



City of San Leandro

Meeting Date: October 5, 2015

Staff Report

File Number: 15-571

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.L.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Rich Pio Roda
City Attorney

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for an Ordinance Adding San Leandro Municipal Code Chapter 7-5 Article 2 "Expedited Streamlined Permitting Process for Small Residential Rooftop Solar Systems" to Provide an Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems

RECOMMENDATIONS

Staff recommends that the City Council adopt the proposed Ordinance adding San Leandro Municipal Code Chapter 7-5 Article 2 "Expedited Streamlined Permitting Process for Small Residential Rooftop Solar Systems" to provide an expedited, streamlined permitting process for small residential rooftop solar systems.

BACKGROUND AND SUMMARY

In 2014, the State of California enacted AB 2188, requiring cities to adopt an ordinance to establish an expedited, streamlined process for permitting small residential rooftop solar energy systems. State law defines small residential rooftop solar energy systems as solar energy systems that: 1) are no larger than 10 kilowatts alternating current nameplate rating (Photovoltaic - PV) or 30 kilowatts thermal (Water Heating); 2) conform to all applicable state fire, structural, electrical and other building codes adopted by the local authority; 3) are installed on a single-family or duplex family dwelling; and 4) do not exceed the maximum legal building height as defined by the local authority.

The proposed ordinance satisfies State law requirements. The ordinance codifies State law requirements, which include: accepting and approving applications electronically; directing the City's Chief Building Official to develop a checklist of all requirements for small rooftop solar energy systems to be eligible for expedited review; and authorizing the City's Chief Building Official to administratively approve eligible applications that meet all necessary requirements including applicable health and safety standards.

The Building and Safety Services staff already provides a process for expedited

over-the-counter reviews of applications for small residential rooftop solar systems. Provided all the submitted information is complete, staff reviews the application and plans, and then issues the permit over-the-counter. The City's quick review process exceeds the timing requirements set by the State for expediting these applications. After the installation of the system is complete, a single, final inspection is scheduled to verify the system has been installed according to the approved plans.

State law also mandates that the City accept some form of electronic submission of small residential rooftop solar permit applications. In order to satisfy this mandate, Staff has developed a method that will allow for the acceptance and review of such applications through facsimile. Thus, this ordinance simply codifies actions that the City is already taking related to small residential rooftop solar systems pursuant to State law.

Legal Analysis

The City Attorney's Office drafted the ordinance so that it is in accordance with State law. Although staff is already practicing the State requirements, adoption of the ordinance puts the City in full compliance with State law.

Fiscal Analysis

There is no foreseeable change to the budget necessary for the adoption and implementation of this ordinance. Staff is already processing applications in compliance with State law at the current staffing levels.

ATTACHMENT

None.

PREPARED BY: Richard D. Pio Roda, City Attorney

2516941.1



City of San Leandro

Meeting Date: October 5, 2015

Ordinance

File Number: 15-572

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Rich Pio Roda
City Attorney

FINANCE REVIEW: Not Applicable

TITLE: ORDINANCE Adding San Leandro Municipal Code Chapter 7-5, Article 2 "Expedited Streamlined Permitting Process for Small Residential Rooftop Solar Systems" to Provide an Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems

WHEREAS, the City Council of the City of San Leandro seeks to implement AB 2188, a state law adopted in 2014, which requires every city to adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

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

WHEREAS, the City Council 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 San Leandro to provide an expedited permitting process to assure the effective deployment of solar technology.

NOW, THEREFORE, the City Council of the City of San Leandro does ordain as follows:

SECTION 1: AMENDMENT OF CODE. Title 7, Chapter 7-5, Article 2 of the San Leandro Municipal Code is hereby added as follows:

CHAPTER 7-5

ARTICLE 2. EXPEDITED STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

7-5-200 DEFINITIONS.

(a) A “Solar Energy System” means either of the following:

(1) 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.

(2) 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.

(b) A “small residential rooftop solar energy system” means a solar energy system which meets all of the following criteria:

(1) Is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.

(2) 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.

(3) Is installed on a single or duplex family dwelling.

(4) Contains a solar panel or module array that does not exceed the City’s maximum legal building height.

(c) “Electronic submittal” means the utilization of one or more of the following:

(1) Email;

(2) The Internet;

(3) Facsimile.

(d) “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.

(e) “Reasonable restrictions” on a solar energy system are 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.

(f) “Significantly increase the cost of the system or decrease its efficiency or specified performance” means:

(1) For Water Heater Systems or Solar Swimming Pool Heating Systems: an increase in the cost of the system as originally proposed exceeding the lesser of ten percent (10%) or one thousand dollars (\$1,000), or a decrease in the efficiency of the solar energy system as originally proposed by more than ten percent (10%).

(2) For Photovoltaic Systems: an increase in the cost of the system as originally proposed exceeding one thousand dollars (\$1,000), or a decrease in system efficiency exceeding ten percent (10%).

7-5-205 PURPOSE.

The purpose of the Ordinance is to adopt an expedited, streamlined solar permitting process for small residential rooftop solar energy systems that complies with the requirements of state law.

7-5-210 APPLICABILITY.

(a) This Ordinance applies to the permitting of all small residential rooftop solar energy systems in the City.

(b) Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Ordinance are not subject to the requirements of this Ordinance

unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

7-5-215 SOLAR ENERGY SYSTEM REQUIREMENTS.

- (a) All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City.
- (b) Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.
- (c) 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.

7-5-220 APPLICATION PROCEDURES AND REQUIREMENTS.

- (a) All documents required for the submission of an expedited solar energy system application shall be made available on the City's publicly accessible website.
- (b) Applicants may submit the required permit application and documents in person at the City's Permit Center or via electronic submittal.
- (c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.
- (d) The City's Building Official shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.
- (e) The small residential rooftop solar system permit process, standard plan(s), and checklist(s) 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) All fees prescribed for the permitting of small residential rooftop solar energy systems must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

7-5-225 PERMIT REVIEW AND INSPECTION REQUIREMENTS.

- (a) The City's Building Official shall implement an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems. The Building Official shall issue a building permit or other nondiscretionary permit as soon as practical upon receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Building Official may require an applicant to apply for a use permit if the Building Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the Planning Commission.
- (b) The Building Official's review of the application shall be limited to review of whether the application meets all local, state, and federal health and safety requirements.
- (c) If a use permit is required, the Building Official may deny an application for the use permit only if the Building Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public

health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the Planning Commission.

(d) Any condition imposed on an application by the Building Official shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

(e) 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 does not significantly increase the cost of the system or decrease its efficiency or specified performance.

(f) If an application is deemed incomplete, the Building Official shall send 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.

(g) Only one inspection shall be required and performed by the Building and Safety Services Department for small residential rooftop solar energy systems eligible for expedited review.

(h) The inspection shall be done in a timely manner and should include consolidated inspections. To the extent possible, an inspection shall be scheduled within five (5) business days of a request and provide a two (2) hour inspection window.

(i) 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 Ordinance.

SECTION 2: SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 3: EFFECTIVE DATE AND PUBLICATION. This Ordinance shall take effect thirty (30) days after adoption. The title thereof shall be published once and a complete copy thereof shall be posted on the City Council Chamber bulletin board for five (5) days prior to adoption.

2441795.3