



SMART GROWTH AND REGIONAL COLLABORATION

VIA ELECTRONIC MAIL ONLY

Joanne Bissetta
Director of Green Communities Division
Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

November 14, 2025

Re: MAPC Comments on Draft Model Bylaws for Solar PV and Battery Energy Storage Systems

Dear Ms. Bissetta,

Thank you for the opportunity to comment on the Department of Energy Resources' (DOER) draft model bylaws for solar photovoltaic (PV) and battery energy storage systems (BESS). The Metropolitan Area Planning Council (MAPC) is the Regional Planning Agency serving the people who live and work in the 101 cities and towns of Greater Boston. We work toward a more equitable, sustainable, collaborative, and climate-resilient future for the region. MAPC's Clean Energy Department works closely with our municipalities to accelerate equitable deployment of solar PV and other clean energy infrastructure to help achieve the Commonwealth's clean energy and climate goals. For over a decade, our planning staff have worked with our communities to adopt as-of-right zoning for clean energy technologies and adapt DOER's original model bylaw for solar PV.

DOER's new and updated model bylaws are timely: most of MAPC's municipalities lack comprehensive zoning bylaws for BESS. In the past year, several communities have approached us for support with developing BESS zoning bylaws due to increasing inquiries from developers. With DOER's Consolidated Local Permitting regulations and guidelines in development, providing guidance that accounted for these future changes to local review processes for PV and BESS has been challenging. Other communities have passed zoning bylaws, several of which have been deemed overly restrictive or to be enacting de facto bans on BESS by the Attorney General's Office Municipal Law Unit (MLU) in violation of G.L. c.40A § 3.

MAPC commends DOER on developing clear and comprehensive model bylaw drafts. The draft model bylaws provide helpful guidance notes in the blue boxes for municipalities and are well-integrated with the draft DOER Consolidated Local Permitting regulations and guidelines. MAPC staff members provided input on the development of these model bylaws through the stakeholder

working groups, and we note that many of the recommendations we made were incorporated into the model bylaws.

Our comments here are thus relatively limited and focus more on the presentation and content of guidance notes and the incorporation of relevant provisions of the Consolidated Local Permitting regulations and guidelines. Municipalities with more limited staff capacity will benefit from additional guidance notes and clarity around the relevant Consolidated Local Permitting regulations/guidelines. Providing more explicit references to DOER's standards for health, safety, and environmental protection could help discourage communities from adding overly restrictive requirements when adopting zoning bylaws.

Guidance on additional standards and restrictions

MAPC recognizes the long history of some municipalities using zoning bylaws as a tool to restrict development. In recent years, this has been extended to using zoning bylaws to impose de facto bans or overly burdensome restrictions on BESS and to a lesser extent, large ground-mounted PV systems. The MLU has invalidated numerous bylaws in the years since *Tracer Lane*, and we expect municipalities who are opposed to BESS and PV will continue to seek opportunities to use zoning to restrict project development in ways that may violate G.L. c.40A § 3 and have adverse impacts on achieving the Commonwealth's net zero emissions goals.

While municipalities are expected to adapt model bylaws to the local context, DOER's draft model bylaws establish a baseline for reasonable restrictions under G.L. c.40A § 3. The inclusion of the guidance note on page 6 of both bylaws regarding G.L. c.40A § 3 and recent case law—as well as the guidance note at the top of each bylaw that notes that municipalities may adopt additional standards per 225 CMR 29.00—provides further valuable context.

We recognize that DOER does not wish to provide legal opinions on what additional restrictions would be reasonable or delve into the extensive case law surrounding this topic and zoning more broadly. However, there may be value in referencing recent MLU decisions on zoning restrictions for BESS and PV that go beyond the model bylaw or Consolidated Local Permitting regulations and guidelines that have been deemed unreasonable. Information on these decisions could be included in an overarching guidance note (e.g. an expansion of the guidance note on page 6) or the relevant sections of the model bylaw. For example:

- In the guidance note in Section 6.7.1 (Setbacks) of the BESS bylaw, DOER could make reference to prior findings from the MLU (Town of Medway, 5/17/23) that use of excessive additional setback requirements for BESS that greatly limits the amount of available land could be deemed an impermissible violation of G.L. c.40A § 3.
- In the guidance note in Section 6.8.7 (Noise) of the BESS bylaw, DOER could make reference to prior findings from the MLU (Town of Rochester, 9/10/25) that overly restrictive and unachievable noise limits for BESS were an impermissible violation of G.L. c.40A § 3.

- In the guidance note in Section 6.9.3 (Land Clearing and Soil Erosion) of the BESS bylaw,¹ DOER could make reference to prior findings from the MLU (Town of Hadley, 11/12/24) that a prohibition on earth removal to facilitate installation of BESS was an impermissible violation of G.L. c.40A § 3.
- In the guidance note in Section 6.5 (Emergency Response Plan) of the BESS bylaw, DOER could make reference to prior findings from the MLU (Town of Lunenburg, 2/14/25; Town of Ludlow, 3/6/25; Town of West Newbury, 11/3/25; Town of Merrimac, 11/7/25) that municipalities may require applicants for BESS projects of a certain size/tier to provide training and safety procedures for emergency responders at their own expense so long as the municipality does not directly charge the developer or operator for training any emergency response agencies.

References to Consolidated Local Permitting Regulations and Guidelines

The model bylaws incorporate provisions of the draft Consolidated Local Permitting regulations and guidelines both explicitly and by reference. In particular, DOER developed an extensive list of standards in the draft *Guideline on Uniform Set of Baseline Health, Safety, Environmental, and Other Standards*. Many of these standards reflect requirements that are frequently incorporated into zoning bylaws as they involve common areas of concern that municipalities frequently consider for additional restrictions and protections. Highlighting specific standards particularly regarding health, safety, and environmental protection, can help to address local concerns around drinking water protection, fire safety, and other often raised issues, as well as limit the addition of further restrictions that go beyond these standards.

To ensure municipal staff are clearly aware of these standards for inclusion in local zoning bylaws, DOER could consider making more explicit references to some of these standards and other components of the regulations through guidance notes in relevant sections. For example:

- In Section 3.1 (BESS bylaw), the guidance note could specifically state the Guideline’s prohibition of BESS in Zone I Wellhead Protection Areas and that municipalities may restrict siting of BESS within Zone II Wellhead Protection Areas.
- In Section 6.5 (BESS bylaw), the guidance note could specifically state the key NFPA 855 and UL 9540A requirements for fire safety and suppression.
- In Section 6.7.1 (PV)/Section 6.8.1 (BESS), the guidance note could specifically note the language from the Guideline that “exterior lighting design shall be limited to lighting required for health, safety, security, emergencies, and operational purposes, and shall be specified to avoid off-site lighting effects.”

¹ The guidance note in Section 6.9.3 references that the MLU has approved mitigation ratios of 1:1 and disapproved one instance of a 4:1 mitigation ratio. In its 11/3/25 decision for the Town of West Newbury, the MLU also approved a 2:1 ratio for mitigating loss of carbon sequestration and forest habitat.

- In Section 5.2 (BESS/PV bylaw), the guidance note could reference that the regulations allow for municipalities to include the cost of hiring third-party experts to support municipal review of applications in permitting fees.
- A guidance note could be added to Section 6.6 (PV)/Section 6.7 (BESS) that references the maximum slope of 15 degrees for buildable areas.

Municipalities will be under significant capacity constraints to adopt the Consolidated Local Permitting process and any associated bylaws. The regulations and guidelines they will need to comply with are extensive and may be confusing. Providing more guidance and clarity where possible will help municipalities with coming into compliance expediently and facilitate the development of zoning bylaws that impose reasonable requirements while preserving local needs.

Overall, we believe these draft model bylaws will be a valuable resource for our communities, particularly those that currently lack zoning bylaws for BESS or will need to modify existing bylaws for alignment with the final Consolidated Local Permitting regulations and guidelines. MAPC looks forward to using the final model bylaws to support our communities with adopting sensible zoning bylaws.

Sincerely,



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