

## ORDINANCE NO. 755

### AN ORDINANCE OF THE CITY OF MILLBRAE AMENDING CHAPTER 1.05 AND ADDING CHAPTER 9.85 TO THE MILLBRAE MUNICIPAL CODE TO PROVIDE A STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

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

#### SECTION 1: ENACTMENT OF CHAPTER 9.85

Chapter 9.85, entitled "SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS," is hereby added to Title 9 (Building Regulations) of the Millbrae Municipal Code, to read as follows:

#### Chapter 9.85 SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

Sections:

<b>9.85.010</b>	<b>Purpose</b>
<b>9.85.020</b>	<b>Application</b>
<b>9.85.030</b>	<b>Definitions</b>
<b>9.85.040</b>	<b>Solar Energy System Requirements</b>
<b>9.85.050</b>	<b>Permit Review and Inspection Requirements</b>
<b>9.85.060</b>	<b>Enforcement Authority</b>
<b>9.85.070</b>	<b>Plans and other data</b>
<b>9.85.080</b>	<b>Building permit—Issuance procedure</b>

#### **9.85.010 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 Government Code Section 65850.5. The provisions of this chapter allow the City of Millbrae to encourage the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install solar energy systems, while simultaneously protecting the public health and safety.

#### **9.85.020 Application**

- A. This chapter applies to the permitting of all small residential rooftop solar energy systems in the City of Millbrae, as that term is defined in this chapter.
- B. Small residential rooftop solar energy systems legally installed 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 of small residential rooftop solar energy systems shall not require a permit.

### 9.85.030. Definitions

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

- 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 space heating, space cooling, electricity generation, or 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 10, 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 not to exceed 10 percent of the system cost as originally specified and proposed, 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.

### 9.85.040 Solar Energy System Requirements

- A. All solar energy systems shall meet applicable health and safety standards and requirements.
- 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, California Residential 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.

#### **9.85.050 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 Chapter 9 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 Central County Fire Authority, if 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 9 of this Title.
3. Inspections of small residential rooftop solar energy systems shall be made in conformance with the solar streamlining policy, which shall be on file with the Community Development Department.

#### **9.85.060 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.

#### **9.95.070 Enforcement Authority**

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

**9.85.080 Building permit—Issuance procedure**

- A. The Building Official shall issue building permits in accordance with the procedure set forth in Chapters 9.10 through 9.30.
- B. Issuance of building permits for installation of small residential rooftop solar energy systems, as defined in Chapter 9 of this Title, shall conform to the requirements of the solar streamlining policy, which shall be on file with the Community Development Department.

**SECTION 3: AMENDMENT OF CHAPTER 1.05**

Chapter 1.05 “PENALTY PROVISIONS” Section 1.050.020, Subpart A.1 of the Millbrae Municipal Code, Building Official and Building Inspector, are hereby amended to read as follows:

**1.050.020 Subpart A.1 Community Development.**

- 1. Community Development:

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Building Official and Building  
Inspector

Chapter 6.25 MMC; Chapter 7.05 MMC  
(MMC 7.05.020 for building citations only);  
Chapter 8.70 MMC; Chapters 9.05 through  
9.25 and 9.35 through 9.85 MMC; Chapters  
10.05, 10.10, 10.25 and 10.30 MMC

**SECTION 4. SEVERABILITY**

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 Millbrae 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 5: EFFECTIVE DATE; PUBLICATION**

This ordinance shall be in full force and effect thirty days from and after its passage. At least five days prior to its adoption and within fifteen days after its adoption, a summary of this Ordinance shall be published once in a newspaper of general circulation in the County of San Mateo and City of Millbrae.

**INTRODUCED** at a regular meeting of the City Council of the City of Millbrae held on September 8, 2015.

**PASSED and ADOPTED** at a regular meeting of the City Council of the City of Millbrae held on September 22, 2015.


  
MAYOR

ATTEST:

  
CITY CLERK

I do hereby certify that the foregoing Ordinance was duly and regularly passed and adopted by the City Council of the City of Millbrae this 22<sup>nd</sup> day of September 2015, by the following vote:

AYES:	COUNCILMEMBERS:	Gottschalk, Oliva, Holober, Colapietro, and Lee
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
EXCUSED:	COUNCILMEMBERS:	None

  
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CITY CLERK