

ORDINANCE NO. 803 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING
TITLE 8 OF THE PACIFICA MUNICIPAL CODE TO PROVIDE AN EXPEDITED,
STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP
SOLAR ENERGY SYSTEMS**

Section 1. The City Council finds as follows:

WHEREAS, the City of Pacifica seeks to implement AB 2188 (Chapter 521, Statutes of 2014) through the creation of an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

WHEREAS, the City of Pacifica wishes to advance the use of solar energy by all of its citizens, businesses, and industries; and

WHEREAS, the City of Pacifica seeks to meet the climate action goals set by the City of Pacifica and the State; and

WHEREAS, solar energy creates local jobs and economic opportunity; and

WHEREAS, the City of Pacifica recognizes that rooftop solar energy provides reliable energy and pricing for its residents and businesses; and

WHEREAS, it is in the interest of the health, welfare, and safety of the people of the City of Pacifica to provide an expedited permitting process to assure the effective deployment of solar technology; and

WHEREAS, the above referenced recitals are true and correct and material to the adoption of this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES ORDAIN AS FOLLOWS:

Section 2. Chapter 4 of Title 8 of the Pacifica Municipal Code is amended by the addition of the following Section:

Sec. 8-4.04 Streamlined Permitting Process for Small Residential Rooftop Solar Energy Systems.

(a) **Purpose.** The purpose of this Section is to adopt an expedited, streamlined permitting process that complies with the 1978 California Solar Rights Act and AB 2188 (Chapter 521, Statutes of 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This Section encourages the use of solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install solar energy systems. This Section allows the City to achieve these goals while protecting the public health and safety.

(b) **Definitions.**

- (1) *A feasible method to satisfactorily mitigate or avoid the specific, adverse impact* includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code.
- (2) *Association* means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development, or as otherwise defined in Section 4080 of the Civil Code.
- (3) *City* means the City of Pacifica.
- (4) *Common interest development* means any of the following:
 - (i) A community apartment project; or
 - (ii) A condominium project; or
 - (iii) A planned development; or
 - (iv) A stock cooperative
- (5) *Electronic submittal* means the utilization of one or more of the following:
 - (i) Email; or
 - (ii) The Internet
- (6) *Reasonable restrictions on a solar energy system* means those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.
- (7) *Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance* means:
 - (i) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
 - (ii) For photovoltaic systems that comply with state and federal law: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10

percent as originally specified and proposed.

(8) *Small residential rooftop solar energy system* means all of the following:

- (i) A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
- (ii) A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City, and all state and City health and safety standards including paragraph (3) of subdivision (c) of Section 714 of the Civil Code.
- (iii) A solar energy system that is installed on a single-family or duplex-family dwelling.
- (iv) A solar panel or module array that does not exceed the maximum legal building height as defined by the City.

(9) *Solar Energy System* means either of the following, as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code:

- (i) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
- (ii) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

(10) *Specific, adverse impact* means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(c) Applicability. This Section applies to the permitting of all small residential rooftop solar energy systems in the City of Pacifica. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Section are not subject to the requirements of this Section unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop solar energy system in such a way as to require a new permit. Routine operation and maintenance shall not require a permit.

(d) Solar energy system requirements. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state, the City, and the North County Fire Authority.

(1) Solar energy systems for heating water in single-family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing Code and California

Mechanical Code.

- (2) Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(e) Submittal requirements. All documents required for the submission of an expedited solar energy system application shall be made available on the City website and elsewhere as deemed appropriate by the Building Official.

- (1) An applicant may submit a permit application and associated documents for a small residential rooftop solar energy system by electronic submittal. As an alternative, an applicant may submit a permit application and associated documents at the Building Division counter during regular business hours.
- (2) An applicant's electronic signature will be accepted on all forms, applications, and other documents in lieu of a wet signature.
- (3) The City shall adopt a checklist of all requirements with which small residential rooftop solar energy systems must comply to be eligible for expedited review.
- (4) The small residential rooftop solar energy system permit process, standard plans, and the checklist shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans, contained in the most current version of the *California Solar Permitting Guidebook* adopted by the Governor's Office of Planning and Research.

(f) Plan review, permit, and inspection requirements. The Building Division shall provide a ministerial, nondiscretionary plan check review process to expedite approval of small residential rooftop solar energy systems within 30 days of the enactment of this Section.

- (1) The Building Division shall process, review, and approve an application for the installation or use of a small residential rooftop solar energy system in the same manner as an application for review of an architectural modification to the property, and approval shall not be willfully avoided or delayed.
- (2) The Building Official's review of an application subject to this Section shall be limited to whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. However, if the Building Official, in consultation with the Planning Director, makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the City may require the applicant to apply for a use permit pursuant to the provisions of Article 33 of Chapter 4 of Title 9 of the Pacifica Municipal Code.

- (i) The decision to require a use permit may be appealed to the Planning Commission.
 - (ii) The Planning Commission may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the bases for the rejection of potential feasible alternatives of preventing the adverse impact.
 - (iii) Any conditions imposed on an approval of a use permit to install a solar energy system shall be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible. Such conditions shall fall within the meaning of "reasonable restrictions on a solar energy system" as that term is defined in this Section.
- (3) An application for a small residential rooftop solar energy system that satisfies the information requirements in the checklist described in Section 8-4.04(e)(3), as determined by the City, shall be deemed complete.
 - (4) Upon confirmation by the City that an application is complete, the City shall, consistent with this Section and subdivision (b) of Government Code Section 65850.5, approve the application and issue all required permits or authorizations.
 - (5) The City shall not condition approval of an application for a small residential rooftop solar energy system on the approval of an association.
 - (6) If the City deems an application incomplete, the City shall issue to the applicant a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance.
 - (7) If an application for the installation of a small residential rooftop solar energy system is not denied in writing within 45 days from the date of receipt of the application, the application shall be deemed approved, unless the delay is the result of a reasonable request for additional information.
 - (8) Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review, which inspection shall be done in a timely manner. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized, and the subsequent inspection need not conform to the requirements of this Section.
 - (9) A separate fire inspection may be performed by the North County Fire Authority, if required, in the event the City does not have an agreement with the Fire Authority to conduct fire safety inspections on its behalf.

Section 3. Severability

If any provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Pacifica hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. California Environmental Quality Act (CEQA) Determination

Adoption of this Ordinance is exempt from environmental review pursuant to the General Rule exemption contained in Section 15061(b)(3) of the CEQA Guidelines. The Ordinance streamlines the administrative process for ministerial review of building permit applications. Therefore, the City Council finds that it can be seen with certainty that there is no possibility that adoption of the Ordinance may have a significant effect on the environment.

Section 5. Effective date

This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

Section 6. Publication; Certification

The City Clerk shall attest to the adoption of this Ordinance and cause same to be published in accordance with State law.

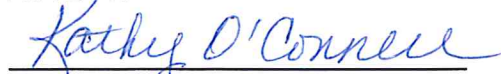
PASSED AND ADOPTED this 14th day of September, 2015, by the following vote:

AYES: Keener, O'Neill, Nihart, Digre, Ervin
NOES: None
ABSTAIN: None
ABSENT: None



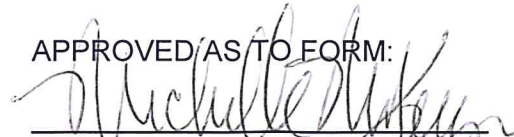
Karen Ervin, Mayor

ATTEST:



Kathy O'Connell, City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney