

BOARD of SUPERVISORS



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MEMORANDUM

TO: John Rahaim, Director, Planning Department
Deborah Raphael, Director, Department of the Environment

FROM:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: November 22, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Peskin on November 14, 2017:

File No. 171194

Ordinance amending the Building Code to enact an expedited and streamlined permit process for solar energy systems; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk to forward this Ordinance to the Building Standards Commission upon final passage.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department
Peter Gallotta, Department of the Environment

1 [Building Code - Installation of Solar Energy Systems]

2
3 **Ordinance amending the Building Code to enact an expedited and streamlined permit**
4 **process for solar energy systems; affirming the Planning Department's determination**
5 **under the California Environmental Quality Act; and directing the Clerk to forward this**
6 **Ordinance to the Building Standards Commission upon final passage.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Findings.

16 (a) The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms
20 this determination.

21 (b) The Building Inspection Commission considered this ordinance on _____,
22 at a duly noticed public hearing pursuant to Charter Section D3.750-5.

23 (c) In the 1978 California Solar Rights Act (Civil Code Sections 714 to 714.1), the
24 Legislature declared that the implementation of consistent statewide standards to achieve the
25 timely and cost-effective installation of solar energy systems is a matter of statewide concern
and not a municipal affair. In numerous laws it has enacted since then, the Legislature has

1 declared it the policy of the State of California to both encourage the development of
2 innovative distributed generation technology and to prioritize the widespread adoption of solar
3 power as a renewable energy resource.

4 (d) In September 2014 the Legislature enacted AB 2188, which among other things
5 amended Section 65850.5 of the Government Code to require that all jurisdictions within the
6 state adopt an ordinance for an expedited, streamlined permitting process for small residential
7 rooftop solar energy systems. In adopting this requirement, the Legislature stated that:

8 (1) it is the policy of the state to promote and encourage the use of solar
9 energy systems and limit obstacles to their use;.

10 (2) the permitting process governing the installation of rooftop solar energy
11 systems varies widely across jurisdictions, which is both an obstacle to the state's clean
12 energy and greenhouse reduction goals and a burdensome cost to homeowners, businesses,
13 schools, and public agencies;

14 (3) a modern and standardized permitting process for installations of small-
15 scale solar distributed generation technology on residential rooftops will increase the
16 deployment of solar distributed generation, help to expand access to lower income
17 households, provide solar customers greater installation ease, improve the state's ability to
18 reach its clean energy goals, and generate much needed jobs in the state; and

19 (4) it is the intent of the Legislature that local agencies comply not only with
20 the mandatory language of the new law but also with the legislative intent to encourage the
21 installation of solar energy systems by removing obstacles to, and minimizing costs of,
22 permitting for such systems.

23 (e) Government Code Section 65850.5(b) mandates that:
24
25

1 (1) review of an application to install a solar energy system shall be limited to
2 the building official's review of whether it meets all health and safety requirements of local,
3 state, and federal law;

4 (2) the requirements of local law be limited to those standards and
5 regulations necessary to ensure that the solar energy system will not have a specific, adverse
6 impact upon the public health or safety;

7 (3) any conditions imposed on an application to install a solar energy system
8 shall be designed to mitigate the specific, adverse impact upon the public health and safety at
9 the lowest cost possible; and

10 (4) the local jurisdiction may not deny an application to install a solar energy
11 system unless written findings, based upon substantial evidence in the record, are made that
12 the proposed installation would have a specific, adverse impact upon the public health or
13 safety and there is no "feasible method to satisfactorily mitigate or avoid the specific, adverse
14 impact," as that term is defined in Government Code Section 65850.5(j).

15 (f) In compliance with City policy and with the state's mandates and declared
16 legislative intent, City departments currently process applications for installation of all on-site
17 renewable energy systems (such as solar photovoltaic, solar hot water, cogeneration, wind
18 turbine generators, or other renewable energy features) in accordance with the Priority Permit
19 Processing Guidelines set forth in the Department of Building Inspection's Administrative
20 Bulletin 004. This ordinance codifies the existing process.

21
22 Section 2. California Health and Safety Code Section 17958.7. No findings are
23 required because the ordinance enacts the expedited permit process for solar energy systems
24 required by Government Code Section 65850.5. It does not amend a "building standard," as
25 defined in Section 18909 of the Health and Safety Code.

1 Section 3. The Building Code is hereby amended by adding Section 106A.1.15, to read
2 as follows:

3 **106A.1.15 Solar energy systems.**

4 **106A.1.15.1 Definitions.** For purposes of this Section 106A.1.15, the following definitions apply:

5 **“Solar energy system,”** as defined in California Government Code Section 65850.5(j) and Civil
6 Code Section 801.5(a), means either of the following:

7 1. Any solar collector or other solar energy device whose primary purpose is to provide for the
8 collection, storage, and distribution of solar energy for space heating, space cooling, electric
9 generation, or water heating.

10 2. Any structural design feature of a building, whose primary purpose is to provide for the
11 collection, storage, and distribution of solar energy for electricity generation, space heating or cooling,
12 or for water heating.

13 **“Small residential rooftop solar energy system,”** as defined in California Government Code
14 Section 65850.5(j), means a solar energy system that:

15 1. is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;
16 2. is installed on a single or duplex family dwelling;.
17 3. has a solar panel or module array that does not exceed the maximum legal building height in
18 applicable City codes;

19 4. conforms to all applicable state fire, structural, electrical, and other building codes as
20 adopted or amended by the City and County of San Francisco; and

21 5. conforms to all state and City health and safety standards.

22 **106A.1.15.2 Permit and fees.** An electrical permit is required to install or alter a solar energy system.

23 See Section 110A, Table 1A-E – Electrical Permit Fee Issuance and Inspection Fee Schedule for
24 applicable fee. The fee for a building, plumbing, mechanical, or other permit, if required, shall be the
25 fee established in the Section 110 fee tables for that permit.

1 **EXCEPTION:** An electrical permit is not required to make minor alterations to an existing
2 solar energy system unless the alterations materially change the size, type, or components of the system
3 in such a way as to require new permitting.

4 **106A.1.15.3 General requirements.**

5 1. A solar energy system and its installation shall comply with Article 690 and other applicable
6 sections of the Electrical Code, and any applicable sections of the Mechanical Code, Plumbing Code,
7 Building Code, or other codes enforced by the Department of Building Inspection.

8 2. A solar energy system for producing electricity shall meet all applicable safety and
9 performance standards for such systems established by the Electrical Code, the Institute of Electrical
10 and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and,
11 where applicable, rules of the Public Utilities Commission regarding safety and reliability.

12 3. A solar energy system used for heating water in single-family residences or for heating water
13 in swimming pools shall be certified by an accredited listing agency as defined by the Plumbing and
14 Mechanical Codes.

15 4. A solar energy system proposed for installation on a building that is a designated landmark
16 or a contributory resource in a designated historic district requires a building permit and shall be
17 reviewed by the Planning Department pursuant to the requirements of Section 1005 and other
18 applicable sections of Article 10 of the Planning Code.

19 5. Installation of a solar hot water system requires a plumbing permit.

20 **106A.1.15.4 Permit application submittal documentation; expedited review.** Upon submittal of the
21 application and the following documentation, an application for a permit to install a solar energy
22 system is deemed complete and eligible for expedited review in accordance with the Department's
23 Priority Permit Processing Guidelines. (See Administrative Bulletin 004.) The application, and the
24 documentation required by this Section 106A.1.15.4, may be submitted electronically.

1 1. a standard plan contained in the most current version of the California Solar Permitting
2 Guidebook and adopted by the Governor's Office of Planning and Research or other plan acceptable to
3 the Building Official;

4 2. the information required by the checklists contained in the most current version of the
5 California Solar Permitting Guidebook and adopted by the Governor's Office of Planning and
6 Research;

7 3. verification, using standard engineering techniques, that the support structure for the solar
8 energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated
9 with the system to the building foundation; and

10 4. verification, using standard electrical inspection techniques, that the existing electrical
11 system including existing line, load, ground and bonding wiring, as well as main panel and subpanel
12 sizes, are adequately sized, based on the existing electrical system's current use, to carry all new
13 photovoltaic electrical loads.

14 **106A.1.15.5 Permit review and issuance.** A permit for a solar energy system that is 4 kilowatts or less
15 is issued over the counter if the application meets all requirements and a public health or safety issue
16 has not been identified. A larger system requires review by the Electrical Division, and a review by
17 other Divisions may be required depending on the system. An application for installation of a solar
18 energy system on a building that is a designated landmark or a contributory resource in a designated
19 historic district requires review by the Planning Department to ensure conformance with the provisions
20 of Section 1005 and other applicable sections of Article 10 of the Planning Code.

21 **106A.1.15.6 Inspections.** Only one inspection is required for a small residential rooftop energy system
22 that is eligible for expedited review under Section 106A.1.15.4. An inspection will be scheduled within
23 three business days of a request and provide a two-hour inspection window. If the system fails
24 inspection, a subsequent inspection is required.

1 **106A.1.15.7 Separate approval required to connect a Solar Energy System to the electricity grid.**

2 Approval of a permit for installation of a solar energy system does not authorize the applicant to
3 connect the system to the local utility provider's electricity grid. The applicant is responsible for
4 obtaining such approval or permission from the local utility provider.

5 **106A.1.15.8 Denial of permit; permit conditions.** Pursuant to Government Code Section 65850.5(c), if
6 the Department or other agency of the City denies an application for a solar energy system use permit,
7 it shall make written findings, based upon substantial evidence in the record, that the proposed
8 installation would have a specific, adverse impact upon the public health or safety and there is no
9 feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall
10 include the basis for the rejection of potential feasible alternatives for preventing the adverse impact.
11 Any conditions imposed on the permit shall be designed to mitigate the specific, adverse impact upon
12 the public health and safety at the lowest cost possible.

13
14 Section 4. The Building Code is hereby amended by revising Section 106A.2, to read
15 as follows:

16 **106A.2 Work exempt from permit.** Exemptions from the permit requirements of this
17 code shall not be deemed to grant authorization for any work to be done in any manner in
18 violation of the provisions of this code or any other laws or ordinances of this jurisdiction. A
19 building permit shall not be required for the following:

20 * * * *

21 23. A small residential rooftop solar energy system, as defined in Section 106A.1.15.1,
22 installed on a building that is not a designated landmark or a contributory resource in a designated
23 historic district. An electrical permit or other permit may be required depending on the system.

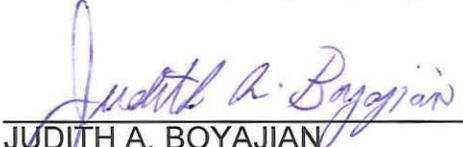
1 Section 5. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

12
13 Section 7. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed
14 to forward a copy of this ordinance to the California Building Standards Commission upon final
15 passage.

16
17 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

18
19 By:


20 JUDITH A. BOYAJIAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Installation of Solar Energy Systems]

Ordinance amending the Building Code to enact an expedited and streamlined permit process for solar energy systems; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk to forward this Ordinance to the Building Standards Commission upon final passage.

Existing Law

There are no existing Code provisions being amended.

Amendments to Current Law

Section 106A.1.15 is added to the Building Code to codify the existing administrative process for streamlining and expediting the review and approval of applications for a permit to install an on-site renewable energy system (such as solar photovoltaic, solar hot water, cogeneration, wind turbine generators, or other renewable energy features). City departments currently process these applications in accordance with the Priority Permit Processing Guidelines in the Department of Building Inspection's Administrative Bulletin 004 in order to comply with City and State policy and mandates.

An electrical permit is always required to install the system; a plumbing permit is also required if a solar hot water system is being installed. The permit for a small system is issued over the counter if the application meets all requirements and a public health and safety issue has not been identified. A building permit is only required if the system proposes installation on a building that is a designated landmark or a contributory resource in a designated historic district, in which case the permit application is referred to the Planning Department for review under Article 10 of the Planning Code. The provisions in the ordinance that limit permit conditions or denial are requirements imposed by Government Code Section 65850.5.

Background Information

In September 2014, the Legislature amended Government Code Section 65850.5 to require that all local jurisdictions adopt an ordinance to expedite and streamline the permitting process for small residential rooftop solar energy systems. In numerous statutes enacted previously (including the 1978 California Solar Rights Act, Civil Code Sections 714 to 714.1), the Legislature has declared that it is State policy to prioritize the widespread adoption of solar power as a renewable energy resource and that the timely and cost-effective installation of solar energy systems is a matter of statewide concern.

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