

Navigating the Solar Energy Development Approval Process in Michigan

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Michigan's Renewable Energy Portfolio Standard law (MCL 460.1028) initially set the bar for 15% of the state's electricity to come from renewable sources by 2021. Though only 11% of the in-state electricity came from renewable energy in 2021, Michigan's renewable energy ambitions continue to soar. Governor Gretchen Whitmer introduced Michigan's Healthy Climate Plan (MHCP) in April 2022, targeting 60% of the state's power to come from renewables by 2030, including a 50% renewable energy standard for utilities. Bolstered by a Democrat-controlled governor and legislature, Michigan has become a hot spot for solar energy projects.

Michigan's Unique Approval Process

Solar energy projects in Michigan face a unique approval process. In Michigan, local planning commissions and zoning boards, rather than state or county authorities, often regulate solar projects. Solar developers must, therefore, navigate the local master plan, zoning ordinances, politics and public opinion. Solar projects usually require a special land use permit and site plan approval from the local municipality – most typically a township. The general process—though it is township-specific—for obtaining such a permit includes:

1. **Pre-application Meeting:** Engage with the township's planning commission to discuss project details and requirements.
2. **Preliminary Site Plan Preparation:** Create a detailed site plan, including project location, layout and relevant assessments.
3. **Permit Application:** Submit the special land use permit application and site plan for review to the township.
4. **Planning Commission Review:** The commission reviews the application, ensuring compliance with local ordinances and laws.
5. **Public Hearing:** Engage in a public hearing to address community concerns.

6. **Approval or Denial:** In some townships, the planning commission makes the final decision. In others, the planning commission makes the recommendation to approve or deny and the township board makes the final decision. If denied, developers may revise the project plan or seek legal appeals.

In some townships, solar projects are only permitted in certain zoned districts. In those townships, a rezoning may be required. That process is similar to the special land use approval process but has additional steps and different legal standards for approval. Significantly, a rezoning is subject to referendum if sufficient signatures are obtained in a short timeframe following the rezoning.

However, some townships can be less-than-welcoming to solar projects, actively seeking to prevent solar development. They may adopt moratoria, putting extended pauses on solar project considerations or amend their ordinances with unreasonable setback, size, noise, landscaping, storm water management and location restrictions, rendering projects economically unfeasible. Developers should, therefore, seek legal counsel to help them navigate Michigan's unique and complex legal landscape.

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National Law Review, Volume XIII, Number 117

Source URL: <https://natlawreview.com/article/navigating-solar-energy-development-approval-process-michigan>