

# LAKESWOOD SHORES HOMEOWNERS ASSOCIATION

*A California Non-Profit Corporation*

## SOLAR ENERGY POLICY

Effective \_\_\_\_\_, 20\_\_\_\_

Lakewood Shores Homeowners Association ("Association") requires a clear and consistent policy for addressing requests by owners to install, use and maintain a solar energy system ("SES"), defined by law as any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating; or as any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating. (Civil Code § 801.5(a).)

"Owner" is the owner of the Lot requesting the installation of a SES and any subsequent transferees of that Lot. "Common Area" shall have the same definition as in the Association's Declaration of Covenants, Conditions and Restrictions ("CC&Rs").

Pursuant to California *Civil Code* Section 714(b), the Association may adopt reasonable regulations consistent with the Solar Rights Act and the Association's CC&Rs. Reasonable restrictions on SESs are those that "do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits." (Civ. Code § 714(b).)

The following are requirements and guidelines for the use, approval, installation and maintenance of SESs, including, but not limited to, solar panels, which have been adopted by the Board of Directors. The Board has determined that it is within the best interests of the Association as a whole to adopt this policy for the purpose of preserving, maintaining and protecting the community. This policy has been adopted to protect the property and financial interests of the owners, and also to provide for a clean, pleasant, and compatible environment in which to live.

### SOLAR ENERGY POLICY

#### 1. Owner Must Obtain Architectural Approval

A) An Owner must apply to the Board of Directors or Architectural Committee ("AC") for approval to install a SES, as required by Article X of the Association's CC&Rs.

All applications for approval shall be processed and approved by the Board or AC in the same manner as applications for approval of an architectural modification to the property, as required by and outlined in the Association's CC&Rs. (See Civ. Code § 714(e)(1).)

B) Notwithstanding any contrary provision in the governing documents, an Owner may install a SES on the roof of the building in which the Owner resides, or a garage or carport adjacent to the building that has been assigned to the Owner for exclusive use. (Civil Code § 4746.)

C) Notwithstanding any contrary provision in the governing documents, no vote of the owners is required to grant exclusive use of common area for the purpose of installing or maintaining a SES. (Civ. Code § 714.1(b)(2); Civil Code § 4600.)

D) The installation of the SES in or on Common Area roofs is subject to a determination of usable solar roof area (i.e., the amount and location of space on the building roof suitable for solar panel installations). Owners shall only be permitted to install the SES on the portion of the roof covering the Owner's Lot/Unit.

## **2. Process and Procedures for Seeking Architectural Approval of SES**

A) An Owner requesting approval of a proposed SES shall submit a written request in accordance with the CC&Rs and this Policy, together with plans and specifications showing the nature, color, kind, shape, height (including front, side and rear elevations), materials, and location of the same. The Board may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors.

- The Board shall fairly, reasonably and expeditiously render decisions regarding owners' requests for approval, after consideration of compliance with the governing documents, quality of workmanship and materials, aesthetic appearance, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation.
- The Board cannot prohibit outright the installation of SES but may restrict installation of SESs in the common areas to specific locations within the common areas, to limit visual impact and aesthetics.
- The Board cannot prohibit outright the installation of SES but may restrict installation of SESs to those systems approved by the Association.

B) An application for installation of a SES must be approved or denied in writing. (Civ. Code § 714(e)(2)(A).) If an application is not denied in writing within forty-five (45) days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request by the Association for additional information. (Civ. Code § 714(e)(2)(B).)

C) Application Requirements

The application for SES must include, at a minimum, the following:

- Manufacturer's specification sheet of solar panels;
- Solar site survey. The application shall include a solar site survey showing the placement of the solar energy system, prepared only by a licensed contractor. (This survey or the costs to determine useable space shall not be deemed as part of the cost of the system.) The usable solar roof area is the amount and location of space on the building roof suitable for solar panel installations.

The solar site survey shall also include a determination of an equitable allocation of the usable solar roof area among all owners sharing the same roof, garage, or carport.

The drawings shall identify the specific location within the usable solar roof area to be allocated to the applicant Owner;

- Engineering drawings of proposed installation with placement of panels;
- Dimensioned plans showing location of the following:
  - (1) Solar panels;
  - (2) Routing of electrical/plumbing lines;
  - (3) Placement of sub-panels within Lot;
- Detailed engineering drawings showing roof penetrations for the following:
  - (1) Electrical/plumbing lines and flashing;
  - (2) Attachment of panels;
  - (3) Method of affixing panel brackets and flashing to roof;
- Solar installation warranty; minimum 10-year warranty on installation workmanship;
- For roofs that have an existing warranty, written approval by Association's roofing contractor or roofing consultant of roof penetrations.
- Documentation showing compliance with applicable health and safety standards and requirements imposed by state and local permitting authorities, consistent with Section 65850.5 of the Government Code, as well as applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics

Engineers, and accredited testing laboratories, such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. (Civil Code § 714(c)(1), (3).)

D) All SESs must comply with all of the following standards:

- Meet applicable health and safety standards and requirements imposed by state and local permitting authorities, consistent with Section 65850.5 of the Government Code. (Civ. Code § 714(c)(1).)
- All SESs for heating water must be certified by an accredited listing agency as defined in the Plumbing and Mechanical Codes. (Civ. Code § 714(c)(2).)
- All SESs for producing electricity shall also meet applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories, such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. (Civ. Code § 714(c)(3))
- All installations of SESs shall be completed so as not to materially harm or damage common elements of the Association, or any other individual Lot or Exclusive Use Common Area, void any warranties held by the Association or other Owners and/or impair the integrity of a building or structure.
- All portions of a SES shall be secured in a manner which does not jeopardize the safety or soundness of any structure and/or the safety of any person within the community.
- There shall be no penetrations into building structures, not limited to walls and roofs, unless it is absolutely necessary for the installation and operation of the system and/or to avoid an unreasonable increase in the cost of the installation. Any penetrations for wiring or piping for a SES shall be properly sealed and waterproofed in accordance with industry standards and building codes in order to prevent moisture penetration and resulting structural damage.
- The Owner installing the SES shall be responsible for any damage to building elements, Lot interiors or personal property caused by such penetrations even if the Association has primary maintenance responsibility for such elements under the governing documents of the Association.

E) Installation of SESs must comply with all of the following:

- SESs must be installed and secured in compliance with manufacturer's instructions and all City of Lakewood, State of California and Federal ordinances, regulations and laws.
- Installation shall only be by a licensed and properly insured installer knowledgeable in the installation of SESs. Contractor shall obtain any and all necessary permits and Owner shall provide copies of same to the Association.
- Prior to installation, the installer shall have insurance coverage that meets the following minimum requirements:
  - (i) Workers' Compensation with minimum coverage required by California law accompanied by a waiver of subrogation;
  - (ii) Contractor's General Liability for which the Association shall be a certificate holder and naming the Association and The Management Trust ("Management") as an additional insured on a separate endorsement page, providing minimum coverage of one million dollars (\$1,000,000.00) per occurrence, and including "completed operations" coverage; and
  - (iii) Automobile Insurance providing minimum coverage of one million dollars (\$1,000,000.00) per accident; and

The installer must, prior to installation, provide to the Association copies of certificates of insurance for the above policies and endorsements which name the Owner and the Association as additional insureds.

- Contractor must file a written notice, signed and verified by the installing Owner or his agent, stating the date of completion, the name and address of the installing Owner, a description of the site, and the name of the Contractor ("Notice of Completion") in the format prescribed by Civil Code Section 8182, upon completion of all necessary work to install the SES.
- A SES for heating water shall be certified as to all system components and the installation thereof by the Solar Rating & Certification Corporation or other nationally recognized certification agency.
- A SES for producing electricity shall also meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers (IEEE) and accredited testing laboratories such as Underwriters Laboratories (UL) and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

- To ensure the safety of individuals and allow safe access to the physical plant of the Association, SESs shall not obstruct access to or from any Lot, walkway, or ingress or egress into any area of the Project.
- In approving the installation of any SES, the Board is entitled to rely upon the representation of the Owner or his or her contractor that the system fully complies with the safety criteria set forth in this Policy. Should the Board later determine that the equipment is not in conformance with such criteria, the Board may require the Owner to remove the SES or modify it so that it is in compliance with such criteria.

### 3. Conditions to Approval

A) Indemnity: Installers of SESs shall indemnify the Association for loss or damage caused by the installation, maintenance, or use of the SES. Installing Owners shall execute an agreement to release, indemnify and hold the Association harmless, which will be recorded against their Lot. A template for this agreement and covenant is attached to the Policy as Exhibit A.

B) Notification Requirement: The applicant shall notify each Owner of a Lot in the building on which the installation will be located of the application to install a SES (i.e., those under the same common roof). (Civil Code § 4746(a)(1).) The applicant shall certify in the application the names and addresses of those notified and the date of notification. Any written comments of neighboring Owners shall be attached to the application. The Board/AC may, but is not required to, establish any reasonable restrictions on the installation based on any objections by neighboring Owners.

C) Insurance Requirement: The Owner and each successive Owner shall maintain a homeowner liability coverage policy at all times and provide the Association with the corresponding certificate of insurance within 14 days of approval of the application and annually thereafter. Owner shall obtain and maintain, in his or her own name, a policy of insurance with extended coverage of the full replacement value of the solar energy system and appurtenant building and any other areas affected by the use, installation, and maintenance of the solar energy system, naming the Association and its management company as additional insureds.

D) Owner Responsibility: The installing Owner, and each successive Owner of the SES, shall be responsible for all of the following:

- Costs for damage to the Common Area, Exclusive Use Common Area, or separate interests (Lots) resulting from the installation, maintenance, repair, removal, or replacement of the SES;
- Costs for the maintenance, repair, and replacement of SES until it has been removed and for the restoration of the Common Area, Exclusive Use Common Area, or separate interests after removal;

- Disclosing to prospective buyers the existence of any SES of the Owner and the related responsibilities of the Owner under this section; and
- Should the Common Area roof be repaired or replaced, Owner shall be responsible for promptly removing and re-installing his/her SES at his/her sole cost and expense, if requested by the Association in order to complete the roof work. The Association shall not be responsible for any damage caused to the system or component, or any lost solar production, by such removal or reinstallation.

E) Installation by Association: The Board may, at its discretion, require the SES to be installed by its chosen contractor and either: (1) Contract with the vendor directly and seek reimbursement from the Owner; or (2) Allow the Owner to contract with the Association's preferred vendor as a condition to approval of the application to install the SES.

#### 4. Maintenance, Repair and Replacement by Owner

A) Owner of a SES is solely responsible for all associated costs, including but not limited to: replacement, repair, maintenance, moving and/or removal of the SES or any of its components; repair and/or replacement of any property damaged by the installation, maintenance and/or use of the SES; payment of any medical expenses incurred by persons injured by the installation, maintenance and/or use of the SES; and/or restoration of SES sites to their original condition after removal.

B) In the event an Owner fails to maintain, repair or replace the SES, or if the installation or use of the SES results in damage to the Common Area or any component for which the Association is responsible, or otherwise becomes a hazard or falls into disrepair, the Association may perform the necessary and/or required maintenance, repair or replacement and shall be reimbursed by the Owner through the issuance of a monetary penalty or special assessment as provided by the CC&Rs and Civil Code.

C) Owner shall be responsible for any increased costs incurred by the Association in maintaining or repairing the Common Area or those portions of a Lot or Exclusive Use Common Area which the Association is responsible under the governing documents for maintaining or repairing which are caused by the presence of a SES on the Common Area.

D) If it is necessary to temporarily remove a SES or some of its components so that the Association may perform required maintenance or repairs to the roof or other areas for which the Association is responsible, the Owner shall be responsible, at his or her sole expense, for removing the SES and reinstalling the system pursuant to the requirements set forth in this Policy after the Association's work is completed. Unless there is an emergency, notices to the Owner regarding removal shall be in writing sent by certified mail at least fifteen (15) days prior to the date removal is required. If the Owner

fails to remove a SES or a system component when requested to permit necessary maintenance or repairs, the Association may remove same and charge the cost of such removal to the Owner. So long as the Association uses reasonable care in removing and reinstalling the SES or any component thereof, the Association shall not be responsible for any damage caused to the system or component by such removal or reinstallation.

E) The Board shall not be required to prune or allow pruning or removal of trees and/or shrubs which were planted before the SES was proposed. However, trees or shrubs planted after the installation of the SES may not be allowed to grow so as to cast a shadow greater than ten percent (10%) of the collector absorption area upon that collector's surface at any point time between the hours of 10:00 a.m. and 2:00 p.m. local standard time (California Public Resources Code § 25982.)

F) Any existing trees and/or other obstructions may not be removed without first obtaining written approval from the Board or AC.

#### **5. Roof Access**

Owners shall provide written 24 hours' notice to the Board, through management, prior to accessing the roof. Access to and use of the roof shall be done at the Owner's risk. The Association shall not be liable for any damage, injury or death in connection with roof access for the purpose of installation, maintenance, repair or replacement of any SES.

#### **6. Sale or Transfer of Owner's Lot**

Upon sale or transfer of any Owner's interest in his or her Lot which has a permitted SES, the buyer or transferee shall assume in writing all of the Owner's duties and responsibilities as outlined in this Policy and shall execute an additional Maintenance Agreement & Covenant (See **Exhibit A**) prior to the close of escrow.

#### **7. Removal of SES**

If a buyer or transferee does not agree in writing to assume responsibility for the SES, the Owner must remove the SES and restore the area where the SES had been located. Should an Owner fail to remove the SES when required, the Association may remove same at Owner's sole cost and expense.