City Council Agenda
June 3, 2015

TO: Mayor and City Council

FROM: Dave Scola, Public Works Director

PREPARED BY: Don Salts, Deputy Public Works Director

SUBJECT: Ordinance Relating to Expedited Permitting Procedures for Small Residential Rooftop Solar Systems

DATE: May 12, 2015

Recommendation

Conduct a public hearing to introduce an ordinance amending the Municipal Code Title 15, Building and Construction**,** by adding Chapter 15.09, Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems, and finding the adoption thereof Exempt from the Provisions of the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Sections 15301, 15268 and 15061(B)(3).

Background

Section 65850.5(a) of the California Government Code provides it is the policy of the State to promote and encourage 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 this objective, Section 65850.5(g)(1) of the California Government Code requires on or before September 30, 2015, every city and county must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.

Discussion

The City already expedites the review and approval of applications to install solar energy systems at the building counter or electronically through the City's website or fax.

The City, however, needs to adopt the ordinance mandated by Section 65850.5(g)(1). The attached ordinance is intended to satisfy the requirement. The ordinance codifies the requirements of Section 65850.5(g)(1), such as accepting and approving applications electronically, directing the City's Building Official to develop a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review, and authorizing the Building Official to administratively approve such applications.

Fiscal Impact

There is no anticipated fiscal impact as the costs will be recovered through existing building permit fees. As noted, the Building Division is currently providing expedited review and electronic submittal of applications for small residential rooftop solar systems.

Attachment

- Ordinance

APPROVED BY:

Rob Braulik, City Manager

ORDINANCE NO. C.S.

AMENDING THE MUNICIPAL CODE TITLE 15, BUILDING AND CONSTRUCTION, AND ADDING CHAPTER 15.09 TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS AND FINDING THE ADOPTION THEREOF EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTIONS 15301, 15268 AND 15061(B)(3)

WHEREAS, the City seeks to implement AB 2188, California Government Code Section 65850.5 through the creation of 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 citizens, businesses and industries; and

WHEREAS, the City Council seeks to meet the climate action goals set by the City and the State; and

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

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

NOW, THEREFORE, the City Council of the City of Martinez does find and ordain as follows:

SECTION 1. The City Council hereby finds the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code Section 21000 et. seq. (CEQA), pursuant to CEQA Guidelines (California Code of Regulations Title 14, Chapter 3) Sections 15301 (existing facilities), 15268 (ministerial projects) and 15061(b)(3) (general rule), and the ordinance is an ordinance adopted to comply with the State law requirements of AB 2188 (Government Code Section 65850.5), which the City lacks discretion to ignore. Further, the ordinance permits only the minor alteration of an existing facility by permitting the erection of solar energy systems only on existing structures and only when such systems meet specific requirements for health and safety including installation and safety requirements and all height requirements of the applicable zoning district. It can, therefore, be seen with certainty there is no possibility the adoption of this ordinance will have a significant effect on the environment as it contains strict standards for installation of any such systems.

SECTION 2. Chapter 15.09 is hereby added to the Martinez Municipal Code to read as follows:

15.09.010 DEFINITIONS

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. **"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 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. 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 Chapter 22 of this code.

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

1. Email;
2. The Internet;
3. Facsimile.

D. **"Association"** means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

1. A "common interest development" means any of the following:
2. A community apartment project.
3. A condominium project.
4. A planned development.
5. A stock cooperative.

E. **"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.

F. **"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.

G. **"Restrictions that do not 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 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.
2. 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.

15.09.020 PURPOSE

The purpose of the Chapter is to adopt an expedited, streamlined solar permitting process complies with the Solar Rights Act and AB 2188 (Government Code Section 65850.5) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The provisions of this Chapter 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, safety and welfare of the citizens of Martinez.

15.09.030 APPLICABILITY

A. This Chapter 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 shall not require a permit.

15.09.040 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 and the Contra Costa Fire District.

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.

15.09.050 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 on the publicly accessible City Website.

B. Electronic submittal of the required permit application and documents by email, the Internet, or facsimile shall be made available to all small residential rooftop solar energy system permit applicants. Applications shall be considered complete when all information is received and payment made. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

C. All fees prescribed for the permitting of small residential rooftop solar energy system comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

15.09.060 PERMIT REVIEW AND INSPECTION REQUIREMENTS

A. The City Building Department shall adopt a standard plan and checklist for the administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems on or before September 1, 2015. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall be available on the City's website and 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.

B. The Building Department shall issue a building permit [the same day for over-the-counter applications or within 3 business days for electronic applications] of receipt of a complete application which 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 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.

C. 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.

D. 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 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, 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.

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

F. "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.

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

H. 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.

I. 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 required by the Contra Costa Fire District.

J. 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 and provide a two (2) hour inspection window.

K. If a small residential rooftop solar energy system fails inspection, a subsequent inspection shall be required. Such subsequent inspection shall not be required to comply with the requirements of subsection J above.

SECTION 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 4. **Effective date.** This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 5. **Posting.** At least five (5) days prior to its final adoption, a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk.

Within 15 days after adoption, the City Clerk shall publish a summary of this Ordinance with the names of those City Council members voting for and against the Ordinance in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: _____
Rob Schroder, Mayor

ATTEST:_____
Deputy City Clerk

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I HEREBY CERTIFY the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 3rd day of June, 2015, and duly passed and adopted at a Regular Meeting of said City Council held on the day of , 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ