

2023 Western Massachusetts Solar Forum: Solar and Land Use in Massachusetts *State Laws & Regulations + Local Bylaws and Ordinances*

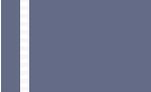
Kenneth Comia, AICP
Deputy Director, Land Use and Environment
Pioneer Valley Planning Commission
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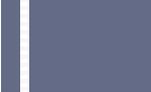
Some questions to think about

- How do state laws and regulations, including the SMART solar incentive program, interact with solar development and land use?
 - How has this changed over time?
- How do state regulations and recent court decisions interact with local bylaws?
- What are municipalities' land use concerns and considerations in developing local bylaws? (including stormwater runoff)



What is our guidance for solar land use regulation?

- MGL Ch. 40A, Section 3
- Model Zoning for the Regulation of Solar Energy Systems – 2014
- Solar Best Practices Guide (PVPC) – 2019



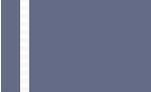
Why amend zoning bylaws?

- Municipalities are/were dealing with significant Large Scale Solar Development challenges because of multiple factors
- The intent of new SMART regulations inadvertently incentivized Large Scale solar development, but left municipalities without enough guidance
- Battery energy storage systems!



Effects of SMART Program in Massachusetts

- SMART program was created by Commonwealth to manage, encourage and incentivize solar developments.
- The positive intent was to spur development of non greenhouse gas emitting energy sources.
- Smart Program version I inadvertently challenged the local infrastructure because of number and size of projects proposed
- State completed updates of the SMART Program.



Attorney General Bylaw Review

Approved (or Reasonable) Regulation of Solar

- Major site plan review to preserve natural features, minimize tree and soil removal, abating noise and odors, parking, lighting, and access
- Additional requirements for agricultural use or open space use, such as minimizing soil removal and field disturbances
- Bonds for decommissioning and removal of solar installation, but amount may not unduly burden solar applicants (typically not to exceed 125% of the cost of removal)
 - Performance security funds require compliance with G.L.c.44, §53G1/2
- Limits on wholesale tree cutting beyond that necessary for the solar array
- Requirements for pollinator-friendly plantings



Attorney General Bylaw Review

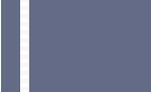
Disapproved (or Unreasonable) Regulation of Solar

- Prohibition on use of pesticides, herbicides, and fertilizers for solar farms (preempted by exclusive jurisdiction of MDAR)
- Restriction of large-scale ground-mounted solar to parcels of 3-10 acres
- Restriction of large-scale ground mounted solar to parcels of land that had already been cleared of trees for at least 5 years
- Anything not reasonably grounded in protection of public health, safety, or welfare



Other Land Use Concerns

- Stormwater runoff
- Battery Energy Storage Systems
- “Dual Use Solar”



Considerations for Zoning

- Any new and existing standards must be reasonably connected to public health, safety, or welfare, as documented by a study or analysis and statement of purpose in bylaw/ordinance
- Ensuring no discrimination in the standards applied to solar regulations (are setbacks and aesthetic requirements the same depending on where solar is sited).
- Engage technical consultants to assist in documenting reasonable standards

CONTACT

Kenneth Comia, AICP

Deputy Director, Land Use and Environment Department

kcomia@pvpc.org



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