



**GREEN
COMMUNITIES
DESIGNATION
& GRANT
PROGRAM**

Criterion 1
*As-of-Right Siting
via Generation,
R&D, or
Manufacturing*



Overview Guidance

The Green Communities Act requires compliance with five criteria to qualify as a Green Community (*see Section 22 of the Green Communities Act, codified at [M.G.L. ch. 25A § 10\(c\)](#)*). This document assists communities in understanding and meeting the alternatives for complying with criterion one (#1). This document also provides links to other important documents to aid municipalities in meeting this criterion.

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

A municipality must provide zoning in designated locations for the as-of-right siting for one of the following:

1. renewable or alternative energy generating facilities,
OR
 2. renewable or alternative energy research and development (R&D) facilities,
OR
 3. renewable or alternative energy manufacturing facilities
- “As-of-Right Siting” provides for the allowed use without unreasonable regulation. More specifically, as-of-right siting means that development may proceed without the need for a special permit, variance, amendment, or other discretionary approval. As-of-right development may be subject to non-discretionary site plan review to determine conformance with local zoning bylaws as well as state and federal law. As-of-right development projects that are consistent with zoning bylaws and with state and federal law cannot be prohibited.
 - An applicant can meet this requirement by providing as-of-right siting for any one of the three types of facilities listed above.
 - If a community has as-of-right siting in place for R&D and/or manufacturing facilities in general, this can meet this requirement. The community must demonstrate that the zoning bylaw applies to renewable and alternative energy R&D or manufacturing. More detailed guidance is available in our document: “Guidance for As-Of-Right Siting via R&D / Manufacturing,” available on our website.
 - Communities can select the specific locations for the as-of-right siting of these facilities. These locations must be feasible and practical. For example, locations for wind are required to have adequate wind resources (6m/s at 70 meters), biomass Combined Heat and Power (CHP) locations are required to have a sufficient thermal load, and large-scale ground-mounted PV must have adequate space.
 - If providing as-of-right siting for a renewable or alternative energy generation facility, 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.

- As-of-right zoning bylaws 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 bylaw 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 key is that SPR must be truly non-discretionary – i.e., 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 any **one** of the following project requirements:
 - **On-shore Wind** – a turbine of a minimum 600 kilowatt (kW) in size or above
 - **Solar Photovoltaic** – a single ground-mounted system of a minimum of 250 kW or above
- Alternatively, 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. The expectation is that the municipality will allow for all of the technology areas listed below. Given adequate justification, the Division may permit exclusion of a particular technology.

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

Documentation Required to Meet Criterion 1

The following documentation **must** be provided as evidence that the municipality has met this criterion.

- Brief description of the qualifying section of the bylaw or ordinance that identifies designated locations
- Color copy of the zoning map that shows area zoned
- Applicable sections of the zoning bylaw or ordinance
- Important zoning definitions
- 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
- For RE/AE R&D and/or Manufacturing Facilities only, yield calculations, either in the text of the letter provided by municipal legal counsel or attached.
- For RE/AE R&D and/or Manufacturing Facilities only, if meeting the criterion through *existing* bylaws or ordinances, applicants must provide a letter from municipal legal counsel certifying that the existing zoning complies with the RE/AE Facilities criterion. In terms of specific contents, the letter must cite and summarize the pertinent section of the zoning ordinance/bylaw.

[Link to Criterion 1 Guidance web page](#), which contains this document and:

- Guidance for Meeting Criterion 1 via Renewable/Alternative Energy R&D and/or Manufacturing Facilities
- Model As-of-Right Bylaw for Large-Scale Photovoltaic Installations
- Model As-of-Right Bylaw for Use of Wind Facilities
- Green Communities that Adopted As of Right Siting Through Renewable Energy Generation