

## ORDINANCE 0-14-05

### AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, AMENDING THE ZONING CODE OF THE CITY OF BISBEE BY ADDING ARTICLE 6.15, SOLAR DEVICES, AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City of Bisbee supports the use and development of solar energy devices as an important means to make this community more self-sustaining and to reduce the amount of non-renewable energy used in this area; and

WHEREAS, most such installations will have little impact on surrounding properties and their occupants and should be subject only by the requirements of the applicable building and safety codes; and

WHEREAS, some very large installations may have a potential to impact other property owners and residents in that area and there should be an expedited process for the receipt and consideration of public comments prior to the approval of those large installations which exceed the designated thresholds; and

WHEREAS, the Planning and Zoning Commission has held numerous public meetings on this issue and has recommended this amendment as a means to balance the interests of promoting the use of solar energy with the interests of property and residents in limiting the potential off site impacts from these installations; and

WHEREAS, this amendment is necessary and appropriate for the protection of the health and safety of this community, both in fostering the use of solar energy as an alternative to other forms of energy with more deleterious impacts upon our environment, and in allowing for public comment and review of those larger proposed installations which may have a direct impact upon the health and safety of the owners and occupants of adjacent properties,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bisbee as follows:

Section 1: That the Zoning Code of the City of Bisbee is hereby amended by the addition of Article 6.15, Solar Devices, as stated in the attached Exhibit A, which is incorporated herein reference.

Section 2: Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of

Bisbee, this 17<sup>th</sup> day of June, 2014.

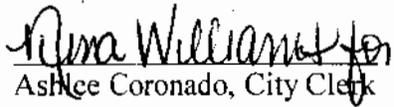
APPROVED:



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Adriana Z. Badal, Mayor

ATTEST:



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Ashlee Coronado, City Clerk

APPROVED AS TO FORM:



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John A. MacKinnon, City Attorney

## EXHIBIT A

### AMENDMENT TO THE ZONING CODE OF THE CITY OF BISBEE

#### ARTICLE 6, GENERAL PROVISIONS

##### 6.15 Solar Energy Devices

A. The City of Bisbee supports the use and development of solar energy devices as an important means to make this community more self-sustaining, to reduce the amount of non-renewable energy used in this area, and to improve the quality of our environment. There are, however, certain situations in which the use of these beneficial devices must also be balanced with other significant interests in this community and the interests of the owners of the surrounding properties. The purpose of this Code section is to help to achieve the appropriate balance of interests that is necessary for a viable, sustainable community.

B. Within the City of Bisbee, outside of the designated Bisbee Historic Preservation Overlay District, the installation of solar energy devices on the roofs of existing or permitted buildings, no higher than six (6) feet above the roof surface, measured from the mounting location, or which do not exceed the limits of the following paragraph E.2, shall be subject to compliance with all applicable building and safety codes, but shall not require any additional form of public review.

C. Applications for permits to install solar devices within the Bisbee Historic District, which are proposed to be installed in a manner that is consistent with those Design Principles stated below, which can be reasonably met under the particular circumstances, as determined by the Building Inspector, shall be subject to compliance with all applicable building and safety codes, and shall not require any additional form of public review. The following Design Principles are intended to minimize the adverse impact of any such development on the special characteristics that are to be protected by the creation of the Historic District.

1. Locate the solar devices in an inconspicuous location. Can the solar device be located in a rear or side yard, low to the ground, in a manner that limits their visibility, but with due respect to any historic landscape features?
2. Locate the solar device on new construction. Are there areas of new construction or additions where the solar devices could be located, in order to maintain compatibility with the historic building and protect it from alteration?
3. Locate the solar device in an area that minimizes its visibility from the public streets and roads. Can the solar devices be placed on locations other than street-facing walls and roof, or below and behind parapet walls and dormers?

4. Avoid installations that would result in the permanent loss of significant character-defining features of historic structures. Can the solar devices be installed without altering existing roof lines or obstructing the views of significant architectural features?
5. Avoid installations that result in the removal or permanent alteration of significant architectural features. Can the solar devices be installed in a manner that is reversible, and that will not result in the permanent alteration of intact historic materials and features?
6. Require low profiles. Can the solar devices be mounted flush with, or no higher than a few inches above, the existing roof surface, so that they are not visible above the roof line of the primary façade?
7. On flat roofs, set the solar device back from the edge. Can the solar devices be set back from the roof edge, and adjusted so that they are not visible from below?
8. Avoid disjointed or multi-roof installations. Can the solar devices be installed at angles that are consistent with the slope and pitch of the supporting roof and on one roof plane, in a manner that matches the general shape and configuration of the roof upon which they are mounted?
9. Ensure that the solar device, support structures, and conduits blend into the surrounding features of the supporting structure. Can the visibility of the solar devices be reduced by matching them in color and texture to the surrounding historic building?
10. Do not exceed a height of more than six (6) feet above the roof surface, measured from the mounting location; or, if the device is not mounted on a roof, have a cumulative foot print or total surface collection area in excess of six hundred (600) square feet or a maximum height more than ten (10) feet above the existing grade.

D. For all building permits authorized pursuant to this Article, installation plans signed and sealed by a licensed engineer or architect shall not be required in connection with the building permit for installation of the device unless, due to the proposed size and shape of the particular device, the Building Inspector has a reasonable belief that this particular device may pose a hazard to the structure, its occupants, or the surrounding properties, as shall be explained in a written request for any such additional approval. Solar devices shall not be subject to any additional height restrictions in this Zoning Code and their additional height shall not be included in the determination of the maximum height of the building or structure. Roof mounted solar devices shall not extend beyond the perimeter of the supporting building or structure. No solar device shall be constructed or maintained within or over the required set back area for that property.

E. The following criteria will determine whether or not a particular solar device installation will be subject to additional public notice and review. The public notice process described in the following sections shall be applicable for those proposed solar device installations for which any of the following are true:

1. any part of the solar device installation will be located more than six (6) feet above the roof surface, as measured from the mounting surface; or
2. the solar device will not be located on a roof surface and will have a cumulative foot print or total surface collection area in excess of six hundred (600) square feet or a maximum height of more than ten (10) feet above the existing grade; or
3. for applications for projects within the Bisbee Historic District, the Building Inspector has determined that the application is not consistent with the Design Principles in paragraph C. above.

F. If the public notice process is applicable, the applicant must present to the Building Inspector a description of the proposed project with a conceptual drawing or scaled rendering of where the proposed solar devices will be located on the property and the proposed sizes and heights of each such device, together with any additional description of the project and the reasons for its proposed design and location, that the applicant is able to provide. The applicant is not required to present final engineering plans at this stage, but should attempt to provide sufficient information to assist the adjacent property owners in understanding the nature and extent of the project. The applicant is encouraged to provide the most realistic presentation of the exterior elevations and relative heights of the proposed project to the surrounding structures as can be feasibly provided within the time and resources available.

G. The Building Inspector will send a copy of these materials to the owner, as determined by the available Assessor records, of each property located within three hundred (300) feet of the subject property, together with a notice indicating that:

1. The applicant may be able to provide additional information about this proposed project, with contact information for the applicant; and
2. The date, time, and location of any neighborhood meeting, if any, that the applicant has scheduled to discuss this project; and
3. The date and time of the public hearing scheduled for this application. For applications for projects located within the Bisbee Historic District, the hearing shall be scheduled before the Design Review Board. For all other applications, the hearing shall be scheduled before the Planning and Zoning Commission.

H. If a public hearing is required, a meeting will be scheduled at the soonest possible date that

is sufficient to allow written notice of not less than ten days to the applicant and adjacent property owners. At the hearing, the designated public body shall consider such information as the applicant, the property owners, and anyone else who may be qualified to offer an informed opinion on the issues may provide. The public body shall review the following issues:

1. Whether the proposed installation is a reasonable facility for that location, given the needs of the applicant and the potential impacts upon the surrounding properties? The potential impacts upon surrounding properties that may be considered include, but are not limited to, whether the installation would shade other properties; block views; reflect glare, light, or heat; cause water run-off; or generate noise that may be heard off-site. Within the Historic District, potential impacts may also include impacts on the protection and preservation of the District, its attributes, and its contributing properties.
  2. Whether the proposed location on the subject property is necessary or appropriate for the safe, efficient, and economical installation of this installation, or whether an alternative location with less potential off-site impacts may be suitable for the installation?
  3. Whether there are other potential mitigating actions that could be reasonably taken to lessen the potential impacts of the proposed installation upon adjacent properties?
1. At the conclusion of this hearing, the public body may either approve the proposed installation; condition its approval of the installation upon other measures or the use of another suitable location, as necessary to minimize adverse impacts, without significantly compromising the efficiency of the device; or deny the application and request the applicant to review other means to achieve the desired results, with lesser adverse impacts upon the community.
- J. For purposes of this Article, the term “solar device” means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to produce biological sources of combustible fuel, or to provide any combination of the foregoing, by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also include the capacity of storing energy for future utilization.