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Solar Panels: Can an Association restrict the installation or use of solar panels?

An HOA generally cannot prohibit the installation of solar panels, but it can regulate the use and installation of solar panels under certain circumstances. Condos can effectively prohibit them in most cases.

Under the HOA Act,¹ an HOA cannot prohibit an owner's use or installation of solar panels if:

- 1) the solar panel(s) meet state and local health and safety standards;
- 2) the solar panel(s) is (are) used to heat water, and are certified by a nationally recognized certification agency; or
- 3) the solar panel(s) is (are) used to produce electricity, and meet applicable safety and performance standards.²

But if an HOA's Governing Documents give the HOA authority to regulate the use or installation of solar panels, it may do so as follows:³

- 1) An HOA may prohibit the visibility of any part of a roof-mounted solar energy panel above the roof line;
- 2) An HOA may limit the attachment of a solar energy panel to the slope of a roof facing a street unless the solar energy panel conforms to the slope of the roof;
- 3) An HOA may limit the attachment of a solar energy panel to the slope of a roof facing a street unless the top edge of the solar energy panel is parallel to the roof ridge;
- 4) An HOA may require a solar energy panel frame, a support bracket, or any visible piping or wiring to be painted to coordinate with the roofing material;

- 5) An HOA may require an owner or resident to shield a ground-mounted solar energy panel if shielding the panel does not prohibit economic installation of the solar energy panel or degrade the operational performance quality of the solar energy panel by more than ten percent; and
- 6) An HOA may require owners or residents who install solar energy panels to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a solar energy panel.

¹ The statute does not apply to condos, which appear to have full discretion in regulating the installation and use of solar panels within their communities. It is uncertain how a court might respond to a suit by a unit owner seeking permission to install solar panels on the roof or deck above her unit. Though condo Associations ordinarily have wide discretion in controlling and regulating common and limited common elements, some judges might be persuaded by a public policy argument favoring the use of green energy.

The safest route for a condo Association would be to adopt a resolution that expressly bars the installation of solar panels, whether attached to a unit or limited common element. Conversely, some condo Associations may lean the other way and wish to install such panels and devices on the common elements or limited common elements. Whatever a condo Association's preference, it should draft and adopt rules and regulations before disputes arise.

² RCW 64.38.055(1).

³ These provisions are set forth at RCW 64.38.055(2).