

## Article XXX [Prohibition on New Fossil Fuel Infrastructure in Major Construction]

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To see if the town will amend the General By-Laws by adopting a new article 8.39 entitled “Prohibition on New Fossil Fuel Infrastructure in Major Construction” as set forth below.

### 8.39.1 Purpose

This By-Law is adopted by the Town of Brookline, 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, safety and welfare of the inhabitants of the town from fuel leaks and explosions and from air pollution, including that which is causing climate change and thereby threatens the Town and its inhabitants.

### 8.39.2 Definitions

“On-Site Fossil Fuel Infrastructure” is defined as fuel gas or fuel oil piping 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.

“New Building” is defined as 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 of this article.

“Significant Rehabilitation” is defined as renovation to an existing building or structure that 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, and that is associated with a valid building permit application on or after the effective date of this article.

“Work Area” is defined as the portions of a building affected by renovations for the reconfiguration of space and/or building systems, as indicated by floor area in the drawings associated with a building permit application, excluding areas consisting of only repairs, refinishing, and/or incidental work necessitated by the intended work.

### 8.39.3 Applicability

A. The requirements of this article shall apply to all permit applications for New Buildings and Significant Rehabilitations proposed to be located in whole or in part within the Town.

B. The requirements of this article shall not apply to utility service pipe connecting the grid to a meter, or to a gas meter itself.

C. The requirements of this article shall not apply to pipes required to fuel backup electrical generators.

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<sup>1</sup> Point of contact

D. The requirements of this article shall not apply to pipes required for restaurant-scale food preparation (cooking appliances and related appliances).

E. The requirements of this article shall not apply to the use of portable propane appliances for outdoor cooking and heating.

F. The requirements of this article shall not apply to the pipes required to produce potable or domestic hot water from centralized hot water systems in buildings with 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.

G. So long as new 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 pipes.

H. The requirements of this article shall not apply to any building being constructed subject to a Waldo-Durgin Overlay District Special Permit, as described in Section 5.06.4.k of the Zoning By-Law.

#### 8.39.4 Effective Date and Enforcement

Effective June 1, 2020, no permits shall be issued by the Town for the construction of New Buildings or Significant Rehabilitations that include the installation of new On-Site Fossil Fuel Infrastructure, except as otherwise provided in section 8.39.3.

#### 8.39.5 Waivers

A waiver from this by-law may be sought from the Select Board, which shall be informed by case-by-case guidance from the Housing Advisory Board for Affordable Housing Projects, from the Economic Development Advisory Board for projects that are subject to commercial property tax, or from the Planning Board for all other projects. Evidence in support of a waiver may include financial infeasibility supported by a detailed cost comparison, inclusive of available rebates and credits, or impracticality of implementation supported by expert evaluation. For the purposes of 8.39.5, Affordable Housing Projects shall include:

1. Projects sponsored by the Brookline Housing Authority (BHA) on property owned by the Brookline Housing Authority that includes 100% affordable housing units for low-income renters.
2. Any housing or mixed use project in which 50 percent or more of the housing units will be affordable, as further defined under Section 4.08(2) "Affordable Housing Requirements".

#### 8.39.6 - Severability

Each provision of this by-law shall be construed as separate to the extent that if any section, sentence, clause or phrase is held to be invalid for any reason, the remainder of the by-law shall continue in full force and effect.

Or act on anything relative thereto.