

ORDINANCE 2018-138

AN ORDINANCE ALLOWING SOLAR COLLECTORS AND REGULATING THE INSTALLATION USE OF THE SAME

WHEREAS, the Governing Body for the Town of Rolling Hills, Wyoming, desires to protect the health, safety and general welfare of resident of the town by encouraging the use of solar energy systems; and,

WHEREAS, the intent of this ordinance is to provide a means of protection for the use of solar collectors without causing undue hardships on the rights of adjacent property owners as provided for herein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF ROLLING HILLS, CONVERSE COUNTY, WYOMING:

Section 1. Authority. Authority is granted by W.S. §§ 34-22-101 through 106, now and as hereafter amended, to regulate and permit solar energy systems.

Section 2. Responsibility. The Code Enforcement Officer through the Zoning Committee, or in the absence of a Code Enforcement Officer, the Zoning Committee, in its discretion and, if needed, the discretion of the Town Council, is responsible for the administration of the regulations contained within this ordinance.

Section 3. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

A. "Potentially affected owner" means the owner of record or contract purchaser of record of any real property which is, or may become, burdened by a solar right established by this chapter.

B. "Solar collector" means one of the following which is capable of collecting, storing or transmitting at least twenty-five thousand (25,000) BTU's on a clear winter solstice day:

1. A wall, celestory window or skylight designed to transmit solar energy into a structure for heating purposes;
2. A greenhouse attached to another structure and designed to provide part or all of the heating load for the structure to which it is attached;
3. A trombe wall, drum wall or other wall or roof structural element designed to collect and transmit solar energy into a structure;
4. A photovoltaic collector designed to convert solar energy into electric energy;
5. 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 for other applications;
6. A massive structural element designed to collect solar energy and transmit it to internal spaces for heating; or
7. Other devices or combination of devices that rely upon sunshine as an energy source.

C. "Solar right" means 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 city ordinance or state law.

D. "Winter solstice day" The solstice on or about December 21st which marks the beginning of winter in the northern hemisphere and is the time when the sun reaches its southernmost point.

Section 4. Permit Required.

- A. A solar permit shall be granted before a solar right may be established. Said permit shall be approved via resolution.
- B. A solar permit shall be granted for any proposed or existing solar collector which complies with the requirements of these regulations.
- C. The solar right vests on the date the solar permit is granted. The solar collector shall be put to beneficial use within two years except additional time may be granted for good cause. The Code Enforcement Officer or a Zoning Committee Member shall certify the right and its beneficial use within two years of its vesting.
- D. Existing solar collector users, e.g. those using a solar system at the time of the passing of this ordinance, shall apply for permits within five years after the date of the passing of this ordinance.
- E. When real property with an existing solar system is sold, deeded, or in any way exchanges hands by virtue of new ownership, the new owner must apply for a permit within one month of taking ownership of the property.
- F. A solar right which is not applied to a beneficial use for a period of five years or more shall be deemed abandoned and without priority and the Code Enforcement Officer or a Zoning Committee Member shall determine if and when a solar right is abandoned.

Section 5. Permit Application.

- A. Any person who desires a solar right shall first make application to the Zoning Committee for a solar access permit.
- B. The application for a permit along with the required fee shall be filed on a form furnished for that purpose, and as adopted by resolution. Information adequate to determine compliance with these regulations shall accompany the application.
- C. A Zoning Committee Member, after review of the application, shall grant a solar access permit for any proposed or existing solar collection that complies with this ordinance.
- D. The decision of the Zoning Committee Member may be appealed to the full Zoning Committee, and further to the Town Council, by any person affected by any such decision. An appeal must be taken within thirty days from the date of the action by filing a written notice of appeal with the Zoning Committee. The notice of appeal must specify the grounds for the appeal and contain a list of all potentially affected property owners.
- E. Once an appeal is received, the Zoning Committee shall review the same at its next regularly scheduled meeting and make a recommendation regarding the appeal to the Town Council. The Town Council shall make the final decision regarding the same.

Section 6. Restrictions on Solar Rights.

A. Solar collectors must be located on the solar user's property so as not to unreasonably or unnecessarily restrict the uses of neighboring property.

B. No solar right attaches to a solar collector or a portion of a solar collector, which would be shaded by a hypothetical nonlight transmitting, ten-foot high wall located on the property line on a winter solstice day.

C. The solar right to radiation of the sun before nine a.m. or after three p.m. Mountain Standard Time is de minimus and may be infringed without compensation to the owner of the solar collector.

D. A solar right which is not applied to a beneficial use for a period of five years or more will be deemed abandoned and without priority.

E. The priority of new construction with regard to interference in solar rights will vest as of the date of application for a building permit.

Section 7. Shading of Collectors Unlawful. Except as otherwise provided by this ordinance, it is unlawful for any person to erect a building or other structure, or to allow a tree shrub, or other vegetation to cast a shadow upon a solar collector which is greater than the shadow cast by a hypothetical ten-foot-high wall located along the property lines, between the hours of 9:00 a.m. and 3:00 p.m., MST, on a winter solstice day.

Section 8. Prior Noncontinuing Uses. Structures or vegetation which existed prior to the time of installation of the solar energy collection system or the effective date of this ordinance shall not be subject to the requirements of Section 7.

Section 9. Severability. If any clause, sentence, paragraph or part of this ordinance or application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this ordinance.

Section 10: Other Ordinances and Resolutions Repealed. All other ordinances and resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 11: Effective Date. This ordinance shall take effect from and after its passage, approval, and publication as required by law and ordinances of the Town of Rolling Hills.

Section 12: Penalties. Any person who violates this ordinance shall be guilty of a misdemeanor and shall be fined in an amount not to exceed Seven Hundred Fifty Dollars (\$750.00).

APPROVED, PASSED AND ADOPTED this 17th day of April, 2018.

Jon O. Maines, Mayor