

URGENCY ORDINANCE NO. 654

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUDAHY ADDING CHAPTER 15.36 TO TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE CUDAHY MUNICIPAL CODE REGARDING EXPEDITED PERMITTING PROCEDURES FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS AND DECLARING THE URGENCY THEREOF IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 36934 AND 36937

WHEREAS, the California Legislature enacted the Solar Rights Act to initiate a solar energy system by limiting the ability of local governments and homeowners associations to restrict solar installations; and

WHEREAS, specifically, Government Code Section 65850.5(a) provides that it is the policy of the State of California (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; and

WHEREAS, the desire to further spur residential solar systems by reducing costs and delays lead former Democratic Assemblyman Albert Muratsuchi to introduce, the California Legislature to pass, and Governor Brown to sign Assembly Bill 2188 ("AB 2188") into law; and

WHEREAS, AB 2188 seeks to reduce the costs and delays associated with the local solar permitting process; and

WHEREAS, AB 2188 requires every California city to adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems on or before September 30, 2015; and

WHEREAS, such ordinances required under AB 2188 must substantially conform with the recommendations set forth in the California Solar Permitting Guidebook, including the use of a checklist of all requirements that, if complied with, requires cities to expedite the application; and

WHEREAS, the City Council of the City of Cudahy (the "City Council" of the "City") seeks to advance the City's use of solar energy by its citizens, businesses, and industries; and

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

WHEREAS, the City Council finds that solar energy helps create local jobs and economic activity, and that rooftop solar energy provides a reliable source of energy; and

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

WHEREAS, Government Code Section 36937(b) authorizes the adoption of ordinances that take effect immediately for the purpose of preserving the public peace, health or safety, provided such ordinances are approved by four-fifths (4/5) vote of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are true and correct and incorporated herein by reference.

SECTION 2. Urgency Findings: The City Council finds as follows, pursuant to Government Code Section 36937(b):

- A. Various studies, including one by the Lawrence Berkeley National Laboratory, show that variations in jurisdictional permitting processes governing the installation of rooftop solar energy systems are an “obstacle” to the State’s clean energy and greenhouse reduction goals and a “burdensome cost” to homeowners, businesses, schools, and public agencies.
- B. The City’s adoption of this Urgency Ordinance will increase the deployment of solar distributed generation, help to expand access to solar energy systems to lower income households, provide solar customers greater installation ease, improve the achievement of clean energy goals, generate jobs, and maintain safety standards.
- C. Climate change poses an ever-growing threat to the well-being, public health, natural resources, economy, and the environment of the City, including drought, more frequent and intense wildfires, heat waves, more severe smog, and harm to natural and working lands.
- D. The Intergovernmental Panel on Climate Change concluded in its Fifth Assessment Report, issued in 2014, that “warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia” and that “continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive and irreversible impacts for people and ecosystems.
- E. Projections of climate change show that, even under the best-case scenario for global emission reductions, additional climate change impacts are inevitable, and these impacts pose tremendous risks to the state’s people, agriculture, economy, infrastructure and the environment.
- F. Climate change will disproportionately affect the state’s most vulnerable citizens.
- G. The development and utilization of alternative energy sources, such as solar energy, are critical in reducing greenhouse emissions.
- H. There is currently no code language in the Cudahy Municipal Code that outlines the process for applying and issuing building permits for residential rooftop solar systems which provides clarity and encourage new applications for rooftop solar systems within our residential zones in a manner reduces local demand on the existing power grid and may add to peak energy demands that impact the number of power outages that may occur throughout the year.

- I. Such power outages impact traffic signals, street lighting, and electrical services business and residences alike having the potential to impact the public peace, health, safety, and general welfare.
- J. Accordingly, the adoption of this Urgency Ordinance is necessary to immediately preserve the public peace, health, and safety, pursuant to Government Code Section 36937(b).

SECTION 3. Title 15 (Buildings and Construction) of the Cudahy Municipal Code is amended by the addition of a new Chapter 15.36, which shall read as follows:

Chapter 15.36 – Small Residential Rooftop Solar Systems

Section 15.36.010 – Purpose.

Section 15.36.020 – Applicability.

Section 15.36.030 – Definitions.

Section 15.36.040 – Solar energy system requirements.

Section 15.36.050 – Electronic processing.

Section 15.36.060 – Duties of applicant.

Section 15.36.070 – Duties of building department and building official.

Section 15.36.080 – Expedited permit review and inspection requirements.

Section 15.36.010 – Purpose.

The purpose of this Chapter 15.36 is to establish an expedited, streamlined solar permitting process that complies with the Solar Rights Act, as amended by AB 2188 (Chapter 521, Statutes 2014), to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This Chapter 15.36 encourages the use of small residential rooftop solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding property owners' ability to install small rooftop solar energy systems. This Chapter 15.36 allows the City to achieve these goals while protecting the community's health and safety.

Section 15.36.020 – Applicability.

- A. This Chapter 15.36 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 15.36 are not subject to the requirements of this Chapter 15.36 unless physical modifications or alterations are undertaken that materially change the size, type, or components of the 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.

Section 15.36.030 – Definitions.

For purposes of this Chapter 15.36, the following definitions shall apply:

- A. "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- B. "Building Department" means the Building and Safety Division of the City of Cudahy.
- C. "Building Official" means the Building Official for the City of Cudahy.
- D. "City" means the City of Cudahy.
- E. "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.
- F. "Electronic submittal" means the utilization of one or more of the following:
 - 1. E-mail;
 - 2. The internet; and/or
 - 3. Facsimile.
- G. "Feasible method to satisfactorily mitigate or avoid the 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 utilize its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of Civil Code Section 714(d)(1)(A)-(B).
- H. "Small residential rooftop solar energy system" means all of the following:
 - 1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;
 - 2. A solar energy system 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;
 - 3. A solar energy system that is installed on a single or duplex family dwelling; or
 - 4. A solar panel or module array that does not exceed the maximum legal building height as defined by the City.

- I. "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; or
 - 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.
- J. "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.

Section 15.36.040 – Solar energy system requirements.

- A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the City, State of California, and local fire department.
- 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 published 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.

Section 15.36.050 – Electronic processing.

- A. All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on the City's website.
- B. Electronic submittal of the required permit application and documents by electronic means shall be made available to all small residential rooftop solar energy system permit applicants. Website applications may be allowed at such time in the future that the technology is made available to the City. The City's website shall specify the permitted method of electronic document submission.
- C. An applicant's electronic signature shall be accepted on all forms, applications, and other documents, in lieu of a wet signature.

Section 15.36.060 – Duties of applicant.

Prior to submitting an application, the applicant shall:

- A. Verify to the applicant's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop 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

- B. At the applicant's cost, verify to the applicant's reasonable satisfaction using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads.

Section 15.36.070 – Duties of building department and building official.

- A. The Building Department shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply with to be eligible for expedited review.
- B. The small residential rooftop solar system permit process, standard plans, and checklist shall substantially conform to the recommendations for expedited permitting, including the checklist and standard contained in the most current version of the California Solar Permitting guidebook adopted by the State Governor's Office of Planning and Research.
- C. All fees prescribed for the permitting of small residential rooftop solar energy systems must comply with Government Code Sections 65850.55 and 66015 and Health and Safety Code Section 17951.

Section 15.36.080 – Expedited permit review and inspection requirements.

- A. An application for a small residential rooftop solar energy system permit that Building Department determines to satisfy the informational requirements contained in the City's checklist as prepared by the Building Department pursuant to Section 15.36.070(A) shall be deemed complete.
- B. Upon receipt of an incomplete application, the Building Department shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited issuance of a small residential rooftop solar energy system permit.
- C. Upon the Building Department's determination that the application for a small residential rooftop solar energy system permit is complete, the Building Department shall issue a building permit or other nondiscretionary permit within three (3) business days.
- D. The Building Department's review of such applications for small residential rooftop solar energy system permits shall be limited to whether the application meets local, state, and federal health and safety requirements.
- E. The Building Official shall require an applicant to apply for a use permit, if he or she finds, based on substantial evidence, that that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the Planning Commission.
- F. If a use permit or other discretionary City approval is required, the Building Official may not deny the application for the use permit unless he or she makes written findings based upon substantive 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 such adverse impact. Such

findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decision by the Building Official may be appealed to the Planning Commission.

- G. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost. The City shall ensure that the selected method, condition, or mitigation meets the conditions of Civil Code Section 714(d)(1)(A)-(B).
- H. The City shall not condition approval of an application for the approval of an association, as defined in Civil Code Section 4080.
- I. Only one inspection shall be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review. Such an inspection will be scheduled within two (2) business days of a request for such an inspection.
- J. If a small residential rooftop energy system fails the Building Department's inspection, a subsequent inspection is authorized by need not conform to the requirements of this Section 15.36.080.

SECTION 4. Inconsistent Provisions. Any provision of the Cudahy Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Urgency Ordinance.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

SECTION 6. Publication and Effective Date. Upon adoption of this Urgency Ordinance by no less than four-fifths (4/5) vote of the Council, the Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in newspaper of general circulation within fifteen (15) days after its adoption. This Urgency Ordinance shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Cudahy at the regular meeting of this 14th day of September, 2015.



Cristian Markovich
Mayor

