

## **Update to Article 88: Battery Energy Storage Systems and the Consolidated Local Permit for Small Clean Energy Infrastructure (225 CMR 29.00)**

**Draft Released July 29, 2026**

This Draft Zoning Amendment contains regulations to enable the Consolidated Local Permit process, pursuant to 225 CMR 29.00 as well as use and dimensional requirements and regulations for Battery Energy Storage Systems (BESS) as both primary and accessory uses.

The following draft contains a [cleaned version of Article 88](#) to show the structure of the new article inclusive of these updates and a version [of Article 88 showing changes](#) in response to this addition where **green** text will be added, ~~red with a strikethrough~~ will be deleted, and existing text from the article is written in **black**.

The following zoning draft proposes changes to the following:

### **Substantial Changes:**

- Article 88 - Wind Energy Facilities

### **Supplemental Changes:**

- Article 2 - Definitions
- Article 8 - Regulation of Uses (and Table A Definitions)

### **Additional Changes:**

- All sections of the zoning code that regulate uses in a zoning district or subdistrict will now include a reference to BESS regulations located in Article 88.

## ARTICLE 88

### BATTERY ENERGY STORAGE SYSTEMS, THE CONSOLIDATED LOCAL PERMIT FOR SMALL CLEAN ENERGY INFRASTRUCTURE FACILITIES, AND WIND ENERGY FACILITIES

#### Section 88-1. - Purpose.

The purpose of this Article is to establish the Consolidated Local Permit process pursuant to 225 CMR 29.00, outlining clear, predictable, and efficient procedures and criteria for the appropriate siting, permitting, and review of certain Small Clean Energy Infrastructure Facilities throughout the City of Boston. This Article also establishes zoning regulations and standards for the erection, operation, placement, design, monitoring, modification, and removal of Battery Energy Storage Systems (BESS) and Wind Energy Facilities. These provisions are designed to protect the public safety, minimize impacts on the scenic, natural, and historic resources of the City of Boston, and ensure adequate financial assurance for decommissioning.

#### Section 88-2. - Definitions.

The words and phrases used in this Article, whether or not capitalized, shall have the meanings set forth in Article 2, except as set forth in this Section 88-2 or as otherwise specified in this Article. For the purposes of this Article, the following words and phrases shall have the meanings indicated:

**225 CMR 29.00 Consolidated Local Permit.** Shall also be referred to as a Consolidated Local Permit. A permit issued by the Director of the Boston Redevelopment Authority, in conjunction with the Boston Redevelopment Authority Board that includes all necessary local permits, approvals, and authorizations otherwise needed to construct a Small Clean Energy Infrastructure Facility, that receives approval through the Consolidated Local Permit review process, pursuant to Article 88 of this Code and 225 CMR 29.00, as amended.

**Building-Integrated Wind Energy Facility** means a Wind Energy Facility designed to be permanently mounted on a building or other inhabitable structure, including wind turbines of any rated nameplate capacity designed to be operated in direct contact with a building. Other Wind Energy Facilities primarily used for land-based applications which may be permanently mounted and operated on a building are also included in this definition.

**Large Wind Energy Facility** means a Wind Energy Facility with a rated nameplate capacity of electrical power production equipment of greater than 100kW/0.1MW. Building integrated wind facilities are not included in the definition of Large Wind Energy Facility

**Pole-Mounted Wind Turbine** means a Wind Turbine mounted on a land-based pole that holds electric power lines, such as a utility pole or land-based light pole.

**Proposed Installation** means the erection, installation, or extension of any Wind Energy Facility that is subject to the provisions of this Article.

**Rated Nameplate Capacity** means the maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

**Small Clean Energy Infrastructure Facility.** Clean energy infrastructure, including, but not limited to, generation (Solar Energy System, Wind Energy Facility), storage (Battery Energy Storage System, Accessory Battery Energy Storage System), and transmission and distribution, that is able to be approved through the Consolidated Local Permit process, pursuant to 225 CMR 29.00, as amended.

**Small Wind Energy Facility** means a Wind Energy Facility with one or more wind turbines with a rated nameplate capacity of not more than 100kW/0.1MW and which is used primarily to reduce on-site consumption of utility power. Building integrated wind facilities are not included in the definition of Small Wind Energy Facility.

**Utility-Scale Wind Facility** means a commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**Wind Energy Facility** means all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**Wind Monitoring or Meteorological Tower (Met Towers)** means a temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

**Wind Turbine** means a device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades. The height of a Wind Turbine shall be measured from grade to the tip of the rotor blade at its highest point, or blade-tip height.

### **Section 88-3. - Applicability.**

1. No Small Clean Energy Infrastructure Facility proposed after October 1, 2026, that seeks approval through the Consolidated Local Permit process, pursuant to this Article and 225 CMR 29.00, shall be permitted, erected, and installed except in compliance with the provisions of this Article. The provisions of this Article apply to any Small Clean Energy Infrastructure Facility seeking a Consolidated Local Permit, whether such facility is proposed as a primary use, accessory use, ancillary use, or subuse.
2. No Battery Energy Storage System (BESS), whether or not approved through the Consolidated Local Permit process, pursuant to the standards of this Article and 225 CMR 29.00, shall be erected, installed, or decommissioned except in compliance with the provisions of Section 88-10 through Section 88-13. The provisions of Section 88-10 through Section 88-13 shall be applicable to all BESS whether such a facility is proposed as a Battery Energy Storage System (BESS) or as an Accessory Battery Energy Storage System (BESS).

3. No Wind Energy Facility, whether or not approved through the Consolidated Local Permit process pursuant to the standards of this Article and 225 CMR 29.00, shall be erected, installed, or decommissioned except in compliance with the provisions of Section 88-10 and Section 88-14 through Section 88-17. The provisions of Section 88-10 and Section 88-14 through Section 88-17 shall be applicable to all Wind Energy Facilities whether such a facility is proposed as a Small Wind Energy Facility, a Large Wind Energy Facility, or a Building-Integrated Wind Energy Facility.

#### **Section 88-4. - Establishment of a Local Government Representative.**

Pursuant to the requirements of 225 CMR 29.00, the Director of the Boston Redevelopment Authority is designated as the local government representative for the City of Boston. As the local government representative, the Director of the Boston Redevelopment Authority shall serve as the primary administrative and regulatory authority for the Consolidated Local Permit process. Major responsibilities of the local government representative include, but are not limited to:

1. Certifying that pre-filing activities have been completed, when applicable;
2. Determining application completeness;
3. Assigning minimization and mitigation measures based on site suitability reports when applicable; and
4. Issuing the Consolidated Local Permit decision form which acts to approve, approve with conditions, deny, or record the constructive approval of a Consolidated Local Permit.

#### **Section 88-5. Conditions Where Consolidated Local Permit Approval is Required.**

A proponent has the option to seek approval through a Consolidated Local Permit for any Small Clean Energy Infrastructure Facility; except that any Small Clean Energy Infrastructure Facility that meets the following criteria shall be required to receive approval through the Consolidated Local Permit:

**Battery Energy Storage Systems and Accessory Battery Energy Storage Systems in any zoning district or subdistrict, when such use:**

1. Is a Main Use; or
2. has a site footprint of at least four-hundred (400) square feet, not integrated into a Building; or
3. includes a fence or a fire wall taller than seven (7) feet, not integrated into a Building.

#### **Section 88-6. Pre-Filing for the Consolidated Local Permit Application.**

1. **Applicability of the Pre-Filing Process.** Any Small Clean Energy Infrastructure Facility seeking approval through a Consolidated Local Permit shall be subject to the criteria-specific suitability

**Commented [1]:** Explanation: Projects with a more substantial land use impact will be required to seek approval through the Consolidated Local Permit process. This guarantees all projects that meet any of these conditions will receive coordinated review, coordinated feedback, and will be subject to clear conditions for approval or denial.

score requirements of 225 CMR 29.07 and the pre-filing requirements of 225 CMR 29.08, unless it meets the exemption criteria of 225 CMR 29.07(1). Meeting the exemption criteria of 225 CMR 29.07(1) does not preclude a Small Clean Energy Infrastructure Facility from pre-filing public stakeholder engagement, which may be required at the discretion of the Boston Redevelopment Authority.

2. **Pre-Filing Engagement Completion Checklist.** A Small Clean Energy Infrastructure Facility that is required to go through the pre-filing process, upon completion of the stakeholder engagement described in 225 CMR 29.08, shall submit a self-attested pre-filing engagement completion checklist to the Director of the Boston Redevelopment Authority. Submission and completeness determination of the pre-filing engagement completion checklist must align with the standards and deadlines listed in 225 CMR 29.08(5) and 225 CMR 29.08(6).

#### **Section 88-7. - Submission Procedures for the Consolidated Local Permit Application.**

1. **Submission Materials.** An application for a Consolidated Local Permit submitted to the Boston Redevelopment Authority shall include all submission materials required by 225 CMR 29.09(2) and all documentation and materials required for the local permits and approvals applicable to that Small Clean Energy Infrastructure Facility, specified by Section 88-8.
2. **Application Determination of Completeness.** Within 30 days of receiving a Consolidated Local Permit application, the Director of the Boston Redevelopment Authority shall issue a determination of completeness. The application may only be deemed complete once it is found to have met the standards for completeness specified in 225 CMR 29.10(1) and to have provided documentation required for the applicable permits and approvals specified in Section 88-8. The Director of the Boston Redevelopment Authority may share the application with the boards, departments, and authorities specified in Section 88-8 to assist with this completeness determination. If a decision on the application is not issued within 30 days of receipt, the application shall be deemed complete and eligible for review under 225 CMR 29.10(1).
3. **Incomplete Applications.** If an application is deemed incomplete under the standards of 225 CMR 29.10(1), the Director of the Boston Redevelopment Authority shall notify the proponent and specify deficiencies. The proponent shall have 30 days, and any additional time as determined by the Director of the Boston Redevelopment Authority, to correct any deficiencies before the application is rejected. Upon submission of a revised application, a new determination of completeness shall be issued within 30 days. If the application is still found to be incomplete, the Director of the Boston Redevelopment Authority may allow the proponent an additional 30 days to address any deficiencies in the application or deny the application without prejudice.

#### **Section 88-8. Review Process for the Consolidated Local Permit Application.**

1. Within 12 months of the date a Consolidated Local Permit application is deemed complete by the Director of the Boston Redevelopment Authority, the local authorities, departments, and

commissions listed in Section 88-8 shall complete a concurrent review and issue a decision to grant, grant with conditions, or deny their respective individual application components based on the standards set forth in the Department of Energy Resources's Guideline on Public Health, Safety, Environmental, and Other Standards. If a reviewing body issues a denial on an individual application component, the remaining bodies must complete their evaluations and issue their respective decisions. Decisions on individual application components are not subject to individual and independent appeal or review. The entities reviewing a Consolidated Local Permit application, as applicable to a Proposed Project, include:

- a. Boston Redevelopment Authority
    - i. Site Plan Approval
    - ii. Zoning Approval
  - b. Boston Parks & Recreation Department
    - i. Design Review Approval pursuant to Municipal Ordinance Sections 7-4.10, 7-4.12, and 7-4.13
  - c. Boston Water and Sewer Commission
    - i. General Service Application
    - ii. Sewer Abatement Application
    - iii. Dewatering Discharge Permit Application
    - iv. Hydrant Meter Permits
    - v. Stormwater Permit
      1. Construction Stormwater Permits
      2. Industrial Stormwater Permits
  - d. Boston Conservation Commission
    - i. Permit of Commission Approval pursuant to Municipal Ordinance Section 7-1.4
  - e. Boston Landmarks Commission
    - i. Certificate of Design Approval
    - ii. Demolition Delay pursuant to Article 85 of this Code
  - f. Boston Public Health Commission
    - i. Junkyard, Solid Waste, Recycling, Container Storage Lot Regulations
2. **Requests for Additional Information.** The authorities, departments, and commissions specified in Section 88-8 may request additional information from the proponent, so long as the request for information is appropriate in scope for the review of the individual application component, aligning with the standards set forth in the Department of Energy Resources's Guideline on Public Health, Safety, Environmental, and Other Standards. The proponent shall have to respond to all communications within five (5) days and shall have ten (10) days to submit any revisions or supplemental materials requested.
3. **Significant Changes.** If the proponent proposes a significant change to a Small Clean Energy Infrastructure Facility before a decision is issued on the Consolidated Local Permit application, the Director of the Boston Redevelopment Authority may deem the existing application

**Commented [2]:** Explanation: This list includes all of the local permits and approvals that are captured in the Consolidated Local Permit. Any project seeking approval through the Consolidated Local Permit must submit any required for each of these approvals and permits, as applicable to the project.

incomplete. The proponent may submit necessary supplemental materials reflecting the change and request a new completeness determination. The Boston Redevelopment Authority shall have 12 months from the date of that subsequent completeness determination to issue its decision.

#### **Section 88-9. Consolidated Local Permit Application Decision.**

The Director of the Boston Redevelopment Authority, in conjunction with the Boston Redevelopment Authority Board, shall issue the final decision on a Consolidated Local Permit application using the Consolidated Local Permit final decision form. This final action shall incorporate all individual component decisions from the local bodies specified in Section 88-8; the overall application shall be approved only if all individual application components receive approval or approval with conditions, and shall be denied if any single individual application component is denied. On the day the final decision is made, the Director of the Boston Redevelopment Authority shall transmit the notice of decision to the proponent, the Department of Energy Resources, and the City Clerk. A digital copy of the final decision, bearing the City Clerk's official stamp, shall be provided to both the proponent and Department of Energy Resources within 10 days of issuance.

1. **Approval.** Approval of the Consolidated Local Permit application will allow the proponent to pursue approval of all required ministerial permits not included as part of the Consolidated Local Permit application. If any of the reviewing bodies specified in this Section 88-8 impose conditions for approval on an individual component of the Consolidated Local Permit application, the final approval issued by the Director of the Boston Redevelopment Authority, in conjunction with the Boston Redevelopment Authority Board, shall reflect these conditions.
2. **Denial.** Denial of the Consolidated Local Permit application will include a detailed reasoning for the denial and will be denied without prejudice.
3. **De Novo Adjudication of Consolidated Local Permit Decisions.** Proponents and other individuals or entities substantially and specifically affected by a decision of the local bodies specified in Section 88-8 on a Consolidated Local Permit application may file a written petition to request a De Novo Adjudication of a decision on a Consolidated Local Permit application by the director of the Massachusetts Energy Facilities Siting Board pursuant to 980 CMR 14.00 and 225 CMR 29.10.
4. **Constructive Approval.** Failure to issue a decision on the proponent's Consolidated Local Permit application within the 12-month review period shall result in constructive approval of the Small Clean Energy Infrastructure Facility, which shall be subject to the conditions and requirements of 225 CMR 29.12. The Director of the Boston Redevelopment Authority shall provide a digital copy of the Constructive Approval of the Consolidated Local Permit application, bearing the City Clerk's official stamp, to the proponent and the Department of Energy Resources within 10 days of the constructive approval.

## **Section 88-10. Performance Standards for All Small Clean Energy Infrastructure Facilities.**

### **1. Monitoring and Maintenance.**

- a. **Facility Conditions.** The applicant shall maintain the Small Clean Energy Infrastructure Facility in good condition. Site access shall be maintained to a level acceptable to the Boston Fire Department. The project owner shall be responsible for the cost of maintaining the Small Clean Energy Infrastructure Facility and any access road(s), unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.
- b. **Modifications.** All material modifications to a Small Clean Energy Infrastructure Facility made after issuance of a Consolidated Local Permit or required building permit shall require approval by the Boston Redevelopment Authority as provided in this Article.

### **2. Abandonment or Decommissioning.**

- a. **Removal Requirements.** Any Small Clean Energy Infrastructure Facility which has reached the end of its useful life or has been abandoned shall be removed. When the Small Clean Energy Infrastructure Facility is scheduled to be decommissioned, the applicant shall notify the Inspectional Services Department by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the Small Clean Energy Infrastructure Facility no more than one hundred and fifty (150) days after the date of discontinued operations. At the time of removal, the Small Clean Energy Infrastructure Facility site shall be restored to the state it was in before the facility was constructed or converted to any other legally authorized use. More specifically, decommissioning shall consist of:
  - i. physical removal of Small Clean Energy Infrastructure Facility structures, equipment, security barriers and transmission lines from the site;
  - ii. disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations;
  - iii. stabilization of re-vegetation of the site as necessary to minimize erosion. The Inspectional Services Department may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation; and
  - iv. when approved through the Consolidated Local Permit process, compliance with the requirements for decommissioning and abandonment of 225 CMR 29.00 and the Department of Energy Resources's Guideline on Public Health, Safety, Environmental, and Other Standards.

- b. **Abandonment.** Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than twelve (12) months without the written consent of the Inspectional Services Department. The Inspectional Services Department shall determine what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the Small Clean Energy Infrastructure Facility in accordance with the requirements of this section within one hundred and fifty (150) days of abandonment or the proposed date of decommissioning, the Inspectional Services Department shall have the authority to enter the property and physically remove the facility and the surety shall be deemed forfeited.

### Section 88-11. Decommissioning Fund for Small Clean Energy Infrastructure Facilities.

Prior to construction, the project owner of a Small Clean Energy Infrastructure Facility approved through the Consolidated Local Permit process shall provide to the Boston Redevelopment Authority, in cash, bond, letter of credit, escrow, or another form reasonably acceptable, a surety to cover the cost of removal in the event the City of Boston must remove the BESS or Accessory BESS and remediate the landscape. The amount of the surety shall be one hundred and twenty-five (125) percent of a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and must include labor rates outlined by the Massachusetts Department of Labor Standard's Prevailing Wage Program and shall account for increased costs due to inflation at a rate of two-and-a-half (2.5) percent per year.

**Commented [3]:** Explanation: The cost of removing and recycling battery energy storage can be significant due to the weight of the battery cells and the limited number of recycling facilities available. A decommissioning fee is required by the State and protects both residents and the City from the possibility of batteries being abandoned.

1. The project owner shall provide an updated estimate after ten (10) years of project operation and subsequent updates in five-year intervals after that date, for the remainder of the project's lifetime.
2. If the updated estimate exceeds the balance of the surety, the project owner shall provide additional surety in the amount of one hundred and twenty-five (125) percent of the most recent estimated cost of decommissioning.
3. BESS or Accessory BESS greater than a one-thousand (1,000) square foot footprint or one (1) megawatt-hour (MWh) shall contribute an additional ten (10) percent of the total estimated decommissioning cost to the decommissioning fund for Small Clean Energy Infrastructure Facilities.
4. The surety does not apply to:
  - a. Any Small Clean Energy Infrastructure Facility owned by the City of Boston or the Commonwealth of Massachusetts or operated as a public facility or utility;
  - b. BESS or Accessory BESS with a site footprint of less than four-hundred (400) square feet or a generation capacity less than five-hundred (500) kilowatt-hours (kWh); and

- c. Solar Energy Systems

#### **Section 88-12. Use and Design Regulations for All Battery Energy Storage Systems (BESS).**

1. **Main Use.** In any zoning district or subdistrict, a Battery Energy Storage System as a main use shall be a conditional use and reviewed under the standards of Article 6, except such main use shall be allowed if the Battery Energy Storage System receives a Consolidated Local Permit under the standards of this Article.
2. **Accessory Use.**
  - a. In any zoning district or subdistrict, an Accessory Battery Storage System with a site footprint of 400 square feet or less shall be an allowed use.
  - b. In any zoning district or subdistrict, an Accessory Battery Storage System with a site footprint greater than 400 square feet shall be a conditional use and reviewed under the standards of Article 6, except that such accessory use shall be allowed if the Battery Energy Storage System receives a Consolidated Local Permit under the standards of this Article.
3. **Signage.**
  - a. Signs for a BESS or Accessory BESS shall be exempt from a Sign Permit pursuant to Section 11-3 of this Code, provided they comply with American National Standards Institute (ANSI) Z535 and National Fire Protection Association (NFPA) 855. Signs must clearly display:
    - i. The type of technology associated with the BESS or Accessory BESS, including any hazards associated; and
    - ii. the type of suppression system installed inside of the BESS or Accessory BESS; and
    - iii. and 24-hour emergency contact information, including a phone number.
  - b. As required by the State's Electrical Code (527 CMR 12.00), BESS and Accessory BESS shall also feature:
    - i. Disconnect and other emergency shutoff information clearly displayed on a light reflective surface; and
    - ii. a clearly visible warning sign concerning voltage placed at the base of all pad-mounted transformers and substations.
4. **Advertising.** BESS and Accessory BESS shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the BESS or Accessory BESS.

#### **Section 88-13. Dimensional Regulations for All Battery Energy Storage Systems Not Integrated into Buildings.**

1. **Required Yards.**

- a. **Main Use.** No part of the site footprint of a BESS, where the BESS is the main use of a Lot, shall be located within a required front, side, or rear yard of any zoning district or subdistrict.
  - b. **Prohibition on Accessory BESS in Front Yards.** No part of the site footprint of an Accessory BESS shall be allowed in a Front Yard(s).
  - c. **Accessory BESS in Side and Rear Yards.** An Accessory BESS shall be allowed in a required Side Yard and/or Rear Yard, provided that such Accessory BESS complies with separation distances required by the State's Electrical Code (527 CMR. 12.00), the State's Fire Code (527 CMR 1.00), and National Fire Protection Association (NFPA) 855 or subsequent standards.
2. **Maximum Height.**
  - a. In Gateway Industrial Subdistrict and Core Industrial Subdistrict: BESS and Accessory BESS shall have a maximum height of twenty-four (24) feet.
  - b. In all other zoning districts and subdistricts: BESS and Accessory BESS shall have a maximum height of twelve (12) feet.
3. **Building Lot Coverage.** In any zoning district or subdistrict where there is a maximum Building Lot Coverage, the site footprint of a BESS or an Accessory BESS shall be included in the total Building Lot Coverage.
4. **Building Floor Plate.** In any zoning district or subdistrict where there is maximum Building Floor Plate, the site footprint of a BESS or an Accessory BESS shall be considered the Building Floor Plate.
5. **Usable Open Space.** In any zoning district or subdistrict where a minimum Usable Open Space (%) is required for a Lot, the site footprint of a BESS or Accessory BESS shall not count towards the required minimum Usable Open Space.
6. **Fences or Walls.** Fences or walls included in a BESS or Accessory BESS site footprint shall be seven (7) feet tall or less. If a fence or wall over seven (7) feet in height is proposed, the project is required to seek approval through a Consolidated Local Permit application. Upon issuance of the Consolidated Local Permit, the maximum allowed height shall be up to ten (10) feet for a fence and up to five (5) feet above the BESS for walls.
7. **Other Dimensional Standards.** All other dimensional standards of the underlying zoning district or subdistrict, including but not limited to: Minimum Permeable Area of Lot, Minimum Lot Area, Minimum Lot Width, and Minimum Lot Frontage, apply to BESS and Accessory BESS uses, except that a non-conforming Minimum Lot Width, Minimum Lot Area, or Minimum Lot Frontage of an existing Lot shall not be worsened by the addition of a BESS or Accessory BESS use and/or structure.

**Commented [4]:** Explanation: Many Accessory BESS are expected to be similar in size to other mechanical equipment like heat pumps or transformers which are not subject to yard requirements. However, Fire Code does require separation distances between battery storage and all lot lines.

8. **Off-Street Parking and Loading.** A BESS or Accessory BESS use in any zoning district or subdistrict has no parking or loading requirement. When parking or loading is provided, it is subject to the standards of Article 23 or the underlying zoning district or subdistrict.

#### **Section 88-14. Additional Design Review, Design Requirements and Design Guidelines for All Wind Energy Facilities.**

Design review, where required by this Section 88-14, shall be conducted under the Design Component of Small Project Review; provided, however, that if a Proposed Installation is part of a Proposed Project that is subject to, or elects to comply with, Large Project Review, the design review required by this section may be conducted as part of such review.

1. **Purpose of Design Review.** The purpose of the design review requirement of this Section 88-14 is to ensure that Wind Energy Facilities are sited and designed in a manner that is sensitive to the surrounding neighborhood. In addition, Building-Integrated Wind Energy Facilities that are designed as part of a new building should be integrated into the overall design and architecture of the new building.
2. **Applicability of Design Review.** The design review requirements of this Section 88-14 apply to all Proposed Installations.
3. **Information Required for Design Review.** The information required for design review shall include such plans, drawings, photographs, and specifications as are necessary for the Boston Redevelopment Authority to determine that the Proposed Installation is consistent with the standards set forth in subsection 88-14.5 (Design Guidelines) of this Section 88-14. Such materials shall describe or illustrate, for such Proposed Installation, the dimensions, location and appearance of all:
  - a. proposed Wind Energy Facility components;
  - b. existing Buildings or Structures to which the proposed Wind Energy Facility will be attached, if applicable, and those Buildings and Structures within the visible context of such Proposed Installation; and
  - c. proposed methods for siting and designing the Proposed Installation, including all structures, screening, landscaping, and the like, in a manner that is sensitive to the surrounding area.
4. **Design Requirements.** This subsection establishes the following design requirements for Proposed Installations:
  - a. **Unauthorized Access.** Wind Turbines or other Structures part of a Wind Energy Facility shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or other climbing means readily accessible to the public for a minimum height of eight (8) feet above the ground. Electrical equipment shall be locked where possible.
  - b. **Safety.** For all Wind Energy Facilities, the manufacturer's engineer or another qualified engineer shall certify that the Wind Energy Facility, including but not limited to mounting structures, foundation, design, and safety fencing where appropriate, is within accepted professional standards, given site and climate conditions.

**Commented [5]:** Explanation: In order to keep all regulations for clean energy together, the new Consolidated Local Permit process and BESS regulations have been grouped into the existing Article 88 Wind Energy Facility regulations. Sections after 88-14 are the existing regulations of Article 88.

- c. **Shadow/Flicker.** Wind Energy Facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.
  - d. **Sound.** Wind Energy Facilities shall comply with the Boston Air Pollution Control Commission's Regulations for the Control of Noise in the City of Boston or the Massachusetts Department of Environmental Protection's noise regulations, whichever is more stringent. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards, if required by the Boston Redevelopment Authority.
  - e. **Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the Wind Energy Facility and is otherwise prescribed by applicable laws, regulations, and ordinances.
  - f. **Appearance, Color and Finish.** Federal Aviation Administration safety consideration on color and appearance shall be respected. Where a proponent is seeking a non-standard color in an area not regulated by the Federal Aviation Administration, the Authority has authority to regulate the color of the turbine.
  - g. **Lighting.** Wind Turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the Wind Energy Facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
  - h. **Signage.** Notwithstanding any provision of Article 11 (Signs) to the contrary, the following regulations shall apply to all Wind Energy Facilities:
    - i. those necessary to identify the owner, provide a twenty-four (24) hour emergency contact phone number, and warn of any danger shall be allowed;
    - ii. educational signs providing information about the facility and the benefits of renewable energy shall be allowed; and
    - iii. manufacturer's "nameplate" on the Wind Energy Facility specifying the maximum rated output of electric power production equipment known as Rated Nameplate Capacity shall be allowed.
  - i. **Advertising.** Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility.
5. **Design Guidelines.** This subsection establishes the following design guidelines for Proposed Installations:
- a. All Wind Energy Facilities should be sited and designed to minimize impacts on surrounding public streets and neighborhoods.
  - b. If a Proposed Project includes the installation of Building-Integrated Wind Energy Facilities, then such facilities should be integrated into the overall design and architecture of the Proposed Project.

- c. Where a Wind Energy Facility is visible from surrounding streets and neighborhoods, the color of such facility should be selected to minimize the visibility of the facility.

## **Section 88-15. Additional Use and Dimensional Regulations for Wind Energy Facilities.**

### **1. Small Wind Energy Facility Requirements**

#### **a. Use Regulations.**

- i. Small Wind Energy Facilities are Allowed in the following districts and subdistricts:

|     |                          |
|-----|--------------------------|
| I   | General Industrial       |
| MER | Maritime Economy Reserve |
| W   | Waterfront Industrial    |
| WM  | Waterfront Manufacturing |

- ii. Small Wind Energy Facilities are Conditional in the following districts and subdistricts:

|     |                             |
|-----|-----------------------------|
| M   | Restricted Manufacturing    |
| IDA | Industrial Development Area |
| LI  | Local Industrial            |
| EDA | Economic Development Area   |
| IS  | Institutional               |
| WS  | Waterfront Service          |
| OS  | Open Space                  |
|     | Boston Harbor Islands       |

Pole-Mounted Wind Turbines are Conditional in all districts or subdistricts within public rights of way included as part of the City's major thoroughfare system, as determined by the Boston Redevelopment Authority.

- iii. Small Wind Energy Facilities are Forbidden in all other districts and subdistricts.

- b. **Maximum Height.** Small wind turbines shall have a height no greater than two hundred and fifty (250) feet. The height of Pole-Mounted Wind Turbines shall not exceed forty (40) feet, including the land-based pole and the Wind Turbine.
- c. **Setbacks.** Small Wind Turbines, except Pole-Mounted Wind Turbines, shall be set back a distance equal to the height of the Wind Turbine from all Buildings, Lot Lines, and overhead utility lines. Buildings and Structures included on the same Lot as the Proposed Installation and owned by the Applicant are exempt from this requirement.

### **2. Large Wind Energy Facility Requirements**

#### **a. Use Regulations.**

- i. Large Wind Energy Facilities are Allowed in the following districts and subdistricts:

|     |                          |
|-----|--------------------------|
| I   | General Industrial       |
| MER | Maritime Economy Reserve |
| W   | Waterfront Industrial    |

|    |                          |
|----|--------------------------|
| WM | Waterfront Manufacturing |
|----|--------------------------|

- ii. Large Wind Energy Facilities are Conditional in the following districts and subdistricts:

|     |                             |
|-----|-----------------------------|
| IDA | Industrial Development Area |
| IS  | Institutional               |
| OS  | Open Space                  |
|     | Allston Landing North EDA   |
|     | Allston Landing South EDA   |
|     | Boston Harbor Islands       |

- iii. Large Wind Energy Facilities are Forbidden in all other districts and subdistricts.

- b. **Maximum Height.** Large Wind Energy Facilities shall have a height no greater than five hundred (500) feet.
- c. **Setbacks.** Large Wind Turbines shall be set back a distance equal to 1.2 times the height of the Wind Turbine from all Buildings, Lot Lines, and overhead utility lines. Buildings and Structures included on the same Lot as the Proposed Installation and owned by the Applicant are exempt from this requirement.

### 3. Building-Integrated Wind Energy Facility Requirements.

#### a. Use Regulations.

- i. Building-Integrated Wind Energy Facilities are Allowed in the following districts and subdistricts:

|     |                          |
|-----|--------------------------|
| I   | General Industrial       |
| MER | Maritime Economy Reserve |
| W   | Waterfront Industrial    |
| WM  | Waterfront Manufacturing |

- ii. Building-Integrated Wind Energy Facilities are Conditional in the following districts and subdistricts:

|        |                                   |
|--------|-----------------------------------|
| H      | Apartment                         |
| MFR    | Multifamily                       |
| MFR/LS | Multifamily/ Local Services       |
| B      | General Business                  |
| CC     | Community Commercial              |
| M      | Restricted Manufacturing          |
| IDA    | Industrial Development Area       |
| LI     | Local Industrial                  |
| EDA    | Economic Development Area         |
| IS     | Institutional                     |
| LIA    | Logan International Airport       |
| WS     | Waterfront Service                |
| EPS    | Enterprise Protection Subdistrict |
| OS     | Open Space                        |

|                                                                                                                      |                                      |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------|
|                                                                                                                      | Boston Harbor Islands                |
| CUF                                                                                                                  | Cultural Facilities (Fenway)         |
| CF                                                                                                                   | Community Facilities                 |
| NI                                                                                                                   | Neighborhood Institutional           |
| CPS                                                                                                                  | Conservation Protection Subdistricts |
| Harborpark District, with the exception of those districts and subdistricts listed as Allowed in Section 88-5.3(a)i. |                                      |
| North Station Economic Development Area                                                                              |                                      |
| South Station Economic Development Area                                                                              |                                      |
| Huntington Avenue/Prudential Center District                                                                         |                                      |
| Chinatown District                                                                                                   |                                      |
| Leather District                                                                                                     |                                      |
| Government Center/ Markets District                                                                                  |                                      |
| Bulfinch Triangle District                                                                                           |                                      |
| Cambridge Street North District                                                                                      |                                      |
| North End Neighborhood District                                                                                      |                                      |
| Audubon Circle Neighborhood District                                                                                 |                                      |
| Bay Village Neighborhood District                                                                                    |                                      |
| South End Neighborhood District                                                                                      |                                      |

Notwithstanding the above, Building-Integrated Wind Energy Facilities are Allowed in any district or subdistrict in the City if such facility is mounted on a building over three hundred (300) feet in height and has a rated nameplate capacity of not more than 6kW.

- b. **Maximum Height.** Building-Integrated Wind Energy Facilities, if installed on a structure roof, shall not have a height (as measured from the highest flat portion of the roof), including all mounting and supporting structures, greater than forty-five (45) feet or twenty-five (25%) percent of the height of the Building on which the facility is to be installed, whichever is higher.

#### **Section 88-16. Additional General Requirements for all Wind Energy Facilities.**

The provisions of this Section 88-16 apply to all Wind Energy Facilities, except as provided in this Section 88-16.

1. **Site Control.** At the time of its application for a building permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for the Proposed Installation. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure within the setback area contrary to the provisions of this Article.
2. **Utility Notification.** No Wind Energy Facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
3. **Utility Connections.** Reasonable efforts shall be made to locate utility connections from the Wind Energy Facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4. **Accessory Structures.** All Accessory Structures to Wind Energy Facilities shall be subject to the dimensional and parking requirements of the underlying zoning. All such Accessory Structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, accessory structures should be screened from view by fencing and/or vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.
5. **Proof of Liability Insurance.** The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure or malfunctioning of the facility.
6. **Emergency Services.** The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the Boston Fire Department. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the Wind Energy Facility shall be clearly marked. This Section 88-6.6 applies only to large Wind Energy Facilities and small Wind Energy Facilities.
7. **Compliance with Federal and State Regulations.** All Wind Energy Facilities shall be in compliance with all applicable federal and state regulations, including Federal Aviation Administration regulations.

#### **Section 88-17. Additional Special Requirements for Zoning Relief for Wind Energy Facilities.**

1. The Board of Appeal shall grant a conditional use permit for a Wind Energy Facility, subject to the provisions of Article 6, only if the Wind Energy Facility:
  - a. has been subject to design review approval by the Boston Redevelopment Authority;
  - b. is limited to a twenty-five (25) year time period, unless extended or renewed upon timely and proper appeal. The time period may be extended or the permit renewed by the Board of Appeal upon demonstration of satisfactory operation of the facility in compliance with the provisions of the conditional use in all material respects. Requests for extension or renewal must be submitted at least one hundred and eighty (180) days prior to expiration of the conditional use permit. Submitting an extension or renewal request shall allow for continued operation of the facility until the Board of Appeal acts. At the end of that period (including extensions and renewals), the Wind Energy Facility shall be removed as required by Section 88-10.
2. **Expiration.** A conditional use permit issued pursuant to this Article shall expire if the Wind Energy Facility is not installed and functioning within the twenty-four (24) months from the date the permit is issued.
3. **Temporary Wind Monitoring or Meteorological Towers.** Met towers shall be permitted under the same standards as either a small Wind Energy Facility or a large Wind Energy Facility, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three (3) years after which an extension may be granted. Small

anemometers installed directly on buildings shall not require a building or conditional use permit.

4. **Zoning Relief in Institutional Master Plan Areas, Planned Development Areas, and Urban Renewal Areas.** Notwithstanding any contrary provision of this Article, the following procedures apply to the grant of zoning relief from the provisions of this Article for any Proposed Installation in an Institutional Master Plan Area, Planned Development Area, or Urban Renewal Area:

- a. **Institutional Master Plan Area.** Within any area designated by the Zoning Commission as an Institutional Master Plan Area, zoning relief for a Proposed Installation may be granted through any of the following:
  - i. a certification from the Director of the Boston Redevelopment Authority to the Commissioner of Inspectional Services that the Proposed Installation is consistent with an approved Institutional Master Plan applicable to such Institutional Master Plan Area;
  - ii. the approval of a Proposed Institutional Project in an Institutional Master Plan, according to the procedures applicable to such Institutional Master Plan, where the description of such Proposed Institutional Project includes a description of the location and dimensions of the Proposed Installation; or
  - iii. the amendment of an Institutional Master Plan, according to procedures applicable to such Institutional Master Plan, where such amendment describes the location and dimensions of the Proposed Installation; such amendment may not be approved pursuant to regulations for expedited review of an Institutional Master Plan amendment.
- b. **Planned Development Areas and Urban Renewal Areas.** Within any area designated by the Zoning Commission as a Planned Development Area or Urban Renewal Area special purpose overlay district, zoning relief for a Proposed Installation may be granted by the Board of Appeal, pursuant to the provisions of Article 6A, or by the Zoning Commission

## ARTICLE 88

### BATTERY ENERGY STORAGE SYSTEMS, THE CONSOLIDATED LOCAL PERMIT FOR SMALL CLEAN ENERGY INFRASTRUCTURE FACILITIES, AND WIND ENERGY FACILITIES<sup>1</sup>

#### Section 88-1. ~~Statement of Purpose.~~

The purpose of this Article is to establish the Consolidated Local Permit process pursuant to 225 CMR 29.00, outlining clear, predictable, and efficient procedures and criteria for the appropriate siting, permitting, and review of certain Small Clean Energy Infrastructure Facilities throughout the City of Boston. This Article also establishes zoning regulations and standards for the erection, operation, placement, design, monitoring, modification, and removal of Battery Energy Storage Systems (BESS) and Wind Energy Facilities. These provisions are designed to protect the public safety, minimize impacts on the scenic, natural, and historic resources of the City of Boston, and ensure adequate financial assurance for decommissioning. ~~zoning regulations for the erection and operation of wind energy facilities and to provide standards for the placement, design, monitoring, modification and removal of wind energy facilities that address public safety, minimize impacts on scenic, natural and historic resources of the City of Boston and provide adequate financial assurance for decommissioning.~~

#### Section 88-2. Definitions.

The words and phrases used in this Article, whether or not capitalized, shall have the meanings set forth in Article 2, except as set forth in this Section 88-2 or as otherwise specified in this Article. For the purposes of this Article, the following words and phrases shall have the meanings indicated:

**225 CMR 29.00 Consolidated Local Permit.** Shall also be referred to as a Consolidated Local Permit. A permit issued by the Director of the Boston Redevelopment Authority, in conjunction with the Boston Redevelopment Authority Board that includes all necessary local permits, approvals, and authorizations otherwise needed to construct a Small Clean Energy Infrastructure Facility, that receives approval through the Consolidated Local Permit review process, pursuant to Article 88 of this Code and 225 CMR 29.00, as amended.

**Building-Integrated ~~Building Integrated~~ Wind Energy Facility** means a wind energy facility designed to be permanently mounted on a building or other inhabitable structure, including wind turbines of any rated nameplate capacity designed to be operated in direct contact with a building. Other wind energy facilities primarily used for land-based applications which may be permanently mounted and operated on a building are also included in this definition.

~~**Height** means the height of a wind turbine measured from grade to the tip of the rotor blade at its highest point, or blade tip height.~~

**Large Wind Energy Facility** means a wind energy facility with a rated nameplate capacity of electrical power production equipment of greater than 100kW/0.1MW. Building integrated wind facilities are not included in the definition of Large Wind Energy Facility

**Pole-Mounted Wind Turbine** means a wind turbine mounted on a land-based pole that holds electric power lines, such as a utility pole or land-based light pole.

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<sup>1</sup>(Article inserted on February 26, 2009)

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**Proposed Installation** means the erection, installation, or extension of any wind energy facility that is subject to the provisions of this Article.

**Rated Nameplate Capacity** means the maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

**Small Clean Energy Infrastructure Facility.** Clean energy infrastructure, including, but not limited to, generation (Solar Energy System, Wind Energy Facility), storage (Battery Energy Storage System, Accessory Battery Energy Storage System), and transmission and distribution, that is able to be approved through the Consolidated Local Permit process, pursuant to 225 CMR 29.00, as amended.

**Small Wind Energy Facility** means a wind energy facility with one or more wind turbines, with a rated nameplate capacity of not more than 100kW/0.1MW and which is used primarily to reduce on-site consumption of utility power. Building integrated wind facilities are not included in the definition of Small Wind Energy Facility.

**Utility-Scale Wind Facility** means a commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**Wind Energy Facility** means all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**Wind Monitoring or Meteorological Tower (Met Towers)** means a temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

**Wind Turbine** means a device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades. The height of a Wind Turbine shall be measured from grade to the tip of the rotor blade at its highest point, or blade-tip height.

(Text Amd. No. 461, § 2, 6-22-2023)

### **Section 88-3. Applicability.**

1. No Small Clean Energy Infrastructure Facility proposed after October 1, 2026, that seeks approval through the Consolidated Local Permit process, pursuant to this Article and 225 CMR 29.00, shall be permitted, erected, and installed except in compliance with the provisions of this Article. The provisions of this Article apply to any Small Clean Energy Infrastructure Facility seeking a Consolidated Local Permit, whether such facility is proposed as a primary use, accessory use, ancillary use, or subuse.
2. No Battery Energy Storage System (BESS), whether or not approved through the Consolidated Local Permit process, pursuant to the standards of this Article and 225 CMR 29.00, shall be erected, installed, or decommissioned except in compliance with the provisions of Section 88-11 through Section 88-12 and Section 88-17. The provisions of Section 88-11 through Section 88-12 and Section 88-17 shall be applicable to all BESS whether such a facility is proposed as a Battery Energy Storage System (BESS) or as an Accessory Battery Energy Storage System (BESS).

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3. No Wind Energy Facility, whether or not approved through the Consolidated Local Permit process pursuant to the standards of this Article and 225 CMR 29.00, shall be erected, installed, or decommissioned except in compliance with the provisions of Section 88-13 through Section 88-17. The provisions of Section 88-13 through Section 88-17 shall be applicable to all Wind Energy Facilities whether such a facility is proposed as a Small Wind Energy Facility, a Large Wind Energy Facility, or a Building Integrated Wind Energy Facility.

~~No wind energy facility shall be erected or installed except in compliance with the provisions of this Article. The provisions of this Article apply to all wind energy facilities, whether such facility is used as a main use or as an accessory use or subuse; provided, however, that the provisions of this Article shall not apply to any of the following:~~

~~1. Any wind energy facility for which appeal to the Board of Appeal for any zoning relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article, and provided that such zoning relief has been or is thereafter granted by the Board of Appeal pursuant to such appeal;~~

~~2. Any wind energy facility installed pursuant to a building permit issued prior to the first notice of hearing before the Zoning Commission for adoption of this Article.~~

~~Notwithstanding the above, any replacement of either such wind energy facility described in Sections 88-3.1 and 88-3.2 with another wind energy facility must comply with all the dimensional requirements of this Article for such structure in such location and with the design requirements of Section 88-4.~~

~~Exceptions to the provisions of this Article, pursuant to Article 6A, shall not be available except to the extent expressly provided in this Article or Article 6A. Where conflicts exist between this Article and the remainder of this Code, the provisions of this Article shall govern.~~

#### **Section 88-4. - Establishment of a Local Government Representative.**

Pursuant to the requirements of 225 CMR 29.00, the Director of the Boston Redevelopment Authority is designated as the local government representative for the City of Boston. As the local government representative, the Director of the Boston Redevelopment Authority shall serve as the primary administrative and regulatory authority for the Consolidated Local Permit process. Major responsibilities of the local government representative include, but are not limited to:

1. Certifying that pre-filing activities have been completed, when applicable;
2. Determining application completeness;
3. Assigning minimization and mitigation measures based on site suitability reports when applicable; and
4. Issuing the Consolidated Local Permit decision form which acts to approve, approve with conditions, deny, or record the constructive approval of a Consolidated Local Permit.

#### **Section 88-5. Conditions Where Consolidated Local Permit Approval is Required.**

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A proponent has the option to seek approval through a Consolidated Local Permit for any Small Clean Energy Infrastructure Facility; except that any Small Clean Energy Infrastructure Facility that meets the following criteria shall be required to receive approval through the Consolidated Local Permit:

**Battery Energy Storage Systems and Accessory Battery Energy Storage Systems in any zoning district or subdistrict, when such use:**

1. Is a Main Use; or
2. has a site footprint of at least four-hundred (400) square feet, not integrated into a Building; or
3. includes a fence or a fire wall taller than seven (7) feet, not integrated into a Building.

#### **Section 88-6. Pre-Filing for the Consolidated Local Permit Application.**

1. **Applicability of the Pre-Filing Process.** Any Small Clean Energy Infrastructure Facility seeking approval through a Consolidated Local Permit shall be subject to the criteria-specific suitability score requirements of 225 CMR 29.07 and the pre-filing requirements of 225 CMR 29.08, unless it meets the exemption criteria of 225 CMR 29.07(1). Meeting the exemption criteria of 225 CMR 29.07(1) does not preclude a Small Clean Energy Infrastructure Facility from pre-filing public stakeholder engagement, which may be required at the discretion of the Boston Redevelopment Authority.
2. **Pre-Filing Engagement Completion Checklist.** A Small Clean Energy Infrastructure Facility that is required to go through the pre-filing process, upon completion of the stakeholder engagement described in 225 CMR 29.08, shall submit a self-attested pre-filing engagement completion checklist to the Director of the Boston Redevelopment Authority. Submission and completeness determination of the pre-filing engagement completion checklist must align with the standards and deadlines listed in 225 CMR 29.08(5) and 225 CMR 29.08(6).

#### **Section 88-7. - Submission Procedures for the Consolidated Local Permit Application.**

1. **Submission Materials.** An application for a Consolidated Local Permit submitted to the Boston Redevelopment Authority shall include all submission materials required by 225 CMR 29.09(2) and all documentation and materials required for the local permits and approvals applicable to that Small Clean Energy Infrastructure Facility, specified by Section 88-8.
2. **Application Determination of Completeness.** Within 30 days of receiving a Consolidated Local Permit application, the Director of the Boston Redevelopment Authority shall issue a determination of completeness. The application may only be deemed complete once it is found to have met the standards for completeness specified in 225 CMR 29.10(1) and to have provided documentation required for the applicable permits and approvals specified in Section 88-8. The Director of the Boston Redevelopment Authority may share the application with the boards,

departments, and authorities specified in Section 88-8 to assist with this completeness determination. If a decision on the application is not issued within 30 days of receipt, the application shall be deemed complete and eligible for review under 225 CMR 29.10.

3. **Incomplete Applications.** If an application is deemed incomplete under the standards of 225 CMR 29.10(1), the Director of the Boston Redevelopment Authority shall notify the proponent and specify deficiencies. The proponent shall have 30 days, and any additional time as determined by the Director of the Boston Redevelopment Authority, to correct any deficiencies before the application is rejected. Upon submission of a revised application, a new determination of completeness shall be issued within 30 days. If the application is still found to be incomplete, the Director of the Boston Redevelopment Authority may allow the proponent an additional 30 days to address any deficiencies in the application or deny the application without prejudice.

#### **Section 88-8. Review Process for the Consolidated Local Permit Application.**

1. Within 12 months of the date a Consolidated Local Permit application is deemed complete by the Director of the Boston Redevelopment Authority, the local authorities, departments, and commissions listed in Section 88-8 shall complete a concurrent review and issue a decision to grant, grant with conditions, or deny their respective individual application components based on the standards set forth in the Department of Energy Resources's Guideline on Public Health, Safety, Environmental, and Other Standards. If a reviewing body issues a denial on an individual application component, the remaining bodies must complete their evaluations and issue their respective decisions. Decisions on individual application components are not subject to individual and independent appeal or review. The entities reviewing a Consolidated Local Permit application, as applicable to a Proposed Project, include:
  - a. Boston Redevelopment Authority
    - i. Site Plan Approval
    - ii. Zoning Approval
  - b. Boston Parks & Recreation Department
    - i. Design Review Approval pursuant to Municipal Ordinance Sections 7-4.10, 7-4.12, and 7-4.13
  - c. Boston Water and Sewer Commission
    - i. General Service Application
    - ii. Sewer Abatement Application
    - iii. Dewatering Discharge Permit Application
    - iv. Hydrant Meter Permits
    - v. Stormwater Permit
      1. Construction Stormwater Permits
      2. Industrial Stormwater Permits

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- d. Boston Conservation Commission
    - i. Permit of Commission Approval pursuant to Municipal Ordinance Section 7-1.4
  - e. Boston Landmarks Commission
    - i. Certificate of Design Approval
    - ii. Demolition Delay pursuant to Article 85 of this Code
  - f. Boston Public Health Commission
    - i. Junkyard, Solid Waste, Recycling, Container Storage Lot Regulations
2. **Requests for Additional Information.** The authorities, departments, and commissions specified in Section 88-8 may request additional information from the proponent, so long as the request for information is appropriate in scope for the review of the individual application component, aligning with the standards set forth in the Department of Energy Resources's Guideline on Public Health, Safety, Environmental, and Other Standards. The proponent shall have to respond to all communications within five (5) days and shall have ten (10) days to submit any revisions or supplemental materials requested.
3. **Significant Changes.** If the proponent proposes a significant change to a Small Clean Energy Infrastructure Facility before a decision is issued on the Consolidated Local Permit application, the Director of the Boston Redevelopment Authority may deem the existing application incomplete. The proponent may submit necessary supplemental materials reflecting the change and request a new completeness determination. The Boston Redevelopment Authority shall have 12 months from the date of that subsequent completeness determination to issue its decision.

#### **Section 88-9. Consolidated Local Permit Application Decision.**

The Director of the Boston Redevelopment Authority, in conjunction with the Boston Redevelopment Authority Board, shall issue the final decision on a Consolidated Local Permit application using the Consolidated Local Permit final decision form. This final action shall incorporate all individual component decisions from the local bodies specified in Section 88-8; the overall application shall be approved only if all individual application components receive approval or approval with conditions, and shall be denied if any single individual application component is denied. On the day the final decision is made, the Director of the Boston Redevelopment Authority shall transmit the notice of decision to the proponent, the Department of Energy Resources, and the City Clerk. A digital copy of the final decision, bearing the City Clerk's official stamp, shall be provided to both the proponent and Department of Energy Resources within 10 days of issuance.

1. **Approval.** Approval of the Consolidated Local Permit application will allow the proponent to pursue approval of all required ministerial permits not included as part of the Consolidated Local Permit application. If any of the reviewing bodies specified in this Section 88-8 impose conditions for approval on an individual component of the Consolidated Local Permit

application, the final approval issued by the Director of the Boston Redevelopment Authority, in conjunction with the Boston Redevelopment Authority Board, shall reflect these conditions.

2. **Denial.** Denial of the Consolidated Local Permit application will include a detailed reasoning for the denial and will be denied without prejudice.
3. **De Novo Adjudication of Consolidated Local Permit Decisions.** Proponents and other individuals or entities substantially and specifically affected by a decision of the local bodies specified in Section 88-8 on a Consolidated Local Permit application may file a written petition to request a De Novo Adjudication of a decision on a Consolidated Local Permit application by the director of the Massachusetts Energy Facilities Siting Board pursuant to 980 CMR 14.00 and 225 CMR 29.10.
4. **Constructive Approval.** Failure to issue a decision on the proponent's Consolidated Local Permit application within the 12-month review period shall result in constructive approval of the Small Clean Energy Infrastructure Facility, which shall be subject to the conditions and requirements of 225 CMR 29.12. The Director of the Boston Redevelopment Authority shall provide a digital copy of the Constructive Approval of the Consolidated Local Permit application, bearing the City Clerk's official stamp, to the proponent and the Department of Energy Resources within 10 days of the constructive approval.

## **Section 88-10. Performance Standards for All Small Clean Energy Infrastructure Facilities.**

1. **Monitoring and Maintenance.**
  - a. **Facility Conditions.** The applicant shall maintain the Small Clean Energy Infrastructure Facility in good condition. Site access shall be maintained to a level acceptable to the Boston Fire Department. The project owner shall be responsible for the cost of maintaining the Small Clean Energy Infrastructure Facility and any access road(s), unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.
  - b. **Modifications.** All material modifications to a Small Clean Energy Infrastructure Facility made after issuance of a Consolidated Local Permit or required building permit shall require approval by the Boston Redevelopment Authority as provided in this Article.
2. **Abandonment or Decommissioning.**
  - a. **Removal Requirements.** Any Small Clean Energy Infrastructure Facility which has reached the end of its useful life or has been abandoned shall be removed. When the Small Clean Energy Infrastructure Facility is scheduled to be decommissioned, the applicant shall notify the Inspectional Services Department by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator

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shall physically remove the Small Clean Energy Infrastructure Facility no more than one hundred and fifty (150) days after the date of discontinued operations. At the time of removal, the Small Clean Energy Infrastructure Facility site shall be restored to the state it was in before the facility was constructed or converted to any other legally authorized use. More specifically, decommissioning shall consist of:

- i. physical removal of Small Clean Energy Infrastructure Facility structures, equipment, security barriers and transmission lines from the site;
  - ii. disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations;
  - iii. stabilization of re-vegetation of the site as necessary to minimize erosion. The Inspectional Services Department may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation; and
  - iv. when approved through the Consolidated Local Permit process, compliance with the requirements for decommissioning and abandonment of 225 CMR 29.00 and the Department of Energy Resources's Guideline on Public Health, Safety, Environmental, and Other Standards.
- b. **Abandonment.** Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than twelve (12) months without the written consent of the Inspectional Services Department. The Inspectional Services Department shall determine what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the Small Clean Energy Infrastructure Facility in accordance with the requirements of this section within one hundred and fifty (150) days of abandonment or the proposed date of decommissioning, the Inspectional Services Department shall have the authority to enter the property and physically remove the facility and the surety shall be deemed forfeited.

#### **Section 88-11. Decommissioning Fund for Small Clean Energy Infrastructure Facilities.**

Prior to construction, the project owner of a Small Clean Energy Infrastructure Facility approved through the Consolidated Local Permit process shall provide to the Boston Redevelopment Authority, in cash, bond, letter of credit, escrow, or another form reasonably acceptable, a surety to cover the cost of removal in the event the City of Boston must remove the BESS or Accessory BESS and remediate the landscape. The amount of the surety shall be one hundred and twenty-five (125) percent of a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and must include labor rates outlined by the Massachusetts Department of Labor Standard's Prevailing Wage

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Program and shall account for increased costs due to inflation at a rate of two-and-a-half (2.5) percent per year.

1. The project owner shall provide an updated estimate after ten (10) years of project operation and subsequent updates in five-year intervals after that date, for the remainder of the project's lifetime.
2. If the updated estimate exceeds the balance of the surety, the project owner shall provide additional surety in the amount of one hundred and twenty-five (125) percent of the most recent estimated cost of decommissioning.
3. BESS or Accessory BESS greater than a one-thousand (1,000) square foot footprint or one (1) megawatt-hour (MWh) shall contribute an additional ten (10) percent of the total estimated decommissioning cost to the decommissioning fund for Small Clean Energy Infrastructure Facilities.
4. The surety does not apply to:
  - a. Any Small Clean Energy Infrastructure Facility owned by the City of Boston or the Commonwealth of Massachusetts or operated as a public facility or utility.
  - b. BESS or Accessory BESS with a site footprint of less than four-hundred (400) square feet or a generation capacity less than five-hundred (500) kilowatt-hours (kWh),
  - c. Solar Energy Systems

#### **Section 88-12. Use and Design Regulations for All Battery Energy Storage Systems (BESS).**

1. **Main Use.** In any zoning district or subdistrict, a Battery Energy Storage System as a main use shall be a conditional use and reviewed under the standards of Article 6, except such main use shall be allowed if the Battery Energy Storage System receives a Consolidated Local Permit under the standards of this Article.
2. **Accessory Use.**
  - a. In any zoning district or subdistrict, an Accessory Battery Storage System with a site footprint of 400 square feet or less shall be an allowed use.
  - b. In any zoning district or subdistrict, an Accessory Battery Storage System with a site footprint greater than 400 square feet shall be a conditional use and reviewed under the standards of Article 6, except that such accessory use shall be allowed if the Battery Energy Storage System receives a Consolidated Local Permit under the standards of this Article.
3. **Signage.**

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- a. Signs for a BESS or Accessory BESS shall be exempt from a Sign Permit pursuant to Section 11-3 of this Code, provided they comply with American National Standards Institute (ANSI) Z535 and National Fire Protection Association (NFPA) 855. Signs must clearly display:
    - i. The type of technology associated with the BESS or Accessory BESS including any hazards associated; and
    - ii. the type of suppression system installed inside of the BESS or Accessory BESS; and
    - iii. and 24-hour emergency contact information, including a phone number.
  - b. As required by the State's Electrical Code (527 CMR 12.00), BESS and Accessory BESS shall also feature:
    - i. Disconnect and other emergency shutoff information clearly displayed on a light reflective surface; and
    - ii. a clearly visible warning sign concerning voltage placed at the base of all pad-mounted transformers and substations.
4. **Advertising.** BESS and Accessory BESS shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the BESS or Accessory BESS.

#### **Section 88-13. Dimensional Regulations for All Battery Energy Storage Systems Not Integrated into Buildings.**

- 1. **Required Yards.**
  - a. **Main Use.** No part of the site footprint of a BESS, where the BESS is the main use of a Lot, shall be located within a required front, side, or rear yard of any zoning district or subdistrict.
  - b. **Prohibition on Accessory BESS in Front Yards.** An Accessory BESS no matter the site footprint shall not be allowed in any Front Yard
  - c. **Accessory BESS in Side and Rear Yards.** An Accessory BESS shall be allowed in a required Side Yard and/or Rear Yard, provided that such Accessory BESS complies with separation distances required by the State's Electrical Code (527 CMR. 12.00), the State's Fire Code (527 CMR 1.00), and National Fire Protection Association (NFPA) 855 or subsequent standards.
- 2. **Maximum Height.**
  - a. In Gateway Industrial Subdistrict and Core Industrial Subdistrict: BESS and Accessory BESS shall have a maximum height of twenty-four (24) feet.
  - b. In all other zoning districts and subdistricts: BESS and Accessory BESS shall have a maximum height of twelve (12) feet.

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3. **Building Lot Coverage.** In any zoning district or subdistrict where there is a maximum Building Lot Coverage, the site footprint of a BESS or an Accessory BESS shall be included in the total Building Lot Coverage.
4. **Building Floor Plate.** In any zoning district or subdistrict there is maximum Building Floor Plate, the site footprint of a BESS or an Accessory BESS shall be considered the Building Floor Plate.
5. **Usable Open Space.** In any zoning district or subdistrict where a minimum Usable Open Space (%) is required for a Lot, the site footprint of a BESS or Accessory BESS shall not count towards the required minimum Usable Open Space.
6. **Fences or Walls.** Fences or walls shall be seven (7) feet tall or less. If a fence or wall over seven (7) feet in height is proposed, the project is required to seek approval through a Consolidated Local Permit application. Upon issuance of the Consolidated Local Permit, the maximum allowed height shall be up to ten (10) feet for a fence and up to five (5) feet above the BESS for walls.
7. **Other Dimensional Standards.** All other dimensional standards of the underlying zoning district or subdistrict, including but not limited to: Minimum Permeable Area of Lot, Minimum Lot Area, Minimum Lot Width, and Minimum Lot Frontage, apply to BESS and Accessory BESS uses, except that a non-conforming Minimum Lot Width, Minimum Lot Area, or Minimum Lot Frontage of an existing Lot shall not be worsened by the addition of a BESS or Accessory BESS use and/or structure.
8. **Off-Street Parking and Loading.** A BESS or Accessory BESS use in any zoning district or subdistrict has no parking or loading requirement. When parking or loading is provided, it is subject to the standards of Article 23 or the underlying zoning district or subdistrict.

#### **Section 88-144. Additional Design Review, Design Requirements and Design Guidelines for All Wind Energy Facilities.**

Design review, where required by this Section 88-144, shall be conducted under the Design Component of Small Project Review; provided, however, that if a Proposed Installation is part of a Proposed Project that is subject to, or elects to comply with, Large Project Review, the design review required by this section may be conducted as part of such review.

1. **Purpose of Design Review.** The purpose of the design review requirement of this Section 88-144 is to ensure that Wind Energy Facilities ~~wind energy facilities~~ are sited and designed in a manner that is sensitive to the surrounding neighborhood. In addition, Building-Integrated Wind Energy Facilities ~~building integrated wind energy facilities~~ that are designed as part of a new building should be integrated into the overall design and architecture of the new building.
2. **Applicability of Design Review.** The design review requirements of this Section 88-144 apply to all Proposed Installations.
3. **Information Required for Design Review.** The information required for design review shall include such plans, drawings, photographs and specifications as are necessary for the Boston Redevelopment Authority to determine that the Proposed Installation is consistent with the standards

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set forth in subsection 88-144.5 (Design Guidelines) of this Section 88-144. Such materials shall describe or illustrate, for such Proposed Installation, the dimensions, location and appearance of all:

- (a) proposed Wind Energy Facilities~~wind energy facility~~ components;
- (b) existing Buildings or Structures ~~buildings or structures~~ to which the proposed Wind Energy Facility~~wind energy facility~~ will be attached, if applicable, and those buildings and structures within the visible context of such Proposed Installation; and
- (c) proposed methods for siting and designing the Proposed Installation, including all structures, screening, landscaping, and the like, in a manner that is sensitive to the surrounding area.

4. **Design Requirements.** This subsection establishes the following design requirements for Proposed Installations:

- (a) **Unauthorized Access.** Wind Turbines~~Wind turbines~~ or other Structures~~structures~~ part of a Wind Energy Facility~~wind energy facility~~ shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or other climbing means readily accessible to the public for a minimum height of eight (8) feet above the ground. Electrical equipment shall be locked where possible.
- (b) **Safety.** For all Wind Energy Facilities~~wind energy facilities~~, the manufacturer's engineer or another qualified engineer shall certify that the Wind Energy Facility~~wind energy facility~~, including but not limited to mounting structures, foundation, design, and safety fencing where appropriate, is within accepted professional standards, given site and climate conditions.
- (c) **Shadow/Flicker.** Wind Energy Facilities~~Wind energy facilities~~ shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.
- (d) **Sound.** Wind Energy Facilities~~Wind energy facilities~~ shall comply with the Boston Air Pollution Control Commission's Regulations for the Control of Noise in the City of Boston or the Massachusetts Department of Environmental Protection's noise regulations, whichever is more stringent. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards, if required by the Boston Redevelopment Authority.
- (e) **Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the Wind Energy Facility~~wind energy facility~~ and is otherwise prescribed by applicable laws, regulations, and ordinances.
- (f) **Appearance, Color and Finish.** Federal Aviation Administration safety consideration on color and appearance shall be respected. Where a proponent~~applicant~~ is seeking a non-standard color in an area not regulated by the Federal Aviation Administration, the Authority has authority to regulate the color of the turbine.
- (g) **Lighting.** Wind Turbines~~Wind turbines~~ shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the Wind Energy Facility~~wind energy facility~~, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
- (h) **Signage.** Notwithstanding any provision of Article 11 (Signs) to the contrary, the following regulations shall apply to all Wind Energy Facilities~~wind energy facilities~~:
  - i. those necessary to identify the owner, provide a twenty-four (24) hour emergency contact phone number, and warn of any danger ~~shall be allowed~~;

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ii. educational signs providing information about the facility and the benefits of renewable energy ~~shall be allowed~~; and

iii. manufacturer's "nameplate" on the ~~Wind Energy Facility~~~~wind energy facility~~ specifying the maximum rated output of electric power production equipment known as ~~Rated Nameplate Capacity~~~~rated nameplate capacity~~.

(i) **Advertising.** ~~Wind Turbines~~~~Wind turbines~~ shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

5. **Design Guidelines.** This subsection establishes the following design guidelines for Proposed Installations:

(a) All ~~Wind Energy Facilities~~~~wind energy facilities~~ should be sited and designed to minimize impacts on surrounding public streets and neighborhoods.

(b) If a Proposed Project includes the installation of ~~Building-Integrated Wind Energy Facilities~~~~building integrated wind energy facilities~~, then such facilities should be integrated into the overall design and architecture of the Proposed Project.

(c) Where a ~~Wind Energy Facility~~~~wind energy facility~~ is visible from surrounding streets and neighborhoods, the color of such facility should be selected to minimize the visibility of the facility.

## **Section 88-15.5. Additional Use and Dimensional Regulations for ~~Wind Energy Facilities~~.**

### **1. Small Wind Energy Facility Requirements**

#### **(a) Use Regulations.**

i. ~~Small Wind Energy Facilities~~~~Small wind energy facilities~~ are Allowed in the following districts and subdistricts:

|     |                          |
|-----|--------------------------|
| I   | General Industrial       |
| MER | Maritime Economy Reserve |
| W   | Waterfront Industrial    |
| WM  | Waterfront Manufacturing |

ii. ~~Small Wind Energy Facilities~~~~Small wind energy facilities~~ are Conditional in the following districts and subdistricts:

|     |                             |
|-----|-----------------------------|
| M   | Restricted Manufacturing    |
| IDA | Industrial Development Area |
| LI  | Local Industrial            |
| EDA | Economic Development Area   |
| IS  | Institutional               |
| WS  | Waterfront Service          |
| OS  | Open Space                  |
|     | Boston Harbor Islands       |

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Pole-Mounted Wind Turbines ~~Pole-mounted wind turbines~~ are Conditional in all districts or subdistricts within public rights of way included as part of the City's major thoroughfare system, as determined by the Boston Redevelopment Authority.

iii. Small Wind Energy Facilities ~~Small wind energy facilities~~ are Forbidden in all other districts and subdistricts.

(b) **Maximum Height.** Small Wind Turbines ~~Small wind turbines~~ shall have a height no greater ~~be no higher~~ than two hundred and fifty (250) feet. The height of Pole-Mounted Wind Turbines ~~pole-mounted wind turbines~~ shall not exceed forty (40) feet, including the land-based pole and the Wind Turbine ~~wind turbine~~.

(c) **Setbacks.** Small Wind Turbines ~~Small wind turbines~~, except Pole-Mounted Wind Turbines ~~pole-mounted wind turbines~~, shall be set back a distance equal to the height of the Wind Turbine ~~wind turbine~~ from all Buildings, Lot Lines ~~buildings, lot lines~~, and overhead utility lines. Buildings and Structures ~~structures~~ included on the same Lot as the Proposed Installation and owned by the Applicant are exempt from this requirement.

## 2. Large Wind Energy Facility Requirements

### (a) Use Regulations.

i. Large Wind Energy Facilities ~~Large wind energy facilities~~ are Allowed in the following districts and subdistricts:

|     |                          |
|-----|--------------------------|
| I   | General Industrial       |
| MER | Maritime Economy Reserve |
| W   | Waterfront Industrial    |
| WM  | Waterfront Manufacturing |

ii. Large Wind Energy Facilities ~~Large wind energy facilities~~ are Conditional in the following districts and subdistricts:

|     |                             |
|-----|-----------------------------|
| IDA | Industrial Development Area |
| IS  | Institutional               |
| OS  | Open Space                  |
|     | Allston Landing North EDA   |
|     | Allston Landing South EDA   |
|     | Boston Harbor Islands       |

iii. Large Wind Energy Facilities ~~Large wind energy facilities~~ are Forbidden in all other districts and subdistricts.

(b) **Maximum Height.** Large Wind Energy Facilities ~~Large wind energy facilities~~ shall have a height no greater than ~~be no higher~~ than five hundred (500) feet.

(c) **Setbacks.** Large Wind Turbines ~~Large wind turbines~~ shall be set back a distance equal to 1.2 times the height of the Wind Turbine ~~wind turbine~~ from all Buildings, Lot Lines ~~buildings, lot lines~~, and overhead utility lines. Buildings and Structures ~~structures~~ included on the same Lot as the Proposed Installation and owned by the Applicant are exempt from this requirement.

## 3. Building-Integrated ~~Building Integrated~~ Wind Energy Facility Requirements.

### (a) Use Regulations.

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- i. Building-Integrated Wind Energy Facilities ~~Building integrated wind energy facilities~~ are Allowed in the following districts and subdistricts:

|     |                          |
|-----|--------------------------|
| I   | General Industrial       |
| MER | Maritime Economy Reserve |
| W   | Waterfront Industrial    |
| WM  | Waterfront Manufacturing |

- ii. Building-Integrated Wind Energy Facilities ~~Building integrated wind energy facilities~~ are Conditional in the following districts and subdistricts:

|                                                                                                                      |                                      |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| H                                                                                                                    | Apartment                            |
| MFR                                                                                                                  | Multifamily                          |
| MFR/LS                                                                                                               | Multifamily/ Local Services          |
| B                                                                                                                    | General Business                     |
| CC                                                                                                                   | Community Commercial                 |
| M                                                                                                                    | Restricted Manufacturing             |
| IDA                                                                                                                  | Industrial Development Area          |
| LI                                                                                                                   | Local Industrial                     |
| EDA                                                                                                                  | Economic Development Area            |
| IS                                                                                                                   | Institutional                        |
| LIA                                                                                                                  | Logan International Airport          |
| WS                                                                                                                   | Waterfront Service                   |
| EPS                                                                                                                  | Enterprise Protection Subdistrict    |
| OS                                                                                                                   | Open Space                           |
|                                                                                                                      | Boston Harbor Islands                |
| CUF                                                                                                                  | Cultural Facilities (Fenway)         |
| CF                                                                                                                   | Community Facilities                 |
| NI                                                                                                                   | Neighborhood Institutional           |
| CPS                                                                                                                  | Conservation Protection Subdistricts |
| Harborpark District, with the exception of those districts and subdistricts listed as Allowed in Section 88-5.3(a)i. |                                      |
| North Station Economic Development Area                                                                              |                                      |
| South Station Economic Development Area                                                                              |                                      |
| Huntington Avenue/Prudential Center District                                                                         |                                      |
| Chinatown District                                                                                                   |                                      |
| Leather District                                                                                                     |                                      |
| Government Center/ Markets District                                                                                  |                                      |
| Bulfinch Triangle District                                                                                           |                                      |
| Cambridge Street North District                                                                                      |                                      |
| North End Neighborhood District                                                                                      |                                      |
| Audubon Circle Neighborhood District                                                                                 |                                      |
| Bay Village Neighborhood District                                                                                    |                                      |
| South End Neighborhood District                                                                                      |                                      |

Notwithstanding the above, Building-Integrated Wind Energy Facilities ~~Building integrated wind energy facilities~~ are Allowed in any district or subdistrict in the City if such facility is mounted on

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a building over three hundred (300) feet in height and has a ~~Rated Nameplate Capacity~~rated nameplate capacity of not more than 6kW.

(b) **Maximum Height.** ~~Building-Integrated Wind Energy Facilities~~Building-integrated wind energy facilities, if installed on a ~~roof of a Structure~~structure roof, shall not have a height (as measured from the highest flat portion of the roof), including all mounting and supporting structures, greater than forty-five (45) feet or twenty-five (25%) percent of the height of the ~~Building~~building on which the facility is to be installed, whichever is higher.

(Text Amd. No. 492, 10-28-2025)

### **Section 88-~~166~~166. Additional General Requirements for all Wind Energy Facilities.**

The provisions of this Section 88-~~166~~166 apply to all wind energy facilities, except as provided in this Section 88-~~166~~166.

1. **Site Control.** At the time of its application for a building permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for the Proposed Installation. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure within the setback area contrary to the provisions of this Article.
2. **Utility Notification.** No ~~Wind Energy Facility~~wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
3. **Utility Connections.** Reasonable efforts shall be made to locate utility connections from the ~~Wind Energy Facility~~wind energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
4. **Accessory Structures.** All ~~Accessory Structures to Wind Energy Facilities~~accessory structures to wind energy facilities shall be subject to the dimensional and parking requirements of the underlying zoning. All such ~~Accessory Structures~~accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, ~~Accessory Structures~~accessory structures should be screened from view by fencing and/or vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.
5. **Proof of Liability Insurance.** The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure or malfunctioning of the facility.
6. **Emergency Services.** The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the Boston Fire Department. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the ~~Wind Energy Facility~~wind energy facility shall be clearly marked. This Section 88-6.6 applies only to large wind energy facilities and ~~Small Wind Energy Facilities~~small wind energy facilities.
7. **Compliance with Federal and State Regulations.** All wind energy facilities shall be in compliance with all applicable federal and state regulations, including Federal Aviation Administration regulations.

~~7. **Financial Surety.** The Inspectional Services Department may require the applicant for utility-scale wind facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the facility, of an amount and form determined~~

**Commented [6]:** Explanation: Financial Surety requirements have been grouped together for Small Clean Energy Infrastructure Facilities. A surety will still be applicable to Wind Energy Facilities.

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to be reasonable by the Inspectional Services Department, but in no event to exceed more than one hundred and twenty-five (125%) percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipality or state owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

### **Section 88-7: Performance Standards for All Wind Energy Facilities.**

The provisions of this Section 88-7 apply to all wind energy facilities:

#### **1. Monitoring and Maintenance.**

(a) **Facility Conditions.** The applicant shall maintain the wind energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Boston Fire Department. The project owner shall be responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

(b) **Modifications.** All material modifications to a wind energy facility made after issuance of the permit shall require approval by the Boston Redevelopment Authority as provided in this Article.

#### **2. Abandonment or Decommissioning.**

(a) **Removal Requirements.** Any wind energy facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind energy facility is scheduled to be decommissioned, the applicant shall notify the Inspectional Services Department by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than one hundred and fifty (150) days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

(i) physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site;

(ii) disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations; and

(iii) stabilization of re-vegetation of the site as necessary to minimize erosion. The Inspectional Services Department may allow the owner to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.

(c) **Abandonment.** Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Inspectional Services Department. The Inspectional Services Department shall determine what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind energy facility in accordance with the requirements of this section within one hundred and fifty (150) days of abandonment or the proposed date of decommissioning, the Inspectional Services Department shall have the authority to enter the property and physically remove the facility.

**3. Compliance with Federal and State Regulations.** All wind energy facilities shall be in compliance with all applicable federal and state regulations, including Federal Aviation Administration regulations.

**Commented [7]:** Explanation: Performance Standards for all Small Clean Energy Infrastructure Facilities have been grouped together in Section 88-10.

### Section 88-178. Special Requirements for Zoning Relief.

1. The Board of Appeal shall grant a conditional use permit for a wind energy facility, subject to the provisions of Article 6, only if the wind energy facility:

- (a) has been subject to design review approval by the Boston Redevelopment Authority;
- (b) is limited to a twenty-five (25) year time period ~~at which time~~, unless extended or renewed upon timely and proper appeal. The time period may be extended or the permit renewed by the Board of Appeal upon demonstration of satisfactory operation of the facility in compliance with the provisions of the conditional use in all material respects. Request for extension or renewal must be submitted at least one hundred and eighty (180) days prior to expiration of the conditional use permit. Submitting an extension or renewal request shall allow for continued operation of the facility until the Board of Appeal acts. At the end of that period (including extensions and renewals), the wind energy facility shall be removed as required by Section 88-107-2(a).

2. **Expiration.** A conditional use permit issued pursuant to this Article shall expire if the wind energy facility is not installed and functioning within the twenty-four (24) months from the date the permit is issued.

3. **Temporary Wind Monitoring or Meteorological Towers.** Met towers shall be permitted under the same standards as either a small wind energy facility or a large wind energy facility, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three (3) years after which an extension may be granted. Small anemometers installed directly on buildings shall not require a building or conditional use permit.

4. **Zoning Relief in Institutional Master Plan Areas, Planned Development Areas, and Urban Renewal Areas.** Notwithstanding any contrary provision of this Article, the following procedures apply to the grant of zoning relief from the provisions of this Article for any Proposed Installation in an Institutional Master Plan Area, Planned Development Area, or Urban Renewal Area:

- (a) **Institutional Master Plan Area.** Within any area designated by the Zoning Commission as an Institutional Master Plan Area, zoning relief for a Proposed Installation may be granted through any of the following:
  - (i) a certification from the Director of the Boston Redevelopment Authority to the Commissioner of Inspectional Services that the Proposed Installation is consistent with an approved Institutional Master Plan applicable to such Institutional Master Plan Area;
  - (ii) the approval of a Proposed Institutional Project in an Institutional Master Plan, according to the procedures applicable to such Institutional Master Plan, where the description of such Proposed Institutional Project includes a description of the location and dimensions of the Proposed Installation; or
  - (iii) the amendment of an Institutional Master Plan, according to procedures applicable to such Institutional Master Plan, where such amendment describes the location and dimensions of the Proposed Installation; such amendment may not be approved pursuant to regulations for expedited review of an Institutional Master Plan amendment.
- (b) **Planned Development Areas and Urban Renewal Areas.** Within any area designated by the Zoning Commission as a Planned Development Area or Urban Renewal Area special purpose overlay district, zoning relief for a Proposed Installation may be granted by the Board of Appeal, pursuant to the provisions of Article 6A, or by the Zoning Commission.

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**~~Section 88-9. Regulations.~~**

~~The Boston Redevelopment Authority may promulgate regulations to administer this Article.~~

**~~Section 88-10. Severability.~~**

~~The provisions of this Article are severable, and if any provision of this Article shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Article.~~

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**In Section 2-1(b). Use definitions, insert the following text and new definitions:**

(b) *Use definitions.* The following definitions of uses and use groupings do not apply to any district listed in [Article 8](#), Table A, unless otherwise indicated within [Article 8](#). Definitions for uses and use groupings which do apply to districts listed in Article 8 Table A are found in Article 8 Table A Definitions. For Battery Energy Storage Systems (BESS) and Accessory Battery Energy Storage Systems (BESS) provisions in all zoning districts and subdistricts, see Article 88.

**Battery Energy Storage System (BESS).** A system consisting of at least one battery module for storing electrical energy, including any equipment needed to support the safe and proper function or usage of the battery modules, and at least one physical container providing secondary containment to any of the above.

- (a) The site footprint of a BESS shall be measured as the total area enclosed by the outermost fence or structure required for fire and electric code compliance, inclusive of that outermost fence or structure. Where there is no fenced perimeter, the site footprint shall be measured as the total area encompassing the equipment and all dedicated safety, maintenance, and clearance zones required by fire code.

**Battery Energy Storage System (BESS), Accessory.** A Battery Energy Storage System customarily incidental and subordinate to a lawful main use on the same lot. Its primary purpose is to serve that main use behind the meter, or at a shared utility connection point serving multiple electrical loads. An Accessory BESS may also be part of a microgrid, or operate as part of a network that bundles multiple Small Clean Energy Infrastructure Facilities together to supply power back to the main electrical grid. When an Accessory Battery Energy Storage System is installed entirely within or on an existing Building it shall be exempt from Section 88-13. Dimensional Regulations for All Battery Energy Storage Systems Not Integrated into Buildings, and instead subject to the dimensional regulations of the underlying zoning.

- (a) The site footprint of an Accessory BESS shall be measured as the total area enclosed by the outermost fence or structure required for fire and electric code compliance, inclusive of that outermost fence or structure. Where there is no fenced perimeter, the site footprint shall be measured as the total area encompassing the equipment and all dedicated safety, maintenance, and clearance zones required by fire code.

**Commented [8]:** Explanation: This definition sets the exact boundary used for zoning setbacks and screening. Rather than measuring just the battery box, the site footprint includes all required fire safety buffers. If fire codes require a fence, the footprint is measured to that fence. If no fence is required, it measures the equipment and required safety clearances. This also ensures that surrounding properties and sidewalks are adequately buffered from all operational and safety components of the BESS.

**Commented [9]:** Explanation: In order to keep dimensional regulations consistent across BESS and Accessory BESS, site footprint is also applicable to accessory installations.

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**In Section 8-2. - General Use Provisions, insert the following text:**

**6. Battery Energy Storage Systems.** For Battery Energy Storage Systems (BESS) and Accessory Battery Energy Storage Systems (BESS) provisions in all zoning districts and subdistricts, see Article 88.

**In Article 8, Table A Definitions, insert the following text:**

**Table A Definitions**

**INDUSTRIAL AND STORAGE USES**

**Battery Energy Storage System (BESS).** A system consisting of at least one battery module for storing electrical energy, including any equipment needed to support the safe and proper function or usage of the battery modules, and at least one physical container providing secondary containment to any of the above.

- (a) The site footprint of a BESS shall be measured as the total area enclosed by the outermost fence or structure required for fire and electric code compliance, inclusive of that outermost fence or structure. Where there is no fenced perimeter, the site footprint shall be measured as the total area encompassing the equipment and all dedicated safety, maintenance, and clearance zones required by fire code.
- (b) All BESS are subject to the provisions of Article 88

**ACCESSORY AND ANCILLARY USES**

**Accessory Battery Energy Storage System (BESS).** Subject to the provisions of Section 8-2.5 (Accessory Uses) and Article 88 (Battery Energy Storage Systems, The Consolidated Local Permit for Small Clean Energy Infrastructure, and Wind Energy Facilities, a Battery Energy Storage System customarily incidental and subordinate to a lawful main use on the same lot. Its primary purpose is to serve that main use behind the meter, or at a shared utility connection point serving multiple electrical loads. An Accessory BESS may also be part of a microgrid, or operate as part of a network that bundles multiple Small Clean Energy Infrastructure Facilities together to supply power back to the main electrical grid. When an Accessory Battery Energy Storage System is installed entirely within or on an existing Building it shall be exempt from Section 88-13. Dimensional Regulations for All Battery Energy Storage Systems Not Integrated into Buildings, and instead subject to the dimensional regulations of the underlying zoning.

- (a) The site footprint of an Accessory BESS shall be measured as the total area enclosed by the outermost fence or structure required for fire and electric code compliance, inclusive of that outermost fence or structure. Where there is no fenced perimeter, the site footprint shall be measured as the total area encompassing the equipment and all dedicated safety, maintenance, and clearance zones required by fire code.

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**Additional Supplemental Changes:**

**In all sections that regulate uses for all zoning districts and subdistricts, add the following text:**

**X. Battery Energy Storage Systems (BESS).** For Battery Energy Storage Systems (BESS) and Accessory Battery Energy Storage Systems (BESS) regulations in all zoning districts and subdistricts, see Article 88.

**Commented [10]:** Explanation: Will include all zoning districts and subdistricts across the City.

