

**ORDINANCE NO. 2024-768**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORTUNA ADDING CHAPTER 15.67 TO ARTICLE 15 OF THE FORTUNA MUNICIPAL CODE TO PROVIDE FOR EXPEDITING PERMITTING PROCESSING FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM DECA**

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

**WHEREAS**, the City Council of the City of Fortuna seeks to meet the climate action goals set by the City Council of the City of Fortuna and the State; and

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

**WHEREAS**, the City Council of the City of Fortuna 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 Fortuna to provide an expedited permitting process to assure the effective deployment of solar technology; and

**WHEREAS**, adoption of this Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment; and

**WHEREAS**, the City Council has considered the staff report, supporting documents, public comment, and all appropriate information that has been submitted with this Ordinance; and

**WHEREAS**, all legal prerequisites to the adoption of the Ordinance have occurred.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FORTUNA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The above recitals are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2. CEQA.** Adoption of this Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment. The City Council hereby directs staff to prepare, execute, and file with the Humboldt County Clerk a notice of exemption within five (5) working days of the adoption of this Ordinance.

**SECTION 3. Municipal Code Amendment.** Chapter 15.67 is hereby added to Article 15—Buildings and Construction—of the Fortuna Municipal Code in the form and substance set forth in **Exhibit “A”**, attached hereto and incorporated herein by reference. Without modifying the

substance, following approval of this Ordinance, the City Clerk shall cause the Fortuna Municipal Code amendments to be consistent in form and style with Title 15 of the Fortuna Municipal Code.

**SECTION 4. Effective Date.** The effective date of this ordinance is thirty (30) days after its adoption by the City Council.

**SECTION 5. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

**SECTION 6. Limited Repeal.** Any provision of the City of Fortuna Municipal Code or appendices thereto, inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**INTRODUCED and FIRST READING CONDUCTED** at a regular meeting of the City Council of the City of Fortuna, California, on this 16th day of January, 2024 by the following vote:

**AYES:** Council Member Conley, Losey, Mobley, Mayor Pro Tem Johnson, Mayor Trent

**NAYS:** None

**ABSENT:** None

**ABSTAIN:** None

\_\_\_\_\_  
Tami Trent, Mayor

**ATTEST:**

\_\_\_\_\_  
Siana L. Emmons, City Clerk

**SECOND READING CONDUCTED, PASSED, and ADOPTED** at a regular meeting of the City Council of the City of Fortuna, California, on this 5th day of February, 2024 by the following vote:

**AYES:** Council Member Conley, Losey, Mobley, Mayor Pro Tem Johnson, Mayor Trent

**NAYS:** None

**ABSENT:** None

**ABSTAIN:** None

\_\_\_\_\_  
Tami Trent, Mayor

**ATTEST:**

\_\_\_\_\_  
Siana L. Emmons, City Clerk

## **Exhibit “A”**

### **15.67**

#### **SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS**

##### **Sections:**

**15.67.010 Purpose**

**15.67.020 Definitions**

**15.67.030 Applicability**

**15.67.040 Solar Energy System Requirements**

**15.67.050 Duties of Building Division and Building Official**

**15.67.060 Permit Application Processing**

##### **15.67.010 Purpose.**

The purpose of this Chapter is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) 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 of Fortuna, and expanding the ability of property owners to install solar energy systems. This Chapter allows the City of Fortuna to achieve these goals while protecting the public health and safety

##### **15.67.020 Definitions.**

A. 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 as adopted or amended by the City of Fortuna and all state and City of Fortuna health and safety standards.

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 as defined by the City of Fortuna Municipal Code.
- C. “Electronic submittal” means the utilization of the City of Fortuna Permit Portal.
- D. An “association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- E. 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.
- F. “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.
- G. “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.
- H. “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.

#### **15.67.030 Applicability.**

- A. This Chapter applies to the permitting of all small residential rooftop solar energy systems in the City of Fortuna.

B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of the Ordinance adopting these regulations 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.

#### **15.67.040 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 of Fortuna and the Fortuna Fire Protection District.

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.

#### **15.67.050 Duties of Building Division and Building Official.**

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

B. Electronic submittal of the required permit application and documents through the City of Fortuna Permit Portal shall be made available to all small residential rooftop solar energy system permit applicants.

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

D. The City of Fortuna 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. All code requirements in these documents shall conform to the requirements found in the most recently adopted Solar Permitting Guidebook model Tool Kit documents.

E. 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.

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

### **15.67.060 Permit Application Processing.**

- A. The City of Fortuna Building Department shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within thirty (30) days of the adoption on this Chapter. The Building Division shall issue a building permit or other nondiscretionary within 1-3 business days of receipt of a complete application and meets the requirements of the approved checklist and standard plan. A 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. Such decisions may be appealed to the City of Fortuna Planning Commission.
- 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. Where adopted California Building Standards Code conflict with prescribed code requirements found in the most recently adopted California Solar Permitting Guidebook, the code requirements found in the California Solar Permitting Guidebook shall control.
- D. If a use permit is required, a 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, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potentially feasible alternative for preventing the adverse impact. Such decisions may be appealed to the City of Fortuna Planning Commission.
- E. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
- F. "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 of Fortuna on another similarly situated application in a prior successful application for a permit. The City of Fortuna 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.
- G. The City of Fortuna shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.
- H. 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.
- I. Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review. A separate fire inspection

may be performed by the Fortuna Fire Protection District.

J. 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.

K. 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.