

Model Policy: 1
Accompanying Memo
Responsibilities and Conditions for Local Governments
For Large-Scale Solar Siting & Permitting

Purpose

To reach federal and state clean energy deployments goals, more large-scale renewable energy projects will need to be permitted and built in communities across the nation. And yet, most local governments have very little experience permitting these facilities.

Often, communities have attempted to apply requirements that make little sense in the context of solar, or have struggled with key details around solar permitting, such as establishing appropriate distances a solar project should be set back from boundary lines and neighboring properties, and setting the appropriate height of boundary fencing.

In part because many state governments have established aggressive clean energy goals, state policy makers have a key role to play in providing guidance and technical support to local governments that are making these critical decisions.

To encourage uniformity of permitting within a state, and to prevent local governments from establishing hundreds of different sets of requirements which would ultimately slow down clean energy deployment, this model policy establishes baseline standards and processes. Local governments have discretion to adopt their own conditions, provided that whatever they finalize cannot be more restrictive than the state policy.

Therefore, this model policy -- to be adopted by state legislatures -- is intended to enumerate the responsibilities of local governments, recommend timeframes for executing permitting, and provide direction on other permitting matters.

For the purposes of this memo and for the model policy, "Authority Having Jurisdiction" or (AHJ) means the governmental entity that issues the permits. This generalized term is used because states have different units of subgovernments, such as counties, municipalities, towns or townships, that may be the governmental subdivision with authority to permit the activity.

Provisions Summary

This model policy includes:

Definitions

- Includes definitions for commercial solar energy facility, facility owner, nonparticipating property, nonparticipating residence, occupied community building, participating property, participating residence, protected lands, and supporting facilities.

Timeframes for the Consideration of Application

- Establishes that the AHJ will hold a public hearing within 45 days of the filing of an application for a solar facility.

Setbacks

- Establishes setback distances of 150 feet from occupied community buildings and on nonparticipating properties; establishes no setbacks from boundary lines of participating properties, establishes setbacks 50 feet from public road rights-of-way, and 50 feet from boundary lines of nonparticipating properties.
- Establishes a fencing requirement and establishes the height of fencing around the facility's perimeter of at least 6 feet but no more than 25 feet.
- Restricts the height of panels at no more than 20 feet at full tilt.
- Authorizes AHJs to waive the setback and height requirements provided that non-participating properties have given their written consent.

Noise Restrictions

- Provides that sound limitations may be no more restrictive than the state environmental agency's sound limitations.

General AHJ Requirements

- Provides that AHJs may not place restrictions on the use or installation of solar facilities unless an ordinance is adopted.
- Requires that siting standards for supporting facilities may not preclude development of solar facilities.
- Authorizes the approval of siting permits for solar facilities if the application is in compliance with all the conditions imposed by this act.

Prohibits zoning regulations that disallow solar or limit the number of projects or density of these facilities on land zoned for industrial or agricultural use.

Vegetation and Environmental Review

- Establishes that vegetative screens may be required by AHJs, but not earthen berms or other similar structures.
- Authorizes AHJs to require appropriate environmental reviews, including adherence to United States Fish and Wildlife Service environmental review guidelines for wildlife; adherence to state environmental agency guidelines for endangered flora and fauna; avoidance of and setbacks from protected lands; and consultation with state historical preservation agency to consider registered historic sites.
- Establishes the AHJ's may require vegetation or a vegetation management plan to maximize community benefit, provided that state environmental agencies must develop vegetation management guidelines.

Other Provisions

- Provides that application fees for solar facilities must be reasonable and consistent and with permit fees for projects of similar size and scope.

- Requires that decommissioning standards must not be unreasonable or preclude the development of solar facilities.
- Establishes that solar facility approval may not be contingent on any property values analysis or studies.
- Authorizes AHJs to hold a solar facility responsible for costs related to the damage they cause to the road, but not for roadwork unrelated to the facility.
- Limits these requirements to facilities submitted for approval or permits only after these amendments were passed, or in other words does not apply to projects previously submitted.