

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MARCH 8, 2010

Room 202

**7:00 PM – NOTE EARLY START**

**ITEMS SCHEDULED FOR DISCUSSION:**

- #46-10      ALD. CROSSLEY, HESS-MAHAN & LINSKY requesting adoption of an ordinance to provide for as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable or alternative energy manufacturing facilities in designated locations in order to satisfy the requirements to qualify as a Green Community under MGL Chapter 25A, §10 (c). [02/09/10 @ 7:25 PM]
- #46-10(2)      ALD. CROSSLEY, HESS-MAHAN & LINSKY requesting adoption of an ordinance to create an expedited application and permitting process under which renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable or alternative energy manufacturing facilities may be sited within the municipality and which shall not exceed one year from the date of initial application to the date of final approval, in order to satisfy the requirements to qualify as a Green Community under MGL Chapter 25A, §10(c). [02/09/10 @ 7:25 PM]
- #475-08      ALD. HESS-MAHAN, DANBERG, JOHNSON, SWISTON, & PARKER proposing that the City of Newton accept the provisions of GL chapter 43D, a local option that allows municipalities to provide an expedited permitting process and promote targeted economic development. [12/09/08 @ 9:41 AM]
- #164-09      ALD. HESS-MAHAN proposing the following amendments to the accessory apartment ordinances: (1) amend Sections 30-8(d)(1)a) and 30-9(h)(1)a) to explicitly allow the homeowner to live in the accessory apartment; (2) amend Section 30-9(h)(1) to allow accessory apartments in a single family residence located in Multi Residence 1 and Multi Residence 2 zoned districts; and (3) amend the provisions of Sections 30-8(d)(1)b) and 30-9(h)(1)b) to allow accessory apartments in residential buildings built 10 or more years before an application for a permit is

submitted; (4) delete the provisions of Sections 30-8(d)(1)(h) and 30-9(h)(1)(h) that require landscape screening for fewer than 5 parking stalls; (5) amend Sections 30-8(d)(1)(d), 20-8(d)(1)(e), 30-8(d)(2)(b) and 30-9(h)(1)(d) to allow exterior alterations and add that any exterior alterations, other than alterations required for safety, are subject to FAR provisions. [06/09/09 @ 4:55 PM]

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

- #62-10      ALD. JOHNSON, LAPPIN, CROSSLEY, DANBERG AND HESS-MAHAN proposing a RESOLUTION to His Honor the Mayor to establish a Zoning Reform Scoping Group, to be appointed by the Mayor and the Board President in consultation with the leadership of the Land Use and Zoning & Planning Committees, for the purpose of developing a plan to reform Newton's zoning code. Responsibilities would include, but not be limited to, determining long and short term objectives, identifying funding options, researching best practices of communities that have undergone zoning reform and identifying potential resources to assist in the process. [02/23/10 @ 6:46 PM]
  
- #61-10      ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
  
- #60-10      ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen. [02/23/10 @ 3:24 PM]
  
- #30-10(2)    POST AUDIT & OVERSIGHT COMMITTEE requesting a discussion with the Planning & Development Department relative to the governance process of the Newton Community Development Authority (NCDA), including recommendations and potential changes to the NCDA. [01/26/09 @ 9:00 PM]
  
- #18-10      ALD. YATES requesting a report from the Conservation Commission as to whether the Commission feels that the ticketing process for violation of wetlands laws proposed in docket #168-02, approved by Zoning & Planning in 2004 and subsequently voted No Action Necessary by the

Board in 2009, would still be valuable in preserving the City's environment. [01/04/10 @ 8:16 PM]

#411-09 ALD. DANBERG, MANSFIELD, PARKER requesting that §30-19(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.

#391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#391-09(2) ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

#376-09 HIS HONOR THE MAYOR submitting the FY11-15 Capital Improvement Program, totaling \$140,377,285 and the FY10 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next five years.

#207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants. [07/07/09 @ 12:42 PM]

#164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

#122-09 ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.

- #474-08      ALD. HESS-MAHAN & VANCE proposing that Chapter 30 be amended to transfer from the Board of Aldermen to the Zoning Board of Appeals and/or the Planning & Development Board the special permit granting authority for special permit/site plan petitions not classified as Major Projects pursuant to Article X of the Board Rules. [12/09/08 @ 3:26 PM]
  
- #336-08      ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9/12/08 @ 10:31 AM]
  
- #150-08      ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4/15/08 @ 2:17PM]
  
- #365-06      ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
  
- #288-06      ALD. MANSFIELD, DANBERG, PARKER proposing that Sec 30-11(a), (b), and (d) of Chapter 30 be amended to allow banks and other financial institutions only by special permit in Business 1, 2 , 3 and 4 districts.

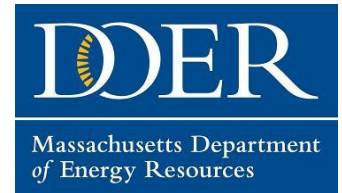
**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

- #48-06      ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.
  
- #10-06      ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.
  
- #440-04      ALD. JOHNSON, BAKER & LAPPIN proposing a definition of “accessory structure” which will include mechanical equipment.
  
- #294-03      ALD. BAKER, YATES, JOHNSON AND MANSFIELD requesting analysis and discussion of possible remedies for demolition of modest housing and replacement with oversized structures out of character with the surrounding neighborhood, including examining the experience of other communities, including those out of state, who have worked to address this problem. **(Recommitted by Full Board 8-14-06)**
  
- #133-03      ALD. YATES proposing an amendment to Chapter 30 requiring a special permit for a so-called "snout house" (one with excessive/intrusive garage on the front) following the example of Fort Collins, Colorado.

- #217-00      ALD. YATES requesting that Chapter 30 be amended to require a special permit for the demolition of a structure aged 100 years or more, containing one or more residential units in any residential district.
- #20-99      ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.
- # 7-99      ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
- #333-97(2)      ALD. YATES proposing that Chapter 30 be amended to prohibit without a special permit in any zoning district the approval of a subdivision that would be accessed by any public way on which the Level of Service at the point of access is already a D, E, or F, for at least one hour per week or if the additional traffic to be generated by the subdivisions would cause the Level of Service at the point of access to a public way to fall to D, E, or F for at least one hour per week. [8-7-07 @2:05 PM]

Respectfully submitted,

Marcia Johnson, Chairman




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## EXPEDITED PERMITTING OPTIONS

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### INTRODUCTION

Criteria Two of the Green Communities Program states that communities need to adopt an ***expedited application and permitting process*** under which as-of-right energy facilities (criterion #1) may be sited within the municipality and which shall not exceed 1 year from the date of initial application to the date of final approval.

Such an expedited application and permitting process applies only to the proposed facilities which are subject to the as-of-right siting provisions and the one (1) year deadline requirement must include an effective enforcement mechanism such as a constructive approval provision.

Note: Municipalities can also meet this requirement by applying the expedited permitting process of MGL c 43D to the as-of-right zoning district(s), which has a one hundred and eighty day (180) deadline requirement.

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### COMPLIANCE

#### **Standard One Year Process**

To meet this criterion generally, municipalities need to have rules and regulations in place governing permit issuance such that all local permitting decisions - formal determinations, orders of conditions, licenses, certificates, authorizations, registrations, plan approvals, or other approvals or determinations with respect to the use, development or redevelopment of land, buildings, or structures required by any issuing authority – applicable to the siting and construction of clean energy facilities within the relevant zoning district(s) can be issued within 1 year of submission of a completed application. Also required are constructive approval or similar enforcement mechanisms addressing clean energy projects not receiving a permitting decision within one year.

In regard to documentation, municipalities will have already demonstrated that they have by-right zoning allowing clean energy facilities (criterion #1). Thus, communities need to show that other provisions of the zoning, as well as other local regulations, allow permitting within one year. In order to document

compliance with the Green Communities expedited permitting criterion (criterion #2) municipalities must provide DOER a letter from legal counsel affirming conformance with the expedited permitting requirement and providing:

- Language of any applicable local site plan review by-law or ordinance that covers approval procedures and associated timing;
- Text of bylaws or ordinances or regulations that provide for constructive or automatic grant of approval should any issuing authority fail to act within one year or the time frame specified in the by-law or regulation, whichever is shorter; and
- A statement that nothing else within the municipality's rules and regulations precludes issuance of a permitting decision within one year.

### **MGL c 43D Priority Development Sites**

A municipality may also meet the Green Communities expedited permitting criterion by providing for as-of-right siting of renewable or alternative energy generation or manufacturing or research and development (R&D) facilities within a Priority Development site approved pursuant to Chapter 43D by the interagency Permitting Board. The municipality will be required to provide documentation that demonstrates that the designated as-of-right zoned area and the 43D Priority Development Site overlap. If meeting the criterion by allowing the by-right construction of either renewable or alternative energy R&D or manufacturing facilities, the municipality will be required to provide a letter from the municipality's legal counsel providing documentation that a Priority Development Site approved pursuant to Chapter 43D by the Interagency Permitting Board applies to enough land within the district zoned for the by-right siting of energy facilities to construct at least 50,000 square feet of R&D or manufacturing space in the aggregate. However, communities are encouraged to make the procedures expediting the permitting of renewable or alternative energy projects uniform throughout a zoning district in order to avoid confusion and facilitate siting and construction of renewable or alternative energy facilities.

Note: The materials developed to assist communities with issuance of permits within 180 days as required by Chapter 43D will also help communities looking to expedite permitting for the purpose of becoming a Green Community.

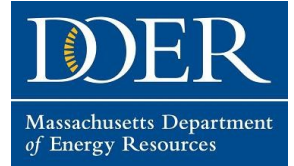
#### **REFERENCES:**

[43D website](#)  
[A Best Practices Model for Streamlined Local Permitting](#)

## **FOR MORE INFORMATION**

#### **Website:**

[www.mass.gov/energy/greencommunities](http://www.mass.gov/energy/greencommunities)



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## INSTRUCTIONS

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### INTRODUCTION

The following guidance describes the Green Communities Grant Program process (pursuant to M.G.L. Ch. 25A §§2, 10). Qualifying as a Green Community allows a community to apply for grants to finance all or a portion of the cost of studying, designing, constructing and implementing energy efficiency activities, including but not limited to energy efficiency measures and projects; procurement of energy management services; installation of energy management systems; adoption of demand side reduction initiatives, and the adoption of energy efficiency policies. These funds can also be used to finance siting and construction of renewable and alternative energy projects on municipally owned land.

To qualify as a Green Community, a community must meet five specific criteria as outlined in the Green Communities Final Criteria document available on the Green Communities website at: [www.mass.gov/energy/greencommunities](http://www.mass.gov/energy/greencommunities) and is also included as part of the designation form.

### INSTRUCTIONS

The Green Communities Grant Program is divided into two parts, a designation process and a grant application process.

#### Designation Form

In order to be considered for grant funding, the applicant must first be designated as a Green Community. To receive official designation as a Green Community, the applicant must complete the attached "Designation Form" and submit it to the Green Communities Division by the specified deadline. Those applicants who qualify as Green Communities will be notified of their designation after completion of the review of the designation form.

#### Deadline

The designation process is a rolling process. Eligible local governmental bodies may apply for designation at any time. However, in order for a local governmental body to be eligible to submit a grant application, it must submit a designation application prior to the grant application deadline. For the FY 2010 program, in order to be eligible to submit a grant application, the local governmental body must submit a designation application by:



**Deadline: Friday, May 14, 2010 by 5:00pm to be eligible to participate in FY 2010 grant round.**

To apply: Designation forms are available on the Green Communities Division website at:  
[www.mass.gov/energy/greencommunities](http://www.mass.gov/energy/greencommunities).

Designation forms must be submitted electronically to Cliff Sullivan at  
[cliff.sullivan@state.ma.us](mailto:cliff.sullivan@state.ma.us) and as one (1) unbound hard copy (including attachments) to the following address:

Department of Energy Resources  
Green Communities Division  
100 Cambridge Street, 10<sup>th</sup> Floor  
Boston, MA 02114  
ATTN: Cliff Sullivan

**Grant Application – Available in Draft**

Once designated the Green Community is eligible to apply for grant funds through the Green Communities Grant Program. Green Communities must fill out a grant application and submit it by the established deadline. Amount of awards will be based on available funds, the number of applicants, scoring as outlined in the draft grant application and the bonus points achieved. Eligible uses of funds are described in the draft grant application, which is currently available at the Green Communities Division website.

**FY 2010 DESIGNATION AND GRANT APPLICATION TIMELINE**

<b>DATE</b>	<b>EVENT</b>
Tuesday - January 22, 2010	Official launch Begin accepting designation applications – Rolling
Friday – March 19, 2010	Begin accepting grant applications
Friday – May 14, 2010	Deadline for designation applications to be submitted by communities intending on submitting grant applications by May 28th
Friday – May 28, 2010	Grant Applications due
Monday – June 28, 2010	Announce Grant Awards



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# Guidelines for Qualifying as a Green Community

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## SUMMARY OF REQUIREMENTS TO QUALIFY AS A GREEN COMMUNITY

As outlined in MGL c. 25A §10(c), a municipality or other local government body must do all of the following:

**NOTE:** One or more municipalities may together submit an application to qualify as a regional Green Community. Each municipality in a regional application must meet each of the requirements with one exception: the 20% reduction from the energy baseline can be applied in the aggregate across all of the municipalities. When grant awards are made to those communities who have qualified as a Green Community, special consideration will be given to regional applications.

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## CRITERIA 1: AS-OF-RIGHT SITING – RENEWABLE / ALTERNATIVE ENERGY

Provide for the as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development (R&D) facilities, or renewable or alternative energy manufacturing facilities in designated locations.

- “As-of-Right Siting” is defined as siting that provides for the allowed use of, and does not unreasonably regulate, or require a special permit.
- An applicant can meet this requirement by providing as-of-right siting for one of the three types of facilities described.
- If a community has as-of-right siting in place for R&D and/or manufacturing facilities in general, this can meet this requirement, but the community must demonstrate that the zoning by-law applies to renewable and alternative energy R&D or manufacturing.
- Communities can select the specific locations for the as-of-right siting, i.e. where these facilities are to be located, but these locations must be feasible and practical.
  - e.g: Locations for wind are required to have adequate wind resources (6m/s at 70 meters) and biomass CHP locations are required to have a sufficient thermal load
- If providing as-of-right siting for generation, the community must select technology that is practically available and provides a realistic opportunity for generation. It is expected

that a community will appropriately utilize its available renewable resources, and this will be taken into consideration in the review of an application meeting this requirement. For example, it would be expected that a community with wind resources of 6m/s or above will provide as-of-right siting for wind generation.

- As-of-right zoning by-laws can apply appropriate standards that protect public health and safety and provide for non-discretionary site plan review. Reasonable environmental performance standards per the developed by-law may be incorporated into the Site Plan Review (SPR) process (e.g. height, setback, etc...), but cannot be so stringent as to make the use infeasible. The thrust of this aspect of the policy is that SPR be truly non-discretionary. In other words, if the standards and zoning requirements are met, the project can be built. This is distinct from the Special Permit (SP), in that the SP may be denied if the Planning Board or other permit granting authority is not satisfied with the project.
- An applicant can meet this requirement with as-of-right siting for renewable or alternative energy generation with **one** of the following project requirements:
  - On-shore Wind – a turbine of a minimum 600 kW in size or above
  - Off-shore Wind – a turbine of a minimum 2.5 MW or above
  - Solar Photovoltaic – a single ground-mounted system of a minimum of 250 kW or above
  - Biomass CHP - a minimum of 5MW in a stand-alone building
  - Ocean, wave or tidal – no minimum threshold
- If providing as-of-right siting for R&D or Manufacturing facilities a municipality's zoning must specify as an allowed use construction of one of the following facilities:
  - **Research and Development Facilities** are those used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses
  - **Manufacturing Facilities** are those used primarily for heavy or light industry or the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and packaging
- Additionally, in order to qualify, the as-of-right zoning for R&D or manufacturing must clearly allow renewable or alternative energy activities defined as follows:

***Renewable Energy:***

- Solar - photovoltaic (PV) and thermal
- Wind

- Biomass power conversion or thermal technologies, including R&D related to, or the manufacture of, wood pellets
- Ultra low emissions high efficiency wood pellet boilers and furnaces
- Low Impact Hydro - electric and kinetic
- Ocean thermal, wave or tidal
- Geothermal
- Landfill Gas
- Fuels Cells that use Renewable Energy
- Advanced biofuels

***Alternative Energy:***

- Combined Heat and Power
- Electric and hydrogen powered vehicles and associated technologies including advanced batteries and recharging stations

**NOTE:** When grant awards are made to those communities who have qualified as a Green Community, special consideration will be given to those who have met the as-of-right siting requirement through renewable and alternative energy generation.

**HELPFUL LINKS:**

1. Model As-of-Right Wind Bylaw  
<http://www.mass.gov/Eoeea/docs/doer/gca/gc-model-wind-bylaw-mar-10-2009.pdf>
2. Model As-of-Right Large Scale Solar PV Bylaw  
[http://www.mass.gov/Eoeea/docs/doer/gca/Solar\\_Model\\_Bylaw%20FINAL%20Sept%2009.doc](http://www.mass.gov/Eoeea/docs/doer/gca/Solar_Model_Bylaw%20FINAL%20Sept%2009.doc)
3. Guidance for As-of-Right RD or Manufacturing Bylaw  
<http://www.mass.gov/Eoeea/docs/doer/gca/RD%20or%20manuf%20AOR%20guidance-11-12-09.pdf>

**CRITERIA 2: EXPEDITED PERMITTING**

Adopt an expedited application and permitting process under which these energy facilities may be sited within the municipality and which shall not exceed 1 year from the date of initial application to the date of final approval.

- The expedited application and permitting process applies only to the proposed facilities which are subject to the as-of-right siting provision.
- An applicant can meet this requirement by applying the expedited permitting process of MGL c 43D to these zoning districts.

- The one (1) year deadline requirement must include an effective enforcement mechanism, such as constructive approval provision

#### **HELPFUL LINKS:**

1. Guidance on Expedited Permitting:  
<http://www.mass.gov/Eoeea/docs/doer/gca/gc-guidance-criteria2.pdf>
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### **CRITERIA 3: ENERGY BASELINE / 20% ENERGY REDUCTION PLAN**

Establish an energy use baseline inventory for municipal buildings, vehicles, street and traffic lighting, and put in place a comprehensive program designed to reduce this baseline by 20 percent within 5 years of initial participation in the program.

- Energy use baseline is applied in the aggregate across building, street lights and vehicles on an MMBTU (million British Thermal Units) basis
- After opportunities for energy reduction measures have been maximized, credit may be given for the addition of renewable energy resources to reach the 20% reduction goal.
- A community can meet this requirement if it has completed an inventory as described above and has already implemented a program to reduce the baseline within the previous 24 months.
- For applications consisting of more than one community, all communities must complete the inventory. However, the comprehensive program to reduce the baseline by 20% can be applied across all communities.
- Acceptable tools for performing the inventory are:
  - EnergyStar Portfolio Manager
  - ICLEI software
  - DOER's Energy Information Reporting System
  - Other tools proposed by the community and deemed acceptable by DOER

#### **HELPFUL LINKS:**

1. Guidance on developing an Energy Reduction Plan  
<http://www.mass.gov/Eoeea/docs/doer/gca/GUIDANCE%20FOR%20GREEN%20COMMUNITIES%20CRITERIA%20THREE%20FINAL.pdf>
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### **CRITERIA 4: PURCHASE ONLY FUEL-EFFICIENT VEHICLES**

Purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable.

- Heavy-duty vehicles such as fire-trucks, ambulances, and public works trucks are exempt from this criterion.
- Police cruisers are exempt from this criterion. However, municipalities must commit to purchasing fuel efficient cruisers when they become commercially available. Police department administrative vehicles must meet fuel efficient requirements.
- If an applicant does not have a vehicle fleet other than heavy-duty vehicles and/or police cruisers, it must propose alternative means for meeting this requirement, eg. having in place policies and procedures that promote reduced fuel usage for the municipality. For example, carpooling incentives for municipal employees, preferred parking for employees with hybrid vehicles, bike racks at municipal buildings and incentives for employees to bike to work.
- An applicant must provide a vehicle inventory for non-exempt vehicles and a plan for replacing these vehicles with vehicles that meet the fuel efficiency ratings below. These fuel efficiency ratings are set to ensure that at least 5 or more automatic transmission models of mass production are available for sale in Massachusetts (all from affordable brands; no luxury brands). Based on 2009 and 2008 EPA data, vehicles are to have a combined city and highway MPG no less than the following:
  - 2 wheel drive car: 29 MPG
  - 4 wheel drive car: 24 MPG
  - 2 wheel drive small pick-up truck: 20 MPG
  - 4 wheel drive small pick-up truck: 18 MPG
  - 2 wheel drive standard pick-up truck: 17 MPG
  - 4 wheel drive standard pick-up truck: 16 MPG

## HELPFUL LINKS

1. Guidance and Model Policy for Purchasing only Fuel Efficient Vehicles  
<http://www.mass.gov/Eoeea/docs/doer/gca/GUIDANCE%20FOR%20GC%204%20-%20Vehicles%20SEPT%2009.doc>
  2. Examples of Commercially Available Fuel Efficient Vehicles  
<http://www.mass.gov/Eoeea/docs/doer/gca/gc-2009-epa-fe-guide.xls>
-

## **CRITERIA 5: MINIMIZE LIFE-CYCLE COSTS**

Require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies.

- Cities and towns can meet this requirement by adopting the new BBRs Stretch Code, the new appendix to the MA State Building Code. Should a community chose to not adopt the stretch code and choose to use another standard, the community must provide evidence that this alternative standard minimizes the life cycle energy costs for all new construction and is enforceable by the community

### **HELPFUL LINKS**

1. STRECH CODE

[http://www.mass.gov/?pageID=eopsmodulechunk&L=3&L0=Home&L1=Public+Safety+Agencies&L2=Massachusetts+Department+of+Public+Safety&sid=Eeops&b=terminalcontent&f=dps\\_bbrs\\_build\\_code\\_changes\\_public\\_hearing&csid=Eeops](http://www.mass.gov/?pageID=eopsmodulechunk&L=3&L0=Home&L1=Public+Safety+Agencies&L2=Massachusetts+Department+of+Public+Safety&sid=Eeops&b=terminalcontent&f=dps_bbrs_build_code_changes_public_hearing&csid=Eeops)

2. SUMMARY TABLE of STRETCH CODE

<http://www.mass.gov/Eoeea/docs/doer/gca/Stretch%20codes%20summary%20table%20072809.pdf>





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## CRITERIA 1: AS OF RIGHT SITING

### Description of Criteria

Provide for the as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development (R&D) facilities, or renewable or alternative energy manufacturing facilities in designated locations.

### Type of As-of-Right Zoning

Please indicate which type of as-of-right zoning the municipality is providing (**check all applicable boxes**).

- RE/AE Generation
  - On-shore Wind – a turbine of a minimum 600kW in size or above
  - Off-shore Wind – a turbine of a minimum 2.5MW or above
  - Solar Photovoltaic – a single ground-mounted system of a minimum of 250 kW or above
  - Biomass CHP - a minimum of 5MW in a stand-alone building
  - Ocean, wave or tidal – no minimum threshold
  
- RE/AE Facilities
  - Research and Development
  - Manufacturing

### Documentation

#### RE/AE Generation and Facilities

Please provide the following documentation as evidence that the municipality has met this criterion (include documents with this form).

- \* Brief description of by-law
- \* Identification of designated locations
- \* Explanation of how measures meet criteria
- \* Attach copy of bylaw or ordinance
- \* Copy of zoning map that shows area zoned

RE/AE Facilities – Where Applicant is submitting an existing bylaw not adopted specifically for this Program

For those applicants that meet the criterion for R&D and or Manufacturing through existing bylaws or ordinances please include the following:

Applicants must provide a letter from municipal counsel certifying that the existing zoning complies with the RE/AE Facilities criteria. In terms of specific contents:

The letter must cite and summarize the pertinent section of the zoning ordinance/bylaw;

Applicants must include copies of:

- The applicable section of their zoning bylaw/ordinance
  - Copy of zoning map that shows area zoned
  - Important zoning definitions
  - The relevant section of the use table and any key that will help DOER interpret the use table
  - Any related local regulations applicable to facilities sited under the bylaw/ordinance—such as site plan review regulations—so that DOER can confirm that the related local regulations are non-discretionary; AND
  - Yield calculations must be either included in the text of the letter or attached.
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## **CRITERIA 2: EXPEDITED PERMITTING**

### **Description of Criteria**

Adopt an expedited application and permitting process under which these energy facilities may be sited within the municipality and which shall not exceed 1 year from the date of initial application to the date of final approval.

The expedited application and permitting process applies to the proposed facilities which are subject to the as-of-right siting provision.

An applicant can meet this requirement by applying the expedited permitting process of MGL c 43D to these zoning districts.

The one (1) year deadline requirement must include an effective enforcement mechanism, such as constructive approval provision

### **Type of Expedited Permitting**

Please indicate which type of as-of-right zoning the municipality is providing (**check the applicable box**).

- Local Expedited Permitting Process
- M.G.L. c43D – Expedited Permitting

### **Documentation**

Please provide documentation that an expedited application and permitting process has been fully adopted for the as-of-right zoned parcels.

#### Local Expedited Permitting Process

1. Municipalities must provide DOER a letter from legal counsel affirming conformance with the expedited permitting requirement and providing
  - Language of any applicable local site plan review by-law or ordinance that covers approval procedures and associated timing;
  - Text of bylaws or ordinances or regulations that provide for constructive or automatic grant of approval should any issuing authority fail to act within one year or the time frame specified in the by-law or regulation, whichever is shorter; and
  - A statement that nothing else within the municipality’s rules and regulations precludes issuance of a permitting decision within one year.
2. The applicant should also include a copy of the applicable map(s) showing the areas where the expedited permitting applies.

#### MGL c43D

1. Municipalities must provide DOER with a certified copy of their City Council or Town Meeting vote designating the as-of-right zoned parcel(s) as a Priority Development Site (“PDS”)
2. The applicant should also include a copy of the applicable map(s) showing the areas where the expedited permitting applies.

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## **CRITERIA 3: ENERGY USE BASELINE / REDUCTION PLAN**

### **Description of Criteria**

Establish an energy use baseline inventory for municipal buildings, vehicles, street and traffic lighting, and put in place a comprehensive program designed to reduce this baseline by 20 percent within 5 years of initial participation in the program.

## Documentation

Please provide a copy of the energy use baseline inventory completed for all municipally owned and operated buildings, vehicles, street lights and traffic lights and a detailed plan for reducing fossil fuel consumption by 20% in 5 years **(all required)**.

Identify inventory tool used: \_\_\_\_\_

Provide documentation of results of inventory

Copy of plan / specific Actions to be implemented and timeline with milestones to achieve required energy reductions

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## CRITERIA 4: FUEL EFFICIENT VEHICLES

### Description of Criteria

Purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable.

### Documentation

Please provide the following documentation to verify that the municipality has met this criterion **(both required)**:

A copy of the policy or other mechanism adopted for purchasing only fuel efficient vehicles

Inventory of existing fleet (model, year, estimated mpg) with plans for replacements with fuel efficient vehicles

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## CRITERIA 5: MINIMIZE LIFE CYCLE COSTS

### Description of Criteria

Require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies.

Cities and towns can meet this requirement by adopting the new BBRS Stretch Code, the new appendix to the MA State Building Code.

### **Type of Method**

Please indicate which type of life cycle cost reduction the municipality is providing (**check applicable box**).

- Local Process
- Adopted Stretch Energy Code (Appendix 120 AA to the MA Building Code 780 CMR)

### **Documentation**

Please provide the following documentation to verify that the municipality has met this criterion:

#### Local Process

The municipality must provide documentation of the standard adopted, the mechanism in place for requiring this criterion for new construction and documentation of how this standard provides reduced life-cycle energy costs.

NOTE: If a Municipality plans to meet this criterion through a Local Process, they are encouraged to submit a description of how it plans to do so with supporting documentation in advance of applying for designation. In this manner, the Green Communities can provide feedback on the acceptability of the identified process before the municipality attempts to implement it.

#### Stretch Energy Code

The municipality must provide documentation of the city or town vote adopting MA Board of Building Regulations and Standards (BBRS) Stretch Energy Code.

**\*NOTE: TOWNS THAT HAVE PLACED AN ARTICLE ON THEIR TOWN MEETING WARRANT (PROVIDED THE TOWN MEETING VOTE IS NO LATER THAN THURSDAY, MAY 14, 2010) CAN SUBMIT A DESIGNATION FORM, INDICATING THAT CRITERION #5 is IN PROCESS. IF THIS APPLIES PLEASE CHECK OFF THE BOX BELOW AND INDICATE WHEN THE TOWN MEETING VOTE WILL OCCUR AND INCLUDE A COPY OF THE APPLICABLE TOWN MEETING WARRANT.**

- TOWN MEETING VOTE PENDING  
Town Meeting Date: \_\_\_\_\_
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## REQUEST FOR WAIVER

Pursuant to MGL c. 25A, Section 10(c), the Secretary of Energy and Environmental Affairs may waive these requirements based on a written finding that due to unusual circumstances, a municipality cannot reasonably meet all of the requirements and the municipality has committed to alternative measures that advance the purposes of the green communities program as effectively as adherence to the requirements.

Please select the criteria that the municipality is requesting a waiver for. A letter justifying why the applicant cannot meet this criteria (with supporting documentation) must be attached. In the letter please provide an alternative measure that advances the purposes of the Green Communities program as effectively as adherence to the requirement.

- |   |  |
|---|--|
| <input type="checkbox"/> As of Right Zoning       | <input type="checkbox"/> Expedited Permitting    |
| <input type="checkbox"/> Energy Baseline          | <input type="checkbox"/> Fuel Efficient Vehicles |
| <input type="checkbox"/> Minimize Life Cycle Cost |  |

# CERTIFICATION OF APPLICATION

Pursuant to MGL c25A Sections 2 and 10, the applicant is required to certify that they are authorized to execute the application and verify that all information submitted is true.

## RESOLUTION OF AUTHORIZATION

Resolved that, \_\_\_\_\_, is authorized to execute said Application on the behalf of \_\_\_\_\_, the applying community and verify that the information in this application is true.

\_\_\_\_\_  
[signature] [date]

\_\_\_\_\_  
[title]

[TO BE COMPLETED BY NOTARY] I, \_\_\_\_\_,

as a notary public, certify that I witnessed the signature of the above named

\_\_\_\_\_, and that said person stated that he or she is authorized to

execute this resolution, and that the individual verified his/her identity to me, on this date:

\_\_\_\_\_  
[date]

\_\_\_\_\_  
[signature]

My commission expires on: \_\_\_\_\_

NOTARY SEAL HERE:

**PLANNING AND DEVELOPMENT BOARD**  
City Hall, 1000 Commonwealth Avenue, Newton, Massachusetts 02459  
February 22, 2010  
Public Hearing on Petition #164-09

**Members Present:**

Joyce Moss, Acting Chair  
David Banash  
Howard Haywood  
Doug Sweet  
Scott Wolf

**Staff Present:**

Jennifer Molinsky, Principal Planner

Petition #164-09 has six components. The Planning Board voted on each separately, as follows:

- (1) Amend Sections 30-8(d)(1), 30-8(d)(1)a, 30-9(h)(1), and 30-9(h)(1)a to explicitly allow the homeowner to live in the accessory apartment: ***The Planning Board voted unanimously to support this amendment, citing the value to aging homeowners who may wish to reside in the smaller unit, and the fact that the owner would still reside on the premises.***
  
- (2) Amend Section 30-9(h)(1) and 30-9(h)(2) to allow accessory apartments in a detached structure associated with a single-family residence in a Multi Residence 1 and Multi Residence 2 district and to clarify that accessory apartments are allowed in detached structures associated with two-family residences; and amend 30-9(h)(1) to clarify that a single-family dwelling located in a Multi Residence 1 or Multi Residence 2 district may be divided into a two-family dwelling according to other provisions of the zoning ordinance: ***The Planning Board voted unanimously to 1) clarify that a single family home in a Multi-Residence (MR) district 1 or 2 may be divided into a two-family home and to note this in a footnote in Sec. 30-9(h)(1); 2) to support the amendment allowing accessory apartments in detached structures associated with either single-family or two-family homes in MR 1 and 2 districts under Sec. 30-9(h). The Planning Board expressed no concerns relating to the clarification or the inclusion of detached structures associated with single family dwellings.***
  
- (3) Amend the provisions of Sections 30-8(d)(1)b and 30-9(h)(1)b to allow accessory apartments in residential buildings built 10 or more years before an application for a permit is submitted: ***The Planning Board voted 4-1 to support this amendment, with a dissent from member David Banash, who stated that this change moves the accessory apartment ordinances away from its original goal of preservation of the oldest homes. The majority voting in favor agreed that a 10-year lookback was sufficient to prevent accessory apartments from being***



*included in new construction, and that the year 1989 did not necessarily demarcate homes worthy of preservation. .*

- (4) Delete the provisions of Sections 30-8(d)(1)h) and 30-9(h)(1)h) that require landscape screening for fewer than 5 parking stalls: ***The Planning Board voted unanimously to support the deletion of the sections 30-8(d)(1)h) and 30-9(h)(1)h) concerning landscape screening for parking stalls; and voted support for existing language in Sec. 30-22(c)(1)b) regarding the screening of parking stalls, and to add similar language as found in Sec. 30-22(c)(1)b) to Sec. 30-8(d)(2) and Sec. 30-9(h)(1) to allow the Board of Aldermen, in making special permit determinations, to consider the screening of parking in situations where it is warranted. In its discussion, the Planning Board agreed that the screening requirements were burdensome in many cases, but that language allowing the consideration of screening would help address the cases where it would be warranted.***
  
- (5) Amend Sections 30-8(d)(1)d), 30-8(d)(1)e), 30-8(d)(2)b), 30-9(h)(1)d), and 30-9(h)(1)e) to allow limited exterior alterations or additions, subject to FAR or other dimensional controls, to accommodate an accessory apartment; amend the conditions, where a special permit is required, for approval of exterior alterations or additions; and to remove the time limit before which additions and exterior alterations must be completed to meet the requirements of Table 30-8: ***The Planning Board voted 3-2 against this set of amendments (David Banash, Doug Sweet, and Scott Wolf voting in the negative), with the following notes:***
  - a. ***The majority voting against this amendment was concerned that allowing more significant exterior expansion might not be compatible with the idea that accessory apartments often provide more affordable housing options given their size. In other words, if the zoning ordinance allows for more exterior expansion, the result might be larger units that are less affordable. In the discussion, it was noted that the size of accessory units would still be limited under other provisions of the accessory apartment ordinance. The Planning Board also discussed, with no conclusion, whether accessory apartments could increase the value of small houses to the point where these houses gained value and the net result was less housing affordability.***
  
  - b. ***The majority voting against this amendment stated their opposition to a potential loophole, whereby a lawfully nonconforming structure would be prohibited from using 30-8(d) or 30-9(h) to seek a special permit to enlarge a home to accommodate an accessory apartment, but could seek a special permit for another kind of addition and then later seek a permit for an accessory apartment. The minority voting in favor of this amendment felt that this could be corrected by amending Sec. 30-8(d)(2)b) and 30-9(h)(1)d) so that a special permit could be granted for an accessory apartment in a legally nonconforming structure as long as exterior alterations or additions do not increase the nonconforming nature of the structure.***

- c. *The majority also stated their opposition to the extent of possible alterations and additions that could be made under the amendment. concern that the much greater allowable size would (a) undesirably change the nature of accessory apartments and their effect on the character of the neighborhood, (b) not be sufficiently checked by the new standard that such alterations and additions to be “in keeping with the architectural integrity of the structure and the residential character of the neighborhood” (c) concern that such a broad standard is contrary to the intent of the comprehensive plan to encourage “performance” standards and (d) inappropriately decrease the affordability of accessory apartments. Member Scott Wolf recommended some limit on expansion for RAAP apartments under 30-8(d)(1), such as the limit currently found in Sec. 30-8(d)(2)b) of 250 square feet or 25% of the final gross floor area of the accessory apartment, whichever is greater; and perhaps allowing up to 400 square feet or 25% of the final gross floor area of the accessory apartment under 30-8(d)(2) and 30-9(h)(1) for special permits.*
- d. *The majority voting against this amendment expressed concern that existing language in the special permit sections (Sec. 30-8(d)(2) and Sec. 30-9(h)(1)) relating to “architectural integrity of the structure and the residential character of the neighborhood,” and proposed language in the RAAP section of the ordinance (Sec. 30-22(c)(1)) relating to the exterior appearance of the dwelling being “in keeping with the appearance of a single-family home” was too ill-defined. The minority, however, indicated that the language would allow flexibility to deal with the myriad situations that could arise relating to exterior changes and to parking screening (see proposed amendment #4), and was preferable to overly-prescriptive language.*
- (6) Amend 30-1, definition of “accessory apartment” to be consistent with the changes listed above: ***The Planning Board unanimously supported this amendment.***