

## **ARTICLE 26, [Authorization for Methane Emissions Surcharge and Non-Pipeline Alternatives]**

Substitute Motion submitted by: John Doggett (TMM P13), Linda Olson Pehlke (TMM P17), Neil Wishinsky (TMM P5) and Neil Gordon (TMM P1)

To see if the Town will adopt the following resolution:

A Resolution Urging the Massachusetts General Court to enact legislation to add a gas utility surcharge to the bill of all properties served by a gas utility, with appropriate lower income exemptions for the primary residence of households, to be remitted to the municipality in which that household is located and those surcharges to be used to fund programs or activities to promote emissions reduction in that municipality.

WHEREAS, the Commonwealth of Massachusetts has set a goal to have Net Zero emissions by 2050 and published a “Decarbonization Road Map” in February 2020 which sets a target of Net Zero emissions in the State by 2050 and a “Clean Energy and Climate Plan for 2025 and 2030 published in June 2022<sup>1</sup>; and

WHEREAS, Brookline Town Meeting has set a goal to have Net Zero emissions by 2040 (Warrant Article 37, Spring 2021) and published plans including a Greenhouse Gas Inventory (2000-2008), Climate Action Plan 2002, Zero Emissions by 2050 Climate Action Plan in 2018 as well as numerous Town Meeting resolutions, by-law and zoning changes<sup>2</sup>; and

WHEREAS, in 2020 the Commonwealth of Massachusetts emitted 50.3 Million Metric Tons of CO2 (MMT) and in 2008 emitted 76.7MMT<sup>3</sup>; and

WHEREAS in 2008 Brookline emitted 0.54 MT (0.48 MMT), less than 1% of Commonwealth emissions at that time<sup>4</sup>; and

WHEREAS, Massachusetts emissions from residential and commercial buildings is about 27% of total statewide emissions, and to keep pace with targets, the Commonwealth needs to decarbonize about 2 million buildings<sup>5</sup>; and

WHEREAS, Brookline emissions for residential and commercial buildings is about 66% of total emissions, with over 26,800 housing units (is comprised of single-family houses, two, and three family dwellings, apartment blocks and condominiums of which only a very few dwellings are

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<sup>1</sup>[mass.gov/doc/ma-2050-decarbonization-roadmap/download](https://mass.gov/doc/ma-2050-decarbonization-roadmap/download)  
[mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download](https://mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download)

<sup>2</sup>Collins Report:

[brooklinema.gov/DocumentCenter/View/22352/Brookline-Sustainability-Final-Report---August-2020](https://brooklinema.gov/DocumentCenter/View/22352/Brookline-Sustainability-Final-Report---August-2020)  
GHG Inventory: [brooklinema.gov/ArchiveCenter/ViewFile/Item/628](https://brooklinema.gov/ArchiveCenter/ViewFile/Item/628)

<sup>3</sup>USEIA: [eia.gov/environment/emissions/state/](https://eia.gov/environment/emissions/state/)

<sup>4</sup>GHG Inventory: [brooklinema.gov/ArchiveCenter/ViewFile/Item/628](https://brooklinema.gov/ArchiveCenter/ViewFile/Item/628)  
USEIA: [eia.gov/environment/emissions/state/](https://eia.gov/environment/emissions/state/)

<sup>5</sup>[mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download](https://mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download)

fully electric and/or have solar power) accounting for 46% of Brookline total emissions and over 1500 commercial establishments (ranging from local cafés, stores, medical offices etc. to multi-story office towers) accounting for 20% of emissions<sup>6</sup>; and

WHEREAS, natural gas is used for building space and hot water heating in 257 cities and towns in the Commonwealth including Brookline<sup>7</sup>; and

WHEREAS, the cost of conversion to electric power is substantial and for Brookline it could easily cost well over \$300 million for residential decarbonization alone; and

WHEREAS, a surcharge on a gas utility bill will incentivize demand reductions, thus lowering emissions, as well as providing some funding for decarbonization projects; and

WHEREAS, all Cities and Towns in Massachusetts need tools to help raise revenue for those municipalities to achieve their climate goals for decarbonization of residential, commercial, and municipal buildings; as well as transportation; and

WHEREAS, an act of the state legislature is necessary to provide additional revenue generating sources to enable municipalities to achieve decarbonization goals; and

WHEREAS, Resolutions urging our legislative delegation to introduce a bill addressing the statewide policy question are more likely to be successfully advanced through the legislature. Home Rule petitions are more appropriately used to address issues unique to a city or town, and not as a general exception to the law;

THEREFORE, be it RESOLVED, that Brookline Town Meeting hereby requests that the General Court of Massachusetts enact legislation that will allow Brookline and any other city or town in Massachusetts, to enact local legislation to enable a municipality to add a gas utility surcharge to the bill of all properties served by a gas utility, with appropriate lower income exemptions, where the utility company collects and forwards to the city or town concerned those remittances to be used to fund programs or activities to promote emissions reductions and have appropriate lower income exemptions for the primary residence of households; and

Be it further RESOLVED, that our legislative delegation include in their legislation as much as possible of the clause details contained in the citizen petitioners original home rule legislation cited below in the explanation to this resolution; and

Be it further RESOLVED, that the Town Clerk shall promptly forward a copy of this Resolution to each of Brookline's State Representatives and to Brookline's State Senator,

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<sup>6</sup>Brookline Assessors database FY2022 PROPERTY ASSESSMENTS.xlsx  
GHG Inventory: [brooklinema.gov/ArchiveCenter/ViewFile/Item/628](https://brooklinema.gov/ArchiveCenter/ViewFile/Item/628)

<sup>7</sup>[mass.gov/doc/natural-gas-providers/download](https://mass.gov/doc/natural-gas-providers/download)

with the request that they further distribute copies of this Resolution to their House and Senate colleagues.

### **Explanation**

The proposers of this substitute motion believe firmly that the Town will be more successful in getting the tools needed to help building and transport conversion to electric power through petitioning the General Court, rather than asking for home rule legislation for Brookline alone. A resolution enables all cities and towns to participate through their representatives in agreeing to the kind of tools that they need to be able to achieve their municipal Net Zero goals. This process enables the whole Commonwealth to benefit from Brookline's leadership.

Home Rule petitions are appropriately used to address issues unique to a city or town, and not as a general exception to the law. Resolutions urging our legislative delegation to introduce a bill addressing a statewide policy question would be more likely to successfully advance through the legislature. This is very much the case here, as all cities and towns in the Commonwealth need to have a plan and implementation tools to decarbonize their municipality.

The petitioners original home rule petition is as follows:

To see if the Town of Brookline will vote to authorize its Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to fund greenhouse gas emissions reductions in the Town of Brookline; provided, however, that the General Court may reasonably vary the form and substance of this requested legislation within the scope of the general public objectives of this petition.

### **An Act authorizing the Town of Brookline to impose a methane emissions surcharge and authorize non-pipeline alternatives.**

Be it enacted by the Senate and House of Representatives in Massachusetts General Court assembled, and by the authority of the same, as follows:

SECTION 1. Emissions Reduction Fund. Notwithstanding the provisions of Massachusetts General Law section 53 of chapter 44, or any other general or special law to the contrary, the Town of Brookline shall establish a separate account to be known as the Emissions Reduction Fund of which the Town treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the Town Meeting, and the Town treasurer shall pay such expenses in accordance with MGL chapter 41.

The following monies shall be deposited in the Emissions Reduction Fund: (a) all funds collected pursuant to local surcharges or bond proceeds in anticipation of revenue from such surcharges; (b) all funds received from the Commonwealth of Massachusetts or any other source for such purposes; and (c) proceeds from the disposition of a real property interest that was acquired with funds from the Emissions Reduction Fund. The treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the Commonwealth, banking companies incorporated under the laws of the Commonwealth that are members of the

Federal Deposit Insurance Corporation, or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the Commonwealth or in the manner authorized by MGL section 54 of chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues from the fund shall not exceed the amounts recommended by the Brookline Zero Emissions Advisory Board.

SECTION 2. Methane Surcharge. Notwithstanding the provisions of any general or special law to the contrary, the Town of Brookline may impose a surcharge on the use of natural gas within the town. The surcharge shall apply to all properties in the Town of Brookline served by gas companies. Said surcharge shall be assessed and collected on gas bills for properties located in the Town of Brookline. The of such surcharge, to be determined by Town Meeting, shall be no greater than 25% of all charges for gas service on the customer's bill.

SECTION 3. Residential Exemption. (a) For the purposes of this section, the term "area median income" shall mean the median family income for the Boston-Cambridge-Quincy area, adjusted for family size, as established by the United States Department of Housing and Urban Development.

(b) There shall be a complete exemption from the surcharge for qualifying residential customers who already receive a means-tested discounted rate from the utility, or for qualifying residential customers whose income in the immediately prior year was less than 200% of the area median income, provided that the Brookline Town Meeting may increase this percentage. The exemption shall be applied to the primary residence of the taxpayer only.

(c) Customers shall qualify for the exemption if all the following criteria are met:

- (i) The applicant or joint applicants' prior year income would make the applicant or joint applicants eligible for the exemption; or the applicant or joint applicants receive gas service from the utility under a means-tested discounted rate; or the applicant or joint applicants are qualified participants in the Low Income Home Energy Assistance Program administered by the Massachusetts Department of Housing and Community Development; and
- (ii) The qualifying residential property is occupied by the applicant or joint applicants as their primary residence; and
- (iii) Applicants complete annual certification, meeting the stated criteria relative to income and residency.

(d) Town Meeting may in addition wholly or partially exempt any set of gas utility customers from this surcharge, and the Emissions Reduction Fund may wholly or partially reimburse any resident for surcharge paid by their condo association or landlord.

(e) Upon initial connection to gas service, and every April thereafter, the utility shall provide an application, the contents of which shall be created in consultation with and subject to the approval of either the Brookline Town Treasurer or the Town Assessor, to determine whether a customer qualifies for a total or partial exemption from the surcharge. A person who seeks to qualify for an exemption shall complete said application. Qualifying applicants shall be entitled to the exemption. The application shall be completed in each year for which the applicant seeks the exemption.

SECTION 4. Collection. The gas company shall collect all amounts received pursuant to the surcharge established in section 2 hereof and maintain them in a segregated account. The gas company shall remit all funds collected under said surcharge no later than the 15th of the month following receipt of such amounts, to the Emissions Reduction Fund established in section 1 hereof. Late payments of the surcharge shall be exempt from the calculation of any late payment charges otherwise authorized for utility bills. Annually, the gas company shall provide an audited report to the Town of all collections and disbursements of funds made pursuant to this act.

SECTION 5. Expenditures for emissions reductions (a)(1) hereof: The Brookline Zero Emissions Advisory Board shall, from time to time, make recommendations to the Brookline Town Meeting to fund programs or activities to promote emissions reductions. Said Board may include in its recommendation to Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with emissions reduction but for which sufficient revenues are not then available in the Emissions Reduction Fund established pursuant to section 1 to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with emissions reduction.

(b) After receiving such recommendations from the Brookline Zero Emissions Advisory Board, Town Meeting may then take such action and approve such appropriations from the Emissions Reduction Fund established pursuant to section 1 hereof in an amount not to exceed the amounts recommended by the Board; provided, however, that nothing herein shall be deemed to constrain the Brookline Town Meeting from appropriating such additional amounts as it deems appropriate to carry out the Boards recommendations from a source other than the Emissions Reduction Fund.

SECTION 6. Administrative expenses. In each fiscal year, Brookline Town Meeting may vote to make such appropriations from the Emissions Reduction Fund as it deems necessary for the administrative and operating expenses of the Brookline Zero Emissions Advisory Board, but the appropriations shall not exceed 5% of the annual revenues in the Emissions Reduction Fund. Funds that are set aside shall be held in the Emissions Reduction Fund and spent in that year or later years, but funds set aside by the Zero Emissions Advisory Board as approved by Town Meeting for a specific purpose shall be spent only for the specific purpose. The Emissions Reduction Fund shall not replace existing operating funds, only augment them.

SECTION 7. Properties purchased by the Emissions Reduction Fund. (a) A real property interest that is purchased with monies from the Emissions Reduction Fund shall be bound by a permanent deed restriction that meets the requirements of MGL chapter 184, limiting the use of the property to the purpose for which it was acquired. The deed restriction shall run with the land and shall be enforceable by the Town. The deed restriction may also run to the benefit of a nonprofit, charitable corporation or foundation selected by the Town with the right to enforce the restriction.

(b) Real property interests acquired under this chapter shall be owned and managed by the Town, but Town Meeting may delegate management of such property to the Brookline Zero Emissions Advisory Board or other Town board or commission, as it may deem appropriate.

Town Meeting may also delegate management of such property to a nonprofit organization created under MGL chapter 180 or MGL chapter 203.

SECTION 8. Record keeping. The Brookline Zero Emissions Advisory Board shall keep a full and accurate account of all its actions, including its recommendations and any action taken on them, and it shall maintain records of all appropriations or expenditures made from the Emissions Reduction Fund. The Board shall also keep records of any real property interests acquired, disposed of, or improved by the Town upon the Board's recommendation, including the names and addresses of the grantors or grantees and the nature and amount of the consideration paid. The records and accounts shall be public records.

SECTION 9. Matching funds. Funds in the Brookline Emissions Reduction Fund may be made available and used by the Town as the local share for state or federal grants upon recommendation of the Brookline Zero Emissions Advisory Board and approval by Town Meeting, as provided for in section 5 hereof, if such grants and such local share are used in a manner consistent with the recommendations of the Brookline Zero Emissions Advisory Board.

SECTION 10. Accountability. The Brookline Emissions Reduction Fund shall have a ceiling, initially set to \$15,000,000 in inflation-adjusted 2022 dollars, for unallocated funds. If at the end of any fiscal year there are more dollars in the fund than the ceiling, excluding (1) any portion of funds already allocated by Town Meeting, (2) any portion of funds deposited within that fiscal year, and (3) any portion of funds provided by the Commonwealth rather than from local revenue, such excess shall be transferred to the Town's Free Cash. Town Meeting may modify the ceiling.

At any point more than five years after the effective date, Town Meeting may choose to terminate the Emissions Reduction Fund. If terminating the Fund, Town Meeting may transfer remaining funds to other funds or to free cash, and may choose whether to terminate individual programs generating revenue for the Fund or to redirect those programs to generate revenue for another purpose.

SECTION 11. Notwithstanding any general or special law to the contrary, a gas company shall offer a program of financing for alternatives to the gas company's distribution of natural gas, as annually approved by the Brookline Zero Emissions Advisory Board, to all gas customers in the Town of Brookline. Such program shall include, but need not be limited to, financing for:

- i. The sale or lease, installation, and servicing of ground source or air source heat pumps and other electric heating or cooling devices;
- ii. The sale or lease, installation, and servicing of electric appliances to replace or supplement gas appliances, including but not limited to hot water heaters, dryers and ranges; and
- iii. The sale or lease, installation, and servicing of renewable energy storage and generation equipment.

SECTION 12. Notwithstanding any law to the contrary, the gas company shall offer on-bill financing for the non-pipeline alternatives provided for in section 11 of this Act; and may also be

allowed, in addition, to base all or portions of the financing costs for these investments if they serve to accelerate electrification.

SECTION 13. Notwithstanding any law to the contrary, a gas company may, subject to all applicable local by-laws and regulations, engage in renewable energy generation and storage thereof in the Town of Brookline.

SECTION 14. As used in this act, the term “gas company” shall have the same meaning as defined in MGL Section 1 of Chapter 164.