

California's Solar Access Laws

By Kurt Newick & Andy Black

California has several laws designed to encourage solar access and prevent restrictions on solar energy systems. These laws address municipal restrictions, residential landscaping, and homeowner association restrictions.

- Solar Rights Act amended in 2004 by AB 2473 (Civil code section 714, Health and Safety Code section 17959.1, Government code section 65850.5): Prohibits local governments from restricting the installation of a solar energy system based on aesthetics.
- Solar Rights Act amended in 2003 by AB 1407 (Civil Code section 714): Requires that public entities do not place unreasonable restrictions on the procurement of solar energy systems when applying for state-sponsored grants and loans.
- Solar Shade Control Act of 1979 (Public Resources Code sections 25980-25986): addresses shade from neighboring vegetation.
- Solar Rights Act of 1978 (Civil Code section 714): Homeowner associations must not place unreasonable restrictions on homeowners wishing to install solar energy systems.
- Solar Easement Law (Civil code sections 801 & 801.5): Provides the opportunity to protect future solar access via a negotiated easement with neighboring property owners.
- Many cities and counties have local solar access laws and guidelines. For regional specific information on these and financial incentives, including tax credits, that make solar power more affordable, go to www.dsireusa.org.

Solar Rights Act amended by AB 2473

This law became effective on 1/1/2005. It is the intent of this law that “local agencies not adopt ordinances that create unreasonable barriers to the installation of solar energy systems, including, but not limited to, design review for aesthetic purposes.” Local authorities shall approve applications through permit issuance and can only restrict solar installations based on health and safety reasons. It is thus intended to encourage installations by removing obstacles and minimizing permitting costs. Additional key changes limit aesthetic solar restrictions to those that cost less than \$2,000 and limits a building official’s review of solar installations to only those items that relate to specific health and safety requirements or local, state and federal law.

Solar Rights Act modified by AB 1407

This law prohibits public entities from receiving state grant funding or loans for solar energy systems if it places unreasonable restrictions on their installations. This law specifically

applies to cities, counties and other public entities and thus does not directly affect private parties.

Solar Shade Control Act of 1979

This act prohibits shading of solar collectors that result from tree growth occurring after a solar collector is installed. It applies to solar systems for electric generation, water heating and space heating or cooling.

It states that no plant may be placed or allowed to grow such that it shades a collector more than 10% from 10 am to 2 pm. It does not apply to plants already in place or replacement of plants that die after the installation of the solar collectors. It does require trees already in place, but not yet shading the system, to be trimmed and maintained so that they do not impact the system.

The solar collectors are required to meet building setback requirements, or a minimum of 5 feet from the property line and 10 feet from the ground. Further setback is required if the collector is lower than 10 feet.

A city or county may adopt an ordinance exempting its jurisdiction from the provisions of the act. Alternatively, some cities have passed ordinances that are more favorable to solar. In some cases, they require existing vegetation to be cleared to allow good solar access in at least some suitable place on a property.

Solar Rights Act of 1978

This law relates to homeowner associations. This code states that Community Covenants and Restrictions (CC&Rs) that prohibit or unreasonably restrict the installation or use of solar energy systems are void and unenforceable. It does provide for reasonable restrictions that don't significantly (more than 20%) increase the cost or reduce the output of a solar system from the original design.

Reasonable restrictions include 1) that the owner of the system take responsibility for roof maintenance, repair and replacement and 2) that the installers indemnify the association for any damage caused by the installation, maintenance, or use of the solar energy system.

Any homeowner covered by CC&Rs who has a roof immediately above his or her living space can use the roof for a solar system. A strategy to get maximum flexibility and output from the final "compromise" design is to propose a system designed to optimize solar production, at minimum cost, not considering other factors. Then, through the necessary negotiation stages to adjust for aesthetics, a final design might be achieved that isn't far from the owners original intention.

There may be significant costs associated with taking on responsibility for the roof maintenance that should be discussed and negotiated before project advancement. It may be possible to have a portion of association dues for roofing held separately.

Solar Easement Law

A solar easement can be written up and attached to the deed of neighboring properties to legally protect your right to receive future sunlight. Such an easement can be used to address concerns regarding neighboring structural changes. New developments may be required to include a solar access easement (a deed restriction to protect solar access within a development). Local building codes regarding building height restrictions, building set back requirements relative to property lines and solar orientation relative to neighboring properties may reduce the need for an easement.

To view these California laws see: www.leginfo.ca.gov/calaw.html

California Municipalities with specific Solar Access Laws/Guidelines

- Los Angeles - Zoning Code
- Marin County - Energy Conservation
- Sacramento - Zoning and Subdivision Regulations
- San Diego County - Solar Access Regulations
- San Jose - Solar Access Design Guidelines
- Santa Cruz - Solar Access Ordinance
- Santa Cruz County - Solar Access Protection
- Sebastopol - Solar Access

FOR MORE INFORMATION

DSIRE Database Summary of California Solar benefits – scroll down to end for Solar Access laws:

<http://www.dsireusa.org/library/includes/statesearch.cfm?State=CA&back=fintab&CurrentPageID=7&Search=TableState>

Energy Efficiency and Renewable Energy:

<http://www.eere.energy.gov/consumerinfo/factsheets/ja1.html>

Includes reference material, example solar access ordinances, bibliography including web resources.

American Planning Association 1313 East 60th Street Chicago, IL 60637(312) 955-9100 <http://www.planning.org/>

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