

Points of concern regarding the
draft Solar Energy Systems Ordinance

April 25, 2018

Submitted by Malcolm Sandberg, 15 Langley Rd.

1. With respect to the New Hampshire statute related solar installations

RSA 672:1 Declaration of Purpose. –

III-a. Proper regulations encourage energy efficient patterns of development, the use of solar energy, including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms of energy, and energy conservation. Therefore, ***the installation of solar, wind, or other renewable energy systems or the building of structures that facilitate the collection of renewable energy shall not be unreasonably limited by use of municipal zoning powers or by the unreasonable interpretation of such powers except where necessary to protect the public health, safety, and welfare;*** [emphasis added]

Durham's ordinance should assert that its Solar Ordinance is "reasonable" by our community standards. The term "unreasonable" as used in the RSA should not be interpreted to mean all limits are unreasonable. We must be prepared to defend our interpretation of the vague term "unreasonable" as used in the statute to ensure viability of the ordinance.

2. Solar energy is an evolving technology and we should not allow ourselves to be vulnerable to unintended consequences related to "Enterprise" development that may be incompatible with our community. "Enterprise" development may be premature at this time. If it is to be allowed, however, it must, at a minimum, be by "Special Exception" only (175-26) so that

"...the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the kind and nature of other uses in the vicinity or by reason of obvious and adverse violation of the character or appearance of the neighborhood."

Proposed Section 5, Paragraph b. "Systems of any size are allowed"

This is an unreasonable open door for potential opportunism. At this stage the Town should hold on to its right to review such applications rather than allow "any size" "Enterprise" installation by "right".

3. The Town must clearly envision what a 500 kW array would look like in terms of area and height. (See proposed Section 4, para. b.).

Most residential applications would require, roughly, a 10 kW array. 500 kW may be excessive. Space and setback restrictions for such an installation must be evaluated on a case by case basis and not allowed by "right". The term "Special Exception" should be applied and used as intended in Section 175-26.

4. **Taxability** is not addressed with respect to "Enterprise" systems. Currently, at Code Section 132-7, B, we find:

"A property owner of a building equipped with a solar energy system shall receive a real property tax exemption equal to the cost of the solar energy system in that building."

A non-taxable "Enterprise" installation is not in the Town's best interest. It is essential this issue be addressed.

5. **Consider requiring a carbon off-set evaluation by applicants. That is to ensure that the CO₂ emissions reduction resulting from an "enterprise" installation is greater than the loss of CO₂ consumption resulting from potential loss of vegetation in the "enterprise" area.**
6. **Stationary arrays are typically much lower in profile than tracking arrays. The ordinance should acknowledge this and consideration should be given to the visual, neighborhood impact of one type of array vs. the other.**

I offer these concerns with hope that the Planning Board will return the draft ordinance to the Committee for further deliberation along with other concerns presented by other citizen this evening.

Respectfully,

Malcolm Sandberg