

<b>Topic:</b>	Solar Energy
<b>Resource Type:</b>	Regulations
<b>State:</b>	Oregon
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	City of Bend
<b>Year (adopted, written, etc.):</b>	Unknown
<b>Community Type - applicable to:</b>	Urban; Suburban
<b>Title:</b>	City of Bend Solar Setback Ordinance
<b>Document Last Updated in Database:</b>	April 14, 2017

### ***Abstract***

Title 10-10 of the Bend Code attempts to provide as much solar access as feasible during the winter solar heating hours to existing or potential buildings by requiring all new structures to be constructed as far south on their lots as is feasible and necessary.

### ***Resource***

#### **10-10.26A BEND CODE 10-10.26A**

##### **Section 26A. Solar Setbacks.**

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

(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 to meet this standard 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 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 a highest shade producing point as far south as practical; 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 provisions of this section any area which it determines to be already substantially shaded due to heavy vegetation, steep north facing slopes, and any area or zone in which taller buildings are planned. The following areas are hereby exempted from the standards of this section:

1. CB - Central Business Zone

(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) Property subject to a solar height restriction.

**Section 26B. 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 City 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 the date of the application.

3. Descriptive drawings of the solar collector showing its dimensions and precise locations;

4. A sun chart 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, and southwest of the solar collector, including for each such lot the legal description; the owner of 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 percent.
  9. A plot plan showing the location of and delineating all exempt and nonexempt vegetation as shown on the sun chart photograph as well as any nonexempt vegetation not shown on the sun chart 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 the least burden on 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 would not burden any lot: with a north facing slope with a grade that exceeds, on average, 15 percent; or which is more than 150 feet from the solar collector.

5. The application is accurate and complete.

(3) Solar Access Permit Issuance and Recordation.

(a) Upon the approval of an application, the City shall issue and acknowledge a solar access permit creating the solar access requested in the application.

(b) The applicant shall cause the County Clerk to record the solar access permit in the chain of title of the applicant's lot and of each neighboring lot identified in the permit.

(c) The form of the solar access permit shall be as prescribed by the City 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 sun chart showing the platted 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 a 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 equally by the owner of the burdened lot and the owner of the benefited lot, unless such owners agree otherwise. 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 solar collector is shown to be not productive for a period of at least one year.

(b) The applicant shall record the termination of the solar access permit the County Clerk and file proof of said recordation with the Planning Department.