

RESOLUTION ON RENEWABLE ENERGY GENERATION DEVICES

Aesthetic, Safety and Liability Provisions Pertaining To Renewable Energy Generation Devices

The following Aesthetic, Safety and Liability Provisions Pertaining to Renewable Energy Generation Devices were adopted by Resolution of the Board of Directors of Canterbury Improvement Association, Inc. (“the Association”) pursuant to Colorado law at a regular meeting of the Board on August 4, 2009.

Recitals:

A. Colorado Revised Statute 38-30-168 (“Energy Generation Statute”) became effective relative to covenant enforcement actions pending or commenced on or after August 5, 2008.

B. The Energy Generation Statute defines Renewable Energy Generation Devices to include:

1. A solar energy device as defined by Colorado Revised Statute 38-32.5-100.3.
2. A wind-electric generator that meets the standards set forth in Colorado Revised Statute 40-2-124.

C. The Energy Generation Statute shall be referred to herein as “the Statute”.

D. The Statute allows the Association to adopt reasonable requirements and aesthetic provisions to govern the dimensions, placement, or external appearance of Renewable Energy Generation Devices.

E. The requirements and aesthetic provisions adopted by the Association should consider:

1. The impact on the purchase price and operating costs of the energy efficient measure;
2. The impact on the performance of the energy efficient measure;
3. The criteria contained in the governing documents of the Association; and
4. For wind-electric generators, the Association may also consider the noise created by the device and its interference with the use and enjoyment by residents of property situated near wind-electric generators.

F. The Energy Generation Statute requires that the restrictions adopted by the Association cannot significantly increase the cost of the device, or significantly decrease the performance of the device.

G. In accordance with the Association's governing documents and applicable laws, the Association desires to adopt requirements and aesthetic provisions pertaining to Renewable Energy Generation Devices.

H. In the absence of statutory guidelines concerning the hazards of rotating wind-electric generators and resulting liability, the Association desires to highlight safety and liability issues which will be the responsibility of the Owners desiring to install wind-electric generators.

THEREFORE, IT IS RESOLVED:

The following provisions shall apply to installing, changing, or modifying Renewable Energy Generation Devices within the Association.

1. An Owner may install, change, or modify a Renewable Energy Generation Device on property the Owner owns provided the following conditions are strictly met.
2. The Renewable Energy Generation Device (including the installation and/or construction thereof) must comply with the Association's governing documents, all laws, all applicable building codes, building requirements, ordinances and all applicable safety standards.
3. The Owner must submit detailed Plans and Specifications for the Renewable Energy Generation Device to the Architectural Control Committee ("Committee") and obtain written approval from the Committee prior to installing, changing or modifying the Renewable Energy Generation Device.
4. Detailed Plans and Specifications for Renewable Energy Generation devices include, but are not necessarily limited to:
 - a. The name of the manufacturer and the model number of the improvement; any marketing materials from the manufacturer outlining objective effect the improvement is expected to have on energy generation; specific location on the property; orientation; measurement in feet from device to the nearest property line as well as the distance from the device to the closest point on the other sides of the property , dimensions (in all configurations that the generator and related equipment may be used and maintained), maximum height above grade at place of installation (to include top of wind turbine if applicable); maximum height above grade at the front property line where the owner's private drive meets the public road; materials, color, style, and depiction of device by manufacturer's photograph.

- b. Additionally, for solar charging or recharging panels, the type of solar collection device and (if applicable) the type of photocells.
- c. Additionally, for wind-electric generators, the manufacturer's certification of: maximum noise level in decibels at the nearest property line in 5 mph wind, 25 mph wind, and when the wind-electric generator is running at maximum speed; system limits on rotational velocity in high winds and how accomplished; wind turbine blade tip velocity at 5 mph wind, 25 mph wind, and when the wind-electric generator is running at maximum speed; and the maximum wind speed the structure and wind turbine are guaranteed by manufacturer to withstand.

5. In passing upon plans and specifications for Energy Generation Devices, the Committee shall:

- a. Follow the procedures as outlined in Article III of Canterbury Amendment II to Declaration of Restrictive Covenants for Canterbury Improvement Association, Inc. ("Canterbury Amendment II");
- b. Consider the factors enumerated in Articles IV through XV of Canterbury Amendment II;
- c. Consider how the improvements are architecturally integrated with the existing structures and landscape of the property to be improved. This includes but is not limited to a scale, color, reflective value, materials, massing, and quality of product and architectural character to promote designs which create a visual extension of the architecture of the residence and conform to the community wide standards. The location of improvements shall be as unobtrusive as possible. There is special concern for the preservation of views of Pikes Peak and the Front Range from neighboring properties to protect the value of these properties.
- d. Consider the impact contingent requirements or alternatives imposed by the Committee have on the purchase price, operating cost and performance of the Energy Generation Device.
- e. In passing on plans and specifications for wind-electric generators, the Committee shall also consider the projected sound of the device and any anticipated interference that sound will have on the use and enjoyment of other property and residents of the Community.

6. The Owner who installs such a device must be aware of the following unique dangers and his or her liability for damages resulting from this dangerous activity, which include the following:

- a. The potential for ice slinging from wind-turbine blades towards adjacent properties or the public roadway creating a hazard to persons and property; and
- b. Danger imposed to wildlife and any health threat to the community if the device kills birds and bats.

7. It shall be conclusively presumed that the Committee has acted reasonably and in good faith in passing on the Owner's request; and has not arbitrarily prohibited, or effectively prohibited, an Owner from installing or using an Energy Generation Device.

8. If the Energy Generation Device is approved by the Committee, the Owner shall comply with the following conditions:

- a. The Owner must install and operate the Energy Generation Device in accordance with the Detailed Plans and Specifications, all of the requirements set forth in this Resolution and any other requirements imposed by the Committee.

- b. The Owner must maintain Renewable Energy Generation Devices in good operational condition and in a manner that does not cause an annoyance or inconvenience to other homeowners. In the event the Owner does not maintain the improvement properly, these provisions may be enforced in accordance with Article XVIII of Canterbury Amendment II, the Association's Enforcement Procedure.

- c. The Owner must also add any wind-electric generators to their homeowner insurance. The Owner must also indemnify the Association, its officers and agents for all claims, causes of action, demands, damages, injury, attorneys' fees, and costs associated with the wind-electric generator.

This policy adopted this 4th day of August, 2009 as a Resolution of the Board of Directors of the Canterbury Improvement Association, Inc.

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Lee A. Gomolchak
Chairman
Canterbury Improvement Association, Inc.