ORDINANCE NO. 2015-294

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR ADDING CHAPTER 5 TO TITLE VII OF THE TOWN OF WINDSOR CODE TO PROVIDE AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

WHEREAS, the Town Council of the Town of Windsor (Council) seeks to implement AB 2188 (Chapter 521, Statutes 2014) through the creation of an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

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

WHEREAS, the Council seeks to meet the climate action goals set by the Town of Windsor and the State; and

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

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

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES ORDAIN AS FOLLOWS:

Section 1. The Town of Windsor Code, Title VII, is hereby amended to add Chapter 5, Article 1 as follows:

CHAPTER 5. SOLAR ENERGY SYSTEMS

Article 1. Expedited Permitting Process for Small Residential Rooftop Solar Systems.

7-5-100 Purpose.

The purpose of this article is to promote timely and cost-effective installations of small residential rooftop solar energy systems by establishing an expedited, streamlined solar permitting process, in accordance with the provisions of Section 65850.5 of the Government Code and applicable requirements of the "Solar Rights Act of 1978" (as amended). By enacting this article, the Town intends to encourage use of solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the Town, and expanding the ability of property owners to install solar energy systems, while protecting the public health and safety.

7-5-105 Applicability.

Except as otherwise provided in this section, this article shall apply to the permitting of all small residential rooftop solar energy systems in the Town.

Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this article are not subject to the requirements herein, 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.

7-5-110 Definitions.

For purposes of this chapter, the following definitions shall apply:

"*Association*" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

"*Building Official*" shall refer to the person(s) so designated, or their duly authorized representative(s), in accordance with Section 7-1-110, Article 1, Chapter 1 of this Title.

"*Common interest development*" means any of the following:

a. A community apartment project.
b. A condominium project.
c. A planned development.
d. A stock cooperative.

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

a. Email;
b. Internet; or,
c. Facsimile.

"*Feasible method to satisfactorily mitigate or avoid adverse impact*" means any cost-effective method, condition, or mitigation imposed by the Town on another similarly situated application in a prior successful application for a permit; or such other reasonable method or condition as may be determined cost-effective for mitigating or avoiding specific adverse impact(s).

"*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.

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.

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.

"*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 Town of Windsor and all state and Town of Windsor health and safety standards.

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 Town of Windsor.

"*Solar energy system*" means either of the following:

a. 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.

b. 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.

"*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.

7-5-115 Solar Energy System Requirements.

All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the Town, and local fire department or district.

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.

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.

7-5-120 Duties of Town Department of Building Safety and Building Official.

The Town Department of Building Safety ("Department") shall ensure that all documents required for the submission of an expedited solar energy system permit application are made available on the publicly accessible Town website.

Electronic submittal of the required permit application and documents shall be made available to all small residential rooftop solar energy system permit applicants. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

The Department 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. 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.

All fees prescribed for the permitting of small residential rooftop solar energy systems must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

7-5-125 Permit Review and Inspection Requirements.

The Department shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within 30 days of the adoption of this article. The Department shall issue a building permit or other nondiscretionary permit the same day for over-the-counter applications, or for electronic applications, within 1-3 business days of receipt of a complete application that meets the requirements of the approved checklist and standard plan. Review of the application shall be limited to the Building Official's verification that the application meets local, state, and federal health and safety requirements.

The Building Official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Applicants may appeal such decisions to the Board of Building Appeals in accordance with Section 7-1-115 of Article 1, Chapter 1 of this Title.

If a use permit is required, the Building Official may deny an application for the use permit if the official makes written findings 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 the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the Board of Building Appeals in accordance with Section 7-1-115, Article 1, Chapter 1 of this Title.

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 Department 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 significantly decrease its efficiency or specified performance.

The Department shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.

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.

Only one inspection shall be required and performed by the Department for small residential rooftop solar energy systems eligible for expedited review. If the Department and the Windsor Fire Protection District (Fire District) have entered into an agreement allowing the Department to perform fire safety inspections of eligible rooftop solar energy systems on behalf of the Fire District, a separate fire inspection of the system is not required.

The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within two (2) business days of a request and provide a two (2)-hour inspection window.

If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this article.

Section 2. Severability.

If any section, subsection, paragraph, sentence, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. CEQA.

The Town Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 21080.35 (a) of the Public Resources Code (rooftop solar energy systems are statutorily exempted from CEQA requirements), and Sections 15307 (the activity is a regulatory action taken by the Town of Windsor pursuant to its police power for the maintenance and protection of a natural resource) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

Section 4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days following its adoption.

Section 5. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published, or to be posted in at least three (3) public places in the Town of Windsor, in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED AND ADOPTED this 2nd day of September 2015, by the following vote:

AYES:	**COUNCILMEMBERS FOPPOLI, FUDGE, SALMON, VICE MAYOR MILLAN, AND MAYOR OKREPKIE**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

BRUCE OKREPKIE, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK