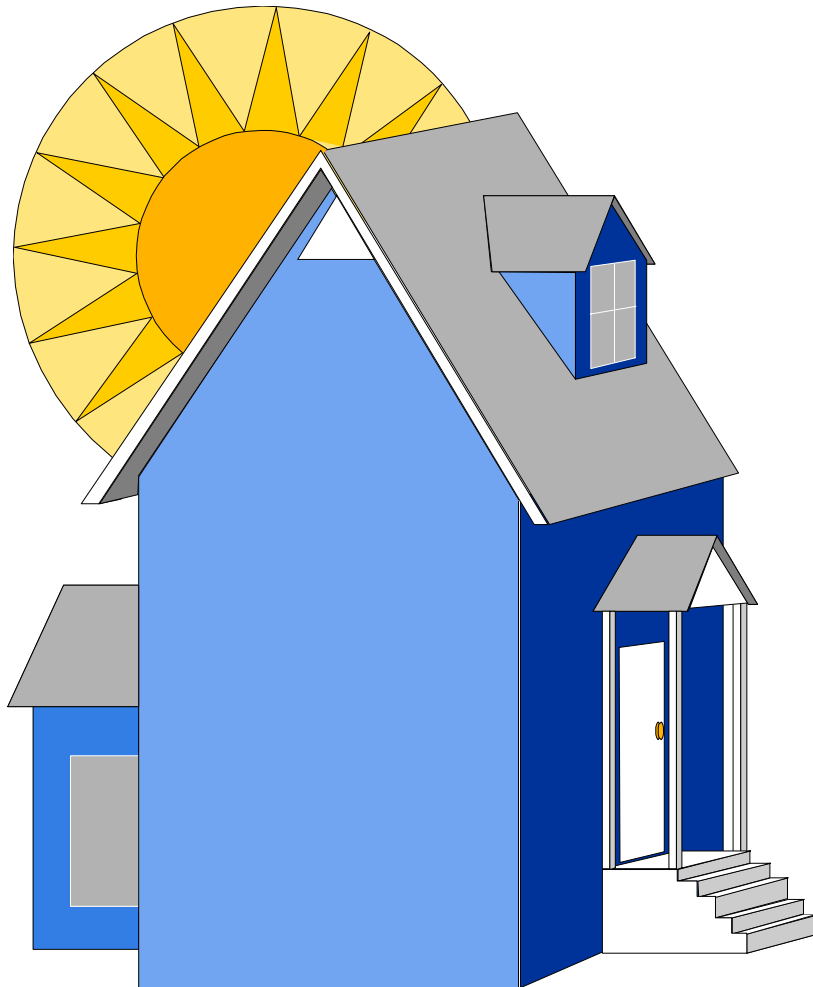


Administrative Solar Exception

Attachment to Administrative Review Application Form



**City of Boulder
Planning and Development
Services Center**

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116.pdf

ADMINISTRATIVE SOLAR EXCEPTION CRITERIA

The city's solar access ordinance, found in Section 9-9-17, B.R.C. 1981 provides solar access protection to certain properties in the city. The purpose of this ordinance is to protect properties so that their access to the sun, for solar energy, will not be blocked by structures, and in some cases, vegetation. The degree of solar access protection is defined by either a 12 foot or 25 foot hypothetical "solar fence" on the property lines of the protected buildings. The ordinance is designed to protect access for a four hour period on December 21st. Under most circumstances, new structures are not allowed to shade adjacent lots to a greater extent than the applicable solar fence. Planning and Development Services "Solar Access Brochure" provides an overview of basic solar access protection, how to calculate shadow analyses, solar access permits, and solar access exemptions and exceptions. This brochure, in addition to the solar access ordinance, may be a useful reference guide.

In most cases, if a proposed new structure or addition would shade an adjacent lot more than the applicable solar fence, then approval of a **solar exception** is required. There are two methods available to request approval of a solar exception: to the Board of Zoning Adjustment at a public hearing or consideration of an administrative solar exception by Planning and Development Services staff. **These administrative solar exceptions must be considered through an administrative review application. The applicant is strongly encouraged to consider design alternatives which would bring the proposed construction into compliance with basic solar access protection or would minimize the extent of the requested exception prior to filing any application for an exception.**

An administrative review application for a solar exception must include those items listed below under "Application Requirements." In order for an application to be approved for an administrative solar exception, Planning and Development Services must find that the exception request meets the applicable criteria. These criteria are found in Section 9-9-17(f)(6), B.R.C. 1981 of the city's land use regulations and are attached. In addition, the owners of property affected by the exception must indicate, in writing, that they have no objection to the granting of the exception. **If either Planning and Development Services finds that exception application does not meet the applicable criteria OR the affected property owner(s) do not provide a written statement that they have no objection to the exception, then an application to the Board of Zoning Adjustment for a solar exception would be required.**

APPLICATION REQUIREMENTS

1. Legal description of the property for which an exception is requested.
2. Accurate drawings showing lot lines, structures, solar systems, dimensions and topography as necessary to establish how basic solar access protection on nearby lots would be affected by the exception, together with the graphic representation of the actual shadows that would be cast by the proposed structure, and the hypothetical solar fence on the property lines, during the period from 10:00 a.m. to 2:00 p.m. on December 21; **elevation drawings of the shading will be required if an actual shadow is cast on an affected existing structure.**
3. A list of the addresses and legal descriptions of all lots that may be affected by the exception, including the names and mailing addresses of all owners of such lots.
4. A written statement addressing the applicable review criteria (listed below) and describing the reasons that less intrusive alternatives cannot or should not be implemented.
5. A written statement from each owner of each affected lot stating that such owner is familiar with the solar exception application (including actual shadow analyses) and the effect the exception would have on the owner's lot, and that the owner has no objection to the granting of the exception. (The applicant should use the attached letter form; the letter must be completed, signed, notarized, and included with the application.)

CRITERIA (CITY CODE EXCERPT OF SECTION 9-9-17(f)(6), B.R.C. 1981):

- (d) In order to grant an exception, the city manager, where no objection has been filed, or the Board of Zoning Adjustment, where timely objection has been filed or where the city manager has made an adverse determination, must find that each of the following requirements have been met:
- (1) Because of basic solar access protection requirements and land use regulations, reasonable use cannot otherwise be made of the lot for which the exception is requested, the part of the adjoining lot or lots that the proposed structure would shade is inherently unsuitable as a site for a solar energy system, or any shading would not significantly reduce the solar potential of the protected lot, and such situations have not been created by the applicant;
 - (2) Except for actions under paragraphs (D), (E), and (F), the exception would be the minimal action that would afford relief in an economically feasible manner;
 - (3) The exception would cause the least interference possible with basic solar access protection for other lots;
 - (4) If the proposed structure is located in an historic district designated by the city council according to Section 9-11-3, B.R.C. 1981, and if it conformed with the requirements of this chapter, its roof design would be incompatible with the character of the development in the historic district;

- (5) If part of the proposed roof which is to be reconstructed or added to would be incompatible with the design of the remaining parts of the existing roof so as to detract materially from the character of the structure, provided that the roof otherwise conformed with the requirements of this chapter;
- (6) If the proposed interference with basic solar access protection would be due to a solar energy system to be installed, such system could not be feasible located elsewhere on the applicant's lot;
- (7) If an existing solar system would be shaded as a result of the exception, the beneficiary of that system would nevertheless still be able to make reasonable use of it for its intended purpose;
- (8) The exception would not cause more than an insubstantial breach of solar access protected by permit as defined in Subsection 9-16-1, B.R.C. 1981; and
- (9) All other requirements for the issuance of an exception have been met. The applicant bears the burden of proof with respect to all issues of fact.

SOLAR EXCEPTION APPLICATION
STATEMENT FROM AFFECTED PROPERTY OWNER(S)

Date _____

To whom it may concern:

We, the owners of property located at (address) _____
and more specifically described as: (legal including lot, block and subdivision)

have reviewed an analysis of the actual shadows cast by the proposed construction for the property located at (address) _____ and are familiar with the proposal. We understand that the proposed shading exceeds the amount allowed under the solar access code (Section 9-9-17, B.R.C. 1981). We have no objection to granting an exception for the proposed shading.

OWNERS:

STATE OF COLORADO)
) ss.

COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____ 200____, by _____ and _____ and _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

Address: _____
