

## **H. 5060, AN ACT DRIVING CLIMATE POLICY FORWARD**

**SECTION 83.** (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

“Fossil fuel-free”, as defined by a city or town to include, but not be limited to, an entire building or entire condominium unit that does not, in support of its operation after construction, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels.

“Local approval”, by a majority vote of the: (i) city council with the approval of the mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city;

(ii) city council in every other city; (iii) annual town meeting or a special town meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) town council in the case of a municipality with a town council form of government.

(b) The department of energy resources shall establish a demonstration project in which cities and towns may, notwithstanding chapter 40A of the General Laws, section 13 of chapter of the General Laws and chapter 164 of the General Laws or any other general or special law to the contrary, adopt and amend general or zoning ordinances or by-laws that restrict or prohibit new building construction or major renovation projects that are not fossil fuel-free, and enforce restrictions and prohibitions on new building construction and major renovation projects that are not fossil fuel-free, including through the withholding or conditioning of building permits; provided, that said restrictions and prohibitions shall not apply to research laboratories for scientific or medical research or to medical offices regulated by the department of public health as a health care facility.

The department shall approve not more than 10 applications for participation in the demonstration project under this section. No city or town shall apply for acceptance into the demonstration project until it has received local approval and has submitted a home rule petition to the general court on the subject matter of this section; provided, that the department shall issue approvals under this section to not more than 10 applications in the order in which cities and towns have submitted or submit home rule petitions to the general court; provided further, that the department shall, in the interest of increasing housing diversity in the commonwealth, withhold approval of an application by a city or town applying to participate in the demonstration project until such time as said city or town has: (i) met the 10 per cent housing affordability threshold set under chapter 40B of the General Laws or has been granted safe harbor status through an approved Housing Production Plan by the department of housing and community development or (ii) has approved a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, that such multi-family housing shall be without age restrictions and shall be suitable for families with children; provided, further, that a city or town that met the 10 per cent affordability threshold as of December 21, 2020, shall be deemed to have satisfied the requirements of this paragraph. For the purposes of this section, multi-family housing shall be a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building and a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 of the General Laws and title 5 of the state environmental code established pursuant to section 13 of chapter 21A of the General Laws. If said city or town fails to: (i) meet the 10 per cent housing affordability threshold or receive safe harbor status within 18 months of the effective date of this act or (ii) approve such a multifamily zoning ordinance or by-law within 18 months of the effective date of this act, said application shall expire and be deemed void, at which time the department shall, in lieu of approving said application, approve a substitute application from a city or town that (i) has

met the 10 per cent housing affordability threshold or received safe harbor status or has a zoning ordinance or by-law that complies with this section; provided, that the department may act on substitute applications without respect to the order of submission of home rule petitions to the general court; provided further, that the total number of communities approved for participation in the demonstration project shall at no point exceed 10.

(c) Nothing in this section shall inhibit or interfere with the department's obligation to promulgate a municipal opt-in specialized stretch energy code that includes, but shall not be limited to, net-zero building performance standards and a definition of net-zero building under section 31 of chapter 8 of the acts of 2021 nor shall anything in this section limit the ability for any community to opt in to such specialized code following its promulgation; provided, however, that nothing in this section shall interfere with the department's authority to set restrictions or limitations on fossil fuel construction necessary to meet the department's obligation to promulgate the specialized stretch energy code's net-zero building performance standards and definition of net-zero building designed to achieve compliance with the commonwealth's statewide greenhouse gas emission limits and sublimits established pursuant to chapter 21N of the General Laws.

(d) The department shall collect data from cities and towns approved under this section to monitor impacts on emissions, building costs, operating costs and other criteria as set by the department in consultation with participating cities and towns. Not later than September 30, 2024, and every year thereafter, the electric and gas distribution companies shall collect and annually report to the department, in a form approved by the department, the anonymized monthly totals of electricity and gas consumed, and corresponding electricity and gas bill amount, for each consumer (i) residing in a newly constructed building or major renovation project subject to the demonstration in each municipality participating in the demonstration; and (ii) residing in a newly constructed building or major renovation project in a number of comparable municipalities, as selected by the department, not participating in the demonstration. The department shall make said data available on its website in a machine-readable format and shall annually update the data for the duration of the demonstration. Not later than September 30, 2025, and every two years thereafter, the department shall compile a report to be filed not later than September 30 for the two previous calendar years with the senate and house committees on ways and means, the joint committee on housing and the joint committee on telecommunications, utilities and energy. The report shall summarize the data required to be collected under this paragraph and shall include, but not be limited to, an analysis of the net reduction in emissions (i) for each newly constructed building or major renovation project subject to the demonstration in each municipality participating in the demonstration; and (ii) for each comparable newly constructed building or major renovation project in a number of comparable municipalities, as selected by the department, not participating in the demonstration. The report shall also analyze impacts on housing production, if any; housing affordability, if any, including electric bills, heating bills, and other operating costs; housing affordability for persons of low and moderate income, if any, including electric bills, heating bills, and other operating costs; and any other matters set forth by the department after consultation with municipalities and with individuals, organizations, and institutions knowledgeable about issues of housing and emissions reductions. The report shall also include recommendations for the continuation or termination of the demonstration project.

(e) The department of energy resources, in consultation with the executive office of energy and environmental affairs and the executive office of housing and economic development, may promulgate regulations to implement this section.