



CITY COUNCIL STAFF REPORT

DATE: SEPTEMBER 2, 2015 LEGISLATIVE

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 8.100 OF THE PALM SPRINGS MUNICIPAL CODE, PROVIDING FOR AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65850.5

FROM: David H. Ready, City Manager

BY: Department of Building & Safety

SUMMARY

As amended by Assembly Bill 2188 (AB 2188), Section 65850.5 of the California Government Code requires that, on or before September 30, 2015, every city must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems. Adoption of the Ordinance will comply with the requirements of AB 2188.

RECOMMENDATION:

1. Waive the reading of the ordinance text in its entirety and read by title only; and
2. Introduce on first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 8.100 TO TITLE 8 OF THE PALM SPRINGS MUNICIPAL CODE TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS."

BACKGROUND:

California has become the first state in the country to mandate a standardized procedure for solar permitting. Every city and county in the state will soon be required to adopt a simplified procedure for residential rooftop solar panel systems. The State Legislature has determined that a streamlined permitting process greatly benefits California homeowners with shorter wait times between contract signing, installation, inspection, and saving on their first month's electricity bill.

On September 21, Governor Jerry Brown signed into law bill AB 2188, which took effect January 1, 2015, amending Section 65850.5 of the California Government Code regarding solar permit streamlining for small residential projects. Section 65850.5(a) of

the California Government Code provides that it is the policy of the State to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems. In furtherance of that objective, Section 65850.5(g)(1) of the California Government Code requires that, on or before September 30, 2015, every city, county, or city and county must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.

A "small residential rooftop solar energy system" is defined to mean Photovoltaic systems of 10 kilowatts or less that is installed on a single or duplex family dwelling which conforms to all applicable State fire, structural, electrical, and building codes adopted by the City, and does not exceed the maximum legal building height as defined by the City's zoning.

In addition, California Government Code Section 65850.5(g)(2) states that the expedited permitting process must substantially conform to the recommendations, including the checklist and standard plan, contained in the current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research. It affirms that it is the policy of the State to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems. Permitting procedures must conform to the following key elements as identified in the most updated version of the California Solar Permitting Guidebook:

- Cover systems that are no larger than 10 kilowatts that are installed on single-family or duplex dwellings.
- Cities are required to post permitting requirements and documents online. They must also accept permit applications by internet, email, or fax and accept electronic signatures.
- Limits the number of inspections that may be required.
- Reduces both the limits a Homeowner Association (HOA) can apply to a rooftop installation and if applicable, the number of days an applicant must wait for a written denial of a plan.
- Prohibits City from conditionally approving any solar energy system permit on the approval by an association as defined by Civil Code Section 4080.
- Sets a limit on permit fees for residential solar systems of 15 kilowatts or less at \$500.

ANALYSIS:

Staff is currently complying with the provisions of Assembly Bill 2188, by providing expedited plan review services for single family solar photovoltaic projects, and anticipated the need to expedite plan reviews and requested the addition of a new plans examiner to the Building & Safety Department which was approved as part of the Fiscal Year 2015-2016 budget.

Checklists, forms and associated information related to obtaining a solar photovoltaic permit are posted on the City web page as prescribed by AB 2188. Staff will implement a fax in or email type electronic review submittal process to comply with AB 2188. Although, at this time, there is no integrated plan review system software in use by the Department, staff will pursue implementing such a system to ensure the City is in compliance with the requirements of AB 2188. The introduction of this proposed ordinance expresses the City of Palm Springs' commitment to providing expedited review services for residential solar projects and our compliance with AB 2188.


ENVIRONMENTAL IMPACT:

The requested City Council action is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The requested action is to introduce for first reading the adoption of an ordinance to the Palm Springs Municipal Code implementing AB 2188 for an expedited, streamlined permitting process for small residential rooftop solar energy systems, and is exempt from CEQA pursuant to Section 15378(b), in that a "Project" does not include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

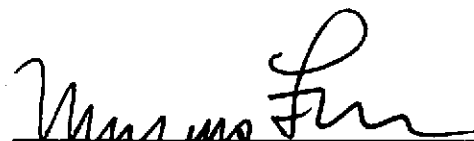
FISCAL IMPACT:

The cost for implementation of expedited plan review services has been included in the annual Building & Safety Department's budget for Fiscal Year 2015-2016.

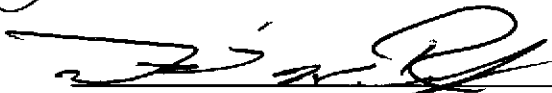
SUBMITTED



Jim Zicaro
Director of Building & Safety



Marcus L. Fuller, MPA, PE, PLS
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.,
City Manager

Attachments:
1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 8.100 TO TITLE 8 OF THE PALM SPRINGS MUNICIPAL CODE TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

City Attorney Summary

This Ordinance creates an expedited, streamlined permitting process for small residential rooftop solar energy systems as required by State Law.

The City Council of the City of Palm Springs finds:

A. On September 21, 2014, Governor Brown approved Assembly Bill 2188 ("AB 2188")(An act to amend Section 714 of the California Civil Code, and to amend Section 65850.5 of the California Government Code, relating to solar energy) in furtherance of the State's policy to promote and encourage the use of solar energy systems and to limit obstacles to their use.

B. Subsection (g)(1) of California Government Code Section 65850.5 provides that, on or before September 30, 2015, every city must adopt an ordinance that creates an expedited and streamlined permitting process for small residential rooftop solar energy systems.

C. The City Council of the City of Palm Springs seeks to implement AB 2188 through the creation of an expedited, streamlined permitting process for small residential rooftop solar energy systems.

D. The City Council of the City of Palm Springs finds that it is in the interest of the health, welfare and safety of the public to provide an expedited, streamlined permitting process to encourage the effective development of solar technology.

E. The City Council of the City of Palm Springs finds that this Ordinance will have the effect of encouraging the installation of small residential rooftop solar energy systems and minimizing barriers, obstacles, and costs of obtaining permits for their installation.

The City Council of the City of Palm Springs ordains:

SECTION 1. Chapter 8.100 is hereby added to Title 8 of the Palm Springs Municipal Code to read as follows:

Chapter 8.100

SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEM PERMITS

- 8.100.010 Intent and purpose.
- 8.100.020 Definitions.
- 8.100.030 Applicability.
- 8.100.040 Solar energy system requirements.
- 8.100.050 Applications and documents.
- 8.100.060 Permit review and inspection requirements.

8.100.010 Intent and purpose.

The intent and purpose of this chapter is to adopt an expedited, streamlined solar permitting process that complies with AB 2188 (Chapter 521, Statutes 2014, California Government Code Section 65850.5) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter is designed to encourage the 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. This chapter allows the City to achieve these goals while protecting the public health and safety.

8.100.020 Definitions.

For the purpose of carrying out the intent of this chapter, words, phrases, and terms shall be deemed to have the meaning ascribed to them in the following sections covering definitions.

"Building Department" means the Building and Safety Department of the City of Palm Springs.

"Director" means the Building and Safety Director for the City of Palm Springs, or the Building and Safety Director's designee.

"City" means the City of Palm Springs.

"Electronic submittal" means the utilization of one or more of the following:

1. Email
2. The Internet
3. Facsimile

"Expedited permitting" and "expedited review" means the process outlined in Section 8.100.060 Permit review and inspection requirements.

"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 similar permit.

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

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. 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 Palm Springs and all State of California health and safety standards.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the City of Palm Springs.

"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, space cooling or 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.

8.100.030 Applicability.

This chapter applies to the permitting of 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 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 with no structural alterations shall not require a permit.

8.100.040 Solar energy system requirements.

- A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the City and the State of California.
- 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.

8.100.050 Applications and documents.

- A. All documents required for the submission of a small residential rooftop solar energy system application shall be made available on the City website.
- B. Electronic submittal of the required application and documents via email, the City's website, 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 Building Department shall develop and implement a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply with to be eligible for expedited review. The standard plan and checklist shall substantially conform to 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.
- E. All fees prescribed for the permitting of small residential rooftop solar energy systems must comply with California Government Code Sections 65850.55 and 66015 and California Health & Safety Code Section 17951.

8.100.060 Permit review and inspection requirements.

- A. The Building Department shall implement the following administrative, nondiscretionary review process to expedite the approval of small residential rooftop solar energy system applications.
- B. Review of an application for a small residential rooftop solar energy system shall be limited to the Director's review of whether the applicant meets local, state and federal health and safety requirements.

C. For an application for a small residential rooftop solar energy system that meets the requirements of the City's checklist and standard plan, the Building Department shall issue a building permit or other non-discretionary permit or authorization within three (3) business days.

D. If an application for a small residential rooftop solar energy system 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 permitting shall be sent to the applicant for resubmission.

E. The Director may require an applicant to apply for a use permit if the Director 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 pursuant to the appeals process specified in Section 8.04.340(b) of this Code.

F. The Director may not deny an application for the use permit unless the Director makes written findings based upon substantial 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. Such decisions may be appealed to the Planning Commission pursuant to the appeals process specified in Section 8.04.340(b) of this Code.

G. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

H. Approval of an application shall not be conditioned upon the approval of an association, as defined in Section 4080 of the California Civil Code.

I. Only one inspection shall be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review.

1. 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.
2. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements made applicable to the first inspection.

SECTION 2. The City is unable as of the date of this Ordinance to comply with the provisions of Government Code section 65850.5(g)(1) that would allow the City to utilize "electronic signature on all forms, applications, and other documentation in lieu of a wet signature by an applicant." The City does not have a system in place that is capable of verifying an electronic signature as provided in Government Code Section 16.5. The Secretary of state allows the use of electronic signatures only if the signatures can be verified using Public Key Cryptology (PKI) or Signature Dynamics technology (2 C.C.R.

Sec. 2203). These technologies add complexity and expense to the requirements identified in Government Code Section 65850.5 (g)(1) and the City does not have the financial resources of infrastructure as of the date of this Ordinance to deploy such technology. Based on the reasons set forth in this Section 2, the City Council determines that it is unable to authorize the acceptance of an electronic signature on all forms, applications, and other documents in lieu of a wet signature by an applicant for a small residential rooftop solar energy system.

SECTION 3. The City Council finds in its independent judgment, that this Ordinance is exempt from environmental review pursuant to Section 15308 of the California Environmental Quality Act (CEQA) Guidelines, which exempts actions taken by a regulatory agency for the protection of the environment where the regulatory process provides procedures for protection of the environment. None of the exceptions provided in Section 15300.2 of the Guidelines that would otherwise require the preparation of additional environmental review exist. The City Council further finds that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. Therefore, pursuant to Section 15061(b)(3) of the CEQA Guidelines the adoption and implementation of this Ordinance is exempt from the provisions of CEQA.

SECTION 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL
THIS ___ DAY OF _____, 2015.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LAGUNA HILLS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the _____ day of _____ 2015, and adopted at a regular meeting of the City Council held on the _____ day of _____ 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California