

**ORDINANCE NUMBER #2022-05**

**AN ORDINANCE AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE TOWN OF PINE BLUFFS, WYOMING ENTITLED "BUILDING REGULATIONS" BY CREATING ARTICLE 10 MODIFYING AND REORGANIZING THOSE PROVISIONS GOVERNING THE IMPLEMENTATION OF A SOLAR ACCESS PERMIT SYSTEM, ESTABLISHING A PROCEDURE FOR PERMITTING AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED TOWN OF PINE BLUFFS, WYOMING:**

Section 1: Chapter 5 of the Code of Ordinances of the Town of Pine Bluffs, Wyoming is hereby amended by creating Article 10 entitled Solar Access Permit System to read as follows:

**CHAPTER 5**

**Building Regulations**

**ARTICLE 10**

**Solar Access Permit System**

**§ 5-1001. Purpose, Authority, General Provisions**

- (a) The purpose of this chapter is to protect the health, safety and general welfare of residents of the town by encouraging the use of solar energy systems. The intent of this chapter is to provide a means of protection for the use of solar collectors without causing undue hardships on the rights of adjacent property owners.
- (b) Authority is granted cities and towns by Wyo. Stat. Sections 34-22-101 through 106 to regulate and permit solar energy systems.

**§ 5-1002. Definitions**

The following definitions shall apply in the interpretation and enforcement of this chapter:

- (a) "Potentially affected owner" means the owner of record or contract purchaser of record of any real property which is, or may become, burdened by a solar right established by this chapter.
- (b) "Solar collector" means one of the following which is capable of collecting, storing or transmitting at least twenty-five thousand (25,000) BTU's on a clear winter solstice day:

- (i) A wall, clerestory window or skylight designed to transmit solar energy into a structure for heating purposes;
  - (ii) A greenhouse attached to another structure and designed to provide part or all of the heating load for the structure to which it is attached;
  - (iii) A trombe wall, drum wall or other wall or roof structural element designed to collect and transmit solar energy into a structure;
  - (iv) A photovoltaic collector designed to convert solar energy into electric energy;
  - (v) A plate-type collector designed to use solar energy to heat air, water or other fluids for use in hot water or space heating or for other applications;
  - (vi) A massive structural element designed to collect solar energy and transmit it to internal spaces for heating; or
  - (vii) Other devices or combination of devices that rely upon sunshine as an energy source.
- (c) "Solar right" means a property right to an unobstructed line-of-sight path from a solar collector to the sun which permits radiation from the sun to impinge directly on the solar collector. The extent of the solar right shall be described by the illumination provided by the path of the sun on the winter solstice day which is put to a beneficial use or otherwise limited by city ordinance or state law.
- (d) "Winter solstice day" The solstice on or about December 21st which marks the beginning of winter in the northern hemisphere and is the time when the sun reaches its southernmost point.

§ 5-1003. Permit Required

- (a) A solar access permit must be issued before a solar right may be established under this chapter.
- (b) A solar access shall be granted for any proposed or existing solar collector which complies with the requirements of this chapter, other city ordinances and state law.
- (c) Solar rights shall vest on the date the solar access permit is issued which date will also be the priority date of the solar right. The solar collector must be put to beneficial use within two years of that time, except additional time may be granted by the governing body for good cause shown.

§ 5-1004. Permit Application - Fees

- (a) Any person desiring to obtain a solar right must first make application to the town clerk for a solar permit access permit. A permit application for a solar right will consist of the following materials:

- (i) An original completed solar access permit application form provided by the clerk's office;
- (ii) The names and addresses of all potentially affected owners;
- (iii) An original site plan drawn to scale showing at least the following detail:
  - (A) Title block containing the owner's name, street address of the site and use of the structure(s),
  - (B) North arrow, scale, and date of preparation of the plan,
  - (C) Names of all adjacent streets,
  - (D) Dimensions of property,
  - (E) Legal description of the parcel of property to be benefitted by the solar access permit,
  - (F) Dimensions, heights and location of all fences, walls, and other structures on the site and on the real property of all potentially affected owners,
  - (G) Location, height, and type (common name) of all trees, bushes, and shrubs on the site, and on the real property of all potentially affected owners,
  - (H) Legal description of the parcels of real property belonging to potentially affected owners which would be burdened by the solar access permit,
  - (I) Design, construction, and orientation of solar collector,
  - (J) For existing solar collectors, the first date the solar collector was beneficially used,
  - (K) Such topographical information and engineering calculations as may be necessary in the governing body's discretion to document the solar right,
  - (L) Degree line from base of collector, as measured above the horizon,
  - (M) Signature block for Mayor or designee's approval.
- (b) Any person desiring to obtain a solar right will, in addition to making application to the governing body for a solar access permit, publish, at his or her own expense, a copy of the notice of the application in a newspaper of general circulation in the city once a week for three consecutive weeks, and furnish proof of said publication to the town clerk.

The notice shall state that a named applicant has applied for a solar access permit; the street address of the proposed solar collector; the type of solar collector to be constructed; the date, not sooner than ten (10) days after the last date of publication, which a person or persons may file written comments with the governing body with respect to the issuance of the solar access permit.

§ 5-1005.     Application Review

Upon filing a permit application, the Public Works Utilities Director will review the application and site plan and any comments received thereon, inspect the site of the proposed or existing solar collector, and will cause the applicant to make any necessary corrections and additions to the permit application and site plan. The Town Clerk will ensure that a copy of the application has been published in accordance with the provisions of Section 5-1004.

§ 5-1006.     Notification of Issuance or Denial – Appeal

- (a) After a decision to issue or deny the solar access permit by the governing body, the town clerk's office will notify the applicant and all potentially affected property owners by letter advising them of the decision as well as their right to appeal.
- (b) The decision of the governing body may be appealed to by any person or agency affected by any such decision. An appeal must be taken within thirty (30) days from the date of the action by filing a written notice of appeal with the governing body. The notice of appeal must specify the grounds for the appeal and contain a list of all potentially affected property owners. A copy of the notice of appeal shall also be filed with the town clerk's and that office shall transmit to the governing body all original documents, or true copies thereof, constituting the record upon which the action appealed from was taken.

§ 5-1007.     Issuance of Permit

- (a) If no appeal is taken, the town clerk's office will issue a solar access permit to the applicant after thirty (30) days have elapsed from the date of the written notification of the governing body's decision to issue the permit.
- (b) All solar access permits issued must include a legal description of the real property benefitted by the solar access permit.
- (c) All solar access permits issued must also include a list of all potentially affected owners and a legal description of the parcels of real property owned by the potentially affected owners which are burdened by the solar access permit.
- (d) The recipient of the solar access permit must record the permit with a copy of the site plan submitted with the permit holder's application, which has been approved by the governing body, in the Laramie County clerk's office within thirty (30) days after the issuance of the solar access permit. The permit holder must submit to the governing body's office a copy of the recorded permit showing the county clerk's recording date, book and page. Failure to record the permit within thirty (30) days of its issuance will invalidate the permit and any solar right created by this chapter will be deemed abandoned.

§ 5-1008. Restrictions on Solar Rights

- (a) Solar collectors must be located on the solar user's property so as not to restrict the uses of the neighboring property unreasonably or unnecessarily.
- (b) The solar right to radiation of the sun before nine a.m. or after three p.m. Mountain Standard Time is de minimus and may be infringed without compensation to the owner of the solar collector.
- (c) A solar right which is not applied to a beneficial use for a period of five years or more will be deemed abandoned and without priority.
- (d) The priority of new construction with regard to interference in solar rights will vest as of the date of application for a building permit.

§ 5-1009. Prior Existing Uses

- (a) Structures or vegetation which existed prior to the time of installation of a solar energy collection system, or the effective date of this chapter are not subject to the requirements of this chapter.
- (b) Structures or vegetation which have been damaged by fire or a natural disaster may be restored to their original condition, if the work is commenced within one year of the fire or natural disaster; in addition, normal and routine maintenance of structures may be performed.

§ 5-1010. Variances

Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree or other vegetation, or otherwise use his or her property, not in conformance with this chapter, may apply for a variance from the governing body. A variance will not be approved by the board unless it finds the literal enforcement or application of those regulations would result in unnecessary hardship.

§ 5-1011. Enforcement

Once a solar collector conforming to the regulations of this chapter has been constructed, the permit has been issued by the town clerk's office, and recorded in the county clerk's office, a solar property right shall be deemed to have been established pursuant to Wyoming Statutes, Sections 34-22-101 through 34-22-106. Violation of the permitted and recorded solar right is a violation of applicable civil law. The town will not intervene in disputes over the use of solar energy.

Section 2: Effective Date.

This ordinance shall be in full force and effect upon execution and publication.

(S E A L)

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Mayor

ATTEST:

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Town Clerk

FIRST READING:

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SECOND READING:

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THIRD AND FINAL READING:

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