

KATHLEEN V. CARRIER, RECORDER
DUPAGE COUNTY ILLINOIS
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RECORDING COVER PAGE

**SECOND AMENDMENT TO THE SECOND AMENDED AND
RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR OAKHURST COMMUNITY
ASSOCIATION**

**SECOND AMENDMENT TO THE SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR OAKHURST COMMUNITY ASSOCIATION**

This instrument is recorded for the purpose of amending the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Oakhurst Community Association (hereinafter referred to as "Declaration"), which was recorded on June 12, 2001 as document number R2001-115119 with the Recorder of Deeds, DuPage County, Illinois.

This Amendment is adopted pursuant to the provisions of Section 1-60 of the Illinois Common Interest Community Association Act (765 ILCS 160/1-60 (a)) in order to permit the Association to come into compliance with Section 20 of the Homeowners' Energy Policy Statement Act (765 ILCS 165/1 et. seq.). This Amendment, the text of which is set forth below, shall become effective upon recordation in the Office of the Recorder of Deeds, DuPage County, Illinois.

PREAMBLE

WHEREAS, the Declaration was recorded on June 12, 2001 as document number R2001-115119 with the Recorder of Deeds, DuPage County, Illinois;

WHEREAS, the Declaration was previously amended by the Amendment to the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Oakhurst Community Association (hereinafter referred to as "First Amendment"), which was recorded on October 25, 2017 as document number R2017-109915 with the Recorder of Deeds, DuPage County, Illinois;

WHEREAS, the First Amendment amended the Declaration to add an energy policy statement consistent with the Homeowners' Energy Policy Statement Act (765 ILCS 165/20);

WHEREAS, the Homeowners' Energy Policy Statement Act was amended by Public Act 102-0161, which took effect on July 26, 2021;

WHEREAS, following the adoption of Public Act 102-0161, the energy policy statement included within the First Amendment contains some inconsistencies with the Homeowners' Energy Policy Statement Act as amended by Public Act 102-0161;

WHEREAS, the Illinois General Not For Profit Corporation Act (805 ILCS 105/103.10(l)) provides that a corporation's governing documents shall not be inconsistent with the laws of the State of Illinois;

WHEREAS, the Board of Directors for Oakhurst Community Association, Inc. (hereinafter referred to as "Association") desires to rescind the First Amendment and, in compliance with Section 20 of the Homeowners' Energy Policy Statement Act (765 ILCS 165/1 et. seq.) hereby adopts the Association's updated energy policy statement and includes the same within the terms, covenants and provisions of its Declaration to replace the language added to the Declaration by the First Amendment;

WHEREAS, the Board of Directors for the Association desires to amend the Declaration to comply with current law;

WHEREAS, this Second Amendment to the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Oakhurst Community Association has been approved by two-thirds (2/3) of the members of the Board of Directors at a meeting called for that purpose; and

NOW THEREFORE, the Declaration is hereby amended in accordance with the text that follows:

AMENDMENT

1. The Oakhurst Community Association Energy Policy Statement that is attached to and recorded as part of the First Amendment shall be deleted in its entirety. In its place, the updated Oakhurst Community Association Energy Policy Statement that is attached hereto and incorporated herein is adopted and included as part of the Declaration.
2. The terms used herein, if not otherwise defined, shall have the same meaning described to them in the Declaration and Bylaws.
3. The language of this Amendment shall govern any conflicts between this document and the Declaration and its amendments.
4. Except as to the extent expressly set forth herein above, and as amended, the Declaration, By-Laws and Rules and Regulations shall continue in full force and effect without change.

END OF TEXT OF AMENDMENT

This instrument was prepared by, and upon recording return to:
KEAY & COSTELLO, P.C., 128 South County Farm Road, Wheaton, Illinois 60187

**OAKHURST COMMUNITY ASSOCIATION
ENERGY POLICY STATEMENT**

Adopted by the Oakhurst Board of Directors

October 26 , 2021

Oakhurst Community Association Energy Policy Statement

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Oakhurst Community Association Energy Policy Statement

1.0 Introduction

This document provides the Oakhurst Community Association, Inc. (further identified as “OCA”) Policy Statement regarding installation of Energy Systems in the subdivision of Oakhurst (further identified as “Oakhurst”), located in Aurora Illinois.

The intent of this document is to provide location, design and architectural requirements for the installation of energy systems. The primary purpose of these requirements is to ensure protection of the aesthetic quality and value of Oakhurst properties, while allowing the required State of Illinois homeowner access to install such systems. Installation of energy systems, by design, will alter the external appearance of properties within Oakhurst. The rules established herein are intended to minimize, to the extent possible, the potential negative impact of such changes to property values.

The CC&Rs (Ref. 2.0c) Section XII.19, Energy Conservation Equipment, states “No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof.” This Policy Statement clarifies this requirement by providing specific architectural and design requirements for such installations as approved by the Architectural Review Committee (ARC). The requirements of this document will be included in a revision to the Oakhurst Architectural Guidelines (Ref. 2.0e).

The Illinois Homeowners’ Energy Policy Statement Act, as revised by Public Act 102-0161 (Ref. 2.0a) provides that the Oakhurst Community Association “may determine the specific configuration of the elements of a solar energy system on a given roof face, provided that it may not prohibit elements of the system from being installed on any roof face and that any such determination may not reduce the production of the solar energy system by more than 10%. For the purposes of this Section, “production” means the estimated annual electrical production of the solar energy system.” The requirements contained in this document are designed to comply with these requirements.

The provisions of this document shall not be deemed to grant any rights to the owners of a home with a shared roof regarding the installation or construction of solar energy collector panels or a solar energy system. As used in this document, “shared roof” means any roof that (i) serves more than one (1) home, including, but not limited to, a contiguous roof serving adjacent homes, or (ii) is part of the common area, limited common area or common elements of a condominium.

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2.0 References

- a. Illinois Homeowners' Energy Policy Statement Act (765 ILCS 165/1 et. Seq.)
- b. City of Aurora Zoning Ordinances, Section 4.4-9, Alternative Energy Systems
- c. Second Amended and Restated Declarations of Covenants, Conditions and Restrictions for Oakhurst Community Association Inc. (CC&Rs), Adopted April 23, 2001
- d. Oakhurst Community Association Rules and Regulations, Amended July 24, 2007
- e. Oakhurst Community Association Architectural Guidelines, Modified April 27, 2010

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3.0 General Requirements

The following general requirements apply to all types of exterior installed, residential (alternative) energy systems, further identified as “energy systems”, within the scope of this document.

- a. Installation of all types of energy systems are considered a modification that require a formal request, ARC review, and formal approval, similar to modifications covered under Section III of the Architectural Guidelines (Ref. 2.0e).
- b. The requirements presented in the City of Aurora Zoning Ordinances (Ref. 2.0b) shall be adhered to. Where differences between the Zoning Ordinances and this document occur, the more stringent requirement shall apply.
- c. All requirements of the Federal Aviation Administration (FAA) shall be adhered to.
- d. Energy Systems shall not be illuminated, except as required by law or government agency, such as the FAA.
- e. Signs associated with the Manufacturer shall not be visible to surrounding properties or from the front of the residence.
- f. If installed energy systems become abandoned, the energy system equipment shall be removed at the Homeowners expense within 90 days. All systems that are inactive or inoperable for six (6) consecutive months are considered abandoned.
- g. If damage occurs to an energy system component that adversely affects its aesthetic appearance (i.e. hail storm damage to roof mounted solar panels, failure of the supporting system), repair and reinstatement of the aesthetic appearance shall be completed within 90 days.
- h. All energy systems shall be designed in accordance with the applicable codes and standards imposed by State and Local permitting authorities.
- i. Continuous inspections as specified in the Aurora Zoning Ordinances (Ref. 2.0b) shall be performed.
- j. The ARC shall determine the required documentation to be submitted for approval. These requirements shall be included in the Architectural Guidelines or on an approved Modification Request Form.
- k. Any alternative energy system shall only be installed by a professional contractor, licensed or accredited by the North American Board of Certified Energy Practitioners (NABCEP), Interest Renewable Energy Council (IREC) or other similar nationally recognized accrediting/licensing authority.

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4.0 Solar Energy Systems

Solar energy systems can be of the photovoltaic (PV) solar electric type, or of the hot water heating type. PV systems can be stand alone or grid connected. Oakhurst categorizes these into the following installation types:

- a. Building Mounted Systems: Defined as attaching to the exterior of the home over the existing exterior materials.
- b. Building Integrated Systems: Defined as replacing exterior home materials, such as shingles, siding, or windows.
- c. Shade Structure Mounted Systems: Defined as attaching to the exterior of shade structures. Shade Structures are structures that primarily provide shade to outdoor living spaces, such as patios, and may be free standing or attached to the home.
- d. Freestanding Yard Mounted Systems: Defined as being installed separately from any existing structure. OCA only allows freestanding yard mounted systems when solar access cannot be achieved with one or more of the other mounting systems.

4.1. Building Mounted Systems

- a. Building mounted solar energy collector panels may only be installed on home roofs.
- b. ARC may determine the specific configuration of solar energy collector panels on a given roof face; provided, that, solar energy collector panels shall not be prohibited from being installed on any roof face and ARC'S determination may not reduce the production of the solar energy system by more than ten percent (10%). For purposes of this paragraph, "production" means the estimated annual electrical production of the solar energy system. The preferred location for solar energy collector panels on a given roof face is a location that is not on front facing roof surfaces.
- c. Roof mounted solar collector panels shall be flush mounted parallel to roof surface with a maximum height above the roof surface of no greater than six (6) inches. Tilting or solar tracking solar panel mounting is not permitted.
- d. On each roof surface, panels shall be mounted in close proximity to each other so as to provide a smooth aesthetically pleasing appearance. Final design appearance shall be approved by the ARC.
- e. All mounting hardware shall closely match the color of the roof or be black in color.
- f. Consideration should be given to the condition of the roof, and its remaining life prior to installing solar collector panels on roof.

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- g.** Solar collector panels cannot be larger than the surface of the roof.
- h.** Power cables and other electrical hardware shall be concealed to the extent possible. All plumbing lines shall be concealed to the extent possible.
- i.** Installation over access paths to and from the home shall be designed so as to prevent snow and ice danger to people.
- j.** Panels shall not be installed in a manner that creates a blinding reflection to surrounding homes or vehicles in surrounding streets.
- k.** Specific design and location will be determined by ARC. Board of Directors approval may be required for some installations.
- l.** Continuous inspections as specified in the Aurora Zoning Ordinances (Ref. 2.0b) shall be performed.
- m.** Visible cables, conduits and their mounting hardware installed on roof surfaces shall be black or colored to match roof color. Conduits and their mounting hardware installed over siding shall be colored to closely match siding color.

4.2 Building Integrated Systems

- a.** Building integrated PV modules may be installed in place of standard building materials they are designed to replace.
- b.** ARC may determine the specific configuration of PV roof modules/tiles on a given roof face; provided, that, PV roof modules/tiles shall not be prohibited from being installed on any roof face and ARC'S determination may not reduce the production of the solar energy system by more than ten percent (10%). For purposes of this paragraph, "production" means the estimated annual electrical production of the solar energy system. The preferred location for PV roof modules/tiles on a given roof face is a location that is not on front facing garage roofs.
- c.** The aesthetic appearance of modules/tiles shall conform to the standards of aesthetic quality in Oakhurst. Approval of this type of installation will be on a case by case basis depending on the aesthetic appearance and conformance to surrounding properties.
- d.** Any mounting hardware if required shall closely match the color of the roof or be black in color.
- e.** Installation over access paths to and from the home shall be designed so as to prevent snow and ice danger to people.

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- f.** Panels shall not be installed in a manner that creates a blinding reflection to surrounding homes or vehicles in surrounding streets.
- g.** Continuous inspections as specified in the Aurora Zoning Ordinances (Ref. 2.0b) shall be performed.
- h.** Visible cables, conduits and their mounting hardware installed on roof surfaces shall be black or colored to match roof color. Conduits and their mounting hardware installed over siding shall be colored to closely match siding color.

4.3 Shade Structure Mounted Systems

- a.** Solar collector panels may be mounted on structures installed over patios and decks for the purpose of providing shade.
- b.** The solar collector panels shall be flush mounted parallel to roof surface with a maximum height above the roof surface of no greater than six (6) inches. Tilting or solar tracking solar panel mounting is not permitted.
- c.** Panels shall be mounted in close proximity to each other so as to provide a smooth aesthetically pleasing appearance. Final design appearance shall be approved by the ARC.
- d.** All mounting hardware shall closely match the color of the structure or be black in color.
- e.** Solar collector panels cannot be larger than the surface of the structure roof.
- f.** Panels shall not be installed in a manner that creates a blinding reflection to surrounding homes or vehicles in surrounding streets.
- g.** Approval to install solar panels on shade structures will be evaluated on a case by case basis, based on aesthetic look and impact to surrounding properties.
- h.** Power cables and other electrical hardware shall be hidden from sight of adjacent properties. If structure is not adjacent to residence, power cables shall be below ground from structure to residence.
- i.** Visible cables, conduits and their mounting hardware installed on surfaces shall be black or colored to match surface color. Conduits and their mounting hardware installed over siding shall be colored to closely match siding color.

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4.4 Yard Mounted Freestanding Systems

- a. Freestanding systems can only be located in the rear yard. Location in side yards and front yards is prohibited. For corner lots, and lots that back up to public sidewalks, the systems cannot be installed within 25 feet of the public sidewalks.
- b. All parts of the freestanding system shall be set back at least 10 feet from the interior side and rear property lines. They shall not be located on public utility easements.
- c. Solar panels shall not be installed in a manner that creates a blinding reflection to surrounding properties or streets.
- d. The placement and size requirements of the Aurora Zoning Ordinances (Ref. 2.0b) shall be met unless more restrictive requirements are included herein.
- e. Landscaping around and under the freestanding system must be maintained in line with the rest of the yard and with community standards.

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5.0 Other Energy Systems

a. The requirements for installation of Wind Energy Systems and Composting Systems may be developed at a later time following receipt of a request for installation however, until such time such requirements are created the Association does hereby prohibit the installation, placement or construction of Wind Energy Systems and Composting Systems anywhere on the Property.

b. Rain Water Collection Systems

The installation of Rain Barrels is allowed in Oakhurst. The following requirements apply to the installation of Rain Barrels.

- Rain Barrels are not allowed in the front yards. If located in side yards, they must be screened from view from the street. For corner lots, Rain Barrels located in side yards must be screened from view from the street.
- It is recommended that rain water diverters be used so as to minimize alteration of existing downspouts. Alteration of the downspouts shall be esthetically pleasing.
- Rain Barrels shall have mosquito screening, and chemical treatment as required, to prevent mosquito breeding.
- Color shall be natural or to match siding, so as to blend in with the environment.
- Location, mounting height, and shape shall not present an eyesore, shall be aesthetically pleasing, and shall blend in with surrounding environment.
- If made of a material that can rust, they must be kept in a condition that is esthetically pleasing.
- If pumps are added, they shall be screened so as to not be visible by surrounding neighbors.