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ORDINANCE NO. 2015-09

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AN ORDINANCE OF THE
ALBANY CITY COUNCIL ESTABLISHING AN EXPEDITED, STREAMLINED
PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS**

WHEREAS, Assembly Bill 2188 was signed into law by Governor Brown on September 21, 2014 (Chapter 521, Statutes 2014) and requires the city to adopt, on or before September 30, 2015, adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems, as specified in the Bill; and

WHEREAS, the City Council of Albany seeks to implement AB 2188 through the creation of an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

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

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

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

WHEREAS, the City Council of Albany 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 Albany to provide an expedited permitting process to assure the effective deployment of solar technology.

WHEREAS, on July 22, 2015 the Planning and Zoning Commission reviewed a draft Ordinance and made a recommendation that the City of Albany City Council approve the proposed ordinance; and

1 **WHEREAS**, the Albany City Council reviewed this ordinance on September 8, 2015.

2
3 **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS**

4 **FOLLOWS:**

5
6 **SECTION 1: CHAPTER 12-14 OF THE ALBANY MUNICIPAL CODE, IS**
7 **HEREBY CREATED AS FOLLOWS:**

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10 **1. DEFINITIONS**

11 a. A “Solar Energy System” means either of the following:

12 i. Any solar collector or other solar energy device whose primary purpose is to provide for
13 the collection, storage, and distribution of solar energy for space heating, space cooling, electric
14 generation, or water heating.

15 ii. Any structural design feature of a building, whose primary purpose is to provide for the
16 collection, storage, and distribution of solar energy for electricity generation, space heating or
17 cooling, or for water heating.

18 b. A “small residential rooftop solar energy system” means all of the following:

19 i. A solar energy system that is no larger than 10 kilowatts alternating current nameplate
20 rating or 30 kilowatts thermal.

21 ii. A solar energy system that conforms to all applicable state fire, structural, electrical, and
22 other building codes as adopted or amended by the City of Albany and all state and Alameda
23 County health and safety standards.

24 iii. A solar energy system that is installed on a single or duplex family dwelling.

25 iv. A solar panel or module array that does not exceed the maximum legal building height as
26 defined by the City of Albany.

27 c. “Electronic submittal” means the utilization of one or more of the following:

28 i. Email;

ii. The Internet;

iii. Facsimile.

1 d. An "association" means a nonprofit corporation or unincorporated association created for
2 the purpose of managing a common interest development.

3 e. A "common interest development" means any of the following:

4 i. A community apartment project.

5 ii. A condominium project.

6 iii. A planned development.

7 iv. A stock cooperative.

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

11 g. "Reasonable restrictions" on a solar energy system are those restrictions that do not
12 significantly increase the cost of the system or significantly decrease its efficiency or specified
13 performance, or that allow for an alternative system of comparable cost, efficiency, and energy
14 conservation benefits.

15 h. "Restrictions that do not significantly increase the cost of the system or decrease its
16 efficiency or specified performance" means:

17 i. For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount
18 exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars
19 (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10
20 percent.

21 ii. For Photovoltaic Systems: an amount not to exceed one thousand dollars (\$1,000) over
22 the system cost as originally specified and proposed, or a decrease in system efficiency of an
23 amount exceeding 10 percent.

24 **SECTION 2: CHAPTER 12-14 OF THE ALBANY MUNICIPAL CODE, IS**
25 **HEREBY CREATED AS FOLLOWS:**

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27 **2. PURPOSE**
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1 The purpose of the Ordinance is to adopt an expedited, streamlined solar permitting process that
2 complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely
3 and cost-effective installations of small residential rooftop solar energy systems. The Ordinance
4 encourages the use of solar systems by removing unreasonable barriers, minimizing costs to
5 property owners and the City of Albany, and expanding the ability of property owners to install
6 solar energy systems. The Ordinance allows the City of Albany to achieve these goals while
7 protecting the public health and safety.
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10 **SECTION 3: CHAPTER 12-14 OF THE ALBANY MUNICIPAL CODE, IS**
11 **HEREBY CREATED AS FOLLOWS:**

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13 **3. APPLICABILITY**

- 14 a. This Ordinance applies to the permitting of all small residential rooftop solar energy
15 systems in the City of Albany.
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17 b. Small residential rooftop solar energy systems legally established or permitted prior to
18 the effective date of this Ordinance are not subject to the requirements of this Ordinance unless
19 physical modifications or alterations are undertaken that materially change the size, type, or
20 components of a small rooftop energy system in such a way as to require new permitting.
21 Routine operation and maintenance shall not require a permit.

22 **SECTION 4: CHAPTER 12-14 OF THE ALBANY MUNICIPAL CODE, IS**
23 **HEREBY CREATED AS FOLLOWS:**

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25 **4. SOLAR ENERGY SYSTEM REQUIREMENTS**

- 26 a. All solar energy systems shall meet applicable health and safety standards and
27 requirements imposed by the state and the City of Albany fire department.
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2 b. Solar energy systems for heating water in single-family residences and for heating water
3 in commercial or swimming pool applications shall be certified by an accredited listing agency
4 as defined by the California Building Standards Code.
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7 c. Solar energy systems for producing electricity shall meet all applicable safety and
8 performance standards established by the California Building Standards Code, the Institute of
9 Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters
10 Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety
11 and reliability.
12

13 **SECTION 5: CHAPTER 12-14 OF THE ALBANY MUNICIPAL CODE, IS**
14 **HEREBY CREATED AS FOLLOWS:**

15 **5. DUTIES OF COMMUNITY DEVELOPMENT DEPARTMENT**
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17 a. All documents required for the submission of an expedited solar energy system
18 application shall be made available on the publicly accessible City of Albany Website.

19 b. Electronic submittal of the required permit application and documents by [email, the
20 Internet, or facsimile] shall be made available to all small residential rooftop solar energy system
21 permit applicants.

22 c. An applicant's electronic signature shall be accepted on all forms, applications, and other
23 documents in lieu of a wet signature.

24 d. The City of Albany's Community Development Department shall adopt a standard plan
25 and checklist of all requirements with which small residential rooftop solar energy systems shall
26 comply to be eligible for expedited review.
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1 e. All fees prescribed for the permitting of small residential rooftop solar energy system
2 must comply with Government Code Section 65850.55, Government Code Section 66015,
3 Government Code Section 66016, and State Health and Safety Code Section 17951.
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6 **SECTION 6: CHAPTER 12-14 OF THE ALBANY MUNICIPAL CODE, IS**
7 **HEREBY CREATED AS FOLLOWS:**
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9 **6. PERMIT REVIEW AND INSPECTION REQUIREMENTS**

10 a. Review of the application shall be limited to the building official's review of whether the
11 application meets local, state, and federal health and safety requirements.

12 b. The building official may deny an application if the official makes written findings based
13 upon substantive evidence in the record that the proposed installation would have a specific,
14 adverse impact upon public health or safety and there is no feasible method to satisfactorily
15 mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the
16 rejection of the potential feasible alternative for preventing the adverse impact. Such decisions
17 may be appealed to the City of Albany Planning and Zoning Commission.

18 c. Any condition imposed on an application shall be designed to mitigate the specific,
19 adverse impact upon health or safety.

20 d. "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact"
21 includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the
22 City of Albany on another similarly situated application in a prior successful application for a
23 permit. The City of Albany shall use its best efforts to ensure that the selected method,
24 condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of
25 subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly
26 increase the cost of the system or decrease its efficiency or specified performance.

27 e. A City, County, or City and County shall not condition approval of an application on the
28 approval of an association, as defined in Section 4080 of the Civil Code.

1 f. If an application is deemed incomplete, a written correction notice detailing all
2 deficiencies in the application and any additional information or documentation required to be
3 eligible for expedited permit issuance shall be sent to the applicant for resubmission.

4 g. Only one approved inspection shall be required and performed by the Community
5 Development Department for small residential rooftop solar energy systems eligible for
6 expedited review. A separate fire inspection may be performed.

7 h. The inspection shall be done in a timely manner and should include consolidated
8 inspections. An inspection will be scheduled within two business days of a request and provide a
9 two hour inspection window.
10

11 i. If a small residential rooftop solar energy system fails inspection, a subsequent inspection
12 is authorized.

13
14 **SECTION 7: SEVERABILITY.**

15 If any section, subsection, sentence, clause or phrase of this ordinance is for any reason
16 held to be invalid, such decision shall not affect the validity of the remaining portions of the
17 ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the
18 fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

19
20 **SECTION 8: PUBLICATION AND EFFECTIVE DATE.**

21 This ordinance shall be posted at three public places within the City of Albany and shall
22 become effective thirty days after the date of its posting.

23 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on
24 the 21st day of September 2015, by the following vote:

25 AYES: *Council Members: Barnes, McQuaid, Pilch + Mayor Maass*

26 NOES:

27 ABSENT: *Council Member Nason*

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ABSTAIN:



PETER MAASS, MAYOR



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

ORDINANCE NO. 2015-09

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

the 21st day of September, 2015, by the following votes:

AYES: Council Members Barnes, McQuaid, Pilch, Mayor Maass

NOES: none

ABSTAINED: none

ABSENT: Council Member Nason

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

22nd Day September, 2015.

Eileen Harrington

Eileen Harrington
DEPUTY CITY CLERK

The City of Albany is dedicated to maintaining its small town ambiance, responding to the needs of a diverse community, and providing a safe, healthy and sustainable community.