

Town of Acton  
Draft Submission  
of  
Green Communities Designation  
Application

April 21, 2010

- Designation Form
- Criteria # 1 & 2

Contact Information:

John Murray

or Catherine Crosby

978-264-9612

CatherineCrosby@acton-ma.gov

[jmurray@acton-ma.gov](mailto:jmurray@acton-ma.gov)

# Designation Form

Revised 3/26/10



**GREEN COMMUNITIES  
GRANT PROGRAM  
FY 10 APPLICATION**



# DESIGNATION FORM

## INSTRUCTIONS

In order to be designated as a Green Community pursuant to MGL c 25A §10, the applicant must meet five criteria. The Green Communities Division is required to verify that the applicant has met the criteria through an application process.

This designation form is the first step in a municipality becoming a Green Community. Please fill out this designation form completely including providing the required information outlined in this form. The designation phase is a rolling process. However, to be considered for grants in FY 2010, designation forms are due on **Friday, May 14, 2010 by 5pm**. One electronic copy must be submitted to Cliff Sullivan at [cliff.sullivan@state.ma.us](mailto:cliff.sullivan@state.ma.us) and one unbound hard copy must be submitted 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

Once an applicant has completed this designation form, it will be reviewed by the Green Communities Division and a determination will be made as to designation. When an applicant is designated as a Green Community, it is eligible to apply for grant funds to support energy efficiency and renewable energy projects.

### APPLICANT INFORMATION

Municipality / Local Government			Contact (print)	
Town of Acton			John Murray / Catharine Crosby	
Street Address			Title	
472 Main St.			Green Committee	
City/Town	State	Zip Code	Telephone	Email
Acton	MA	01720	JM 978-264-9612 CC 978-	jmurray@acton-ma.gov Catherine.Crosby@acton-ma.gov

FOR APPLICANTS SERVED BY MUNICIPAL LIGHT PLANTS - pursuant to MGL c 25A, §10(e)

Please indicate the date the Municipal Light Plant adopted the Renewable Energy Charge and attach a copy of the minutes reflecting the vote taken:

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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

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- \* 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 that nothing within the municipality's rules and regulations precludes issuance of a permitting decision within one year along with the language addressing approval procedures and associated timing from any applicable bylaws/ordinances or regulations. ~~conformance with the expedited permitting requirement and providing~~
  - ~~o Language of any applicable local site plan review by law or ordinance that covers approval procedures and associated timing;~~
  - ~~o 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~~
  - ~~o 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 that the areas where the expedited permitting applies coincides with the as-of-right zoned areas for Criteria 1.

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#### 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 the baseline year 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 (780 CMR 120.AA, the MA Board of Building Regulations and Standards (BBRS) Stretch Energy Code)

### 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 for meeting this criteria.

#### Stretch Energy Code

The municipality must provide documentation of the city or town vote adopting 780 CMR 120.AA, MA Board of Building Regulations and Standards (BBRS) Stretch Energy Code.

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**\*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 MUST APPROVE THE STRETCH CODE ARTICLE FOR THE APPLICANT TO RECEIVE CREDIT FOR MEETING CRITERION #5.**

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, John Murnay, is authorized to execute said Application on the behalf of Town of Acton, the applying community and verify that the information in this application is true.

John Murnay [signature]      4/21/10 [date]

Asst Town Manager [title]

[TO BE COMPLETED BY NOTARY] I, Christine M. Joyce  
as a notary public, certify that I witnessed the signature of the above named

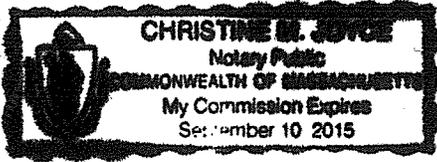
Revised 3/26/10

John Moway, 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:

4/21/10  
[date]

Christine M Joyce  
[signature]

My commission expires on: Sept 10, 2015 NOTARY SEAL HERE:



**Criteria 1**  
**By Right Zoning**



TOWN CLERK  
EVA K. TAYLOR

TOWN OF ACTON  
472 MAIN STREET  
ACTON, MASSACHUSETTS, 01720  
TELEPHONE (978) 264-9615  
FAX (978) 264-9630  
clerk@acton-ma.gov

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**ABSTRACT OF THE SPECIAL TOWN MEETING HELD  
TUESDAY, JUNE 23, 2009, 7:00 P.M.  
ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM**  
NUMBER OF REGISTERED VOTERS ATTENDING SPECIAL TOWN MEETING  
JUNE 23, 2009 – 416

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**ARTICLE 6 \*      AMEND ZONING BYLAW – DEFINITION OF MANUFACTURING**  
(Two-thirds vote)

To see if the Town will vote to amend the zoning bylaw, section 3.6.3 – Industrial Uses Definition for Manufacturing, by inserting after "... services related to the environment;" the following new phrase:

"development and manufacturing of renewable energy or alternative energy (RE/AE) equipment and systems;"

*[Note: Section 3.6.3 currently reads as follows:*

*3.6.3 Manufacturing – A manufacturing facility, such as a printing or publishing plant; manufacturing of building systems and components; fabrication and assembly of electronic components, precision instruments, or other high technology products; manufacturing of metal products or office supplies; software or hardware development or manufacturing; research or testing of new and emerging technologies and technological devices; establishments engaged in services related to the environment; or similar USES and activities; including office, administrative, laboratory, and support facilities related to the foregoing; but excluding scientific USE as defined in Section 3.6.4. All operations shall confine disturbing smoke, fumes, dust, noise, and other emissions within the premises. No research or testing shall be conducted outside of a BUILDING. In the KC District, the maximum NET FLOOR AREA of an establishment that is classified as a Manufacturing USE shall not exceed 10,000 square feet.]*

, or take any other action relative thereto.

**MOTION:** Mr. Niemyski moves that the Town adopt the zoning bylaw amendments as set forth in the Article

**CONSENT MOTION CARRIES UNANIMOUSLY**

A TRUE COPY. ATTEST:

TOWN CLERK, ACTON, MA

**Criteria 2**  
**Expedited Permitting**

April \_\_, 2010

**SUBMITTED WITH TOWN'S APPLICATION  
FOR GREEN COMMUNITIES DESIGNATION**

Cliff Sullivan  
Green Communities Division  
Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114

**RE: Certification of Compliance with Green Communities Act – Criterion Two**

Dear Mr. Sullivan:

This letter provides certification by Town Counsel for the Town of Acton that the Town complies with Criterion Two of the Green Communities Act in accordance with the Department of Energy Resources' (DOER) Updated Guidance dated 3/26/10 ("Updated Guidance") (copy attached).

**DOER'S Updated Guidance**

The Introduction to DOER's Updated Guidance explains the elements of Criterion Two as follows (emphasis original):

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 documentation that all permits necessary to site proposed facilities can be issued within the 1 year deadline is required.

The Updated Guidance then sets forth the elements for a municipality to satisfy Criterion Two using one of two different methodologies, the "Standard One Year Process" and the process for "MGL c 43D Priority Development Sites." As set forth below, the Town of Acton satisfies Criterion Two using the "Standard One Year Process."

**Acton's Standard One Year Process**

The Updated Guidance sets forth the following elements to satisfy Criterion Two using the "Standard One Year Process" (emphasis added):

To meet this criterion 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.

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 (e.g. site plan review), 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 that nothing within the municipality's rules and regulations precludes issuance of a permitting decision within one year along with the language addressing approval procedures and associated timing from any applicable bylaws/ordinances or regulations.**

This letter affirms that nothing within the Town of Acton's rules and regulations precludes issuance of a permitting decision for the siting and construction of a clean energy facility within one year. The language addressing approval procedures and associated timing from the Town of Acton's applicable bylaws and regulations is as follows:

- **Zoning Bylaw**

Under § 10.4.1.2 of the Acton Zoning Bylaw, the Board of Selectmen is authorized to grant a Site Plan Special Permit for "the initial development of land specified in Section 3, Table of Principal Uses as requiring a Site Plan Special Permit and for all Accessory Uses thereto" and for certain expansions of the net floor area or use thereof. Under § 10.4.2 of the Acton Zoning Bylaw, "all of the requirements of Section 10.3 shall apply to a Site Plan Special Permit," except as provided in Section 10.3.5. Paraphrased, the applicable requirements include the following:

- § 10.3.1 – The Selectmen must adopt “Rules and Regulations, not inconsistent with the provisions of this Bylaw or Chapter 40A of the General Laws or other applicable provision of the General Laws” governing the “the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the [Selectmen] shall request written reports and the procedure for submission and approval of such permits.” [The Selectmen have adopted Site Plan Rules and Regulations applicable to Site Plan Special Permits. Nothing in these rules and regulations precludes issuance of a permitting decision for the siting and construction of a clean energy facility within one year.]
- § 10.3.2 governs the application submission requirements.
- § 10.3.3 governs Reports from Town Boards or Agencies on an application for a Site Plan Special Permit. It specifically provides that, “Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.”
- § 10.3.4 governs the Public Hearing and Decision process for a Site Plan Special Permit. It provides that the Selectmen “shall hold a public hearing no later than 65 days after the filing of an application” and that the decision “shall be made within 90 days following the date of the public hearing.” While the “required time limits for a public hearing and/or a decision ... may be extended by written agreement between the Petitioner and the [Board],” failure by the Board “to take final action within said 90 days or extended time, if applicable, shall be deemed to be a grant of the [site plan] special permit subject to the applicable provisions of Chapter 40A, Section 9, of the Massachusetts General Laws.”

Accordingly, nothing in the Acton Zoning Bylaw or the Selectmen’s Rules and Regulations governing Site Plan Special Permits precludes issuance of a permitting decision for the siting and construction of a clean energy facility within one year from the date of application. The Selectmen’s experience in processing Site Plan Special Permit applications for a variety of other types of projects confirms that the process (from application to decision) is consistently completed well within one year from the date of application. Of the last ten (10) Site Plan Special Permits issued by the Board of Selectmen, the average time from application to decision was 138 days and the longest time from application to decision was 258 days.

- **Wetlands Bylaw**

Acton has a local Wetlands Bylaw “to protect the wetlands, vernal pools, adjoining buffer zones, banks, lands subject to flooding and riverfront areas ... of the

Town of Acton by controlling activities deemed to have a significant impact upon wetland interests.” Bylaw, § F1. Under § F2, “No person shall remove, dredge, fill or alter any resource area except as provided in Section 4, without first filing a Determination of Applicability, or a written Notice of Intent under this Bylaw, and obtaining and complying with the terms of said Determination or with an Order of Conditions [from the Conservation Commission].”

Under § F5, the “Commission shall make such a determination within 21 days of the receipt of said request, and it shall notify the applicant by certified mail, of the results of the determination.” Under § F5.1 the Commission “shall hold a public hearing within 21 days of the filing” of a request for Resource Area Delineation, and the Resource Area Delineation “shall be issued within 30 days after the public hearing.” Hearings may be “continued to a future date time certain, agreeable to both the Applicant and the Commission.”

Under § F7.1, before issuing an Order of Conditions, the Commission “shall hold a public hearing within 21 days of the filing of said Notice of Intent.” Under § F7.2, “If the ... Commission has failed to hold a public hearing within the 21 day period as required, or if after holding such a hearing, has failed within 21 days from the date of the close of the public hearing to issue an Order of Conditions, an appeal may be made to the Board of Selectmen, who within ten days, shall instruct the Commission to act within a period not to exceed ten days. If, after this ten day period, no action has been taken by the Conservation Commission, the application shall be considered approved.” The hearing may be continued “to a future date time certain, agreeable to both the Applicant and the Commission ....” (§ F7.1).

Accordingly, nothing in the Acton Wetlands Bylaw precludes issuance of a permitting decision for the siting and construction of a clean energy facility within one year from the date of application.

- **Other**

The Town of Acton has various other bylaws, rules and regulations in place governing various types of permit issuance, licenses, certificates, authorizations, registrations, plan approvals, or other approvals or determinations with respect to the use, development or redevelopment of land, buildings, or structures. To the extent that any of these may be applicable to the siting and construction of a clean energy facility within the Town, there is to the best of my knowledge nothing inherent in any of these bylaws, rules and regulations that would preclude issuance of a permitting decision by the respective issuing authority for the siting and construction of a clean energy facility within one year from the date of application.

Cliff Sullivan  
Green Communities Division  
April \_\_, 2010  
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The Town understands that, once it is designated a Green Community, it will be required to report annually on its permitting of clean energy projects within as-of-right zoning districts and that, if it does not adhere to the 365 day permitting requirement, it will be at serious risk of losing its Green Community designation.

Sincerely,

Stephen D. Anderson  
Acton Town Counsel

