

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

842A



FROM: TLMA – Building & Safety Department

SUBMITTAL DATE:
August 6, 2015

SUBJECT: Introduction of Ordinance No. 926 Related to Expedited Permitting Procedures for Small Residential Rooftop Solar Energy Systems – CEQA Exempt - All Districts - [\$10,600]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find Ordinance No. 926 exempt from CEQA per CEQA Guidelines sections 15061(b)(3) and 15268 and Public Resources Code sections 21080(b)(1) and 21080.35 based on the findings and conclusions contained in the attached Notice of Exemption; and
2. Introduce and adopt on successive weeks Ordinance No. 926, an ordinance of the County of Riverside related to expedited permitting procedures for small residential rooftop solar energy systems.

BACKGROUND:

Assembly Bill No. 2188 (AB 2188) amends Civil Code section 714 and Government Code section 65850.5 of the Solar Rights Act to require cities and counties to adopt streamlined permitting and inspection processes for residential rooftop solar installations of ten kilowatts (kw) or less.



Juan C. Perez,
TLMA Director



Mike Lara
Building Official

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 5,600	\$ 0	\$ 10,600	\$	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

SOURCE OF FUNDS: 100% Building and Safety Budget
(Department Administrative Fee Revenue)

Budget Adjustment: No
For Fiscal Year: 14/15 -15/16

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FORM APPROVED COUNTY COUNSEL
BY: KARIN L. WATTS-BAZAN 8/6/15

Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

3-67

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Introduction of Ordinance No. 926 Related to Expedited Permitting Procedures for Small
Residential Rooftop Solar Energy Systems – CEQA Exempt - All Districts - [\$10,600]**

DATE: August 6, 2015

PAGE: 2 of 3

BACKGROUND:

Summary (continued)

In particular, AB 2188 amends Government Code section 65850.5 to require all cities and counties to adopt an ordinance creating an expedited, streamlined permitting process for small residential rooftop solar energy systems. A “small residential rooftop solar energy system” is defined under Section 65850.5 as a solar energy system which meets 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 (i) conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the County; (ii) all state and County health and safety standards; and (iii) 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.
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 County.

The County must adopt an ordinance as mandated by Section 65850.5(g)(1) by September 30, 2015. Attached Ordinance No. 926 is intended to satisfy that requirement. Ordinance No. 926 codifies the requirements of Section 65850.5(g)(1) with regard to small residential rooftop solar energy systems, such as accepting and approving applications electronically, directing the Building Official to develop a checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review, and authorizing the Building and Safety staff to administratively review and approve such applications as nondiscretionary permits. Consistent with Section 65850.5(h), Ordinance No. 926 requires only one inspection of the small residential rooftop solar energy system to be done in a timely manner. Any required re-inspections for failure to pass the initial inspection are not subject to the one inspection mandate.

Ordinance No. 926 shall only apply to small residential rooftop solar energy systems less than 10 kW. All other solar energy systems, including residential rooftop systems greater than 10 kw will not fall under the expedited permitting procedure. However, they shall continue to be administratively reviewed and approved by the Building Official as nondiscretionary permits under Section 18.51 of Ordinance No. 348 consistent with State law. Additionally, the permitting procedures of Ordinance No. 926 shall not apply to “solar power plants” as defined in Ordinance No. 348 where more than 50% of the energy produced is being used offsite. Solar power plants shall continue to require a conditional use permit in accordance with the provisions of Ordinance No. 348.

Ordinance No. 926 is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines sections 15061(b)(3) and 15268 and Public Resources Code sections 21080(b)(1) and 21080.35 (solar energy systems) as set forth in the attached Notice of Exemption.

Impact on Residents and Businesses

The expressed purpose of Ordinance No. 926 is to adopt an expedited, streamlined permitting process for small residential rooftop solar energy systems that complies with the Solar Rights Act, as amended by AB 2188 to achieve timely and cost-effective installations of such small residential rooftop solar energy systems while protecting public health and safety. The purpose of AB 2188 is to increase the deployment of residential solar distributed generation, help to expand access to lower income households, provide solar customers greater installation ease, improve the County’s and State’s ability to reach its clean energy goals, and generate much needed jobs in the County and State, all while maintaining safety standards.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Introduction of Ordinance No. 926 Related to Expedited Permitting Procedures for Small
Residential Rooftop Solar Energy Systems – CEQA Exempt - All Districts - [\$10,600]**

DATE: August 6, 2015

PAGE: 3 of 3

SUPPLEMENTAL:

Additional Fiscal Information

The adoption of Ordinance No. 926 is an unfunded state mandate. The fiscal impact to the County in preparing and implementing the new ordinance is approximately \$10,600 for fiscal years 2014/15 and 2015/16. This includes the total estimated cost for developing the following mandated elements of the expedited permitting processing: (1) the attached ordinance, (2) a Small Residential Solar Photovoltaic Checklist identifying all required documentation for expedited review, (3) incorporating the small residential solar into our electronic submittal process for permit applications, and (4) increasing staffing levels, likely through use of consultant contracts, to comply with the required deadlines for expedited review and inspection. While state law allows the County to recover up to \$500 in permit fees for residential solar photovoltaic projects of 15 kw or less, such fees can only be used to defray the actual, reasonable cost of permit processing and enforcement and cannot be used to develop the new program and prepare the ordinances.

Attachments:

1. Ordinance No. 926
2. Notice of Exemption

1 ORDINANCE NO. 926

2
3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
4 RELATED TO EXPEDITED PERMITTING PROCEDURES FOR
5 SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS
6

7 The Board of Supervisors of the County of Riverside ordains as follows:

8 Section 1. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares
9 the following:

- 10 a. Subsection (a) of Government Code section 65850.5 states that the implementation
11 of consistent statewide standards to achieve the timely and cost-effective
12 installation of solar energy systems is a matter of statewide concern and it is the
13 policy of the State to promote and encourage the use of solar energy systems and to
14 limit obstacles to their use.
- 15 b. Subsection (a) of Government Code section 65850.5 further states that it is the
16 intent of the Legislature of the State that local agencies “not adopt ordinances that
17 create unreasonable barriers to the installation of solar energy systems, including,
18 but not limited to, design review for aesthetic purposes, and not unreasonably
19 restrict the ability of homeowners and agricultural and business concerns to install
20 solar energy systems,” and to “encourage the installation of solar energy systems
21 by removing obstacles to, and minimizing costs of, permitting solar energy
22 systems.”
- 23 c. The purpose of this ordinance is to adopt an expedited, streamlined permitting
24 process for small residential rooftop solar energy systems that complies with the
25 Solar Rights Act, as amended by Assembly Bill 2188 (Chapter 521, Statutes 2014)
26 to achieve timely and cost-effective installations of such small residential rooftop
27 solar energy systems while protecting public health and safety.
- 28 d. This ordinance shall apply to the permitting of all small residential rooftop solar

1 energy systems in the unincorporated area of the County. Small residential rooftop
2 solar energy systems permitted prior to the effective date of this ordinance are not
3 subject to the requirements set forth herein unless physical modifications or
4 alterations are undertaken that materially change the size, type, or components of a
5 small residential rooftop solar energy system in such a way as to require new
6 permitting. Routine operation and maintenance or like-kind replacements shall not
7 require a permit.

8 Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority granted
9 by Article XI, Section 7 of the California Constitution, Government Code section 65850.5, and Health &
10 Safety Code section 17959.1.

11 Section 3. DEFINITIONS. As used in this ordinance, the following terms shall have
12 the following meanings:

- 13 a. Director. The Director of the Building and Safety Department or his designee.
- 14 b. Electronic submittal. The utilization of one or more of the following:
- 15 (1) Email;
- 16 (2) Internet;
- 17 (3) Facsimile.
- 18 c. Small residential rooftop solar energy system. A solar energy system which meets
19 all of the following:
- 20 (1) A solar energy system that is no larger than 10 kilowatts alternating current
21 nameplate rating or 30 kilowatts thermal.
- 22 (2) A solar energy system that (i) conforms to all applicable state fire, structural,
23 electrical, and other building codes as adopted or amended by the County; (ii)
24 all state and County health and safety standards; and (iii) all applicable safety
25 and performance standards established by the California Electrical Code, the
26 Institute of Electrical and Electronics Engineers, and accredited testing
27 laboratories such as Underwriters Laboratories and, where applicable, rules of
28 the Public Utilities Commission regarding safety and reliability.

1 (3) A solar energy system that is installed on a single or duplex family dwelling.

2 (4) A solar panel or module array that does not exceed the maximum legal building
3 height as defined by the County.

4 d. Solar energy system. A system which is an accessory use to any residential,
5 commercial, industrial, mining, agricultural or public use, used primarily (i.e. more
6 than 50 percent) to reduce onsite utility usage, and which is either of the following:

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

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

13 e. Specific, adverse impact. A significant, quantifiable, direct, and unavoidable
14 impact, based on objective, identified, and written public health or safety standards,
15 policies, or conditions as they existed on the date the application was deemed
16 complete.

17 Section 4. EXEMPTIONS. This ordinance shall not apply to solar energy systems that
18 are not small residential rooftop solar energy systems. All other solar energy systems, including
19 residential rooftop solar energy systems greater than 10 kilowatts, shall be processed under Section 18.51
20 of Ordinance No. 348 and the provisions of this ordinance shall not apply.

21 Section 5. SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS
22 CHECKLISTS AND STANDARD PLANS.

23 a. On or before September 30, 2015, the Director shall adopt an administrative,
24 nondiscretionary expedited review process for small residential rooftop solar
25 energy systems, including standard plans and checklists. The checklists shall set
26 forth all requirements with which the small residential rooftop solar energy system
27 must comply in order to be eligible for expedited review.

28 b. The small residential rooftop solar system permit process, standard plans, and

1 checklists, shall substantially conform to the recommendations for expedited
2 permitting, including the checklists and standard plans, contained in the most
3 current version of the California Solar Permitting Guidebook adopted by the
4 Governor’s Office of Planning and Research.

5 c. The Director may modify the checklists and standard plans found in the California
6 Solar Permitting Guidebook due to unique climactic, geological, seismological, or
7 topographical conditions.

8 d. The checklists and standard plans for small residential rooftop solar energy systems
9 adopted by the Director, as well as all other required permitting documentation shall
10 be published on the County’s website. If the Director modifies the checklists and
11 standard plans found in the California Solar Permitting Guidebook, he shall
12 document the unique climactic, geological, seismological or topographical
13 conditions requiring such modifications and shall also include such documentation
14 on the County’s website.

15 Section 6. APPLICATION REVIEW.

16 a. The applicant may submit the application and related documentation for a small
17 residential rooftop solar energy system by electronic submittal, with all required
18 permit processing and inspection fees, as specified on the County website.
19 Electronic signatures shall be accepted by the Building and Safety Department on
20 all electronic submittals in lieu of a wet signature.

21 b. An application for a small residential rooftop solar energy system shall be deemed
22 complete when the Building and Safety Department staff determines that the
23 application satisfies all the information requirements in the checklists and standard
24 plans.

25 c. If an application is deemed incomplete, a written correction notice detailing all
26 deficiencies in the application and any additional information or documentation
27 required to be eligible for expedited permit issuance shall be sent to the applicant
28 for resubmission.

 d. Applications for small residential rooftop solar energy systems shall be

1 administratively reviewed and approved by the Director as nondiscretionary
2 permits within in a reasonable time following receipt of a complete application that
3 meets the requirements of the County's approved checklists, standards plans, and
4 payment of all required permit processing and inspection fees.

- 5 e. The Director may require the applicant to apply for a plot plan pursuant to section
6 18.30 of Ordinance No. 348 and all provisions of sections 18.30 and 18.51 of
7 Ordinance No. 348 shall apply if the Director finds, based on substantial evidence,
8 that the proposed small residential rooftop solar energy system could have a
9 specific, adverse impact upon the public health or safety.
- 10 f. Approval of an application for a small residential rooftop solar energy system shall
11 not be based or conditioned on the approval of an association, as defined in section
12 4080 of the Civil Code.
- 13 g. Approval does not authorize an applicant to connect the small residential rooftop
14 energy system to the local utility's electricity grid. The applicant is responsible for
15 obtaining such approval or permission from the local utility.

16 Section 7. INSPECTION.

- 17 a. Only one inspection shall be required and performed by staff for small residential
18 rooftop solar energy systems eligible for expedited review.
- 19 b. The inspection shall be done in a timely manner.
- 20 c. A separate fire inspection may be performed if an agreement with the local fire
21 authority does not exist to perform safety inspections on behalf of the fire authority.
- 22 d. If a small residential rooftop solar energy system fails inspection, a subsequent
23 inspection is authorized but need not conform to the requirements of this section.

24 Section 8. SEVERABILITY. If any provision, clause, sentence or paragraph of this
25 ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity
26 shall not affect the other provisions of this ordinance which can be given effect without the invalid
27 provision or application, and to this end, the provisions of this ordinance are hereby declared to be
28 severable.

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Section 9. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman

ATTEST: Kecia Harper-Ihem

CLERK OF THE BOARD:

By: _____
Deputy

(SEAL)

APPROVED AS TO FORM

August 16, 2015

By: Tiffany N. North
TIFFANY N. NORTH,
Deputy County Counsel IV-S

TNN: nlr 072915G:\Property\TNorth\Solar Energy Systems\RCO No 926 final.doc

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research From: County of Riverside
1400 Tenth Street, Room 121 4080 Lemon Street
Sacramento, CA 95814 Riverside, CA 92501

To: X Office of the County Clerk & Recorder

Project Title: Ordinance No. 926, an Ordinance of the County of Riverside Related to Expedited Permitting Procedures for Small Residential Rooftop Solar Energy Systems

Project Location: The unincorporated area of Riverside County.

Project Description: Ordinance No. 926 adopts streamlined permitting and inspection processes for small residential rooftop solar energy systems of ten kilowatts or less as required by Assembly Bill No. 2188 (AB 2188). In particular, AB 2188 amends Government Code section 65850.5 to require all cities and counties to adopt an ordinance creating an expedited, streamlined permitting process for small residential rooftop solar energy systems. Ordinance No. 926 implements the mandatory provisions of Government Code section 65850.5(g)(1) with regard to small residential rooftop solar energy systems, such as accepting and approving applications electronically, directing the Director of the Building and Safety Department (“the Director”) to develop a checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review, and authorizing the Director to administratively review and approve such applications as nondiscretionary permits. Consistent with Government Code section 65850.5(h), Ordinance No. 926 requires only one inspection of the small residential rooftop solar energy system to be done in a timely manner. Any required re-inspections for failure to pass the initial inspection are not subject to the one inspection mandate. Ordinance No. 926 requires that applications to install small residential rooftop solar energy systems be administratively reviewed and approved as nondiscretionary permits by the Director, subject to a limited exception requiring approval of a plot plan under Sections 18.30 and 18.51 of Ordinance No. 348 if the Director finds, based on substantial evidence, that the proposed small residential rooftop solar energy system could have a specific adverse impact on public health or safety. Plot plan review and conditions of approval are limited in accordance with state statutory requirements.

Name of Public Agency Approving Project County of Riverside

Project Sponsor: Transportation and Land Management Agency of the County of Riverside

Exempt Status: (check one)

Ministerial: (Public Resources Code Sec. 21080(b)(1) and 21080.35; State CEQA Guidelines Sec. 15268)

Declared Emergency

Emergency Project

Categorical Exemption

Statutory Exemption: (Public Resources Code Sec. 21080(b)(1) and 21080.35; State CEQA Guidelines Sec. 15268)

Other: (State CEQA Guidelines Sec. 15061(b)(3))

Reasons Why Project is Exempt: Ordinance No. 926 (“the project”) implements, on a County level, mandatory state statutes requiring that provisions be made for the approval of small residential rooftop solar energy systems on a ministerial basis. These statutory requirements are set forth in Government Code section 65850.5. As a result, the adoption of Ordinance No. 926 is exempt from CEQA as a ministerial project pursuant to Public Resources Code section 21080(b)(1) and State CEQA Guidelines section 15268. The project is also exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility the project may have a significant effect on the environment. Almost all small residential rooftop solar energy system applications will be subject only to nondiscretionary review and approval and therefore will themselves be exempt as a ministerial project pursuant to Public Resources Code section 21080(b)(1) and State CEQA Guidelines section 15268. Additionally, Ordinance No. 926 applies only to rooftop solar installations of 10 kw or less. Public Resources Code section 21080.35 sets forth a statutory exemption for solar energy systems on top of existing buildings. All small residential rooftop solar energy system applications subject to Ordinance No. 926 will be on existing buildings.

There is no specific small residential rooftop solar energy system application associated with the project and it does not commit the County to the installation of any such system. To the extent that a small residential rooftop solar energy system may in limited circumstances require a plot plan, the performance of any environmental analysis at this early stage would require the

County to speculate as to what property might be involved, what type of solar technology might be used, and what effects a hypothetical small residential rooftop solar energy system on a hypothetical site might have when that system is not subject to the usual ministerial approval process. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d. 185, 193. Under these circumstances, environmental analysis at this time would be premature and meaningless. Accordingly, the County's approval of the project does not create either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

Before a small residential rooftop solar energy system not subject to only ministerial review is installed on any particular site, environmental issues will be analyzed in site-specific environmental documents in accordance with CEQA. The evidence supporting the determination of exemption is set forth in full in the project record and the determination of exemption is consistent with State CEQA Guidelines section 15004(b) which provides: "Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment." "Determining whether a project qualifies for the common sense exemption need not necessarily be preceded by detailed or extensive factfinding. Evidence appropriate to the CEQA stage in issue is all that is required." *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372, 388.

County Contact Person

Phone Number

Signature: _____ Title: _____ Date: _____

For County Clerk's Use Only

SUMMARY OF ORDINANCE NO. 926
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
RELATED TO EXPEDITED PERMITTING PROCEDURES FOR
SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

This summary is presented pursuant to California Government Code section 25124(b). A certified copy of the full text of Ordinance No. 926 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1st Floor, Riverside, California, 92501.

Ordinance No. 926 adopts streamlined permitting and inspection processes for small residential rooftop solar energy systems of ten kilowatts or less as required by Assembly Bill No. 2188 (AB 2188). AB 2188 amends Government Code section 65850.5 to require all cities and counties to adopt an ordinance creating an expedited, streamlined permitting process for small residential rooftop solar energy systems. Ordinance No. 926 implements the mandatory provisions of Government Code section 65850.5(g)(1) with regard to small residential rooftop solar energy systems, such as accepting and approving applications electronically, directing the Director of the Building and Safety Department ("the Director") to develop a checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review, and authorizing the Director to administratively review and approve such applications as nondiscretionary permits. Consistent with Government Code section 65850.5(h), Ordinance No. 926 requires only one inspection of the small residential rooftop solar energy system to be done in a timely manner. Any required re-inspections for failure to pass the initial inspection are not subject to the one inspection mandate. Ordinance No. 926 requires that applications to install small residential rooftop solar energy systems be administratively reviewed and approved as nondiscretionary permits by the Director, subject to a limited exception requiring approval of a plot plan under Sections 18.30 and 18.51 of Ordinance No. 348 if the Director finds, based on substantial evidence, that the proposed small residential rooftop solar energy system could have a specific adverse impact on public health or safety. Plot plan review and conditions of approval are limited in accordance with state statutory requirements. Ordinance No. 926 would become effective thirty days after its adoption.