

1019 SOLAR ACCESS PERMIT ORDINANCE

1019.01 PURPOSE

This ordinance authorizes the owners of certain properties to apply for a County permit that prohibits shade caused by certain vegetation on neighboring properties from being cast on a solar feature(s) on the property of a permittee.

1019.02 APPLICATION OF SECTION

An owner of property, including a government, agency, or firm, may apply for and/or be subject to a solar access permit for a solar feature(s) if that property is in a VR-4/5, VR-5/7, R-5, R-7, R-8.5, R-10, R-15, R-20, or R-30 zone, or will be developed with a dwelling. The County's decision whether or not to grant a solar access permit is intended to be ministerial.

1019.03 DEFINITIONS

Words and terms used in Section 1019 shall be defined as provided under Subsection 1017.03, except that vegetation lawfully planted prior to the establishment of the solar feature upon which the solar access permit is based shall be considered exempt vegetation. Other vegetation covered by the definition of "exempt vegetation" in Subsection 1017.03 is also exempt under Section 1019.

[Amended by Ord. ZDO-224, 5/31/11]

1019.04 APPROVAL STANDARDS FOR A SOLAR ACCESS PERMIT

The Planning Director shall approve an application for a solar access permit if:

- A. The application is complete;
- B. The information in the application is accurate; and
- C. The applicant shows that nonexempt vegetation on his/her property does not shade the solar feature(s).

1019.05 DUTIES CREATED BY SOLAR ACCESS PERMIT

- A. A party to whom the County grants a solar access permit shall:
 - 1. File the permit in the office of the County Recorder with the deeds to the properties affected by it and pay the fees for such filing;
 - 2. Install the solar feature in a timely manner as provided in Subsection 1019.09; and
 - 3. Maintain nonexempt vegetation on the site so it does not shade the solar feature.

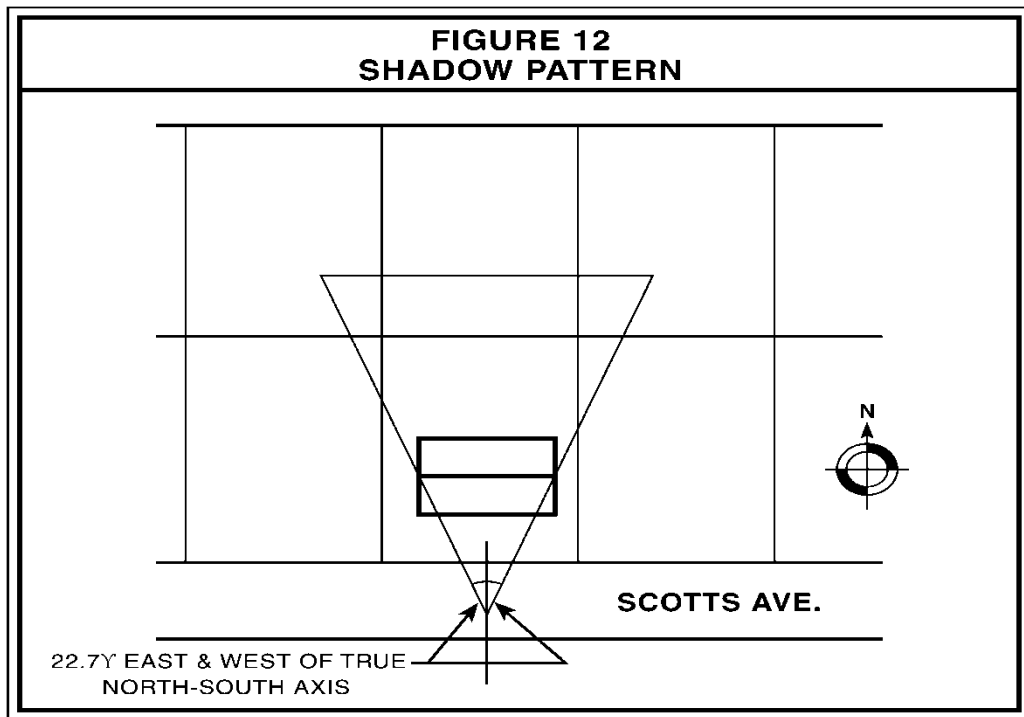
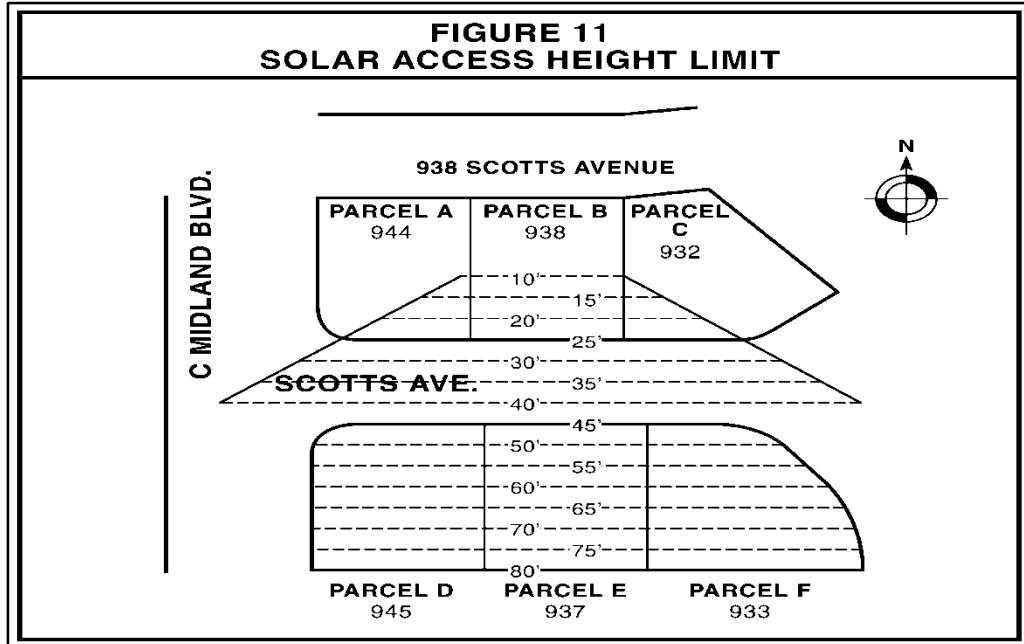
- B. An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping nonexempt vegetation from exceeding the solar access height limit.

1019.06 APPLICATION CONTENTS

An application for a solar access permit shall contain the following:

- A. Legal Description: A legal description of the applicant's lot and a legal description, owners' names, and owners' addresses for lots all or a portion of which are within 150 feet of the applicant's lot and 54 degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The records of the County shall be used to determine who owns property for purposes of an application. Persons whose names and addresses are not on record at the time an application is filed need not be listed. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may have been affected.
- B. Site Plan: A scaled plan of the applicant's property showing:
 - 1. Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature(s).
 - 2. The approximate height above grade of the solar feature(s), its location, and its orientation relative to true south.
- C. Other: A scaled plan of the properties listed in Subsection 1019.06A, above, showing:
 - 1. Their approximate dimensions; and
 - 2. The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.
- D. Solar Access Height Limit: For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for nonexempt vegetation on lots affected by a Solar Access Permit (see Figure 11). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five-foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more than 54 degrees east and west of true south.

Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow nonexempt vegetation on that lot whose height causes no more shade on the benefited property than could be caused by a structure that complies with the Solar Balance Point Ordinance (Section 1018) for existing lots.



- E. Fee: A fee as required by the Planning Division.
- F. Verification Form: If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted, verifying that

the vegetation shown on the plan submitted pursuant to Subsection 1019.05C, above, accurately represents vegetation in the ground on the date of the application. The County shall provide a form for that purpose. The signed statements provided for therein are permitted but not required for a complete application.

1019.07 APPLICATION REVIEW PROCESS

- A. Preapplication Conference: Unless waived by the Planning Director, prior to filing an application for a solar access permit, an applicant or applicant's representative shall meet with the Planning Director or designate to discuss the proposal and the requirements for an application. If a meeting is held, the Planning Director or designate shall convey a written summary of the meeting to the applicant by mail within 5 calendar days of the meeting. The applicant may file an application containing the information required in Subsection 1019.06, above, after the preapplication meeting is held or waived.
- B. Preliminary Review: Within 7 calendar days after an application is filed, the Planning Director or designate shall determine whether the application is complete and, if it is not complete, notify the applicant in writing, specifying what is required to make it complete.
- C. Tentative Decision: Within 14 calendar days after the Planning Director decides an application for a solar access permit is complete, the Planning Director or his/her designate shall issue a written decision tentatively approving or denying the request, together with reasons therefor, based on the standards in Subsection 1019.04.
 - 1. If the tentative decision is to deny the permit, the Planning Director shall mail a copy of the decision to the applicant.
 - 2. If the tentative decision is to approve the permit and the owners of all affected properties did verify the accuracy of the plot plan as permitted under Subsection 1019.06F, the Planning Director shall mail a copy of the decision to the applicant and affected parties.
 - 3. If the tentative decision is to approve the permit and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under Subsection 1019.06F, the Planning Division shall mail a copy of the tentative decision to the applicant and to the owners of affected properties who did not sign the verification statement pursuant to Subsection 1019.06F. The notice shall include the plot plans required in Subsections 1019.06B and C, above, the proposed solar access height limits, and the duties created by the permit. The notice shall request recipients to verify that the plot plan shows all nonexempt vegetation on the recipient's property and to send the Planning Division comments in writing within 14 calendar days after the tentative decision is mailed if the recipient believes

the applicant's plot plan is inaccurate.

- D. Final Decision: Within 28 days after notice of a tentative decision is mailed to affected parties, the Planning Division shall consider responses received from affected parties and/or conduct an inspection of the site, modify the plot plan and the permit to be consistent with the accurate information, and issue a final decision. The Planning Division shall send a copy of the permit and solar access height limits to the owners of each property affected by the permit.
- E. Recording of Solar Access Height Limits: If the application is approved, the applicant shall file the permit and associated solar access height limits in the office of the County Recorder with the deeds to the properties affected by it before the permit is effective.

1019.08 PERMIT ENFORCEMENT PROCESS

- A. Enforcement Request: A solar access permittee may request the County to enforce the solar access permit by providing the following information to the Planning Division:
 - 1. A copy of the solar access permit and the plot plans submitted with the permit; and
 - 2. The legal description of the lot(s) on which alleged nonexempt vegetation is situated, the address of the owner(s) of that property, and a scaled site plan of the lot(s) showing the nonexempt vegetation; and
 - 3. Evidence the vegetation violates the solar access permit, such as a sunchart photograph, shadow pattern, and/or photographs.
- B. Enforcement Process: If the Planning Director determines the request for enforcement is complete, he or she shall initiate an enforcement action.

1019.09 EXPIRATION AND EXTENSION OF A SOLAR ACCESS PERMIT

- A. Expiration: Every permit issued by the Planning Division under the provisions of this ordinance shall expire if the construction of the solar feature(s) protected by such a permit is not commenced within 180 days from the date of such permit, or if the construction of the solar feature(s) protected by such a permit is suspended or abandoned at any time after the work is commenced for period of 180 days. The Planning Director shall terminate the permit by filing the notice of expiration in the office of the County Recorder with the deeds to the affected properties.
- B. Extension: Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit when he or she is unable to commence work within the time required by this subsection for good and satisfactory reasons. The Planning Division

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may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.