

City of Brisbane

Memo

To: Honorable Mayor and City Council

From: Sheri Marie Spediacci, City Clerk

RE: Second reading and adoption of Ordinance 596

Ordinance 596, amending the Brisbane Municipal Code Title 15 to provide for a streamlined permitting process for small residential rooftop solar energy systems, was introduced without changes at the City Council Meeting of June 18, 2015.

It is on this agenda for consideration of adoption.

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Proposed Ordinance No. 596- Amend Brisbane Municipal Code Title 15 to Provide a Streamlined Permitting Process for Small Residential Rooftop Solar Energy Systems

DATE: June 18, 2015

City Council Goals:

To provide for effective and efficient delivery of City services. (Goal #1)

To develop plans and pursue opportunities to protect natural resources. (Goal #8)

Purpose:

To update the Brisbane Municipal Code Title 15 (Buildings and Construction Code) by establishing a streamlined permit process for small residential rooftop solar energy systems as required by State law.

Recommendation:

That the City Council introduce Ordinance No. 596.

Background/Discussion:

The California Solar Rights Act (Govt. Code §65850.5) was adopted to promote and encourage the use of solar energy systems and limit obstacles to their use. Recent amendments to the Act under AB 2188 require local jurisdictions to adopt a streamlined permit approval and inspection process for eligible residential rooftop solar systems by September 2015.

As defined under the Solar Rights Act, projects are eligible for streamlined review and inspection if they meet *all of* the following requirements:

- Rooftop systems on one or two-family dwellings;
- No larger than 10 kilowatt (KW) alternating current nameplate rating or 30 KW thermal;
- Conforms to all State codes as may be amended by the City; and
- Does not exceed maximum building height established by local zoning ordinance.

Draft Ordinance 596 (attached) proposes amending Brisbane Municipal Code Chapter 15, Buildings and Construction, to adopt a new Chapter 15.82 establishing a streamlined permit approval and inspection process for eligible residential rooftop solar energy systems pursuant to State law requirements.

Also included for the Council's information is a draft solar permit streamlining policy, which defines the City's administrative procedures for complying with the draft ordinance, including application review and permitting procedures, submittal checklists, review deadlines, and technical specifications. While the draft policy is provided for informational purposes, it does not require formal City Council approval. Key features of the solar streamlining policy include:

- Standardized application and inspection checklists;
- Standardized electrical details and structural criteria;
- A maximum 3-day City application review process for an eligible application; and
- One onsite inspection after the system is installed to confirm compliance with all applicable health and safety codes.

While the streamlining policy requires the City to prioritize review and inspection of eligible solar systems, it *does not exempt* eligible solar energy systems from complying with health and safety code requirements. Additionally, the streamlining policy does not exempt solar energy systems from compliance with the zoning regulations of the particular district, including setbacks and building height.

Fiscal Impact:

None. The City's fixed building permit fee for residential solar permits will remain in place.

Measure of Success:

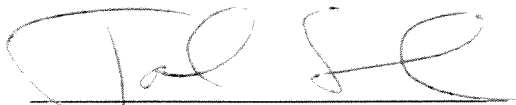
Bringing the City's building regulations and permit processing policies into compliance with State law.

Attachments:

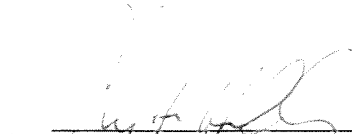
Draft Ordinance No. 596

Redline version of Draft Ordinance No. 596

Draft Solar Permit Streamlining Policy (NOTE: Appendix A attachments are not included)



John Swiecki, Community Development Director



Clay Holstine, City Manager

draft
ORDINANCE NO. 596

**AN ORDINANCE OF THE CITY OF BRISBANE
ADDING CHAPTER 15.82 TO THE MUNICIPAL CODE AND
AMENDING CHAPTER 15.12
TO PROVIDE A STREAMLINED PERMITTING PROCESS FOR
SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1. A new Chapter 15.82, entitled “Small Residential Rooftop Solar Energy Systems,” is hereby added to Title 15 of the Municipal Code, as follows:

Chapter 15.82
SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

15.82.010. Authority

The Building Official or his/her designee shall have the authority to enforce the provisions of this Chapter.

15.82.020. Purpose

The purpose of this Chapter is to provide a streamlined permitting and inspection process for small residential rooftop solar energy systems in compliance with State law. The provisions of this Chapter allow the City of Brisbane to encourage the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City, and to expand the ability of property owners to install solar energy systems while simultaneously protecting the public health and safety.

15.82.030 Application

- A. This Chapter applies to the permitting of all small residential rooftop solar energy systems in the City of Brisbane, as those terms are defined in this Chapter.
- B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of 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 shall not require a permit.

15.82.040. Definitions

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

- 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, electric 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. A “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 and all health and safety standards as adopted or amended by the City.
 3. A solar energy system that is installed on a single or duplex family dwelling.
 4. A solar panel or module array that does not exceed the maximum legal building height of the applicable zoning district, as defined in Title 17, Zoning.
- C. An “association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- D. A “common interest development” means any of the following:
1. A community apartment project.
 2. A condominium project.
 3. A planned development.
 4. A stock cooperative.
- E. “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.
- F. “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.
- G. “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 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.
 2. For Photovoltaic Systems: 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.

15.82.050 Solar Energy System Requirements

- A. All solar energy systems shall meet applicable health and safety standards and requirements adopted by 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.

15.82.060 Permit Review and Inspection Requirements

A. Approval of Permit.

1. The Building Official shall issue a building permit upon receipt of an application that meets the requirements established by Section 15.82.080 of this Title. The building official's review shall be limited to whether the application meets City, state, and federal health and safety requirements in accordance with the solar permit streamlining policy on file with the Community Development Department.
2. 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.
3. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost. To the extent feasible, the condition or mitigation will not significantly increase the cost of the system or decrease its efficiency or specified performance.
4. Approval of an application shall not be subject to the approval of an association.

B. Inspection Required.

1. Only one inspection shall be required and performed by the City. A separate fire inspection may be performed by the North County Fire Authority, as determined necessary by the Building Official.
2. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Chapter. Subsequent inspections shall conform to the procedures established in Chapter 15.16 of this Title.
3. Inspections of small residential rooftop solar energy systems shall be made in conformance with the solar streamlining policy on file with the Community Development Department.

15.82.070 Discretionary Permit Required

- A. The building official may require an applicant to apply for a use permit under Title 17 of the Municipal Code if the official finds, based on substantial evidence, that the small residential rooftop solar energy system 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.

- B. The decision of the building official may be appealed by the applicant to the Planning Commission in accordance with the procedures set forth in Title 17, except that the appeal shall be filed within seven (7) calendar days after the date on which the decision is rendered.

15.82.080 Plans and other data.

Plans or specifications for the installation of small residential rooftop solar energy systems shall conform to the requirements of the solar permit streamlining policy on file with the Community Development Department.

SECTION 2. Section 15.12.160 of Chapter 15.12 is hereby amended to read as follows:

§15.12.160- Building permit—Issuance procedure

- A. The building official shall issue building permits in accordance with the procedure set forth in Sections 15.12.170 through 15.12.200.
- B. Issuance of building permits for installation of small residential rooftop solar energy systems, as defined in Chapter 15.82 of this Title, shall conform to the requirements of the solar streamlining policy on file with the Community Development Department.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 4. This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the ____ day of _____, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Terry O'Connell, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

Michael Roush, City Attorney

“REDLINE” VERSION OF SOLAR PERMIT STREAMLINING AMENDMENTS

Proposed deletions shown in strike-through and proposed *new language in italics.*

Title 15

BUILDINGS AND CONSTRUCTION

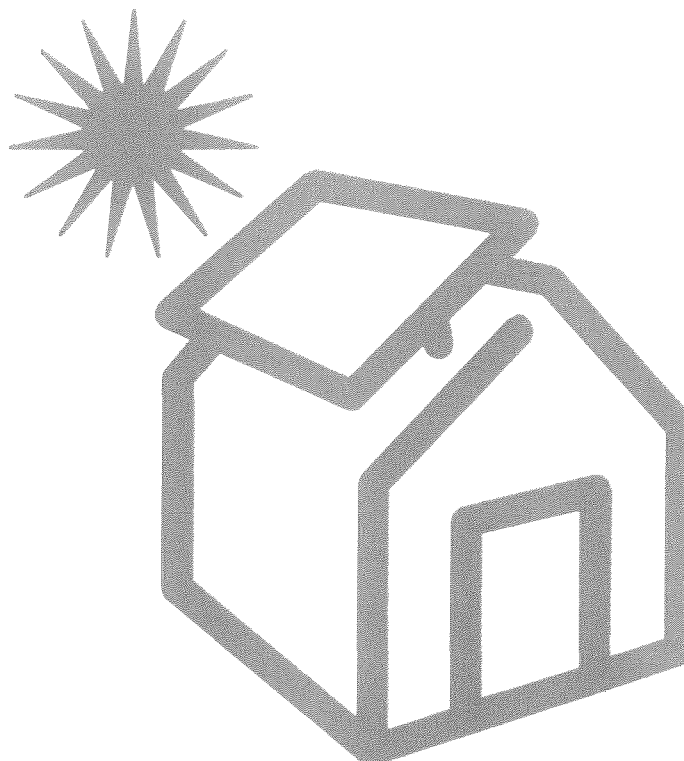
Chapter 15.12 Permits and Fees

15.12.160 - Building permit—Issuance procedure.

A. The building official shall issue building permits in accordance with the procedure set forth in Sections 15.12.170 through 15.12.200.

B. Issuance of building permits for installation of small residential rooftop solar energy systems, as defined in Chapter 15.82 of this Title, shall conform to the requirements of the solar streamlining policy on file with the Community Development Department.

City of Brisbane Solar Permit Streamlining Policy



DRAFT
May 26, 2015

A. Policy Adopted

This solar permit streamlining policy is authorized by Ordinance 596, adopted by the City Council on _____, 2015. It is subject to change as State and local laws governing solar permit processing may be amended from time to time.

B. Policy Implementation and Project Eligibility

This policy will be implemented by the City of Brisbane Community Development Department and North County Fire Authority during review of permit applications for solar energy systems that are eligible for streamlining per the following criteria adopted by Ordinance 596:

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 and all health and safety standards as adopted or amended by the City.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height of the applicable zoning district, as defined in Title 17, Zoning.

An eligibility checklist (included in Appendix A) will be used by applicants and city staff to determine compliance with eligibility criteria.

C. Application Review and Permit Approval

Review of eligible projects will be conducted according to the process set forth below.

1. Applications for streamlined review of eligible projects must include the following checklists and worksheets, which will be made available on the City's website:
 - a. Completed eligibility checklist demonstrating compliance with the eligibility criteria.
 - b. Completed standard electrical plan.
 - c. A roof plan showing roof layout, PV panels and the following fire safety items: approximate location of roof access point, location of code-compliant access pathways, PV system fire classification and the locations of all required labels and markings.
 - d. Completed expedited Structural Criteria along with required documentation.
 - e. An architectural elevation showing the height of the solar system from finished grade consistent with the definition of "Height" contained in BMC §17.02.400.A.
2. The Community Development Department will determine application completeness within three (3) business days of submittal.

- i. If an application is found to be incomplete, the Department shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.
 - ii. If the Department finds that an application does not comply with the adopted eligibility criteria in Ordinance 596 and is ineligible for streamlined review, project review will commence under standard Department procedures.
3. If an application meets the eligibility criteria established in Ordinance 596 and is determined to be complete, the Building Official or his/her designee shall issue the permit within three (3) business days of submittal.

D. On-site Inspections and Obtaining a Final Permit

Following City issuance of a permit and installation of the solar energy system by the applicant, the City's inspector must conduct an on-site inspection in order for the applicant to get a final permit.

1. The Community Development Department will accept requests for on-site inspections by phone, email, or GreenVue. Inspections will be scheduled within five (5) business days of the inspection request.
2. The applicant will be provided with an inspection checklist (included in Appendix A) prior to the inspection that will provide an overview of common points of inspection with which the applicant should be prepared to show compliance.
3. The inspector will verify that the installation is in conformance with applicable code requirements and with the approved plans.
4. If the inspector verifies the installation is in conformance with applicable code requirements and with the approved plans, the City will issue the applicant a final permit.
5. If the solar energy system is not in conformance with applicable code requirements and/or with the approved plans, the applicant must request an additional inspection or inspections until all deficiencies have been corrected. Once all deficiencies have been corrected, the City will issue the applicant a final permit.

E. Permit Fees

The fee assessed for a solar energy system building permit shall be as established by resolution of the City Council.

APPENDIX A

Expedited Checklists and Standard Plans

1. Permit Streamlining Eligibility Checklist
2. Solar PV Standard Plan- Microinverter and ACM Systems for One- and Two-Family Dwellings
3. Solar PV Standard Plan- Central/String Inverter Systems for One- and Two-Family Dwellings
4. Structural Criteria for Residential Flush-mounted Solar Arrays
5. Inspection Checklists (Field Guide and Comprehensive)

Note: Appendix A attachments are not included.