

95-32051

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Ordinance No. PL-15, Deschutes County Zoning Ordinance of 1979, Providing for Building Setbacks For the Protection of Solar Access and Solar Access Permits, Providing For Definitions and Procedures, and Providing For Permits. *

FILED

JUN 8 1983

MARY SUE PENHOLLOW, CO. CLERK

ORDINANCE NO. 83-037

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. Section 1.020, PURPOSE, of Ordinance PL-15, is amended by the addition of the following:

"To regulate the placement, height and bulk of buildings; and the placement and growth of vegetation within the County to insure access to solar energy by reasonably regulating interests in property within the County, as authorized under ORS 215.044 and ORS 105.880 through 105.890, to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Comprehensive Plan policies relating to solar energy.

To encourage the design of new buildings, structures and developments which use solar energy and protect future options to use solar energy by protecting solar access."

Section 2. Section 1.030, DEFINITIONS, of Ordinance PL-15, is hereby amended to add the following new definitions:

(34A) Exempt Vegetation. A tree or other plant that is shown by the sun chart accompanying a solar access permit application to cast existing shade on a protected area.

(34B) Existing. Existing at the time of application.

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- (49A) Highest Shade Producing Point. The highest shade producing point of the structure two hours before and after the solar zenith on December 21.
- (77A) Northern Lot Line. For the purposes of Section 5.300, Building Setbacks for the Protection of Solar Access, the northern lot line shall be the northerly edge of the lot on which an applicant's structure is located, unless directly north of the lot is an unbuildable area, in which case northern lot line means the northerly edge of the buildable area.
- (91A) Potential Structure. For purpose of solar access protection on a potential structure is any structure or building that could be built as a permitted use in a particular location under existing development standards under the existing Deschutes County Comprehensive Plan.
- (93A) Productive Solar Collector. A solar collector that provides no less than (a) 10 per cent of a building's annual total energy requirements; or (b) 50 per cent of a building's annual water heating requirements.
- (94A) Protected Area. The specific area which is provided solar access for specific hours and dates under this Ordinance.
- (114A) Shade. A shadow, except a shadow caused by a narrow object, including but not limited to a utility pole, an antenna, a wire, or a flagpole.
- (116A) Solar Access. Protection from shade for a specific area during specific hours and dates, but not including protection from shade cast by exempt vegetation.
- (116B) Solar Access Permit. The instrument issued by the County which limits the size of non-exempt vegetation on certain lots in the vicinity of a recorded solar collector.
- (116C) Solar Collector. Any object that uses solar radiation for a useful purpose, including but not limited to windows, walls, roofs and collectors.

- (116D) Solar Heating Hours. The hours and dates during which solar access is provided.
- (116E) Solar Height Restriction. The allowable height of buildings, structures and non-exempt vegetation on a property burdened by the solar access of another property.
- (125A) Substantially Shaded. Less than 80 per cent of the available solar insolation is available during winter solar heating hours to either the south roof and/or wall of an existing or potential structure.
- (132A) Unbuildable Area. An area in which a structure could not be built as a permitted use under existing development standards for the area under the existing Deschutes County Comprehensive Plan.
- (125B) Sunchart. A photograph or photographs, taken in accordance with the guidelines of the Planning director, which plots the position of the sun during each hour of the day and each month of the year relative to a protected area. The sun chart shall contain at a minimum:
- (A) Solar altitude in 10 degree increments;
 - (B) Solar azimuth measured from true south in 15 degree increments;
 - (C) If the solar collector is more than 20 feet wide, the southern skyline as seen from the two end points and from the center point of the lower edge of the protected area; and
 - (D) A clear delineation of the existing objects which cast shadows on the protected area, including hills, structures, and deciduous and evergreen vegetation.
- (136A) Winter Solar Heating Hours. The time period extending two hours before and after the solar zenith on December 21.

Section 3. The following Sections are added to Article 5, SUPPLEMENTARY PROVISIONS, of Ordinance PL-15:

"Section 5.300. Building Setbacks for the Protection of Solar Access.

(1) Purpose. The purpose of this Section is to provide as much solar access as practical during the winter solar heating hours to existing or potential buildings by requiring all new structures to be constructed as far south on thier lots as is necessary and feasible.

(2) Standards. Every new structure or addition to an existing structure shall meet the following standards except as provided in (c) below:

(A) South Wall Protection Standard. The south wall protection standard is established in Appendix A, and all new structures or additions shall meet this standard if feasible. If it is not feasible due to physical constraints of the lot, including but not limited to rock outcroppings, septic systems, existing legal restrictions or lot dimensions, as determined by the Planning Director, then the structure or addition must be located as far to the south on the lot as feasible and must meet the standard set forth in (B) below.

(B) South Roof Protection Standard. All new structures or additions to existing structures shall meet the standard for south roof protection set forth in Appendix B.

(C) Exceptions. The south roof protection standard shall not apply only if the applicant establishes:

1. That the structure cannot be located on the lot without violating the requirements contained in Appendix B; and
2. That the structure is built with its highest point as far to the south as feasible; and
 - (i) that the structure is a single family residence with a highest point less than or equal to 16 feet high; or, if not a single family residence;

(ii) that it is a permitted or conditional use for the lot.

(3) Exemptions.

- (A) The governing body may exempt from the provision of this Section any area which it determines that solar uses are not feasible because the area is already substantially shaded due to heavy vegetation, steep north facing slopes, and any area or zone in which taller buildings are planned.
- (B) The Planning Director shall exempt a structure from the provisions of this Section if the structure will shade only a protected area in which solar uses are not feasible because the protected area is already substantially shaded at the time a request for exemption is made and approved by the Planning Director.
- (C) The Planning Director shall exempt a structure from the provisions of Section 5.300 of this Ordinance if the structure is in conformance with a solar height restriction as provided in Sections 4.300 and 6.030 of Ordinance 81-043, Deschutes County Subdivision/Partition Ordinance, as amended.

Section 5.350. SOLAR ACCESS PERMIT.

(1) Purpose. The purpose of this Section is to provide solar access to productive solar collectors by establishing limitations, on a case by case basis, for the growth of vegetation on certain lots in the vicinity of a productive solar collector.

(2) Application for Solar Access Permit

- (A) Any owner may submit an application for a solar access permit to provide solar access for a productive solar collector located on the owner's real property.
- (B) The application for a solar access permit shall be on forms prescribed by the County and shall contain at a minimum:

1. A legal description of the applicant's lot, including a statement that the applicant is the owner of the lot, and a description of the nature of the applicant's interest in the lot;
2. Documentation to show that the solar collector is or will be a productive solar collector within one year of application;
3. Descriptive drawings of the solar collector showing its dimensions and precise location;
4. A sunchart and a statement of the solar heating hours for which solar access is sought;
5. A statement that there is no reasonable alternative location for the solar collector that would result in a lesser burden on a neighboring lot;
6. A statement that trimming the vegetation on the applicant's lot will not permit an alternative location that would lessen the burden on a neighboring lot;
7. A list of the lots that are within 150 feet to the south, southeast, or southwest of the solar collector, including street, alleys and other unbuildable areas; a legal description for each such lot; the owner or record and his address; the exempt vegetation located on the lot; and any existing non-exempt vegetation likely to encroach on the protected area.
8. A statement that none of the lots impacted are located on a north facing slope with a grade that exceeds, on average, 15 per cent.
9. A plot plan showing the location of and delineating all exempt and non-exempt vegetation as shown on

the sunchart photograph as well as any non-exempt vegetation not shown on the sunchart which may encroach on the protected area in the future. The plot plan shall also include:

- (i) The exact site of the solar collector, its height and its orientation.
 - (ii) Scale.
 - (iii) An indication of true north.
 - (iv) A survey of the lot.
- (C) The solar access permit application shall be approved if:
1. The solar collector is or will be a productive solar collector;
 2. The protected area to be created by the solar access permit is reasonably located. A solar access permit shall be denied under this paragraph if the applicant could trim his own vegetation to permit an alternative location that would be less burdensome upon a burdened neighboring lot. A solar access permit shall also be denied under this paragraph if there is an alternate location that would impose a lesser burden on a neighboring lot or lots.
 3. The applicant requests solar heating hours no greater than two hours before and after the solar zenith from September 22 to March 21, and three hours before and after the solar zenith from March 22 to September 21;
 4. The solar access provided by the permit does not burden any lot: with a north facing slope with a grade that exceeds, on average, 15

per cent; or which is more than
150 feet from the solar collector;
and

5. The application is accurate and complete.

(3) Solar Access Permit Issuance and Recordation.

- (A) Upon the approval of an application, the County shall issue and acknowledge a solar access permit creating the solar access requested in the application.
- (B) Upon receiving such a permit, the County Clerk shall:
 1. Record the solar access permit in the chain of title of the applicant's lot and of each neighboring lot identified in the application; and
 2. Keep a copy of the approved application on file in County Records.
- (C) The form of the solar access permit shall be as prescribed by the County and shall contain at a minimum:
 1. A legal description of the applicant's lot and each neighboring lot to be burdened by the solar access created by the solar access permit; and
 2. A complete description of the solar access restrictions applicable to each neighboring lot, including the solar heating hours during which solar access is provided, and a sunchart showing the plotted skyline, including vegetation and structures, and a scaled drawing showing the size and location of the protected area and its orientation with respect to true south; and

3. A reference to where the approved application may be obtained.

(4) Obligation Created by Solar Access Permit.

The owner of any lot burdened by a solar access permit shall trim any vegetation not exempted on the burdened lot that shades the protected area created by the solar access permit, provided that there is no vegetation on the lot benefited by the solar access permit that also shades the protected area. The cost of such trimming shall be borne by the owner of the benefited lot if the vegetation existed at the time of permit application as shown on the plot plan; and for all other vegetation, by the owner of the burdened lot. Before any trimming is required, the collector owner must certify that the collector is still productive.

(5) Termination of Solar Access Permit.

(A) The Planning Director shall terminate the solar access permit with respect to all or part of the neighboring lots burdened by the solar access permit if a petition for termination is submitted by the applicant or the applicant's successor in interest, or the collector is not productive for 12 consecutive months.

(B) The County Clerk Shall record the termination of the solar access permit in the chain of title of each lot affected by the termination.

Section 5. Subsection (6) of Section 4.010, of Ordinance PL-15, is amended by the addition of the following:

"(E) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 6. Subsection (5) of Section 4.020, of Ordinance PL-15, is amended by the addition of the following:

"(E) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 7. Subsection (6) of Section 4.030, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 8. Subsection (7) of Section 4.040, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 9. Subsection (5) of Section 4.060, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 10. Subsection (5) of Section 4.070, of Ordinance PL-15, is amended by the addition of the following:

"(C) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 11. Subsection (7) of Section 4.080, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 12. Subsection (7) of Section 4.085, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 13. Subsection (5) of Section 4.090, of Ordinance PL-15, is amended by the addition of the following:

"(E) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 14. Subsection (5) of Section 4.100, of Ordinance PL-15, is amended by the addition of the following:

"(C) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 15. Subsection (5) of Section 4.110, of Ordinance PL-15, is amended by the addition of the following:

"(C) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 16. Subsection (4) of Section 4.120, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 17. Subsection (8) of Section 4.130, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 18. Subsection (8) of Section 4.140, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 19. Subsection (5) of Section 4.150, of Ordinance PL-15, is amended by the addition of the following:

"(D) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 20. Subsection (10) of Section 4.220, of Ordinance PL-15, is amended by the addition of the following:

"(E) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 21. Subsection (5) of Section 4.230, of Ordinance PL-15, is amended by the addition of the following:

"(H) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 22. Subsection (2) of Section 4.240, of Ordinance PL-15, is amended by the addition of the following:

"(A) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 23. Subsection (2) of Section 4.240, of Ordinance PL-15, is amended by the addition of the following:

"(B) The setback from the northern lot line shall meet the solar setback requirements in Section 5.300."

Section 24. Section 8.30 of Ordinance PL-15 is amended by the addition of the following:

"(12) Planned Developments, Cluster Developments, Destination Resorts and Dude Ranches shall meet the solar access performance standard set forth

in the Deschutes County Subdivision Ordinance
No. 81-043, Section 6.030(5)."

Section 25. Ordinance PL-15 is amended by the addition of
Section 5.260, SOLAR HEIGHT RESTRICTIONS, which reads as follows:

"Section 5.260. SOLAR HEIGHT RESTRICTIONS. No build-
ing, structure or non-exempt vegetation may exceed the
solar height restriction established on a burdened
property by the solar access of a benefited property."

DATED this 1st day of June, 1983.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ALBERT A. YOUNG, Chairman

Lois Bristow Prante
LOIS BRISTOW PRANTE, Commissioner

Laurence A. Tuttle
LAURENCE A. TUTTLE, Commissioner

ATTEST:

for Annette Pearson
SUSAN STONEMAN
Recording Secretary