

# Stonewater Homeowners Association

## BOARD OF DIRECTORS POLICY RESOLUTION #03-2024 Solar Energy Policy

WHEREAS, the Homeowners' Energy Policy Act, Act No. 68 of Public Acts of 2024 (HEPA), became effective September 6, 2024 and invalidates certain provisions in homeowners' association agreements that prohibit the replacement, maintenance, installation, or operation of certain energy-saving improvements or modifications or the installation of solar energy systems, and provides for the adoption of certain policy statements;

WHEREAS, Article VII, Paragraph R(2) of the First Amended and Restated Declaration of Covenants, Conditions, and Restrictions (the "Declaration")<sup>1</sup> which prohibits clothes lines and Paragraph R(4) of the Declaration which prohibits solar panels and wind generators is invalid and unenforceable as contrary to public policy of HEPA;

WHEREAS, Section 9(1) of HEPA states each homeowners' association in this state shall adopt a written solar energy policy statement within one (1) year after the effective date of HEPA and such policy must not conflict with any existing local, state, or federal law;

WHEREAS, Article V, Section 1 of the Stonewater Homeowners Association Bylaws states the affairs of the Association shall be managed by its Board of Directors, which shall have control of and be responsible for the management of the affairs and Property of the Association;

WHEREAS, Article X, Paragraph G of the Declaration states that the Board of Directors may, from time to time, make reasonable rules and regulations, without Lot Owner approval, to reflect the needs, desires, and problems arising in the Subdivision;

NOW THEREFORE BE IT RESOLVED THAT, the Board of Directors hereby adopts the following policy for Stonewater Homeowners Association regarding energy-saving improvements and solar energy systems:

**Section 1. General Provisions.** The Association recognizes that the replacement, maintenance, installation, or operation of an energy-saving improvement, such as a solar energy system, is an effective means for its members to manage their energy budget and increase energy resiliency. The Association intends to impose reasonable conditions concerning the maintenance, repair, replacement, or removal of a damaged or inoperable solar energy system, provided that the conditions are not more burdensome than those imposed on a non-solar energy system. This Solar Energy Policy includes standards established under HEPA and shall be enforced by the Association. Any provision in this Solar Energy Policy that conflicts with HEPA is void and unenforceable.

**This policy does not:**

- 1) Prohibit elements of a solar energy system from being installed on the member's

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<sup>1</sup> Dated December 26, 2013 and recorded January 3, 2014, in Liber 51239, Page 1477, Wayne County Records.

## Stonewater Homeowners Association

roof face.

- 2) Require that specific technology be utilized to install a solar energy system, including, but not limited to, solar shingles rather than traditional solar panels.
- 3) Require the consent from an adjacent homeowner to approve a member's application to install a solar energy system on their home.
- 4) Include any provision that contradicts HEPA.
- 5) Enforce any standards that may result in a reduction in the production of electricity by the solar energy system by more than 10% or increase the total cost of the installation of the solar energy system to the member by more than \$1,000.00. As used in this paragraph, "production" means the estimated annual electrical production of the solar energy system.

### **The Association will not do any of the following:**

- 1) Inquire into a member's energy usage.
- 2) Impose conditions that impair the operation of a solar energy system.
- 3) Impose conditions that negatively impact any component industry standard warranty.
- 4) Require post-installation reporting.
- 5) Require a fee for submitting an application to install a solar energy system.
- 6) Require the consent from an adjacent homeowner to approve a member's application to install a solar energy system on their home.
- 7) Prohibit a member from resubmitting an application to install a solar energy system after a written initial application submitted after the effective date of HEPA was denied by the Association.
- 8) Deny a member's application to install a solar energy system because of the identity of the entity that owns the solar energy system or financing method chosen by the member.

### **The Association may deny an application to install a solar energy system or require the removal of a solar energy system if one (1) or more of the following apply:**

- 1) A court has found that the installation of the solar energy system violates a law.
- 2) The installed solar energy system does not substantially conform with the member's application to install the solar energy system as approved by the Association.
- 3) The Association has determined that the solar energy system will be installed on the roof of a member's home and one (1) or more of the following apply:
  - a) The solar energy system will extend above or beyond the roof of that home by more than six (6) inches.
  - b) The solar energy system does not conform to the slope of the roof and has a top edge that is not parallel to the roof line.
  - c) The solar energy system has a frame, support bracket, or visible conduit or wiring that is not silver, bronze, or black tone which is commonly available in the marketplace.
- 4) The Association has determined that both of the following apply:

# Stonewater Homeowners Association

- a) The solar energy system will be installed in a fenced yard or patio rather than on the roof of a home.
- b) The solar energy system will be taller than the fence line.

**A member who wants an energy-saving improvement or modification or a solar energy system for their home must do the following:**

- 1) Comply with state and local building codes and permit requirements in the replacement, maintenance, installation, or operation of an energy-saving improvement or modification, or a solar energy system.
- 2) Comply with the application requirements for a solar energy system identified in Section 3 below.
- 3) Resubmit a written application to install a solar energy system that was submitted to and denied by the Association before the effective date of HEPA, according to the requirements identified in Section 3 below. Upon receipt of the resubmitted written application, the Association shall re-evaluate the application.

## **Section 2. Solar Energy System Installation Restrictions.**

**A. Roof Mounted Solar Energy Systems.** All of the following shall apply to the installation of roof mounted solar energy systems, such as solar panels, tiles, or shingles:

- 1) The solar energy system shall not extend above or beyond the roof of that home by more than six (6) inches.
- 2) The solar energy system shall conform to the slope of the roof and have a top edge that is parallel to the roof line.
- 3) The solar energy system has a frame, support bracket, or visible conduit or wiring that is silver, bronze, or black tone, which is commonly available in the marketplace.

**B. Ground Level Solar Energy Systems.** The installation of ground level solar energy systems shall not violate the Declaration or other governing documents, so long as the provisions of the Declaration do not conflict with HEPA. Potential violations of the Declaration include, but are not limited to, failing to satisfy the minimum landscaping requirements, exceeding the patio and deck setbacks, adding a permanent or temporary structure, or encroaching into the 10-foot shoreline set back.

The location of any ground level solar energy system equipment, such as solar panels, inverters, batteries, EV chargers, standby generators, and wind turbines; and energy saving equipment such as heat pumps shall comply with Article VII, Paragraph R(7) of the Declaration, which states "...No compressor or other component of a central air conditioning system (or similar system, such as a heat pump) shall be so located on any Lot so as to be visible from the public street on which the Lot fronts, and, to the extent reasonably possible, all such external equipment shall be so located on any Lot so as to minimize the negative impact thereof on any adjoining Lot, in the terms of noise and appearance. In general, such equipment shall be completely screened by an evergreen landscape screening."

# Stonewater Homeowners Association

Evergreen landscape screening must be completely installed within thirty (30) days after a solar energy system is installed during the spring, summer, and fall months (April – November). Evergreen landscape screening for a solar energy system installed during the winter months (December – March) shall be completely installed by the following May 15<sup>th</sup>.

Electric vehicle charging stations shall be installed inside the member's garage.

**Section 3. Application Process.** Beginning on the effective date of HEPA, a member who wants to install a solar energy system for their home shall submit a written modification request to the Architectural Control Committee (ACC) of the Association. Members shall review the governing documents for the Association and this policy to ensure their project meets these criteria before submission. The ACC has compiled checklists for the most common modifications to assist members in their review. These checklists are not all inclusive and the member is ultimately responsible for complying with the governing documents and this policy, and for obtaining any necessary approvals and variances prior to the start of construction.

**A.** The ACC Modification Request Form, and any related checklists, are available on our website (<https://stonewatersub.org/index.php/architectural-control-committee/>). The ACC Modification Request Form must include all of the following information:

- 1) The member's name.
- 2) The street address of the location where the solar energy system will be installed.
- 3) The name and contact information of the person and company who will install the solar energy system.
- 4) An image that shows the layout of the solar energy system to be installed on the member's home and/or lot.
- 5) A description of the solar energy system to be installed.

**B.** If any portion of the proposed modification would result in a violation of the governing documents of the Association, the member must state they are requesting a variance on the front of the application, or the request will be denied. The member must also provide a description of the issue that would result in the violation and why the project cannot conform to the restriction.

**C.** The completed ACC Modification Request Form, related checklists, and other documents, must be sent to the email address on the Modification Request Form with a delivery receipt request (found under "options" tab). This delivery receipt identifies when the ACC has received your application. Please note the following:

- 1) If the member does not receive a read receipt within 5 business days, they must contact the management company.
- 2) If a member's application is rejected for any reason, they must make the

## Stonewater Homeowners Association

necessary changes to the application and resubmit a new application.

- 3) A resubmitted application's read receipt is considered day 1 of the ACC review process.

**D.** Except as otherwise provided in this Section 3 and in accordance with the Solar Energy Policy, the Association must approve or deny a member's request to install a solar energy system **within 30 days after the ACC receives the complete written application**. This includes any attachments and checklists as stated on the modification request form and information listed in Section 3(A) above.

If the written application is submitted before the Association adopted this Solar Energy Policy, the Association must approve or deny the member's request to install the solar energy system within 120 days after the ACC receives the **complete** written application. This includes any attachments and checklists as stated on the modification request form and information listed in Section 3(A) above.

**E.** No approval by the ACC shall be valid if the solar energy system violates any of the restrictions or requirements set forth in the Declaration, **except in cases where variances have been granted** as provided for in the Declaration. Variances will be considered on a case-by-case basis and will require both ACC approval recommendation and the Board of Directors' final approval. The ACC and the Board shall have the authority to approve plans and specifications which do not conform to the restrictions in order to (i) overcome practical difficulties or (ii) prevent undue hardship from being imposed on a member as a result of applying these restrictions.

Variances shall only be granted in extraordinary circumstances. Such variations may only be approved if they will not (i) detrimentally impact on the overall appearance of the development; (ii) impair the attractive development of the subdivision; or (iii) adversely affect the character of nearby Lots. Granting a variance shall not constitute a waiver of the restrictions articulated in the Declaration. The Board must vote on the variance and record the decision in its meeting minutes. The member will be provided with written notice of the Board's decision. An approved, written variance (if applicable) will be provided to the member to retain in their permanent records and make available to any future owner of their Lot.

**F.** If a member's request to install a solar energy system is approved by the ACC, it will provide written notice of such approval. The member may then proceed with the installation and must abide by the following requirements:

- 1) Complete installation of the solar energy system within 90 days of written approval or contact the ACC for a mutually agreed upon extension of time.
- 2) Once the installation is complete, the member must contact the ACC for a final approval inspection. The ACC will then compare the installed solar energy system to the system requested on the application.
- 3) Any significant deviations in the solar energy system as requested and as installed noted by the ACC must be addressed within 30 days, or the member will be subject to violation procedures.

## Stonewater Homeowners Association

- 4) When the solar energy system passes inspection, the member will be provided with a written final ACC approval.

**G.** If the Association fails to approve or deny the member's request to install a solar energy system within the time period specified, the member may proceed with the installation of the solar energy system. However, if the member proceeds with the installation of the solar energy system without approval from the ACC, they shall comply with the following requirements:

- 1) The installation is completed within 90 days and substantially conforms with the member's application to install the solar energy system.
- 2) The installation does not violate the Declaration, according to Section II.

A copy of this Solar Energy Policy has been distributed to all members of the Association within thirty (30) days after its adoption by the Board of Directors and shall be available upon request. A copy of this Solar Energy Policy has also been posted to the Association website.

Adopted by Board of Directors: September 17, 2024

Effective Date: September 17, 2024