



TOWN CLERK

TOWN OF ACTON
472 MAIN STREET
ACTON, MASSACHUSETTS, 01720
TELEPHONE (978) 929-6620
FAX (978) 264-9630
clerk@acton-ma.gov

SEPTEMBER 20, 2023

MIDDLESEX, SS:

ON THE ABOVE DATE, I POSTED ATTESTED COPIES OF THE AMENDMENT TO THE GENERAL BYLAWS, ARTICLES 13, WHICH PASSED AT THE ANNUAL TOWN MEETING THAT CONVENED ON MAY 1, 2023. THE ARTICLE MENTIONED FOR THE GENERAL BYLAWS WAS APPROVED BY THE ATTORNEY GENERAL, ANDREA JOY CAMPBELL ON SEPTEMBER 20, 2023 AND HAVE BEEN POSTED AT THE FOLLOWING LOCATIONS IN THE TOWN OF ACTON:

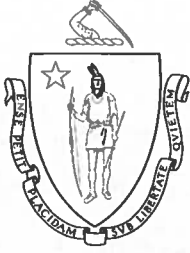
NAGOG WOODS POST OFFICE, TOWN HALL, WEST ACTON FIRE STATION, WEST ACTON LIBRARY, SENIOR CENTER, ACTON WOODS PLAZA, VETERANS FIELD, ACTON TV;

AS WELL AS THE TOWN WEB PAGE.

CONSTABLE

CLAIMS OF INVALIDITY BY REASON OF ANY DEFECT IN THE PROCEDURE OF ADOPTION OR AMENDMENTS OF THESE BYLAWS MAY ONLY BE MADE WITHIN NINETY DAYS (90) PER CHAPTER 40, SECTION 32, OF THE GENERAL LAWS OF THE COMMONWEALTH.

EVA K. SZKARADEK
TOWN CLERK



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

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

September 20, 2023

Eva K. Szkaradek, Town Clerk
Town of Acton
472 Main Street
Acton, MA 01720

RE: Acton Annual Town Meeting of May 1, 2023 - Case # 10988
Warrant Articles # 15, 16, and 17 (Zoning)
Warrant Articles # 12, 13, 18 and 20 (General) ¹

Dear Ms. Szkaradek:

Article 13 - Under Article 13 the Town voted to amend a by-law approved at a previous town meeting, Chapter AC, "Regulating Fossil Fuel Infrastructure in Buildings." We approve the vote under Article 13. ²

The intent of the amended by-law is to allow the Town to participate in the Department of Energy Resources' (DOER) Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project as established by Section 84 of Chapter 179 of the Acts of 2022. ³ The by-

¹ In a decision issued on August 21, 2023, we approved Articles 12, 16, 17, and 20 and took no action on Article 18. By agreement with Town Counsel under G.L. c. 40, § 32, we also extended our deadline for a decision on Article 13 for an additional thirty days until September 20, 2023, and extended our deadline for a decision on Article 15 for an additional ninety days until November 19, 2023.

² Under Article 13 of the June 21, 2021, Annual Town Meeting the Town adopted a new Chapter AC, "Regulating Fossil Fuel Infrastructure in Buildings," and voted to petition the Legislature for a Special Act authorizing Chapter AC. On October 4, 2021, the Attorney General placed Article 13 on hold pending the Town's receipt of special legislation authorizing Chapter AC (see decision on Case # 10261). Therefore, the previous version of Chapter AC never took effect because it was not approved by this Office as required by G.L. c. 40, § 32.

³ Section 84 of Chapter 179 of the Acts of 2022 ("An Act Driving Clean Energy and Offshore Wind") requires DOER to establish a demonstration project in which cities and towns may adopt and amend general or zoning ordinances or by-laws that require new building construction or major renovation projects to be fossil fuel-free. To implement the demonstration project DOER has issued guidelines at 225 CMR 24.00 that establish the framework, requirements, and timeline

Third, the by-law's definition of "Major Renovation" is consistent with the definition in the draft version of 225 CMR 24.00 as of May 1, 2023 (the time of the Town Meeting vote) but does not reflect the updated definition included in the final version of 225 CMR 24.00. The Town should consult with Town Counsel regarding a potential clarifying amendment at a future town meeting to avoid any confusion and eliminate the opportunity for inconsistency.

Please feel free to contact us with any questions regarding this decision.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Margaret J. Hurley

By: Margaret J. Hurley
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4402

cc: Town Counsel Nina Pickering Cook



TOWN CLERK

A TRUE COPY, ATTEST:

Eva K. Szuradek

TOWN CLERK, ACTON, MA

TOWN OF ACTON
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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, MAY 1, 2023, 7:00 P.M.
AUDITORIUM AND UPPER GYMNASIUM (ALL-INDOOR SEATING)
WITH ADJOURNED SESSION HELD MAY 2, 2023

Article 13 Amend General Bylaws – Regulating Fossil Fuel Infrastructure in Buildings
(Majority vote)

To see if the Town will vote to amend Chapter AC of the General Bylaws, “Regulating Fossil Fuel Infrastructure in Buildings” as follows, or take any other action relative thereto.

*[Note: Text deleted from the current bylaw is shown in ~~strike through~~; new text added to the bylaw is shown in **bold**.]*

Chapter AC. REGULATING FOSSIL FUEL INFRASTRUCTURE IN BUILDINGS

AC1. Purpose

This Bylaw is adopted by the Town of Acton to protect health and safety, and the natural environment, and to reduce air pollution and greenhouse gas emissions, which cause climate change, thereby threatening the Town and its inhabitants. **In addition, this bylaw is intended to fulfill requirements of participation in the Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project as defined in 225 CMR 24.00 (the “Demonstration Project”).**

AC2. Definitions

2.1 “Effective Date” shall mean ~~December 1, 2022, or six~~ **three** months following the date by which the Town is authorized by the ~~Massachusetts General Court~~ **Department of Energy Resources to participate in the Demonstration Project regulate fossil fuel infrastructure, whichever is later.**

2.2 “New Building” shall mean a new building as defined in the Acton Zoning Bylaw, Chapter M of the General Bylaws of the Town of Acton, associated with a building permit application filed on or after the Effective Date.

2.3 “On-Site Fossil Fuel Infrastructure” shall mean piping, for ~~fuel~~ **natural** gas, fuel oil, or other fuel hydrocarbons, **or other synthetic equivalents**, that is in a building, in connection

D. Repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

E. Buildings where the primary use is as a Research Laboratory for Scientific or Medical Research, or as Hospitals or Medical Offices.

AC4. Enforcement

4.1 As of the Effective Date, no building permit 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 that is subject to this Chapter, except as provided ~~for~~ **in Chapter V or in Section AC3 "Applicability" and Section AC5 "Waivers."**

4.2 The Town Manager, or their designee, shall publish and present an annual report to the Select Board quantifying the number and ~~locations~~ **location** of ~~residential~~ building permit applications for new and major renovation projects exceeding 75% of the original gross floor area **of the principal dwelling**, and the number and ~~locations~~ **location** of commercial building permit applications for new and major renovation projects exceeding 50% of the building floor area prior to the project; the number of new and major renovation projects requesting a waiver from this Chapter, the disposition of those waivers, the reasons for granting or denying those waivers, and the square footage of each project for which a waiver is granted.

4.3 The Select Board may adopt reasonable regulations to implement this Chapter.

AC5. Waivers

5.1 The Building Commissioner may grant a waiver subject to the requirements of this Chapter in the event that compliance with the provisions of this Chapter makes a project financially infeasible or impractical to implement. Compliance with this Chapter may be considered infeasible if, without limitation:

- A. as a result of factors beyond the control of the ~~applicant~~ **proponent**, the additional cost of the project over the long term, including any available subsidies, would make the project economically unviable; or
- B. technological or other factors would make the project unsuitable for its intended purpose.

5.2 Waivers from compliance with this Chapter may be subject to reasonable conditions. Where possible, waivers shall be issued for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Chapter, rather than entire projects.

5.3 Waiver requests shall be supported by a detailed cost comparison, including available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans.

REVISED ARTICLE 13

May 1, 2023: As noted in this article's summary, the revised article language below reflects additional edits to General Bylaw Chapter AC.

Article 13 Amend General Bylaws – Regulating Fossil Fuel Infrastructure in Buildings (Majority vote)

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D. Repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

E. Buildings where the primary use is as a Research Laboratory for Scientific or Medical Research, or as Hospitals or Medical Offices.

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