

ORDINANCE NO. 15-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA ADDING CHAPTER X OF TITLE 5 OF THE COSTA MESA MUNICIPAL CODE RELATING TO PERMITTING PROCEDURES FOR SMALL RESIDENTIAL SOLAR ENERGY SYSTEMS

WHEREAS, as set forth in Government Code Section 65850.5(a) it is the policy of the State of California that local agencies encourage the installation of solar energy systems by removing obstacles to, and minimizing the costs of, permitting such energy systems; and

WHEREAS, as set forth in Government Code Section 65850.5(g), cities must adopt an ordinance on or before September 30, 2015 that creates an expedited and streamlined permitting process for small residential rooftop solar energy systems; and

WHEREAS, the ordinance must substantially conform with the recommendations set forth in the California Solar Permitting Guidebook, including the use of a checklist of all requirements that, if complied with, requires cities to approve the application and issue the applied for permits; and

WHEREAS, the City Council of the City of Costa Mesa finds that it is in the interest of the health, welfare and safety of the public to provide an expedited permitting process to encourage the effective development of solar technology; and

WHEREAS, the City Council of the City of Costa Mesa finds that the following ordinance will have the effect of encouraging the installation of small residential solar energy systems and minimizing barriers, obstacles, and costs of obtaining permits for their installation.

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, the City Council finds that the adoption of this ordinance is covered by CEQA General Rule Exemption [Section 15061(b)(3)] which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. A significant effect is defined as, "a substantial, or potentially substantial, adverse change in the physical conditions within the area," and the adoption of this Ordinance is therefore not subject to CEQA.

THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 5 of the Costa Mesa Municipal Code entitled "Buildings and Structures" is hereby amended to add Chapter X, entitled "SMALL RESIDENTIAL SOLAR ENERGY

SYSTEM PERMITS” commencing with Section 5-138 and concluding with Section 5-143 is hereby added to read in its entirety as follows:

Sec. 5-138. Intent and purpose.

The intent and purpose of this 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. 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.

Sec. 5-139. Definitions.

- A. “Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- B. “Building department” means the Building and Safety Division for the City of Costa Mesa.
- C. “Building official” means the Building Official for the City of Costa Mesa.
- D. “City” means the City of Costa Mesa.
- E. “Common interest development” means any of the following:
 - 1. A community apartment project.
 - 2. A condominium project.
 - 3. A planned development.
 - 4. A stock cooperative.
- F. “Electronic submittal” means the utilization of one or more of the following:
 - 1. Email
 - 2. The Internet
 - 3. Facsimile
- G. “Expedited permitting,” and “expedited review,” means the process outlined in Sec. 5-143 entitled “Expedited permit review and inspection requirements.”
- H. 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 similar permit.

- I. "Board of Appeals" means the Access, Building, Fire, and Housing Board of Appeals for the City of Costa Mesa.
- J. "Small residential rooftop solar energy system" means all of the following:
 - 1. A solar energy system that is not 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 Costa Mesa 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 Costa Mesa.
- K. "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.
- L. "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.

Sec. 5-140. 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 shall not require a permit.

Sec. 5-141. 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.

Sec. 5-142. Duties of Building Department and Building Official.

- A. All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on the City's publicly accessible website.
- B. Electronic submittal of the required permit 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 adopt 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.
- E. The small residential rooftop solar system permit process, standard plans, and checklist shall substantially conform to the recommendations for expedited permitting, including the checklist and standard 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 Sections 65850.55 and 66015 and Health & Safety Code Section 17951.

Sec. 5-143. Expedited permit review and inspection requirements.

- A. The Building Department shall adopt an administrative, nondiscretionary review process to expedite the approval of small residential rooftop solar energy system applications within 30 days of adoption of this chapter. For an application for a small residential rooftop solar energy system that meets the requirements of the approved checklist and standard plan, the Building Department shall issue a

building permit or other non-discretionary permit within 3 business days. The 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 Board of Appeals pursuant to section 5-3 of this code.

- B. Review of the application shall be limited to the building official's review of whether the applicant meets 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 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 the specific, 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 Board of Appeals pursuant to section 5-3 of this code.
- 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. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of Civil Code Section 714(d)(1)(A)-(B).
- E. The City shall not condition the approval of an application on the approval of an association as defined in Civil Code Section 4080.
- F. 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.
- G. Only one inspection shall be required and performed by the Building 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. An inspection will be scheduled within two business days of a request.
- I. 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.

Section 2. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

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 to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2015.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk and ex-officio of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 15-___ was introduced and considered section by section at a regular meeting of said City Council held on the ___th day of _____, 2015, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ___ day of _____, 2015, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ___ day of _____, 2015.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa