHI) exceeded the 10% housing affordability threshold under 225 CMR 24.05(2)(a) and included documentation of Newton's SHI. Additionally, the letter indicated that on December 4, 2023, the Newton City Council passed a zoning ordinance that complied with the requirements of 225 CMR 24.05(2)(c). The letter indicated that Newton had submitted that ordinance as part of its application for a determination of district compliance to the Executive Office of Housing and Livable Communities (EOHLC). Pursuant to 225 CMR 24.05(2)(c), such a determination is evidence of compliance with the Housing Eligibility Threshold detailed in 225 CMR 24.05(2)(c). The letter included a copy of the ordinance and a copy of the application to EOHLC. The letter indicated that as of the date of the letter, Newton had not received a determination from EOHLC.

On June 21, 2024, Newton submitted a letter indicating that EOHLC had confirmed that as of February 11, 2024, Newton's SHI inventory exceeded the 10% housing affordability threshold under 225 CMR 24.05(2)(a). The letter indicated that there had been a delay in this confirmation due to the late submission of paperwork to EOHLC for two of the properties on the SHI list. The letter also included Newton's final fossil fuel-free ordinance, adopted by the City Council and signed by the Mayor on June 21, 2024.

After review of the materials submitted by Newton on June 21, 2024, the Department, in consultation with EOHLC, has determined that as of February 11, 2024, Newton satisfied 225 CMR 24.05(2)(a)'s criteria that "[t]he municipality has met the 10 per cent housing affordability threshold set under chapter 40B of the General Laws as of December 21, 2020 or in a subsequent update from DHCD."

Accordingly, the Department hereby approves Newton's application to become a Participating Community in the Department's Demonstration Project. In accordance with the effective date contained in Newton's fossil fuel-free ordinance, Newton may now proceed with the implementation of their fossil fuel-free ordinance.

The Department notes that Newton's final fossil fuel-free ordinance contains certain exemptions not contained in the Department's Model Rule. Notably, the ordinance contains exemptions, in certain circumstances, for indoor and outdoor cooking appliances in major renovation permit applications filed prior to January 1, 2026. While the Department views such exemptions as within the discretion the Act affords communities to define "fossil fuel-free," Newton is the only Participating Community to have adopted such an exemption. Lexington originally included an exemption for indoor cooking appliances in its fossil fuel-free by-law, but after a conversation with the Department the town amended its by-law at this spring's town meeting and removed that exemption. The Department views exemptions for indoor and permanent outdoor cooking appliances as contrary to the intent of the Act and the Demonstration Project and is concerned that allowing such an exemption will provide an incomplete picture of the impact of banning the use of fossil fuels in major renovations. The


Department recommends that Newton consider removing or revising this exemption in the future.

The Department additionally notes that while the Act grants municipalities the discretion to include exemptions from compliance 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 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).

If you have any questions regarding this determination, please contact me 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