



STAFF REPORT

MEETING DATE: August 9, 2023

PRESENTER: Jesus R. Orozco, Community Development Director

SUBJECT: Public Hearing Ordinances Relating to Expedited Permit Process for Small Residential Rooftop Solar Systems and Repeal and Amendment of Current Ordinances and Consideration of New Ordinance (JRO)

RECOMMENDATIONS: Staff recommends Council conduct a public hearing and:

1. Waive full reading and introduce Ordinance Text Amendment 2023-03 repealing Chapter 17.94 related to Expedited Permit Process for Small Residential Rooftop Solar Systems from Title 17 of the Kerman Municipal Code; and
2. Waive full reading, and introduce Ordinance Text Amendment 2023-04 amending Section 15.04.090 of Chapter 15.04, repeal the current Chapter 15.24, and add a new Chapter 15.24 to Title 15 of the Kerman Municipal Code relating to Expedited Permit Process for Small Residential Rooftop Solar Systems

EXECUTIVE SUMMARY:

The proposed ordinance text amendments (OTA 2023-03 & OTA 2023-04) attached are City-initiated amendments. OTA 2023-03 will repeal Chapter 17.94 from Title 17 which was adopted in 2015 by Ordinance No 15-03, to ensure compliance with Government Code Section 65850.5 as part of Assembly Bill 2188 (Solar Rights Act). Chapter 17.94 is specific to the expedited permit processing of small residential rooftop solar energy systems wherein the Building Official is the implementing officer. OTA 2023-04 will eliminate redundant language related to fence permit requirements and replace existing language with language related expedited permit process for small residential rooftop solar systems.

The Planning Commission held a public hearing on July 10, 2023 to consider OTA 2023-03 and approved the attached (Attachment C) resolution consistent with 17.26.040 of the KMC. This will allow existing language to be transitioned into Chapter 15.24 alongside minor editorial updates as proposed by OTA 2023-04.

ANALYSIS:

Background

California Government Code § 65850.5 requires cities and counties to streamline the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems.

The City adopted Ordinance No. 15-03 on September 15, 2015, and has remained unchanged. Traditionally, permits for small residential rooftop solar systems have been a Building Division activity, wherein the Building Official is the implementing officer. As such, repealing Chapter 17.94 and transitioning language into Title 15, the Buildings and Construction Code is practical to the Department's permit issuance operations.

General Plan Consistency

The City of Kerman's 2040 General Plan Conservation, Open Space, Parks and Recreation Element guides the city's long-range growth and development policy; it establishes citywide standards, goals, and policies, implemented through the City's municipal code and other pertinent programs. OTA 2023-04 is consistent with General Plan **Goal COS-5**, which encourages minimizing *"energy consumption and reducing greenhouse gas emission as part of the statewide effort to combat climate change"*. Furthermore, OTA 2023-04 will directly and indirectly address Policy COS-5.3 (Sustainable Building Practice), COS-5.4 (Renewable Energy Features in New Projects), and COS-5.7 (Energy Conservation Awareness). Both OTA's will not create any inconsistencies with the General Plan.

Zoning Ordinance Consistency

As previously noted in this report, the ordinance related to Expedited Permit Process for Small Residential Rooftop Solar Systems, consistent with Government Code § 65850.5, was originally adopted under Chapter 17.94, Title 17 (Zoning Code). However, *"Review of the application to install a solar energy system shall be limited to the building official's review..."*, staff has recommended existing language in compliance with Government Code § 65850.5 be transitioned into Title 15 (Building and Construction Code) of the Kerman Municipal Code via OTA 2023-04. Procedurally, OTA 2023-03 will prevent inconsistencies with the Zoning Ordinance or other KMC.

ENVIRONMENTAL REVIEW:

A preliminary environmental assessment has been performed for this project pursuant to the California Environmental and Quality Act (CEQA). There are findings to determine with certainty that, pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this project may have a significant, adverse, impact on the environment. This is because this project involves purely procedural policies with no impacts on the environment. Therefore, this project is not subject to CEQA.

FISCAL IMPACT:

None

ATTACHMENTS:

- A. Ordinance Text Amendment 2023-03 (related to Title 17)
- B. Ordinance Text Amendment 2023-04 (related to Title 15)
- C. Planning Commission Resolution w/exhibits

Attachment 'A'

ORDINANCE NO. 23-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KERMAN REPEALING CHAPTER 17.94
RELATING TO EXPEDITED PERMIT PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR
SYSTEMS FROM TITLE 17 OF THE KERMAN MUNICIPAL CODE**

The City Council of the City of Kerman does ordain as follows:

SECTION 1. Chapter 17.94 of Title 17 of the Kerman Municipal Code is hereby repealed.

SECTION 2. CEQA. A preliminary environmental assessment has been performed for this project pursuant the California Environmental and Quality Act (CEQA). The City Council finds and determines with certainty that, pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this project may have a significant, adverse, impact on the environment. This is because this project involves purely procedural policies with no impacts on the environment. Therefore, this project is not subject to CEQA.

SECTION 3. Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

SECTION 4. Effective Date. This Ordinance shall become effective thirty (30) days after adoption.

The foregoing ordinance was introduced at a regular meeting of the City of Kerman City Council held on the 9th day of August, 2023, and was passed and adopted at a regular meeting of the City of Kerman City Council held on _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing ordinance is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Marci Reyes
City Clerk

ORDINANCE NO. 23-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KERMAN AMENDING SECTION 15.04.090 OF CHAPTER 15.04 OF TITLE 15 OF THE KERMAN MUNICIPAL CODE RELATING TO WALLS AND FENCES, REPEALING CURRENT CHAPTER 15.24 OF TITLE 15 OF THE KERMAN MUNICIPAL CODE RELATING TO FENCE PERMITS AND ADDING NEW CHAPTER 15.24 TO TITLE 15 OF THE KERMAN MUNICIPAL CODE RELATING TO EXPEDITED PERMIT PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

THE CITY COUNCIL OF THE CITY OF KERMAN DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 15.04.090 of Chapter 15.04 of the Kerman Municipal Code is hereby amended to read as follows:

15.04.090 Walls and Fences.

Walls and fences shall only be constructed after first having obtained a building permit when required pursuant to Section 15.04.10 of Chapter 15.04 of this code.

SECTION 2. Chapter 15.24 of Title 15 of the Kerman Municipal Code relating to Fence Permits is hereby repealed.

SECTION 3. New Chapter 15.24 is added to Title 15 of the Kerman Municipal Code relating to Expedited Permit Process for Small Residential Rooftop Solar Systems to read as follows:

Chapter 15.24

Expedited Permit Process for Small Residential Rooftop Solar Systems

Sections

- 15.24.010 Purpose and intent.
- 15.24.020 Definitions.
- 15.24.030 Applicability.
- 15.24.040 Solar energy system requirements.
- 15.24.050 Applications and documents.
- 15.24.060 Permit review and inspection requirements.
- 15.24.010 Purpose and intent.

The purpose of this chapter is to provide an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014, California Government Code Section 65850.5) in order to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter 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. This chapter allows the city to achieve these goals while protecting the public health and safety.

15.24.020 Definitions.

As used in this chapter:

- A. "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, electricity generation, or water heating.
 - 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.
- B. "Small residential rooftop solar energy system" means all of the following:
 - 1. A solar energy system that is no larger than ten kilowatts alternating current nameplate rating or thirty 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 all state and city health and safety standards.
 - 3. A solar energy system that is installed on a single- or two-family dwelling.
 - 4. A solar panel or module array that does not exceed the maximum legal building height as defined by the city.
- C. "Electronic submittal" means the utilization of electronic email or submittal via the Internet.
- D. "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.
- E. "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.
- F. "Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:
 - 1. For water heater systems or solar swimming pool heating systems: an amount exceeding ten percent of the cost of the system, but in no case more than one thousand dollars, or decreasing the efficiency of the solar energy system by an amount exceeding ten percent, as originally specified and proposed.

2. For photovoltaic systems: an amount not to exceed one thousand dollars over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding ten percent as originally specified and proposed.

15.24.030 Applicability.

A. This chapter 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 the ordinance codified in this chapter are not subject to the requirements of this chapter 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 Building Official.

15.24.040 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, rules of the Public Utilities Commission regarding safety and reliability.

15.24.050 Applications and documents.

A. All documents required for the submission of an expedited solar energy system application shall be made available on the city website.

B. Electronic submittal of the required permit application and documents by email or the Internet shall be made available to all small residential rooftop solar energy system permit applicants.

C. The Building Division 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.

D. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.

15.24.060 Permit review and inspection requirements.

A. The Building Official or his or her designee shall implement an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems. The Building Division shall issue a building permit, the issuance of which is nondiscretionary, on the same day for over-the-counter applications or within one to three business days for electronic applications upon receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Building Official may require an applicant to apply for a site plan review permit consistent with application procedures under Title 17, if the Building Official finds, based on substantial evidence, development of the solar energy system could have a specific, adverse impact on the public health and safety that considers review.

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

C. If a site plan review permit is required, the site plan review permit may be denied when written findings for denial are made 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 denial of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the city 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. 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.

G. Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review.

H. The inspection shall be done in a timely manner and should include consolidated inspections.

I. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized.

SECTION 4. CEQA. A preliminary environmental assessment has been performed for this project pursuant the California Environmental and Quality Act (CEQA). The City Council finds and

determines with certainty that, pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this project may have a significant, adverse, impact on the environment. This is because this project involves purely procedural policies with no impacts on the environment. Therefore, this project is not subject to CEQA.

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AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing ordinance is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Marci Reyes
City Clerk