

ORDINANCE NO. 2012

AN ORDINANCE OF THE CITY OF CHULA VISTA ESTABLISHING  
A MUNICIPAL SOLAR UTILITY

The City Council of the City of Chula Vista does ordain  
as follows:

SECTION 1. Purpose.

The purpose of this ordinance is to grant the right  
to establish a Municipal Solar Utility.

The welfare of Chula Vista residents has been jeopardized in the past by shortages of natural gas, petroleum, propane and electric power. The shortage of available energy supplies will continue during the coming decade unless measures are established to conserve the energy available for the economy and the residents of Chula Vista. It is declared to be the policy of the City of Chula Vista to encourage and promote the use of solar energy in order to prevent or reduce an adverse impact upon the economy of Chula Vista and in order to prevent interruption of employment of the residents of Chula Vista in commerce and industry and in order to prevent injury to the health and welfare of the residents of Chula Vista due to the shortage and high cost of energy in their homes and places of work.

It is also declared the policy of Chula Vista to improve the economics of solar energy use by facilitating the leasing of solar energy devices. This policy is premised on a finding that the initial cost of purchasing and installing a solar energy device is the primary economic barrier to expanded solar energy use. California law currently provides that taxpayers who lease a solar energy system from a municipal utility or from any lessor granted a permit from a Municipal Solar Utility or from any lessor granted a permit from a Municipal Solar Utility shall receive a tax credit for the first three years of operation or until the solar tax credit allowance terminates, whichever occurs first.

Upon the establishment of the Chula Vista Municipal Solar Utility, residents of Chula Vista who lease solar energy devices through such utility should be able to obtain tax credits. However, as legal title to such solar energy devices is held by a person other than the resident-user, the latter is particularly susceptible to harm caused by consumer deception, safety hazards and the interruption of service. To help prevent such harm from occurring and to promote the economic feasibility of solar energy use within the City of Chula Vista, leasehold interests in solar energy devices may be marketed within the City's jurisdiction by complying with the provisions of this ordinance and any rules and regulations promulgated by the City Manager of the City of Chula Vista to implement any provisions of this ordinance. Persons not participating in the Municipal Solar Utility are not subject to any of the procedures and provisions of this ordinance.

SECTION 2. Municipal Solar Utility.

The City Manager of the City of Chula Vista shall by rules and regulations establish practices and procedures designed to implement the policies set forth herein. Such practices and procedures shall be known as the "Chula Vista Municipal Solar Utility".

SECTION 3. Definitions.

The following definitions apply to those persons who will be participating in the Municipal Solar Utility.

A. "Municipal Solar Utility" or "MSU" means a program conducted by a local government or its authorized agent to promote the utilization of renewable energy and energy conservation technologies.

B. "Person" means any natural person, partnership, corporation, business trust, association, company or other legal entity.

C. "Solar Energy Device" includes equipment and materials (and parts solely related to the functioning of such equipment) that is intended to be or located on or affixed to real property within the City of Chula Vista and that uses solar energy directly to (i) generate electricity, (ii) heat or cool a building or structure, (iii) provide hot water for domestic service, recreational, or therapeutic purpose, or (iv) provide process heat or mechanical energy. Generally, these

functions are accomplished through the use equipment such as collectors (to absorb sunlight and create hot liquids or air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to create hot air or water).

D. "Lease Arrangement" means a contract between a lessee and an investor for the leasing of solar energy devices, owned by the investor and leased and possessed by the lessee, which is affixed to or located at and servicing the real property owned or occupied by the lessee.

E. "Tax Incentives" means California or federal investment tax credits, solar tax credits, accelerated depreciation, tax deferral and other tax benefits accruing through the leasehold of solar energy devices under existing state and federal tax law.

F. "Management Company" means any person serving as agent of an investor for purposes of collecting leasehold payments, making payments for obligations incurred in lease arrangements, and maintaining accounting records of collections and payments for solar energy devices.

G. "Lease Arrangement Marketing Company" or "Leasing Company" means any person advertising, marketing, placing, and arranging, pursuant to a lease arrangement, for installation and servicing of solar energy devices for a fee.

H. "Lease Arrangement Installer" or "Installer" means any person, properly licensed under the provisions of the California Contractors License Law, including any solar specialty license, installing, removing or servicing solar energy devices subject to a lease arrangement.

I. "Lessee" means any person leasing a solar energy device on or affixed to the real property owned or occupied by such person.

J. "Energy Office" of "Office" means the office, under the direction of the City Manager responsible for managing the Chula Vista Municipal Solar Utility and performing the City's obligations under this ordinance.

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K. "City" means the City of Chula Vista.

L. "Permittee" means any leasing company, installer or installation company, or management company that has complied with all necessary requirements and obtained a permit to participate in the MSU Solar Leasing Program.

SECTION 4. Permit Required.

No person shall attempt to operate as a leasing company, installer, or management company in the Municipal Solar Utility within the City of Chula Vista without have a valid permit from the City.

SECTION 5. Regulatory Framework.

The City Manager is hereby authorized and directed to undertake the following actions to develop, implement, and administer the City's MSU Solar Leasing Program.

A. Develop, in cooperation with the City Attorney, all documents necessary to administer and operate the MSU Solar Leasing Program.

B. Prepare application procedures and eligibility criteria governing participation by leasing companies, installers, and management companies in the MSU Solar Leasing Program. Any entity satisfactorily meeting such eligibility criteria shall be issued an annual permit to participate in the MSU Program.

1. As a prerequisite to application for a permit, the City Manager may require the inspection of all appropriate records of the applicant including, but not limited to, financial information and investment transactions pertinent to determining whether or not the applicant satisfies all eligibility criteria. All financial records of the applicant shall be deemed to be private and confidential and not subject to public review. All such records of applicants not granted a permit may be returned to the applicant upon request by the applicant within ten (10) days of the denial of the permit. Records of all persons granted a permit shall be subject to such review and audit by other public agencies as may be required by law.
2. The City Manager shall compile a list of all firms, known as "permittees" who obtain permits to participate in the MSU Solar Leasing Program.

3. The City Manager shall develop and implement procedures to be used for revoking the permit of any permittee failing to comply with this ordinance and any rules and regulations promulgated to implement this ordinance. All criteria and procedures proposed hereby by the City Manager shall be subject to review by the City Attorney and approval of the City Council.
4. The City Manager shall review and approve all lease terms proposed by leasing companies prior to granting the leasing company a permit to participate in the MSU Solar Leasing Program.

C. Monitor and review all transactions and contractual relationships between permittees and consumers to ensure compliance with program requirements and other applicable federal, state, or local laws.

D. Prepare, in cooperation with appropriate departments and other public agencies, manufacturing, operating, maintenance, and aesthetic standards for all solar equipment to be utilized under the leasing program.

E. Assess in cooperation with the Finance Department the feasibility of developing billing procedures to be utilized in invoicing solar lessees, collecting monthly lease payments, and disbursing said payments to the relevant permittees. Such procedures may include utilization of the City's computer system or such other system as may be determined to be cost effective. The City Manager will establish a reasonable fee to be charged to recover all costs of said billing system, and establish regulations for the operation of said billing system.

F. Prepare any other procedures, rules, regulations, and fee schedules deemed reasonably necessary to facilitate the implementation and on-going operation of the leasing program.

#### SECTION 6. Consumer Protection Measures.

A. No person may take or use the primary residence of a lessee as security for any lease payment or other indebtedness incurred through the lease arrangement.

B. The City Manager shall develop bonding requirements for leasing companies, installers, and management

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companies participating in the MSU Solar Leasing Program. Required bonds must be posted with the City prior to a permit being granted for participation in the program. All bonds shall be permittee bonds secured for an initial term of at least one (1) year.

C. Permittee bonds shall guarantee full performance of the permittee's responsibilities as a participant in the program. Permittee bonds shall be held by the City and shall be used to compensate lessees for loss or damage suffered as a result of the permittee's failure to perform under the conditions of the permit and according to procedures set forth herein and in any rules and regulations promulgated to implement any provisions of this ordinance.

D. All solar energy devices installed under the MSU Solar Leasing Program must receive required building permits. Special fees may be established, if necessary, for solar energy devices based on type and size to defray the special inspection costs they entail.

E. The City may establish an Arbitration Board to hear and resolve any controversy or claim arising out of or relating to the lease arrangement or installation of solar energy systems leased under the MSU Solar Leasing Program. If said Arbitration Board is established, all permittees and lessees must agree to use the Arbitration Board to resolve disputes, claims, or controversies. The Arbitration Board's award shall be final and binding on all parties, except as provided by state law, and judgment upon the award may be entered in any court having jurisdiction thereof.

#### SECTION 7. Severability.

If any provision of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

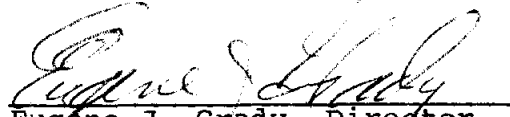
#### SECTION 8. Violations.

Any violation of this ordinance may be enforced by the City in any manner provided by law, including injunctive relief. Except as otherwise noted herein, nothing in this ordinance shall be construed to prohibit any person from pursuing other remedies in law or equity.


SECTION 9. Effective Date.

This ordinance shall take effect and be in full force on the thirty-first day from and after its adoption.

Presented by

  
Eugene J. Grady, Director  
of Building and Housing

Approved as to form by

  
George D. Lindberg, City  
Attorney

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FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE  
TY OF CHULA VISTA, CALIFORNIA, HELD November 16, 19 82, AND  
FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD November 23,  
1982, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : Scott, Cox, Malcolm, Moore, McCandliss  
NAYES: Councilmen : None  
ABSTAIN: Councilmen : None  
ABSENT: Councilmen : None

  
\_\_\_\_\_  
Mayor of the City of Chula Vista

ATTEST   
\_\_\_\_\_  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF CHULA VISTA )

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,  
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
ORDINANCE NO. 2012, and that the same has not been amended or repealed.

DATED \_\_\_\_\_

(seal)

\_\_\_\_\_  
City Clerk



ORDINANCE NO. 2012

AN ORDINANCE OF THE CITY OF CHULA VISTA ESTABLISHING  
A MUNICIPAL SOLAR UTILITY

By a unanimous vote on November 23, 1982, the City Council placed the ordinance on its second reading and adoption.

The ordinance establishes a municipal solar and conservation utility as provided under AB 3788 signed by the Governor which allows a public agency to pass on State solar tax credits to individual citizens leasing solar hot water systems.

Delineated in the ordinance are the definitions, regulatory framework, consumer protection measures, severability and violations.

Copies of the ordinance are available at the office of the City Clerk, City Hall, 276 Fourth Avenue, Chula Vista, California.

Dated: Nov. 30, 1982

  
Jennie M. Fulasz, CMC, City Clerk