

## Wind and Solar Easements

### The Issue

Local, state, and federal governments sometimes use zoning or deed restrictions with the aim of benefiting the public and protecting private property rights. To address the issue of wind and solar development specifically, the [Minnesota Legislature](#) created wind and solar “easements.” Just like mineral rights give landowners control over access to any oil and gas underneath their property (including the opportunity to sell or lease access for financial benefit), wind easements empower landowners to control access to wind that flows over their property. Solar easements prevent adjacent landowners from blocking sunlight shining on a property.

Though the primary purpose of wind and solar easements is to place more control in the hands of individual landowners, it also gives landowners the ability to band together to control development over a much larger area. For example, over 130 southern Minnesota residents have voluntarily granted their wind rights to [Wind Locked, LLC](#), a company created to accumulate and manage wind easements for the collective benefit of the region.

Of course, banning the construction or operation of wind turbines or solar panels entirely by government fiat would be an improper use of power. Renewable energy companies should be allowed to continue growing their businesses so long as they do not encroach on private property rights. Wind easements should allow landowners to be compensated for reduced wind flow over their property and to protect their property from potential adverse effects of nearby wind farms. For example, businesses would simply need to find landowners willing to sell or lease their wind rights for a reasonable price or purchase enough land to create a sufficient buffer zone.

Some states, including Nebraska, North Dakota, and South Dakota, [explicitly prohibit](#) wind rights from being sold separately from the property. Texas currently does not regulate wind and solar rights in the same way as mineral rights, which are separate from surface rights. However, [landowners have been adjusting their property deeds](#) to carve out wind and solar rights, leaning on the same language used for mineral rights.

One of the government's most critical duties is safeguarding property owners' right to full use and enjoyment of their land. Legislation creating wind and solar easements and clarifying wind and solar rights could ease some of the many concerns about the impacts of commercial wind and solar development.

### The Facts

- Just like mineral rights give landowners control over access to oil and gas resources, landowners should also have control over access to wind that flows over their property or sun that shines on it.
- Wind and solar easements could strike an appropriate balance between private property rights and renewable energy companies' freedom to pursue their business goals.
- Wind and solar projects can negatively impact the potential uses and financial value of nearby properties.
- Property owners currently have limited opportunity to protest wind and solar developments that could damage their property values and otherwise limit their ability to enjoy and get full use of their land.

### Recommendations

- Pass legislation creating wind and solar easements to recognize landowners' interest in protecting the wind and solar resources on their land.
- Expand public notice and transparency requirements for property tax incentives frequently used by wind and solar companies, ensuring property owners have sufficient opportunity to voice their concerns.

### Resources

[Assigning Property Rights Through Wind and Solar Easements](#) by Bill Peacock and James Morton, Texas Public Policy Foundation (Feb. 2019).

[Wind and Solar Easements](#), Minnesota Statute 500.30 (last rev. 2012).

“[About](#),” Wind Locked, LLC (Accessed July 15, 2020).