

SOLAR ENERGY SYSTEMS

1. **General.**

- A. This Solar Energy Policy (“Policy”) shall govern the application, installation, maintenance and removal (if necessary) responsibilities pertaining to solar collectors and other solar energy devices and systems whose primary purpose is to provide for the collection, storage and distribution of solar energy (collectively, “Solar Energy Systems”) installed within the Walnut Creek Mutual No. Thirty condominium project (the “Project”), as well as the protection of commonly-owned and Mutual-maintained Common Area.
- B. All capitalized terms that are not otherwise defined in this Policy shall have the meanings ascribed to them in the CC&Rs. The terms “Declaration” and “CC&Rs” are synonymous shall be interchangeable.
- C. It is the intent of this Policy to comply with all laws and regulations, both state and federal, and in particular, Civil Code sections 714 and 714.1. In the event of any conflict between any provision of this Policy and any applicable statute, the terms of that statute shall prevail and supersede any contrary provision in this Policy.
- D. Because Walnut Creek Mutual No. Thirty is a “condominium project,” as that term is defined in Civil Code section 4125, each Owner has fee simple title to his or her individual Unit as well as a 1/76th interest as tenant in common in the Common Area. The Mutual is required by the Declaration to maintain, repair and replace the Common Area roof systems. It is the intent of this Policy to recognize the respective ownership rights of the Owners and Mutual, and enable the Mutual to perform its exterior maintenance, repair and replacement obligations. As a result, the rights of individuals to install Solar Energy Systems on Common Area must be limited to the extent necessary to not infringe upon neighbors’ property rights and to enable the

Mutual to perform its maintenance, repair and replacement obligations.

2. Application.

- A. The installation of Solar Energy Systems is subject to the provisions of this Solar Energy Policy, and the Mutual's other Policies, including but not limited to the Mutual's Policy entitled "Alterations" (the "Alterations Policy"). As such and as required by the Alterations Policy, an Owner wishing to install a Solar Energy System is required to submit an Alteration Application (as defined in the Alterations Policy) to the Mutual in care of the Mutual Operations Division (MOD) Alterations Department.
- B. The Owner must receive written notice of Board approval and if applicable, approval of the Mutual's membership, pursuant to paragraphs 5 and 6, below, PRIOR to installation of any Solar Energy System.
- C. The Owner shall also provide plans and specifications as part of his or her Alteration Application, and furnish such other information and documentation as may be reasonably requested by MOD and/or the Board.
- D. Manufacturer literature for all proposed Solar Energy System components, including specifications, color, and materials, shall be provided to the Mutual with the Alteration Application.
- E. Plans showing the visibility of the Solar Energy System from areas open to public access (e.g., streets, Common Area, neighboring Units) shall also be included with the Alteration Application.
- F. The applicant Owner shall notify every other Owner in the building of his or her Alteration Application for installation of a Solar Energy System and certify to the Mutual, in writing, that the notice has been given. The certification and any written comments by an affected Owner shall be attached to the Alteration Application. No Alterations Application may be denied because of

objections by an affected Owner. However, objections may be referred to the Mutual's legal counsel. A drawing with dimensions showing the proposed location of the Solar Energy System and how the equipment will be mounted shall be attached to the notification to affected Owners.

- G. Owners are responsible for confirming receipt of their Alteration Application, supporting documentation and other information by the Mutual.
- H. Except as modified by law, all provisions of the CC&Rs and applicable Policies, including the Alterations Policy, shall apply to the installation of Solar Energy Systems.

3. **Installation of Solar Energy System Within Unit or Exclusive Use Common Area.** The installation of a Solar Energy System within a Unit or Exclusive Use Common Area appurtenant to a Unit shall require the written approval of the Board.
4. **Installation of Solar Energy System Within Common Area.** As required by Civil Code section 4600(a), Solar Energy Systems may only be installed in or on Common Area with the prior approval of the Board and sixty-seven percent (67%) of the Total Voting Power of the Mutual.
5. **Vote of the Members.** A vote of the Members to approve a grant an easement to an Owner for exclusive use of Common Area for the purposes of installing a Solar Energy System shall be conducted by secret written ballot pursuant to Civil Code section 5100(a). The voting materials shall include (i) a description of the Solar Energy System, including proposed location, (ii) specify whether the Mutual will receive any monetary consideration for the grant of easement, and (iii) identify whether the Mutual or the applicant Owner will be responsible for providing any insurance coverage for the exclusive use of the Common Area. The applicant Owner shall be responsible for all costs incurred by the Mutual in preparing and mailing voting materials to the Members; if not paid, such costs may be levied as a Reimbursement Assessment against the applicant Owner and his or her Unit.

6. **Availability of Common Area Space.** The installation of Solar Energy Systems in or on Common Area, including Common Area roofs, is subject to space availability as well as the approval of the Members pursuant to Sections 5 and 6, above. Consideration will be given on a first-come, first-served basis and subject to availability of Common Area space. An Owner may not install a Solar Energy System on Common Area of a building in which the Owner does not own a Unit.

7. **Approval Guidelines.** The Mutual may impose reasonable restrictions on its approval of Alteration Applications for the installation of Solar Energy Systems. "Reasonable restrictions" are defined as those that do not significantly increase the cost of the Solar Energy System or significantly decrease its efficiency. "Significantly" means an amount exceeding ten percent (10%) of the cost of the Solar Energy System or decreasing the efficiency of the Solar Energy System by an amount exceeding ten percent (10%), as originally specified and proposed. For photovoltaic systems that comply with state and federal law, a significant or unreasonable restriction is one that results in an increased cost to the Solar Energy System as originally proposed of over \$1,000 or a decrease in the Solar Energy System's efficiency in an amount exceeding ten percent (10%) as originally specified and proposed.

8. **Conditions for Approval.** The Mutual may require as a condition for the approval of a Solar Energy System that the installer indemnify or reimburse the Mutual for loss or damage caused by the installation. The Mutual may also require as a condition of approval that the applicant Owner execute a recordable indemnification and maintenance agreement in a form acceptable to the Mutual wherein the Owner specifically agrees to defend and indemnify the Mutual. If required, the recordable agreement shall also include all conditions of approval so as to bind future Owners of the Unit.

9. **Solar Shade Control.** The Board of Directors must take into account the effect on Solar Energy Systems that may result from shade created by trees or shrubs within

the boundaries of the Mutual. The Mutual will be guided by the principal of "first in time is first in right." If a tree or shrub was planted before the Solar Energy System was installed, the tree or shrub may grow without regard to its effect on the Solar Energy System. The Mutual shall not be required to prune, or allow pruning, of trees and/or shrubs which were planted before the Solar Energy System was installed. However, trees or shrubs planted after installation of the Solar Energy System may not be allowed to grow so as to cast a shadow greater than ten percent (10%) of the collector absorption area upon that collector surface at any one time between the hours of 10:00 a.m. and 2:00 p.m. local standard time (California Public Resources Code Section 25982). Pruning needs shall be dictated and determined by the Mutual's landscape or tree experts.

10. **Decisions in Writing; Reconsideration.** Any decision by the Board on a proposed Solar Energy System installation must be in writing and, if the proposed Solar Energy System is disapproved, the written decision shall include an explanation of why the application was disapproved. An installation on or in Common Area that is not approved by the Members pursuant to paragraphs 5 and 6, above, is not subject to reconsideration by the Members.

11. **Forty-Five Day Approval Period.** As provided by Civil Code section 714, an application for the installation of a Solar Energy System that is not denied in writing within forty-five (45) days from the date of receipt of the application by the Board shall be deemed approved, unless that delay is a result of a reasonable request for additional information or conducting a Member vote pursuant to paragraphs 5 and 6, above.

12. **Installation Conditions; Permits.**
 - A. Tubing, piping and related materials shall be installed so as to be minimally visible and blend into the material to which they are mounted or placed. When not unreasonable to do so, the Solar Energy System shall be colored to blend into the background onto which it is mounted or placed to the

greatest extent possible. Panels must be located entirely within a boundary defined by the roof eaves and the roof peaks. Visibility of the underside of the panels shall be minimized from the Common Area. Visibility of any plumbing, wiring, or auxiliary equipment should also be minimized.

- B. All portions of a Solar Energy System shall be secured in a manner that does not jeopardize the safety or soundness of any structure or the safety of any person within the Project.
- C. There shall be no penetrations into building structures, including but not limited to walls and roofs, unless it is necessary for the installation and operation of the Solar Energy System and/or to avoid an unreasonable increase in the cost of the installation (more than \$1,000 for photovoltaic systems) or an unreasonable decrease in the Solar Energy System's efficiency (more than ten percent (10%) as originally specified and proposed for photovoltaic systems). Any penetrations for wiring or piping for a Solar Energy System shall be properly sealed and waterproofed in accordance with industry standards and applicable building codes in order to prevent moisture penetration and resulting structural damage.
- D. Solar Energy Systems shall not obstruct access to or from any Unit, walkway, or ingress or egress into any area of the Project in order to ensure the safety of individuals and allow safe access to the Mutual's physical plant.
- E. All installations shall be done in accordance with applicable building, fire, electrical and related statutes, codes and regulations, including but not limited to City of Walnut Creek Development Review Services Information Bulletin No. 1B-025 entitled "Submittal Requirements for Photovoltaic Array Systems or Alternative Energy Systems," as amended from time to time.
- F. The installing Owner must obtain all necessary permits and approvals from local regulating agencies and provide copies thereof to the Mutual. A copy of the final City inspection must also be provided to the Mutual.

- G. A Solar Energy System for heating water shall be certified as to all system components and the installation thereof by the Solar Rating Certification Corporation or other nationally recognized certification agency.
- H. A Solar Energy System for producing electricity shall meet all applicable safety and performance standards established by the National Electrical Code, the institute of Electrical and Electronic Engineers and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.
- I. All installations of Solar Energy Systems shall be completed so as not to materially harm or damage Common Area, any other individual Unit or such Unit's Exclusive Use Common Area; void any warranties held by the Mutual or other Owners; and/or impair the integrity of any building or structure.
- J. In approving the installation of any Solar Energy System, the Board is entitled to rely upon the representation of the Owner and/or his or her contractor that the system fully complies with the safety criteria set forth in this Policy. Should the Board later determine that the equipment is not in conformance with such criteria, the Board may require the Owner, at his or her sole cost and expense, to remove the Solar Energy System or modify it so that it is in compliance.
- K. An Owner may not install a Solar Energy System on his or her own. Installation shall be by a licensed and properly insured installer knowledgeable about installation of Solar Energy Systems. Prior to installation, the installer shall have insurance coverage that meets the following minimums: (i) Worker's Compensation with minimum coverage required by California law; and (ii) Contractor's General Liability (including completed operations) with policy limits of at least \$500,000.00. The installer must, prior to installation, provide copies of certificates of insurance for the

above policies and endorsements which name the Owner and the Mutual as additional insureds to the Mutual.

- L. All installations must be in accordance with the manufacturer's installation specifications and instructions.
13. **Installation Period.** Once work on the approved Solar Energy System has started, all work must be completed within a reasonable period of time, weather permitting (i.e., no later than ninety (90) days after approval), and must not be a safety hazard to Residents, guests, neighboring Units and/or the Common Area.
14. **Inspection.** The Mutual may inspect a Solar Energy System at any time to ensure compliance with the provisions of this Solar Energy Policy and the application, as approved. If the Mutual determines that the installation is not in accordance with the provisions of the Declaration, the Alterations Policy, this Solar Energy Policy and/or the approved alteration application, the Mutual may require the Owner, at the Owner's expense, to remove or otherwise modify the Solar Energy System to comply with the provisions of this Solar Energy Policy and/or the approved alteration application.
15. **Maintenance of the Solar Energy System.** The Owner is solely responsible for the installation, maintenance, repair, replacement, use, removal and/or reinstallation of any Solar Energy System he or she installs with approval, whether located in the Unit, in or on Exclusive Use Common Area, or in or on Common Area.
16. **Mutual's Increased Maintenance Costs.** Owners shall be responsible for any increased costs incurred by the Mutual in maintaining or repairing the Common Area or those portions of a Unit or Exclusive Use Common Area which the Association is responsible under the Governing Documents for maintaining or repairing which are caused by the presence of a Solar Energy System on the Common Area.

17. **Improper Installation.** If a Solar Energy System is improperly installed, the Owner shall be responsible for any costs associated with correcting the installation or relocating the Solar Energy System to a preferred location.

18. **Removal and Reinstallation.** The Owner shall be required to remove the Solar Energy System at his or her own cost or expense if necessary to enable the Mutual to meet its maintenance, repair and/or replacement obligations as imposed by the Declaration and/or California law. Should an Owner fail to remove the Solar Energy System upon the Mutual's request, the Mutual may remove the Solar Energy System at the Owner's expense. Unless there is an emergency, the Mutual shall provide the Owner with at least fifteen (15) days advance written notice. The Mutual shall not be responsible for any damage to the Solar Energy System or loss of use due to removal of the Solar Energy System. If the Mutual must remove the Solar Energy System, the Mutual may levy a Reimbursement Assessment, as provided in section 6.7 of the CC&Rs, to reimburse the Mutual for costs incurred in removing the Solar Energy System, after giving the Owner notice and an opportunity for a hearing in accordance with the Governing Documents. If the Mutual must remove the Solar Energy System, the Mutual shall not be responsible for replacing or reinstalling it. Reinstallation of the Solar Energy System shall be at the Owner's sole cost and expense and shall be in compliance with the Declaration, this Solar Energy Policy, and any other Policies, including the Alterations Policy.

19. **Inoperable System/Equipment.** If a Solar Energy System becomes inoperable, either by damage or termination of service, the equipment must be removed from the structure and any and all damage repaired at the sole cost of Owner.

20. **Liability/Reimbursement.** The Owner shall be liable for any injury to persons or property arising from the installation, maintenance, use or removal of the Solar Energy System. The Owner assumes all responsibility for any and all damage to his or her Unit, other Units, Exclusive Use Common Area, and/or Common Area, and any other property damage and/or personal injury resulting from the installation, maintenance, service or removal of the Solar Energy System, including but not

limited to roof leaks and damage caused by roof leaks which are the result of the installation, service or removal of the Solar Energy System. The Mutual may recover from the Owner any expenses it incurs in connection with any violation of this Solar Energy Policy, in any manner provided by law or permitted by the Declaration, Policies and Mutual Bylaws including, without limitation, imposition of a Reimbursement Assessment, as provided in section 6.7 of the CC&Rs, against the Owner and his or her Unit to reimburse the Mutual for costs incurred, provided the Owner's liability has been established after notice to the Owner and the opportunity for a hearing in accordance with the Governing Documents.

21. **Mutual Not Responsible.** The Mutual is not responsible for any accidents or incidents which may occur during installation, maintenance, use or removal of the Solar Energy System. Additionally, the Mutual is not responsible for the installation, maintenance, repair, replacement, removal, and/or reinstallation of any Solar Energy System.

22. **Sale of Unit.** Upon resale or transfer of any Unit which has a permitted Solar Energy System, the buyer or transferee (as the case may be) shall agree in writing to assume all of the Owner's duties and responsibilities as outlined in this Policy. The buyer or transferee's written agreement shall be in a form acceptable to the Mutual and executed by all of the parties before escrow can close and the transfer of the ownership can be legally completed. If a buyer or a transferee does not agree in writing to assume responsibility for the Solar Energy System, the Owner must, prior to the close of escrow, remove the Solar Energy System and restore the area where the Solar System had been located. In particular, any penetration patches must be completely sealed with paintable sealant. The removal must be approved by the Mutual and all costs relating to the removal of the Solar Energy System and restoration of the surrounding area shall be the sole responsibility of the Owner. The Mutual may recover any costs incurred to repair damages from escrow or via imposition of a Reimbursement Assessment.

23. **Failure to Comply with Solar Energy Policy and Other Governing Documents.**

An Owner's failure to comply with this Solar Energy Policy and/or any other Governing Documents, including but not limited to the CC&Rs and other Mutual Policies, shall be subject to enforcement by the Board pursuant to the Governing Documents and applicable California law.