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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
ORDINANCE NO. 13332 C.M.S.

INTRODUCED BY COUNCILMEMBER ANNIE CAMPBELL WASHINGTON

AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADOPT CHAPTER 15.33 RESIDENTIAL ROOFTOP SOLAR REQUIREMENTS, WHICH PROVIDES A STANDARDIZED AND STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

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

WHEREAS, AB 2188 requires cities to adopt an ordinance that creates an expedited permitting process for small residential rooftop solar energy systems on or before September 30, 2015. AB 2188 further requires cities to inspect a small residential rooftop solar energy system eligible for expedited review within specified time limits, and prohibits cities from conditioning the approval of any solar energy system permit on approval of that system by an association that manages a common interest development; and

WHEREAS, the City Council wishes to simplify and encourage the use of solar energy by all of its citizens; and

WHEREAS, the City Council seeks to meet the goal of producing 62 million kilowatt hours of renewable electricity generation annually by 2020, as set forth in the City's Energy and Climate Action Plan; and

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

WHEREAS, the City Council recognizes that rooftop solar energy provides reliable energy and pricing for its residents, making funds available for other expenses; and

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

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. Addition of Chapter 15.33 to the Oakland Municipal Code. Title 15 of the Oakland Municipal Code is hereby amended to add a new Chapter 15.33 Residential Rooftop Solar Requirements, attached hereto as **Exhibit A** and incorporated as if fully set forth herein.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. California Environmental Quality Act. The City previously prepared and certified/adopted a set of applicable CEQA documents, including: (1) 1998 Land Use and Transportation Element EIR; (2) 1996 Open Space Conservation and Recreation Element Mitigated Negative Declaration; (3) 2004 Safety Element Negative Declaration and 2012 Addendum; (4) 1998 Historic Preservation Element EIR; (5) 2005 Noise Element Negative Declaration; (6) 2007 Bicycle Master Plan EIR; (7) 2002 Pedestrian Master Plan Mitigated Negative Declaration; (8) 1999 and 2006 Estuary Policy Plan EIRs and 2013 Supplemental EIR; (9) 2010 Housing Element EIR and 2014 Addendum; and (10) 2012 Energy and Climate Action Plan Addendum. Collectively, these are known as the "Previous CEQA Documents." No legal actions were filed challenging the Previous CEQA Documents, and thus they are presumed valid. The City Council, based on its own independent review, consideration, and exercise of its independent judgment, finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review, including without limitation Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163, are present. Thus, prior to approving the ordinance, the City can rely on the Previous CEQA Documents. In addition, as a separate and independent basis, this action is also exempt from CEQA pursuant to CEQA Guidelines sections 15060(c)(2) (no significant effect on the environment), 15183 (projects consistent with a community plan, general plan, or zoning), 15301 (existing facilities), 15302 (replacement or reconstruction), 15303 (new construction or conversion of small structures), and 15309 (inspection), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

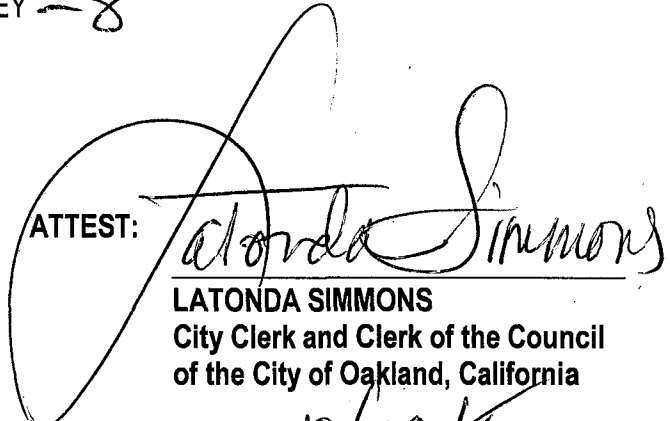
SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 20 2015

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY - 8

NOES - 0
ABSENT - 0
ABSTENTION - 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California
Date of Attestation: 10/22/15

Introduction Date
OCT 06 2015

EXHIBIT A

The following Chapter 15.33 is hereby adopted by this Ordinance and incorporated into the Oakland Municipal Code.

**Title 15 – Buildings and Construction
Chapter 15. Residential Rooftop Solar Requirements**

Sections:

Article I – Title

15.33.010 Title

Article II – Administrative

15.33.020 Definitions

15.33.030 Conflict

15.33.040 Amendments

Article III – Solar Energy System Requirements

15.33.050 Purpose

15.33.060 Applicability

15.33.070 Requirements

15.33.080 Duties of City of Oakland and Building Official

15.33.090 Permit Review and Inspection Requirements

15.33.100 Appeal Procedure

Article I – Title

Section 15.33.010 Title

This Chapter shall be known as the “Residential Rooftop Solar Requirements” and is referred to herein as this Chapter.

Article II – Administrative

Section 15.33.020 Definitions

As used in this Chapter, the following terms shall have the meanings set forth herein. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

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: community apartment project; a condominium project; a planned development; and/or a stock cooperative.

ELECTRONIC SUBMITTAL means the utilization of one or more of the following: email; the internet; and/or facsimile.

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 of Oakland 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.

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.

SIGNIFICANTLY means:

- a. For solar domestic water heater systems or solar swimming pool heating systems: an amount exceeding ten (10) percent of the initial estimated total installed 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 ten (10) percent, as originally specified and proposed.
- b. 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 ten (10) percent as originally specified and proposed.

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 of Oakland and paragraph (3) of subdivision (c) of Section 714 of the Civil Code.
- c. A solar energy system that is installed on a single or duplex family dwelling.
- d. A solar panel or module array that, as installed, does not exceed the maximum legal building height as defined by the City of Oakland.

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, electricity 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.

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.

15.33.030 Conflict

Wherever the provisions of this Chapter conflict with each other or with the provisions of other associated codes, regulations, or ordinances, the more restrictive provision or standard shall control.

15.33.040 Amendments

Where any section, subsection, sentence, clause, phrase, or other part of this Chapter and the referenced law recited herein are amended subsequently, all provisions of the original recitation not so specifically amended shall remain in full force and effect and all amended provisions shall be considered as added thereto.

Article III – Solar Energy System Requirements

15.33.050 Purpose

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

15.33.060 Applicability

This Chapter applies to the permitting of all small residential rooftop solar energy systems in the City of Oakland. 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.

15.33.070 Requirements

A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local law, consistent with Section 65850.5 of the Government Code, as well as Pacific Gas & Electric requirements for all grid-connected systems.

B. 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 and Mechanical Codes.

C. Solar energy systems for producing electricity shall also 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.

15.33.080 Duties of City of Oakland and Building Official

A. The City of Oakland Bureau of Building in the Department of Planning and Building (Bureau of Building) 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.

B. The permit application and a list of all documents required for the submission of an expedited solar energy system application shall be made available on the Bureau of Building section of the City of Oakland Website.

C. Electronic submittal of the required permit application and documents shall be made available to all small residential rooftop solar energy system permit applicants.

D. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

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.

15.33.090 Permit Review and Inspection Requirements

A. The City of Oakland Bureau of Building shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within 90 days of the adoption of this Chapter. The Bureau of Building shall approve the application and issue a building permit or other nondiscretionary permit on the same day for over-the-counter applications (or within 1-3 business days for electronic applications) of receipt of a complete application that meets the requirements of the approved checklist and standard plan. If an application is deemed incomplete, the City shall issue a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance.

1. Review of the application shall be limited to the building official's review of whether the application meets all health and safety requirements of local, state, and federal law. However, if the building official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health or safety, the building official may require an applicant to apply for a use permit.

2. The building official may not deny an application for a use permit to install a solar energy system unless he or she 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 specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives for preventing the adverse impact.

B. Any conditions imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost. Furthermore, the City shall not condition approval of an application on the approval of an association.

C. If an inspection is required, only one inspection shall be required and performed by the Bureau of Building for small residential rooftop solar energy systems eligible for expedited review. Inspections for permit requirements of the Uniform Fire Code Section 105.7 shall be performed by the Bureau of Building as part of this inspection.

D. 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. If a small residential rooftop solar energy system fails inspection, subsequent inspections deemed necessary by the City are authorized, however the subsequent inspection need not conform to the requirements of this Section.

15.33.100 Appeal Procedure

The decision of the building official pursuant to Section 15.33.090(A)(1)-(2) may be appealed to a Hearing Examiner in accordance with Section 15.040.025 of the Oakland Municipal Code.

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADOPT CHAPTER 15.33 RESIDENTIAL ROOFTOP SOLAR REQUIREMENTS, WHICH PROVIDES A STANDARDIZED AND STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

This ordinance will amend the Oakland Municipal Code to create Chapter 15.33, which will provide a streamlined and standardized permitting process for small residential solar systems, including online posting of solar permitting requirements and a consolidated single inspection for each small residential rooftop solar system by the Bureau of Building, Department of Planning and Building, in compliance with AB 2188. The new permitting process will help to reduce administrative cost and overall cost for residents to purchase and install solar energy systems. Timely compliance with AB 2188 will also maintain the City's eligibility for grant funding programs for solar and other renewable energy programs operated by the California Energy Commission.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

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