

Santa Cruz County Code

Chapter 12.28 SOLAR ACCESS PROTECTION

Sections:

- [12.28.010](#) Findings.
- [12.28.020](#) Intent.
- [12.28.030](#) Definitions.
- [12.28.040](#) Protection of solar access.
- [12.28.050](#) Registration of solar energy systems.
- [12.28.060](#) Exceptions.
- [12.28.070](#) Violations.
- [12.28.080](#) *Repealed.*
- [12.28.090](#) Nuisance abatement of violation.
- [12.28.100](#) Appeals.
- [12.28.110](#) Fees.

12.28.010 Findings.

Solar energy has been found to be an inexhaustible, reliable and nonpolluting energy resource that can contribute to the public health, safety and welfare of the citizens of Santa Cruz County by lessening dependence upon nonrenewable and imported energy sources.

The successful use of solar energy systems for supplying space heating and cooling, water heating or the production of electricity is dependent upon sufficient access to direct sunlight. The California Solar Rights Act of 1978 requires local governments to plan, to the maximum extent feasible, for future passive or natural heating or cooling opportunities in new residential construction. While the California Shade Control Act protect solar systems from shading by vegetation, current State and local laws do not protect installed solar energy systems from shading caused by structures, and this represents a significant deterrent to the use of solar energy systems. [Ord. 3475 § 1, 1983].

12.28.020 Intent.

It is the intent of this chapter to protect and encourage the successful use of solar energy in residential construction by requiring that solar access to solar energy systems be protected from shading by vegetation, consistent with the Solar Shade Control Act (Chapter 12, Division 15, Section [25980](#) of the Public Resources Code); and that protection of solar access to solar energy systems registered with the County be reviewed when construction on neighboring property is proposed.

It is likewise the intent of this chapter to provide adequate protection for the use of solar energy systems without prohibiting the normal development of property or of a community when such development is found by the Board of Supervisors to be in the best interests of the citizens of Santa Cruz County. [Ord. 3475 § 1, 1983].

12.28.030 Definitions.

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

“Approving body” means the officer or hearing body which makes the determination on applications at each processing level, as defined in SCCC 18.10.112, including the Planning Director, the Zoning Administrator, the Planning Commission and the Board of Supervisors.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors.

“North” means the direction of the terrestrial north pole.

“Registered solar energy system” means any solar energy system registered with the County as requesting solar access protection, and in compliance with the conditions for that registration.

“Solar access” means the ability of sunlight to strike a solar energy system. For the purpose of this chapter, protection of solar access requires locating buildings and trees where their shadows will not obstruct more than 10 percent of the sunlight available to the solar energy system between the hours of 10:00 a.m. and 2:00 p.m., Pacific Standard Time, on December 21st.

“Solar energy system” means any solar collector or other solar energy device, or any structural design feature of a building whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, for water heating or for electricity. Glazing facing within 45 degrees of south is protected, under the provisions of this chapter, as a solar energy system when at least 60 percent of the space heating load for the building is supplied by solar energy.

“Solar impacting property” means any property whose buildings, fences, other structures or vegetation interfere with, or are likely in the future to interfere with, the solar access of any registered solar energy system.

“Solar improved property” means any property whose solar access to a registered solar energy system may be adversely affected by construction or vegetation on the parcel for which a development permit is being requested.

“South” means the direction of the terrestrial south pole.

“Unobstructed sunlight” means energy from the sun which is not blocked by any visible matter or structure and which is devoid of shadows.

“Vegetation” means all plant life. [Ord. 3475 § 1, 1983].

12.28.040 Protection of solar access.

(A) Protection from Shading by Structures. Subsequent to the effective date of the ordinance codified in this chapter, any obstructions of solar access to a registered solar energy system shall be mitigated to the maximum extent feasible during the review of any permit to construct a building, wall, fence or other structure, or part of a structure on a solar impacting property.

(B) Protection from Shading by Vegetation. No person owning or in control of a solar impacting property shall allow a tree or shrub to be placed, or, if placed, to grow on such property, subsequent to the installation of a solar energy system on solar improved property so as to cast a shadow greater than 10 percent of the solar energy system absorption area at any one time between the hours of 10:00 a.m. and 2:00 p.m., local standard time; provided, that this section shall not apply to specific trees and shrubs which at the time of installation or within 365 days following such installation, cast a shadow upon that solar energy system. A person desiring protection under the provisions of this chapter shall demonstrate to the satisfaction of the Planning Director that the solar energy system was not shaded at the time it was installed and during any 365-day cycle following installation. Evidence may include, but is not limited to, notarized photographs. For the purposes of this chapter, the location of a solar energy system is required to comply with building and setback regulations and to be set back not less than five feet from the property line, and no less than 10 feet above the ground. A solar energy system may be less than 10 feet in height, only if in addition to the five-foot setback, the collector is set back three times the amount lowered.

(C) Civil Action. No violation of the terms of this chapter or civil liability based on this chapter shall ensue from a utilities inspection of a solar system or issuance of a solar rebate under the 011-42 Demonstration program.

(D) Exemptions. Nothing in this chapter shall apply to trees planted, grown, or harvested on timberland or on land devoted to the production of commercial agricultural crops. Nothing in this chapter shall apply to the replacement of a tree or shrub which had been growing prior to the installation of a solar collector and which, subsequent to the installation of such solar collector, dies. [Ord. 3475 § 1, 1983].

12.28.050 Registration of solar energy systems.

(A) Application Procedure. Any owner of a solar energy system, or applicant for a building permit for a solar energy system, desiring solar access protection under this chapter must apply to the Planning Department for registration of the solar energy system. The applicant shall provide the following information in addition to the information required for permit applications in Chapter [18.10](#) SCCC (SCCC 18.10.210):

- (1) Names and addresses of solar impacting property owners; and addressed, stamped, envelopes for all solar impacting property owners;
- (2) The location and shadow patterns of all buildings, walls, fences, and vegetation on the property and on the adjacent parcels to the west, south and east;
- (3) Location and height above grade of the existing or proposed solar energy system;

- (4) Information demonstrating that the applicant has designed and located the solar energy system so as to cause the least restriction of development on solar impacting properties;
- (5) The percent of energy provided by the solar energy system; and, when protection is requested for glazing, calculations demonstrating the proportion of heating load supplied by solar energy.

(B) Application Review Procedure.

- (1) The Building Official shall review all complete applications for solar energy system registration, requesting protection of solar access, for location of the system, size of the system and other factors.
- (2) The Building Official shall notify all solar impacting property owners identified in the application, and the parcel record sheets for these parcels will be updated to include the request for solar access protection.
- (3) The Building Official shall consider the comments submitted by solar impacting property owners, and may condition the application for registration of the solar energy system in order to reduce development restrictions on solar impacting property owners, based on the following standards:

- (a) The solar energy system shall be designed and located so as to cause the least restriction of development on solar impacting properties.

The Building Official may require relocation of a solar energy system resulting in a reduction in system efficiency if the Building Official determines that the applicant's selected site results in undue restriction of development on a solar impacting property.

- (b) The request for solar access protection shall be consistent, to the maximum extent feasible, with other design criteria included in SCCC 13.10.424.
- (c) Solar access protection for the registered solar energy system shall not prevent construction of a single-story structure, not exceeding 10 feet at the top plate of exterior walls, which could not otherwise be reasonably designed or located to avoid shading the solar energy system.
- (d) The approving body shall review the registered solar energy systems, and requests for the protection of solar access prior to issuing any building permits or development permits on solar impacting properties. Solar access shall not be deemed to be protected from construction or vegetation occurring on any properties not identified by the applicant as a solar impacting property.

(4) Protection of solar access shall be balanced with protection of development potential on solar impacting properties. The level of solar access protection shall be based on the standards set forth in this section.

(a) Shading which obstructs 10 percent or less of the sunlight available to the solar energy system between 10:00 a.m. and 2:00 p.m. on December 21st, by construction on solar impacting properties shall be permitted; provided, that the land development or building permit applicant for the solar impacting property demonstrates that shading does not exceed said obstruction level.

(b) Expansion of existing structures which would block solar access to a registered solar energy system shall not be permitted.

(c) Buildings, walls, fences and other structures, and vegetation, which existed, or a building permit had been issued for such structure (or such structure was built prior to the time a permit was required), prior to the registration of the solar energy system shall not be subject to the provisions of this chapter; provided, that such permit is still valid, and the building or structure conforms to the legal requirements of the County Building Code in existence at the time the permit was issued.

(C) Invalidation of Registered Solar Energy Systems. The registration of any solar energy system shall be rendered invalid upon: failure to construct a solar energy system within 12 months of registration; permanent removal or change in location of the solar energy system; permanent abandonment of the use of the solar energy system; as determined by the Building Official. [Ord. 3475 § 1, 1983].

12.28.060 Exceptions.

A request for an exception from the provisions of this chapter or the permit conditions may be approved, conditionally approved or denied by the approving body if the exception is necessary to ensure that the provisions of other chapters of the County Code are met, including but not limited to Chapter [16.20](#) SCCC, Grading Regulations, Chapter [16.22](#) SCCC, Erosion Control, Chapter [16.30](#) SCCC, Riparian Corridor and Wetlands Protection, and Chapter [16.34](#) SCCC, Significant Trees Protection; or if it can be demonstrated by technical information that the exception is necessary to ensure public health, safety and welfare.

A request for an exception must state in writing the provision from which the exception is proposed, the proposed substitute provisions, when the exception would apply and its advantages. In granting an exception, the approving body shall be guided by the following findings:

(A) There are special circumstances or conditions affecting the property;

(B) Adequate measures will be taken to ensure consistency with the purposes of this chapter to the maximum extent feasible; and

(C) Relinquishing solar access protection will permit the attainment of other County objectives and contribute a greater public benefit than the continued protection of solar access. [Ord. 3475 § 1, 1983].

12.28.070 Violations.

It shall be unlawful for any person to refuse or fail to correct any shading of a solar energy system by vegetation in violation of SCCC 12.28.040(B), as required by a notice of violation issued under the provisions of SCCC 12.28.080. [Ord. 3475 § 1, 1983].

12.28.080 Notification of violation.

Repealed by Ord. 4389, 4389A. [Ord. 3475 § 1, 1983].

12.28.090 Nuisance abatement of violation.

If the responsible party fails to act in response to written notification from the Planning Director, the shading problem may be declared a public nuisance, and be abated according to the procedure set further in Chapter [1.14](#) SCCC. [Ord. 3475 § 1, 1983].

12.28.100 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance with the procedures set forth in Chapter [18.10](#) SCCC; provided, however, that code enforcement actions and decisions are not subject to administrative appeal except for appeals of revocation of permits issued pursuant to SCCC 18.10.136(C). [Ord. 4389A § 13, 1996; Ord. 4389 § 16, 1995; Ord. 3475 § 1, 1983].

12.28.110 Fees.

Reasonable fees may be imposed by resolution of the Board of Supervisors to cover the cost of administering this chapter and may be collected along with existing plan check fees. [Ord. 3475 § 1, 1983].

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