



PLANNING DEPARTMENT

MIKE ROZYCKI

September 21, 2018

RE: Advisory Determination of Use – Solar PV Systems

To All Interested Parties,

Article 2 Land Use Policies, Section 2-30 of the San Miguel County Land Use Code¹ states, ***“It is the policy of the County to encourage features in any development that will conserve energy resources and minimize the consumption of energy.”*** Policy 2-3001 provides that San Miguel County’s energy conservation policy is to, ***“Encourage the utilization and incorporation of energy conservation measures...and alternative energy sources, including but not limited to passive solar design, wind generation, geothermal, photovoltaic [emphasis added], hydrogen fuel cells, etc. for all construction in the County.”***²

In San Miguel County, we differentiate between small-scale PV systems that are designed to supply power on-site for residential or commercial businesses and Public Utility Structures, which provide power distributed through the grid that is sold by a utility to off-site end users. San Miguel County classifies solar systems by whether they would receive an Administrative Review under Section 3.4 of the Land Use Code or a Two-Step Review under Section 3.6 of the Land Use Code.

SMC PV Sector	Description	Size Range
Small-scale (Use-By-Right)	On-site ground-supported or rooftop systems of any size which generate power used on-site for residential, commercial, agricultural, or industrial uses. May be net-metered. Site Development Permits are processed administratively (LUC Section 3.4). There is no fee.	ANY
Public Utility Structure Utility-Scale	Solar PV array and structures intended to generate power distributed through the grid and sold by a utility to the end user. Special Use Permits require a Two-Step Process (LUC Section 3.6). The Special Use Permit fee is a flat fee of \$500.	ANY

Small-scale solar photovoltaic (PV) systems that are used for on-site electricity generation to power a residence, business, or agricultural operation on private land within unincorporated San Miguel County,

¹ <https://www.sanmiguelcountyco.gov/243/Land-Use-Code>

² <https://www.sanmiguelcountyco.gov/DocumentCenter/View/211/Article-2---Land-Use-Policies-PDF>; Page 2-12

for which the County has jurisdiction and land use authority, are a **use-by-right** in all zones in San Miguel County. They may be off-grid or grid-tied, self-supporting or mounted on a structure. The county does not charge permit fees for site-development or building permits for small-scale solar PV systems and issues permits for these solar PV systems under a simple administrative review process.

The Planning Director and Building Official make decisions without discretion or bias to solar PV systems. As long as the code requirements or standards that apply to structures in a particular zone are met (i.e. setbacks from property lines, wetland buffers, maximum height, etc.), the permit(s) are issued. Solar PV systems are allowed across all zones, on private land within unincorporated San Miguel County, for which the County has jurisdiction and land use authority.

The process for constructing small-scale off-grid or grid-tied solar PV systems that generate power primarily for on-site use on private land within unincorporated San Miguel County, is the same process as for any improvement project requiring an administratively issued site development permit and/or building permit.

If the small-scale solar PV system is constructed as a self-supporting system (i.e. pole mount or frame supported by its own foundation), the permitting decision is made through a simple unbiased administrative process conducted by the Planning Director. If the small-scale solar PV system is attached to a structure (i.e. roof-mounted on a home or outbuilding), then a statement stamped by an engineer is required to verify the structure will carry the additional load. In this case, the Planning Director will issue the Site Development Permit and the Building Official will issue the Building Permit. In either case, the application materials can be submitted electronically via email, and the permit(s) are issued via email within one to three business days. As long as the permit application is complete and all typical standards required by the Land Use Code or Building Code are met, there is no variance required.

Solar PV systems that are Public Utility Structures are permitted in all zones through a two-step review process.³ Public Utility Structures are large solar arrays intended to generate electrical power for a utility to sell to off-site users. These systems are permitted under a “two-step” review process. Typically Planning staff would meet with the proponent/landowner, obtain information about the proposed project design, project site, etc., and then prepare the pre-application summary letter. When a complete application is submitted there is a review by the Planning Commission and action by the Board of County Commissioners.

San Miguel County has a variety of zone districts, all of which allow small-scale solar PV systems as a use-by-right and Public Utility Structures as a Special Use. San Miguel County does not have any discriminatory policies or process for small-scale solar PV systems across zones, nor does it discriminate solar PV systems or treat them differently than other structures allowed as a use-by-right within a zone. Small-scale solar PV systems are permitted within one to three business days, and unlike permits for other structures, the county does not charge any permit fees for small-scale solar PV systems. The County does not have any discriminatory policies or process for solar PV systems that are Public Utility Structures. The county processes the Special Use Permit application the same as any other Special Use

³ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/212/Article-3---Procedures-PDF>; Page 3-17

Permit application being processed under Section 3.6 of the Land Use Code. In all cases there is no bias or difference in how solar PV systems are permitted vs. other structures under the same sections of the land use code.

Sixty percent of the land in San Miguel County is owned and managed by the federal government and four percent of the land in San Miguel County is owned and managed by the State of Colorado. San Miguel County does not control the land use authority or permitting process for solar PV systems on federal or state lands within the county.

The San Miguel County Land Use Code provides information on administrative authorities of the Planning Director and Building Official, and site development standards by zone. Some of this information can be located in the Code sections below, but may also require cross-referencing code sections.

- Article 1, Section 1-10: County Planning Office; 1-1003 Issuance of Development Permits⁴
- Article 1, Section 1-11: Building Official; 1-1101 Issuance of Building Permits⁵
- Article 3, Section 3-101: Development Permits⁶
- Article 3, Section 3-103: Building Permits⁷
- Article 3, Figure 3-1: Administrative Reviews⁸
- Article 3, Section 3-402: Administrative Review Procedure⁹
- Article 3, Section 3-602: Two-Step Review Procedure¹⁰
- Article 5, Section 5-2: Establishment of Zone Districts and Official Zoning Map^{11, 12}
- Article 5, Section 5-3: Zone District Standards¹³
- Article 6, Definitions: Definition of Structure¹⁴
- Resolution 2005-44: Adoption of the Revised San Miguel County Prescriptive Energy Code and Green Building Standards¹⁵

Sincerely,

Mike Rozycki
Planning Director, San Miguel County

⁴ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/210/Article-1---Administration-and-Enforcement-PDF>; Page 1-3

⁵ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/210/Article-1---Administration-and-Enforcement-PDF>; Page 1-4

⁶ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/212/Article-3---Procedures-PDF>; Page 3-1

⁷ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/212/Article-3---Procedures-PDF>; Page 3-1

⁸ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/212/Article-3---Procedures-PDF>; Page 3-2

⁹ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/212/Article-3---Procedures-PDF>; Page 3-12

¹⁰ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/212/Article-3---Procedures-PDF>; Page 3-19

¹¹ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/214/Article-5---Standards-PDF>

¹² <https://www.sanmiguelcountyco.gov/DocumentCenter/View/138/Zoning-Map-PDF>

¹³ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/214/Article-5---Standards-PDF>

¹⁴ <https://www.sanmiguelcountyco.gov/DocumentCenter/View/215/Article-6---Definitions-PDF>; Page 6-32

¹⁵ <http://www.thecountyrecorder.com/Document.aspx?DK=67168>