



CORONADO CAYS HOMEOWNERS ASSOCIATION

March 29, 2018

To: All Members of Coronado Cays Homeowners Association
From: Board of Directors
Re: Proposed Rule Changes - **Solar Energy System Guidelines** (Antigua, Kingston, Montego, and Mardi Gras)

CORONADO CAYS HOMEOWNERS ASSOCIATION

Solar Energy System Guidelines

(Antigua, Kingston, Montego, and Mardi Gras)

In response to recent changes in the law, the Board recognizes there may be member interest in installing solar energy systems within the communities of Antigua, Kingston, Montego, and Mardi Gras. 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.¹ According to Civil Code § 714.1(b)(1), solar energy systems may be installed on the roof of the building where the Owner’s Unit is located or the garage or carport adjacent to the building that has been assigned to the owner for exclusive use² 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. Subject to the

¹ For purposes of these Guidelines, the term “solar energy system” refers to both solar domestic water heating systems and/or photovoltaic systems, as applicable to an Owner’s request.

² Solar energy systems may not be installed on the common use garage structures in Montego, which are partially covered by tennis courts.

limitations of Civil Code § 714 (“Statutory Guidelines”),³ 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.

1) Approval:

- a. Prior architectural approval from the Association is required before any solar energy system may be installed in accordance with the governing CC&Rs and Rules and Regulations. The Association may approve or deny an application. An application may be denied pending the submission of additional information or the acceptance of additional conditions. The Association may require submittal of any additional information necessary, in the Board’s or Architectural Committee’s discretion, to evaluate an application. The Association may propose an alternative installation that is more aesthetically pleasing within Statutory Guidelines.
- b. In reviewing an application for a solar energy system, the Board may, in its sole discretion, retain an expert 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, which will be billed to the owner following a properly noticed hearing. This is considered an application cost and does not increase the cost of the proposed system under Civil Code § 714.
- c. The Association’s decision and 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.

2) Application:

- a. A 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 requested by the Association must also be submitted.
- b. 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. Owner is responsible for the costs of preparing and recording the License and Indemnity Agreement. This cost does not increase the cost of the proposed system under Civil Code § 714. The provisions of Exhibit B are incorporated herein as part of these Guidelines. Please review them carefully.

³ Civil Code § 714 allows the Association to adopt reasonable restrictions that do not significantly increase the cost of the solar energy system or significantly decrease its efficiency or specified performance. Civil Code § 714(d) defines the term “significantly” as follows:

- 1) for domestic water or pool heating systems that comply with state and federal law, an amount exceeding 10% of the cost of the system originally proposed, but in no case more than \$1,000, or a decrease in efficiency by an amount exceeding 10%, as originally proposed;
- 2) for photovoltaic systems that comply with state and federal law, an amount not to exceed \$1,000 of the system cost originally proposed, or a decrease in efficiency by an amount exceeding 10%, as originally proposed.

- 3) **Permits/Fire Marshal Approval:** 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, including any approval requirements required by the local Fire Marshall.
- 4) **Installation Location:**
- a. Owner must install their solar energy system solely on the roof over the building that the Owner's Unit is in or the garage or carport adjacent to the building that has been assigned to the owner for exclusive use.
 - 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 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 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).) The cost of the solar site survey is not deemed as increasing the cost of the proposed system pursuant to Civil Code § 714.
 - iii. The solar site survey must be performed by a licensed contractor knowledgeable about installation of solar energy systems.
 - iv. 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.
 - v. 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.
 - vi. 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.

- vii. 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 and Statutory Guidelines, 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.

5) **Installation/System Standards:**

- a. Water Heating System Standard: A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agencies. The certification shall be for the entire solar energy system and installation.
- b. 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.
- c. The solar energy system must be engineered so that the structural integrity of the existing structure and existing roof are maintained. The existing roof must be left in place unless otherwise approved by the Association.
- d. Existing trees and other obstructions that may interfere with the efficiency of the solar energy system cannot be removed without the written approval of the Association.
- e. The solar panels must not produce a significant amount of heat as to cause harm to the Common Area or other homes.
- f. 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. 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.

- g. Roof-mounted solar panels must be square and parallel to the roof line(s) where the panels are to be installed.
 - h. 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.
 - i. 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.
 - j. 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.
 - k. 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.
 - l. 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.
 - m. Installation must be in strict compliance with approved plans. Any changes to the approved plans must be separately approved before installation.
- 6) **Preconstruction Roof Inspection:** Once approved in writing by the Association, but prior to proceeding with construction, a licensed roofer to be designated by the Association's Board of Directors (to be paid by the Owner) shall perform an inspection of all roofing components and comply with all of the following:
- a. Determine the estimated usable life span of the existing roof.
 - b. Verify that the existing roof is compatible with the intended solar energy system.
 - c. Submit an additional and/or revised proposal to the Owner(s) and the Association if any additional roofing, waterproofing or fireproofing is required beyond the scope of work submitted with the Owner's application.
 - d. Provide a written report and photographic record of the condition of the existing roof.
- 7) **Roof Maintenance, Repair and Inspection:** 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.
- 8) **Solar Energy System Maintenance and Repair:** Owner shall be responsible to keep the solar energy system in good maintenance and repair and otherwise maintained in compliance with the governing documents.
- 9) **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.

10) **Indemnification by Owner and Installer:** As provided in Civil Code §714.1(a)(4), Owner(s) and the solar energy system installer hired by the Owner must indemnify and/or reimburse the Association and/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.

11) **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 Association] _____

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, including approval of the proposed solar energy system from the Fire Marshall, if such approval is required separately from the permit process.
- 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). (See insurance requirements in Section 11 of the License and Indemnity Agreement attached as Exhibit B.)
- 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. ***

Effective Date: These rule changes will take effect upon the Board's adoption of the rules at the open Board meeting scheduled below.

In compliance with the legal process for adoption of new operating rules, we are providing the proposed rules to you for a 30-day review and comment period. (Civil Code section 4360.) Please review the enclosed proposed rules, and forward to the Board, c/o Michael Bennett at 505 Grand Caribe Causeway, Coronado, CA 92118, or via email to manager@cchoa.org, any comments you would like the Board to consider prior to adopting the proposed rules. You may also attend the Board meeting and provide your comments to the Board in person. The Board will take all comments received prior to voting on the matter into consideration.

The Board will consider member comments, if any, and vote on whether to adopt the proposed rules at its open session Board Meeting on **May 24, 2018, at 2:00 PM onsite at 505 Grand Caribe Cswy, Coronado, CA 92118**. Thank you in advance for taking the time to review the proposed rules.

Sincerely,

Coronado Cays Homeowners Association

By: Michael Bennett, General Manager
On Behalf of the Board of Directors

EXHIBIT B

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

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