

# Solar Rights and Access

## Solar Policy Survey

October 2016



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The NESEMC Solar Policy Survey compiles information on state-level policies that significantly influence the solar energy market. The survey was produced with the help of the Pace Energy and Climate Center's team of student researchers. The vast majority of the information contained within this document has been obtained from [the Database of State Incentives for Renewables & Efficiency](#) (DSIRE) with additional information and research obtained from various sources.

**Note:** These factsheets are updated periodically to reflect policy changes within each state. If you notice a mistake or out of date information, please contact Nick Martin at [nmartin@nesemc.com](mailto:nmartin@nesemc.com).

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### POLICY BACKGROUND

Solar rights and solar access provisions help ensure that property owners have the right to install solar PV systems and have adequate access to sunlight, respectively.

Solar rights generally take the form of limiting local government ordinances, private restrictions, or both from impeding solar installations. This includes protecting the ability to install solar energy on residential and commercial properties that are subject to private restrictions (e.g. covenants, conditions, restrictions, bylaws, condominium declarations, and local government ordinances and building codes).

Solar access provisions can include solar easements and solar access permits. Solar easements are legal agreements that protect access to sunlight on a property, generally made between two property owners. However, they are typically voluntary agreements. Some states and local governments have used solar access permits to automatically create a solar easement when a property owner receives the necessary permits to install a solar PV system.

**SUMMARY**

	<b>RIGHTS</b>	<b>ACCESS</b>
<b>CT</b>	None.	None.
<b>ME</b>	State law prohibits municipal ordinances, bylaws, and regulations from unreasonably impeding the installation or use of solar energy devices on residential property.	State law explicitly allows for voluntary creation of easements for access to direct sunlight.
<b>MA</b>	State law prohibits local governments from enacting laws that prohibit or unreasonably regulate solar energy systems.	State law allows for solar access permits—special permits that protect direct access to sunlight for solar energy systems.
<b>NH</b>	None.	State law explicitly allows for voluntary creation of easements for access to direct sunlight.
<b>NJ</b>	State law prohibits homeowners’ associations (HOAs) from impeding the installation of solar collectors on dwellings that are not community property of the HOA.	State law explicitly allows for voluntary creation of easements for access to direct sunlight.
<b>NY</b>	None.	General laws place solar access within the zoning authority of local governments. State law explicitly allows for voluntary creation of easements for access to direct sunlight.
<b>PA</b>	None.	None
<b>RI</b>	None.	State law explicitly allows for voluntary creation of easements for access to direct sunlight.
<b>VT</b>	State law prohibits restrictions on property owners’ installation of solar collectors in any deed restriction, covenant, or similar binding agreement.	None

## CONNECTICUT

**Solar Rights:**

Connecticut does not have any state laws or regulations that specifically address solar rights.

**Solar Access:**

Connecticut does not have any state laws or regulations that specifically address solar access.

## MAINE

**Solar Rights:**

State law prohibits municipal ordinances, bylaws, and regulations from unreasonably impeding the installation or use of solar energy devices on residential property. Municipalities may restrict the installation and use of solar devices to protect public health and safety, prevent building damage, preserve historic/aesthetic values, and protect shorelines so long as the restriction is reasonable.<sup>1</sup>

State law prohibits homeowner association (HOA) rules, bylaws, and regulations from impeding the installation or use of solar energy devices.<sup>2</sup>

Legal instruments that define the limits, rights, or privileges of owners and renters of condominiums and residential property in common ownership with third parties (e.g. apartment complexes where residents own individual units) may restrict the use of solar energy devices in the condominium's common areas and on common-ownership properties.<sup>3</sup>

**Solar Access:**

State law explicitly allows for voluntary creation of easements for access to direct sunlight.<sup>4</sup>

## MASSACHUSETTS

**Solar Rights:**

State law prohibits provisions in ownership or real property instruments (i.e. deeds, wills, conditions, etc.) that restrict installation or use of solar devices.<sup>5</sup>

State law prohibits local governments from enacting laws that prohibit or unreasonably regulate solar energy systems.<sup>6</sup>

**Solar Access:**

State law allows for solar access permits—special permits that protect direct access to sunlight for solar energy systems.<sup>7</sup>

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<sup>1</sup> 33 M.R.S. 28-A § 1423

<sup>2</sup> 33 M.R.S. 28-A § 1423

<sup>3</sup> 33 M.R.S. 28-A § 1423

<sup>4</sup> 33 M.R.S. 28 § 1401

<sup>5</sup> Mass. Gen. Laws ch. 184, § 23C

<sup>6</sup> Mass. Gen. Laws ch. 41, § 81Q

<sup>7</sup> Mass. Gen. Laws ch. 40A, § 9B

State law authorizes zoning rules that prohibit unreasonable infringements on solar access.<sup>8</sup>

State law requires zoning ordinances to regulate planting and trimming of vegetation on public property to protect solar access for public and private solar energy systems.<sup>9</sup>

## NEW HAMPSHIRE

### **Solar Rights:**

New Hampshire does not have any state laws or regulations that specifically address solar rights.

### **Solar Access:**

State law explicitly allows for voluntary creation of easements for access to direct sunlight.<sup>10</sup>

## NEW JERSEY

### **Solar Rights:**

State law prohibits homeowners' associations (HOAs) from impeding the installation of solar collectors on dwellings that are not community property of the HOA. It does permit HOAs to regulate certain aspects of solar collectors, including the qualifications of installation personnel, concealment measures, location, color and size.<sup>11</sup>

State law prevents the enforcement of regulations (including local ordinances and applicable HOA regulations), that increase installation and maintenance costs by greater than 10% or prevents the system from operating at maximum efficiency.<sup>12</sup>

### **Solar Access:**

State law explicitly allows for voluntary creation of easements for access to direct sunlight.<sup>13</sup>

## NEW YORK

### **Solar Rights:**

New York does not have any state laws or regulations that specifically address solar rights.

### **Solar Access:**

New York general city, town, and village codes allow local zoning districts to establish regulations protecting the right to solar access for the use of solar energy systems. These general laws place solar access within the zoning authority of local governments.<sup>14</sup>

State law explicitly allows for voluntary creation of easements for access to direct sunlight.<sup>15</sup>

<sup>8</sup> Mass. Gen. Laws ch. 40A, § 9B

<sup>9</sup> Mass. Gen. Laws ch. 40A, § 9B

<sup>10</sup> N.H. Rev. Stat. Ann. § 477:50

<sup>11</sup> [N.J. Rev. Stat. § 45:22A-48.2](#)

<sup>12</sup> [N.J. Rev. Stat. § 45:22A-48.2](#)

<sup>13</sup> [N.J. Stat. § 46:3-24-26](#)

<sup>14</sup> N.Y. Gen. City L. § 20(g); NY Town L. §263; NY Vill. L. § 7-704

<sup>15</sup> N.Y. R.P.L. § 335-B

## PENNSYLVANIA

### **Solar Rights:**

Pennsylvania does not have any state laws or regulations that specifically address solar rights.

### **Solar Access:**

Pennsylvania does not have any state laws or regulations that specifically address solar access.

## RHODE ISLAND

### **Solar Rights:**

Rhode Island does not have any state laws or regulations that specifically address solar rights.

### **Solar Access:**

State law requires that local zoning ordinances address solar access, but it does not stipulate how solar access is treated.<sup>16</sup>

State law explicitly allows for voluntary creation of easements for access to direct sunlight.<sup>17</sup>

## VERMONT

### **Solar Rights:**

State law prohibits restrictions on property owners' installation of solar collectors in any deed restriction, covenant, or similar binding agreement.<sup>18</sup>

State law permits regulations on specific locations for solar installations so long as such regulations do not impair the operation of solar collectors.<sup>19</sup>

### **Solar Access:**

Vermont does not have any state laws or regulations that specifically address solar access.

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<sup>16</sup> R.I. Gen. Laws § 45-24-33

<sup>17</sup> R.I. Gen. Laws § 34-40-2

<sup>18</sup> [27 V.S.A. § 544](#)

<sup>19</sup> [27 V.S.A. § 544](#)

## About NESEMC



The **Northeast Solar Energy Market Coalition** brings together solar energy business associations and other stakeholders in the Northeast United States to harmonize regional solar energy policy and advance the solar energy market. We are funded by the U.S. Department of Energy SunShot Initiative as a cooperative agreement through 2017.

Our vision is a thriving, efficient regional market for solar photovoltaic energy generation in the Northeast.

We will realize our vision by encouraging and engaging regional solar businesses in advancing market policy to lower costs and increase solar market opportunity. We will educate stakeholders and policy makers throughout the region directly, and by empowering our member organizations with robust analysis and timely information.

Visit us at [NESEMC.com](http://NESEMC.com)

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