



MDV-SEIA GUIDE FOR HOMEOWNERS ASSOCIATIONS ON SOLAR INSTALLATIONS IN VIRGINIA

Abstract

The Maryland, DC, and Virginia Solar Energy Industries Association (MDV-SEIA) has recently received numerous inquiries from Virginia HOAs asking us to assist with the writing of solar installation guidelines for their covenants. We have also had requests for assistance from individual home owners whose HOAs were prohibiting their proposed solar arrays. This document is intended to provide MDV-SEIA's position on the matter, assist HOAs with compliance with the law, and provide general guidelines for what could be considered reasonable restrictions for solar array installations.



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Prohibitions Against Solar Installations

During the 2014 Virginia General Assembly session a law was passed (Senate Bill 222) which removed the grandfathering clause that had previously allowed HOAs in Virginia to restrict solar installation provided these covenants were effective prior to July 1, 2008. With the passage of this law:

No community association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for that community association establishes such a prohibition. However a community association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use.

MDV-SEIA understands that HOA declarations often allow an HOA Board of Directors to adopt rules, regulations, and covenants, but these rules, regulations, and covenants should not be considered as part of and included within the recorded declarations.

Establishment of Reasonable Restrictions on Solar Installations

In addition, the 2014 changes to the law do not require HOAs to specifically address the installation of solar energy collection devices in their rules, regulations, and covenants. Rather, the law provides for limitations if an HOA desires to do so. In this case, MDV-SEIA suggests any such references to be as unrestrictive as possible to avoid additional costs to the homeowner and to provide the greatest potential for energy collection. We would advise language such as *"Solar panels are allowed, but the location must be reviewed and approved by the Covenants Committee. Location and placement will be allowed as required for homeowner to install a system size that is up to and within the limitations of the current net metering code."*

The current net metering code allows for residential installations up to 20 kW which would require approximately 1,200 and 1,500 SF of unshaded pitched roof area. A 20 kW solar array would, however, most likely far exceed usable energy generation for most homes in



developments with covenants that would wish to restrict solar arrays. A typical residential installation is between 3 kW and 12 kW, although larger installations should not be disallowed provided they are reasonable and are required for homeowner to meet energy usage.

The Virginia Code does allow for HOAs to include reasonable restrictions within their covenants for solar installation, but only related to size, place, and manner of placement. It is MDV-SEIA's position that this code section does not allow for restrictions based on aesthetics.

What does all this mean? If your HOA wishes to include restrictions beyond those which we propose above, then these must comply with the law. Such restrictions must be only *“reasonable restrictions concerning the size, place, and manner of placement.”*

Based on our members' experience in both Virginia and other jurisdictions, it is our opinion that a restriction is likely to be found to be reasonable if it:

- has some rational basis;
- does not prevent the use of solar energy collection devices (i.e. by requiring installation in a location or at an orientation that does not get sufficient sun);
- does not create excessive additional expenses for the lot or building owner seeking to install the device; and
- is not otherwise unduly burdensome.

Examples of restrictions that MDV-SEIA would agree are reasonable include requiring panels to be as close to flat on the roof as possible (parallel to roof surface and flush mounted), preferring installation on the rear of the house if this does not interfere with usefulness of the solar energy collecting device (in terms of orientation), and requiring that wiring and other components be concealed as much as possible.

On the other hand, examples of restrictions that MDV-SEIA would view as unreasonable include requiring placement in a location that does not get enough sun to make the solar energy collection device useful, requiring the use of technology that does not exist, is not readily available, features a premium price to be incurred for the same rated capacity of traditional systems, restrictions based on size of a system that meets the limitations of current net metering code, restrictions based on the aesthetics of the panels themselves such as color or shape, or other restrictions that make use of solar energy collection devices impossible or not feasible for a typical lot owner.

Below are some examples of reasonable restrictions (YES) and those that MDV-SEIA does not consider reasonable (NO) for pitched rooftop installation, flat rooftop installations, and ground mounted installation.



YES	NO
Size - Limit size to within current net metering code limitations	Restrict system to below a specific size (5 kW)
Place - Prefer rear unless this interferes with collection of energy	System cannot be visible from street
Manner of Placement - Installation parallel to roof line	Panel color must match roof or other construction
Manner of Placement - Wiring and components concealed as much as possible	Wiring and components are not to be visible
Manner of Placement - Design must be in compliance with current building code	Design must blend in with design of the building
Place - Ground mount systems are only allowed in the event that there is sufficient space and property and building are such that a ground mount system is required for collection of energy	Ground mount systems are not allowed
Manner of Placement - For rooftop systems installed on flat roofs a low profile ballasted array is preferred, provided structural limitations of the roof will allow. If the roof structure will not support a low profile ballasted system, a penetrating racking system is acceptable.	Installations on flat roofs must not be visible from street

Thank you for contacting MDV-SEIA and the solar industry in Virginia to address your concerns regarding this issue. If you need further assistance please contact us and we will put you in touch with an MDV-SEIA member installer that will be able to provide answers regarding acceptable HOA rules and other solar related questions. If you are interested in having an installer speak to your HOA regarding the opportunities and barriers for solar in Virginia, I would be happy to assist you.

Sincerely,

Dana Sleeper
Executive Director

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