

ORDINANCE NO. 3520 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

ADOPTING MONTEREY CITY CODE CHAPTER 9, ARTICLE 9 TO CREATE AN EXPEDITED, STREAMLINED PERMIT AND INSPECTION PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, in 2014 the California legislature adopted AB 2188 (Chapter 521, Statutes 2014), which required local agencies to adopt 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 of Monterey and the State;

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;

WHEREAS, it is in the interest of the health, welfare and safety of the people of Monterey to provide an expedited permitting process to assure the effective deployment of solar technology; and

WHEREAS, The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF

MONTEREY that it hereby declares as follows:

SECTION 2: The foregoing recitals are adopted as findings of the City Council as though set forth fully herein, and Monterey City Code, Chapter 9, Article 9, Sections 86-91 are hereby added to read as follows:

“ARTICLE 9: SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

Sec. 9-86 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 of Monterey and all state and City 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.
- c. “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.
- 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:
 - i. For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount not 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.

Sec. 9-87 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, and expanding the ability of property owners to install solar energy systems. The Ordinance allows the City to achieve these goals while protecting the public health and safety.

Sec. 9-88 Applicability.

- a. This Ordinance 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 or like-kind replacements shall not require a permit.
- c. A use permit and/or architectural review may be required for properties on the City's list of historic resources as deemed necessary by the Chief of Planning, Engineering, and Environmental Compliance.

Sec. 9-89 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.
- 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, the rules of the Public Utilities Commission regarding safety and reliability.

Sec. 9-90 Applications and Documents.

- a. All documents required for the submission of an expedited solar energy system application shall be made available on the City's public website.
- b. Electronic submittal of the required permit application and documents by email, facsimile, or other means authorized by the City's Chief Building Official 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's Permits and Inspections Office 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.

Sec. 9-91 Permit Review and Inspection Procedures.

a. The City's Permits and Inspections Office shall implement an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy. The Permits and Inspections Office shall review the submitted plan and have a building permit or other nondiscretionary permit ready to be issued within 3 business days of receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Chief Building Official, or the Official's designee, 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's Planning Commission.

b. Review of the application shall be limited to the Official's review of whether the application meets local, state, and federal health and safety requirements.

c. If a use permit is required, the Zoning Administrator 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's Planning Commission.

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 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.

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 inspection shall be required and performed by the Permits and Inspections Office for small residential rooftop solar energy systems eligible for expedited review. A separate fire inspection may be performed.

i. Any inspection shall be done in a timely manner and, as much as feasible, shall include consolidated inspections.

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 Ordinance."

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 21st day of July, 2015, by the following vote:

AYES:	5	COUNCILMEMBERS:	Barrett, Downey, Haffa, Roberson, Smith
NOES:		COUNCILMEMBERS:	None
ABSENT:		COUNCILMEMBERS:	None
ABSTAIN:		COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City



City Clerk thereof

