CHAPTER 2.18
SOLAR ACCESS PERMITS

Section 2.18.10 - BACKGROUND

Solar energy can make a significant long-term contribution to the City's energy supply. Use of solar energy can be encouraged by providing for and protecting the solar access of property owners. A Type 1 Solar Access Permit restricts shading of a solar collector by trees. A Type 2 Solar Access Permit includes protection provided by a Type 1 Permit in addition to protection and remedies to restrict shading of a solar collector by structures.

Section 2.18.20 - PURPOSES

This chapter provides permit procedures to accomplish the following:

a. Identify a process to protect solar access to support the use of a solar collector; and

b. Specify conditions under which Solar Access Permits are authorized.

Section 2.18.30 - LIMITS ON SOLAR PERMITS

A Solar Access Permit shall not affect:

a. A lot or portion thereof more than 150 ft. south of the solar collector location;

b. A lot located on a slope grade of 20 percent or more and facing within 45 degrees of true north;

c. Any lot located in the Central Business (CB) Zone;

d. Any tree or structure on a neighboring lot existing at the time the Solar Access Permit application is accepted;

e. New structures that shade the solar collector unless a Type 2 Solar Access Permit has been previously approved and recorded;

f. Proposed new structures resulting in shading of a Type 2 solar collector between 9 a.m. and 3 p.m. on November 21 in an amount that does not exceed the shading that would be caused by a flat-roofed structure half the allowed building height at the minimum setbacks for the zone; and

g. Any new tree approved in the Solar Access Permit as a "solar-access-friendly tree" and listed by location and species consistent with section 2.18.40.06.f below.

Section 2.18.40 - PROCEDURES

An application for a Solar Access Permit shall comply with the following.

2.18.40.01- Application Requirements for Type 1 Solar Access Permit

An application for a Type 1 Permit shall include:

a. A statement of the solar heating hours for which solar access is sought;

b. Scaled drawing of the solar collector and its dimensions, height above ground level, orientation, and slope from the horizontal;

c. Sunchart for the proposed location of the solar collector, as measured from the center of the lower edge of the collector site and, if applicable, alternative locations for the solar collector. If the solar collector is more than 20 ft. in length, a sunchart photograph shall also be provided from each end of the collector;

d. Site plan showing lot lines and dimensions of the solar user's lot and neighboring lots that will be affected by the Solar Access Permit. The site plan shall indicate topography using 2- or 5-ft. contour intervals, and the location of the solar collector, structures, and trees. The site plan information shall indicate tree species;

e. Documentation showing that the solar collector would not be shaded between 9 a.m. and 3 p.m. on November 21 by a 6-ft.-high fence located on the applicant's lot lines;

f. Documentation showing that no reasonable alternative location exists for the solar collector that would result in fewer restrictions on a neighboring lot;

g. Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the solar collector that would result in fewer restrictions on a neighboring lot;

h. A list by owner of record and address for all affected lots, together with an identification by lot of exempt structures and vegetation as defined above in section 2.18.30.d; and

i. Proposed solar envelopes for affected properties and, if applicable, proposed "solar-access-friendly trees" permitted to grow so as to only partly obstruct the solar access.

2.18.40.02 - Application Requirements for Type 2 Solar Access Permit

An application for a Type 2 Permit shall include information required above in section 2.18.40.01, in addition to the following:

a. Evidence that minimum setbacks and allowable building heights for the zone do not ensure solar access protection; and

b. Proposed solar envelopes prescribing allowed building heights for affected properties.

2.18.40.03 - Acceptance of Application

a. The Director shall review the Solar Access Permit application for compliance with the application requirements in sections 2.18.40.01 or 2.18.40.02. If the application is incomplete, the Director shall notify the applicant within five days and state what information is needed to make the application complete. The applicant shall have 10 days in which to submit additional materials.

b. Any revisions to an accepted application that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees.

2.18.40.04 - Public Notice

a. The Director shall notify affected parties that an application for a Solar Access Permit has been filed.

b. "Affected parties" shall mean any owner and occupants of property within 100 ft. of the subject property and any other persons whom the Director determines are affected by the application. In addition, notice shall be provided to any neighborhood or community organization recognized by the City and whose boundaries include or are adjacent to the site.

c. The notice shall state that all comments concerning the proposed Solar Access Permit must be submitted in writing and received by the Director within 14 calendar days from the date of mailing the notice. The notice shall include the following:

1. Street address or other easily understood geographical reference to the subject property;

2. Applicable criteria for the decision;

3. Place, date, and time comments are due;

4. Indicate that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

5. Name and phone number of staff contact person;

6. State that notice of disposition shall be provided to the applicant and any person who submits comments;

7. An explanation of appeal rights; and

8. A summary of the local decision-making process.

2.18.40.05 - Staff Evaluation

The application and any comments shall be reviewed to ensure consistency with the review criteria in section 2.18.40.06 below.

2.18.40.06 - Review Criteria

Solar Access Permit applications shall be reviewed to ensure the following criteria are met:

a. The solar collector shall have at least four hours per day of unobstructed solar access between 9 a.m. and 3 p.m. on November 21 of each year;

b. After exempt vegetation has reached a mature height, sufficient solar access shall continue to exist for operation of the solar collector;

c. The solar collector shall not be shaded between 9 a.m. and 3 p.m. on November 21 by a 6-ft.-high fence located on the applicant's lot lines;

d. No reasonable alternative location exists for the solar collector that would result in fewer restrictions on neighboring lots;

e. Removing or trimming vegetation on the applicant's lot shall not permit an alternative location that would result in fewer restrictions on a neighboring lot; and

f. To provide for residential privacy, street trees, or for energy conservation benefits, the Director may specify as a condition of approval that "solar-access-friendly trees" be planted or allowed to grow so that solar access is only partly obstructed. At the time the permit is approved, solar-access-friendly trees, if applicable, shall be designated by location, species, and amount of future shading allowed by the tree.

2.18.40.07 - Action on the Application

Based on the review criteria above and any comments received from affected parties, the Director shall review the proposed development and approve, conditionally approve, or deny the application at the completion of the 14-day comment period.

2.18.40.08 - Notice of Disposition

The Director shall provide the applicant with a notice of disposition that includes a written statement of the decision, a reference to findings leading to it, any conditions of approval, and the appeal period deadline. The notice of disposition shall also be mailed to persons who provided written comment on the mailed notice. The notice and all applicable information shall be available in the Planning Division of the Community Development Department.

2.18.40.09 - Appeals

The decision of the Director may be appealed to the Land Development Hearings Board in accordance with the provisions of Chapter 2.19 - Appeals.

2.18.40.10 - Effective Date

Unless an appeal has been filed, the Director's decision shall become effective 12 days after the notice of disposition is signed.

Section 2.18.50 - PERMIT RECORDING

Within 30 days after a Solar Access Permit and building permit for the solar energy system have been granted, the Director shall file the Solar Access Permit with the Benton County Recorder in such form as required by State law. The permit shall include approved solar envelopes for affected properties, exemptions to or limits on the solar right being created, and the solar collector drawing, sunchart, and site plan.

Section 2.18.60 - OBLIGATION CREATED BY SOLAR ACCESS PERMIT

The owner of any lot subject to a Solar Access Permit shall trim any nonexempt vegetation if subsequent vegetation growth is inconsistent with the Solar Access Permit. The cost of such trimming shall be paid by the owner of the vegetation.

Section 2.18.70 - REPLACEMENT OF TREES

Nothing in this chapter shall prevent a property owner from replacing a species of tree that is partly obstructing solar access with a solar-access-friendly tree approved by the Director.