

Arlington Bylaw Amendment/Fossil Fuel Infrastructure

3-5-20 Draft

Article 13. Bylaw Amendment/Fossil Fuel Infrastructure

Voted: That the Town amend Title VI of the Town Bylaws by adopting a new Article 10 entitled "Prohibition on New Fossil Fuel Infrastructure in Major Construction" as set forth below.

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, 2021.

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.

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 the Arlington Housing Authority (AHA), given the AHA's limited sources of capital funds.

B. Guidance regarding the granting of waivers and prescribing 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,

1. Compliance with this bylaw may be considered financially infeasible if 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.
2. Compliance with this bylaw may be considered impractical 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] or [adopted by the Select Board.]

Section 6 Appeals

[The Board of Building Appeals shall hear appeals from decisions by the Building Inspector on the applicability of this bylaw under section 3 in the manner set forth in Title VI, Art. 5. The Board of Building Appeals may establish such further rules and regulations for appeals as required to effectively execute the purpose of this bylaw.]

OR

[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][by the Select Board.]