

**CHAPTER 16 PART 1 SOLAR SHADE CONTROL**

**1601 INTENT**

It is the intent of this Part to give the owner of a solar energy system the right to receive sunlight to the solar energy system once it is installed and to provide the means by which the owner may enforce this right.

**1602 SHADE PROHIBITION**

No person owning or in control of property shall allow any vegetation, building, wall, fence or other structure to be placed or, in the case of vegetation, to grow on such property, subsequent to the installation of a solar energy system on the property of another so as to cast a shadow over more than ten (10) percent of the absorption area of the system at any time between the hours of 10:00 a.m. and 2:00 p.m. Pacific Standard Time on December 21.

**1603 EXCLUDED VEGETATION AND STRUCTURES**

- A. Section 1602 shall not apply where one or more of the following conditions exist:
1. The vegetation, building, wall, fence or other structure is located more than 45 degrees off true south of the property on which the solar energy system is located.
  2. Prior to the installation of the solar energy system, the building, wall, fence or other structure existed or a building permit had been issued for the building, wall, fence or other structure.
  3. The vegetation existed prior to the installation of the solar energy system or within one (1) year thereafter casts a shadow over more than ten (10) percent of the absorption area of the system.
  4. The owner of the property would be prevented from constructing a single story building not exceeding ten (10) feet in building height, if such building cannot be designed or located to avoid casting a shadow over more than ten (10) percent of the absorption area of the solar energy system at any time

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between the hours of 10:00 a.m. and 2:00 p.m. Pacific Standard Time on December 21.

- 5. The owner of the property on which the solar energy system is located agrees in writing to the shading to be caused by any vegetation proposed to be planted or any building, wall, fence or other structure proposed to be constructed.
  - 6. The structure consists of a passive or natural solar heating system, cooling system or heating and cooling system for which a court of competent jurisdiction has granted an exception from the provisions of the Solar Shade Control Act, pursuant to Section 25986 of the Public Resources Code.
- B. Prior to the issuance of a building permit for the installation of a solar energy system, the system installer shall make an inspection of surrounding properties. If, from such an inspection, the installer determines that any existing vegetation, building, wall, fence or other structure is located within 45 degrees of true south and will block more than ten (10) percent of the absorption area of the system at the time of installation, the installer shall make a record of this vegetation, building, wall, fence or other structure and shall place it on file with the Building Division.
- C. When the building permit for a solar energy system is issued, the owner and residents of any property for which a report has been filed by the installer shall be so informed by written notice from the City. The notice shall include a copy of the report, shall disclose the restrictions placed upon the neighboring property due to the installation of the solar energy system, and shall advise the recipients that they have thirty (30) days in which to file their own report with the Building Division if they disagree with the report of the system installer.

**1604 VIOLATIONS AND ENFORCEMENT PROCEDURES**

- A. Notwithstanding any other provisions of this Article, violations and enforcement of the provisions of this Part shall be subject to this Section.
- B. Every person who maintains any vegetation, building, wall, fence or other structure in violation of this Section for more than thirty (30) days after receiving a notice of abatement from the city attorney to remove or alter the vegetation, building, wall, fence or other structure so that there is no longer a violation is guilty of a public nuisance, as defined in Sections 370 and 371 of the Penal Code and Section 3480 of the Civil Code.

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- C. The complainant, that is the owner or tenant of the property on which the solar energy system is installed, must establish to the satisfaction of the city attorney that the violation has occurred, and thereupon it shall be the duty of the city attorney to issue the notice of abatement. Upon expiration of the thirty (30) day abatement period, the complainant must file an affidavit with the city attorney alleging that the nuisance has not been abated, if the complainant wishes to proceed with the action, and thereupon the city attorney shall forward the affidavit to the district attorney.
  
- D. For the purposes of this Section, a violation is deemed an infraction punishable according to Section 1.12.030 of the Claremont Municipal Code. The existence of a violation each and every day after the service of the notice of abatement shall be deemed a separate and distinct offense. It shall be the duty of the district attorney to prosecute all persons guilty of violating this Part by continuous prosecutions until the violation is corrected.

### **1605 EXEMPTION**

The City of Claremont exempts itself from the provisions of the Solar Shade Control Act, commencing with Section 25980 of the Public Resources Code, only to the extent that the provisions of Section 3 of this Ordinance are inconsistent with the provisions of the Solar Shade Control Act.