

VERMONT VILLAS CONDOMINIUMS HOMEOWNERS ASSOCIATION

Solar Energy System Guidelines

The Board recognizes there may be member interest in installing solar energy systems within the community. Since these systems by nature must be installed outside the unit (*i.e.*, in the Common Area), the Association has adopted this policy to aid members in developing their solar projects within Association expectations.

These Solar Energy System Guidelines (“Guidelines”) constitute reasonable restrictions on the installation of solar energy systems pursuant to Civil Code § 714.1, and apply to the installation of solar energy systems. Solar energy systems may be installed on the roof of the building where the Owner’s Unit is located or the roof of the carport the Owner’s parking space is located (if adjacent to the building) in accordance with these Guidelines.

It is critical to ensure that any installation of a proposed solar energy system is done in a manner that best preserves the harmony and character of the community as a whole. As such, the establishment of Guidelines that meld energy conservation efforts with an installation that is aesthetically pleasing is of paramount importance. Through these Guidelines, the Owner-applicant is requested to install their solar energy system so as to minimize the visual impact from Common Areas and neighboring Units, while maintaining an efficient operating system. The purpose of these Guidelines is to provide Owners with standards on best practices as to both cost and energy efficiency and aesthetic aspects of solar energy installations.

1) Approval:

- a. Prior architectural approval from the Association is required before any solar energy system may be installed. (CC&Rs Article VII, Section 9.) The Association may approve, conditionally approve, or deny an application. The Association may require submittal of any additional information necessary, in the Board’s discretion, to evaluate an application. The Association may propose an alternative installation that is more aesthetically pleasing.
- b. The Association’s decision or any request for additional information must be in writing and must be sent to the requesting Owner within 45 days from the date of receipt of a complete and satisfactory application.
- c. A summary checklist of items that need to be submitted with an Owner’s application is attached hereto as Exhibit A. This list may not be exhaustive and any other documents required under these Guidelines or by the Association must also be submitted.
- d. No solar energy system may be installed unless and until Owner(s) have executed an Association-approved License and Indemnity Agreement, which is attached as Exhibit B.

- 2) **Expert Fees:** The Board may, in its sole discretion, retain an expert, including legal counsel, to review an application for a solar energy system and/or to be involved in any aspect of the approval, installation, or inspection process. If the Board finds it necessary to utilize an expert, the Owner will be responsible for the cost.
- 3) **Permits:** Owners shall obtain all necessary permits at their cost. A solar energy system shall meet all applicable building codes and health and safety standards and requirements imposed by state and local permitting authorities.
- 4) **Fire Marshall Approval:** The Building Department for the City of Escondido may require an inspection by the local Fire Marshall prior to issuing a permit for the proposed installation of a solar energy system. If such a requirement is imposed, the Owner shall be required to cooperate with the inspection.
- 5) **Photovoltaic System Standard:** A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the National 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.
- 6) **Indemnification by Installer:** As provided in Civil Code §714.1(a)(4), the solar energy system installer hired by the Owner must indemnify or reimburse the Association or its members for loss or damage caused by the installation, maintenance or use of the solar energy system. Owners are solely responsible for ensuring that their solar energy system installer provides such indemnification to the Association and its members.
- 7) **Installation Location:**
 - a. Owner must install their solar energy system on the roof over the building that the Owner's Unit is located in or on the roof of the carport the Owner's parking space is located if the carport is adjacent to the building.
 - b. Solar Site Survey.
 - i. The Association, in its sole discretion, may perform its own solar site survey of any building in the community and require all Owners requesting a solar energy system to abide by the survey's Equitable Allocation of usable solar roof. For purposes of this provision, "Equitable Allocation" means dividing the roof of a building amongst all Units within that building or the roof of an adjacent carport amongst all Units with parking spaces therein such that each Unit Owner has the opportunity to install a solar energy system that will produce a relatively equal amount of energy.
 - ii. If the Association has not already obtained a solar site survey for the roof of the building or carport where the proposed solar energy system is to be located, the Owner must provide a solar site survey showing the usable area of the rooftop (or if one or more solar energy systems has already been installed or has been approved to be installed, the portion of remaining usable roof), the proposed placement of the solar energy system, and a determination of an Equitable Allocation of the usable solar roof area (or remaining usable solar roof area) among all Owners (or the number of Owners who have not already installed or have been approved to install solar

energy systems) owning Units in the same building. (Civil Code § 4746(b)(1)(A).) This solar site survey must be performed by a Board approved third party licensed contractor knowledgeable about the installation of solar energy systems.

- iii. The requesting Owner must abide by the Equitable Allocation assigned by the Association's solar site survey, if one is prepared, or if not, the Equitable Allocation assigned by the solar site survey submitted by the Owner, by using only the Owner's share of the rooftop so the remainder will be available for other Owners of Units in the building or other Owners of parking spaces in the carport.
 - iv. Applications will be processed in the order they are received. To the extent more than one Owner desires to utilize the same area of space for a solar energy system, and to the extent the proposed solar energy systems are acceptable to the Association, the space will be allocated on a first come, first served basis.
 - v. Prior to initiating litigation involving any claim, controversy, or dispute of whatever nature arising out of or related to a solar site survey or surveys, the parties must first attempt to settle any claim by mediation with the National Conflict Resolution Center unless the parties mutually agree to another approach to mediation. Demand for mediation shall be filed in writing with the involved parties and with the National Conflict Resolution Center. A demand for mediation shall be made within a reasonable time after the claim has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations.
 - vi. In the event the Equitable Allocation of the roof makes it impractical or impossible for any single Owner to install a solar energy system in his/her allotted space (i.e. there is not enough usable roof space when divided to allow each Owner of a Unit in the building to install a functional solar energy system), the Association will consider an Owner's application for the installation of a solar energy system on a greater portion of the roof than what is Equitably Allocated to that Owner if the Owner obtains the approval of each of the other Owners in that building. Such approval must be evidenced by a signed agreement that will be recorded with the County Recorder in a form provided by the Association. The applicant Owner will be responsible for the cost of the preparation of each agreement and the costs of recording each agreement. These agreements must be executed prior to the Association's consideration of the Owner's application for a solar energy system.
- c. The preferred location for all solar energy systems is one that results in the least visual impact to Owners of the Association and the least destructive and/or intrusive impact to the Common Area or area(s) the Association maintains. To the extent it is consistent with the Equitable Allocation of usable roof space, if possible, roof-mounted solar panels shall first maximize the solar output of one roof line before any panels are placed on a second roof line. If possible, non-street view roof lines should be utilized.

- d. If the proposed solar energy system is not to be located on a roof, it may only be installed as approved by the Association.

8) Installation Standards:

- a. The solar panels must not produce a significant amount of heat as to cause harm to the Common Area, Exclusive Use Area or other units.
- b. To the extent reasonably feasible without affecting the efficiency of the solar energy system as described in Civil Code § 714, the Owner shall install the solar and related equipment so as to minimize glare and visibility from other areas of the Association. The solar panels must have sufficient glare resistance as to not cause a nuisance to other Owners. The applicant is solely responsible for ensuring compliance with this provision.
- c. Verified complaints related to reflection of light and heat from other Owners' solar energy systems may result in modifications and/or removal at the installing Owner's expense.
- d. Specifications from the manufacturer must be provided for Board review.
- e. Roof-mounted solar panels must be square and parallel to the roof line(s) where the panels are to be installed.
- f. All solar panels and other equipment must be installed with as low a profile as functionally practical, to minimize the visual impact of the equipment.
- g. The highest point of any solar energy system should be lower than the ridge of the roof where it is attached, if possible, unless otherwise approved in writing by the Association.
- h. Piping and electrical connections must be located directly under and/or within the perimeter of the panel and be concealed from view from all angles.
- i. The color of the panels and trim of the support structure will be limited to black, brown, gray or non-reflective metallic as provided by manufacturer. No brass, silver, or white or other colored panels will be allowed.
- j. Support poles, support structures and other equipment must be painted to blend with the color of the portion of the building on which it sits.
- k. Installation must be in strict compliance with approved plans. Any changes to the approved plans must be separately approved before installation.

9) Application Requirements: The Owner must:

- a. Develop written plans to clearly identify the location of the solar energy system. These plans must include:

- i. The height, width, length, color and materials of the equipment. Plans must include a black and white diagram (suitable for recording), clearly identifying the location in relation to property boundaries, and dimensions.
 - ii. Photos of proposed location of the installation, the proposed elevation of the array, complete with “photo shop” mock ups of the final installation where possible.
 - iii. Where applicable, the landscaping, roofing material, and/or other materials that will be used to make the final structure aesthetically in harmony with the community in general.
 - iv. The solar energy system installer’s contractor’s license number and proof of liability, workers’ compensation, property and auto insurance information, naming the Association and its managing agent as additional insureds (except on the worker’s compensation policy). Such policies must not contain an exclusion for work performed in a common interest development or condominium project, and may not contain an insured vs. insured exclusion.
 - v. A signed and notarized License and Indemnity agreement, with the original signatures and notary page(s) returned to the Association, in the form attached hereto as Exhibit B. Owner is responsible for the costs of preparation and recording of the License and Indemnity Agreement.
- b. Notify all Owners within the building on which the installation will be located of the application. The requesting Owner must provide the Association with signatures from the notified Owners or certified mail receipts showing the notification was sent.

10) Owner’s Additional Responsibilities:

a. Maintenance, Damage, Costs:

- i. Owner covenants and agrees to pay all costs and expenses related to and to be fully responsible for the maintenance, repair, removal and/or replacement of the solar energy system, as well as any maintenance, repair and/or replacement of any portion of the Common Area, Exclusive Use Area or Units made necessary by the installation, maintenance, repair, replacement, use, continued existence and/or removal of the solar energy system, including, but not limited to, the maintenance, repair and replacement of the roof beneath which the solar energy system is located, other building components beneath which the solar energy system is located, water damage and/or accelerated roof deterioration.
- ii. Owner further covenants and agrees to assume all responsibility for any damage to persons, property or otherwise which may result from the installation, maintenance, repair, replacement, use, continued existence and/or removal of the solar energy system.
- iii. Should the Association need to inspect, maintain, repair or replace the roof or Common Area underneath any portion of the panels or system, Owner agrees to remove the improvements where necessary, at Owner’s sole expense, to allow Association to perform its duties pursuant to the Governing

Documents, after which Owner may replace the solar energy system at Owners' own cost, if desired, in the exact same location as previously approved.

- b. **Warranty:** If the Common Area roof is under warranty, mounting hardware or otherwise penetrating the Common Area roof may void the warranty. Accordingly, Owner agrees that the solar equipment shall be installed, constructed, maintained, repaired, replaced, removed, or used in accordance with any roof warranty(ies) issued to Association, and that the costs, expenses, loss and/or damages due to any invalidation, voiding or avoidance of any roof warranty(ies) shall be the sole responsibility of the Owner.
- c. **Reimbursement of Association by Owner:** An Owner shall be responsible to reimburse the Association and/or members for any and all damage to Common Area, Exclusive Use Area and/or Units, respectively, caused by the acts or omissions of Owner or his or her solar energy system installer arising from or connected with the installation, maintenance, repair, replacement, use, continued existence and/or removal of the solar energy system. Such damage maintenance or repair costs shall become a part of the assessment to which the Unit is subject, after notice and hearing.
- d. **Insurance:** Owner, including all subsequent Owners, shall be responsible for securing and maintaining adequate insurance for the solar energy system, including any liability arising therefrom. Owner must provide a certificate of liability insurance to the Association within fourteen (14) days of approval and annually thereafter. Association shall have no obligation to insure the solar energy system. Failure of the Association to verify compliance does not excuse an Owner's performance, and does not constitute a waiver of the Association's right to enforce compliance in the future. Failure to maintain insurance and provide evidence of such insurance on demand shall be deemed a material breach of the conditions of approval, and the Association shall have the right, but not obligation, to order removal of the solar energy system installation.
- e. **Indemnification by Owner and Solar Installer:** Owner and Owner's solar installer shall defend, indemnify and hold harmless Association, and its Board of Directors, officers, members, agents and employees from and against any and all actual and/or alleged injuries, damages, judgment, liability, claims, causes of action, and/or costs (including attorney's fees), which may exist or be brought or instituted against any or all of said parties because of, or in any manner arising from or connected with the installation, maintenance, repair, replacement, use, continued existence and/or removal of the solar energy system. (Civil Code section 714.1(a)(4).)
- f. **Repair of System:** Owner shall be responsible to keep the solar energy system in good maintenance and repair and otherwise maintained in compliance with the governing documents.
- g. **Governing Documents:** These Guidelines are in addition to, and not in lieu of, the governing documents of the Association.

Before an application for solar energy system installation will be deemed complete for review, Owner must sign and return these Solar Energy System Guidelines and the attached License and Indemnity Agreement.

By signing below, Owner, on behalf of him/herself and any other Owners of the Unit, acknowledges that Owner has read and agrees to comply with these Guidelines.

OWNER of: [Address within Vermont Villas] _____

Print Name _____

Date

Print Name _____

Date

EXHIBIT A

SOLAR ENERGY SYSTEM APPLICATION CHECKLIST

In addition to any other documentation required by these Guidelines or by the Association, an owner must submit the following documents with Owner's application for a solar energy system:

- Signed copy of Solar Energy System Guidelines.
- Signed and notarized License and Indemnity Agreement (Exhibit B).
- Permits for installation of the solar energy system.
- Evidence of approval of the proposed solar energy system from the Fire Marshall.
- Solar site survey showing placement of solar energy system (if the Association has not already obtained a solar site survey).
- Solar energy system manufacturer specifications.
- Plans that include:
 - Location of the solar energy system;
 - Height, width, length, color and materials of the equipment;
 - Black and white diagram of proposed installation, suitable for recording;
 - Photos of location of the installation site, proposed elevation of the array, and if possible, photo shop mock ups;
 - Any materials being used to make the final installation aesthetically in harmony with the rest of the community.
- The Solar Energy System Installer's:
 - Contractor's license number;
 - Proof of liability, workers' compensation, property and auto insurance information, naming the Association and Association's managing agent as an additional insured (except on the workers' compensation policy).
- Signatures of all Owners of Units within the building where the solar energy system is to be installed, or certified mail receipts showing such notification was sent.

*** Within 14 days of approval (and annually thereafter) Owner must provide the Association with a certificate of adequate liability insurance for the solar energy system. ***

EXHIBIT B

**LICENSE AND INDEMNITY AGREEMENT REGARDING ARCHITECTURAL
MODIFICATIONS TO REAL PROPERTY**

(Attached on following pages. Remainder of this page is blank.)