



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE REPORT

AGENDA DATE: July 14, 2015

TO: Ordinance Committee

FROM: Community Development Department

SUBJECT: Solar Energy System Permits (State Assembly Bill 2188)

RECOMMENDATION:

That Ordinance Committee review the proposed Solar Energy Systems Ordinance required by State Assembly Bill 2188 and forward the ordinance to Council for introduction.

DISCUSSION:

Since being signed into law on September 21, 2014, State Government Code section 65850.5 requires that cities and counties prepare and adopt, by ordinance, expedited and minimal cost, solar energy system permit processes that encourage the installation of solar energy systems. Solar energy systems capture solar energy and convert that energy into either electrical current to serve building outlets and equipment or convert the solar energy into heat in place of a water heater or boiler. Thus, solar energy systems reduce the demand for electricity from traditional power plants and the consumption of fossil fuels.

This State Government Code section prescribes the following objectives for the ordinance:

- Expedite the permit issuance of smaller solar energy systems equal to, or less than, 10 KW electrical power or 30 KW thermal (water heating);
- Limit the review of solar energy systems to only the review of health (including Zoning setback and building height) and life-safety requirements by the City. Discretionary design board reviews and approvals are specifically prohibited;
- Require local Fire Department consultation during ordinance development;
- Establish a solar energy system submittal checklist to expedite City review;
- Place the permit application and regulatory checklists on the City's web site;

- Make solar energy system permits available electronically;
- Require all solar energy system components to be properly certified and listed;
- Allow appeal of a solar energy system permit denial to the Planning Commission;
- Place the ordinance into effect no later than September 30, 2015.

As proposed, the attached ordinance complies with all of the above objectives. It is important to note that per State Assembly Bill 2188, the Historic Landmarks Commission, Architectural Board of Review, or any other discretionary review cannot be required for solar energy system permit approval. Instead, the scope of review mandated by the State includes only zoning setbacks, maximum building height, and life-safety code compliance. In order to encourage sensitive design, Planning staff will make available a handout recommending specific architectural best practices.

Prior to developing the attached ordinance, staff met with solar energy system stakeholders to consider their solar energy system permit process recommendations. These stakeholders are being updated on ordinance development and are encouraged to provide input during all public hearings.

SUSTAINABILITY IMPACT:

The State anticipates that implementing the proposed ordinance will make small, residential solar energy system permits more affordable and easier to obtain. Additionally, the State believes that implementation of the proposed ordinance will increase the number of solar energy system permits issued each year, thus reducing the overall electrical grid demand for energy.

ATTACHMENT(S): 1) Proposed Ordinance
2) Implementation Milestones and Timeline
3) State Assembly Bill 2188

PREPARED BY: Andrew Stuffer, Chief Building Official

SUBMITTED BY: George Buell, Community Development Director

APPROVED BY: City Administrator's Office

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA BARBARA
ADDING CHAPTER 22.91 TO THE MUNICIPAL CODE AND
AMENDING SECTIONS 28.04.050 AND 28.93.030
RELATING TO PERMITTING PROCEDURES AND
CONSTRUCTION REQUIREMENTS FOR SOLAR ENERGY
SYSTEMS.

WHEREAS, Subdivision (a) of Section 65850.5 of the California Government Code provides that it is the policy of the State to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems, including design review for aesthetic purposes; and

WHEREAS, Subdivision (b) of Section 65850.5 of the California Government Code provides that the requirements of local law shall be limited to those standards and regulations necessary to ensure that a solar energy system will not have a specific, adverse impact on the public health or safety; and

WHEREAS, Subdivision (g)(1) of Section 65850.5 of the California Government Code provides that, on or before September 30, 2015, every city, county, or city and county shall adopt an ordinance, consistent with the goals and intent of subdivision (a) of Section 65850.5, that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

WHEREAS, The City's General Plan calls for a reduction in green-house gas emissions and promotes the use of local renewable energy sources, and solar photovoltaic electrical energy systems are a common means of reducing greenhouse gas emissions by reducing the demand for fossil fuel generated electricity; and

WHEREAS, The cost of pre-installing future solar photovoltaic electrical conduit in new a home during construction is a small fraction of the cost to retrofit the same conduit into an existing home; and

WHEREAS, The California Health and Safety Code, Section 17958.7(a) allows the California Building Standards to be amended by local authorities based on local climatic, geologic, or topographical conditions, and, because of the local topography and geology, the City of Santa Barbara's access to electrical utility infrastructure is limited to a single, remote system of electrical transmission infrastructure, and because the City of Santa Barbara experiences periods of high heat that maximize the demand for electrical current over this transmission system.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 22.91 is added to Title 22 of the Santa Barbara Municipal Code to read as follows:

Chapter 22.91

Solar Energy System Review Process.

22.91.010 Definitions.

The following words and phrases as used in this Chapter 22.91 are defined as follows:

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

1. e-mail, or
2. the internet, or
3. facsimile.

B. "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 (b) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

C. "Small residential rooftop solar energy system" is a solar energy system that satisfies all of the following elements:

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 that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time;
3. A solar energy system that is installed on a single residential unit or two-residential unit (as defined in Chapter 28.04 of this Code); and
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

D. "Solar energy system" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

E. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health and safety standards, policies, or conditions as they existed on the date the application was deemed complete.

22.91.020 Administrative Approval Process.

The City shall administratively approve applications to install solar energy systems pursuant to the provisions of this Chapter 22.91. If an application for a solar energy system satisfies all of the requirements of the Small Residential Rooftop Solar Energy System checklist, the application shall receive expedited review pursuant to Section 22.91.030. Otherwise, all applications to install solar energy systems shall be processed pursuant to this Section 22.91.020.

A. Application. Prior to submitting a solar energy system permit application to the City, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

2. Verify that the existing electrical system's current or proposed configuration will accommodate all new photovoltaic electrical loads in accordance with the edition of the California Electrical Code in effect at the time of solar energy system permit application; and

3. Verify that the proposal is exempt from, or otherwise complies with, the coastal development permit requirements pursuant to Public Resources Code 30610 and Sections 13250 to 13253 of Title 14 of the California Administrative Code.

B. Extent of Review. The review of all applications to install a solar energy system shall be limited to the Building Official's review of whether the proposed solar energy system meets all health and safety requirements of local, state, and federal law and the City Planner's review of applicable building height and setbacks pursuant to Title 28 of the Santa Barbara Municipal Code. If the Building Official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the City shall require the applicant to obtain a Performance Standard Permit.

C. Standards for Solar Energy Systems. All solar energy systems proposed for installation within the City of Santa Barbara shall meet the following standards, as applicable:

1. All solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, including building height, zoning setback, and permitted construction standards.

2. Solar energy systems for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

3. A 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.

4. Solar energy systems may be installed on a property with outstanding violations of the City's Municipal Code so long as the outstanding violations do not relate to the solar energy system or the building or structure on which the solar energy system is to be installed.

D. Performance Standard Permit. In the case where the Building Official makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the solar energy system shall not be installed until a Performance Standard Permit has been issued for the solar energy system pursuant to Chapter 28.93 of this Code. The Performance Standard Permit shall require the installation or incorporation of methods or conditions necessary to minimize or avoid the specific, adverse impact.

E. Appeal. The Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety is appealable in accordance with the following procedures:

1. Who May Appeal. The decision of the Building Official may be appealed to the Planning Commission by the applicant. No other persons can appeal.

2. Timing for Appeal. The applicant must file a written appeal with the Community Development Director no more than 10 calendar days following the Building Official's decision. The appeal shall include the grounds for appeal.

3. Grounds for Appeal. The decision of the Building Official may be appealed on the grounds that the Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety is not supported by substantial evidence.

4. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

5. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Building Official's decision that a proposed solar energy system could have a specific, adverse impact upon the public health and safety in accordance with the following:

a. A decision to affirm the decision of the Building Official shall require a finding based on substantial evidence in the record that the proposed solar energy system could have a specific, adverse impact upon the public health and safety.

b. If the Planning Commission determines that there is not substantial evidence that the solar energy system could have a specific adverse impact upon the public health and safety, then the decision of the Building Official shall be reversed and the project shall be approved.

c. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Building Official shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

6. The decision of the City Planning Commission is final.

22.91.030 Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Energy Systems.

In compliance with Government Code Section 65850.5, the City has developed an expedited and streamlined permitting process for qualifying Small Residential Rooftop Solar Energy Systems. The submittal requirements and review procedures for applications of Small Residential Rooftop Solar Energy Systems are as follows:

A. Application Checklist. In order to be eligible for expedited review, prior to submitting a solar energy system permit application to the City, the applicant shall:

1. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

2. Verify that the existing electrical system's current or proposed configuration will accommodate all new photovoltaic electrical loads in accordance with the edition of the California Electrical Code in effect at the time of solar energy system permit application; and

3. Verify that the proposal is exempt from, or otherwise complies with, the coastal development permit requirements pursuant to Public Resources Code 30610 and Sections 13250 to 13253 of Title 14 of the California Administrative Code.

B. Application Submission. City accepts the submission of applications for Small Residential Rooftop Solar Energy Systems and the associated checklist and documentation in person at the Building Permit counter or by electronic submittal. The City shall accept signatures electronically for electronic submittals.

C. Application Review. The Building and Safety Division shall confirm whether the application and supporting documents are complete and meet the requirements of the City's Small Residential Rooftop Solar Energy System checklist. The Building and Safety Division shall review applications for Small Residential Rooftop Solar Energy Systems within 24 working hours (3 working days) of submission.

D. Complete Application. An application that satisfies the information requirements specified in the City's Small Residential Rooftop Solar Energy System checklist shall be deemed complete.

E. Incomplete Application. If the Building and Safety Division determines that an application for a Small Residential Rooftop Solar Energy System is incomplete, the Building and Safety Division shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance. Alternatively, if the Building and Safety Division determines that the proposed solar energy system, as proposed, will not qualify as a Small Residential Rooftop Solar Energy System, the Building and Safety Division may recommend that the applicant submit his or her application pursuant to Section 22.91.020.

F. Permit Approval. Upon confirmation by the Building and Safety Division that the application and supporting documents are complete and meet the requirements of the Small Residential Rooftop Solar Energy System checklist, the Building Official shall approve the application and issue all required permits or authorizations electronically.

G. Inspections. The installation of a Small Residential Rooftop Solar Energy System shall only require one building inspection which, if a fire inspection is required, shall be consolidated with the fire inspection. If the installation of the Small Residential Rooftop Solar Energy System fails the inspection, a subsequent inspection or inspections shall be required, at the applicants' expense, until the installation passes inspection or is cancelled and the solar energy system is removed to the satisfaction of the Building Official.

SECTION 2. Section 22.04.050 of Chapter 22.04 of Title 22 of the Santa Barbara Municipal Code is amended to read as follows:

22.04.050. Amendments to the California Electrical Code.

The 2013 California Electrical Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.050:

A. Article 89.108.8 California Electrical Code is deleted and readopted to read as follows:

89.108.8 Appeals Board. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020.

B. A new Article 690.4 (I) is added to the California Electrical Code to read as follows:

690.4 (I) Single Family Residences. New single family residences shall comply with the requirements of this Article.

(1) Conduit for Future Solar Photovoltaic System. Newly constructed single-family dwelling units shall include minimum 1-inch diameter, metallic electrical conduit installed per this Section to accommodate future installation of roof-mounted solar photovoltaic systems. The electrical junction box and the segment of conduit run in the attic, or where there is no attic, to the roof deck, shall be permanently and visibly marked as "For Future Solar Photovoltaic".

(2) Conduit and Junction Box Locations. One conduit run shall originate at a readily accessible attic or roof deck location with proximity to California Energy Code's "Solar Zone Area" and terminate at a minimum 4-inch-square approved electrical junction box located within 72 inches horizontally and 12 inches vertically of a main electrical panel. A second conduit run shall originate at the electrical junction box and terminate at the main electrical panel.

SECTION 3. Section 28.93.030 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.93.030 Uses Permitted Upon Issuance of a Performance Standard Permit.

The following use(s) may be permitted subject to the approval of a Performance Standard Permit:

A. State-licensed Large Family Day Care Homes in the A, E, R-1, R-2, R-3, R-4 and PUD zones and in the HRC-2 zone where residential uses are permitted provided that the following performance standards are met:

1. There are no other State-licensed Large Family Day Care Homes within a 300 foot radius of the proposed Large Family Day Care Home measured from the nearest property lines of the affected Large Family Day Care Homes. A waiver from the 300-foot spacing requirement may be granted if it can be found that certain physical conditions exist and if the waiver would not result in significant effects on the public peace, health, safety and comfort of the affected neighborhood. Examples of physical conditions that may warrant granting of a waiver include intervening topography that creates a barrier or separation between the facilities such as hillsides or ravines, the presence of major nonresidential uses or structures between facilities or the presence of

a major roadway between the facilities.

2. The City finds that adequate off-street area or on-street area in front of the residence is available for passenger loading and unloading. The passenger loading and unloading area shall be of adequate size and configuration and shall allow unrestricted access to neighboring properties.

3. Outdoor play shall be limited to the hours between 8:00 a.m. and 6:00 p.m.

4. One additional parking space for employee parking shall be provided unless a finding is made that adequate on-street or off-street parking is available to support the proposed use.

B. Community care facilities, residential care facilities for the elderly, and hospices serving 7 to 12 individuals in the A, E, R-1, R-2, R-3, R-4, and PUD zones and in the HRC-2 zone where residential uses are permitted, provided that the following performance standards are met:

1. Adequate off-street parking is provided pursuant to Section 28.90.100 or as modified pursuant to Section 28.92.110.

2. The facility conforms to the extent feasible to the type, character and appearance of other residential units in the neighborhood in which it is located. This provision shall in no way restrict the installation of any special feature(s) necessary to serve disabled residents (e.g., ramps, lifts, handrails).

3. The intensity of use in terms of number of people, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use.

C. Public works treatment and distribution facilities that are greater than 500 square feet and no more than 1,000 square feet in the R-3, R-4, and P-R zones subject to the requirements of Section 28.37.010.B., and less restrictive zones, provided that the following performance standards are met:

1. The setbacks of the proposed facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding residential properties is avoided.

2. The operation of the proposed facility is such that the character of the area is not significantly altered or disturbed.

3. The design and operation of non-emergency outdoor security lighting and equipment will not be a nuisance to the use of property in the area.

4. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays, and holidays observed by the City of Santa Barbara.

5. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

6. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

D. Rehabilitation of existing water storage reservoirs or sludge basins in any zone, that are owned and operated by the City, provided that the following performance

standards are met:

1. That the design and operation of non-emergency outdoor lighting and equipment will not be a nuisance to the use of property in the area.

2. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara.

3. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

4. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

E. Additional dwelling units. Notwithstanding any other provisions of this title, where a lot in an A-1, A-2, E-1, E-2, E-3, or R-1 Zone has an area of more than the required lot area for that zone and adequate provisions for ingress and egress, a Performance Standard Permit may be granted by the Staff Hearing Officer for the construction of additional one-family dwellings and allowable accessory buildings in these zones. However, the minimum site area per dwelling unit in these zones shall be the minimum lot area required for that zone, and the location of such additional dwellings shall comply with the provisions of all other applicable ordinances.

F. Solar Energy Systems. In the case where the Building Official makes a finding, based on substantial evidence, that a solar energy system could have a specific, adverse impact upon the public health and safety (as defined in Chapter 22.91 of this Code), the solar energy system shall not be issued until a Performance Standard Permit has been issued for the solar energy system.

1. Conditions of Approval . The Performance Standard Permit shall require the installation or incorporation of measures or conditions necessary to minimize or avoid the specific, adverse impact.

2. Grounds for Denial. The City shall not deny an application for a Performance Standard Permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily minimize or avoid the specific, adverse impact. If the applicant proposes any potentially feasible alternatives for preventing the specific adverse impact, the findings accompanying the denial of the Performance Standard Permit shall include the basis for the rejection for potential feasible alternatives of preventing the specific, adverse impact.

3. Appeal. The decision of the Staff Hearing Officer to deny an application for a Performance Standard Permit is appealable according to the following procedures:

a. Who May Appeal. The decision of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant. No other persons can appeal.

b. Timing for Appeal. The applicant may appeal a decision of the Staff Hearing Officer by filing an appeal with the Community Development Director

no more than 10 calendar days following the decision. The application shall include the grounds for appeal.

c. Grounds for Appeal. The decision of the Staff Hearing Officer may be appealed on the grounds that the stated findings to deny the permit are not supported by substantial evidence.

d. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

e. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Staff Hearing Officer's decision to deny a solar energy system in accordance with the following:

i. A decision to affirm the decision of the Staff Hearing Officer shall require a finding based on substantial evidence in the record that the proposed solar energy system would have a specific, adverse impact upon the public health and safety.

ii. If the Planning Commission determines that there is not substantial evidence that the solar energy system would have a specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be approved.

iii. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

f. The decision of the City Planning Commission is final.

SECTION 4. Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 5. Effective Date. This ordinance shall take effect thirty (30) days after passage thereof.

SECTION 6. Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

Assembly Bill No. 2188

CHAPTER 521

An act to amend Section 714 of the Civil Code, and to amend Section 65850.5 of the Government Code, relating to solar energy.

[Approved by Governor September 21, 2014. Filed with Secretary of State September 21, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2188, Muratsuchi. Solar energy: permits.

(1) Existing law provides that it is the policy of the state to promote and encourage the use of solar energy systems, as defined, and to limit obstacles to their use. Existing law states that the implementation of consistent statewide standards to achieve timely and cost-effective installation of solar energy systems is not a municipal affair, but is instead a matter of statewide concern. Existing law requires a city or county to administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Existing law requires a solar energy system for heating water to be certified by the Solar Rating Certification Corporation or another nationally recognized certification agency.

This bill would specify that these provisions address a statewide concern. The bill would additionally require a city, county, or city and county to adopt, on or before September 30, 2015, in consultation with specified public entities an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems, as specified. The bill would additionally require a city, county, or city and county to inspect a small residential rooftop solar energy system eligible for expedited review in a timely manner, as specified. The bill would prohibit a city, county, or city and county from conditioning the approval of any solar energy system permit on approval of that system by an association that manages a common interest development. The bill would require a solar energy system for heating water in single family residences and solar collectors for heating water in commercial or swimming pool applications to be certified by an accredited listing agency, as defined.

Because the bill would impose new duties upon local governments and local agencies, it would impose a state-mandated local program.

(2) Existing law prohibits any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document from effectively prohibiting or restricting the installation or use of a solar energy system. Existing law exempts from that prohibition provisions that impose reasonable restrictions on a solar energy system that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance. Existing law defines the term "significantly," for these purposes, with regard to solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, to mean an amount exceeding 20% of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20%, and with regard to photovoltaic systems that comply with state and federal law, an amount not to exceed \$2,000 over the system cost or a decrease in system efficiency of

an amount exceeding 20%, as specified. Existing law requires a solar energy system for heating water subject to the provisions described above to be certified by the Solar Rating Certification Corporation or another nationally recognized certification agency.

This bill would instead define the term “significantly,” for these purposes, with regard to solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, to mean an amount exceeding 10% of the cost of the system, not to exceed \$1,000, or decreasing the efficiency of the solar energy system by an amount exceeding 10%, and with regard to photovoltaic systems that comply with state and federal law, an amount not to exceed \$1,000 over the system cost or a decrease in system efficiency of an amount exceeding 10%, as specified. The bill would require a solar energy system for heating water in single family residences and solar collectors for heating water in commercial or swimming pool applications subject to the provisions described above to be certified by an accredited listing agency, as defined.

(3) Existing law requires an application for approval for the installation or use of a solar energy system to be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property and prohibits the approver from willfully avoiding or delaying approval. Existing law requires the approving entity to notify the applicant in writing within 60 days of receipt of the application if the application is denied, as specified.

The bill would instead require the approving entity to notify the applicant in writing within 45 days of receipt of the application if the application is denied, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

The Legislature finds and declares all of the following:

- (a) In recent years, the state has both encouraged the development of innovative distributed generation technology and prioritized the widespread adoption of solar power as a renewable energy resource through programs such as the California Solar Initiative.
- (b) Rooftop solar energy is a leading renewable energy technology that will help this state reach its energy and environmental goals.
- (c) To reach the state’s Million Solar Roofs goal, hundreds of thousands of additional rooftop solar energy systems will need to be deployed in the coming years.
- (d) Various studies, including one by the Lawrence Berkeley National Laboratory, show that, despite the 1978 California Solar Rights Act, declaring that the “implementation of consistent statewide standards to achieve the

timely and cost-effective installation of solar energy systems is not a municipal affair ... but is instead a matter of statewide concern,” the permitting process governing the installation of rooftop solar energy systems varies widely across jurisdictions and, contrary to the intent of the law, is both an “obstacle” to the state’s clean energy and greenhouse reduction goals and a “burdensome cost” to homeowners, businesses, schools, and public agencies.

(e) The United States Department of Energy, through its SunShot Initiative, has distributed millions of dollars in grants to local and state governments, including California jurisdictions, and nonprofit organizations to reduce the costs of distributed solar through streamlined and standardized permitting.

(f) A modernized and standardized permitting process for installations of small-scale solar distributed generation technology on residential rooftops will increase the deployment of solar distributed generation, help to expand access to lower income households, provide solar customers greater installation ease, improve the state’s ability to reach its clean energy goals, and generate much needed jobs in the state, all while maintaining safety standards.

SEC. 2.

Section 714 of the Civil Code is amended to read:

714.

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document, as defined in Section 4150 or 6552, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, 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.

(c) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, consistent with Section 65850.5 of the Government Code.

(2) Solar energy systems used for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the Plumbing and Mechanical Codes.

(3) A solar energy system for producing electricity shall also 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.

(d) For the purposes of this section:

(1) (A) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, “significantly” means 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.

(B) For photovoltaic systems that comply with state and federal law, “significantly” means 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) “Solar energy system” has the same meaning as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5.

(e) (1) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(2) For an approving entity that is an association, as defined in Section 4080 or 6528, and that is not a public entity, both of the following shall apply:

(A) The approval or denial of an application shall be in writing.

(B) If an application is not denied in writing within 45 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(g) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney’s fees.

(h) (1) A public entity that fails to comply with this section may not receive funds from a state-sponsored grant or loan program for solar energy. A public entity shall certify its compliance with the requirements of this section when applying for funds from a state-sponsored grant or loan program.

(2) A local public entity may not exempt residents in its jurisdiction from the requirements of this section.

SEC. 3.

Section 65850.5 of the Government Code is amended to read:

65850.5.

(a) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of solar energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of solar energy systems, including, but not limited to, design review for aesthetic purposes, and not unreasonably restrict the ability of homeowners and agricultural and business concerns to install solar energy systems. It is the policy of the state to promote and encourage the use of solar energy systems and to limit obstacles to their use. It is the intent of the Legislature that local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems.

(b) A city or county shall administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install a solar energy system shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city or county makes a finding, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(c) A city, county, or city and county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(d) The decision of the building official pursuant to subdivisions (b) and (c) may be appealed to the planning commission of the city, county, or city and county.

(e) Any conditions imposed on an application to install a solar energy system shall be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

(f) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) Solar energy systems for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the California Plumbing and Mechanical Codes.

(3) A solar energy system 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.

(g) (1) On or before September 30, 2015, every city, county, or city and county, in consultation with the local fire department or district and the utility director, if the city, county, or city and county operates a utility, shall adopt an ordinance, consistent with the goals and intent of subdivision (a), that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems. In developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review. An application that satisfies the information requirements in the checklist, as determined by the city, county, and city and county, shall be deemed complete. Upon confirmation by the city, county, or city and county of the application and supporting documents being complete and meeting the requirements of the checklist, and consistent with the ordinance, a city, county, or city and county shall, consistent with subdivision (b), approve the application and issue all required permits or authorizations. Upon receipt of an incomplete application, a city, county, or city and county shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

(2) The checklist and required permitting documentation shall be published on a publically accessible Internet Web site, if the city, county, or city and county has an Internet Web site, and the city, county, or city and county

shall allow for electronic submittal of a permit application and associated documentation, and shall authorize the electronic signature on all forms, applications, and other documentation in lieu of a wet signature by an applicant. In developing the ordinance, the city, county, or city and county shall substantially conform its expedited, streamlined permitting process with the recommendations for expedited permitting, including the checklists and standard plans contained in the most current version of the California Solar Permitting Guidebook and adopted by the Governor's Office of Planning and Research. A city, county, or city and county may adopt an ordinance that modifies the checklists and standards found in the guidebook due to unique climactic, geological, seismological, or topographical conditions. If a city, county, or city and county determines that it is unable to authorize the acceptance of an electronic signature on all forms, applications, and other documents in lieu of a wet signature by an applicant, the city, county, or city and county shall state, in the ordinance required under this subdivision, the reasons for its inability to accept electronic signatures and acceptance of an electronic signature shall not be required.

(h) For a small residential rooftop solar energy system eligible for expedited review, only one inspection shall be required, which shall be done in a timely manner and may include a consolidated inspection, except that a separate fire safety inspection may be performed in a city, county, or city and county that does not have an agreement with a local fire authority to conduct a fire safety inspection on behalf of the fire authority. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized, however the subsequent inspection need not conform to the requirements of this subdivision.

(i) A city, county, or city and county shall not condition approval for any solar energy system permit on the approval of a solar energy system by an association, as that term is defined in Section 4080 of the Civil Code.

(j) The following definitions apply to this section:

(1) "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 a city, county, or city and county on another similarly situated application in a prior successful application for a permit. A 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.

(2) "Electronic submittal" means the utilization of one or more of the following:

(A) Email.

(B) The Internet.

(C) Facsimile.

(3) "Small residential rooftop solar energy system" means all of the following:

(A) A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.

(B) 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 paragraph (3) of subdivision (c) of Section 714 of the Civil Code.

(C) A solar energy system that is installed on a single or duplex family dwelling.

(D) A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

(4) “Solar energy system” has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.

(5) “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. 4.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.