

# Draft AB 2188 Model Ordinance

**AN ORDINANCE [AMENDING or ADDING] ORDINANCE NO. \_\_\_\_\_ TO THE [CITY, COUNTY, OR MUNICIPAL] CODE TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS**

WHEREAS, the [City Council or Board of Supervisors of the County of \_\_\_\_\_] 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; and

WHEREAS, the [City Council or Board of Supervisors] wishes to advance the use of solar energy by all of its citizens, businesses and industries; and

WHEREAS, the [City Council or Board of Supervisors] seeks to meet the climate action goals set by the [City or County] and the State; and

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

WHEREAS, the [City Council or Board of Supervisors] 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 \_\_\_\_\_ to provide an expedited permitting process to assure the effective deployment of solar technology.

NOW, THEREFORE,

THE PEOPLE OF THE [CITY/COUNTY] OF \_\_\_\_\_

DO ORDAIN AS FOLLOWS

## **1. DEFINITIONS**

- a.** A “Solar Energy System” means either of the following:
  - i.** 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.
  - ii.** 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.** A “small residential rooftop solar energy system” means all of the following:
  - i.** A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.

- ii. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the [City, County, or City and County] and all state and [City, County, or City and County] health and safety standards.
  - iii. A solar energy system that is installed on a single or duplex family dwelling.
  - iv. A solar panel or module array that does not exceed the maximum legal building height as defined by the [City, County, or City and County].
- c. “Electronic submittal” means the utilization of one or more of the following:
  - i. Email;
  - ii. The Internet;
  - iii. Facsimile.
- d. An “association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- e. A “common interest development” means any of the following:
  - i. A community apartment project.
  - ii. A condominium project.
  - iii. A planned development.
  - iv. A stock cooperative.
- f. “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.
- g. “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.
- h. “Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance” means:
  - i. 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.
  - ii. 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.

## 2. PURPOSE

The purpose of the Ordinance 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 Ordinance encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the [City, County, or City and County], and

expanding the ability of property owners to install solar energy systems. The Ordinance allows the [City, County, or City and County] to achieve these goals while protecting the public health and safety.

### **3. APPLICABILITY**

- a. This Ordinance applies to the permitting of all small residential rooftop solar energy systems in the [City, County, or City and County].
- 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 or like-kind replacements shall not require a permit.

### **4. 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, County, or City and County], local fire department or district [and utility director, if applicable].
- 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.

### **5. 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, County, Or City and County] 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. [Note: If a city, county, or city and county is unable to authorize electronic signatures, it must specify the reason why in the ordinance.
- d. The [City, County, Or City and County]'s [Building Department] 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. All code requirements in these documents shall conform to the requirements found in the most recently adopted Solar Permitting Guidebook model Tool Kit documents.
- 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.

## **6. PERMIT REVIEW AND INSPECTION REQUIREMENTS**

- a.** The [City, County, or City and County] [Building Department] shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within [30 days] of the adoption on this Ordinance. [Note: A jurisdiction must create their permitting process on or before September 30, 2015.] The [Building Department] shall issue a building permit or other nondiscretionary permit [the same day for over-the-counter applications or within [1-3] business days for electronic applications] of receipt of a complete application and meets the requirements of the approved checklist and standard plan. A 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, County, or City and County] Planning Commission.
- b.** 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.
- c.** Where adopted California Building Standards Code conflict with prescribed code requirements found in the most recently adopted California Solar Permitting Guidebook, the code requirements found in the California Solar Permitting Guidebook shall control.
- d.** If a use permit is required, a 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, 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, County, or City and County] 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, County, or City and County] on another similarly situated application in a prior successful application for a permit. The [City, County, or City and County] 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.** A City, County, or City and County shall not condition approval of an application on 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 performed if an agreement with the local fire authority does not exist to perform safety inspections on behalf of the fire authority.]

- 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 is authorized but need not conform to the requirements of this Ordinance.