

**ORDINANCE NO. 2015-23**

**AN ORDINANCE OF THE CITY OF NEWPORT BEACH, CALIFORNIA,  
AMENDING TITLE 15 OF THE NEWPORT BEACH MUNICIPAL CODE  
TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING  
PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS**

**RECITALS**

**WHEREAS**, the City Council of the City of Newport Beach 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;

**WHEREAS**, the City Council wishes to advance the use of solar energy by all of its citizens, businesses and industries;

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

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

**WHEREAS**, the City Council recognizes that 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 City of Newport Beach to provide an expedited permitting process to assure the effective deployment of solar technology.

**NOW, THEREFORE**, the City Council of the City of Newport Beach does ordain as follows:

**SECTION 1:** Chapter 15.18 of the Newport Beach Municipal Code is added to Title 15 to read as follows:

**Chapter 15.18**

**SOLAR SYSTEMS**

**Sections:**

- 15.18.010 PURPOSE
- 15.18.020 APPLICABILITY
- 15.18.030 DEFINITION
- 15.18.040 SOLAR ENERGY SYSTEM REQUIREMENTS
- 15.18.050 PROHIBITED INSTALLATION
- 15.18.060 DUTIES OF THE BUILDING DIVISION, AND CHIEF BUILDING OFFICIAL
- 15.18.070 PERMIT REVIEW AND INSPECTION REQUIREMENTS

**15.18.010 PURPOSE**

The 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. 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. The provisions of this Chapter further allow the City to achieve these goals while protecting the public's health and safety.

**15.18.020 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 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.

**15.18.030 Definitions**

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

B. "Electronic submittal" means the utilization of one (1) or more of the following:

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

C. "Common interest development" means any of the following:

1. A community apartment project;
2. A condominium project;
3. A planned development; or
4. A stock cooperative.

D. "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.

E. "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 ten percent (10%) 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 ten percent (10%), 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 ten percent (10%) as originally specified and proposed.

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

1. A solar energy system that is no larger than ten kilowatts (10kW) alternating current nameplate rating or thirty kilowatts (30kW) 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 and all state and City and County 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.

G. "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.

H. "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.

#### **15.18.040 SOLAR ENERGY SYSTEM REQUIREMENTS**

A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the California Fire Code, as adopted and amended by 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.

#### **15.18.050 PROHIBITED INSTALLATION**

It is prohibited to use electrical metallic tubing (EMT) in exposed exterior locations.

#### **15.18.060 DUTIES OF THE BUILDING SAFETY DIVISION AND CHIEF 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.

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 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.

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. All fees prescribed for the 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, or any successor statutes.

#### **15.18.070 PERMIT REVIEW AND INSPECTION REQUIREMENTS**

A. The Building Division shall issue a building permit or other nondiscretionary permit the same day for over-the-counter applications or within one (1) to three (3) business days for electronic applications of receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Chief 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 Building and Fire Board of Appeals.

B. Review of the application shall be limited to the Chief Building Official's review of whether the application meets local, state, and federal health and safety requirements and the City Fire Code Official's review for compliance with the California Fire Code.

C. If a use permit is required, the Chief Building Official may deny an application for the use permit if the Chief Building 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 Building and Fire Board of Appeals.

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, or any successor statute, 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, or any successor statute.

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 (1) inspection shall be required and performed by the Building Division 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 and provide an eight (8) hour inspection window.

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.

**Section 2:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 3:** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 4:** The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**Section 5:** Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

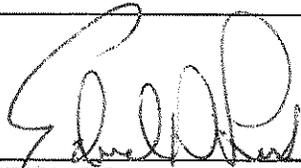
**Section 6:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance to be published pursuant to City Charter Section 414, and it shall be effective thirty (30) days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 14<sup>th</sup> day of July, 2015, and adopted on the 28<sup>th</sup> day of July, 2015, by the following vote, to-wit:

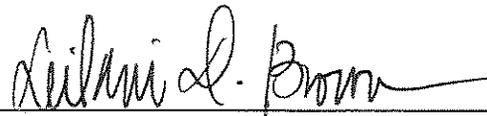
AYES, COUNCILMEMBERS Peotter, Petros, Duffield  
Muldoon, Dixon, Mayor Selich

NOES, COUNCILMEMBERS None

ABSENT COUNCILMEMBERS Curry

  
\_\_\_\_\_  
EDWARD D. SELICH, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK



**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } ss.  
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2015-23 was duly and regularly introduced on the 14<sup>th</sup> day of July, 2015, and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 28<sup>th</sup> day of July, 2015, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Peotter, Council Member Petros, Council Member Duffield,  
Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich  
NAYS: None  
ABSENT: Council Member Curry

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29<sup>th</sup> day of July, 2015.



Leilani I. Brown  
City Clerk  
City of Newport Beach, California  
(Seal)

#### CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } ss.  
CITY OF NEWPORT BEACH }

I, LEILANI I. BROWN, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2015-23 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a newspaper of general circulation on the following dates:

Introduced Ordinance: July 18, 2015  
Adopted Ordinance: August 1, 2015

In witness whereof, I have hereunto subscribed my name this 19<sup>th</sup> day of AUGUST, 2015.



Cherie M. For  
City Clerk  
City of Newport Beach, California  
(Seal)