

Effective 5/3/2023

Superseded 5/7/2025

57-8a-701 Solar energy system -- Prohibition or restriction in declaration or association rule.

- (1) As used in this section, "detached dwelling" means a detached dwelling for which the association does not have an ownership interest in the detached dwelling's roof.
- (2)
 - (a) A governing document other than a declaration may not prohibit an owner of a lot with:
 - (i) a detached dwelling from installing a solar energy system; or
 - (ii) a dwelling attached to other dwellings from installing a solar energy system, if:
 - (A) the association does not have an ownership interest in the dwelling's roof or building exterior;
 - (B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and
 - (C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.
 - (b) A governing document other than a declaration or an association rule may not restrict an owner of a lot with:
 - (i) a detached dwelling from installing a solar energy system on the owner's lot; or
 - (ii) a dwelling attached to other dwellings from installing a solar energy system on the roof of the dwelling's building, if:
 - (A) the association does not have an ownership interest in the dwelling's roof or building exterior;
 - (B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and
 - (C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.
- (3) A declaration may, for a lot with a detached dwelling:
 - (a) prohibit a lot owner from installing a solar energy system; or
 - (b) impose a restriction other than a prohibition on a solar energy system's size, location, or manner of placement if the restriction:
 - (i) decreases the solar energy system's production by 5% or less;
 - (ii) increases the solar energy system's cost of installation by 5% or less; and
 - (iii) complies with Subsection (6).
- (4)
 - (a) If a declaration does not expressly prohibit the installation of a solar energy system on a lot with a detached dwelling, an association may not amend the declaration to impose a prohibition on the installation of a solar energy system unless the association approves the prohibition by a vote of greater than 67% of the allocated voting interests of the lot owners in the association.
 - (b) An association may amend an existing provision in a declaration that prohibits the installation of a solar energy system on a lot with a detached dwelling if the association approves the amendment by a vote of greater than 67% of the allocated voting interests of the lot owners in the association.
- (5) An association may, by association rule, for a lot with a detached dwelling, impose a restriction other than a prohibition on a lot owner's installation of a solar energy system if the restriction:
 - (a) complies with Subsection (6);
 - (b) decreases the solar energy system's production by 5% or less; and
 - (c) increases the solar energy system's cost of installation by 5% or less.

- (6) A declaration or an association rule may require an owner of a dwelling that installs a solar energy system on the owner's lot:
- (a) to install a solar energy system that, or install the solar energy system in a manner that:
 - (i) complies with applicable health, safety, and building requirements established by the state or a political subdivision of the state;
 - (ii) if the solar energy system is used to heat water, is certified by:
 - (A) the Solar Rating and Certification Corporation; or
 - (B) a nationally recognized solar certification entity;
 - (iii) if the solar energy system is used to produce electricity, complies with applicable safety and performance standards established by:
 - (A) the National Electric Code;
 - (B) the Institute of Electrical and Electronics Engineers;
 - (C) Underwriters Laboratories;
 - (D) an accredited electrical testing laboratory; or
 - (E) the state or a political subdivision of the state;
 - (iv) if the solar energy system is mounted on a roof:
 - (A) does not extend above the roof line; or
 - (B) has panel frame, support bracket, or visible piping or wiring that has a color or texture that is similar to the roof material; or
 - (v) if the solar energy system is mounted on the ground, is not visible from the street that a lot fronts;
 - (b) to pay any reasonable cost or expense incurred by the association to review an application to install a solar energy system;
 - (c) be responsible, jointly and severally with any subsequent owner of the lot while the violation of the rule or requirement occurs, for any cost or expense incurred by the association to enforce a declaration requirement or association rule; or
 - (d) as a condition of installing a solar energy system, to record a deed restriction against the owner's lot that runs with the land that requires the current owner of the lot to indemnify or reimburse the association or a member of the association for any loss or damage caused by the installation, maintenance, or use of the solar energy system, including costs and reasonable attorney fees incurred by the association or a member of the association.