

## COLORADO REVISED STATUTES

### Solar Collectors

( ) Subdivision regulations adopted by a board of county commissioners may provide for the protection and assurance of access to sunlight for solar energy devices by considering the use of restrictive covenants or solar easements, height restrictions, side yard and setback requirements, street orientation and width requirements, or other permissible forms of land use controls.

#### . Unreasonable restrictions on solar energy devices void.

(1) After May 25, 1979, any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property solely on the basis of aesthetic considerations which effectively prohibits or restricts the installation or use of a solar energy device, as defined in section 38-32.5-100.3, is void and unenforceable.

(2) Subsection (1) of this section shall not apply to aesthetic provisions which impose reasonable restrictions on solar energy devices and which do not significantly increase the cost of the device.

This amendment does *not* apply to reasonable aesthetic provisions which cover the dimensions, placement or external appearance of solar or wind energy generation devices as long as these aesthetic restrictions do *not* significantly increase either the cost or decrease the performance or efficiency of the device. Both solar and wind energy generation devices must also meet bona fide safety requirements required by building codes and electrical safety standards. Wind energy devices are subject to additional restrictions protecting the interference and enjoyment of nearby residents.

The Colorado Governor's Office of Energy Management and Conservation website provides, "While the statute prohibits covenants that restrict or prohibit solar energy devices based solely on aesthetic considerations, it does allow reasonable aesthetic provisions that do not significantly increase the cost of the device. Thus, covenants may require efforts to improve the aesthetics of an installation, as long as such improvements have reasonable/minimal additional cost. But, this issue has not been litigated in Colorado's courts." <http://www.state.co.us/oemc/programs/renewable/solaraccess>

Section 38-32.5-100.3 (2) "Solar energy device" means a solar collector or other device or a structural design feature of a structure which provides for the collection of sunlight and which comprises part of a system for the conversion of the sun's radiant energy into thermal, chemical, mechanical, or electrical energy.

A COUNTY MAY NOT CHARGE PERMIT FEES TO INSTALL AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM THAT, IN AGGREGATE, ARE IN EXCESS OF THE LESSER OF THE COUNTY'S ACTUAL COSTS IN ISSUING THE PERMIT OR FIVE HUNDRED DOLLARS FOR A RESIDENTIAL APPLICATION OR ONE

THOUSAND DOLLARS FOR A NONRESIDENTIAL APPLICATION. THE GENERAL ASSEMBLY HEREBY FINDS THAT THERE IS A STATEWIDE NEED FOR CERTAINTY REGARDING THE FEES THAT CAN BE ASSESSED FOR PERMITTING AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM, AND THEREFORE DECLARES THAT THIS SUBPARAGRAPH (II) IS A MATTER OF STATEWIDE CONCERN. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 3. Applicability.** This act shall apply only to applications to install an active solar energy device that is not utility-scale occurring on or after the effective date of this act.