



June 13, 2024
To: The City Council
From: Councilor Bill Humphrey

Fellow Councilors –

At the June 3rd full City Council meeting, our proposed electrification ordinance (#49-24) relating to the Ten Communities pilot program, was amended by a majority of Councilors to exempt requirements to end indoor gas cooking at private residences, addressing both kitchen renovations and new construction. The underlying item (now amended) was then postponed to our June 17th, 2024 full City Council meeting.

As I said at the time of moving postponement, I wanted time to put together a proposed version of the ordinance that would prohibit new gas lines being connected to new construction for private residence indoor cooking, as was addressed in the committee version. (I would guess that some Councilors might have a different view of new gas lines versus existing gas lines.) Since then, some members of the public also suggested that kitchen renovation rules should include a requirement to install the electrical capacity in the kitchen for potential future non-gas cooking appliances, so that an owner could easily make the switch when ready. (This is similar to installing EV charger connection capacity in a garage project without actually installing the charger yet.) Another suggestion was to sunset the exemption for renovations adopted in the June 3rd amendment.

Attached please find a redline version of what my version of the ordinance would do, prepared for me by Attorney Andrew Lee from the Law Department, who has been working on this ordinance for a number of years now. I also consulted with members of our Citizens Commission on Energy, who have been working on the ordinance for years as well, and with our Co-Director of Sustainability Ann Berwick. If this version is adopted (or denied) by the full Council, we would either hear further amendment proposals or proceed to a vote on the final revised ordinance.

I am circulating this draft now in advance of the 17th to give Councilors sufficient time to review and digest the new proposal before we vote on it. (For the new Councilors, please note: We cannot discuss it as a group before the meeting, per the Open Meeting Law, but any Councilor is more than welcome to contact me individually with thoughts or questions. If you have specific concerns, it would be helpful to get those in advance of the meeting to avoid legal re-writes on the floor.)

Sincerely,
Ward 5 Newton City Councilor
Bill Humphrey

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

May , 2024

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

- I. That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Chapter 5 Public Buildings and Inspectional Services** by **INSERTING** a new **Article VI** after **Article V. Design Review Committee** as follows:

**ARTICLE VI.
FOSSIL FUEL-FREE ORDINANCE**

Sec. 5-59. Regulation of use of Fossil Fuels in New Construction and Major Renovation Projects.

- (a) Purpose: The city adopts this ordinance in order to enable the city to participate in the Commonwealth of Massachusetts Fossil Fuel-Free Demonstration Project, 225 CMR 24.00. The purpose of the Fossil Fuel-Free Demonstration Project is to restrict and prohibit new building construction and Major Renovation Projects that are not fossil fuel-free in ten communities in Massachusetts. This ordinance will protect the health and welfare of the city's inhabitants and the environment by reducing greenhouse gases, which cause climate change, and by reducing other air pollutants.

This ordinance requires new construction and Major Renovation Projects to use electricity instead of fossil fuels for heating and cooling systems and cooking and clothes drying appliances; and, for hot water, to use either electricity or thermal solar.

- (b) Definitions: As used in this section, the following terms shall be defined as set forth herein, unless otherwise stated:

Commissioner: means the Commissioner of Inspectional Services of the City of Newton, as established by Section 5-16 of the ordinances of the city.

Department: means The Massachusetts Department of Energy Resources, as established by MGL chapter 25A.

Fossil Fuel-Free Demonstration Project: means the project codified by the entirety of 225 CMR 24.00, enabling ten communities designated by the Department to require new construction and Major Renovation Projects to be fossil-fuel free, notwithstanding MGL chapter 40A; MGL chapter 142, section 13; MGL chapter 164; or any other general or special law to the contrary.

Hospitals or Medical Offices: means a facility licensed or approved by the Department of Public Health to provide health care, including clinics licensed as health care facilities and facilities that provide substance use disorder treatment services, including outpatient withdrawal management, opioid treatment programs, office-based opioid treatment programs, acute treatment services (inpatient detoxification), and clinical stabilization services.

Major Renovation Project: means (a) low-rise residential additions over 1,000 square feet and additions exceeding 100% of the conditioned floor area of the existing dwelling unit; (b) additions over 20,000 square feet and additions that exceed 100% of the conditioned floor areas of the existing building for all building use types except low-rise residential; (c) Level 3 Alterations as defined in the International Existing Building Code (IEBC 2021) (which exceed 50% of the existing conditioned floor area) exceeding 1,000 square feet for low-rise residential, or exceeding 20,000 square feet for all other building uses; or (d) Change of use of over 1,000 square feet per International Energy Conservation Code (IECC 2021) Sections R505; or (e) change of use of over 20,000 square feet or change of use of 100% of the conditioned floor areas of the existing building for all building use types except low-rise residential, International Energy Conservation Code (IECC 2021) Sections C505.

Research Laboratories for Scientific or Medical Research: means a building in which a laboratory procedure or research activity occurs, and where the building has an average ventilation at full occupancy greater than 0.5 cfm/sf. Such buildings shall provide the ventilation design documentation described in 225 CMR 23.00, Section C103.2, at the time of building permitting.

Specialized Code: means the building code in 225 CMR 22.00 and 23.00; including Appendices RC and CC, which add residential and commercial appendices to the Massachusetts Stretch Energy Code.

Stretch Code: means the building code in 225 CMR 22.00 and 225 CMR 23.00.

- (c) **Applicability:** The fossil fuel restriction set forth in this ordinance applies to residential and commercial buildings located in the city that qualify as new construction or Major

Renovation Projects, except as listed in the section herein entitled "Exceptions."

(d) Exceptions: The requirements of this ordinance do not apply to any of the following:

- (1) Research Laboratories for Scientific or Medical Research;
- (2) Hospitals or Medical Offices;
- (3) Indoor or outdoor cooking appliances for Major Renovation Projects provided that sufficient electrical capacity and infrastructure, including outlets, are installed to accommodate an electric cooking appliance and the building permit application for the Major Renovation Project is filed prior to January 1, 2030;
- (4) Freestanding outdoor cooking appliances that are not connected to the building's natural gas or propane infrastructure;
- (5) Freestanding outdoor heating appliances that are not connected to the building's natural gas or propane infrastructure;
- (6) Emergency generators;
- (7) Appliances to produce potable or domestic hot water from centralized hot water systems in buildings with a gross floor area of at least 10,000 square feet, provided that the architect, engineer, or general contractor on the project certifies by affidavit that no commercially available electric hot water heater exists that could meet the required hot water demand for less than 150% of installation costs, compared to the costs of complying only with the requirements of the applicable (i.e., residential or commercial) Stretch or Specialized Code;
- (8) 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; or
- (9) Fossil fuels for process loads for manufacturing, industrial, and commercial purposes.

(e) Waivers: The Commissioner may grant a waiver to the provisions of this ordinance for:

- (1) Major Renovation Projects if an architect, engineer, or general contractor on the project certifies by affidavit that compliance with the requirements of the ordinance will increase the costs of the project by fifty (50%) percent or more, compared to the costs of complying only with the requirements of the applicable (i.e., residential or commercial) Stretch Code; or
- (2) New construction and Major Renovation Projects if the electric utility company notifies the City, in writing, that the project is unable to comply with the

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provisions of this ordinance because of insufficient electric grid, transmission, distribution, or related electrical infrastructure capacity in the particular location necessary for the project.

(f) Application Requirements: When applying for a building permit for new building construction or a Major Renovation Project the applicant must submit documents with the application that identify the heating and cooling and hot water systems and cooking and clothes drying appliances that will be used in the building. When applying for a building permit for a Major Renovation Project prior to January 1, 2030, the applicant must also submit documents with the application that identifies the electrical capacity and infrastructure that can support electric cooking appliances that can be used in the portions of the building that are within the scope of the Major Renovation Project, if applicable.

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(g) Compliance: The Commissioner shall not issue any building permit for the construction of a new building or Major Renovation Project unless the applicant submits the documentation set forth in the Section herein titled "Application Requirements." The Commissioner shall not issue a certificate of occupancy for any building subject to this ordinance prior to inspection and confirmation that the heating and cooling, hot water systems, cooking appliances or electrical capacity and infrastructure to support electrical cooking appliances, as applicable, and clothes drying appliances used in the building conform to the applicant's documents submitted pursuant to the Section herein entitled "Application Requirements."

II. That the new **Article VI. Fossil-Free Ordinance**, as ordered in Paragraph I herein shall be effective on January 1, 2025, and shall apply to all building permits, special permits, and comprehensive permits issued on or after the effective date.

III. That the City of Newton hereby adopt the following amendments to the Specialized Code. These changes are enforceable by the Commissioner, shall be effective on January 1, 2025, and shall apply to all building permits, special permits, and comprehensive permits issued on or 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 or Major Renovations.

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 or Major Renovations, with the following exceptions:

1. Research Laboratories for Scientific or Medical Research as defined in paragraph I of this Order;
2. Hospitals or Medical Offices as defined in paragraph I of this Order;
3. 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; or
4. Buildings heated with Clean Biomass Heating Systems as defined in 225 CMR 23, as the only combustion equipment;

Approved as to legal form and character:

ALISSA O. GIULIANI
City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

(SGD) CAROL MOORE
City Clerk

(SGD) RUTHANNE FULLER
Mayor