

SOLAR ENERGY SYSTEMS
DRAFT ORDINANCE - Durham, New Hampshire
Formally initiated by Planning Board on April 10, 2019

Proposed amendments to the Durham Zoning Ordinance to accommodate solar energy systems.

❖ ***Make the following changes in Article II. Definitions.***

- ***Add this new section for “Solar Energy Systems.” Place this section right before “Solid Waste” and retain the order as shown here.***

SOLAR ENERGY SYSTEMS – Specific definitions pertinent to solar energy systems follow.

Solar Energy – Radiant energy emitted by the sun.

Solar Energy System – A structure and the related components used to transform solar energy into electricity (through a solar photovoltaic system) or heat (through a solar thermal system).

Solar Photovoltaic System – A solar collection, inversion, storage and distribution system that converts sunlight into electricity.

Solar Thermal System – A solar collection system that directly heats a heat-transfer medium.

Building-Mounted Solar Energy System – A solar energy system attached to and completely supported by a building that does not extend more than 5 feet beyond the building footprint. The system may include necessary accessory equipment that is ground mounted. A single-family or duplex residential solar energy system or a multiunit residential or nonresidential solar energy system that is installed on a carport is considered a building-mounted solar energy system.

Freestanding Solar Energy System – A ground-mounted solar energy system, including a stationary or tracking system (either single axis or dual axis).

Single-Family or Duplex Residential Solar Energy System – An accessory use that is designed to provide energy for the property.

Multiunit Residential or Nonresidential Solar Energy System – An accessory use that is designed to provide energy for all uses other than single-family or duplex residences – multiunit developments, commercial uses, other nonresidential uses, mixed uses, and shared systems.

Enterprise Solar Energy System – A principal use designed to generate energy for use off site. An enterprise solar energy system may be structured as a for-profit, not-for-profit, utility, municipal, or community solar operation.

Community Solar Energy System – A solar energy system shared by multiple subscribers/investors located elsewhere who receive credit on their electric bills for their share of the electricity that is produced.

Shared Solar Energy System – A solar energy system that serves houses and/or developments situated on two or more separate neighboring lots. The system is considered accessory to the uses on each of the lots that it serves.

➤ ***Add the following new definition for “Carport.”***

CARPORT – A roofed structure for parking motor vehicles that is open on at least two sides. A carport may be a freestanding structure or attached to a building.

❖ *Modify the Table of Uses as follows:*

Add the new uses below in the Table of Uses in Section 175-53 under Subsection VI. Utility & Transportation Uses at the end after Personal Wireless Services Facility:

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
VI. UTILITY & TRANSPORTATION USES													
Single family or duplex residential solar energy system - accessory use (See Article XX)	P	P	P	P	P	P	P	P	P	P	P	P	P
Multiunit residential or nonresidential solar energy system - accessory use (See Article XX)													
• Building-mounted	P	P	P	P	P	P	P	P	P	P	P	P	P
• Freestanding	P	P	P	P	SE	P	P	P	P	P	P	P	P
Enterprise solar energy system - principal use (See Article XX)													
• Building-mounted	CU	X	X	CU	P	P	P	P	P	P	P	P	P
• Freestanding	CU	X	X	CU	X	X	X	X	CU	CU	CU	CU	CU

❖ *Modify the Wetland Conservation Overlay District and Shoreland Preservation Overlay District as follows:*

➤ *Add the following use at the end of Section 175-60. Permitted Uses in the WCOD Subsection A.:*

10. Building-mounted solar energy system.

➤ *Add the following use at the end of Section 175-71. Permitted Uses in the SPOD Subsection A.:*

10. Building-mounted solar energy system.

➤ *Add the following use at the end of Section 175-61. Conditional Uses in the WCOD:*

6. Freestanding solar energy system.

➤ *Add the following use at the end of Section 175-72. Conditional Uses in the SPOD:*

6. Freestanding solar energy system.

❖ *Add the following as a new section in Article XX – Standards for Specific Uses, Section 175-109, and reletter R. Temporary Sawmill (including the table shown at the end).*

R. **Solar Energy Systems.** Solar energy systems shall be allowed in conformance with the following standards and procedures (See Definitions for solar energy systems).

1. **Authority.** This ordinance is adopted pursuant to RSAs 362-F, 374-G, 477:49, 672:1 III-a, and 674:17 (I)(j).

2. **Purpose.** The purpose of this ordinance is to:

- a. encourage the implementation of solar energy systems in accordance with the recommendations stated in the Energy Chapter of the 2015 Durham Master Plan;
- b. promote environmental sustainability while respecting the rural character and scenic landscape of Durham and the use of productive agricultural lands; and
- c. comply with and support the State of New Hampshire’s goal of developing clean, safe, renewable energy resources as provided for in the statutes referred to in 1., above.

3. **Applicability.** Solar installations that are designed to produce less than one kilowatt and are not connected to the electrical grid are not covered by this ordinance, though they may be subject to other specific regulations.

4. **Single-Family or Duplex Residential Solar Energy System – accessory use.** The following provisions apply to single-family or duplex residential solar energy systems.

- a. **Basic requirements.** This accessory use serves single-family or duplex residences situated on the same lot. Both building-mounted and freestanding systems are a permitted accessory use in all zoning districts. Only a building permit is required (except under c. below).
- b. **Placement.** For a freestanding solar energy system, no part of the system may be placed closer to the front property line (and side property line in the case of a corner lot) than the fully enclosed part of the house closest to the street. In addition, for a freestanding solar energy system that exceeds 12 feet in height (any part of the system), no part of the system may be placed closer to the front property line (and side property line in the case of a corner lot) than the fully enclosed part of the house furthest from the street.
- c. **Special Exception.** A proposed system that does not conform with b. above, may be approved by a special exception.

5. **Multiunit or Nonresidential Solar Energy System – accessory use.** The following provisions apply to multiunit or nonresidential solar energy systems.

A building-mounted system is a permitted accessory use in all zoning districts. Only a building permit is required.

The following standards and procedures apply to freestanding multiunit residential or nonresidential systems.

- a. Site plan review by the Planning Board is required.
- b. No part of the system may be placed closer to the front property line (and side property line in the case of a corner lot) than the part of the fully enclosed principal building closest to the street. In addition, for a system that exceeds 12 feet in height (any part of the system), no part of the system may be placed closer to the front property line (and side property line in the case of a corner lot) than the fully enclosed part of the principal building furthest from the street.
- c. In cases where there is no building or no distinct principal building on the lot or where there are multiple lots, the system shall be set back at least 100 feet from the front property line and buffered from the road.

- d. A proposed system that does not conform with b. or c., above, may be approved by a special exception (separate from the special exception if one is needed for the accessory use).
 - e. The Planning Board may require an analysis of potential glare at its discretion.
6. **Enterprise Solar Energy System – principal use.** This designation refers to a system that is designed to provide electricity to uses off site. The following standards and procedures apply to enterprise solar energy systems.
- a. Site plan review is required for all systems, including building-mounted systems.
 - b. Any freestanding system shall be set back at least 100 feet from the front property line. The system shall be buffered from neighboring roads and properties in accordance with the Site Plan Regulations and as reasonably determined by the Planning Board.
 - c. The Planning Board may require an analysis of potential glare at its discretion.
 - d. The Agriculture Commission shall have an opportunity to provide comments on any application for a freestanding enterprise system proposed to be located in the Rural District or Residence Coastal District. The Planning Department shall notify the Agriculture Commission in a timely manner upon receipt of any such site plan (whether preliminary or formal) or conditional use application.
7. **Other provisions.** The following additional provisions apply to all solar energy systems.
- a. **Building permit.** A building permit is required for the installation of any system.
 - b. **Setbacks.** Every part of a freestanding system, including components elevated above the ground, components that track and move, and necessary accessory equipment that is ground mounted, shall conform to required setbacks for the zoning district.
 - c. **Maximum height.** For building-mounted systems, the maximum height for any part of the system is ten feet above the ridge of the roof or ten feet above the highest part of the roof where there is no ridge. The maximum height for freestanding systems is 25 feet.

- d. Impervious surface. The maximum impervious surface ratio in the Table of Dimensions does not apply to solar energy systems.
- e. Submission requirements. Applicants for projects that require a site plan shall submit all pertinent information, including specifications for the equipment, to the Planning Board, as specified in the Site Plan Regulations. Applicants for a special exception shall submit plans showing all pertinent aspects of the project and all elements specified by the Zoning Board of Adjustment.
- f. Decommissioning. Applicants for freestanding Multiunit Residential or Nonresidential Solar Energy System and freestanding Enterprise Solar Energy Systems shall submit a plan as part of site plan review for the removal of the structures and reclamation of the site when the system is no longer in use.
- g. Historic District. Additional procedures and standards for proposed solar energy systems located within the Durham Historic District are contained in Article XVII of this ordinance.
- h. Solar easements. Private property owners may establish solar skyspace easements to preserve access to solar energy at their option pursuant to RSAs 477:49, 50, and 51.
- i. Review process. The process for review of proposed solar energy systems is specified in Table 175-109 R below. (In case of any conflict between this table and the text of the ordinance or the Table of Uses, the text of the ordinance and the Table of Uses shall prevail.)

TABLE 175-109 R - REVIEW PROCESS FOR SOLAR ENERGY SYSTEMS

<i>Type of use</i>	<i>Building-mounted</i>	<i>Freestanding</i>
Single family or duplex residential solar energy system – accessory use	Permitted as accessory use to any single family or duplex residence Building permit only	Permitted as accessory use to any single family or duplex residence Building permit only Special exception if system does not meet placement requirement
Multiunit residential or nonresidential solar energy system – accessory use	Permitted as accessory use in all zones Building permit only	Permitted as accessory use in all zones (except for Central Business District) Special exception in CB zone Special exception if system does not meet placement requirement Site plan review
Enterprise solar energy system – principal use	Permitted use in all Commercial Core and Research-Industry zones Conditional use in R and RC zones Site plan review	Conditional use in R, RC and CC and all Research-Industry zones Site plan review