

Sea Pines

Policy and Procedures Regarding Installation of Photovoltaic Solar Panels (“PSPs”)

A. General Policy

Each Unit Owner is entitled to apply to the Sea Pines Facilities Management Board (FMB)¹ for permission to install and maintain, at the Unit Owner’s own expense, photovoltaic solar panels (“PSPs”) for the sole purpose of generating electric power for that owner’s Unit, by completing all of the following steps:

1. Requesting approval by the FMB, pursuant to the Policy and Procedures described herein, which approval shall not be unreasonably withheld;
2. Complying with any other or additional rules, procedures, or conditions established by FMB which the FMB may change from time to time in its sole discretion so long as such change does not prohibit or unreasonably restrict the installation or use of PSPs; and
3. Obtaining from the Board of Managers of the Sea Pines Condominium in which such owners’ Unit is located, and promptly recording at the Barnstable County Registry of Deeds, a grant of limited common area (“Grant”) specifying the terms and conditions by which the Board of Managers of such Sea Pines Condominium Association has granted the Unit Owner the exclusive right to use the Condominium’s common area (i.e. building roof and walls) for such PSPs; such right shall become effective 30 days after the recording of the Grant, as provided in Mass. General Laws c. 183A, § 5(b)(2)(ii).

B. Non-Binding Preliminary Approval

Unit Owners wishing to propose the installation of PSPs but who are unsure of the likelihood of approval by the FMB given their particular location, conditions, or other considerations may submit, before completing all of the required steps, an incomplete variance request to obtain an initial opinion from the FMB. This initial opinion is not binding, nor does it constitute an approval. All of the required steps must be completed prior to actual approval, the grant and the commencement of installation work.

C. Approval Process Requirements and Procedure

As the first step in seeking approval from the FMB to install PSPs, the Unit Owner must complete and submit to the FMB a Request for Variance form (available on the Sea Pines website). Unit Owners must comply with all of the applicable requirements as specified on the Request for Variance form and must also satisfy the following special requirements concerning PSPs and their installation. Prior to approval, the FMB may require changes to the proposed system design to meet any of these requirements. The FMB reserves the right to hire consultants to assist the FMB in assessing variance applications.

1. System Plans. Plans and specifications for the work must be included with the Request for Variance form. They must include, at minimum, detailed plans depicting the location,

¹ The FMB may delegate its decision-making authority to either the Grounds Committee or another committee established by the FMB. For the purposes of this Policy, the term “FMB” refers to the FMB and any designated committee.

number, arrangement, size, material, and color of all PSPs and appurtenances such as wiring, including how and where all wiring or conduit will be anchored, and how the wiring or conduit will connect to the Unit Owner's electrical meter.

2. Structural Assessment. A structural engineering assessment as to the adequacy of the roof structure to support the proposed PSP must be completed and provided to the FMB. The assessment must be performed by a structural engineer licensed in the Commonwealth of Massachusetts.
3. Solar Contractor Information and Requirements. Contractor information must include the following: name, address, applicable licenses, insurance certificates (including commercial liability and workers' compensation) and competency-establishing references. Contractors shall be responsible and liable for the work of all subcontractors. Contractors must provide a warranty acceptable and running to the FMB and the Unit Owner covering roof leaks and workmanship. Contractors must comply with all applicable rules for work at Sea Pines and with any specific requirements set by the FMB regarding the roof in question.
4. Location and Number of PSPs. PSPs may only be installed on the roof of the building of the requesting Unit Owner. The area of the roof which may be used for a Unit Owner's PSPs should not exceed that portion of the roof located directly over the requesting Owner's Unit as determined by the FMB based on the recorded floor plans for the building. For Units in buildings which have separate Units above/below one another, the area which may be used for a Unit Owner's PSP cannot exceed 50% of the record floor plan for their Unit.
5. PSP Type, Configuration and Ownership. The PSPs and related equipment must be of such a standard type, color, and design as established by the FMB. The PSPs must be configured in such a way as to have the least adverse aesthetic impact on the property and must be consistent with other similar PSP installations at Sea Pines. All PSPs installed pursuant to a grant by the Board of Managers shall be and remain the personal property of the Unit Owner who installed them and, if not previously removed, shall be sold with the owner's Unit.
6. Denials. The FMB may approve, approve with conditions, or deny the Request for Variance. In the event that the FMB denies the Request for Variance, it shall provide clear reason(s) for the denial and corrective steps, if any, which could effect its approval.
7. Permits and Regulatory Compliance. All installation, maintenance, repair, or replacement work shall be performed in compliance with all applicable statutes and regulations of the Commonwealth, including but not limited to the Building Code and Electrical Code, and pursuant to all applicable permits required by the Town of Brewster and Commonwealth of Massachusetts, copies of which shall be provided to the FMB prior to any installation, maintenance, repair, or replacement work.
8. Commencement of Work. Installation of PSPs shall not under any circumstances commence unless and until the FMB has approved the Request for Variance and the 30 days have elapsed following the recording with the Barnstable County Registry of Deeds of the Grant executed by the Board of Managers of the applicable Sea Pines Condominium Association, the grantee Unit Owner, and the Unit Owner's mortgagee(s).
9. Costs. The Unit Owner shall be responsible for all costs associated with the approval process, including all costs incurred by the FMB and the Sea Pines Condominium

Associations (including without limitation reasonable attorney's fees, title examination fees, and all consulting fees).

10. **Indemnification.** Each Unit Owner granted the right to install and maintain PSPs must agree to indemnify and hold harmless the FMB, the four Sea Pines Condominium Associations and all Sea Pines Condominium Unit Owners (in all four Condominiums) from all costs, claims, damages, and liability (as more specifically provided in each Grant of Limited Common Area) arising from, caused by, or suffered or incurred in connection with the PSPs installed by such Unit Owner.

D. Notice and Consent

In order to comply with Mass. General Laws c. 183A, § 5(b)(2)(ii), consent to the Grant must be obtained from Adjoining Unit Owners [if any],² the first mortgagees of Adjoining Unit Owners, Impacted Unit Owners [if any],³ the first mortgagees of Impacted Unit Owners, and at least fifty-one (51%) percent of the number of all mortgagees holding first mortgages on units within the Condominium who have given notice to the Board and unit owner of their desire to be notified of any grant of limited common area pursuant to G.L. c. 183A, § 4(5). Once a Draft Grant agreeable to the Board and the Unit Owner has been prepared, the Board and/or its attorneys will determine from whom consent is required. The Board will then prepare and mail, by certified and first-class mail, a *Notice of Proposed Action for Grant of Limited Common Area*, to which the Draft Grant will be attached, and *Consent Form* to the parties whose consent is required.

E. Disclaimer – No Rights Granted Until 30 Days Following the Recording of a Grant of Limited Common Area

Approval by the FMB for the installation and use of PSPs hereunder does not convey any right to the Unit Owner to install or maintain PSPs on any Condominium common area. The Unit Owner must first agree to and sign a recordable grant of limited common area (Standard Grant attached), executed by the Board of Managers of the Sea Pines Condominium Association for the Sea Pines Condominium in which the PSPs will be located, granting said Unit Owner the exclusive right to use the portion of the Condominium building roof specifically covered by the Grant. The Unit Owner's mortgagee(s) must also execute the Grant. The Grant shall comply with Mass. General Laws c. 183A, § 5(b)(2)(ii) and c. 184, § 23C.

The requesting Unit Owner shall be responsible for any and all costs associated with the drafting, negotiation, execution, and recording of the Grant, in addition to any other costs specified in the Grant, including all costs incurred by the FMB and the Sea Pines Condominium Associations (including without limitation reasonable attorney's fees and all consulting fees and costs).

F. Disclaimer – Roof Replacement, Re-installation Costs Borne by Unit Owners

The Sea Pines Condominium Associations are planning to replace roofs across each Condominium, on a phased basis, between 2024 and 2027. Unit Owners who install PSPs are responsible for all costs associated with the removal and replacement of the PSPs prior to and

² Adjoining Unit Owners is defined as "all Unit Owners whose unit, as shown on the recorded condominium plans, adjoins (is next to or touching at some point or along a line) the common area in which the work is proposed."

³ Impacted Unit Owners is defined as "The owners of any Unit the access to which will be directly and substantially impeded by the common area in which the PSP's and related equipment are to be installed or by the proposed PSP's and related equipment."

following roof repair and/or re-roofing, pursuant to the Standard Grant. Accordingly, it is strongly recommended that each Unit Owner who is contemplating requesting approval for PSPs wait until the roof replacement for their condominium building has been completed.