

CHAPTER 14.

SOLAR RIGHTS.

For state Solar Rights Act, see W.S., 1977, § 34-22-101 et seq. As to authority of town relative to solar rights, see W.S., 1977, § 34-22-105. As to building generally, see ch. 5 of this Code.

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Sec. 14-1. Purpose and intent of chapter.

The purpose of this chapter is to protect the health, safety and general welfare of the community by encouraging the use of solar energy systems. The overall objective of this chapter is to provide adequate protection from interference by structures, trees or topography. It is the intent of this chapter to provide a means of protection for the use of solar collectors without causing undue hardships on the rights of adjacent property owners and to establish solar collectors as a permitted use in all zoning or land use districts. (Ord. No. 115, § 1.)

Sec. 14-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Solar Collector: One of the following, which is capable of collecting, storing or transmitting at least twenty-five thousand BTU's on a clear winter solstice day:

- (a) A wall, clerestory or skylight window designed to transmit solar energy into a structure for heating purposes;
- (b) A greenhouse attached to another structure and designed to provide part of all of the heating load for the structure to which it is attached;
- (c) A Trombe wall, drum wall or other wall or structural element designed to collect and transmit solar energy into a structure;
- (d) A photovoltaic collector designed to convert solar energy into electric energy;
- (e) A plate type collector designed to use solar energy to heat air, water or other fluids for use in hot water or space heating or other applications;
- (f) A massive structural element designed to collect solar energy and transmit it to internal spaces for heating; or
- (g) Other devices or combinations of devices which rely upon sunshine as an energy source.

Solar right. A property right to an unobstructed line-of-sight path from a solar collector to the sun, which permits radiation from the sun to impinge directly on the solar collector. The extent of the solar right shall be described by the illumination provided by the path of the sun on the winter solstice day which is put to a beneficial use or otherwise limited by this chapter.

Winter solstice day. The solstice on or about December 21, which marks the beginning of winter in the northern hemisphere and is the time when the sun reaches its southernmost point. (Ord. No. 115, § 2.)

Sec. 14-3. Shading of collectors prohibited; location of collectors.

- (a) Except as otherwise provided by this chapter, it is unlawful for the owner

of any real property to erect any structure thereon or to allow any tree, shrub or other vegetation to grow thereon in such a manner as to cast a shadow upon a solar collector located upon the property of another, if that shadow is greater than the shadow cast by a hypothetical wall ten feet in height, located along the boundary lines of the property upon which such structure or vegetation is located, between the hours of 9:00AM and 3:00PM Mountain Standard Time, on the winter solstice day.

(b) Solar collectors shall be located on the solar user's property so as not to unreasonably or unnecessarily restrict the uses of neighboring property. (Ord. No. 115, § 3.)

Sec. 14-4. Certain structures or vegetation exempt from section 14-3.

The provisions of section 14-3 shall not apply to structures or vegetation in existence upon the effective date of this chapter, nor shall they apply to structures or vegetation in existence prior to the time of installation of a solar energy collection system upon neighboring property. (Ord. No. 115, § 4.)

Editor's Note- -Ordinance No. 115, from which this chapter is derived, was adopted on July, 8, 1982.

Sec. 14-5. Variances.

Variances from the strict application of the provisions of section 14-3 may be granted by the board of adjustment (Town Council) upon a finding that the strict enforcement of this chapter would result in unnecessary hardship. Notice and procedure shall be the same as followed by the board (Town Council) for variances from the Zoning Ordinance of the town. (Ord. No. 115, § 5.)

Sec. 14-6. Solar access permits- -Generally.

(a) Required. No solar right may be perfected unless a solar access permit therefore has been granted and issued by the town.

(b) Standards for issuance. A solar access permit shall be granted for any proposed or existing solar collector which complies with the requirements of section 14-3 and all other applicable ordinances of the town.

(c) Vesting of solar rights; beneficial use requirement. A solar right vests when the solar access permit is granted and issued. The solar right pursuant to such permit shall be put to beneficial use within two years after issuance; provided, that additional time not exceeding three years may be granted for good cause. The building inspector, shall request of the permittee, provide certification upon the original permit when beneficial use of such right has been made in accordance with the provisions of this subsection.

(d) Permits for existing uses. Permits for solar collectors existing on the

effective date of this chapter may be applied for and granted within five years after such date. (Ord. No. 115, § 6.)

Sec. 14-7. Same- -Application; fee; issuance.

(a) Any person desiring to obtain a solar access permit shall first make application to the building inspector or other authorized representative of the town, on the appropriate form furnished by the town, providing all information required thereon and accompanied by a fee for such permit in the amount of ten dollars.

(b) The Town Council, after review of the application, shall grant a solar access permit for any proposed or existing solar collector which complies with this chapter.

Sec. 14-8. Same- -Notice and hearing on application; appeals.

Upon receiving any application for a solar access permit, and prior to the issuance of any such permit, notice of such application shall be given to all adjacent property owners, by delivery in person or by certified mail. Notice delivered to any occupant over the age of fourteen years shall be deemed to be sufficient notice to all other occupants, owners or other persons claiming any interest whatsoever in such premises or property. The notice shall state the name and address of the applicant for the solar access permit, the street address of the property for which it is sought and the legal description of the property for which it is sought and shall state that written protests may be filed at a place therein designated for a period of ten days, the first day of which shall be the date such notice is delivered in person or deposited in the United States mail, postage prepaid, by certified mail as herein provided. In the event any such protests are received, a hearing upon the application for the permit shall be conducted, with notice to all protestors and to the applicant, and conducted by the town building inspector or his designated representative. Either party may appeal from the decision of the building inspector to the board of adjustment (Town Council). (Ord. No. 115, § 9.)

Sec. 14-9. Same- -Grounds for denial.

An application for a solar access permit may be denied upon any one or more of the following grounds:

- (a) Inadequacy of information provided in the application
- (b) Misrepresentation of information furnished in or with the application.
- (c) Noncompliance with any provision of this Code or other town ordinance or state law.
- (d) Undue hardship upon adjacent property owners.
- (e) Undue interference with use of adjacent properties. (Ord. No. 115, § 10.)

Sec. 14-10.Same- -Waiver of notice and hearing.

Any applicant for a solar access permit presenting with his application waiver and consent forms properly executed by all of the owners of record of the adjacent properties may be granted a permit without the necessity of notice or hearing. Such waiver and consents shall be prepared by and obtained by the applicant. (Ord. No. 115, § 11.)

Sec. 14-11.Same- -Contents.

Each solar access permit issued according to this chapter shall contain a legal description of the property for which the permit is issued, as well as a legal description of each of the surrounding properties, and shall further include a description of the collector surface or that portion of the collector surface for which the permit is granted. It shall further include the dimensions of the collector surface, the direction of orientation, the height above ground level, the location of the collector on the solar user's property and the date the solar access permit was granted and shall have the signature of the building inspector or other authorized representative of the town. (Ord. No. 115, § 13.)

Sec. 14-12.Same- -Recordation with county clerk.

Each solar access permit issued in accordance with the provisions of this chapter shall be recorded with the county clerk by the applicant at the expense of the applicant, and the applicant shall return to the building inspector a copy of the permit containing the recording information. No solar right shall be deemed to have been perfected until the provisions of this section have been complied with in full, and the applicant shall have sole responsibility for having such permit prepared in recordable form. (Ord. No. 115, § 14.)

Sec. 14-13.Abandonment of solar rights- -Generally.

A solar right which is not applied to a beneficial use for a period of five years or more after the issuance of a solar access permit shall be deemed abandoned and without priority. (Ord. No. 115, § 8.)

Sec. 14-14.Same- -Application by adjacent property owners; notice; protest; declaration.

A solar right which is not applied to a beneficial use for a period of five years or more may be declared to have been abandoned upon the application of any adjacent property owner. Notice of such application shall be given to the owner of the property or premises for which that solar access permit was granted, and such notice shall be served in the same manner as herein provide for service of notice of an application for a permit and shall inform the holder of a permit that he may protest such demand for abandonment within a period of ten days after the service thereof, in the same manner shall proceed to hearing in the manner as provided for issuance of permits. If no such protest is filed, a

declaration of abandonment shall be entered by the building inspector or other authorized representative of the town without other or further notice. (Ord. No. 115, § 12.)

Sec. 14-15. Recordation of orders of cancellation and declarations of abandonment.

An order of cancellation entered by the town shall be recorded with the county clerk by the town at the town's expense. A declaration of abandonment shall be recorded with the county clerk by the person applying therefore, at the expense of such person, and such person shall provide the building inspector or other authorized representative of the town a copy of such declaration of abandonment, containing the recording information, before any such permit shall be deemed to have been fully terminated by declaration of abandonment. (Ord. No. 115, § 115.)

Sec. 14-16. Burden of proof regarding applications for permits and abandonment.

In every instance the burden of proof with respect to any application for a solar access permit or any application for abandonment of a permit shall be upon the person making such application. The persons so applying shall have sole responsibility for the preparation and completion of their own forms and documents and for the preparation and delivery of all notices required. (Ord. No. 115, § 16.)

Sec. 14-17. Violations and enforcement.

Violation of the provisions of this chapter shall be violation of the civil rights of the aggrieved party and not a violation of criminal law. Accordingly, enforcement shall be by a private civil suit by the aggrieved party. This section shall not be deemed to preclude the town from exercising any remedies it may have by reason of the fact that such violation also constitutes a violation of any other ordinance of the town. (Ord. No. 115, § 17.)