

ZONING REVIEW – Millbourne Borough, PA



PZD-1. Review zoning requirements and remove restrictions that intentionally or unintentionally prohibit PV development. Compile findings in a memo, and commit to reducing barriers to PV during next zoning review.

This SolSmart prerequisite requires communities to (a) conduct a review of zoning requirements, (b) identify restrictions that prohibit PV development, and (c) commit to addressing these barriers during the next community zoning review. To assist your community, the national solar experts at SolSmart have conducted an initial review of your community's code to assess possible obstacles (i.e. height restrictions, set-back requirements, etc.) and gaps. Below, please find the outcome of their review. By reading the considerations for the creation of such an ordinance, Solar may still be worth adding to the use tables for each district in the existing sections of the code, even solar's status as by-right is established in the solar ordinance.

Gaps in current code language

Element	Best Practice	Reviewer Comments	Example(s) from other codes
Intent/purpose	<ul style="list-style-type: none"> Many municipalities have inserted language explicitly encouraging solar in the section that lays out the intent and purpose of the solar ordinance. 	<ul style="list-style-type: none"> Section 101 Purposes <ul style="list-style-type: none"> To promote, protect and facilitate any or all of the following: the public health, safety, morals and the general welfare: ... the provision of adequate light, water and air, access to incidental solar energy ... 	See P. 7.8 of DVRPC Renewable Energy Ordinance Framework
Definitions	<ul style="list-style-type: none"> Include in the definition of a solar energy system: solar collectors or solar energy devices used for space heating, space cooling, electric generation, and water heating 	<ul style="list-style-type: none"> No definitions of solar energy systems currently in ordinance. Could be appended to the accessory use definition, as primary use solar PV is highly improbable within the Borough. 	Massachusetts model solar ordinance

	<ul style="list-style-type: none"> • Define and distinguish between large-scale or primary use installations and secondary or accessory use installations 	<ul style="list-style-type: none"> • Some districts have listed under Accessory Uses and Structures, "Any accessory use on the same lot with and customarily incidental to any use permitted in this district and not detrimental to the neighborhood." <ul style="list-style-type: none"> ◦ Solar PV systems should fall into this category. However, it would be most clear, transparent, and permissive to include solar PV systems (both rooftop and ground mounted) as permitted uses for each district. • Some districts, mostly the commercial districts, do not have solar pv listed as an allowed accessory use and do not include the provision above. This can be seen as rather restrictive. 	<p>Use Tables P. 3 Massachusetts model solar ordinance</p>
<p>Use-by-right</p>	<ul style="list-style-type: none"> • Allow small rooftop and ground mount solar installations in all major zoning districts as a use-by-right (allowed without special review) • Many communities identify and allow for solar installations as accessory uses in every district 	<ul style="list-style-type: none"> • Many municipalities encourage subdivisions to be laid out in an orientation that would maximize either active solar or passive solar benefits. • Some possible ways to encourage solar include waiving permit fees, providing density bonuses, reducing minimum parking requirements, and mandating solar ready construction. 	<p>See P. 12-13 of APA Essential Info Packet-30 ("Solar Orientation and Siting" and "Solar-Ready Homes") See P. 2 of APA Solar Briefing Papers ("Creating Incentives")</p>
<p>Encouraging solar-friendly design</p>	<ul style="list-style-type: none"> • Provide rooftop solar an exemption from or allowance above building height restrictions • Identify a maximum allowed ground mount solar height of 10'-15' 	<ul style="list-style-type: none"> • I see no exceptions to height requirements for any accessory uses. • Accessory structures are limited to 15' in height. This falls into the best practice range for ground mount solar PV. • "In residential districts, the combined area of all accessory structures on a lot shall not exceed ten (10) percent of the lot." Would be most permissive to exempt ground mount solar from this restriction. 	<p>P. 7 Massachusetts model solar ordinance</p>
<p>Height</p>	<p>Exempt ground mount solar from lot coverage restrictions that apply to primary buildings</p>	<ul style="list-style-type: none"> • Exempt solar from the maximum allowable number of accessory uses 	<p>P. 9 Model Zoning for the Regulation of Solar Energy Systems</p>
<p>Lot coverage</p>	<p>Exempt solar from the maximum allowable number of accessory uses</p>	<ul style="list-style-type: none"> • Require a setback applicable to fences to ground mount solar, rather than a setback required of buildings, or allow solar an exemption from setback requirements 	<p>P. 7, 8 Model Zoning for the Regulation of Solar Energy Systems</p>
<p>Accessory use maximum</p>	<p>Exempt solar from rooftop equipment</p>	<ul style="list-style-type: none"> • I see no regulations on maximum number of accessory uses. • Current setbacks for accessory structures is 3' from side and rear lot line. This is pretty good for ground mount solar. 	<p>P. 19 DYRPPC Renewable</p>
<p>Setbacks</p>	<p>Exempt solar from rooftop equipment</p>	<p>I see no rooftop screening requirements.</p>	
<p>Aesthetic</p>			

<p>requirements</p>	<p>screening requirements</p> <ul style="list-style-type: none"> Allow PV installations to be seen from public roadways Limit screening or aesthetic requirements to historic districts 	<ul style="list-style-type: none"> I see no regulation on having PV in front yards or visible from public roadways, except special exception required to have any accessory structure in front yards of Existing Court Developments. Probably covered under PA's adoption of 2015 IFC. 	<p>Energy Ordinance Framework Historic districts</p> <p>San Francisco Solar PV System Safety and Fire Ground Procedures LA PV Fire Safety</p>
<p>Rooftop fire safety access and setbacks</p>	<ul style="list-style-type: none"> Limit setback requirements from roof ridges to 3' and 1.5' from valleys and headwalls to allow access Do not restrict rooftop solar based on a percentage of rooftop coverage (These restrictions may be amendments to the International Fire Code or part of the development regulations instead of the zoning code) 	<ul style="list-style-type: none"> No regulations on glare except from lightning. 	<p>FAA guidance PV at airports</p>
<p>Glare</p>	<ul style="list-style-type: none"> Do not regulate glare from photovoltaic installations as PV modules use non-reflective glass and are designed to absorb rather than reflect sunlight. PV modules are generally less reflective than windows. Municipalities can defer to the Federal Aviation Administration to regulate potential glare from solar installations on or near airports 	<ul style="list-style-type: none"> Not explicitly listed as an allowed use or structure. 	<p>P. 38 APA's Integrating Solar Energy into Local Development Regulations</p>
<p>Ground mount solar</p>	<ul style="list-style-type: none"> Allow for small ground mount installations as accessory uses and large, primary use installations through a conditional or special use permit 	<ul style="list-style-type: none"> Are solar installations treated as expansions or maintenance/repair? 	<p>P. 20-21 Massachusetts model solar ordinance</p>
<p>Preexisting non-conforming uses</p>	<ul style="list-style-type: none"> Code should exempt rooftop solar or small ground-mounted solar from any special permits that may be required for alterations to a lot or structure that contains a preexisting non-conforming use. 	<ul style="list-style-type: none"> No historic district 	<p>NREL's Implementing Solar PV Projects on Historic Buildings and in Historic Districts NC Clean Energy Technology Center: Installing Solar Panels on Historic Buildings</p>
<p>Historic district guidance</p>	<ul style="list-style-type: none"> Municipal code should clearly explain the review process for historic districts. Historic commissions and review boards are encouraged to write design guidelines that support the development of solar energy systems and are sensitive to the historic preservation goals of the Commission. 	<ul style="list-style-type: none"> Protecting "access to incidental solar energy" is in the Purpose section of the ordinance. However, there is no mechanism described in the ordinance. 	<p>Wisconsin State Statute §66.0401 Perry, IA Subdivision Regulations</p>
<p>Solar access/solar rights</p>	<ul style="list-style-type: none"> Establish a mechanism to protect solar access and rights (e.g. solar easement for installations) Include active and passive solar 		

Regulate based on the area or impact	provisions (such as orientation) in development and subdivision regulations • Define and regulate solar installations based on the area (e.g. square-feet) or impact of the installation rather than the capacity (kW) as efficiencies and technologies change over time • Do not regulate based on the use of the energy generated (e.g. requiring that accessory use solar electricity generation be consumed exclusively on-site), as this is often irrelevant to the impact	• How are easements currently handled? • In general, this can be done with height and setback regulations. It is also handled by the states in some situations. o The Pennsylvania Utility Commission (PUC) limits system sizes eligible for net metering based on use: <ul style="list-style-type: none"> • 50 kW capacity limit for residential • 1 MW capacity limit for non-residential • 3 MW capacity for microgrid and emergency systems 	See p. 19 of Planning and Zoning for Solar in North Carolina Example: Fort Collins, CO
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have read the review above and commit to discussing these gaps at the next community zoning review, scheduled for Aug. 20, 2019, with the goal of addressing them in the code.

Signature

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Wenay Baulis [Signature] Date 7.24.19