



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of City Council
FROM: John Kuehl, Building Official
MEETING DATE: July 15, 2015
SUBJECT: Small Rooftop Solar Systems
CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines

RECOMMENDATION

Introduce and hold first reading of an ordinance to add Chapter 18.04.105 to the Pacific Grove Municipal Code, thereby creating an expedited, streamlined permit and inspection process for small rooftop solar systems, and direct publication of a summary of the ordinance as approved by the City Attorney.

DISCUSSION

In 2014 the California legislature adopted Assembly Bill 2188 (Chapter 521, Statutes 2014), which requires local agencies to adopt an expedited, streamlined permitting process for small residential rooftop solar energy systems no later than September 30, 2015. The proposed ordinance allows the City to meet its obligations under State law.

The proposed ordinance applies to all small residential rooftop solar energy systems in the City. 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.

It should also be noted that a use permit and/or architectural review may be required for properties on the City’s list of historic resources. The Office of Historic Preservation states that AB 2188 “in its entirety, taking into consideration the Reasonableness Standard of Civil Code Section 714, does not appear to prohibit review or reasonable restrictions in the interest of historic preservation or preserving the integrity of historic resources during the appropriate permit reviewing process.” Some city solar ordinances, like the ordinance in San Louis Obispo, contain a provision requiring a review of historical buildings from a Community Development Director. Other cities, like the City of Monterey, are considering adding a similar provision into their proposed ordinances.

Key timelines and features included in the ordinance are:

- The Building Department shall have ready to issue a building permit or other nondiscretionary permit within 3 business days of receipt of a complete application that meets the requirements of the approved checklist and standard plan.

- A use permit may only be required 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.
- Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
- Only one inspection shall be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review. A separate fire inspection may be performed.

It should be noted that the draft measure presented at this meeting includes one significant difference from the version previously distributed. This version proposes a new PGMC section 8.45.070 to address the process for Historic Buildings, and implements direction of the Office of Historic Preservation for historic preservation and historic resources.

OPTIONS

1. Decide to not adopt an ordinance.
2. Direct staff to return with a modified ordinance.

FISCAL IMPACT

There may be a minimal increase in revenue from permit application fees. Monterey charges the City 75% of the fees for its services, so there would also be an increase in costs, but less than the increase in fees.

ATTACHMENTS

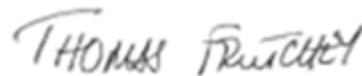
1. Draft Ordinance No. 15-___

RESPECTFULLY SUBMITTED,



John Kuehl
Building Official

REVIEWED BY,



Thomas Frutchey
City Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE ADDING CHAPTER 18.04.105
OF THE PACIFIC GROVE MUNICIPAL CODE TO PROVIDE AN EXPEDITED,
STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP
SOLAR SYSTEMS**

FINDINGS

1. The City Council of the City of Pacific Grove seeks to implement AB 2188 (Chapter 521, Statutes 2014) through the creation of an expedited, streamlined permitting process for small residential rooftop solar energy systems; and
2. The City Council wishes to advance the use of solar energy by all of its citizens, businesses, and industries; and
3. The City Council seeks to meet the climate action goals set by the City of Pacific Grove and the State; and
4. Solar energy creates local jobs and economic opportunity; and
5. The City Council recognizes that rooftop solar energy provides reliable energy and pricing for its residents and businesses; and
6. It is in the interest of the health, welfare, and safety of the people of the City of Pacific Grove to provide an expedited permitting process to assure the effective deployment of solar technology; and
7. This measure implements direction of the Office of Historic Preservation related to AB 2188, in consideration of Civil Code Section 714, and enables review and limited regulation for the sole purposes of historic preservation and preservation of the integrity of historic resources; and
8. Enactment of this ordinance action does not constitute a “project” as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment (Section 15061(b) (3)).

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
PACIFIC GROVE:**

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The City of Pacific Grove hereby adopts the text set forth entitled “RESIDENTIAL ROOFTOP SOLAR SYSTEM.” This chapter shall be added as Chapter 18.45 in Title 18, Buildings and Construction, and shall read as follows:

18.45.010 PURPOSE

This Chapter adopts an expedited, streamlined solar permitting process pursuant to the Solar Rights Act, as amended by AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This Chapter encourages use of solar 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.

18.45.020 APPLICABILITY

- a) This Chapter applies to the permitting of all small residential rooftop solar energy systems in the City of Pacific Grove.
- b) Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Chapter are not subject to the requirements of this Chapter 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.

18.45.030 DEFINITIONS

Except where the context otherwise requires, definitions given in this section govern the construction of this chapter.

“Solar Energy System” means either of the following:

- a) 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.
- b) 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.

“Small residential rooftop solar energy system” means all of the following:

- a) A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
- b) 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.
- c) A solar energy system that is installed on a single or duplex family dwelling.
- d) A solar panel or module array that does not exceed the maximum legal building height as defined by the City Planning Commission.

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

- a) Email;
- b) The Internet;

- c) Facsimile.

“Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

“Common interest development” means any of the following:

- a) A community apartment project.
- b) A condominium project.
- c) A planned development.
- d) A stock cooperative.

“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.

“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.

“Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance” means:

- a) For Water Heater Systems or Solar Swimming Pool Heating Systems: 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.
- b) ii. For Photovoltaic Systems: 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.

“Building Official” means the chief building inspector or his or her assistants acting on his or her behalf.

18.45.040 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.

18.45.050 DUTIES OF BUILDING DEPARTMENT AND BUILDING OFFICIAL

- a) All documents required for the submission of an expedited solar energy system application shall be made available to the public and accessible via the City Website.
- b) Electronic submittal of required permit applications and documents by email, the Internet, or facsimile shall be made available to all small residential rooftop solar energy system permit applicants.
- 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 Building Department shall create 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) Fees prescribed for permitting of small residential rooftop solar energy system must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

18.45.060 PERMIT REVIEW AND INSPECTION REQUIREMENTS

- a) The City Building Department shall create an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within 30 days of the effective date of this Chapter. The Building Department shall issue a building permit or other nondiscretionary permit within 3 business days for over-the-counter applications or up to three business days for electronic applications of receipt of a complete application that meets the requirements of the approved checklist and standard plan. A building official may require an applicant to apply for a use permit if the 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 City Planning Commission.
- b) Review of the application shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.
- c) If a use permit is required, a building official may deny an application for the use permit if the 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, as defined, 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 City Planning Commission.
- d) Any condition imposed on an application 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 meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

- f) The City shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.
- g) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.
- h) Only one inspection may be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review.
- i) The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within two (2) business days of a request.
- j) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Chapter.

18.45.070 PROCESS FOR HISTORIC BUILDINGS

- a) A use permit and/or architectural review may be required for properties on the City's Historic Resources Inventory as deemed necessary by the Community & Economic Development Director.
- b) Review by the City will be expedited and shall not unreasonably delay the permit process.
- c) Any recommendations to minimize damage to character-defining features or to the integrity of the historic resource shall comply with reasonableness limitations in accord with Civil Code Section 714. The review shall be guided by Chapter 23.76 PGMC (Historic Preservation).

SECTION 3. This ordinance shall take effect thirty (30) days following passage and adoption hereof.

SECTION 4. The City Manager and City Clerk are directed and authorized to perform all tasks necessary to implement this ordinance. This measure shall cause republication of the Pacific Grove Municipal Code.

SECTION 5. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this
___ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney